

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petitions by AT&T) DOCKET NO. 960833-TP
Communications of the Southern) DOCKET NO. 960846-TP
States, Inc., MCI) DOCKET NO. 960916-TP
Telecommunications Corporation,)
MCI Metro Access Transmission) ORDER NO. PSC-97-0309-FOF-TP
Services, Inc., American) ISSUED: March 21, 1997
Communications Services, Inc.)
and American Communications)
Services of Jacksonville, Inc.)
for arbitration of certain terms)
and conditions of proposed)
agreements with BellSouth)
Telecommunications, Inc.)
concerning interconnection and)
resale under the)
Telecommunications Act of 1996.)

FINAL ORDER APPROVING ARBITRATION AGREEMENT BETWEEN MCI
TELECOMMUNICATIONS CORPORATION, MCIMETRO ACCESS TRANSMISSION
SERVICES, INC. AND BELL SOUTH TELECOMMUNICATIONS, INC.

BY THE COMMISSION:

I. BACKGROUND

Part II of the Federal Telecommunications Act of 1996 (Act), 47 USC 151 et. seq., provides for the development of competitive markets in the telecommunications industry. Section 251 of the Act concerns interconnection with the incumbent local exchange carrier, and Section 252 sets forth the procedures for negotiation, arbitration, and approval of agreements.

Section 252(b) addresses agreements established by compulsory arbitration. Section 252(b)(1) states:

(1) Arbitration. - During the period from the 135th to 160th day (inclusive) after the date on which an incumbent local exchange carrier receives a request for negotiation under this section, the carrier or any other party to the negotiation may petition a State commission to arbitrate any open issues.

Section 252(b)(4)(c) states that the State commission shall resolve each issue set forth in the petition and response by imposing the

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appropriate conditions as required. This section requires this Commission to conclude the resolution of any unresolved issues not later than nine months after the date on which the local exchange carrier received the request under this section.

MCI Telecommunications Corporation and MCI Metro Access Transmission Services, Inc. (MCI) requested that BellSouth Telecommunications, Inc. (BellSouth or BST) begin good faith negotiations by letter dated March 26, 1996. Docket No. 960846-TP was established in the event MCI filed a petition for arbitration of the unresolved issues. On July 30, 1996, AT&T Communications of the Southern States (AT&T) and MCI filed a joint motion for consolidation with AT&T's request for arbitration with BST. By Order No. PSC-96-1039-TP, issued August 9, 1996, the joint motion for consolidation was granted. On August 15, 1996, MCI filed its request for arbitration under the Act.

On August 19, 1996, American Communications Services, Inc. and American Communications Services of Jacksonville, Inc. (ACSI) requested that the Commission consolidate its arbitration proceeding with BST with the petitions filed by AT&T and MCI. ACSI filed its petition for arbitration under Section 252 of the Act on August 13, 1996, and Docket No. 960916-TP was established. By Order No. PSC-96-1138-PCO-TP, issued September 10, 1996, ACSI's motion for consolidation was granted.

On August 8, 1996, the Federal Communications Commission (FCC) released its First Report and Order in CC Docket No. 96-98 (Order). The Order established the FCC's requirements for interconnection, unbundling and resale based on its interpretation of the 1996 Act. This Commission appealed certain portions of the FCC Order, and requested a stay of the Order pending that appeal. On October 15, 1996, the Eighth Circuit Court of Appeals granted a stay of the FCC's rules implementing Section 251(i) and the pricing provisions of the Order.

On October 9 through 11, 1996, we conducted an evidentiary hearing for the consolidated dockets. On November 7, 1996, ACSI reached an agreement with BST that was subsequently approved at our November 12, 1996, Agenda Conference. ACSI filed a notice of withdrawal of its petition for arbitration on November 12, 1996.

On December 31, 1997, we issued Order No. PSC-96-1579-FOF-TP in which we arbitrated the remaining unresolved issues between MCI and BST and AT&T and BST. In the Order, we directed the parties to file agreements memorializing and implementing our arbitration decision within 30 days. MCI and BST filed their arbitrated Agreement with the Commission on January 30, 1997. They also

identified the sections of the Agreement where they still could not agree on the language to incorporate. On February 13, 1997, MCIm filed updates to the MCIm and BST Agreement. We considered the Agreement and the language which remained in dispute at our February 21, 1997, Special Agenda Conference. Our decisions on the arbitrated Agreement are set forth below.

II. ATTACHMENT A

The parties to the proceeding have agreed to the language in the sections identified in Attachment A to this Order, which by reference is incorporated herein. Section 252(e)(2)(B) states that the Commission can only reject an arbitrated agreement if it finds that the agreement does not meet the requirements of Section 251, including the regulations prescribed by the FCC pursuant to section 251, or the standards set forth in subsection (d) of Section 251 of the Act. Upon consideration, we find that the language upon which the parties agree is appropriate.

III. ATTACHMENT B

The parties to the proceeding have not agreed to language in the sections identified in Attachment B to this Order, which by reference is incorporated herein. Upon review, since we did not arbitrate the matters in Attachment B, we will not establish language for these sections. Accordingly, they shall not be included in the signed Agreement to be filed with this Commission.

IV. LANGUAGE IN DISPUTE

In Order No. PSC-96-1579-FOF-TP, we determined that if the parties could not agree on language to memorialize and implement our arbitration decision, they should each submit their proposed versions of the Agreement and we would choose the language that best reflects our decision. As mentioned above, the parties identified the sections of the Agreement where they were unable to reach agreement on the language to be incorporated. Our decisions on the language upon which the parties disagree is set forth below.

A. Attachment 1 - Price Schedule

Attachment 1 to the Agreement identifies the list of prices approved by the Commission. The parties cannot agree on introductory language discussing the General Principles, Local Service Resale, Unbundled Network Elements, etc. Most of the

language was included in subsequent attachments or was not addressed in the issues in the arbitrated proceeding. The only essential pieces of information in the introductory language are the local service resale discount amounts approved in our arbitration order. The parties have not even been able to agree on the language incorporating the discount amounts.

In addition, the parties cannot agree on all the services to be included in this price list. MCI has listed rates only for services approved by the Commission. BST has incorporated those services plus additional services which it acknowledges the Commission did not order. BST has proposed interim rates for these services "so that if MCI requires such services prior to the establishment of a permanent rate, there will be a rate available." MCI, on the other hand, states that "[a]ll pricing items not ordered ... are disagreed."

Upon consideration, we find that the local service resale amounts shall be included in the price list in Attachment 1, and that all introductory language shall be eliminated as nonessential to the Agreement.

We also find that the services and rates in this section shall consist only of those we approved. They include the following: 1) the items listed by MCI on Attachment 1, pages 1-5 through 1-8, of its proposed Agreement. Those items match the list approved by the Commission in Order No. PSC-96-1579-FOF-TP; 2) the physical collocation rates contained in the Collocation Handbook attached to witness Scheye's testimony, and which were approved on an interim basis. See Exhibit 47; 3) the virtual collocation rates contained in BST's Access Tariff, which were approved on an interim basis; 4) rates for call termination and transport as approved in the order; 5) End office termination, per MOU - \$.002; 6) Tandem switching, including transport, per MOU - \$.00125; 7) BST has correctly set forth the Commission's ruling with respect to cost recovery of Interim Number Portability, and this provision should be included in the final Agreement; 8) the local service resale discount amounts should be included in the price list as follows:

Residential service - 21.83%
Business service - 16.81%

MCI and BST have proposed different rates in their respective agreements for poles, ducts, conduits and rights of way. We find that since rates were not requested or approved for poles, ducts, conduits and rights of way, we shall not rule on the parties proposed rates. Accordingly, the parties shall not include any

rates for poles, ducts, conduits & rights of way in the signed Agreement which incorporates our decisions herein.

B. Attachment III - Network Elements

<u>Sections</u>	<u>Title</u>
13.4.2.25 - 13.4.2.25.6.3	Performance measures and standards for Line Information Database (LIDB)

MCIm's Proposed Language and Rationale

13.4.2.25 BST shall provide LIDB performance that complies with the following standards:

13.4.2.25.1 There shall be at least a 99.9% reply rate to all query attempts.

13.4.2.25.2 Queries shall time out at LIDB no more than 0.1% of the time.

13.4.2.25.3 Date in LIDB replies shall have at no more than 2% unexpected data values, for all queries to LIDB.

13.4.2.25.4 No more than 0.01% of all LIDB queries shall return a missing subscriber record.

13.4.2.25.5 There shall be no defects in LIDB Data Screening of responses.

13.4.2.25.6 Group troubles shall occur for no more than 1% of LIDB queries. Group troubles include:

13.4.2.25.6.1 Missing Group - When reply is returned "vacant" but there is no active record for the 6-digit NPA-NXX group.

