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October 7, 1996

Mrs. Blanca S. Bayo
Director, Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399

RE: Docket No. 9833-TP; 960846-TP; 960916-TP

Dear Mrs. Bayo:

Enclosed are an original and fifteen copies of BellSouth Telecommunications, Inc.'s Response and Opposition to MCI's Motion for Reconsideration of Prehearing Officer's Ruling Striking Issue 9 As It Relates to MCI and Request for Oral Argument. Please file these documents in the captioned docket.

A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return the copy to me. Copies have been served on the parties shown on the attached Certificate of Service.

Sincerely,

Nancy B. White
(AW)

Nancy B. White

- ACK
- AFA
- APP
- CAF
- CMU *Chase*
- CTR
- EAG
- LEG *1*
- LIN *5*
- OPC
- RCH *+*
- SEC *1*
- WAS
- OTH

Enclosures

cc: All Parties of Record
A. M. Lombardo
R. G. Beatty
W. J. Ellenberg

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DOCUMENT NUMBER-DATE

10724 OCT-7 96

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FILE COPY

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petitions by AT&T)	
Communications of the Southern)	
States, Inc., MCI)	Docket No. 960833-TP
Telecommunications Corporation,)	
MCI Metro Access Transmission)	
Services, Inc., American)	Docket No. 960846-TP
Communications Services, Inc.)	
and American Communications)	
Services of Jacksonville, Inc.)	Docket No. 960916-TP
for arbitration of certain terms)	
and conditions of a proposed)	
agreement with BellSouth)	
Telecommunications, Inc.)	
concerning interconnection and)	Filed: October 7, 1996
resale under the)	
Telecommunications Act of 1996)	
)	

BELLSOUTH TELECOMMUNICATIONS, INC.'S
 RESPONSE AND OPPOSITION TO MCI'S MOTION
 FOR RECONSIDERATION OF PREHEARING OFFICER'S RULING
 STRIKING ISSUE 9 AS IT RELATES TO
MCI AND REQUEST FOR ORAL ARGUMENT

BellSouth Telecommunications, Inc. ("BellSouth") pursuant to Rule 25-22.0376, Florida Administrative Code, hereby files its Response and Opposition of MCI Telecommunications Corporation and MCI Metro Access Transmission Services, Inc.'s ("MCI") Motion for Reconsideration of the Prehearing Officer's Ruling Striking Issue 9 as to MCI. BellSouth requests that the Commission deny the MCI's Motion for the following reasons:

1. In its Petition for Arbitration in this docket, MCI submitted a number of inappropriate issues for arbitration. At the Issue Identification workshops, BellSouth objected to the inclusion of these issues and asked the Prehearing Officer to sustain the objection. On October 3, 1996, the Prehearing

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Officer excluded from arbitration Issues 8, 9, 22, and 27 as they related to MCI. MCI now seeks reconsideration by the full Commission of the Prehearing Officer's ruling as to Issue 9 only.¹ Issue 9 concerns the compensation mechanism for the exchange of local traffic.

2. In order to satisfy the standard for reconsideration, a motion must bring to the Commission's attention some matter of law or fact that the Prehearing Officer failed to consider or overlooked in its prior decision. Diamond Cab Co. of Miami v. King, 146 So.2d 889 (Fla. 1962). this, MCI cannot do. MCI's Motion is simply a reargument of its previous positions. MCI, instead, seeks a de novo review of the Prehearing Officer's ruling. A de novo review is simply not appropriate in these circumstances.

3. In Order No. PSC-93-0812-FOF-TL, issued on May 26, 1993, the Commission specifically held that the "standard to be applied by the Commission when reviewing a Prehearing Officer's order is the same as that applied for any other matter on reconsideration: Has the Prehearing Officer failed to consider some matter or made any mistake of fact or law." This holding was reinforced in 1995 when the Commission proposed Rule 25-

¹ MCI has elected not to seek reconsideration of the other listed issues. MCI states that it does not waive its right to seek review of the ruling as to these other issues. MCI has so waived that right. Failure of MCI to file a timely motion for reconsideration constitutes waiver of the right to do so. Rule 25-22.0376(3), Florida Administrative Code.

22.0376 in order to "give parties only one opportunity to seek reconsideration of a prehearing officer's order and to clarify that the review standard is reconsideration and not de novo. (Order No. PSC-95-0818-NOR-PU, issued on July 6, 1995). thus, MCI's request for de novo review is inappropriate.

4. MCI has added nothing new to its arguments in its Motion for Reconsideration. Indeed, MCI's Motion is merely a copy of its original argument to the Prehearing Officer and should be rejected. MCI has not met the standard for reconsideration.

5. To assist the Commission, BellSouth attaches hereto, as Exhibit A, its letter brief filed with the Prehearing Officer on September 12, 1996 setting forth BellSouth's position and objection to the inclusion of Issue 9 as a matter for arbitration as to MCI. BellSouth sees nothing new in MCI's motion which needs to be addressed.

6. With regard to oral argument, BellSouth notes that Rule 25-22.0376(5), Florida Administrative Code, provides that oral argument "may be granted at the discretion of the Commission." Although BellSouth believes that oral argument is not necessary in this instance, BellSouth will be prepared to do so if the Commission so desires.

WHEREFORE, BellSouth respectfully requests that the Commission deny MCI's Motion for Reconsideration.

Respectfully submitted this 7th day of October, 1996.

BELLSOUTH TELECOMMUNICATIONS, INC.

Robert G. Beatty (ps)

ROBERT G. BEATTY
J. PHILLIP CARVER
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CERTIFICATE OF SERVICE

DOCKET NO. 960833-TP

DOCKET NO. 960846-TP

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via Federal Express this 7th day of October, 1996 to the following:

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Nancy B. White (AW)

CERTIFICATE OF SERVICE
DOCKET NO. 960916-TP

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by Federal Express this 7th day of October, 1996 to the following:

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Nancy B. White
(per)

MARCY S. WHITE
General Attorney

BellSouth Telecommunications, Inc.
150 South Monroe Street
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September 12, 1996

Mrs. Bianca S. Bayó
Director, Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Blvd.
Betty Easley Conference Center, Rm. 110
Tallahassee, FL 32399-0850

RE: Docket No. 960846-TR

Dear Mrs. Bayó:

Pursuant to Staff's request at the Issue I. D. Conference held on September 9, 1996, in the above captioned matter, the following is BellSouth's position concerning MCI's right to arbitrate certain issues in Florida due to the existence of the Partial Agreement between BellSouth and MCI effective May 15, 1996. Specifically, that Agreement covers interconnection issues, interim number portability rates, and some unbundled elements. To the extent an issue is included in that Agreement, BellSouth does not believe the issue can be arbitrated. Additionally, MCI proposes to arbitrate certain issues related to recent FCC Orders. As explained further below, these issues are not subject to this arbitration proceeding.

Issues Covered By Partial Agreement

What are the appropriate trunking arrangements between MCI and BellSouth for local interconnection?

What should be the compensation mechanism for the exchange of local traffic between MCI and BellSouth?

What are appropriate general contractual terms and conditions that should govern the arbitration agreement (e.g. resolution of disputes, performance requirements, and treatment of confidential information)?

What are the appropriate arrangements to provide MCI nondiscriminatory access to white and yellow page directory listings? (MCI only) Agreement with BAPCO.

What should be the cost recovery mechanism for remote call forwarding (RCF) used to provide interim local number portability in light of the FCC's recent order?

What terms and conditions should apply to the provision of local interconnection by BellSouth to MCI?

What are the appropriate rates, terms and conditions for access to code assignments and other numbering resources?

In understanding BellSouth's view on these issues, a brief background discussion is appropriate. BellSouth, beginning even before the passage of the Telecommunications Act of 1996 (the "Act"), has negotiated with more than thirty carriers. With the passage of the Act, all such negotiations have been under Sections 251 and 252 of the Act, as this is the only basis for negotiating interconnection, unbundling and resale matter. BellSouth has negotiated twenty (20) agreements using this procedure, including the Partial Agreement with MCI, and most recently a Partial Agreement with MFS. There has been no confusion, up to now, concerning the basis of any of these agreements. By simple example, on August 27, 1996, BellSouth and MFS signed a Partial agreement and MFS withdrew from arbitration all the issues covered by that Agreement. This was done even before the Commission had approved such an agreement. There was no issue or debate that once the issue was covered under the Agreement, it was no longer subject to arbitration.

BellSouth assumes that Section II B of the Agreement is the basis for MCI's belief that it can arbitrate these issues because in other submissions MCI has excluded issues for which it has requested arbitration in Florida. For example, as illustrated in MCI's Petition for Arbitration in North Carolina, specific issues are excluded. (See Exhibit 1, pages 5 and 6 from MCI's Petition for Arbitration filed in North Carolina on August 23, 1996). The intent of Section IIB was not to allow for arbitration of agreed upon issues. At the time of these negotiations, both Florida and Tennessee had state proceedings underway dealing with the interconnection and unbundling issues. MCI wished to retain its rights to continue to participate in such proceedings and Section IIB allowed such participation in Florida and Tennessee. It was also apparent, at that time, that MCI would likely seek arbitration in four or five BellSouth states, i.e., the provisions of this Section were intended to deal with the circumstances in Florida and Tennessee, circumstances that were unique at the time.

In further support of BellSouth's intentions, it is clear from the Partial Agreement itself that BellSouth's negotiations

were under the Act. MCI had even suggested negotiating some type of agreement outside the scope of the Act and BellSouth declined this suggestion. Further, in conformance with the Agreement, as stated in the sixth "Whereas" statement in the Agreement, it has been submitted to the Florida Public Service Commission under the authority of Section 252 and under the criteria for voluntary agreements in the Act. The only basis for such a submission and the Commission's subsequent approval is an agreement negotiated under the procedures of the Act. Exhibit 2, attached hereto, is the transmittal letter for the Agreement, specifically stating the Agreement is filed under Section 252 of the Act. It is also equally clear that issues resolved through voluntary negotiation are not subject to arbitration, i.e., arbitration is limited to those issues that cannot be negotiated. To do otherwise would simply make a mockery of the negotiations and waste the time of all the involved parties.

Indeed, MCI's own documentation would seem to lead to the same conclusion. For example, MCI has documented its own requirements in great detail. An example of MCI's own summary of its requirements is attached, as Exhibit 3. (Appendix 8 - MCI Requirements Response). As is indicated quite clearly, several interconnection items are shown as "Agreed based on existing agreement." Based on what appears to be clear and incontrovertible facts, those issues included in the already signed Partial Agreement are not subject to arbitration and should be deleted from the issues list.

Issues Related to the Recent FCC Orders

What should be the cost recovery mechanism for remote call forwarding (RCF) used to provide interim local number portability in light of the FCC's recent Order?

What intrastate access charges, if any, should be collected on a transitional basis from carriers who purchase BellSouth's unbundled local switching element? How long should any transitional period last?

What are the appropriate rates, terms and conditions related to the implementation of dialing parity for local traffic?

