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April 30, 1997

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

RE: Docket No. 961150-TP

Dear Mrs. Bayo:

Enclosed please find for filing one original and 15 copies of BellSouth's Proposed Language and Rationale regarding the unresolved and disputed contract provisions contained within the proposed BellSouth and Sprint Interconnection Agreement. The disputed provisions include the issues remaining unresolved in the AT&T and MCI arbitration; specifically the issues of the appropriate pricing for combinations of unbundled network elements and the cost of providing performance measurements and achieving standards beyond those that BellSouth provides for itself. The remaining disputed items were not arbitrated by Sprint nor were the issues resolved through the AT&T or MCI arbitration. Although BellSouth has filed proposed language and rationale on those issues, BellSouth does not believe the issues are properly before this Commission and Sprint should not be permitted to raise them at this time.

- ACK \_\_\_\_\_
- AFA \_\_\_\_\_
- APP \_\_\_\_\_
- CAF \_\_\_\_\_
- CMU \_\_\_\_\_
- CTR \_\_\_\_\_
- EAG \_\_\_\_\_
- LEG 2
- LIN 3
- OPC \_\_\_\_\_
- RCH \_\_\_\_\_
- SEC 1
- WAS \_\_\_\_\_
- OTH \_\_\_\_\_

Sincerely,

*Nancy B. White*  
(PW)  
Nancy B. White

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

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EPSC-BUREAU OF RECORDS

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FPSC-RECORDS/REPORTING

**CERTIFICATE OF SERVICE  
DOCKET NO. 961150-TP**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by Federal Express and \* Hand-Delivery this 30<sup>th</sup> day of April, 1997 to the following:

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Nancy B. White  
Nancy B. White (PW)

**1. Issue Description: Performance Measurements**

**Issue Subject of AT&T and MCI Arbitration**

**Contract Provision in Dispute:**

General Terms and Conditions, Section 12.4  
Attachment 1

**BellSouth's Proposed Language:**

12.4 If Sprint requests, in writing, a higher level of performance than BellSouth provides to its own subscribers, BellSouth shall inform Sprint, in writing, of the amount Sprint's desired performance level exceeds that which BellSouth provides to its subscribers as well as a reasonable estimate of what it would cost BellSouth to meet, measure, and report these standards. If Sprint then communicates, in writing, to BellSouth that it desires such higher levels of performance, Sprint shall pay BellSouth for the costs incurred in providing such higher level of service. Moreover, Sprint shall pay all mechanisms necessary to capture and report data, required to measure, report or track any performance measurement that BellSouth does not, as of the Effective Date, measure, report or track for itself or its own subscribers. In the event such system is not developed exclusively for Sprint, but rather is developed for use with other CLECs, as well as Sprint, BellSouth shall allocate to Sprint, on a competitively neutral basis, Sprint's share of the costs associated with such system.

**BellSouth's Rationale:**

Sprint did not elect to arbitrate the issue of performance measurements nor did it agree in its November 14, 1996 stipulation to accept the AT&T and MCI arbitration decision of the Commission on the issue of performance measurements. BellSouth's proposed language has been incorporated in the MCI agreement and should be included here for the following reasons.

The language of this section incorporates the decision of the Commission in Order No. PSC-96-1579-FOF-TP (the "Consolidated Arbitration Award"), at page 87, as it relates to performance standards sought by Sprint that are not part of the performance standards BellSouth regularly reports or utilizes itself. The issue is whether Sprint must pay the costs of developing and providing the performance standards it requested and that the Commission ordered. BellSouth believed that this issue was a non-issue and that Sprint is being unreasonable in not agreeing to incorporate the Commission's decision. The Commission has previously stated that "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." The language of section 12.4 proposed by BellSouth merely reflects the Commission's determination that if the system or process is developed for a carrier, that carrier should pay the costs. In fact, MCI and BellSouth faced this precise issue and the Commission has already ordered MCI to cover the costs of any additional performance standards it requires. Both MCI and BellSouth have agreed to the contractual language to cover this situation. See, MCI Agreement at Attachment III, Section 1.2.4.2.25, and Attachment 8, Sections 2.5.5, 3.4.2, 4.4.9, and 5.4.8. BellSouth is therefore at a loss to understand how Sprint can argue that it should be relieved of paying for what it

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asks for, just as MCIm is required to do. The Commission could not have intended that there be a different result for new local exchange companies requesting interconnection with BellSouth concerning the same issue. Such a result would require MCIm to pay costs for performance measurements that AT&T or Sprint would not have to pay. BellSouth's contract language is clearly appropriate, necessary, and consistent with this Commission's orders.