13.4.2.25.6.2 Vacant Code - When a 6-digit code is active but is not assigned to any subscriber on that code.

13.4.2.25.6.3 Non-Participating Group and unavailable Network Resource - should be identified in the LARG (LIDB Access Routing

Guide) so MCIm does not pay access for queries that will be denied LIDB.

MCIm argues that to guarantee service to its customers, MCIm must have agreed upon performance standards for LIDB. According to MCIm, BST's Tariff FCC No. 1 references Technical Publication TR-TSV-000905 for immediate action limits, acceptance limits and maintenance limits. In addition, MCIm states that BST references TR-TSV-000954 for acceptance testing. These are the same type of requirements that are reflected in MCIm's proposed language. MCIm concludes that conforming to the contract requirements would ensure that BST is providing this service at parity to that which it provides itself and other subscribers.

BellSouth's Proposed Language and Rationale

13.4.2.25 With the exception of 13.4.2.25.3, which will be implemented on the effective date of this Agreement, BellSouth shall utilize its best efforts to implement the performance measurements delineated in 13.4.2.25.1 and 13.4.2.25.2 within 6 months of the effective date of this Agreement.

13.4.2.25.1 Percent messages processed within one second.

13.4.2.25.2 Percent LIDB queries handled in a round trip time of two seconds or less.

13.4.2.25.3 BellSouth and MCIm agree to establish a LIDB forum that may include representatives from other CLECs. Said forum shall determine other measurements necessary to demonstrate service parity.

13.4.2.25.4 To identify CLEC-by-CLEC performance, approximately six months development time is required.

BellSouth argues that the Commission's decision clearly stated that "BellSouth provide to AT&T and MCIm telecommunications services for resale and access to unbundled network elements at the same level of quality that it provides to itself and its affiliates." BellSouth argues that its proposal is consistent with the Commission's decision. BellSouth states that the measurements reflected above will, upon completion of the necessary adjustments to BellSouth's measurement systems, report BellSouth's performance for MCIm vis a vis its own retail customers. BellSouth asserts

that to adopt specific benchmarks, as proposed by MCIm, is to go well beyond the Commission's intent. Further, the measurements proposed by BellSouth will only require modification to BellSouth's current measurements. On the other hand, those measurements proposed by MCIm that are not included in BellSouth's proposal are not currently tracked and measured today for BellSouth's own retail purposes.

We ordered MCIm and BellSouth to develop direct measures of quality and performance standards for services. The companies, however, have not agreed on performance standards for Line Information Database. BellSouth's proposed language on standards is vague and less specific than MCIm's proposed language. BellSouth asserts that it does not track and measure for itself the same level that MCIm requests. BellSouth does not assert that it cannot provide MCIm's requested standards. MCIm states that its standards are the same as those described in Technical Publications TR-TSV-000905 and TR-TSV-000954. These technical publications are referenced in BellSouth's FCC Tariff No. 1 regarding standards for immediate action limits, acceptance limits, maintenance limits, and acceptance testing. MCIm's proposed standards in its proposed agreement were also admitted into the record of this proceeding as Exhibit 27, attachment to MCIm witness Ron Martinez's testimony. Upon consideration, MCIm's proposed performance standards appear to be within reason. Therefore, we hereby approve MCIm's language for LIDB performance standards. Accordingly, the parties shall include MCIm's language in the arbitrated Agreement.

C. Attachment IV - Interconnection

<u>Sections</u>	<u>Title</u>
2.4.1-2.4.3	Compensation Mechanisms

MCIm's Proposed Language and Rationale

Section 2.4

No language provided.

Section 2.4.1

When calls from MCIm are terminating on BST's network through the BST tandem MCIm will pay to BST dedicated transport charges from the IP to the tandem for dedicated or common transport. MCIm

shall also pay a charge for tandem switching, a dedicated or common transport to the end office (with mileage calculated as the weighted average of all end offices subtending that tandem), and end office termination.

Section 2.4.2

When BST terminates calls to MCI's subscribers using MCI's switch, BST shall pay to MCI dedicated transport charges from the IP to the MCI Switching Center for dedicated or common transport. BST shall also pay to MCI a charge symmetrical to its own charge for tandem switching, tandem-to-end-office transport, and end office termination as identified in Section 2.4.1.

Section 2.4.3

MCI may choose to establish direct trunking to any given end office. If MCI leases trunks from BST, it shall pay charges for dedicated or common transport. For calls terminating from MCI to subscribers served by these directly-trunked end offices, MCI shall also pay an end office termination. For BST traffic terminating to MCI over the direct end office trunking, compensation payable by BST shall be the same as that detailed in Section 2.4.2 above.

MCI argues that according to the FCC Rules (47 C.F.R. §51.711(a)(2)), rates for transport and termination shall be symmetrical and reciprocal. MCI contends that the Rules state that where the switch of a Competitive Local Exchange Carrier (CLEC) serves a geographical area comparable to the area served by the Incumbent Local Exchange Carrier's (ILEC) tandem, the ILEC's tandem interconnection rate should apply. MCI states that it retains the right to pay direct trunking rates to avoid tandem charges if it incurs the expense of installing direct trunking to BST's end offices within the geographical area covered by MCI's switch. MCI maintains that this is appropriate under the Act as MCI would be reducing the cost of transport, including tandem switching as defined by the Rules (47 C.F.R. §51.701).

MCI contends that it would be justified in seeking compensation that is higher than BST's tandem rate under 47 C.F.R. §51.711(b), as the ILEC's high market penetration and resulting network utilization is likely to far outweigh any advantage a new

entrant might gain through deploying a more efficient network architecture.

BellSouth's Proposed Language and Rationale

Section 2.4

MCIm may designate an IP at any Technically Feasible point including but not limited to any electronic or manual cross-connect points, collocations, telco closets, entrance facilities, and mid-span meets where mutually agreed upon. The transport and termination charges for local traffic flowing through an IP shall be as follows:

Section 2.4.1

When calls from MCIm are terminating on BellSouth's network through the BellSouth tandem, MCIm will pay to BellSouth local interconnection rates.

Section 2.4.2

When BellSouth terminates calls to MCIm's subscribers using MCIm's switch, BellSouth shall pay to MCIm local interconnection rates.

Section 2.4.3

MCIm may choose to establish direct trunking to any given end office. If MCIm leases trunks from BellSouth, it shall pay charges for dedicated or common transport. For calls terminating from MCIm to subscribers served by these directly trunked end offices, MCIm shall also pay BellSouth's local interconnection rates. For BellSouth traffic terminating to MCIm over the direct end office trunking, BellSouth shall pay the same interconnection rates.

BellSouth argues that these sections are not addressed in the arbitration; however, it does propose language.

Upon review, we find that MCIm's language exceeds the scope of the arbitration. Since we did determine the appropriate rates for tandem and end office switching, however, we find it appropriate to approve BST's language with modifications. The following language shall be inserted into the signed arbitrated Agreement:

Section 2.4

MCIm may designate an IP at any Technically Feasible point including but not limited to any electronic or manual cross-connect points, collocations, telco closets, entrance facilities, and mid-span meets where mutually agreed upon. The transport and termination charges for local traffic flowing through an IP shall be as follows:

Section 2.4.1

When calls from MCIm are terminating on BellSouth's network through the BellSouth tandem, MCIm will pay to BellSouth the tandem switching rate.

Section 2.4.2

When BellSouth terminates calls to MCIm's subscribers using MCIm's switch, BellSouth shall pay to MCIm the appropriate interconnection rate(s). BellSouth shall not compensate MCIm for transport and tandem switching unless MCIm actually performs each function.

Section 2.4.3

MCIm may choose to establish direct trunking to any given end office. If MCIm leases trunks from BellSouth, it shall pay charges for dedicated or common transport. For calls terminating from MCIm to subscribers served by these directly trunked end offices, MCIm shall also pay BellSouth the end office switching rate. For BellSouth traffic terminating to MCIm over the direct end office trunking, BellSouth shall pay the same rate.

