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October 30, 1996

Ms. Blanca S. Bayo
Director, Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Betty Easley Conference Center, Rm. 110
Tallahassee, Florida 32399-0850

RE: Docket Nos. ~~960916-TP~~ 960916-TP, 960846-TP and 960916-TP
AT&T, MCImetro and ACSI's Arbitration with BellSouth

Dear Mrs. Bayo:

Enclosed please find an original and fifteen copies of BellSouth Telecommunications, Inc.'s Memorandum In Opposition To MCI's Motion to Strike BellSouth's Notice of Order, which we ask that you file 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 to the parties shown on the attached Certificate of Service.

- ACK _____
- AFA _____
- APP _____
- CAF _____
- CIV *Reutle*
- CTI _____
- ENC _____
- LF *R*
- W _____
- RCM _____
- SEC *1*
- WAS _____
- OTH _____

Sincerely yours,

J. Phillip Carver
(Handwritten signature)

J. Phillip Carver

Enclosures

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

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CERTIFICATE OF SERVICE
DOCKET NOS. 960833-TP, 960846-TP and 960916-TP

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by Federal Express this 30th day of October, 1996 to the following:

* Hand-delivery

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J. Phillip Carver

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petitions by AT&T)
Communications of the Southern)
States, Inc., MCI Telecommunications) Docket No. 960833-TP
Corporation, MCI Metro Access)
Transmission Services, Inc., American)
Communications Services, Inc. and)
American Communications Services of) Docket No. 960846-TP
Jacksonville, Inc. for arbitration of)
certain terms and conditions of a)
proposed agreement with BellSouth) Docket No. 960916-TP
Telecommunications, Inc. concerning)
interconnection and resale under the)
Telecommunications Act of 1996)
_____) Filed: October 30, 1996

**BELLSOUTH TELECOMMUNICATIONS, INC.'S MEMORANDUM IN
OPPOSITION TO MCI'S MOTION TO STRIKE BELLSOUTH'S
NOTICE OF ORDER**

BellSouth Telecommunications, Inc. ("BellSouth" or "Company") hereby files, pursuant to Rule 25-22.037(b), Florida Administrative Code, its Memorandum in Opposition to MCI's Motion to Strike BellSouth's Notice of Order of the Eighth Circuit court of Appeal's Order Granting Stay and Pending Judicial Review and Request for Relief, and states as grounds in support thereof, the following:

1. MCI Telecommunications Corporation and MCImetro Access Transmission Services, Inc. (collectively "MCI") states in its motion that it does not object to BellSouth's request that the Florida Public Service Commission ("Commission") take notice of the Order of the Eighth Circuit Court of Appeal. MCI, however, argues that the portions of BellSouth's notice in which BellSouth attempts to provide the Commission with its view as to the effect of the stay

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should be stricken. MCI bases its argument on the contentions that (1) the substance of the notice could have been included in BellSouth's Post-hearing brief, and (2) the notice and the brief together total more than the 100 page limit for the brief. Based on nothing more than this, MCI leaps to the conclusion that BellSouth has filed its Notice in an attempt to circumvent the 100 page limit, and that the notice should, therefore, be stricken.

2. The fallacy of MCI's contention that the notice is really a supplement to the brief is obvious in light of the facts: (1) The notice was filed at a different time than the post-hearing brief and was occasioned by the entry of the Eighth Circuit's stay (as opposed to the brief, which would have been filed in keeping with Rule 25-22.056, F.A.C. in any event). (2) The notice does not argue the evidence of either of the consolidated cases, which is the typical function of a brief. (3) The notice was filed not only in the consolidated arbitration proceedings relating to MCI and AT&T of the Southern States ("AT&T"), but in every pending arbitration case that BellSouth has in the state of Florida.

3. Moreover, if BellSouth needed the page limit of the brief to be expanded to argue its legal position, it would have been simple enough to file a motion to request this. Alternatively, BellSouth could simply have agreed to the 125 page limit that was requested by AT&T at the prehearing conference.

4. For the reasons set forth above, MCI's argument that BellSouth is attempting to circumvent the page limit by the filing of a notice is, at best,

implausible. Further, MCI offers nothing more to support its motion. MCI does not argue that it is improper for the notice to contain a discussion of the matters set forth therein; neither does MCI argue that it, or any other party, has been prejudiced in the slightest by BellSouth's filing of the notice. Instead, MCI merely grasps at the slightest of technicalities in an attempt to prevent BellSouth from providing its interpretation of the Order to the Commission as a part of the Notice.

5. BellSouth submits that the better procedure would be for all parties to have an opportunity (if desired) to offer their comments regarding the Eighth Circuit Order to this Commission. To the extent MCI (or, for that matter, AT&T) believes that it has not been able to adequately address the effect of the Order in its brief, BellSouth would have no objection to its filing a document comparable to BellSouth's Notice to state its interpretation of the Federal Order.

6. MCI's position is tenuous at best, even from a technical standpoint. Moreover, MCI has alleged absolutely no prejudice as a result of BellSouth's filing, and even if there were any prejudice, it could easily be remedied by making its own filing.

WHEREFORE, for the reasons set forth above, BellSouth respectfully requests the entry of an Order denying MCI's Motion to Strike in its entirety.

Respectfully submitted this 30th day of October, 1996.

BELLSOUTH TELECOMMUNICATIONS, INC.

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