## **2. Issue Description: Dispute Resolution**

### **Issue Not Subject of Arbitration Proceeding**

#### **Contract Location:**

General Terms and Conditions, Section 16; Attachment 1

#### **BellSouth Proposed Language:**

### **16. Dispute Resolution**

- 16.1 The parties agree that if any dispute arises as to the requirements of this Agreement, the parties will initially refer the dispute to a director level representative from both parties. If the dispute is not resolved within 30 days by the representatives, either Party may petition the Commission for resolution of the dispute.

Attachment 1--Deleted

#### **BellSouth's Rationale and Substantive Position:**

The issue of the appropriate dispute resolution process was not specifically addressed by Sprint in its arbitration petition nor in the arbitration proceeding itself. At this time in the proceeding, Sprint should not be allowed to bring new issues before the Commission for its consideration.

Early in the negotiations process, Sprint agreed that it would elect to follow the AT&T agreement regarding dispute resolution and adopted the language found in Section 15 of the General Terms and Conditions of the AT&T/BellSouth Interconnection Agreement. Three days prior to the filing of the interconnection agreement in Georgia, Sprint determined that it did not want to adopt the AT&T dispute resolution language but would rather all disputes be resolved by the Georgia Public Service Commission. BellSouth did not oppose Sprint's change in position and the language set forth above was adopted by the parties. In Louisiana and again at the eleventh hour, Sprint cannot determine its corporate position. Sprint's proposed language states that ADR would be utilized for some disputes and the state or federal regulatory commission for others, depending on jurisdiction. Such an approach gives Sprint all dispute resolution options, which is generally contrary to parties contractually agreeing to alternative dispute resolution. Unless specifically stated by the Commission as a part of the arbitration decision, Sprint should simply have to designate a single dispute resolution process, the commission or ADR. BellSouth would agree to the AT&T approach or, as is reflected in other agreements filed with the Commission, a dispute resolution process utilizing the Commission.

**Firm Order Confirmation  
Issue Not Subject of Arbitration**

**Contract Provision in Dispute--**

General Terms and Conditions, Part 1, Section 28.6.3

**BellSouth's Proposed Language--**

28.6.3           BellSouth will provide Sprint with interactive direct order entry no later than March 31, 1997. Until this capability is available, BellSouth agrees to establish the Local Carrier Service Center ("LCSC") as the SPOC for order entry. Orders will be received at the "LCSC" via the EDI interface. BellSouth agrees to enter the Service Order promptly on receipt and provide Firm Order Confirmation ("FOC") within 24 hours of receipt of a correct Local Service Request. BellSouth agrees to make best efforts to reduce the FOC time interval during the term of this Agreement.

**BellSouth's Rationale for Position--**

As the Commission knows, BellSouth is in the process of deploying the newly developed ordering interfaces for new entrants such as Sprint. BellSouth is able to commit to providing a Firm Order Confirmation ("FOC") within 24 hours of receipt of a correct Local Service Request and to utilize best efforts to continually reduce the FOC time interval during the term of the Agreement. However, BellSouth cannot, at present, commit to a 4 hour FOC.

Further, the issue of the time interval for the FOC was not specifically addressed by Sprint in its arbitration petition nor in the arbitration proceeding itself. AT&T has agreed to a 24 hour FOC. At this time in the proceeding, Sprint should not be allowed to bring new issues before the Commission for its consideration.

### **3. Issue Description: Pricing of Combinations of Network Elements**

#### **Issue Subject of Arbitration**

#### **Contract Provision in Dispute**

General Terms and Conditions, Section 36.1

#### **BellSouth's Proposed Language:**

Any BellSouth non-recurring and recurring charges shall not include duplicate charges or charges for functions or activities that Sprint does not need when two or more Network Elements are combined in a single order. BellSouth and Sprint shall work together to mutually agree upon the total non-recurring and recurring charge(s) to be paid by Sprint when ordering multiple Network Elements. **Further, negotiations between the parties should address the price of a retail service that is recreated by combining UNEs. Recombining UNEs shall not be used to undercut the resale price of the service recreated.** If the parties cannot agree to the total non-recurring and recurring charge(s) to be paid by Sprint when ordering multiple Network Elements within sixty (60) days of the Effective Date, either party may petition the Florida Public Service Commission to settle the disputed charge or charges.

#### **BellSouth's Rationale**

Sprint has, through its November 14, 1996, agreement to accept and adopt the arbitration decisions in the AT&T proceeding and as such is bound by the Commission's decisions regarding pricing.