We note that the portions of the FCC rules that MCIm used in its rationale are currently stayed.

D. Attachment VI - Rights of Way (ROW), Conduits, and Pole Attachments

Section Title

1.1.28 Spare Capacity Definition

MCIm's Proposed Language and Rationale

The term "spare capacity" refers to any pole attachment space, conduit, duct or inner-duct not currently assigned or subject to a pending application for attachment/occupancy. Spare capacity does not include an inner-duct reserved for maintenance, repair, or emergency restoration.

MCIm argues that all companies should not have their own spare inner duct. According to MCIm, there is not enough existing capacity for all companies to have their own. Therefore, only one duct should be used for all companies.

BellSouth's Proposed Language and Rationale

The term "spare capacity" refers to any pole attachment space, conduit, duct or inner-duct not currently assigned or subject to a pending application for attachment/occupancy. Spare capacity does not include an inner-duct (not to exceed one inner-duct per party) reserved by BellSouth, MCIm, or a third party for maintenance, repair, or emergency restoration.

BellSouth asserts that the issue contained within the definition of spare capacity is related to the issue of a common emergency duct, as proposed by MCIm, or a maintenance, repair or emergency restoration reserved duct for any telecommunications carrier who wishes to reserve such capacity. BellSouth argues that its reservation of a spare for emergency purposes, and allowing other carriers similarly to reserve spares, is consistent with this Commission's decision regarding the reservation of space. BellSouth asserts that the common emergency duct raises questions and potential confusion about access to the common duct and priority of service restoration, which could inappropriately complicate responding to emergencies.

Upon review, we find that the dispute is whether just one common emergency duct or a maximum of one emergency duct per party should be excluded from the definition of Spare Capacity. We agree with BST's argument that the concept of one common duct to handle maintenance and emergencies will lead to confusion, require a system of priorities for access to the emergency duct and could complicate response to emergencies. Based on the foregoing, we find that the parties shall incorporate BellSouth's language for attachment VI, Section 1.1.28 into their Agreement.

Section Title

1.2.9.5 Reservation of Ducts for Emergencies

MCIm's Proposed Language and Rationale

Where BellSouth has available ducts and inner ducts, BellSouth shall offer such ducts and inner ducts for MCIm's use. One full-sized (Typically 4 inch diameter) duct and inner duct shall be assigned for emergencies. If BellSouth or any other service provider utilizes the emergency duct or inner duct, and such duct or inner duct was the last unoccupied full-sized duct or inner duct in the applicable cross-section, said provider shall, at its expense, reestablish a clear, full-sized duct or inner duct for emergency restoration as soon as possible. If occupancy of the emergency duct or inner duct by BellSouth or other service provider was for non-emergency purposes, such occupancy shall be subject to immediate removal should an emergency arise calling for the need of a restoration conduit. In the event that an emergency situation causes a service outage, pole and/or duct access will be afforded without discrimination to service providers, with the following prioritization: (i) fire, police and/or hospital facilities, and (ii) facilities impacting the greatest number of people consistent with an intention to best serve the needs of the people.

MCIm argues that BellSouth should establish one set of emergency spares for everyone, not require all companies to pay for their own emergency ducts. According to MCIm, requiring this will use up existing capacity at double the rate and exhaust critical ROW quickly.

BellSouth's Proposed Language and Rationale

BellSouth proposed to delete this section.

BellSouth states that it will reserve space for itself for maintenance spares that will also be utilized by BellSouth in cases of emergency, based upon a one-year forecast. Further, in compliance with the Commission's decision, BellSouth will allow any telecommunications provider to reserve such space for maintenance and emergency purposes, based upon a one-year forecast. BellSouth believes its position is consistent with the Commission's determination on this issue and is also the most efficient approach to the issue of use of space in cases of emergency. BellSouth argues that MCIm's position is to the contrary. MCIm requires that BellSouth assign a full-sized duct for emergencies that will be common for all occupants of the conduit space. In cases where the emergency affects service to more than one occupant, the access to the common emergency duct would be determined by a priority list as

set forth by MCI in its contract language. According to BellSouth, MCI's common emergency duct is simply not practical. BellSouth asserts that its experience shows that most emergencies affect all occupants of the space and, therefore, prioritization of need would, more often than not, be an issue. Second, allowing all telecommunications providers to serve a maintenance or emergency duct totally avoids the issues of prioritization and access to the common duct. Finally, BellSouth argues that MCI's position is contrary to the Commission's determination. The Commission's determination provides a solution to the issue of emergencies while MCI's language merely adds a level of complexity and will require BellSouth to reserve additional space in conduit for emergencies.

BellSouth concludes that its reservation of a spare for emergency purposes, and allowing other carriers similarly to reserve spares, is consistent with the Commission's decision regarding reservation of space. The common emergency duct raises questions and potential confusion about access to the common duct and priority of service restoration, which could inappropriately complicate responding to emergencies.

Upon review, we note that this issue was not addressed in the arbitration proceeding. Therefore, MCI should not be permitted to raise this issue at this stage. We also note that resolution of this issue is not essential to MCI's successful operation in the local market. Notwithstanding the foregoing, BellSouth states that it has no objection to MCI reserving a duct for itself for emergency purposes and then offering to share such capacity with other telecommunications carriers willing to enter into such a sharing arrangement.

Upon consideration, we do not believe that one common duct for emergencies and maintenance would be an efficient or manageable arrangement. Questions on priorities and impediments to restoration of service could arise under a common duct arrangement. We find that requiring BellSouth to allow MCI and other parties to reserve capacity according to the same time frames, terms and conditions that it affords itself and as required by our Order, is appropriate and is in compliance with the Act. We also find that BST shall allow MCI to reserve an emergency duct for itself and then offer to share that capacity with other carriers that are willing to enter into such a sharing agreement. Based on the foregoing, the parties shall incorporate the following language into their Agreement:

BellSouth will allow MCI and other parties to reserve capacity under the same time frames, terms and conditions that it affords itself. This includes reservations of

emergency ducts as well as ducts for growth and other purposes.

MCIm, if it so chooses, may reserve one emergency duct for itself and then offer to share this duct with other telecommunication carriers that are willing to enter into such a sharing agreement.

E. Attachment VIII - Ordering and Provisioning

Section Title

Section 2.1.5 Subscriber Payment History

Section 2.1.5.3

MCIm's Proposed Language and Rationale

2.1.5.3 BST shall provide to MCIm a real-time, electronic interface to BST subscriber information systems which will allow MCIm to obtain the customer payment history information as detailed above. The parties shall mutually agree upon restrictions that will appropriately safeguard subscribers' privacy.

MCIm argues that CLECs should have electronic access to some CPNI to answer inquiries from potential subscribers on a competitively neutral basis. According to MCIm, a signed letter of authorization (LOA) clearly cannot be administered as part of this process. Further, according to MCIm, BST seeks to unnecessarily limit a CLEC's ability to access information that is essential to the sales process.

BellSouth's Proposed Language and Rationale

BST proposed that this section be deleted.

BST argues that MCIm is inappropriately seeking to treat a customer's credit history as customer proprietary information (CPNI). In fact, BST asserts, the FCC has determined that credit information is not CPNI. See, Filing and Review of Open Network Architecture Plans, 4 FCC Record 1, paragraph 412 (1988).

BellSouth contends that this issue was not part of the arbitration. We disagree. CPNI and the use of a blanket LOA were part of the arbitration proceeding. Although customer payment history may not have been specifically discussed, it certainly falls under the category of customer information. There appears to

be some confusion as to what type of information is included in this section of the Agreement. MCI's proposed language clearly indicates that customer payment history, not customer credit history is at issue. Specifically, the customer payment history is limited to those items in Section 2.1.5.1. We also note that although MCI can access customer records, MCI can not access those records without customer authorization. Based on the foregoing, we find MCI's language is appropriate. Accordingly, the parties shall include this language in signed arbitrated Agreement.

Section 2.1.5.4

MCI's Proposed Language and Rationale

2.1.5.4 Until such time as the Parties reach agreement on the restrictions described in 2.1.5.3, BST shall provide MCI with requested customer payment history information, as detailed above, based upon MCI's blanket representation that MCI will obtain the subscriber's authorization to obtain such data in advance of any request.