In addition, to excluding already agreed upon issues from the proceeding, the issues listed above are not appropriate for arbitration. MCI requests arbitration of three issues that are directly related to recent FCC Order, i.e., cost recovery for interim number portability, cost recovery for implementing local dialing parity and the application of intrastate access charges. While clearly there is no question that these are significant issues, they are not appropriate for arbitration. In large measure these items were not the subject of negotiations because the FCC's Orders have been only recently released. More

significantly, however, all of these issues will impact carriers well beyond those that are parties to this proceeding. For example, the FCC's Order and Second Report concerning dialing parity issued on August 8, 1996, in Docket No. 96-98, states that cost recovery should be accomplished in the same manner as for interim number portability. To the extent a state will resolve these issues, it needs to be accomplished through a generic proceeding. This approach is not new to Florida and has been used successfully in the past. In fact, there is already a docket open on the issue of interim number portability, Docket No. 950737-TP. For these reasons, the above listed issues should be deleted from the issue list.

Staff also requested that MCI and BellSouth discuss whether the Florida Public Service Commission has the authority to interpret the Agreement between MCI and BellSouth. Section XI of the Agreement specifically states that any dispute that arises as to the interpretation or implementation of the Agreement may be brought before the appropriate State Commission.

In summary, it is clear from the intent of the Act that arbitration is to be selective, i.e., for issues that the two parties cannot successfully negotiate. As such, the issues discussed above and proposed by MCI should be dismissed from the arbitration proceeding.

Sincerely,

Nancy B. White
(M)

Nancy B. White

Enclosures

cc: All Parties of Record (fax)
Donna Canzano (By hand)
Charles Raywinkle (By hand)
Commissioner Terry Deason (By hand)

CERTIFICATE OF SERVICE
DOCKET NO. 960833-TP
DOCKET NO. 960846-TP

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via Federal Express this 12th day of September, 1996 to the following:

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Nancy B. White (ps)

DOCKET NO. P-141, Sub 29

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of:

Petition of MCI Telecommunications Corporation for Arbitration of Interconnection with BellSouth Telecommunications, Inc., Pursuant to the Telecommunications Act of 1996)	MCI TELECOMMUNICATIONS CORPORATION'S PETITION FOR ARBITRATION
)	
)	
)	
)	

MCI'S PETITION FOR ARBITRATION UNDER THE TELECOMMUNICATIONS ACT OF 1996

MCI Telecommunications Corporation (MCI), individually and on behalf of its affiliates, including MCImetro Access Transmission Services, Inc. (MCImetro) (collectively "MCI") hereby petitions the North Carolina Public Service Commission (Commission) to arbitrate, pursuant to Section 252(b) of the Telecommunications Act of 1996 (Act),¹ certain terms and conditions of a proposed agreement between MCI and BellSouth Telecommunications, Inc. (BellSouth).

PARTIES

1. Petitioner's full name and its official business address for its North Carolina

operations are:

MCI Telecommunications Corporation
Suite 700
780 Johnson Ferry Road
Atlanta, GA 30342

¹ Throughout this Petition, references to sections of the Act refer to the Communications Act of 1934 (47 U.S.C. 151 *et seq.*) as amended by the Telecommunications Act of 1996.

2. MCIT holds a certificate from the Commission as an interexchange carrier (IXC), MCImetro holds certificates as a Competitive Access Provider (CAP) and a Competing Local Provider (CLP). MCIT and MCImetro are both "telecommunications carriers" and "local exchange carriers" under the terms of the Act.

3. The names and addresses of MCI's representatives in this proceeding are:

Ralph McDonald
Bailey & Dixon, L.L.P.
2500 Two Hannover Square
Post Office Box 1351
Raleigh, NC 27602

and

Marsha A. Ward
MCI Telecommunications Corporation
Suite 700
780 Johnson Ferry Road
Atlanta, GA 30342

4. BellSouth Telecommunications, Inc. (BellSouth) is a corporation organized and formed under the laws of the State of Georgia, having an office at 675 West Peachtree Street, Atlanta, Georgia 30375. BellSouth provides local exchange and other services within its franchised areas in North Carolina. BellSouth is a "Bell Operating Company" and an "incumbent local exchange carrier" under the terms of the Act.

JURISDICTION

5. The Commission has jurisdiction over MCI's Petition pursuant to the provisions of the Act. On March 26, 1996, MCIT formally requested negotiations with BellSouth on behalf of itself and its affiliates, including MCImetro, pursuant to Section 252(a)(1) of the Act. A copy of that request is attached as Exhibit 1. As permitted by Section 252(b)(1) of the Act, MCI files this Petition for resolution of open issues between itself and BellSouth between the 135th and

180th days following such request. Under Section 252(b)(4)(C) of the Act, the Commission must complete this arbitration within nine months of the date that MCI made its original negotiation request, that is, by December 26, 1996.

SIGNIFICANCE OF THIS PROCEEDING

6. This is an historic proceeding. In 1995, the North Carolina General Assembly took steps to remove the statutory monopoly on local telephone service and the Commission began to conduct proceedings to implement that new law. On February 8, 1996, the President signed into law the Telecommunications Act of 1996, which authorized local competition on a nationwide basis. The federal law contains detailed provisions governing the relationship between incumbent local exchange companies and their new competitors. It gives state regulators significant responsibilities for implementing the Act consistent with regulations established by the Federal Communications Commission (FCC). On August 8, 1996, the FCC released its decision discussing and adopting significant regulations to implement the local competition provisions of the Act. *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, First Report and Order (adopted August 1, 1996) (FCC Competition Order).

7. The goal of both the North Carolina and federal laws is the same -- to provide consumers with the new choices, lower prices, and advanced technologies that fair competition will bring to the local telecommunications market. At the same time, both laws recognize that the transition from monopoly to competition will not occur overnight, that the former monopolists will not willingly embrace the new competitive paradigm, and that continued regulatory oversight is necessary to ensure that competition is given a fair chance to develop.

8. MCI brings a unique perspective to this emerging competitive market. It was born in 1968 as MICOM, renamed MCI in 1971, launched the first competitive shared private line service in 1974, and has grown to be the second largest facilities-based long distance carrier in the United States, and third largest carrier of international traffic in the world. MCI has succeeded in a competitive marketplace. It did not start as a monopolist with captive customers in hand. Every MCI customer had to choose MCI.

9. MCI "grew up the hard way" in the long distance business, and now faces the same challenges as it begins to enter the newly competitive local telecommunications market. MCI understands that competition does not happen overnight. The development of competition requires oversight and intervention by regulators -- particularly when new entrants must rely upon entrenched monopolists possessing market dominance in order to obtain the facilities and services that are vital to their entry into the marketplace.

10. This proceeding, and others like it, will establish the terms and conditions under which competition will begin to develop. It will resolve disputed issues that go to the heart of MCI's ability to compete with BellSouth. Consumers can have choice, but only if all parties -- the incumbents, the new entrants, and this Commission -- take the steps needed to open the local market for competition on fair terms as Congress envisioned in the Act.

11. As the Commission makes its determinations in this proceeding, it should ask:

- Does its decision create an environment that promotes investment and the development of a flourishing array of new services?
- Does it establish prices that mirror a fully competitive market?
- Does it provide vigilant oversight against anti-competitive practices?

If the answer to each of the questions is "yes," then the Commission will have charted a course to bring competition, and all of its benefits, to North Carolina consumers.

THE NEGOTIATIONS

12. By letter dated March 26, 1996, MCI formally requested negotiations with BellSouth pursuant to Section 252 of the Act. The first negotiating meeting pursuant to Section 252 was delayed while MCI and BellSouth completed their on-going negotiations for an interim agreement on terms and conditions of interconnection. Those negotiations resulted in an Agreement effective as of May 15, 1996 (the "Interim Agreement"), which addressed certain interconnection and other issues for a two-year period. The Interim Agreement was submitted to the Commission for approval on May 24, 1996, and approved on June 18, 1996. (*Order On Negotiated Interconnection Agreement*, Docket No. P-100, Sub 133, June 18, 1996) A copy of the Interim Agreement is attached as Exhibit 2.

13. The first negotiating meeting pursuant to Section 252 of the Act was held on May 28, 1996. Prior to that meeting, MCI furnished BellSouth a copy of Version 3.2 of a document entitled "MCI Requirements for Intercarrier Agreements" which sets forth in detail MCI's requirements for interconnection and access, unbundling, resale, ancillary services and associated arrangements pursuant to the Act (Term Sheet). The Term Sheet was provided to BellSouth as part of the comprehensive negotiations to cover all the states served by BellSouth. The Term Sheet, as subsequently revised on June 7, 1996 (Version 4.0), served as the focal point of the negotiations. An Annotated Term Sheet, in which MCI had indicated its understanding of

BellSouth's response to each item requested in MCI's Term Sheet, is attached as Exhibit 3, and is hereby incorporated by reference as if fully set forth in the body of this Petition.²

14. Additional meetings and conference calls between MCI and BellSouth were held in June, July and August.

15. The parties reached an early impasse on pricing issues. Despite the Interim Agreement which represents a temporary negotiated settlement of pricing for local interconnection only, BellSouth was unwilling to entertain MCI's proposal that prices for other items be set at forward-looking economic cost, or Total Service Long Run Incremental Cost (TSLRIC).³ BellSouth insisted that items be priced in a manner intended to continue to recover all of its embedded costs. The May 14, 1996 Agreement governs the pricing which will be applied to interconnection between MCI and BellSouth until May 15, 1998. It is unknown what pricing arrangements for interconnection will apply at the conclusion of the two-year interim period.

16. During the negotiations BellSouth has made no proposals to MCI regarding items that BellSouth may wish to obtain from MCI.

17. Given the lack of meaningful negotiation on pricing issues with the narrow exception of the interim interconnection prices covered by the Interim Agreement, and the lack

² The Interim Agreement addresses several interconnection items listed in the Term Sheet. Specifically, I. 1.1, 1.2, 1.3, 1.4, 1.6, 2.1, 2.2, 2.4, 3.1, 3.2, 3.3, 3.4, 3.5, 3.7, 4.2, 4.6, 4.9, 5.2.2, 6.3.9, 6.4.1, 6.4.5, 6.4.10 and 8.3 and XIII. At this time, MCI does not argue for different treatment of these items covered by the Interim Agreement.

³ In its Competition Order, the FCC adopted a version of the TSLRIC methodology as the basis for pricing interconnection and unbundled elements. The FCC coined the term "total element long run incremental cost" (TELRIC) to describe its version of the TSLRIC methodology. (FCC Competition Order, ¶ 678)

of any BellSouth requests of MCI, there has been little of the "give and take" that characterizes a typical commercial negotiation.

18. As a result of this process, there are several categories of issues, all of which are submitted for arbitration:

(a) There are a number of fundamental policy, pricing, technical, operational and administrative issues where the parties have been unable to reach any level of agreement.⁴ These include the pricing of unbundled elements, the availability of all services for resale, the pricing of resold services, and the pricing (and in some cases availability) of certain ancillary services⁵.

(b) There are other issues where the parties have not yet reached an agreement in principle.

(c) There are other issues where MCI believes that the parties may have reached an agreement in principle but where the parties have not yet agreed to specific contractual language. In some instances, the agreement in principle is in broad terms and there are numerous details to be resolved before contractual language can be developed.⁶ These issues are submitted for arbitration to ensure that they are pushed to final resolution during the course of this proceeding.

⁴ In large part, these are also issues on which BellSouth and AT&T have failed to reach agreement.

⁵ As noted below, the FCC Competition Order resolves some of these issues in whole or in part. Absent an agreement with BellSouth, however, these issues are submitted for arbitration to preserve MCI's rights in the event BellSouth takes a contrary view of its federal obligations, and to ensure that these obligations are translated into appropriate contractual language.

