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Legal Department

NANCY B. WHITE
General Attorney

BellSouth Telecommunications, Inc.
150 South Monroe Street
Room 400
Tallahassee, Florida 32301
(305) 347-5558

May 14, 1997

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

RE: Docket No. 960833-TP, 960846-TP and 960757-TP

Dear Ms. Bayo:

Enclosed is an original and fifteen copies of BellSouth Telecommunications, Inc.'s Motion for Reconsideration of Order No. PSC-98-0604-FOF-TP, which we ask that you file in the captioned dockets.

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.

Sincerely,

Nancy B. White
Nancy B. White (BW)

- ACK ✓
- AFA 3
- APP _____
- CAF _____
- CMU *Sciammi*
- CTR NBW/vf
- EAG Enclosures
- LEG 2
- LIN 5
- OPC _____
- RCH _____
- SEC 1
- WAS _____
- OTH _____

cc: All Parties of Record
A. M. Lombardo
R. G. Beatty
W. J. Ellenberg

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petitions by AT&T)	Docket No. 960833-TP
Communications of the Southern)	
States, Inc., and MCI)	Docket No. 960846-TP
Telecommunications Corporation,)	
MCI Metro Access Transmission)	
Services, Inc., for arbitration)	
of certain terms and conditions)	
of a proposed agreement with)	
BellSouth Telecommunications,)	
Inc. concerning interconnection)	
and resale under the)	
Telecommunications Act of 1996)	
)	
In the matter of)	Docket No. 960757-TP
)	
MFS Communications Company, Inc.)	
)	
Petition for Arbitration Pursuant)	
to 47 U.S.C. § 252(b) of)	
Interconnection Rates, Terms, and)	
Conditions with)	
)	
BellSouth Telecommunications, Inc.)	
)	
)	Filed: May 14, 1998

**BellSouth Telecommunications, Inc.'s
Motion for Reconsideration**

BellSouth Telecommunications, Inc. ("BellSouth"), files pursuant to Rule 25-22.060, Florida Administrative Code, its Motion for Reconsideration of Order No. PSC-98-0604-FOF-TP ("Order"), issued on April 29, 1998, by the Florida Public Service Commission ("Commission") in the above referenced dockets. Reconsideration is required because the Commission overlooked or failed to consider evidence affecting

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the outcome of this proceeding. In support of its Motion for Reconsideration, BellSouth states the following:

I. Procedural Background

On February 8, 1996, the Telecommunications Act of 1996 (the "Act") became law. The Act required interconnection negotiations between incumbent local exchange carriers and new entrants. If negotiations were unsuccessful, the parties were entitled to seek arbitration of the unresolved issues from the appropriate state commission. 47 U.S.C. § 252(b)(1). This proceeding is a continuation of the arbitrations that arose after BellSouth and Metropolitan Fiber Systems of Florida, Inc. ("MFS"), AT&T Communications of the Southern States, Inc. ("AT&T"), and MCI Telecommunications, Inc. and MCImetro Access Transmission Services, Inc. ("MCI") were unable to reach agreement on all issues despite good faith negotiations.

On April 29, 1998, the Commission issued its Order, holding, among other things, that certain nonrecurring costs regarding connect and test and engineering functions proposed by BellSouth be deleted from the rates for certain unbundled network elements ("UNEs"). The Commission, in reaching a decision on these issues, either overlooked or failed to consider certain evidence applicable to these dockets. See Diamond Cab Co. of Miami vs. King, 146 So. 2d 889 (Fla. 1962). The Commission's decision lacks the requisite foundation of competent and substantial evidence. Moreover, BellSouth has discovered that the cost for disconnect work time was not deleted with regard to the UNE element of directory transport - installation

NRC, per trunk or signaling connection. Although BellSouth does not agree with the deletion, it should be made for the sake of consistency.