MCI argues that electronic interfacing should also be made available for customer credit history information, and that MCI should not be required to provide a written LOA. According to MCI, the blanket LOA requirements should apply.

BellSouth's Proposed Language and Rationale

BST proposed to delete this.

BellSouth argues that a blanket letter of authorization does not adequately safeguard a customer's right to privacy with respect to credit history. BellSouth states that it agreed to provide credit history on the condition that the customer authorizes it to do so. BellSouth asserts that customer authorization is not appropriately reflected in a blanket letter of authorization.

Upon consideration, we note that MCI refers to customer credit history in its rationale, but that its proposed language refers to customer payment history. We disagree with BellSouth that this issue was not part of the arbitration. CPNI and the use of a blanket LOA were part of the arbitration. Again, although payment history may not have been specifically discussed, we believe it should be considered customer information. Accordingly,

we find that MCI's language shall be included in the signed arbitration Agreement.

<u>Section</u>	<u>Title</u>
Section 2.3	Systems Interfaces and Informance Exchanges

Section 2.3.2.6

MCI's Proposed Language and Rationale

2.3.2.6. BST shall provide MCI on-line access to telephone number reservations by January 1, 1997.

MCI argues that BST should have complied with the FCC requirements to have such systems in place by now. Additional delays are unjustified.

BellSouth's Proposed Changes to MCI Language and Rationale

2.3.2.6. BST will provide MCI on-line access to telephone number reservations by December 31, 1996, but no later than April 1, 1997. Until on-line access is available via electronic interface, BellSouth agrees to provide MCI with a ready supply of telephone numbers as described in Section 2.1.8.2.

BellSouth asserts that this language reflects its intent to provide on-line access as expeditiously as practicable. Further, the dates reflected in BellSouth's proposal are realistic and are consistent with the testimony of BellSouth witnesses.

Upon review, we agree with BellSouth that this issue was not addressed in the arbitration proceeding. Nonetheless, BellSouth has proposed language for inclusion in the Agreement. Therefore, upon consideration of the proposed language submitted by the parties, we find that the parties shall include BellSouth's language in the arbitrated Agreement.

<u>Section</u>	<u>Title</u>
Section 2.5	Performance Measurements and Reporting

MCI's Proposed Language and Rationale

2.5.1 In providing Services and Elements, BST will provide MCI with the quality of service BST provides to

itself and its end-users. BST's performance under this Agreement shall provide MCIm with the capability to meet standards or other measurements that are at least equal to the level that BST provides or is required to provide by law or its own internal procedures, whichever is higher. BST shall satisfy all service standards, measurements, and performance requirements set forth in the Agreement and the performance standards that are specified in Attachment 8 of this Agreement. In the event that BST demonstrates that the level of performance specified in Attachment 8 of this Agreement are higher than the standards or measurements that BST provides to itself and its end users pursuant to its own internal procedures, BST's own level of performance shall apply.

2.5.1.1 The Parties acknowledge that the need will arise for changes to the performance standards specified in Attachment 8 during the term of this Agreement. Such changes may include the addition or deletion of measurements or a change in the performance standard for any particular metric. The parties agree to review all performance standards on a quarterly basis to determine if any changes are appropriate.

2.5.1.2 The Parties agree to monitor actual performance on a monthly basis and develop a Process Improvement Plan to continually improve quality of service provided as measured by the performance standards.

2.5.2 BST, in providing Services and Elements to MCIm pursuant to this Agreement, shall provide MCIm the same quality of service that BST provides itself and its end-users. This attachment includes MCIm's minimum service standards and measurements for those requirements. The Parties have agreed to five (5) categories of performance standards: (1) Provisioning; (2) Maintenance; (3) Billing (Data Usage and Data Carrier); (4) LIDB; and (5) Account Maintenance. Each category of performance standards include measurements which focus on timeliness, accuracy and quality. BST shall measure the following activities to meet the goals provided herein.

2.5.2.1 All performance standards shall be measured on a monthly basis and shall be reported to MCIm in a mutually agreed upon format which will enable MCIm to compare BST's performance for itself with respect to a specific measure to BST's performance for MCIm for that same specific measure. Separate measurements shall be provided for residential subscribers and business subscribers.

2.5.2.2 Performance standards being measured pursuant to this Agreement shall be reviewed by MCIm and BST quarterly to determine if any additions or changes to the measurements and the standard shall be required or, if process improvements shall be required.

2.5.3 Provisioning Performance Standards

2.5.3.1 Installation functions performed by BST will meet the following performance standards:

Product or Service	Interval Standards
INSTALLATION	
Lines/trunks with no premises visit:	
Business	
1-20 lines	98% met within 3 business days
21-40 lines	98% met within 7 business days
41-60 lines	98% met within 12 business days
Over 60 lines	To be negotiated
Residential	98% met within 24 hours of Service Order receipt by BST
Lines/trunks with premises visit:	
Business	
1-20 lines	98% met within 5 business days
21-40 lines	98% met within 10 business days
41-60 lines	98% met within 14 business days

Over 60 lines	Individual case basis
Residential	98% met within 72 hours of Service Order receipt by BST
Business lines/trunks; plant or other facilities not available	Individual case basis
Centrex station lines	
1-20 lines	98% met within 5 business days
21-50 lines	98% met within 8 business days
Over 50 lines	Individual case basis
Unbundled <u>network</u> elements	
Business or Residential	98% met within 2 days
Other unbundled elements	
Business or Residential	98% met within 5 days
FEATURE CHANGES	
Orders received before 12:00 p.m.	99% completed on day of receipt
Orders received after 12:00 p.m.	99% completed before 12:00 p.m. next Business Day

Product or Service	Interval
SERVICE DISCONNECTS	
With no premises visits	
Business or Residential	98% met within 4 hours after receipt of Service Order
With CO change or subscriber premises visit	

Business or Residential	98% met within 24 hours after receipt of Service Order
Unbundled switching elements	
Business or Residential	98% met within 4 hours
Other unbundled elements	
Business or Residential	98% met within 24 hours

Committed Due Date

Resale:
 Residence: > 99% met
 Business: > 99.5% met
 UNE: > 98% met

Service Orders Provisioned Correctly as Requested

Resale:
 Residence: > 99% met
 Business: > 99.5% met
 UNE: > 99% met

Missed Appointments

Residence: < 1%
 Business: 0%

Firm Order Confirmation within:

Manual - within 24 hours 99% of the time
 Electronic - within 4 hours 99% of the time

Notice of reject or error status within 1 hour of receipt 98% of the time

No trouble reports within 30 days of installation - 99% of the time

Time to complete any Suspend/Block/Restore order 4 hours > 99% after receipt by BST

For expedited due date confirmation, BST shall confirm to MCIm within two (2) Business Hours > 99% after BST receipt of such

request from MCIIm whether BST can complete an initially-submitted order within the expedited interval requested by MCIIm. Confirmation may be provided by BST via telephone call with follow up confirmation to be provided by BST according to normal procedures and measurement intervals.

MCIIm states that it is specifying guidelines and standards necessary for MCIIm to be able to efficiently process billing information. MCIIm argues that agreement between the parties on these types of issues is essential to ensure accurate and timely billing. According to MCIIm, it is insufficient for BST to merely say that it will implement "controls" and "procedures."

BST's Proposed Language and Rationale

BellSouth will use its best efforts to implement the performance measurements as set forth below within six months of the effective date of this agreement.

Installation functions performed by BellSouth will be measured in the following manner:

Percent Central Office Completions in 0 to 1 days (includes all N, T, and C order activity requiring Central Office Work). This measurement shall reflect all CLEC activity vis a vis BellSouth activity.

Percent Installations Provisioned in 5 calendar days

Percent Missed Appointments

Percent Trouble Reports within 30 days of a Service Order (measures Percent of Total Trouble Reports caused by Troubles on Access lines with Service Order Activity)

Percent Firm Order Confirmations provided within 24 hours

Percent Notice of Order Reject or Error within 1 hour of receipt

BellSouth argues that our arbitration decision clearly stated that "BellSouth provide AT&T and MCIIm telecommunications services for resale and access to unbundled network elements at the same level of quality that it provides to itself and its affiliates."