⁶ In other cases, these issues have been dealt with in the Interim Agreement between MCI and BellSouth, and the parties will simply need to agree on the appropriate language from that agreement to be incorporated in the final arbitrated agreement.

SUBMISSION OF RELEVANT DOCUMENTATION

19. MCI is filing with its Petition all relevant documentation concerning the unresolved issues, the position of each of the parties with respect to those issues, and the terms and conditions which MCI believes that BellSouth has agreed to in principle. Because BellSouth has not responded in writing to any of MCI's proposals or positions, this documentation is in the form of an "Annotated Term Sheet" on which MCI has indicated its understanding of BellSouth's response to each item requested in MCI's Term Sheet (Version 4.0). A copy of the Annotated Term Sheet is attached as Exhibit 3, and has previously been incorporated by reference in this Petition.⁷

EFFECT OF THE FCC COMPETITION ORDER

20. The FCC Competition Order will have a significant impact on the conduct of these proceedings. The rules adopted in that order (FCC Competition Rules) are binding on the parties and the state commissions in the conduct of Section 252 arbitration proceedings.

21. In some cases, the FCC Competition Rules place specific requirements on BellSouth, and other incumbent LECs.⁸ MCI assumes that BellSouth will acknowledge the effect of these rules, and will agree to comply with these requirements. Until BellSouth has done so, MCI has identified these items as issues to be arbitrated. Under the FCC Competition Rules, however, there is only one permissible outcome to the arbitration of those issues.

⁷ The Interim Agreement addresses several interconnection items listed in the Term Sheet. Specifically, I, 1.1, 1.2, 1.3, 1.4, 1.6, 2.1, 2.2, 2.4, 3.1, 3.2, 3.3, 3.4, 3.5, 3.7, 4.2, 4.6, 4.9, 5.2.2, 6.3.9, 6.4.1, 6.4.5, 6.4.10 and 8.3 and XIII. At this time, MCI does not argue for different treatment of these items covered by the Interim Agreement.

⁸ For example, the rules (47 C.F.R. §51.319) contain a minimum list of unbundled network elements which must be offered by every incumbent LEC. (See FCC Competition Order, 1366 *et seq.*)

22. In other cases, the FCC Competition Rules establish standards or methodologies that state commissions must apply in resolving issues submitted for arbitration.⁹ These standards typically establish the framework within which Commission fact-finding must occur and frequently allocate the burden of proof to the incumbent LEC.¹⁰

23. In still other cases, the FCC Competition Rules establish default pricing proxies which a state commission may apply in arbitration proceedings if it is unable to conduct or review cost studies that comply with the FCC's prescribed methodology by the arbitration deadline.¹¹

24. MCI has attempted in this Petition to identify issues that are resolved or otherwise impacted, in whole or in part, by the FCC Competition Rules. Because these rules and the accompanying 687-page order have been publicly available for approximately two weeks as of the date this Petition is filed, MCI reserves the right to make necessary amendments to this Petition based on further analysis of the rules.

MAJOR CATEGORIES OF UNRESOLVED ISSUES

25. While there are numerous issues that remain unresolved, those issues can generally be categorized into several major areas. The following identifies each of those major

⁹ For example, the FCC's minimum list of unbundled network elements is not exhaustive. Parties may seek additional unbundled elements, and the state commissions can address those requests through arbitrations or rulemakings. (See FCC Competition Order, ¶366) The FCC has established standards that the state commissions must apply in evaluating such requests. (47 C.F.R. §51.317; see FCC Competition Order, ¶277 *et seq.*)

¹⁰ For example, an incumbent LEC must provide interconnection for transmission and routing of telephone exchange traffic at any technically feasible point within its network, and if the LEC denies a request for interconnection at a particular point it bears the burden of proving technical infeasibility. (47 C.F.R. §§51.305(a),(f))

¹¹ For example, the FCC Competition Rules establish a default ceiling for unbundled loop prices and a default range for the interim wholesale rates for resold LEC services. (47 C.F.R. §§ 51.513, 51.611)

areas and MCI's proposal for resolution and describes broadly two areas covered by the Interim Agreement. Additional details, and specific additional requests, are identified in subsequent sections of this Petition, including the Annotated Term Sheet (Exhibit 3) which has been incorporated by reference into the body of this Petition. BellSouth's refusal to accommodate MCI's requests in each of these areas creates unwarranted barriers to local exchange competition by denying MCI the tools necessary to enter the local market and compete on a fair basis. In many cases, BellSouth's position is flatly contrary to the Act and/or the FCC Competition Rules.

a. What unbundled elements must BellSouth make available to MCI?

BellSouth should be ordered to make available each of the unbundled loop elements, local transport elements, switching elements, and other elements requested by MCI. The unbundling of many of the requested elements has been required by the FCC Competition Rules. (47 C.F.R. §51.319) The unbundling of the remaining requested elements is technically feasible and is not proprietary. BellSouth's failure to provide access to those additional requested network elements would decrease the quality of the telecommunications services MCI seeks to offer and/or would increase the financial or administrative cost of offering such services. MCI is therefore entitled pursuant to the FCC Competition Rules to obtain these additional elements on an unbundled basis. (47 C.F.R. §51.317)

b. Can unbundled elements be used by MCI in any manner that it chooses in order to provide service to its customers? Yes. The FCC Competition Rules require BellSouth to allow MCI to use unbundled network elements in any combination. (47 C.F.R. §51.315) This rule permits limited exceptions only where BellSouth proves that it is not technically feasible to combine elements or that the combination of elements would impair other carriers' ability to obtain access to unbundled elements. (47 C.F.R. §51.315) In light of this

rule, MCI expects that BellSouth will withdraw its prior refusal to allow MCI to combine network elements where that combination provides the same functionality as a currently tariffed service provided by BellSouth. If BellSouth continues to refuse, this issue must be resolved by the Commission consistent with the FCC Competition Rules.

c. How should those unbundled elements be priced? BellSouth should be ordered to price all unbundled elements in accordance with the forward-looking cost methodology prescribed in the FCC Competition Rules. (47 C.F.R. §51.501, *et seq.*) This TELRIC costing methodology is consistent with the TSLRIC-based pricing that MCI has requested of BellSouth.

d. What services must BellSouth make available to MCI for resale? The FCC Competition Rules require BellSouth to offer all retail telecommunications services for resale. (47 C.F.R. §51.605) The services which BellSouth has thus far refused to offer for resale include grandfathered services, trials and promotions, contract service arrangements, volume and term discounts, and Lifeline (Intrastate Subscriber Line Charge Waiver and Matching Program, Docket No. P-100, Sub 95) and LinkUp (LinkUp Carolina, P-100, Sub 80) services. Each of these is a telecommunications service offered to subscribers on a retail basis. Thus, there is no basis under the FCC Competition Rules for BellSouth to refuse to offer any of these services for resale.¹² (FCC Competition Order, ¶871-2) BellSouth is permitted, however, to base the wholesale price for resold short-term promotions on the ordinary retail rate rather than

¹² The FCC Competition Order specifically addresses volume based discounts, Lifeline services, and grandfathered services, and concludes that these are retail services that must be made available for resale. (FCC Competition Order, ¶ 951, 962, 968)

the promotional rates. (47 C.F.R. §51.613(a)(2)) BellSouth should be ordered to impose no use, user or other restrictions that restrict or limit the resale of any of its services.¹³

e. What is the appropriate wholesale price for services provided for resale? The FCC Competition Rules require BellSouth's wholesale price for resold services to reflect all costs that reasonably can be avoided by BellSouth when the service is provided on a wholesale basis. (47 C.F.R. §51.607, 51.609) Pending the establishment of wholesale rates using the avoided cost methodology specified in 47 C.F.R. §51.609, the FCC Competition Rules permit a state commission to establish interim wholesale rates that are between 17% and 25% below the incumbent LEC's existing retail rates. (47 C.F.R. §51.611) The wholesale price adjustment in this case should be set at the top end of the default range established by the FCC Competition Rules, or at such higher level as is supported by the record in this proceeding.

f. To what extent must BellSouth provide "branding" of services provided to end users on behalf of MCI? BellSouth should be ordered to brand, as MCI, any operator services, directory assistance services, and any other like services provided to end users who use BellSouth local exchange services that are being resold by MCI. Such branding is required by the FCC Competition Rules unless BellSouth proves that a particular restriction is reasonable and nondiscriminatory. (47 C.F.R. §51.613(c)). In addition, BellSouth should be required to provide branding in all situations where BellSouth employees or agents interact with MCI customers with respect to the provision of resold BellSouth services or unbundled elements provided to end users on behalf of MCI. (See FCC Competition Order, ¶971)

¹³ The Commission is permitted, but not required, to allow BellSouth to restrict the resale of flat-rate basic local residential service to residential customers, grandfathered services to grandfathered customers, and Linkup services to qualifying low income customers. (47 C.F.R. §51.613(a)(1)) MCI does not object to these specific restrictions.

g. On what time frame must BellSouth provide real-time electronic interfaces for pre-ordering, order processing, provisioning and installation, maintenance and trouble resolution, billing (including customer usage data transfer), and local account maintenance with respect to resold services and unbundled network elements? BellSouth must provide real-time electronic interfaces to MCI as quickly as possible, but in any event by January 1, 1997, as required by the FCC Competition Order. (¶525) Such interfaces are necessary to permit MCI to offer customer service at least equal in quality to what BellSouth provides to its customers. The FCC Rule deals with this issue by defining "operations support system functions" as an unbundled network element which must be made available "as expeditiously as possible, but, in any event, no later than January 1, 1997." (47 C.F.R. §51.319(e)) The FCC Competition Order makes it clear that nondiscriminatory access to this element requires access to any electronic interfaces that are used by BellSouth in performing these support functions for its own customers. (FCC Competition Order, ¶523-5) MCI expects that BellSouth will make these electronic interfaces available in the time frame mandated by the FCC Competition Rules. If BellSouth refuses to do so, this issue must be resolved by the Commission consistent with those rules.

h. What quality of service standards should be established to ensure that BellSouth does not impair the quality of service that MCI is able to provide to its customers when using unbundled facilities or resold services of BellSouth, and what mechanism is appropriate to enforce those standards? The FCC Competition Rules require that, to the extent technically feasible, the quality of unbundled network elements provided to MCI must be at least equal in quality to that which BellSouth provides to itself. (47 C.F.R. §51.311(b)) The terms and conditions on which such elements are provided, including installation intervals, must

also be no less favorable than the terms and conditions under which BellSouth provides such elements to itself. (47 C.F.R. §51.313(b)) Similar quality of service obligations are imposed on BellSouth with respect to the provision of resold services. (47 C.F.R. §51.603(b)) BellSouth should be ordered to adhere to performance metrics, installation intervals, repair intervals and other standards that are equal to the higher of the standards that BellSouth is required to provide, or actually provides, to its own customers or to customers of any other carrier.

i. At what level must BellSouth price interexchange carrier access in order to comply with the Act? The FCC Competition Rules prohibit either interstate or intrastate access charges from being imposed on a carrier who offers local exchange service or exchange access service through the use of unbundled network elements. (47 C.F.R. 51.515(a)) During a specified transitional period, ending no later than June 30, 1997, BellSouth can collect from carriers who purchase BellSouth's unbundled local switching, the interstate CCLC and 75% of the interstate TIC. (47 C.F.R. 51.515(b)) The FCC Competition Order permits states to also impose a transitional access charge on top of the unbundled switching charge, to the extent that the state finds that such a charge is necessary to ensure that universal service goals are not jeopardized prior to the issuance of the FCC's implementation of Sections 254 and 214(e) of the Telecommunications Act of 1996, which require establishment of a competitively-neutral universal service mechanism. However, the state transitional charge, like the interstate transitional charge, must terminate no later than June 30, 1997. MCI believes that universal service in North Carolina will not be jeopardized by the availability of unbundled network elements at economic cost in the short interim between resolution of this arbitration and implementation of the FCC's universal service plan. Therefore, MCI opposes any requirement that requires new entrants to pay the state equivalent of the interstate CCLC or TIC for a

transitional period. MCI further believes that the burden of proof that such charges are required should be on BellSouth.

