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FILE COPY

August 21, 1997

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

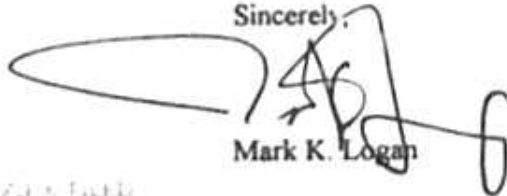
RE: Docket No. 970172

Dear Mrs. Bayo:

Enclosed are an original and fifteen copies of AT&T Communications of the Southern States, Inc.'s Post Hearing Brief and Statement of Issues and Positions. Please file these documents in the above captioned docket.

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

Sincerely,



Mark K. Logan

- ACK
- AFA 3
- APP _____
- CAF _____
- CMU Sheffer
- CTR _____
- EAG _____
- LEG 2
- LIN 5
- ODS _____
- RCM _____
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- WAS _____
- OTH _____

MKL/thb

Enclosures

cc: All parties of record

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EPSC-CURTA OF RECORDS

DOCUMENT NUMBER - DATE

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FPSC-RECORDS/REPORTING

FLORIDA PUBLIC SERVICE COMMISSION

In re: Establishment of)
intrastate implementation)
requirements governing federally)
mandated deregulation of local)
exchange company payphones.)

DOCKET NO. 970281-TL

In re: Petition by MCI)
Telecommunications Corporation)
for an order requiring BellSouth)
Telecommunications, Inc. to)
remove its deregulated payphone)
investment and associated)
expenses from its intrastate)
operations and reduce the)
Carrier Common Line rate element)
of its intrastate switched)
access charges by approximately)
\$36.5 million as required by the)
Federal Telecommunications Act)
of 1996.)

DOCKET NO. ~~970172-TP~~

In re: Petition by MCI)
Telecommunications Corporation)
for an order requiring GTE)
Florida Incorporated to remove)
its deregulated payphone)
investment and associated)
expenses from its intrastate)
operations and reduce Carrier)
Common Line rate element of its)
intrastate switched access)
charges by approximately \$9.6)
million as required by the)
Federal Telecommunications Act)
of 1996.)

DOCKET NO. 970173-TP

POST HEARING BRIEF AND STATEMENT
OF ISSUES AND POSITIONS OF AT&T COMMUNICATIONS OF THE
SOUTHERN STATES, INC.

AT&T Communications of the Southern States, Inc., ("AT&T")
pursuant to R. 25-22.056, Fla. Admin. Code and Commission Order

No. PSC 97-0914-PHO-TP, files this Post Hearing Brief and Statement of Issues and Positions and states:

Issue Number 1(a):

What is the amount of intrastate payphone subsidy, if any, that needs to be eliminated by each local exchange company pursuant to Section 276(B)(1)(b) of the Telecommunications Act of 1996?

AT&T *The subsidy amount for BellSouth is no less than \$6,501,000.*

[Issues 1b - 1k have been resolved by stipulations approved by the Commission.]

BellSouth Telecommunications, Inc. ("BellSouth") affirmatively states that the amount of intrastate payphone subsidy needed to be eliminated in this docket is \$6,501,000 (Lohman, T-23). Mr. Lohman further admitted, upon cross-examination from staff, that using ARMIS data which is more closely payphone related, there is an additional subsidy of \$1.001 million for a total subsidy of \$7.502 million. (Lohman, T 76-77). Based upon the evidence adduced at hearing as to the amount of subsidy at issue, AT&T suggest that the Commission find that for BellSouth there is a total intrastate subsidy of \$7.502 million which should be applied to reduce switched access rates as discussed in issue number 3.

Issue Number 2:

If an intrastate payphone subsidy is identified in Issue 1, do the FCC's Payphone Reclassification Orders require the Florida Public Service Commission to specify which rate element(s) should be reduced to eliminate such subsidy?

AT&T *Yes, The FCC has delegated to the state commissions the responsibility to determine that payphone costs and subsidies have been removed from intrastate rates. The Commission's determination must logically specify the rate being reduced to remove the subsidy.*

On September 20, 1996, the Federal Communications Commission ("FCC") issued its First Report and Order, Order No. 96-388, Docket Number 96-128, implementing the Telecommunications Act of 1996. ("FCC Order"). It is this order which requires incumbent local exchange carriers ("LECS") to remove from their intrastate rates charges that recover the cost of their pay telephones. The FCC mandated that the various state commissions determine the amount of the subsidy and the specific rate element which should be reduced to eliminate the same. (FCC Order at paragraph 186). That paragraph specifically provides: "States **must** determine the intrastate elements that must be removed to eliminate intrastate subsidies within this time frame." (Emphasis supplied).

The FCC language with regard to this issue is abundantly clear. It is the Commission that must determine which rate elements should be reduced. Thus, the Commission's FCC-mandated review is such that more is required than simply determining that the subsidy has been eliminated; which is the central thrust of the original proposed agency action (PSC Order Number PSC-97-0358-FOF-TP) that prompted the underlying petition and de novo review in this docket. The Commission must affirmatively determine which rate element should be reduced in order to

eliminate the subsidy. Here, the parties to this proceeding have proposed two possible rate elements, business hunting charges and switched access rates. AT&T suggests, as discussed in Issue number 3, that there is sound logic for using the payphone intrastate subsidy to further reduce access charges.

Issue Number 3:

If an intrastate payphone subsidy is identified in Issue 1, what is the appropriate rate element(s) to be reduced to eliminate such subsidy.

