

FLORIDA PUBLIC SERVICE COMMISSION

VOTE SHEET

MAY 14, 1998

RE: DOCKET NO. 971140-TP - Motions of AT&T Communications of the Southern States, Inc., and MCI Telecommunications Corporation and MCI Metro Access Transmission Services, Inc., to compel BellSouth Telecommunications, Inc. to comply with Order PSC-96-1579-FOF-TP and to set non-recurring charges for combinations of network elements with BellSouth Telecommunications, Inc., pursuant to their agreement.

Issue 1: Does the BellSouth-MCI interconnection agreement specify how prices will be determined for combinations of unbundled network elements

- a) that do not recreate an existing BellSouth retail telecommunications service?
- b) that do create an existing BellSouth retail telecommunications service?

Recommendation: Yes. The Commission should find that the MCI/BellSouth interconnection agreement specifies how prices will be determined for combinations of unbundled network elements that do not recreate an existing BellSouth retail service. ~~The Commission should also find that the MCI/BellSouth interconnection agreement specifies how prices will be determined for combinations of unbundled network elements that do recreate an existing BellSouth retail service.~~ The Commission should require BellSouth, under the agreement, to provide network elements as defined in 47 C.F.R. §51.319 to MCI individually or combined, whether already combined or not, at the prices for the individual elements established by the Commission in Order No. PSC-96-1579-FOF-TP and set forth in the agreement in Table 1 of Attachment I. The Commission should find that, under the agreement, the prices for combinations of network elements should

COMMISSIONERS ASSIGNED: Full Commission

COMMISSIONERS' SIGNATURES

MAJORITY

DISSENTING

*[Handwritten signatures in majority column]*  
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REMARKS/DISSENTING COMMENTS:

DOCUMENT NUMBER-DATE

05396 MAY 14 88

FPSC-RECORDS/REPORTING

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be determined as the sum of the prices of the individual elements comprising the combination, ~~without qualification as to use~~ and subject to the elimination of duplicate charges or charges for unneeded functions or activities.

*except when the UNBs are combined to recreate an existing BellSouth retail service.*

**MODIFIED**

*Approved with noted modifications.*

Issue 2: If the answer to either part or both parts of Issue 1 is yes, how is the price(s) determined?

Recommendation: Whether MCIIm recreates an existing BellSouth retail service or not through the combination of unbundled network elements, the prices MCIIm should pay BellSouth for network element combinations or for the network elements if ordered individually are based on the rates established in Order No. PSC-96-1579-FOF-TP and set forth particularly in the parties agreement in Table 1 of Attachment 1, Section 2.6 of Attachment III, and Section 8 of Attachment I. The prices for combinations of network elements should be determined as the sum of the prices of the individual elements comprising the combination, less duplicate and unnecessary charges.

**MODIFIED**

*The price is reached by adding individual prices less duplicate and unnecessary charges except when recreating retail services.*

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Issue 3: If the answer to either part or both parts of Issue 1 is no, how should the price(s) be determined?

Recommendation: Staff recommends in Issues 1(a) and (b) that the Commission find that the MCI/BellSouth interconnection agreement contains a pricing standard for network element combinations and recommends in Issue 2 what that standard should be. Hence, staff recommends that the Commission find Issue 3 moot. If, however, the Commission denies staff's recommendations in Issues 1(a) and 1(b) and in Issue 2, then staff recommends that the Commission direct the parties to resume negotiations in order to establish prices for UNE combinations that comport with the requirements of the Act and with the Commission's decision in Issue 7.

**MODIFIED**

*Parties are directed to negotiate prices for network elements where UNEs recreate existing retail services*

Issue 4: Does the BellSouth-AT&T interconnection agreement specify how prices will be determined for combinations of unbundled network elements

- a) that do not recreate an existing BellSouth retail telecommunications service?
- b) that do create an existing BellSouth retail telecommunications service?

Recommendation: Yes. The Commission should find that AT&T's interconnection agreement with BellSouth sets forth a pricing standard expressed particularly in Section 36.1 for network elements ordered as combinations on a single order that do not recreate an existing BellSouth retail service. The Commission should also find that AT&T's interconnection agreement with BellSouth sets forth a pricing standard expressed particularly in Section 36.1 for network elements ordered as combinations on a single order that do recreate an existing BellSouth retail service. Further, the Commission should find that the pricing standard in the parties' agreement requires them, in either case, to first attempt to negotiate appropriate prices for combinations of elements based on the Commission's decisions in Issues 5 and 6 below. Failing that, the parties may submit their dispute to the Commission for resolution through arbitration. The Commission should further find that BellSouth is not required under its agreement with AT&T to provide AT&T with network elements in combination at the sum of the individual element prices set forth in Table 1 of Part IV, except in the case where the elements exist in combination at the time of AT&T's order. Finally, the Commission should

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find that AT&T may alternatively purchase unbundled network elements individually at the prices set forth in the parties' agreement, in which case, BellSouth should be required to provide AT&T with access to its network for purposes of combining elements in order to provide telecommunications services.

