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August 28, 1997

Ms. Blanca S. Bayó
Director, Records & Reporting
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2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

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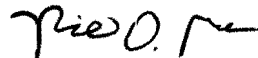
Re: MCI's Petition to Set Non-Recurring Charges for
Combinations of Network Elements

Dear Ms. Bayó:

Enclosed for filing on behalf of MCImetro Access
Transmission Services, Inc. are the original and 15 copies of
MCI's Petition to Set Non-Recurring Charges for Combinations of
Network Elements.

By copy of this letter, this document has been provided to
BellSouth Telecommunications, Inc.

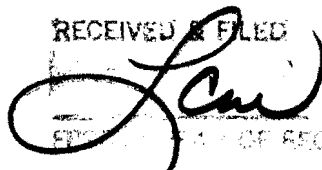
Very truly yours,



Richard D. Melson

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by MCI Metro)
Access Transmission Services,) Docket No.
Inc., to Set Non-Recurring Charges)
for Combinations of Network) Filed: August 28, 1997
Elements with BellSouth)
Telecommunications, Inc.)
_____)

MCI's PETITION TO SET NON-RECURRING CHARGES FOR
COMBINATIONS OF NETWORK ELEMENTS

MCImetro Access Transmission Services, Inc. (MCImetro or MCI), hereby petitions the Florida Public Service Commission (Commission) to set non-recurring charges (NRCs) that do not include duplicate charges or charges for functions or activities that MCI does not need for certain combinations of network elements. This Petition is filed pursuant to this Commission's Final Order on Motions For Reconsideration And Amending Order No. PSC-96-1579-FOF-TP, Order No. PSC-97-0298-FOF-TP, Docket No. 960846-TP, issued in the arbitration proceeding between MCI and BellSouth Telecommunications, Inc. (BellSouth).

The non-recurring charges currently in place for the unbundled network elements (UNEs) which compose the requested combinations are for services and functions which would not be performed and which are not necessary when providing the combinations. Until this Commission sets the appropriate NRCs for combinations of UNEs, however, the NRCs for the combinations will be determined by merely adding the NRCs of the component .

elements. When the NRCs of the combinations are determined by merely adding the NRCs of the component elements, the rates are so high that they constitute anti-competitive pricing. Moreover, the rates are so high that MCI will not be able to compete in the Florida market for basic local service. For example, the NRC for a 2-Wire analog loop and port combination for migration of an existing customer would be \$178.00. BellSouth would charge this rate despite the fact that providing such a combination through migration is analogous to processing a long distance PIC change - a process for which BellSouth charges only \$1.49.¹

PARTIES

1. Petitioner's full name, and the address for its Southeast regulatory operations, are as follows:

MCI Metro Access Transmission
Service, Inc.
Suite 700
780 Johnson Ferry Road
Atlanta, GA 30342

2. MCImetro holds certificates from the Commission as an alternative local exchange company (ALEC) and alternative access vendor (AAV).

3. The names and addresses of the MCI representatives who should receive copies of notices, pleadings and other filings in this docket are:

¹ MCI will show that the cost of providing these services is actually only about 24 cents.

Thomas K. Bond
MCI Telecommunications Corp.
Suite 700
780 Johnson Ferry Road
Atlanta, GA 30342

Richard D. Melson
Hopping Green Sams & Smith
P.O. Box 6526
Tallahassee, FL 32314

4. The name and address of the respondent in this docket is:

BellSouth Telecommunications, Inc.
675 West Peachtree Street
Atlanta, Georgia 30375

BellSouth Telecommunications, Inc. (BellSouth) is a corporation organized and formed under the laws of the State of Georgia and is a provider of local and intraLATA long distance service in Florida.

JURISDICTION OF THE COMMISSION

5. The Commission has jurisdiction over MCI's Petition pursuant to this Commission's Final Order on Motions For Reconsideration And Amending Order No. PSC-96-1579-FOF-TP (Order on Reconsideration). Order No. PSC-97-0298-FOF-TP, Docket No. 960846-TP; see BellSouth/MCI Interconnection Agreement, Attachment 1, Sec. 8. In its Order on Reconsideration, the Commission ordered that MCI and BellSouth must work together to establish the NRCs in situations where the ALEC is ordering multiple network elements. The Commission reserved jurisdiction over the charges, stating that if the parties cannot agree to the total NRC, then either party may petition the Commission to

settle the disputed charge or charges. Order No. PSC-97-0298-FOF-TP, pp. 27-28.