Quoting from Order No. PSC-96-1579-FOF-TP, pp. 73-74. BellSouth asserts that its proposal is consistent with our decision. BellSouth concludes that the measurements reflected above will, upon completion of the necessary adjustments to BellSouth's measurement systems, report BellSouth's performance for MCIm vis a vis its own retail customers. According to BellSouth, adopting specific benchmarks, as proposed by MCIm, is going well beyond the Commission's intent. Further, the measurements proposed by BellSouth will only require modification to BellSouth's current measurements. On the other hand, those measurements proposed by MCIm that are not included in BellSouth's proposal are not currently tracked and measured today for BellSouth's own retail purposes.

Upon consideration, we believe that more specific measurements are needed and that MCIm will need this information to correctly bill for service. MCIm's proposed language is, for the most part, less stringent than its originally proposed language, and should be less of a burden on BST. BST has expressed concern with having to track a measurement that it does not currently track. We are not persuaded that systems to track such measurements cannot be developed. We believe setting these values is appropriate because there is a need to provide the parties with specificity in these areas. We recognize however, that the parties may wish to change Direct Measures of Quality (DMOQs) established by the Commission. We note that Sections 2.5.1.1 and 2.5.1.2 provide the parties with the ability to review the DMOQs and adjust them when and where needed based on tracking data. We also note that BST includes a date for completion of a system implementing performance measurements, six months from the effective date of the arbitration Agreement. MCIm did not include a date. Based on the foregoing, we find that MCIm's proposed language, along with BST's language requiring BST to implement the performance measurements within six months of the effective date of the arbitrated Agreement, is appropriate. Therefore, the parties shall include this language in their signed Agreement.

<u>Section</u>	<u>Title</u>
Section 3	Connectivity Billing and Recording
<u>Section 3.4</u>	<u>Performance measurements and Reporting</u>
<u>MCIm's Proposed Language and Rationale</u>	

3.4.1 BST shall meet the following performance measurements for the provision of EMR records:

3.4.1.1 **Timeliness:** 99.94% of all records recorded each day shall be received by MCIm within one (1) calendar day of their recording. 100% of all such records should be received within five (5) calendar days of their recording.

3.4.1.2 **Accuracy:** No more than 60 errors per one (1) million records transmitted

3.4.1.3 **Completeness:** There shall be no more than 20 omissions per one (1) million records.

Here, MCIm asserts that it is specifying guidelines and standards it believes necessary to efficiently process billing information. MCIm believes that agreement between the parties on these types of issues is essential to ensure accurate and timely billing. According to MCIm, it is insufficient for BST to merely state that it will implement "controls" and "procedures."

MCIm states that BST has yet to propose performance measures on the matters contained in this section. Further, MCIm welcomes the opportunity to further discuss these measures with BST.

BST's Proposed Language and Rationale

BellSouth and MCIm will incorporate the Connectivity Billing and Recording service into the BellSouth and MCIm Future Optimum State (FOS) billing forum. Said forum will develop appropriate billing measurements for service parity.

BellSouth argues that the Commission's decision clearly stated that "BellSouth provide AT&T and MCIm telecommunications services for resale and access to unbundled network elements at the same level of quality that it provides to itself and its affiliates." Quoting from Order No. PSC-96-1579-FOF-TP, pp. 73-74. BellSouth believes its proposal is consistent with the Commission's decision. BellSouth contends that MCIm's previous proposals relating to billing have included standards that are in many cases immeasurable, and are unattainable. BellSouth concludes that its proposal to use the standards developed through the FOS Billing Forum is a reasonable and appropriate compromise.

Upon consideration, we find that more specific measurements are needed and that MCIm will need this information to correctly bill for service. BST's proposal of using the FOS billing forum will delay the implementation of the performance measurements. BST states that the "[s]aid forum will develop the appropriate billing

measurements for service parity." Judging from this language, the performance measurements may not even be in the development stage. BST has expressed concern that "MCIm's previous proposals relating to billing have included standards that are in many cases immeasurable, and are also unattainable." We are not persuaded that systems to track such standards can not be developed. We recognize that the parties may wish to change DMOQs established by the Commission. We note that Sections 2.5.1.1 and 2.5.1.2 provide the parties with the ability to review the DMOQs and adjust them when and where needed based on tracking data. Based on the foregoing, we find that the parties shall include MCIm's language in their Agreement.

<u>Section</u>	<u>Title</u>
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Section 4	Provision of Subscriber Usage Data
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MCIm's Proposal for Performance Measures and Rationale

4.4 Performance Measurements

4.4.1 Account Maintenance. When notified by a CLEC that an MCIm Customer has switched to CLEC service, BellSouth shall provision the change, and notify MCIm via CONNECT:Direct that the customer has changed to another service provider ("OUTPLOC") within one (1) business day, 100% of the time.

4.4.1.1 When notified by MCIm that a customer has changed his/her PIC only from one interexchange carrier to another carrier, BST shall provision the PIC only change and convey the confirmation of the PIC change via the work order completion feed with 100% of the orders contained within one (1) business day.

4.4.1.2 If notified by an interexchange carrier using an '01' PIC order record that an MCIm Customer has changed his/her PIC only, BST will reject the order and notify that interexchange carrier that a CARE PIC record should be sent to the serving CLEC for processing. 100% of all orders shall be rejected, and the respective interexchange carrier properly notified, within one (1) business day of BST's receipt of the PIC order from the interexchange carrier.

4.4.2 File Transfer

BST will initiate and transmit all files error free and without loss of signal.

Metric:

Number of FILES Received
----- X 100
Number of FILES Sent

Notes: All measurement will be made on a rolling period.

Measurement:

Meets Expectations 6 months of file transfers without a failure

4.4.3 Timeliness

BST will mechanically transmit, via CONNECT:Direct, all usage records to MCIm's Message Processing Center three (3) times a day.

Measurement:

Meets Expectations 99.94% of all messages delivered on the day the call was Recorded.

4.4.4 Completeness

BST will provide all required Recorded Usage Data and ensure that it is processed and transmitted within thirty (30) days of the message create date.

Metric:

Total number of Recorded Usage Data records delivered during current month minus Number of Usage Call Records held in error file at the end of the current month
-----X 100

Total number of Recorded Usage Data Records delivered during current month

Measurement:

Criteria

Meets Expectations \geq 99.99% of all records delivered

4.4.5 Accuracy

BST will provide Recorded Usage Data in the format, and with the content as defined in the current BellCore EMR document.

Metric:

Total Number of Recorded Usage Data Transmitted
Correctly
-----X 100
Total Number of Recorded Usage Data Transmitted

Criteria

Measurement:

Meets Expectations \geq 99.99% of all recorded records delivered

4.4.6 Data Packs

BST will transmit to MCIIm all packs error free in the agreed-upon format.

Measurement:

Meets Expectations 6 months of Transmitted Packs without a rejected pack

Notes: All measurements will be made on a Rolling Period.

4.4.7 Recorded Usage Data Accuracy

BST will ensure that the Recorded Usage Data is transmitted to MCIIm error free. The level of detail includes, but is not limited to: detail required to Rating the call, Duration of the call, and Correct Originating/Terminating information pertaining to the call. The error is reported to BST as a Modification Request (MR). Performance is to be measured at two levels defined below. MCIIm will identify the priority of the MR at the time of hand-off as Severity 1 or Severity 2. The following are MCIIm expectations of BST for each:

Measurement:

Severity 1:

Meets Expectations ≥90% of the MR fixed in ≤24 hours and
100% of the MR fixed in ≤5 days

Severity 2:

Meets Expectations ≥90% of the MR fixed in 3 Days and 100%
of the MR fixed in ≤10 days

MCIm asserts that it is specifying guidelines and standards it believes are necessary to efficiently process billing information. MCIm states that agreement between the parties on these types of issues is essential to ensure accurate and timely billing. Again, MCIm concludes it is insufficient for BST to merely say that it will implement "controls" and "procedures."

BST's Proposed Language and Rationale

BellSouth and MCIm will incorporate the OLEC Daily Usage File (ODUF) service into BellSouth and MCIm Future Optimum State (FOS) billing forum. Said forum will develop the appropriate billing measurements for service parity.