Additionally, in order to comply with the Act, access charges for both switched and special access must be reduced to TSLRIC as quickly as possible, but in no event later than the date that BellSouth obtains in-region interLATA authority.

j. What is the appropriate cost recovery mechanism for remote call forwarding (RCF) provided to MCI in connection with interim local number portability? BellSouth must be ordered to provide RCF on a competitively neutral basis as required by the FCC's recent order on interim local number portability.¹⁴ MCI proposes a "bill and keep" basis, in which each carrier is responsible for recovering from its customers the costs that it incurs in providing RCF.

k. What are the appropriate technical arrangements for the interconnection of MCI's local network with that of BellSouth's, including appropriate provisions for collocation? This issue is covered by the Interim Agreement between MCI and BellSouth. As previously stated that agreement covers the two-year period ending May 15, 1998. The arrangements after that date are unknown at this time.

l. What is the appropriate compensation arrangement for the transportation and termination of local traffic interchanged between BellSouth and MCI? MCI proposes that BellSouth be required to price transportation of local traffic using the forward-looking TELRIC pricing methodology. Termination of local traffic is covered by the Interim Agreement between MCI and BellSouth. As previously stated, that agreement covers

¹⁴ Telephone Number Portability, CC Docket No. 95-116, First Report and Order and Further Notice of Proposed Rulemaking (adopted July 2, 1996) (FCC Number Portability Order).

the two-year period ending May 15, 1998. The arrangements after that date are unknown at this time.

m. What other technical, operational, and administrative provisions are required? In each of the disputed areas identified in the Annotated Term Sheet, BellSouth should be ordered to provide access, unbundling, resale, ancillary services and associated arrangements in accordance with the requirements identified by MCI.

ISSUES TO BE ARBITRATED

26. The Annotated Term Sheet attached as Exhibit 3, which has previously been incorporated into this Petition by reference, contains a more detailed list of the unresolved issues and the parties' respective positions.¹⁵

A. UNBUNDLED ELEMENTS REQUIRED

27. In order to provide services to North Carolina consumers as quickly and efficiently as possible, MCI intends to buy from BellSouth the "unbundled network elements" identified in paragraph 36 and to use those elements (singly or in combination)¹⁶ along with resold services and with MCI's own facilities, to provide retail services to MCI's customers.

28. Under Section 251(c)(3) of the Act, BellSouth has a duty to provide MCI:

nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms, and conditions that are just, reasonable, and nondiscriminatory. . . [BellSouth] shall provide such unbundled network elements in a manner that allows

¹⁵ The Interim Agreement addresses several interconnection items listed in the Term Sheet. Specifically, 1. 1.1, 1.2, 1.3, 1.4, 1.6, 2.1, 2.2, 2.4, 3.1, 3.2, 3.3, 3.4, 3.5, 3.7, 4.2, 4.6, 4.9, § 2.2, 6.3.9, 6.4.1, 6.4.5, 6.4.10 and 8.3 and XIII. At this time, MCI does not argue for different treatment of these items covered by the Interim Agreement.

¹⁶ The need to use those elements in combination, and BellSouth's refusal to agree to such combination in certain circumstances, is discussed later in this Petition.

provide such unbundled network elements in a manner that allows [MCI] to combine such elements in order to provide . . . telecommunications service.

29. "Network element" is defined in Section 3(45) of the Act as:

a facility or equipment used in the provision of a telecommunications service. Such term also includes features, functions and capabilities that are provided by means of such facility or equipment, including subscriber numbers, databases, signaling systems, and information sufficient for billing and collection or used in the transmission, routing, or other provision of a telecommunications service.

30. The FCC Competition Rules require BellSouth, at a minimum, to provide the following seven unbundled network elements: network interface devices, local loops, local and tandem switching capability (including all software features provided by such switches) interoffice transmission facilities, signaling networks and call-related databases, operator services and directory assistance, and, by January 1, 1997, operations support systems functions. (47 C.F.R. §51.319)

31. The FCC Competition Rules also establish standards by which state commissions must consider additional unbundling requests, including requests for subloop unbundling. (47 C.F.R. §51.317; see FCC Competition Order, ¶259) Under those rules, the Commission must first make a determination of technical feasibility, using the FCC's definition of that term. (47 C.F.R. §51.5, 51.317(b)) If unbundling is technically feasible, the request for unbundling can be declined only in narrow circumstances where (i) the same telecommunications service can be provided with other unbundled network elements without a decrease in quality, or increase in the financial or administrative cost, of the service, or (ii) the network element is proprietary and the same service could be offered using nonproprietary network elements. (47 C.F.R. §51.317(b))

32. MCI has requested that BellSouth initially provide it with the ability to purchase any of the following unbundled elements.¹⁷ These elements generally fall into eight categories:

(a) **UNBUNDLED LOCAL LOOPS** -- network interface devices, local loops, and three subloop elements: loop distribution, digital loop carrier/analog cross connect, and loop feeder;

(b) **UNBUNDLED LOCAL TRANSPORT** -- dedicated interoffice trunks with and without electronics, common interoffice trunks, multiplexing/digital cross connect, and dark fiber;

(c) **UNBUNDLED LOCAL SWITCHING** -- local and tandem switching capability (including all software features provided by such switches), and access to signaling networks and call-related databases;¹⁸

(d) **UNBUNDLED TANDEM/TRANSIT SWITCHING** -- the establishment of a temporary path between two switching offices through a third (tandem) switch;

(e) **UNBUNDLED ANCILLARY SERVICES** -- operator service, directory assistance service, and 911 service;

(f) **UNBUNDLED DATA SWITCHING** -- switching functionality for data services such as frame relay or ATM;

(h) **UNBUNDLED INTELLIGENT NETWORK AND ADVANCED INTELLIGENT NETWORK CAPABILITIES;** and

¹⁷ This list of network elements is not intended to be exhaustive. Additional network elements may be required as competition develops and/or technology advances.

¹⁸ These are the same as items identified in the Annotated Term Sheet (Exhibit 3) as line ports, trunk ports, switching capacity, and signalling and databases.

(i) **UNBUNDLED OPERATIONS SUPPORT SYSTEMS** -- the back office and business processes required for order processing, provisioning and installation, trouble resolution, maintenance, customer care, monitoring service quality, recording, and billing.¹⁹

MCI believes that it is technically feasible for BellSouth to offer each of the additional network elements requested, that such network elements are nonproprietary, and that failure to offer such elements would decrease the quality and/or increase the cost of telecommunications service to be provided by MCI. Therefore the Commission should order BellSouth to unbundle each of the additional network elements as required by the FCC Competition Rules.

33. BellSouth has agreed to provide some, but not all, of the requested network elements.²⁰ Unless BellSouth has changed its position in light of the FCC Competition Rules, BellSouth has not agreed to provide network interface devices, dedicated interoffice trunks without electronics, dark fiber, switching capacity (including all software features), or unmediated AIN functionality. Additionally, BellSouth has not agreed to provide a total unbundled local loop facility where the customer is currently served by an integrated digital loop carrier system. Each of these disputed items will be addressed in turn.

¹⁹ These unbundled elements are discussed in Section G (152) below relating to real-time electronic interfaces.

²⁰ MCI believes that BellSouth has agreed to provide unbundled access to: loop distribution, digital loop carrier/analog cross connect, loop feeder, dedicated interoffice trunks with electronics, common interoffice trunks, multiplexing/digital cross connect, line ports, trunk ports, signalling and databases, tandem switching, operator services, DA services, 911 services, and data switching. (See Section G for discussion of unbundled operations support systems and the related electronic interfaces.)

Absent a written agreement, however, MCI is unsure about BellSouth's commitment to provide these elements, particularly since BellSouth appears to have refused to provide some of these elements to AT&T. To the extent that MCI is mistaken about the scope of its agreement with BellSouth, the unbundling of these additional elements is submitted for arbitration as well.

34. Network Interface Device. The network interface device (NID) is the point of demarcation between the end user's inside wiring and an unbundled loop. BellSouth's position is that unbundling the NID is not technically feasible. The FCC Competition Rules require incumbent LECs to unbundle the NID to the extent of permitting NID-to-NID connections. (47 C.F.R. §51.319(b)) The FCC left to the state commissions the responsibility to determine whether direct connection to the NID (i.e. without the installation by the interconnecting carrier of a second NID) is technically feasible. (FCC Competition Order, §396) MCI believes that such direct connection is technically feasible, and accordingly asks the Commission to arbitrate this issue.

35. Dedicated Interoffice Trunks Without Electronics (Dim or Dark Fiber). Interoffice trunks provide the ability to connect one location (such as an end office or tandem switch) with another location (such as another end office or tandem switch, or an interexchange carrier's point of presence). This capability allows end users to reach each other even when they are not served by the same end office, or by the same carrier.

MCI requires the ability to obtain interoffice transport in whatever manner is most efficient, given the number and location of its customers and the amount of traffic interchanged with BellSouth. This includes the use of both common and dedicated transport facilities, and the use of both dark and dim fiber.²¹

BellSouth has agreed to provide common trunking to MCI. In addition, BellSouth has agreed to provide dedicated interoffice trunks to MCI, but only when they are bundled with the electronics necessary to transmit information over the physical path. BellSouth's position is

²¹ Dark fiber refers to fiber without repeaters and without electronics on either end. Dim fiber refers to fiber with repeaters, but without electronics on either end.

that "dim fiber" and "dark fiber" are not network elements subject to the unbundling requirements of the Act.

MCI disagrees. Such facilities are subject to the Act's unbundling requirements, and it is technically feasible to provide them on an unbundled basis. If BellSouth refuses to provide such facilities on an unbundled basis, MCI would be required to compensate BellSouth for the use of electronics in situations where it can provide all or a portion of such electronics more efficiently itself. MCI has been an industry leader in the deployment of advanced fiber technology. Without the ability to obtain dark fiber, MCI would be limited by the type of electronics used by BellSouth, and would not be able to take advantage of new or more cost-effective fiber technologies.

36. Switching Capabilities. Local switching is the network element which consists of all of the functionality residing in a central office switch. It provides a dialtone for each line, provides custom features such as call waiting and call forwarding, creates the desired transmission path for the proper routing of the call (i.e. connects lines to trunks in accordance with routing instructions contained in the switch), creates customer billing data, and provides data switching functionality.