AT&T. *All identifiable revenues should be used to reduce switched access charges - specifically to reduce the Carrier Common Line Charge. Access charges remain significantly over cost and are not likely to be influenced favorably by competition in the near term*

The principal issue in this docket is the necessity of the Commission's determining which specific rate element should be reduced by virtue of the elimination of the intrastate payphone subsidy. Two options were presented to the Commission at hearing: BellSouth's proposal to reduce business hunting charges and MCI and AT&T's proposal to reduce switched access charges. Given that no other specific rate elements were considered at hearing by either the parties or staff, the Commission, as a matter of policy, should select one of these two elements for reduction due to elimination of the intrastate payphone subsidy.

First, the proposal is almost completely devoid of any support as to why as a policy matter hunting charges should be reduced before switched access charges. BellSouth's tariff

filing and supporting documentation simply reflect BellSouth's preferred method of eliminating the subsidy amounts from its rates; nothing therein supports why the reductions should be made to hunting charges. BellSouth's basis for selecting hunting charges is limited to the rationale that since switched access rates have been reduced in recent Commission proceedings it is time to apply the payphone subsidy reductions to another BellSouth service that is priced above cost. (Lohman, T 37, 49). Interestingly BellSouth offers no meaningful evidence in support of such a policy determination by the Commission. While Mr. Lohman testified to having "seen an old study on hunting" the study was never proffered into evidence and can be considered anecdotal in nature at best.

BellSouth's lack of any real evidentiary basis in favor of a Commission determination to choose hunting charges as a matter of policy is reflected in an exchange between Mr. Lohman and Staff Counsel where Mr. Lohman stated: "So I believe by saying and showing [that access charges have already been reduced] why it shouldn't go on access, that supports hunting; but that may be semantics. (Lohman, T 65). Clearly, BellSouth's lack of any real support of its proposal to apply intrastate payphone subsidy amounts to hunting charges begs the question of whether such a proposal is consistent with the sound pro-competition policy that

the Commission has previously embraced in the arena of fostering local competition.

Even BellSouth's argument with respect to adopting hunting charges because access charges have already been reduced is deficient. Mr. Lohman admitted under cross examination that BellSouth's reductions in switched access rates that have occurred to date have been the result, not of voluntary reductions, but of actions of this Commission directing those reductions due to BellSouth's excess earnings. (Lohman, T 38). Moreover, Mr. Lohman's testimony fails to address the fact that despite the reduction in switched access rates, those rates still remain substantially above cost and impose an impediment to competition on the local level.

AT&T's proposal to use the intrastate payphone subsidy to further reduce switched access rates is supported by six distinct reasons. First, it is undisputed that access charges remain 10 to 13 times above BellSouth's underlying cost. Second, the markup BellSouth enjoys is significantly higher than the markup BellSouth enjoys on any other major revenue producing service it offers. Third, the incremental cost incurred in providing the carrier common line charge is zero, thus producing an infinite markup over cost. Fourth, switched access has traditionally been recognized to be priced artificially high in an effort to keep other rates low which cannot be said of hunting arrangements or

other local service offerings. Fifth, under BellSouth's elected price cap regulation BellSouth has already had sufficient opportunity to reduce end user rates to meet potential competitive markets. And sixth, because of the price cap opportunities extended to BellSouth and other incumbent local exchange carriers, this docket may be the last opportunity for the Commission to move access charges closer to cost consistent with past Commission policy. (Guedel, T 101-102).

Another critical reason for supporting switched access rate reductions over similar reductions in hunting charges is the sensitivity of each element to competition, now and in the future. AT&T witness Guedel's unrefuted testimony is that the price of hunting services will be subject to competition sooner than the price of access service. (Guedel, T 103). ALECs entering the local market will inevitably offer hunting to compete with BellSouth. This will subject hunting charges to competitive pressure that will drive the price down. However, even with local competition, terminating access charges will still not be subject to competitive pressures that will tend to drive its price down. (Guedel T. 102-103) This is due to the fact that the local company with the access lines sets the terminating access charge and they are going to be whatever that company sets them to be. (Guedel, T 102-103).

Given the little likelihood of meaningful competition pressure for switched access charges compared to hunting charges, BellSouth's purpose in offering hunting charges is transparent. By reducing hunting charges via this docket, BellSouth will be able to hone its competitive sword without bearing any real competitive pressure. Conversely, alternative local exchange carriers subject to high priced terminating switched access charges will have yet another barrier to overcome in order to meaningfully compete with BellSouth. Such a result is at odds with this Commission's previous positions with respect to the fostering of local exchange competition.

While not an issue or within the scope of this docket, BellSouth attempted to interject the issue of whether AT&T would flow through access charges reductions in the event the Commission adopted AT&T and MCI's proposal. Although the Chairman correctly determined that BellSouth's line of questioning was outside the scope of this docket, AT&T notes that it has in fact flowed-through all of its portion of previous switched access rate reductions to customers and intends to do so if the Commission determines that switched access should be reduced in this docket. (Guedel, T 105-110).

Given the sound rationales articulated by AT&T and MCI in support of applying BellSouth's intrastate payphone subsidy reductions to further reduce switched access charges, there is an

abundant basis for the Commission to make such a determination. This is especially true when comparing the benefits of such a determination as compared to the selection of BellSouth's hunting charge proposal. As competition is likely to occur over services such as hunting charges much sooner than access charges, the Commission can have the broadest pro-consumer impact by using this opportunity to reduce access charges now. Moreover, such a determination will further allow for meaningful competition over local exchange services consistent with state law and the Federal Telecommunications Act of 1996.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Mark K. Logan', is written over a horizontal line. The signature is stylized and somewhat cursive.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was served by U.S. Mail or hand delivery this 21st day of August, 1997, to the following parties of record as listed below.



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