BellSouth argues that the Commission's decision clearly stated that "BellSouth provide AT&T and MCIm telecommunications services for resale and access to unbundled network elements at the same level of quality that it provides to itself and its affiliates." Quoting from Order No. PSC-96-1579-FOF-TP, pp. 73-74. BellSouth asserts that its proposal is consistent with the Commission's decision. According to BellSouth, MCIm's previous proposals relating to the daily usage file have included standards that are in many cases immeasurable, and are unattainable. BellSouth concludes that its proposal to use the standards developed through the FOS Billing Forum is a reasonable and appropriate compromise.

Upon consideration, we find that more specific measurements are needed and that MCIm will need this information to correctly bill for service. MCIm's proposed language is, for the most part, less stringent than its originally proposed language, and should be less of a burden on BST. We, however, find that the words "via CONNECT:Direct" shall be deleted from MCIm's language. We do not know the meaning of the term, and it was not addressed in the proceeding. The effect of this change is that BST may mechanically submit the required records via the most efficient method to accomplish the requirements of this section.

BST has expressed concern with having to track a measurement that it does not currently track. We are not persuaded that

systems can not be developed to track such measurements. We believe setting these values is appropriate since doing so provides the parties with more specific information. We recognize that the parties may desire to change DMOQs established by the Commission. We note that Sections 2.5.1.1 and 2.5.1.2 provide the parties with the ability to review the DMOQs and adjust them when and where needed based on tracking data. BST's proposal of using the FOS billing forum will delay the implementation of the performance measurements. BST states that the "[s]aid forum will develop the appropriate billing measurements for service parity." Judging from this language, the performance measurements may not even be in the development stage. Based on the foregoing, we find that the parties shall include MCI's proposed language with the omission of the words via CONNECT:Direct, in the arbitrated Agreement.

<u>Section</u>	<u>Title</u>
Section 4.5	Reporting

MCI's Proposed Language and Rationale

4.5.1 BST shall agree to develop reports to be used for local usage and for PIC change data performance measurement within (sixty) 60 days of the Effective Date of this Agreement.

4.5.2 In addition to the reporting requirements stated above BST shall produce and publish annually with respect to its network and service quality performance, a report which will provide evidence that BST shows no undue discrimination by BST among CLECs or between BST retail and other CLECs with respect to quality of service.

4.5.2.1 The specific services to be included in the Performance Measurement Report, its format, measurement timeframe, and initial implementation date shall be as required by MCI.

MCI states that it is specifying guidelines and standards necessary for MCI to be able to efficiently process billing information. According to MCI, agreement between the parties on these types of issues are essential to ensure accurate and timely billing. It is not sufficient for BST to merely state that it will implement "controls" and "procedures."

BST's Proposed Language and Rationale:

BellSouth and MCIIm will incorporate the OLEC Daily Usage File (ODUF) service into BellSouth and MCIIm Future Optimum State (FOS) billing forum. Said forum will develop the appropriate billing measurements for service parity.

BellSouth asserts that the Commission's decision clearly stated that "BellSouth provide AT&T and MCIIm telecommunications services for resale and access to unbundled network elements at the same level of quality that it provides to itself and its affiliates." Quoting from Order No. PSC-96-1579-FOF-TP, pp. 73-74. BellSouth believes its proposal is consistent with the Commission's decision. According to BellSouth, MCIIm's previous proposals relating to the daily usage file have included standards that are in many cases immeasurable, and are unattainable. BellSouth concludes that its proposal to use the standards developed through the FOS Billing Forum is a reasonable and appropriate compromise.

BST's Proposed Language and Rationale:

BellSouth proposes to delete Section 4.5

Upon consideration, we find that more specific measurements are needed and that MCIIm will need this information to correctly bill for service. It is unclear if BST is proposing language for inclusion in the section, or deletion of the section. BST has expressed concern with having to track a measurement that it does not currently track. Once again, we are not persuaded that systems to track such measurements can not be developed. We believe setting these values is appropriate since doing so provides for more specific information. However, we recognize that the parties may desire to change DMOQs established by the Commission. We note that Sections 2.5.1.1 and 2.5.1.2 provide the parties with the ability to review the DMOQs and adjust them when and where needed based on tracking data. BST's proposal of using the FOS billing forum will delay the implementation of the performance measurements. BST states that the "[s]aid forum will develop the appropriate billing measurements for service parity." Judging from this language, the performance measurements may not even be in the development stage. We believe Sections 4.5.2 and 4.5.2.1 go beyond what is necessary for MCIIm to provide service. Based on the foregoing, we find that MCIIm's proposed language, except for Sections 4.5.2 and 4.5.2.1, is appropriate and shall be included in the arbitrated Agreement.

<u>Section</u>	<u>Title</u>
Section 5	Maintenance

MCIm's Proposed Language and Rationale

5.4 Performance Measurements and Reporting

5.4.1 Where an outage has not reached the threshold defining an emergency network outage, the following quality standards shall apply with respect to restoration of Local Service and Network Elements or Combination. Total outages requiring a premises visit by a BST technician that are received between 8 a.m. to 6 p.m. on any business day shall be restored within four (4) hours of referral, ninety percent (90%) of the time.

Total outages requiring a premises visit by a BST technician that are received between 6 p.m. and 8 a.m. on any day shall be restored during the following 8 a.m. to 6 p.m. period in accordance with the following performance metric: within four (4) hours of 8 a.m., ninety percent (90%) of the time. Total outages which do not require a premises visit by a BST technician shall be restored within two (2) hours of referral, eighty-five percent (85%) of the time.

5.4.2 Trouble calls (e.g., related to Local Service or Network Element or Combination degradation or feature problems) which have not resulted in total service outage shall be resolved within twenty-four (24) hours of referral, ninety-five percent (95%) of the time, irrespective of whether or not resolution requires a premises visit. For purposes of this Section, Local Service or a Network Element or Combination is considered restored, or a trouble resolved, when the quality of the Local Service or Network Element or Combination is equal to that provided before the outage, or the trouble, occurred.

5.4.3 The BST repair bureau shall provide to MCIm the "estimated time to restore" with at least ninety-seven percent (97%) accuracy.

5.4.4 Repeat trouble reports from the same customer in a 30 day period shall be less than one percent (1%). Repeat trouble reports shall be measured by the number of calls received by the BST repair bureau relating to the same telephone line during the current and previous report months.

5.4.5 BST shall inform MCI within ten (10) minutes of restoration of Local Service, Network Element, or Combination after an outage has occurred.

5.4.6 If service is provided to MCI subscribers before an Electronic Interface is established between MCI and BST, MCI will transmit repair calls to the BST repair bureau by telephone. In such event, the following standards shall apply: The BST repair bureau shall answer its telephone and begin taking information from MCI within twenty (20) seconds of the first ring, ninety-five percent (95%) of the time. Calls answered by automated response systems, and calls placed on hold, shall be considered not to meet these standards.

5.4.7 BST will miss meeting end user appointments that require a premise visit less than 1% of the time.

MCI is specifying guidelines and standards it believes are necessary for it to efficiently process billing information. MCI believes agreement between the parties on these types of issues is essential to ensure accurate and timely billing. Further, MCI believes it is insufficient for BST to merely state that it will implement "controls" and "procedures."

BellSouth's Proposed Language and Rationale

The maintenance measurements set forth below shall be implemented on the effective date of this agreement.

Maintenance functions performed by BellSouth will be measured in the following manner:

Percent Out of Service (OOS) Troubles Cleared within 24 hours

Percent Missed Appointments for BellSouth reasons

Repeat Trouble Reports in 30 days

Percent Calls Answered within 20 seconds. This measurement shall reflect all CLEC activity vis a vis BellSouth activity.

BellSouth argues that the Commission's decision clearly stated that "BellSouth provide AT&T and MCI telecommunications services for resale and access to unbundled network elements at the same level of quality that it provides to itself and its affiliates."

Quoting Order No. PSC-96-1579-FOF-TP, pp. 73-74. BellSouth argues that its proposal is consistent with the Commission's decision. The measurements reflected above will, according to BellSouth, upon completion of the necessary adjustments to BellSouth's measurement systems, report BellSouth's performance for MCIm vis a vis its own retail customers. BellSouth argues that to adopt specific benchmarks, as proposed by MCIm, is to go well beyond the Commission's intent. Further, the measurements proposed by BellSouth will only require modification to BellSouth's current measurements. On the other hand, those measurements proposed by MCIm that are not included in BellSouth's proposal are not currently tracked and measured today for BellSouth's own retail customers.