Access on an unbundled basis to the functions resident in a switch is necessary to create new and innovative services for customers. MCI has begun the deployment of its own local switches in a number of key markets. Such switching capacity represents a major capital investment, and MCI is not capable of deploying such switches in all markets simultaneously.²²

²² MCImetro has installed thirteen Class 5 switches in major cities around the country, and by the end of the year will be operating local switches in 24 markets in 20 states, including a switch in North Carolina. By the beginning of 1997, MCImetro will have invested nearly a billion dollars in local network construction, and if the right rules are in place, will spend almost that much again in 1997 alone.

Unless and until MCI installs its own switch in a given market, it must have access to the unbundled functionality resident in the BellSouth switch in order to provide the widest possible array of services to its customers.

In particular, MCI needs the capability to have BellSouth configure the switch to route specified types of calls originated over MCI customer loops (either unbundled loops obtained from BellSouth, or MCI's own loops connected to a BellSouth switch) to particular trunk groups designated by MCI. For example, MCI must have the option to specify that its customers' 411 calls be routed either to BellSouth DA trunks or to trunks that will transport the call to MCI's DA platform, and the option for 0+ calls to be routed either to BellSouth's operator service trunks or to trunks connected to MCI's operator service platform. Without such unbundling, MCI would be precluded from combining its own operator systems and transport facilities (owned or leased) with BellSouth's switching functionality, even where that is the most efficient way for MCI to provide service to its customers.

BellSouth claims that unbundling local switching is not technically feasible unless it includes BellSouth's operator services, directory assistance, repair service, and inter-office transport (i.e. its entire unbundled port offering).

MCI disagrees. Such unbundling is technically feasible, and is mandated by the FCC Competition Order. (§418 (routing) and §412 (vertical features)) BellSouth's position is inconsistent with the FCC Competition Rules, which establish local switching capability, operator services and directory assistance, and interoffice transport facilities as three distinct unbundled elements. (47 C.F.R. §51.319(c),(d),(g))

37. Unmediated Access to AIN Capabilities. MCI also requires access to BellSouth's Advanced Intelligent Network (AIN) capabilities equivalent to the access that BellSouth provides

itself. This equality of access is needed so that MCI can achieve parity in the creation and offering of advanced services.

BellSouth refuses to unbundle access to its Advanced Intelligent Network (AIN) in such a way that MCI can achieve parity in the creation and offering of AIN services.²³ By way of example, BellSouth claims that it cannot provide unmediated access to all AIN triggers or to BellSouth's service creation and management platform. Unmediated access to such network capabilities is necessary to enable MCI to create and offer a variety of innovative, competitive advanced features to its customers independently of BellSouth, and to enable MCI to customize its customer offerings without having to duplicate BellSouth's network.

The FCC Competition Rules require BellSouth to provide access to these service management systems and service creation environments. (47 C.F.R. §51.319(e)(3)(B), (C)) The FCC left to the state commissions, however, the determination of whether mechanisms to mediate access to those systems, or to call-related databases, are necessary. (47 C.F.R. §51.319(e)(2)(v), (e)(3)(D)) This is an unresolved issue between MCI and BellSouth which must be arbitrated by the Commission.

38. Local Loop In Digital Loop Carrier Situations. MCI seeks the ability to obtain unbundled loops to provide service to any BellSouth customer. BellSouth has claimed that the provision of such loops is not technically feasible where a particular customer's loop includes an integrated digital loop carrier (IDLC) system.

The FCC Competition Order resolves this issue by concluding that it is technically feasible to unbundle IDLC-delivered loops, and requiring the incumbent LECs to provide such

²³ For further detail on unresolved issues regarding the AIN platform, see Part VIII, Section 6 of the Annotated Term Sheet.

loops on an unbundled basis. (FCC Competition Order, ¶383-4) If BellSouth persists in its refusal to agree to unbundle such facilities, the Commission must resolve this issue consistent with the FCC mandate.

B. USE OF UNBUNDLED ELEMENTS IN COMBINATION

39. MCI requires the ability to use unbundled network singly, or in any combination, in order to provide service to its customers. MCI also requires the flexibility to combine both local and intraLATA traffic over a single trunk group where such combination enables MCI to increase the efficiency with which such trunk groups are utilized.

The FCC Competition Rules prohibit BellSouth from placing restrictions on MCI's use of unbundled network elements. With extremely limited exceptions, those rules allow MCI to combine (or cause BellSouth to combine) unbundled elements obtained from BellSouth with each other, or with elements provided by MCI. (47 C.F.R. §51.315)

BellSouth has refused to agree to allow MCI to combine unbundled elements (*e.g.* what BellSouth calls a "loop" and a "port") where the result is to provide the same functionality as a currently tariffed BellSouth service. This refusal is inconsistent with §51.315(b) of the FCC Competition Rules, which states that "except upon request, an incumbent LEC shall not separate requested network elements that the incumbent LEC currently combines." (See FCC Competition Order, ¶292-3) If BellSouth persists in its refusal to agree to the combination of such network elements, the Commission must order such combination in accordance with the provisions of the FCC Competition Rules.

BellSouth also has taken the position that it can impose limitations on the amount of intraLATA traffic to be carried over trunk groups provided for local interconnection. Such limitations are also inconsistent with the FCC Competition Order, which prohibits BellSouth

from limiting MCI's use of unbundled network elements. These limitations are nothing but an attempt by BellSouth to impose increased costs on its competitors in the form of less efficient trunking arrangements.

C. UNBUNDLED ELEMENTS MUST BE PRICED AT TSLRIC

40. Under Sections 251(c)(3) and 252(d)(1) of the Act, the rate for unbundled network elements must be "just, reasonable and nondiscriminatory." Such rates must "be based on the cost (determined without reference to a rate-of-return or other rate-based proceeding) of providing . . . the network element" and "may include a reasonable profit." Thus the Act requires that prices for unbundled network elements reflect their economic costs.

TSLRIC is a way to measure forward-looking economic cost. TSLRIC includes the incremental costs of providing an entire service using the most efficient available technology. Pricing at TSLRIC enables the firm providing a service to recover all of the costs of the service, including a reasonable profit in the form of a competitive rate of return on its investment. Thus, TSLRIC is the proper standard under the Act for pricing unbundled network elements, since it incorporates both direct economic costs and a reasonable profit.

The FCC Competition Rules adopt a specific TSLRIC methodology for determining the forward-looking economic cost of providing unbundled network elements. (47 C.F.R. §51.505, 51.511) The FCC has chosen to call this methodology TELRIC, to reflect the fact that it applies to "elements" rather than "services."

The FCC Competition Rules require that any price established by a state commission for an unbundled network element may not exceed the forward-looking economic cost per unit of providing the element, as shown by a cost study that complies with the FCC's TELRIC methodology. (47 C.F.R. §51.503, 51.505(e)) That rule specifically prohibits the

consideration of embedded costs, retail costs, opportunity costs, or revenues to subsidize other services in the calculation of the forward-looking economic cost of an element. (47 C.F.R. §51.505(d)) The rule does permit a reasonable allocation of forward-looking common costs (47 C.F.R. §51.505(c)), although the FCC recognizes that the level of such costs will likely be small when they are allocated to "elements" rather than "services." (FCC Competition Order, ¶678, 690) The rules also require that such rates be set on a geographically deaveraged basis, for at least three cost-related rate zones. (47 C.F.R. §51.507(f))

The FCC Competition Rules put the burden of proof with respect to the level of both direct costs and common costs on the incumbent LEC, which has superior access to the information necessary to make the required cost calculations. (47 C.F.R. §51.505(e); see FCC Competition Order, ¶680, 695) To the extent that the cost information made available to the Commission by BellSouth does not support the adoption of a rate consistent with the prescribed cost methodology, the Commission may establish an interim rate that is consistent with the proxies specified in 47 C.F.R. §51.513. (47 C.F.R. §51.503)

To date, BellSouth has not presented to the Commission a cost study which meets the requirements of the FCC Competition Rules. Until such a study is presented, and reviewed in a proceeding in which all affected parties have an opportunity to participate, the Commission cannot set a rate outside of the proxy ranges, or above the proxy ceilings, specified in §51.513 of the FCC's rules. (47 C.F.R. §51.505(e))

The proxy ceiling for unbundled local loops in North Carolina, on a statewide weighted average basis, is \$16.71. Proxy ceilings and, for local switching, a proxy range, are also specified. (47 C.F.R. §51.513(e))

MCI is preparing a new version of the Hatfield Version 2.2 study filed on the record in the FCC's Competition docket that will be offered to support MCI's view of the economic cost that BellSouth faces for unbundled elements and transport and termination. The latest Hatfield study is consistent with the FCC's requirements for a TELRIC methodology. The Commission should therefore set rates for unbundled network elements in accordance with the results of that model.

D. ALL SERVICES MUST BE AVAILABLE FOR RESALE

41. Resale means the provision to MCI of any telecommunications service that BellSouth provides at retail to end-use customers who are not telecommunications companies. Unrestricted resale is essential to the development of a competitive marketplace. Resale permits carriers to enter markets quickly, without the massive capital investment necessary to provide facilities-based competition. As facilities-based competitors enter the market, the ability of other parties to resell services of both the incumbent and the new entrants helps to ensure that prices are driven toward cost and helps to prevent monopoly pricing which discriminates among customers based on their willingness to pay.

Section 251(e)(4) of the Act imposes on BellSouth (and other incumbent local exchange carriers) the duty:

(A) to offer for sale at wholesale rates any telecommunications service that the carrier provides at retail to subscribers who are not telecommunications carriers; and

(B) not to prohibit, and not to impose unreasonable or discriminatory conditions or limitations on, the resale of such telecommunications service, . . .

(emphasis added)

The FCC Competition Rules require BellSouth to make all of its retail telecommunications services available for resale on nondiscriminatory terms and conditions. (47 C.F.R. §51.603) This obligation applies to all services that meet the statutory definition of a "telecommunications service" and that are provided at retail to customers who are not "telecommunications carriers." (FCC Competition Order, §871) The FCC found it unnecessary to specify a minimum list of services that must be available for resale, since the available retail services can be determined by examining the LEC's retail tariffs. (*Id.*, §871-2)

Consistent with the requirements of the Act and the FCC Competition Rules, MCI has requested that BellSouth make all retail services available for resale. BellSouth has stated that it is unwilling to sell certain services to MCI for the reasons discussed below, none of which is a permitted reason under the Act and the FCC Competition Rules.²⁴

Grandfathered and Obsolete Services. This includes any service that BellSouth offers to existing retail customers but not to new subscribers. BellSouth's position is that since these services are not offered to new subscribers, they need not be offered to MCI.²⁵ MCI has requested that these services be offered to it for resale to customers who currently receive the same service from BellSouth. Without the ability to resell to this category of customers, MCI is effectively prohibited from competing for the business of these customers unless and until it has deployed a full-scale facilities-based network. In any event, the FCC specifically concluded that

²⁴ Based on its negotiations to date, MCI believes that this is a complete catalog of the services that BellSouth refuses to provide for resale. To the extent that BellSouth intends to refuse to provide any other retail service for resale, or intends to impose any limitations on MCI's resale of any other service, MCI identifies the resale of such service and the inappropriateness of such limitation as additional issues for arbitration.