6. MCI has attempted to negotiate the NRCs for certain combinations of network elements with BellSouth. Said negotiations were unsuccessful because BellSouth refused to negotiate.

HISTORY

7. MCI Telecommunications Corporation and MCI Metro Access Transmission Services, Inc., requested that BellSouth begin good faith negotiations for an Interconnection Agreement 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 and MCI filed a joint motion for consolidation of MCI's request for arbitration with AT&T's request for arbitration with BellSouth. The joint motion was granted. On August 15, 1996, MCI filed its request for arbitration under the Act.

8. Evidentiary hearings were conducted for the consolidated dockets October 9 through 11, 1996. On December 31, 1996, the Commission issued Order No. PSC-96-1579-FOF-TP ruling on the petitions for arbitration. On January 15, 1997, BellSouth filed a Motion for Reconsideration of Order No. PSC-96-1579-FOF-TP. On January 27, 1997, MCI and AT&T filed responses to the Motion for Reconsideration. AT&T also filed a Cross Motion for

Reconsideration on that day. On February 4, 1997, BellSouth filed its response to AT&T's Cross Motion.

9. On March 19, 1997, the Commission issued its Final Order on Motions For Reconsideration And Amending Order No PSC-96-1579-FOF-TP. In its Order on Reconsideration, the Commission stated that "we set a NRC for each network element on an individual or stand-alone basis. We did not, however, set NRCs when multiple network elements are combined." Order No. PSC-97-0298-FOF-TP, p. 27. Therefore, the Commission ordered that BellSouth:

[P]rovide NRCs that do not include duplicate charges or charges for functions or activities that MCI does not need when two or more network elements are combined in a single order. . . . The parties must, therefore, work together to establish the NRC in situations where the ALEC is ordering multiple network elements. If the parties cannot agree to the total NRC when ordering multiple network elements, then either party may petition us to settle the disputed charge or charges.

Id. at pp. 27-28.

10. On May 27, 1997, the Commission issued its Order on Agreement Between MCI Telecommunications Corporation, MCI Metro Access Transmission Services, Inc., and BellSouth Telecommunications, Inc., Order No PSC-97-0602-FOF-TP, ordering MCI and BellSouth to file their Interconnection Agreement. On June 4, 1997, the parties filed their signed Agreement, and on June 19, 1997, the Commission issued its Order Approving Agreement. Order No. PSC-97-0723-FOF-TP. On April 21, 1997, MCI

filed a Complaint for Declaratory and Equitable Relief in the United States District Court for the Northern District of Florida challenging certain aspects of the Commission's arbitration decisions. Civil Action No. 497CV141-RH. This Complaint is still pending.²

REQUESTED COMBINATIONS

11. As the Florida Public Service Commission recognized in its order on reconsideration, there are numerous potential combinations of unbundled elements. The Commission stated that requiring "BellSouth to submit cost studies for every combination of network elements would be burdensome or unnecessary." Order on Reconsideration, p. 27. Therefore, MCI is currently only requesting NRC rates for certain limited combinations, and reserves the right to request further combination rates be negotiated at a later date.

12. In negotiations with BellSouth, MCI requested NRCs for the following combinations of UNEs:

- 1) 2-Wire analog loop and port for migration of an existing customer;

² In its Complaint, MCI challenged the rates set by this Commission on the grounds that they were not cost based. MCI did not challenge, however, this Commission's decision to retain jurisdiction over the matter for the purpose of excluding from the rates for combinations of network elements duplicate charges and charges for services which MCI does not need.

- 2) 2-Wire IDSN loop and port for migration of an existing customer;
- 3) 4-Wire analog loop and port for migration of an existing customer; and,
- 4) 4-Wire DS1 and port for migration of an existing customer;

13. After MCI requested that negotiations take place, the parties scheduled their negotiations for August 7, 1997. BellSouth appeared at the scheduled time but stated that it was not prepared to negotiate on the requested combinations.

14. Having a combined NRC rate for these pairs of UNEs is vital to MCI's business plans. While a loop and a port combination alone is not enough to provide retail service,³ when these pairs are combined with other UNEs, MCI can offer its own unique services to end users.