Upon consideration, we find that more specific measurements are needed and that MCIm will need this information to correctly bill for service. MCIm's new proposed language is, for the most part, less stringent than its originally proposed language, and should be less of a burden on BST. BST has expressed concern with having to track a measurement that it does not currently track. We are not persuaded that systems to track such measurements can not be developed. We believe setting these values is appropriate since doing so provides for more specific information. However, we recognize that the parties may desire to change DMOQs established by the Commission. We note that Sections 2.5.1.1 and 2.5.1.2 provide the parties with the ability to review the DMOQs and adjust them when and where needed based on tracking data. Based on the foregoing, we find that the parties shall include MCIm's proposed language in the signed arbitrated Agreement.

With respect to performance measurements and reporting in general, we note that in our Arbitration Order we found:

If a system or process is developed exclusively for a certain carrier, however, those costs shall be recovered from the carrier who is requesting the customized system. See Order No. PSC-96-1579-FOF-TP, P. 87.

Thus, although we are approving MCIm's language on performance measurements, we note that if MCIm wants BellSouth to track and report specific information for MCIm, there will be a cost associated with those processes. We do not know what the charge will be and we are not deciding that issue now. Should MCIm request BellSouth to track and report MCIm specific information, the parties should endeavor to negotiate the rate to cover the costs associated with those processes.

Section Title

Section 6.1 Miscellaneous Services & Functions - General Requirements

MCIIm's Proposed Language and Rationale

6.1.3.15 Where INP is deployed and when a BLV/BLI request for a ported number is directed to a BST operator and the query is not successful (i.e., the request yields an abnormal result), the operator shall confirm whether the number has been ported and shall direct the request to the appropriate operator.

MCIIm asserts that BST has had this request for a significant length of time and has still not been able to perform the necessary tests to satisfy BellSouth's needs. MCIIm states that MCIIm does not require these tests.

BellSouth's Proposed Language and Rationale

Where INP is deployed and when a BLV/BLI request for a ported number is directed to a BST operator and the query is not successful (i.e., the request yields an abnormal result), the operator shall confirm whether the number has been ported and shall direct the request to the appropriate operator.

BellSouth asserts that it is attempting to determine whether MCIIm's request is technically feasible.

Upon review, we note that this issue was not addressed in the arbitration proceeding. Nonetheless, MCIIm and BST have proposed the same language to be included in the Agreement. We have reviewed the language and find it appropriate. Therefore, the parties shall be allowed to include this language in the signed arbitrated Agreement.

6.1.4.1.1 Directory Assistance and Listings Service Requests

MCIIm's Proposed Language and Rationale

6.1.4.1.1 BST shall accept orders via electronic interface in accordance with OBF Directory Service Request standards (TCIF EDI Technical Mapping) within - nine (9) months of final standard adoption. In the interim, BST shall create a standard format and order process by which MCIIm can place an order via electronic exchange no later than January 1, 1997.

MCIIm states that the Commission specifically ordered BellSouth to work through the Ordering and Billing Forum (OBF) to develop long-term electronic interface solutions. MCIIm asserts that its provision is consistent with the Order and with the FCC's requirement that ILECs provide electronic interfaces by January 1, 1997.

BellSouth's Proposed Language and Rational

BST shall accept orders via electronic interface in accordance with approved TCIF EDI technical mapping standards within nine (9) months of published release of that approved standard. In the interim, BellSouth shall create a standard format for electronic exchange by which MCIIm can place directory listing orders for resold single line residence and resold simple business, six lines or less, by April 1, 1997. BellSouth shall provide electronic exchange for directory listing orders associated with interim number portability, unbundled loops, and unbundled ports no later than April 1, 1997.

BellSouth asserts that this language reflects its intent to provide on-line access as expeditiously as practicable. Further, the dates reflected in BellSouth's proposal are realistic and are consistent with the testimony of BellSouth witnesses.

Upon consideration, although we believe MCIIm's language is more consistent with our Order, the proposed date is unrealistic since the date has already passed. Therefore, we find that BST's language shall be included in the signed arbitrated Agreement.

F. Attachment X - Credits for Performance Standards Failures

BellSouth objects to Attachment 10 being included in the Agreement. Specifically, BellSouth argue that this Commission has ruled that it cannot impose a penalty or liquidated damages provisions of the type sought by MCIIm. BellSouth quotes the following language:

We conclude that we should limit our consideration in this arbitration proceeding to the items enumerated in Sections 251 and 252 of the Act, and matters necessary to implement those items. A liquidated damages provision does not meet that standard. The Act does not require parties to include in their agreements any particular method to resolve disputes. Further, it is not appropriate for us to arbitrate a liquidated damages provision under state law. If we did, we would be, in

effect, awarding damages to one party for a breach of contract. We lack the authority to award money damages. If we cannot award money damages directly, we cannot do so indirectly by imposing a liquidated damages arrangement on the parties. (Order No. PSC-96-1579-FOF-TP, pp.74-75)

Summary of MCI's Proposed Language and Rational

If BST fails to meet established performance standards, MCI will be damaged. In this case, MCI should be eligible for credits. Attachment 10 specifies each type of credit to be applied in the case of failure. For example, if BST fails to meet a due date, the credit is termed a "Delay Credit." If BST does not meet a performance standard, the credit is termed a "Performance Failure Credit." Attachment 10 also specifies what the credit amount will be. In addition, a provision is included that enables MCI to seek injunctive relief, and requires BST (i) to cause the service ordered by MCI to meet the Performance Standards specified by this Agreement, (ii) install or provision service ordered by MCI within the Due Dates specific in this Agreement and (iii) to provide Subscriber Usage Data in accordance with this Agreement.

According to MCI, laws that provide no penalty for non-compliance seldom achieve their goals. If BST is allowed into the long distance market, it will have little incentive to honor its obligations under this contract in the absence of some easily enforceable compliance incentive, such as the credits proposed below. According to MCI, BST disagrees entirely with MCI's proposed performance measures and credits, but as yet has not developed a counter proposal to the MCI language. MCI asserts that drawing on its unique experience in breaking up a monopoly telecommunications market, and from its experience as a customer of BST's access services, it knows that a contract that does not have compliance incentives will not allow new entrants to provide real competition to ILECs as envisioned by the Telecommunications Act of 1996.

MCI argues that in each case of a standard, as defined in Attachment VIII, not being met, MCI and its affected subscribers will not have received the services purchased from BST within the agreed upon parameters for delivering those services. According to MCI, should failures occur frequently, MCI will suffer the additional disadvantage of not being able to accurately advise subscribers or its own personnel as to when BST services will be

performed and completed. MCI concludes that its system of credits makes BST's compliance with these standards, which are essential to achieving parity, a rational economic choice.

MCIm asserts that credits immediately and directly compensate MCIm for its direct damages resulting from the decreased value of services received, marketing opportunities missed, etc. Further, they are not liquidated damages, as repetitive or targeted failures by BST could have negative consequences for MCIm's operations and reputation far exceeding the amount of compensation provided. MCIm states that BST has yet to make a firm proposal for credits and performance standards, and it has not yet provided specifics on intervals that MCIm can expect to provide to its customers. MCIm argues that for competition to be on a level playing field it must have clearly defined time frames for when services will be delivered, standards for how they will be delivered, and a compliance incentive/noncompliance compensation mechanism that is more efficient and practical than litigating every contract breach.

Upon consideration, we find our language in Order No. PSC-96-1579-FOF-TP, is clear. We determined that our arbitration responsibilities under the Act encompassed only those areas enumerated in Sections 251 and 252 and matters necessary to implement those items. Accordingly, the parties shall not include MCIm's Attachment 10 in the arbitration Agreement. If the parties reach agreement on a compensation arrangement for missed performance standards, however, the Agreement shall be filed for approval pursuant to Section 252.

IV. CONCLUSION

We have reviewed the Agreement submitted to us by BellSouth and MCIm pursuant to the directives and criteria of the Telecommunications Act of 1996, 47 U.S.C. §§ 251 and 252. We believe our decisions herein on the Agreement and the disputed language comport with the terms of Section 251, the provisions of the FCC's implementing Rules that have not been stayed pending appeal, and the applicable provisions of Chapter 364, Florida Statutes.