²⁵ Although BellSouth has stated to MCI that it would not capriciously grandfather services in an anti-competitive manner, BellSouth's tariff filing effective August 2, 1996 regarding "MultiServ" services to obsolete ESSX service casts grave doubt on the sincerity of that assertion.

grandfathered services are subject to the Act's resale requirement, so BellSouth's position must be rejected as a matter of law. (FCC Competition Order, 1968; 47 C.F.R. §51.615)

Trials and Promotions. Trials involve a limited duration offering of a new service. Promotions typically involve offering a preexisting service at a special price, for free with the purchase of another service, or with the waiver of nonrecurring charges. BellSouth's position is that trials and promotions are not required to be available for resale because they are not retail service offerings. The ability to resell these services is critical, however, to prevent BellSouth from manipulating trials and promotions in an anti-competitive manner. Without resale, trials and promotions can be expected to extend for long periods and to target key customers. Consistent with the FCC Competition Rules, the Commission must order BellSouth to make such trials and promotions available for resale, although the wholesale price level may be computed based on the normal retail rate for any promotions (as defined in the FCC rules) of less than 90 days in duration. (47 C.F.R. §51.613(a)(2); FCC Competition Order, 1949-50)

Contract Service Arrangements. A contract service arrangement (CSA) is a non-tariff rate for an otherwise tariffed retail service. BellSouth has refused to agree to allow resale of CSAs -- except on a negotiated, case-by-case basis -- on the grounds that CSAs are not retail service offerings. The FCC has concluded that the statutory resale requirement contains no exception for contract and other customer-specific offerings. (FCC Competition Order, 1948) CSAs must therefore be made available for resale.

Public Access Line Service. Public access line service is the pay telephone service in which BellSouth provides the pay phone CPE and the underlying service, and pays a commission to the premises owner. BellSouth has refused to permit resale of such service on the grounds that it is not required to resell a service that includes the CPE, nor to negotiate a

commission arrangements for MCI to resell. Again this is a "telecommunications service" offered to persons who are not "telecommunications carriers" and is therefore subject to the Act's resale requirements.

Volume and Term Discounts. Volume and term discounts are tariffed provisions under which a customer can obtain service at a discounted rate by agreeing to specific usage volumes, or by committing to take service for a specified period of time. BellSouth has refused to make such discounts available for resale. As with the other services discussed above, the FCC concluded that volume-based discount offerings must be made available for resale. (FCC Competition Order, 951-3)

Lifeline and LinkUp Service. Lifeline and LinkUp provide billing credits to help defray the cost of monthly recurring service and service installation charges for customers who qualify for financial assistance. BellSouth's position is that these services should not be available for resale since they were designed by regulatory authorities and because BellSouth is not reimbursed for the entire amount of the credit. The FCC specifically concluded, however, that such services must be made available for resale, subject to a restriction which prohibits their resale to persons not eligible to subscribe directly to BellSouth's offering. (FCC Competition Order, 956, 962)

E. PRICE FOR RESOLD SERVICES MUST REFLECT AVOIDED COSTS

42. The ability to resell a BellSouth service is a hollow gesture unless the resold service is priced in a manner that enables an efficient reseller to offer the service to its customers at a competitive rate. In recognition of this fact, Section 252(d)(3) of the Act provides the pricing standard that the Commission must adhere to in establishing wholesale rates:

... a State commission shall determine wholesale rates on the basis of retail rates charged to subscribers for the telecommunications services requested, excluding the portion thereof attributable to any marketing, billing, collection, and other costs that will be avoided by the local exchange carrier.

Congress wisely decided that all marketing, billing and collection costs must be excluded in establishing a wholesale rate, since these activities are not necessary to provide service on a wholesale basis, and instead represents retailing costs comparable to those the reseller will incur when it resells the wholesale service. The Act similarly requires the exclusion of any other category of costs that will be avoided by the local exchange carrier in providing the service on a wholesale basis.

The FCC Competition Rules make it clear that this provision requires that the wholesale price level be reduced not only for costs which BellSouth actually avoids, but also for costs which reasonably could be avoided, in the provision of the wholesale service. (47 C.F.R. §51.609(b))

MCI proposed to BellSouth that the wholesale price for each service must be determined based on the costs that BellSouth can avoid when the service is resold.

BellSouth stated its agreement in principle that the price of retail services should reflect avoided costs. However, BellSouth has not made a specific proposal to MCI on the wholesale price level, and has provided no specific cost data to document the costs that it claims will be avoided in a wholesale environment. BellSouth did acknowledge that it has entered into agreements with other parties which provide a statewide retail cost adjustment of 18% for residential service and 12% for business service, and that it would make such terms available to MCI.

The FCC Competition Rules prescribe a detailed avoided cost methodology to be used in developing wholesale price levels. (47 C.F.R. §51.609(e)) These rules place on the LEC the burden of proving that some costs should be included in the wholesale rate, and on the requesting party the burden of proving that other costs should be excluded from the wholesale rate. (47 C.F.R. §51.609(d)) The rules also prescribe a default wholesale price range from 17% to 25% below retail price levels which can be applied by a state commission on a temporary basis in lieu of completing an avoided cost analysis. (47 C.F.R. §51.611)

If an avoided cost study complying with the FCC rules is not submitted in a timely manner that permits its review in this proceeding, then the Commission should set interim wholesale rates at a level 25% below retail rates.

F. BELLSOUTH MUST PROVIDE "BRANDING" OF SERVICES FURNISHED ON BEHALF OF MCI

43. In order to provide service that is comparable to that provided by BellSouth, MCI must be able to provide services to customers under its own name, rather than that of BellSouth. MCI has therefore requested that "branding" of services as MCI be provided whenever there is a point of customer contact between BellSouth and an MCI customer with respect to service provided by MCI through resale of BellSouth's services, or the use of unbundled network elements. This proposal includes, but is not limited to, branding of: operator services; directory services; repair services; intercept tapes; maintenance tickets, "not at home" notices, and other documents provided to a customer; and so forth.

BellSouth has generally refused to provide branding of operator services, directory services, and similar services on the grounds that such branding would quickly exhaust switch capacity and therefore is not technically feasible. In situations involving documents provided to

a customer, BellSouth has generally proposed to provide notices or services on an unbranded basis, citing operational concerns about the number of different branded notices it would have to accommodate in an environment with numerous competitive carriers.²⁸

The FCC Competition Rules treat refusal to provide branding upon request as a restriction on resale. (47 C.F.R. §51.613(c)) BellSouth can impose such a restriction only if it proves to the Commission that the restriction is reasonable and nondiscriminatory, such as by proving that BellSouth lacks the capability to comply with the branding request. (Id.) MCI believes that BellSouth will be unable to meet its burden of proof, and submits for arbitration the reasonability of this restriction.

G. REAL-TIME ELECTRONIC INTERFACES MUST BE PROVIDED AS SOON AS TECHNICALLY FEASIBLE

44. When BellSouth provides a retail service to its customer, it employs real-time electronic interfaces to create and/or access data for a variety of purposes. These generally fall into the following categories:

(a) ordering processing systems -- the means by which BellSouth obtains information regarding a potential customer that is needed to place an order for service, assigns a phone number, and schedules installation;

(b) provisioning and installation systems -- the means by which BellSouth places and fills an order for service, and tracks the status of installation activities;

²⁸ MCI has also requested, and believes that BellSouth has agreed, that BellSouth refrain from marketing BellSouth to MCI customers during such customer contacts. It appears from AT&T's arbitration petition, however, that BellSouth's publishing company, BellSouth Advertising and Publishing Corporation (BAPCO), takes the position that during sales calls to a competitor's local service customers for directory advertising, that BAPCO should be able to market BellSouth's services. If BellSouth/BAPCO takes the same position with respect to MCI, then the issue of marketing is unresolved, and will need to be resolved through arbitration.

(c) maintenance and trouble resolution systems -- the means by which BellSouth arranges for responses to maintenance and repair requests from customers, and tracks the status of its maintenance and repair activities;

(d) billing systems (including customer usage data transfer) -- the means by which MCI is billed for services provided to it by BellSouth, including the means by which the customer's usage data is collected and transmitted by BellSouth to MCI for billing purposes; and

(e) local account maintenance -- the means by which BellSouth can update information regarding a particular customer, such as a change in the customer's features or services.

In order for MCI to provide a comparable quality of service to its customers, it must have access to these same systems via electronic interfaces on a similar real-time basis. Without such capability, MCI will not be able to offer its customers the same quality of service as BellSouth, thus hampering its ability to compete.

MCI has therefore requested that BellSouth provide real-time electronic interfaces in each of these areas to support both resold services and unbundled network elements. For example, real-time electronic ordering systems are required for unbundled network elements, interconnection facilities, interim number portability mechanisms, and customer listing databases. MCI believes that BellSouth has agreed in principle to provide such real-time electronic interfaces, but has not committed to the details of the interfaces nor the timetable on which they will be made available.²⁷

²⁷ It appears from AT&T's arbitration petition that BellSouth may be refusing to commit to provide some of these electronic interfaces to AT&T. In the event that MCImetro has misunderstood BellSouth's agreement to provide such interfaces, there would be additional issues requiring resolution by the Commission.

The FCC Competition Rules recognize the critical importance of these interfaces, and require them to be provided no later than January 1, 1997. (47 C.F.R. §51.319(f); see FCC Competition Order, ¶523-5) MCI expects that BellSouth will agree to make these electronic interfaces available in the time frame mandated by the FCC Competition Rules. If BellSouth refuses to do so, this issue must be resolved by the Commission consistent with those rules.

It is imperative to the development of a competitive local telecommunications market that electronic access to these systems be implemented in the FCC-mandated time frame. MCI's experience in the long distance market, where MCI was a customer of the incumbent LECs rather than a competitor, is that the provision of such systems can take a number of years unless an implementation schedule is established, and implementation is monitored, by an appropriate regulatory authority. MCI therefore requests that the Commission arbitrate the details of the manner in which real-time electronic interfaces to these support systems will be provided, and retain jurisdiction over this proceeding to enforce the timely provision of such interfaces.

H. QUALITY OF SERVICE STANDARDS MUST BE ESTABLISHED AND ENFORCED

45. In order to be able to provide service to its customers that meets or exceeds that provided by BellSouth, MCI must receive service from BellSouth that is equal in quality to the highest level of quality that BellSouth is required to provide, or actually provides, to itself or any other carrier. The FCC Competition Rules incorporate this requirement, by requiring that unbundled network elements be provided on terms and conditions that are no less favorable to the requesting carrier than the terms and conditions under which the incumbent provides such

elements to itself. (47 C.F.R. §51.313) A similar quality of service obligation is placed on the incumbent with respect to the provision of services for resale. (47 C.F.R. §51.603)

To ensure meaningful control over service quality, MCI requested that BellSouth establish negotiated performance metrics and generally ensure that the quality of service provided to MCI is at least equal to that provided to BellSouth itself. For example, MCI proposed that installation, repair, and database updating intervals for services and facilities provided to MCI must be no longer than for BellSouth's own services; that services provided to MCI meet the same quality, reliability and performance standards met by BellSouth's end user services; and that new comparative reporting mechanisms be established to measure service quality for resold services compared to BellSouth's own services. MCI also proposed that the companies agree on a mechanism for dealing with breaches of agreed quality of service standards.