The language included by BellSouth in section 36.1 incorporates the concern of the Commission in its reconsideration order regarding the appropriate price for combinations of unbundled network elements (UNEs) that duplicate an existing retail service. The Commission concluded that its decision did not "include rates for all elements necessary to recreate a complete retail service." (Reconsideration Order, p. 7) The Commission went on to state, "Nevertheless, we note that we would be very concerned if recombining network elements to recreate a service could be used to undercut the resale price of the service." (Reconsideration Order, p. 8) BellSouth's language in 36.1 merely incorporates the Commission's language. The intent of the contractual language is to make it clear that the contract does not cover the price to be charged when AT&T seeks to recombine unbundled network elements. This result is fully consistent with the Commission's discussion of this matter at its agenda session and is consistent with this Commission's order on reconsideration submitted by BellSouth in this proceeding. Sprint disagrees, since it evidently wants to recombine unbundled network elements into complete BellSouth retail services at rates that severely undercut the wholesale resale rates for those services. Sprint's position is inconsistent with the Commission's directions on this point.

**Customer Data Records  
Issue Not Subject of Arbitration**

**Contract Provision in Dispute--**

Attachment 7, section 2.4

**BellSouth's Proposed Language--**

BellSouth proposes to delete this section.

**BellSouth's Rationale for Position--**

Further, this issue was not specifically addressed by Sprint in its arbitration petition nor in the arbitration proceeding itself. The AT&T agreement does not contain any similar provision. At this time in the proceeding, Sprint should not be allowed to bring new issues before the Commission for its consideration.

The customer data records at issue in this provision are those recordings that occur at the end office switch for all of the customers served by that switch. BellSouth must collect all of the records, sort the records, process the records and then send those records to the appropriate local exchange company for billing. The furnishing of such records to other companies is similar to the Centralized Message Distribution System (CMDS) utilized today by local exchange companies to exchange alternatively billed messages. The nationwide industry standard for the exchange of CMDS-type records is 95% of usage delivered within 6 days. The 48 hour time period proposed by Sprint is not reasonable.



**Usage Data  
Issue Not Subject of Arbitration**

**Contract Provision in Dispute--**

Attachment 7, section 3.1

**BellSouth's Proposed Language--**

3.1 BellSouth will record usage for Sprint Customers in the same manner that it uses to record usage for BellSouth end users, based on the particular Class of Service and the type of exchange line service involved. Recorded usage data includes, but is not limited to:

- Completed Calls (billable local and intralata toll carried by BellSouth)
- Use of feature activation's for Call Return, Repeat Dialing, and Usage Sensitive Three Way Calling
- Rated Calls to Information Service Providers reach via BellSouth facilities
- Calls completed via BellSouth provided Operator Services where BellSouth provides such service to Sprint's local service Customer
- For BellSouth provided Centrex Service, Station Level Detail
- Records shall include complete call detail and complete timing information for the type of service involved
- Pay Per Use features
- For flat rate local exchange lines, BellSouth will deliver billable extended area local call details.
- For measured or message exchange line service, BellSouth will deliver all billable local call details.

**BellSouth's Rationale for Position--**

The issue of which company is entitled to switched access in this situation was never addressed by Sprint in its arbitration petition nor in the arbitration proceeding itself. The AT&T agreement did not address this issue. At this time in the proceeding, Sprint should not be allowed to bring new issues before the Commission for its consideration. Therefore, Sprint's position should be rejected.

BellSouth's and Sprint's language for section 3.1 of Attachment 7 only differs in respect to usage when Sprint purchases unbundled switching from BellSouth. Sprint claims that such data are necessary for Sprint to bill switched access services to interexchange carriers

**Definition of "Unbillable Messages"  
Issue Not Subject of Arbitration**

**Contract Provision in Dispute--**

Attachment 7, section 6.4.2

**BellSouth's Proposed Language--**

6.4.2           The term "unbillable" refers to a message or service that cannot be billed to the correct Sprint Customer.

**BellSouth's Rationale for Position--**

Further, this issue was not specifically addressed by Sprint in its arbitration petition nor in the arbitration proceeding itself. The AT&T agreement does not contain any similar provision. At this time in the proceeding, Sprint should not be allowed to bring new issues before the Commission for its consideration.

The transmittal of the daily usage data to Sprint is a new process developed by BellSouth for the new local exchange market. BellSouth will use best efforts not to send dated messages to Sprint through the transmittal of the daily usage file. However, BellSouth has no experience in the transmittal of this data and cannot, at present, know if all instances regarding the receipt and transmittal of messages have been anticipated. This section of the contract simply defines what BellSouth deems to be an unbillable message and is not intended to set forth penalties for any type of messages sent to Sprint past a certain period. There are circumstances where a message will be deemed by BellSouth to be "unbillable" and as such, other sections of the Agreement would apply to that message.