15. The nonrecurring rate set by this Commission for single stand-alone 2-Wire analog loop is \$140.00. The nonrecurring rate set for a single stand-alone 2-Wire analog port is \$38.00. See BellSouth/MCI Interconnection Agreement, Attachment 1, Table 1-4. Until this Commission determines the appropriate NRC for migration of an existing 2-Wire analog loop and port combination,

³ A loop and port combination alone is not a "service that the carrier provides at retail to subscribers who are not telecommunications carriers." 251(c)(4)(A). Retail customers cannot just buy a loop and a port. BellSouth's basic service includes other things such as operator services, DA, and vertical services.

the NRC will be determined by merely adding together these two stand alone rates, and MCI will be forced to pay \$178.00 for a process which consists of a computer entry that should take BellSouth less than two minutes to perform. The NRC for performing this function should certainly be no more than \$1.49, and MCI contends that it should be less.⁴

16. The nonrecurring rate set by this Commission for single stand-alone 2-Wire IDSN loop is \$306.00. The nonrecurring rate set for a single stand-alone 2-Wire IDSN port is \$88.00. See BellSouth/MCI Interconnection Agreement, Attachment 1, Table 1-4. Until this Commission determines the appropriate NRC for migration of an existing 2-Wire IDSN loop and port combination, the NRC will be determined by merely adding together these two stand alone rates, and MCI will be paying \$394.00 for a process which should take BellSouth less than two minutes to perform and which should cost less than \$1.49.

17. The nonrecurring rate set by this Commission for single stand-alone 4-Wire analog loop is \$141.00. The nonrecurring interim rate set for a single stand-alone 4-Wire analog port is \$38.00. See BellSouth/MCI Interconnection Agreement, Attachment 1, Table 1-4. Until this Commission determines the appropriate NRC for migration of an existing 4-Wire analog loop and port

⁴ BellSouth currently charges \$1.49 to perform a PIC (Preferred Interexchange Carrier) change. A PIC change is the process by which telecommunications end users switch long distance providers. The functions necessary to migrate a loop port

combination, the NRC will be determined by merely adding together these two stand-alone rates, and MCI will be paying \$179.00 for a process which should take BellSouth less than two minutes to perform and which should cost less than \$1.49.

18. The nonrecurring rate set by this Commission for single stand-alone 4-Wire DS1 loop is \$540.00. The nonrecurring rate set for a single stand-alone 4-Wire DS1 port is \$112.00. See BellSouth/MCI Interconnection Agreement, Attachment 1, Table 1-4. Until this Commission determines the appropriate NRC for migration of an existing 2-Wire IDSN loop and port combination, the NRC will be determined by merely adding together these two rates, and MCI will be paying \$652.00 for a process which should take BellSouth less than two minutes to perform and which should cost less than \$1.49.

19. In reviewing the underlying basis for BST's NRC charges for individual stand-alone loop and port UNEs, most of the functions that BST assumes will take place (and for which costs will be incurred) are not applicable to the above described combinations. For example, the engineering, design, provisioning, testing and travel costs associated with a new installation would be unnecessary for the migration of an existing loop and port combination. Thus the NRCs for the individual UNEs include not only duplicate charges, but also charges for functions or activities that MCI does not need, and which BellSouth does not

combination are essentially the same as performing a PIC change.

perform, when the network elements are combined in a single order.

20. Since the network elements which make up the requested combinations are currently combined by BellSouth, there is no need for BellSouth to separate them before providing them to MCI unless requested to do so by MCI.

21. Further, in the area of ordering and provisioning, BST's NRCs for individual stand-alone UNEs are so high that they must be based on the assumption that there are no mechanized processes in place for processing MCI's orders.⁵ BST appears to assume that there will be no mechanized process by which MCI can submit its UNE orders to BST. This is contrary, however, to the MCI-BST Interconnection Agreement, in which BST committed to provide a mechanized order process by April 1, 1997. While BST has not met that commitment to date, MCI believes it is unreasonable to establish NRCs on a going forward basis assuming today's temporary manual order process.

22. For the combinations requested herein, MCI believes that the manual order process assumption described in Paragraph 19 above generates costs which are unnecessary and excessive. In addition, BST is charging for activities which BST will not

⁵ BellSouth's public cost studies in other states have assumed that an unacceptably high percentage of MCI's orders will require manual intervention by BST personnel in the Local Carrier Service Center (LCSC). MCI is also aware of allegedly proprietary information in Florida which will support this contention.

perform once it comes into compliance with this Commission's order.