BellSouth has agreed in principle that performance metrics should be established, and agreed in concept that an enforcement mechanism would be appropriate. The negotiations never proceeded, however, to the stage where specific performance criteria or a specific enforcement mechanism were agreed to. These issues, therefore, remain to be arbitrated.

In the absence of an agreed enforcement mechanism, MCI proposes that BellSouth be required to compensate MCI through a credit against bills for resold services and unbundled network elements for any failure to provide service to MCI that is at least equal in quality to that provided to BellSouth itself.

I. TRANSITIONAL RULES FOR INTEREXCHANGE CARRIER ACCESS MUST BE IMPLEMENTED PENDING FULL IMPLEMENTATION OF TSLRIC PRICING.

46. The FCC Competition Rules prohibit either interstate or intrastate access charges from being imposed on a carrier who offers local exchange service or exchange access through the use of unbundled network elements. (47 C.F.R. §51.515(a))

During a specified transitional period, ending no later than June 30, 1997, BellSouth can collect from carriers who purchase BellSouth's unbundled local switching, the interstate CCLC and 75% of the interstate TIC. (47 C.F.R. 51.515(b)) The FCC Competition Order permits states to also impose a transitional access charge on top of the unbundled switching charge, to the extent that the state finds that such a charge is necessary to ensure that universal service goals are not jeopardized prior to the issuance of the FCC's implementation of Sections 254 and 214(e) of the Telecommunications Act of 1996, which require establishment of a competitively-neutral universal service mechanism. However, the state transitional charge, like the interstate transitional charge, must terminate no later than June 30, 1997. MCI believes that universal service in North Carolina will not be jeopardized by the availability of unbundled network elements at economic cost in the short interim between resolution of this arbitration and implementation of the FCC's universal service plan. Therefore, MCI opposes any requirement that requires new entrants to pay the state equivalent of the interstate CCLC or TIC for a transitional period. MCI further believes that the burden of proof that such charges are required should be on BellSouth.

In addition, in order to comply with the Act, access charges for both switched and special access must be reduced to TSLRIC as quickly as possible, but in no event later than the date that BellSouth obtains in-region interLATA authority.

J. INTERIM LOCAL NUMBER PORTABILITY COSTS MUST BE RECOVERED ON A COMPETITIVELY NEUTRAL BASIS

47. Section 251(e)(2) of the Act requires that "the cost . . . of number portability shall be borne on a competitively neutral basis as determined by the [FCC]." In *Local Number Portability*, CC Docket No. 96-116, First Report and Order and Further Notice of Proposed Rulemaking (released July 2, 1996) (FCC Number Portability Order), the FCC adopted rules which provide that any cost recovery mechanism for transitional methods of number portability must be designed so as not to have a disparate effect on the incremental costs of competing carriers seeking to serve the same customer, or to have a disparate effect on the ability of competing telecommunications carriers to earn a normal return on their investment.²⁴

In its explanation of these rules, the FCC noted that a cost recovery mechanism that imposes the entire incremental cost of currently available number portability on a facilities-based new entrant would violate the first criterion in the rules. (*Id.*, ¶134) On the other hand, a cost recovery mechanism that recovers the cost of currently available number portability through a uniform assessment on the revenues of all carriers (less any charges paid to other carriers) would satisfy this criterion. (*Id.*)

MCI therefore requests that the Commission arbitrate the compensation mechanism for interim number portability. MCI proposes that the costs incurred by BellSouth and MCI in implementing interim number portability be recovered from their respective customers in a "bill and keep" type of arrangement.²⁵ This method is acceptable under the

²⁴ BellSouth has filed an appeal of the FCC's Order. That appeal does not stay the effectiveness of these Rules, which take effect on August 26, 1996.

²⁵ This mechanism would be in place unless and until the Commission concludes further generic proceedings on interim number portability to bring its overall policy into compliance with the FCC Rules.

FCC's rules, and has the virtue of simplicity. It avoids the need to set specific rates and to implement billing systems to support an interim number portability mechanism which soon will be supplanted by a permanent database solution.

K. INTERCONNECTION OF MCI'S LOCAL NETWORK WITH THAT OF BELLSOUTH MUST BE PERMITTED AT ANY TECHNICALLY FEASIBLE LOCATION AND COLLOCATION MUST BE PERMITTED ON REASONABLE TERMS AND CONDITIONS

48. This issue is covered by the Interim Agreement between MCI and BellSouth. The term of the Agreement expires on May 15, 1998. It is unknown what arrangements will be available to MCI at that time.

L. TELRIC MUST BE REQUIRED FOR PRICING OF INTERCHANGE OF LOCAL TRAFFIC

49. BellSouth should be ordered to provide the transportation of local traffic at TELRIC prices based on the FCC Competition Rules, 47 C.F.R. §51.705.

M. OTHER TECHNICAL, OPERATIONAL AND ADMINISTRATIVE ISSUES

50. The following paragraphs discuss other significant technical, operational and administrative issues on which the parties have been unable to reach agreement, and which therefore require resolution by the Commission.

As shown by the Annotated Term Sheet (Exhibit 3), which has been incorporated into this Petition by reference, the narrative portion of this Petition (including the following paragraphs) does not address each and every technical, operational and administrative issue on which the parties have failed to agree. Each of those technical, operational and administrative issues will require resolution through the Commission-established arbitration process.

51. Information on Service Changes. To enable MCI to provide new services to its customers in a timely manner, MCI requires BellSouth to communicate knowledge of any

engineering changes associated with BellSouth's network elements, deployment of new technologies, or changes to its retail services as soon as they are known to BellSouth. While BellSouth appears to agree in principle to advance notification, there is no agreement on the timing or manner of notification.

52. PIC Changes for MCI Customers. When MCI resells a BellSouth service, MCI is the appropriate point of contact for changes to the customer's interexchange carrier, regardless of whether the change is initiated by the customer or by an IXC acting pursuant to a customer's letter of authorization. BellSouth should thus be prohibited from implementing any PIC changes for services resold by MCI except in response to a request submitted to it through MCI. BellSouth's position is that it should be permitted to accept PIC changes directly from an IXC with respect to such resold services.

53. Rights-of-Way, Poles, Ducts and Conduits. Section 251 of the Act requires BellSouth to afford MCI access to its rights-of-way, poles, ducts and conduits. BellSouth acknowledges this requirement, but takes the position that it can "reserve" unused capacity equal to its five-year forecast of BellSouth's needs.

MCI's position is that access to BellSouth owned or controlled facilities should not be limited to excess capacity. Instead, MCI should have access to all capacity which is currently available or which can be made available. BellSouth should be required to provide regular reports on the capacity status and planned increase in capacity of all their poles, ducts and conduits so that MCI can identify whether or not they are full and plan accordingly. MCI's position is consistent with the FCC's conclusion on this issue. (FCC Competition Order, ¶1170)

54. Bill Format for Unbundled Network Elements. MCI has requested BellSouth to provide billing for unbundled network elements in a carrier access billing systems (CABS)

format to facilitate standard industry auditing practices. BellSouth has agreed to provide billing in the requested format for access-like services, but will only agree to provide billing from the customer record information system (CRIS) system for other unbundled elements. The use of the CRIS billing is unacceptable, because it does not involve a standardized billing format, and makes the bills virtually inauditable.

55. Engineering Records for Unbundled Facilities. MCI has requested that BellSouth provide engineering records for unbundled facilities that it obtains from BellSouth. MCI believes it may have agreement in principle with BellSouth, but the parties have not yet agreed on contractual language.

56. Directories. MCI's customers must be able to obtain printed directories that include all customers on the public switched network within a defined geographic area regardless of their local service provider. MCI requires that such directories be available on a nondiscriminatory basis including, for example, customized covers for directories distributed to MCI customers.

MCI believes that the parties may have reached agreement in principle on many of these issues, with the exception of the provision of customized covers, but the parties have not yet agreed on contractual language.

57. Dialing Parity. MCI has requested that BellSouth provide dialing parity with no unreasonable dialing delays.

MCI believes that the parties may have reached agreement in principle on many of the dialing parity issues, with the exception of dialing parity for N11 and abbreviated dialing patterns, call set-up and processing times for calls involving RCF, and the method by which the

costs of providing dialing parity should be recovered. The parties have not, however, reached agreement on contractual language.

58. Access to Telephone Numbers. MCI has requested that BellSouth provide the ability for MCI to obtain code assignments and other numbering resources on the same terms and conditions that BellSouth makes available to itself. MCI believes that the parties may have reached agreement in principle on many of these issues, with the exception of access arrangements for 555 line numbers, but the parties have not reached agreement on contractual language.

59. General Terms and Conditions of Agreement. The final arbitrated agreement between the parties will require general terms and conditions, such as dispute resolution mechanisms, performance requirements, confidentiality requirements, and other similar items. The parties have not yet reached agreement on these general contractual provisions.

POST DECISION IMPLEMENTATION AND ENFORCEMENT

60. Section 252(b)(4)(C) requires the Commission to conclude the resolution of the unresolved issues between MCI and BellSouth within nine months after BellSouth's receipt of MCI's original letter requesting the commencement of negotiations, or by December 26, 1996. The arbitration decision will not necessarily end the Commission's involvement as is recognized by order of August 19, 1996 in Dockets Nos. P-100, Sub 50 and P-100, Sub 33.

Section 252(c)(3) authorizes the Commission to "provide a schedule for implementation of the terms and conditions by the parties to the [arbitrated] agreement." MCI submits that the Commission has implied authority under this section to retain jurisdiction over the parties to enforce their compliance with any Commission-established implementation

schedules, and to resolve disputes regarding their adherence to the terms of the arbitrated agreement.

MCI therefore requests that upon the conclusion of the arbitration proceeding, the Commission expressly reserve its jurisdiction over the parties to enforce the terms and conditions, including implementation schedules, in the arbitrated agreement. Continuing Commission oversight is particularly important, since BellSouth will not qualify for in-region interLATA authority until one or more interconnection agreements have been fully implemented, and competitive market entry has begun in earnest.

REQUEST FOR RELIEF

WHEREFORE, MCI respectfully requests that the Commission grant the following relief as a result of this Petition:

- A. The Commission should arbitrate the unresolved issues between MCI and BellSouth within the timetable specified in the Act.
- B. The Commission should issue its order requiring BellSouth:
 1. To make available each of the unbundled network elements requested by MCI;
 2. To allow MCI to use unbundled network elements in any combination;
 3. To price all unbundled network elements at their TELRIC;
 4. To make all retail services available for resale (including but not limited to, grandfathered services, trials and promotions, contract service arrangements, volume and term discounts, and Lifeline and LinkUp services) with no terms and conditions that restrict or limit their resale, other than a restriction that flat-rate basic local exchange service can be resold

only to residential customers, and grandfathered and Lifeline services can be resold only to qualifying customers:

5. To establish a price level for resold services that takes into account all costs that can reasonably be avoided by BellSouth when the service is provided on a wholesale basis;

6. To brand, as MCI, operator services, directory assistance services, and any other like services provided to end users who use BellSouth's local exchange services that are being resold by MCI, and to provide branding in all situations where BellSouth employees or agents interact with MCI customers with respect to the provision of resold BellSouth services or unbundled elements provided to end users on behalf of MCI;

7. To provide real-time electronic interfaces to MCI as quickly as possible, but in any event by January 1, 1997;

8. To adhere to performance metrics, installation intervals, repair intervals and other standards that are equal to the higher of the quality of service standards that BellSouth is required to provide, or actually provides, to its own customers or to customers of any other carrier, and to establish a credit mechanism to offset the charge for resold services or unbundled elements where BellSouth fails to meet those quality of service standards;

9. To price exchange access in connection with unbundled network elements in a manner consistent with the FCC's transitional pricing rules, and to provide exchange access to all carriers at TSLRIC no later than the date BellSouth is authorized to provide interLATA service in North Carolina;

10. To provide RCF for interim local number portability on a competitively neutral basis in which each carrier recovers its costs from its own customers;

11. To provide the other disputed interconnection, unbundling, resale, ancillary services and associated arrangements in accordance with the requirements identified in the Annotated Term Sheet.

