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BY HAND DELIVERY

Charles J. Pelligrini
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

Re: MCImetro's Letter Brief on Proposed Issues --
Docket Nos. 971478-TL, 980194-TP, 980499-TP

Dear Charlie:

Pursuant to your request at last weeks' informal issue identification meeting, and in advance of the issue hearing before Commissioner Deason on April 13, the following is MCI's position on the appropriate issues for resolution in these consolidated dockets.

SUMMARY OF POSITION

ACK MCImetro believes that the only necessary issues in this case are
AFA Staff Issues No. 1 to 4, and that the Prehearing Officer should
APP reject the additional issues proposed by BellSouth, TCG and
CAF Intermedia.
CMU In the alternative, if BellSouth is permitted to include BST
CTR Issues No. 1 to 5, then the TCG and Intermedia issues should
EAG likewise be allowed. In no event, however, should BST's Issue
LEG No. 6 be included. This is a policy issue that is not relevant
LIN to the existing contract disputes, and its inclusion would turn
OPC the docket into a generic proceeding.

DISCUSSION

RCH MCImetro agrees with the statement of issues set forth in
SEC
WAS
OTH

DOCUMENT NUMBER-DATE

04066 APR-88

FPC-RECORDS-REPORTING

Staff Issues No. 1 to 4, namely:

Under their Interconnection Agreement, are {ALEC} and BellSouth Telecommunications, Inc. required to compensate each other for transport and termination of traffic to Internet Service Providers? If so, what action, if any, should be taken?

MCImetro believes this contract interpretation issue is purely a question of law which can be resolved within the four corners of the contract. The only relevant factual issue -- that is, an identification and description of the type of traffic in dispute -- should be capable of resolution by stipulation of the parties. Therefore, as stated in its Complaint, MCImetro submits that this docket can be resolved based on briefs and oral argument in accordance with Section 120.57(2).

BellSouth's position is that there are both factual and policy issues that must be resolved in a Section 120.57(1) evidentiary hearing. BellSouth has proposed two factual issues and one policy issue.

The factual issues proposed by BellSouth relate to the type of traffic in dispute (BST Issue 1) and to the "mutual intent" of the parties to the contracts (BST Issues 2-5). MCImetro believes that these factual issues are inappropriate for two reasons:

(1) as stated above, MCI believes that the type of traffic in dispute can be stipulated and that the "mutual intent" is clear from the language of the contract itself, and does not require any external proof; and

(2) if the Commission nevertheless rules that evidence of intent is appropriate, the existing staff issues are broad enough to permit BellSouth to introduce such evidence.

The policy issue proposed by BellSouth asks whether the payment of reciprocal compensation for this type of traffic is in the public interest. MCI vigorously opposes the inclusion of this issue in a contract dispute docket. This issue raises the generic question of "what compensation should be paid," not the contract specific question of "what compensation is payable under the contracts." Given the Commission's stated intention to restrict this docket to matters of contract interpretation, BellSouth's proposed policy issue is inappropriate.

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MCImetro likewise submits that the issues proposed by TCG and Intermedia are not required if this case is treated as one involving purely legal issues. However, if BellSouth is permitted to introduce factual or policy testimony (either through inclusion of its issues or through a broad reading of the staff issues), then MCImetro believes that the ALEC parties should be permitted to introduce evidence consistent with the TCG and Intermedia issues (either through inclusion of those issues or through an equally broad reading of the staff issues).

Very truly yours,



Richard D. Melson

cc: Mr. Pelligrini
Ms. Bayó (for docket file)
Parties of Record

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was furnished to the following parties by Hand Delivery this 8th day of April, 1998.

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