23. For the above described combinations, the disconnect costs which are contained in the individual stand-alone UNE NRCs for loops are unnecessary. It would appear that BST has assumed that many of the engineering, design and testing functions will be performed when a circuit is disconnected. Given that BST has implemented "soft dial tone" in Florida, MCI believes that these costs are unnecessary and that the functions and work activities associated with disconnecting a circuit should be more in the nature of a switch translations change.

24. If the NRCs of the requested loop and port combinations continue to be determined by merely by adding the NRCs of the component elements, the rates will be so high that they will constitute anti-competitive pricing, see Sections 364.01(4)(g) and 364.3381(3), Florida Statutes, and MCI will not be able to compete in the Florida market for basic local service.

25. As discussed in Paragraph 13 above, the NRC for the 2-Wire analog loop and port combination are \$178.00 when the stand-alone NRCs are merely added together. At this level, assuming MCI is able to retain an average customer for a full year, the increased cost for MCI to provide local service would be an astonishing \$14.83 per month -- just to cover the NRCs.⁶ Again,

⁶ This monthly rate was calculated by dividing the one time \$178.00 charge by 12 months.

this \$178.00 is charged for less than two minutes of work by BellSouth. The rates for the other requested combinations are even higher than the rate for the 2-Wire analog loop and port combination. See Paragraphs 14-16 above.

26. Under the NRCs described in paragraph 23 above, BellSouth would unjustly benefit every time a customer switched carriers. Further, BellSouth's own non-recurring costs to win such a customer from another carrier would be less than a hundredth of the costs charged to its competitors. If a customer on a 2-Wire analog loop and port combination leaves MCI for another ALEC, BellSouth would charge that ALEC another \$178.00 for NRCs, again while performing less than two minutes of work. If the customer leaves MCI and returns to BellSouth, however, BellSouth's only cost would be that of performing less than two minutes of work for itself. If MCI wins the customer back from BellSouth again, MCI would again have to pay BellSouth the exorbitant \$178.00 charge.

27. Under the NRCs described in paragraph 23 above, entry is not viable for an efficient firm. That is to say, at the combination of input and output prices currently ordered by this Commission for stand-alone UNEs, a new firm will be unable to meet its costs, even if it operates more efficiently than BellSouth. BellSouth's average basic local rate for residential service in Florida is approximately \$10.65. BellSouth also charges end users a \$3.50 Subscriber Line Charge (SLC). The

recurring monthly rate for a 2-Wire analog loop and port are currently set at \$17.00 and \$2.00 respectively. See BellSouth/MCI Interconnection Agreement, Attachment 1, Table 1-1. Therefore, MCI's recurring rate for just a loop and a port is already \$4.85 per month higher than what BellSouth charges its customers for basic service and the SLC. An additional \$14.83 per month to cover the NRCs would make providing basic local service prohibitively expensive.

DISPUTED ISSUES OF FACT

28. Based on BellSouth's refusal to negotiate, MCI assumes that BellSouth will dispute the appropriate NRCs for the requested UNE combinations.

29. Based on BellSouth's refusal to negotiate, MCI assumes that BellSouth will dispute which charges are duplicated or are for functions or activities that MCI does not need when ordering the requested UNE combinations.

WHEREFORE, MCI requests that the Commission:

- (a) take jurisdiction of this Petition;
- (b) hold a hearing to take evidence on any disputed issues of fact;
- (c) determine, after hearing, non-recurring charges for the following combinations of network elements that do not

include duplicate charges or charges for functions or activities that MCI does not need:

- 1) 2-Wire analog loop and port for migration of an existing customer;
- 2) 2-Wire IDSN loop and port for migration of an existing customer;
- 3) 4-Wire analog loop and port for migration of an existing customer; and,
- 4) 4-Wire DS1 and port for migration of an existing customer;

(d) grant such other relief as the Commission deems appropriate.

RESPECTFULLY SUBMITTED this 28th day of August, 1997.

HOPPING GREEN SAMS & SMITH, P.A.

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and

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ATTORNEYS FOR MCI

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was furnished to the following parties by hand delivery this 28th day of August, 1997.

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