C. The Commission should retain jurisdiction of this arbitration and the parties thereto until BellSouth has complied with all implementation time frames specified in the arbitrated agreement and that agreement has been fully implemented.

D. The Commission should consolidate this arbitration for hearing with the AT&T Communications of the Southern States, Inc./BellSouth Arbitration in Docket No. P-140, Sub 50.

E. The Commission should take such other and further actions as it deems appropriate.


RESPECTFULLY SUBMITTED this 23rd day of August, 1996.

Bailey & Dixon, L.L.P.

By: 

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State Bar No. 5037

and


Marsha A. Ward
MCI Telecommunications Corporation
Suite 700
780 Johnson Ferry Road
Atlanta, GA 30342

ATTORNEYS FOR MCI

CERTIFICATE OF SERVICE

The undersigned attorney for MCI certifies that MCI's Petition for Arbitration and Prefixed Testimony were served today by depositing copies in the United States mail, postage prepaid, and addressed as follows:

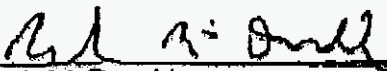
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August 23, 1996.



Ralph McDonald

RECEIVED
MAY 16 1996

BellSouth Telecommunications, Inc.
Suite 400
150 South Monroe Street
Tallahassee, Florida 32301-1530

For 200 224-6673
981 224-7788

PRO-RECORDS/REPORTING

A. M. Lovards
Regulatory Vice President

May 16, 1996

Via Hand Delivery

Ms. Blanca S. Bayo, Director
Division of Records and Reporting
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Docket Nos. 950984 and 950985

Dear Ms. Bayo:

BellSouth Telecommunications, Inc. ("BellSouth") and MCI Metro ("MCI") have successfully completed negotiations for a two year agreement on terms and conditions of interconnection so that their respective customers may communicate with each other. The parties respectfully submit the enclosed Agreement to the Commission in compliance with Section 252 of the Telecommunications Act of 1996.

The two year agreement governs the relationship between the companies on a number of items, such as interconnection, reciprocal compensation, interis number portability, access to 911/E911 services, matters relating to directory listing and directory distribution, interchange of local 800 traffic, use of BellSouth's line information database and access to BellSouth's 557 database.

The Agreement states that certain items are not addressed by the Agreement and are therefore subject to further negotiation. These items include resale of local exchange service, provision of unbundled loops, provision of unbundled transport services and provision of unbundled switching services.

Please acknowledge receipt and filing of the above by date stamping the duplicate copy of this letter and returning the same to me.

30 A 1180
[Signature]
A. M. Lovards

Thank you for your assistance in this filing.

Sincerely,

For BellSouth

For NCIM:

c: All parties of record

**Appendix B
MCI Requirements Response**

BELL SOUTH	YES	NO	MAYBE	IF	FURTHER EXPLANATIONS -Comments-
1.1 One PDI; no cost		X			Based on existing agreement. Circuit is for Atlanta, where local calling area is so large that there are multiple access tandem that will require PDIs.
1.2 Any feasible point	X				Agreed based on existing agreement.
1.3 Same network	X				Agreed based on existing agreement.
1.4 No traffic restrictions	X				Agreed based on existing agreement.
1.5 Modify PDI w/o contract	X				Implicit in existing agreement.
1.6 PDI not unilaterally defined	X				Agreed based on existing agreement.
1.7 Network inefficiencies		X			We need to better define the term network efficiencies for contract.
1.8 Same facilities & quality		X			OK per existing agreement, though on the access network.
2.1 Any point; Every traffic			X		Agreed based on existing agreement. Two way needs to be checked by BST.
2.2 Combine traffic types	X				Agreed based on existing agreement. New agreement can expand some on this point (location specific traffic excluded like OS and BIT).
2.3 8628 voice & data	X				
2.4 PDI @ voice, data, other	X				Links, rather than trunking, apply to some of the examples.
3.1 Equip. for all types traffic	X				
3.2 Local Exchange	X				
3.3 Exchange Access	X				
3.4 DFC Trunk	X				
3.5 Other trunk	X				Only when ITC end offices submit BST tandem.
3.6 IN Logical & Physical		X			Subject to responses in Section X, Part G.
3.7 EMI, DA, OS	X				
3.8 Network Surveillance			X		BST will provide similar functionality as it does today in the access work. BST to research further.

**Appendix B
MCI Requirements Response**

BELL SOUTH	Y E	YES NO	OTHER COMMENTS	OTHER COMMENTS
4.1 Signaling SC @ central pts		X		Does not access to BST databases or surveillance equipment, but instead the SS7 protocol that inherently carries this information.
4.2 SS7 call parameters		X		In compliance with Bellcore ANSI standards only. OMAP only where available. Optional parameters to be available on negotiated basis upon demand.
4.3 Access to all data			X	BST does not support E and F links.
4.4 SPOI @ MCI with diversity		X		Support Bellcore ANSI standards at rates within the BST tariff, or negotiated upon demand. SPOI shall be mutually agreed, not designated by MCI.
4.5 Meet Bellcore SS7 specs		X		Bellcore ANSI, not just ANSI.
4.6 SS7 or MF	X			Also when mutually agreed.
4.7 CIP at no charge			X	CIP is chargeable. b and c OK.
4.8 Intercompany 64Kbps clear	X			
4.9 FCAP for CLASS	X			
4.10 EC link & standards based	X			
4.11 Compatible standards	X			
4.12 Access @ TELNIC				X
4.13 Reference Sec. XII	X			
4.14 No charge for POI prov.	X			
4.15 LEC absorb NRC	X			Must also be reciprocal.
4.16 SS7 @ TELNIC			X	Subject to FCC order
4.17 Transfer @ TELNIC			X	Subject to FCC order
4.18 Dedicated MCI order center				X Business hours only for centers. ASRs can be placed at any time, but only worked when batch sent to BST. This requirement not really needed for interconnection by MCI.
4.19 Electronic Bonding	X			
4.20 REC order term to MCI	X			For ordering trunks on the MCI side of the POI.

**Appendix B
MCI Requirements Response**

BELL SOUTH	Y E S	N O	MAYBE	NOT S P E C I F I C A T E D	FURTHER EXPLANATIONS "COMMENTS"
E.1.0 automated 2-way dialing	X				
E.2.1 Equal order process time	X				
E.3.1 7x24 service centers			X		BST to research
E.3.2 VRI call transfer		X			Will refer manually, not using VRI the technology. Cannot refer customers who can only provide street address (not number or LSP).
E.3.3 Real time Readwrite		X			BST not planning to have electronic outage reporting. BST to look into whether they will provide broadcast fax instead.
E.3.4 Real time service notice		X			Notification will occur like it is currently in the access world.
E.3.5 3rd party contractors				X	BST may consider premium maintenance options as a future service.
E.3.6 NRI/REC proc't: NDF		X			Agreed, unless not technically feasible for BST to implement within their territory.
E.3.7 Escalation via NDF		X			Agreed, unless not technically feasible for BST to implement within their territory.
E.3.8 Coordinated repair	X				
E.3.9 7x24 phone #, test line #	X				Basically covered under ACAC procedures.
E.3.10 Law enforcement	X				
E.4.1 Cycle & info per RECAB	X				
E.4.2 Multiple BMS/Single Tech	X				OK as long as MCI does not want single bill
E.4.3 No MPD dev. charges	X				
E.4.4 REC inward term call rec.	X				
E.4.5 EBN for Tech/Orig	X				Agreed based on existing agreement.
E.4.6 Call rec. in REC format	X				
E.4.7 Call rec. in MCI media	X				
E.4.8 REC bill for REC trans R	X				
E.4.9 Exchange test Files	X				
E.4.10 No REC for MCI EO	X				

**Appendix B
MCI Requirements Response**

BELL SOUTH	YES	NO	NEED FOR SERVICE	REMARKS
BAT1 Fraud Indemnity		X		As long as this is reciprocal
7.1 No less than LEC existing	X			
7.2 P.01 design objectives			X	BST to verify that they do P.01 for busy day, busy hour.
7.3 EC priority over non-enter.			X	BST to research
7.4 PDI install not > 60 days			X	OK for when existing facilities are available, but cannot necessarily be met when either party has to establish or expand a collocation.
7.5 Emer. segment process	X			
7.6 Reach of svc agreements	X			
7.7 Losses; qual. per facilities				
			X	IN THE WRONG SECTION. VEHEMENTLY DISAGREE.
8.1 Confirm transitions compl.			X	BST to research
				Data reporting has not been defined. BST to work cooperatively with MCI to verify parity of service. Data not likely to be currently available. BST to determine level of effort to accomplish this.
8.2 LEC-LEC QOS compa				
8.3 Exchange of forecasts	X			
8.4 Network ID share access			X	OK except for res/costs counts, which are not publicly available
9.1 Local Loop (def.)	X			
9.2 Local Switching (def.)				SOM have problem with IDLC
9.3 Random/Traffic (def.)			X	See section 8R
9.4 Ancillary Service (def.)	X			
9.5 Transport (def.)	X			
9.6 Data Switching (def.)	X			
9.7 BSMN (reference)	X			

NCI Requirements Response

	Y E S	YES with comment	NO with comment	N O	FURTHER EXPLANATIONS "Comments"
BELL SOUTH					
1.1 NTE Immediately		X			Acceptable changes, as agreed in the existing agreement.
1.2 Handoff at POI		X			Acceptable changes, as agreed in the existing agreement.
2.1 Traffic imbalance				X	Acceptable changes, as agreed in the existing agreement.
2.2 Priced @ TSLRIC				X	Access based rates, rather than TSLRIC.
2.3 Transport cost parity				X	BST does not impute its rates.
2.4 Mutual recip. uniform	X				
2.5 Indep. of switch type	X				
2.6 No mileage element	X				
1.1 All services available				X	See 1.5
1.2 All rates available				X	Promotions are only available to retail customers, not wholesale for resale.
1.3 No conditions on resale	X				
1.4 Existing elements provided	X				
1.5 List of services				X	No promotions, BST to research whether they can maintain PRR for calling card, no public access line service, no lifeline and collect services negotiated upon demand. Regulated services are basically available.
1.6 Grandfathered services				X	Will not offer grandfathered services. BST would agree to not capriciously grandfather services in an anti-competitive manner.
1.7 Notice of changes	X				Need to work out details.
1.8 Trials are viable				X	BST conceptually agrees that they will not overhang the market with extended trials.
1.9 Combined with elements		X			Joint marketing prohibited, and must comply with BST's retail tariff restrictions.
1.10 Unbundled vs. resale	X				
1.11 Branding				X	Will look into doing this possibly in the future.