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April 6, 1998

980499-TP

BY HAND DELIVERY

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

Re: Complaint Against BellSouth Telecommunications, Inc.

Dear Ms. Bayó:

Enclosed for filing on behalf of MCImetro Access Transmission Services, Inc. ("MCImetro or MCIm"), in the above referenced docket are the original and 15 copies of MCImetro's Complaint against BellSouth Telecommunications, Inc., for Breach of the Parties Interconnection Agreement.

Copies have been furnished to parties of record as indicated on the attached service list.

- ACK _____
- AFA _____
- APP _____
- CAF _____
- CMU _____
- CTR _____
- EAG _____
- LEG _____
- LIN _____
- OPC _____
- POH _____
- SEC _____
- WAS _____
- OTH _____

Very truly yours,

Richard D. Melson

Richard D. Melson

RDM/clp
Enclosure
cc: Parties of Record

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14
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DOCUMENT NUMBER-DATE
03973 APR -5 98
FPSC - DEPT. OF REGULATIONS

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of MCImetro Access)	
Transmission Services, Inc. against)	Docket No. _____
BellSouth Telecommunications, Inc.)	
For Breach of Approved)	
Interconnection Agreement by Failure to)	Filed: April 6, 1998
Pay Compensation for Certain Local)	
Traffic)	

**COMPLAINT OF MCIMETRO ACCESS TRANSMISSION SERVICES, INC.
AGAINST BELLSOUTH TELECOMMUNICATIONS, INC.**

MCImetro Access Transmission Services, Inc. ("MCImetro" or "MCI") brings this Complaint against BellSouth Telecommunications, Inc. ("BellSouth") for BellSouth's breach of the parties' Interconnection Agreement (the "Agreement") approved by the Florida Public Service Commission (the "Commission") on June 19, 1997, and shows the Commission as follows:

PARTIES

1.

MCImetro is a Delaware corporation with its principal place of business at 8521 Leesburg Pike, Vienna, Virginia 22182. MCImetro has a Certificate of Authority issued by the Commission that authorizes MCImetro to provide local exchange service in Florida.

2.

BellSouth is a Georgia corporation with its principal place of business at 675 West Peachtree Street, Atlanta, Georgia 30375. BellSouth is an incumbent local exchange carrier

("ILEC") as defined by Section 251(h) of the Telecommunications Act of 1996, 47 U.S.C. § 151 et seq. (the "Federal Act").

JURISDICTION AND STATUTES AUTHORIZING RELIEF

3.

The Commission has jurisdiction with respect to the claim asserted in this Complaint under the Federal Act, 47 U.S.C. §§ 251, 252; Chapters 120 and 364, Florida Statutes; Chapter 25-22, Florida Administrative Code; the Commission's Order dated June 19, 1997 approving the Agreement; and the Agreement itself. See also Iowa Util. Bd. v. Federal Communications Comm'n, 120 F.3d 753, 804 (8th Cir. 1997) ("state commissions retain the primary authority to enforce the substantive terms of the agreements made pursuant to sections 251 and 252").

BACKGROUND AND STATEMENT OF SUBSTANTIAL INTERESTS

4.

For almost two years, the Commission has engaged in an aggressive effort to implement the provisions of the Federal Act and bring the promise of competition to Florida's telecommunications consumers. In arbitration proceedings held before the Commission in Docket No. 960846-TP, the Commission arbitrated a number of disputes between MCImetro and BellSouth and ultimately approved the Agreement between those parties. In the Section 271 proceedings held before the Commission in Docket No. 960786-TL, MCImetro and other alternative local exchange carriers ("ALECs") demonstrated that BellSouth has not fulfilled its obligations under the Federal Act to provide nondiscriminatory access to BellSouth's OSS and data bases, to provide interconnection that is at least equal to what BellSouth provides itself, and

to provide resale services and unbundled network elements on a nondiscriminatory basis. This Commission agreed that BellSouth has failed to meet these requirements. By order issued November 19, 1997, the Commission described in detail many of BellSouth's failures to live up to its statutory obligations.

5.

On February 23, 1998, MCImetro filed its fourteen count complaint regarding BellSouth's breach of the Agreement and seeking appropriate remedies that will facilitate local exchange market entry in Florida. Count Thirteen of that complaint dealt with BellSouth's failure to pay reciprocal compensation to MCImetro for traffic terminated to end user customers of MCImetro who are Internet Service Providers. Complaints have been filed with the Commission by WorldCom Technologies, Inc. (Docket No. 971478-TP) and Teleport Communications Group (Docket No. 980184-TP) alleging violations by BellSouth of similar provisions in their interconnection agreements. In order to facilitate the prompt resolution of this issue, MCI is filing this separate complaint with the expectation that it will be consolidated for purposes of hearing with the complaints filed by WorldCom and others.

DISPUTED ISSUES OF MATERIAL FACT

6.

MCImetro believes that this Complaint raises solely legal issues regarding the proper interpretation of the Agreement and that the Complaint is capable of resolution in informal proceedings pursuant to Section 120.57(2), Florida Statutes. Based on conversations with counsel for BellSouth, MCImetro expects that BellSouth will take the position that there are

factual matters in dispute that necessitate a formal hearing under Section 120.57(1), Florida Statutes.

FAILURE TO PAY RECIPROCAL COMPENSATION

7.

The Agreement provides that “[t]he Parties shall bill each other reciprocal compensation at the rates set forth for Local Interconnection in this Agreement and the Order of the FPSC. Local Traffic is defined as any telephone call that originates in one exchange and terminates in either the same exchange, or a corresponding Extended Area (EAS) exchange.” Agreement, Attachment IV, § 2.2.1.

8.

BellSouth has refused to compensate MCImetro for certain traffic originated on BellSouth’s network and terminated on MCImetro’s network on the ground that BellSouth refuses to pay reciprocal compensation for calls to Internet Service Providers (“ISPs”).

9.

Calls terminated to ISPs constitute local traffic under the Agreement. BellSouth’s refusal to pay reciprocal compensation for such traffic is in breach of the Agreement. MCImetro requested payment, among other times, by letter dated December 24, 1997, and BellSouth refused such payment by letter dated February 11, 1998.

10.

BellSouth should be ordered to pay MCImetro reciprocal compensation for ISP traffic going forward and all amounts past due, plus interest.

PRAYER FOR RELIEF

WHEREFORE, MCImetro prays that a hearing be held and a ruling made on MCImetro's claims within sixty days pursuant to paragraph 23 of the Agreement, and that the Commission award the following relief:

- (a) Enter an order requiring BellSouth to pay reciprocal compensation on traffic terminated to ISPs, including payment of all amounts past due, plus interest;
- (b) Impose any fines or penalties the Commission determines are appropriate to sanction BellSouth for its conduct; and
- (c) Grant such other and further relief that the Commission deems just and proper.

RESPECTFULLY SUBMITTED this 6th day of April, 1998.

HOPPING GREEN SAMS & SMITH, P.A.

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and

DULANEY L. O'ROARK III
THOMAS K. BOND
MCI Telecommunications Corporation
780 Johnson Ferry Road, Suite 700
Atlanta, GA 30346
(404) 267-5789

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was furnished to the following parties by U.S. Mail (*) or Hand Delivery this 6th day of April, 1998.

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