V. BELLSOUTH'S MOTION FOR EXTENSION OF TIME

On March 5, 1997, BellSouth filed a Motion for Extension of Time to file its Agreement with MCIm. Specifically, BellSouth requests that we grant it an extension of time to file the signed arbitrated Agreement until 14 days after we issue our Order memorializing our decision at the February 21, 1997, Special Agenda

Conference. MCI filed a response in opposition to BellSouth's Motion on March 7, 1997.

In support of its Motion, BellSouth states that the Commission's extensive discussion at the Special Agenda Conference has created some confusion on the part of BellSouth as to the Commission's ultimate decisions and has engendered divergent views as to the decisions reached. Therefore, according to BellSouth, completing the final language of the arbitrated Agreement is impossible for BellSouth. BellSouth asserts that the Order which reflects the Commission's decisions at the agenda conference should aid in achieving the appropriate language to be included in the final arbitrated Agreement.

MCI argues that while there was considerable discussion by the Commission of the staff's recommendation, MCI believes that the Commission's rulings on the motions for reconsideration and the disputed contract language, as reflected in the motions adopted by the Commission, are clear.

MCI states that it has two local switches in place in Florida. MCI argues that further delay in finalizing the arbitrated Agreement will have an adverse impact on MCI's entry into the local markets and will provide BellSouth with an additional time period during which it will continue to be sheltered from competition. According to MCI, BellSouth has refused to finalize the arbitrated Agreement unless the Commission determines that the filing deadline should be extended until after the issuance of an order reflecting the decisions made on February 21, 1997. Therefore, MCI urges the Commission to act as soon as possible to deny BellSouth's request.

MCI further states that if the Commission determines to extend the deadline until after the issuance of the order reflecting the decisions made on February 21, 1997, it opposes allowing the additional two weeks after that date. MCI believes that the Commission's decisions have already been accurately incorporated in the current draft of the Agreement based on the results of the agenda conference, and that additional effort, if any, required to make the Agreement conform to the Commission's order could be finished in five business days or less following issuance of the order.

Upon consideration, we find that this request is appropriate. We, therefore, grant BellSouth's Motion for Extension of Time.

It is, therefore,

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ORDERED by the Florida Public Service that each and all of the specific findings herein are approved in every respect. It is further

ORDERED that the portions of the Agreement agreed to and submitted by BellSouth Telecommunications, Inc. and MCI Telecommunications Corporation and MCI Metro Access Transmission Services, Inc. (MCI), identified in Attachment A to this Order, which is by reference incorporated herein, are approved to the extent set forth in the body of this Order. It is further

ORDERED that the information contained in Attachment B to this Order, which is by reference incorporated herein, is rejected and shall not be included in the Agreement as discussed in the body of this Order. It is further

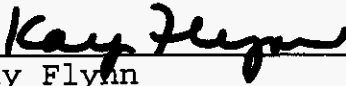
ORDERED that, with respect to those portions of the Agreement which were arbitrated and the parties were unable to agree, they shall include the approved language set forth in the body of this Order into their Agreement. It is further

ORDERED that BellSouth's Motion for Extension of time is granted. It is further

ORDERED that this docket shall remain open until the parties file the signed Agreement incorporating our decisions herein.

By ORDER of the Florida Public Service Commission, this 21st day of March, 1997.

BLANCA S. BAYÓ, Director
Division of Records and Reporting



Kay Flynn
Chief, Bureau of Records

(S E A L)

3261

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MMB

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request judicial review in Federal district court pursuant to the Federal Telecommunications Act of 1996, 47 U.S.C. § 252(e) (6).

Commission Approved Language

Attachment	Section	Title
Part A	1.1 (except for reference to Attachment X)	General Terms and Conditions - Scope of the Agreement
Part A	1.2 (except for 2nd and 3rd paragraph)	Scope of the Agreement
Part A	2	Regulatory Approval
Part A	3	Term of Agreement
Part A	4	Charges and Payment
Part A	5	Assignment and Subcontract
Part A	6	Compliance with Laws
Part A	7	Governing Law
Part A	8	Relationship of Parties
Part A	9	No Third Party Beneficiaries
Part A	10	Intellectual Property Rights and Indemnification
Part A	13	Continuing Obligations
Part A	14	Notices
Part A	15.1, 15.3	Remedies
Part A	16	Waivers
Part A	17	Survival
Part A	18	Force Majeure
Part A	20.1	Termination
Part A	21	Confidentiality and Publicity
Part A	23	Dispute Resolution Procedures
Part A	24	Bona Fide Request Process for Further Unbundling

Attachment	Section	Title
Part A	25.1-25.6	Branding
Part A	26	Taxes
Part A	27	Responsibility for Environmental Contamination
Part A	28	Amendments and Modifications
Part A	29	Severability
Part A	30	Headings Not Controlling
Part A	31	Entire Agreement
Part A	32	Counterparts
Part A	33	Successors and Assigns
2	1-4	Local Resale
3	1-12, 14-17	Network Elements
3	13.4.2.24, 13.4.3-13.8.9	Service Control Points/Databases
4	1-2.1, 2.3, 3-8	Interconnection
5	1-4	Collocation
6	1.1.1-1.1.27 1.1.29-1.1.30	Rights of Way (ROW), Conduits and Pole Attachments - Definitions
6	1.2.1-1.2.5 1.2.7-1.2.9.4 1.2.10	Scope
6	1.3.1-1.3.6.6 1.3.6.8-1.3.9.2 1.3.10-1.3.13	Requirements and Specifications
6	1.4.1-1.4.3	Additional Legal Requirements
6	1.5.1-1.5.2.1 1.5.3-1.5.6	Facilities & Licenses
6	1.6.1-1.6.2.3 1.6.4	Processing of Applications
6	1.7	Issuance of Licenses

Attachment	Section	Title
6	1.8	Construction of MCIIm Facilities
6	1.9	Use and Routine Maintenance of MCIIm's Facilities
6	1.10	Modification and Replacement of MCIIm's Facilities
6	1.11	Rearrangement of Facilities at the Request of Another
6	1.12	Emergency Repairs and Pole Replacements
6	1.13	Inspect. by BST of MCIIm Facility
6	1.14	Notice of Noncompliance
6	1.15	Unauthorized Occupancy or Utilization of BST's Facilities
6	1.16	Removal of MCIIm's Facilities
6	1.17	Fees, Charges, and Billing
6	1.18	Advance Payment and Imputation
6	1.19	Assurance of Payment
7	1-4	Number Portability
8	1	Business Process Requirements - General Business Requirements
8	2.1.1-2.1.5.2 2.1.5.5-2.1.8	Ordering and Provisioning - General Business Requirements
8	2.2	Service Order Process Requirements
8	2.3.25, 2.3.27- 2.3.3	Systems Interfaces and Information Exchanges
8	2.4	Standards
8	3.1-3.3	Connectivity Billing and Recording

Attachment	Section	Title
8	4.1-4.4	Provision of Subscriber Usage Data
8	5.1-5.3	Maintenance
8	6.1-6.1.3.3.3.2 6.1.3.3.3.4- 6.1.3.14 6.1.3.16-6.1.4.1 6.1.4.1.2-6.1.6	Miscellaneous Services & Functions - General Requirements
8	6.2-6.2.2.7	Systems Interfaces and Exchanges
9	1, 2, 4	Security Requirements

Sections to be Excluded from the Agreement

Attachment	Section	Title
Part A	1.1 (except for reference to Attachment X)	General Terms and Conditions - Scope of the Agreement
Part A	1.2 (except for 2nd and 3rd paragraph)	Scope of the Agreement
Part A	11	Limitation of Liability and Indemnification
Part A	12	Limitation of Liability
Part A	15.2	Remedies
Part A	19	Non-Discriminatory Treatment
Part A	20.2	Termination
Part A	22	Audits and Examinations
Part A	25.7	Branding
4	2.2.2	Compensation Mechanisms
6	1.2.6	BST's Rights to Convey Property
6	1.3.6.7	Requirement & Specifications
6	1.3.9.3 1.3.9.4	Compliance with Environmental Laws
6	1.5.2.2	Determination of Availability
6	1.6.3	Processing of Applications
8	6.1.3.3.3.3	Miscellaneous Services & Functions
9	3	Revenue Protection