**MODIFIED**

*Parties are to renegotiate elements not combined as UNEs that are already combined that recreate an existing service.*

Issue 5: If the answer to either part or both parts of Issue 4 is yes, how is the price(s) determined?

Recommendation: Under the pricing standard in the AT&T-BellSouth agreement that the Commission should find in Issue 4, for network elements not already combined at the time of AT&T's order, the Commission should find that, if AT&T requests that BellSouth provision them in combination, AT&T and BellSouth should negotiate the price AT&T should pay, as required by Section 36.1 of Part IV of their agreement. The Commission should also find that the prices negotiated for these combinations should be compliant with Section 252(d)(1) of the Act and the Commission's decisions below in Issue 6, and be free of duplicate and unnecessary nonrecurring charges. In the specific case of network elements existing as combinations at the time of AT&T's order, the Commission should find, as an exception, that the price AT&T should pay is the sum of the prices for the component elements in Table 1 of Part IV of its agreement with BellSouth. Further, the Commission should find that the prices AT&T should pay BellSouth for UNE combinations allegedly replicating an existing BellSouth retail service, e.g., in the case of a BellSouth customer migrating to AT&T, should not be determined differently than for UNE combinations that do not allegedly replicate an existing BellSouth retail service.

**MODIFIED**

*Total of UNEs less duplicate charges apply only for those elements that do not require existing service. All other charges are subject to renegotiation.*

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Issue 6: If the answer to either part or both parts of Issue 4 is no, how should the price(s) be determined?

Recommendation: If the Commission should deny staff's recommendation in Issues 4(a) and 4(b) and in Issue 5, finding that the parties' agreement does not require them to negotiate appropriate prices for unassembled UNE combinations or that the prices for already assembled combinations are not specified by the agreement or that the parties' agreement contains no pricing standard for UNE combinations of any kind, staff recommends that the Commission nevertheless should require the parties to negotiate UNE combination prices in any circumstance that comport with Section 252(d)(1) of the Act and that are free of duplicate and unnecessary charges.

**MODIFIED** *Parties are to renegotiate prices for combinations that presently exist; recreate retail service.*

Issue 7: What standard should be used to identify what combinations of unbundled network elements recreate existing BellSouth retail telecommunications services?

Recommendation: Staff recommends the Commission find that a standard for identifying which combinations of unbundled network elements recreate an existing BellSouth retail telecommunications service is irrelevant. The 8th Circuit Court's Order states that a requesting carrier may achieve the capability to provide telecommunications services completely through access to the unbundled elements of an incumbent LEC's network.

**MODIFIED** *while the Commission agrees that a loop and port does not create local service, the companies are to renegotiate what UNBs recreate an existing retail service.*

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Issue 8: What is the appropriate nonrecurring charge for each of the following combinations of network elements for the migration of an existing BellSouth customer:

- (a) 2-wire analog loop and port;
- (b) 2-wire ISDN loop and port;
- (c) 4-wire analog loop and port; and
- (d) 4-wire DS1 loop and port?

Recommendation: Staff recommends that the Commission approve the nonrecurring charges shown in Table I of staff's May 1, 1998 memorandum, for these loop/port combinations for the migration of an existing BellSouth customer.

**APPROVED**

Issue 9: Does the BellSouth-MCIm interconnection agreement require BellSouth to record and provide MCIm with the switched access usage data necessary to bill interexchange carriers when MCIm provides service using unbundled local switching purchased from BellSouth either on a stand-alone basis or in combination with other unbundled network elements?

Recommendation: Staff recommends that the Commission find that BellSouth is required under the terms of its interconnection agreement with MCIm to record and provide MCIm with switched access usage data necessary for MCIm to bill IXCs when MCIm provides service using unbundled local switching purchased from BellSouth either on a stand-alone basis or in combination with other unbundled network elements.

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Issue 10: Does the AT&T-BellSouth interconnection agreement require BellSouth to record and provide AT&T with detail usage data for switched access service, local exchange service and long distance service necessary for AT&T to bill customers when AT&T provides service using unbundled network elements either alone or in combination?

Recommendation: Staff recommends that the Commission find that BellSouth is required under the terms of its interconnection agreement with AT&T to record and provide AT&T with switched access usage data necessary for AT&T to bill IXCs when AT&T provides service using unbundled local switching purchased from BellSouth either on a stand-alone basis or in combination with other unbundled network elements.

**APPROVED**

Issue 11: Should this dockets be closed?

Recommendation: No, the parties should be required to submit a final arbitration agreement conforming with the Commission's ultimate determination in this docket for approval within 30 days of issuance of the Commission's order. This docket should remain open pending Commission approval of the final arbitration agreement in accordance with Section 252 of the Telecommunications Act of 1996

**MODIFIED**

*! and pursuant to renegotiations discussed in issues 1-7. Parties are to return when they reach an impasse on agreement.*