With regard to the evidence, the Commission must rely upon evidence that is “sufficiently relevant and material that a reasonable man would accept it as adequate to support the conclusion reached.” DeGroot v. Sheffield, 95 So. 2d 912, 916 (Fla. 1st DCA 1957) See also Agrico Chem. Co. v. State of Fla. Dep’t of Environmental Reg., 365 So. 2d 759, 763, (Fla. 1st DCA 1979); Ammerman v. Fla. Board of Pharmacy, 174 So. 2d 425, 426 (Fla. 3d DCA 1965). The evidence must “establish a substantial basis of fact from which the fact at issue can reasonably be inferred.” DeGroot, 95 So. 2d at 916. The Commission should reject evidence that is devoid of elements giving it probative value. Atlantic Coast Line R.R. Co. v. King, 135 So. 2d 201, 202 (1961). “The public service commission’s determinative action cannot be based upon speculation or supposition.” 1 Fla. Jur. 2d, § 174, citing Tamiami Trail Tours, Inc. v. Bevis, 299 So. 2d 22, 24 (1974). In this case, the Commission’s decision is doubly arbitrary because it ignores competent evidence that contradicts the Commission’s underlying assumptions in many instances. “Findings wholly inadequate or not supported by the evidence will not be permitted to stand.” Caranci v. Miami Glass & Engineering Co., 99 So. 2d 252, 254 (Fla. 3d DCA 1957). 380 So. 2d 1028, 1031 (Fla. 1980).

The section below examines the grounds for reconsideration.

II. Deletion of Nonrecurring Connect and Test Costs and Engineering Costs

In its Order, the Commission used BellSouth's Total Element Long-run Incremental Cost ("TELRIC") calculator to determine the recurring and non-recurring economic costs associated with a particular UNE. (Order, p. 12.). The Commission modified BellSouth's inputs to the TELRIC calculator and reran the model in order to arrive at the rates approved by this Commission. In order to verify and analyze the outputs of the Commission's modified cost model, BellSouth requested a copy of the model (Exhibit "A").

BellSouth's analysis reveals that the Commission deleted nonrecurring costs for connecting and testing and engineering in connection with unbundled network elements without justification. BellSouth seeks reconsideration of these deletions.

First, the Commission eliminated the Access Customer Advocacy Center ("ACAC") component of the Connect and Turn-Up Test costs on the basis that the ACAC represented operational support system ("OSS") costs disallowed in this proceeding (Order, pp. 90 and 163-165). The Commission identified the ACAC as an OSS developed specifically for the use of Alternative Local Exchange Carriers ("ALEC") (Order, p. 163). Although the Staff, in its Recommendation, cites page 539 of the Transcript for the proposition that the ACAC was "explicitly formed to deal with ALECs", the transcript reflects no such thing at that page. (Staff rec. at p. 95). It should be noted that the ACAC was not created specifically for ALECs; the ACAC was created originally for interexchange carriers. In addition, the job function codes identified with the ACAC (471X and 4AXX) describe provisioning functions and activities, not ordering

functions (Hearing Exhibit 14). Job function code 471X is concerned with the preparation of layout records and orders (Id.). Job function code 4AXX is concerned with testing and coordination (Id.). The Commission specifically concluded that testing was an appropriate function for BellSouth to provide to the ALECs (Order pp. 103-104). For these reasons, the ACAC portion of the Connect and Turn-Up Test costs should be restored. The Commission has based its decision on incorrect information.

Second, in connection with the unbundled network elements of 2-wire ADSL-compatible loop and 2-Wire and 4-Wire HDSL - compatible loops, the Commission provided no explanation or description of certain engineering and connection and testing costs eliminated (Order, pp. 105 and 108-109). Neither the job function code nor the activity involved with these costs is discussed. (Id.) For this reason, these costs should be restored. The Commission has made its decision without justification or rationale.

Third, in connection with the unbundled network elements of DS-1 Local Channel and DSI Level Facility Termination for Directory Assistance Transport and Dedicated Transport, the Commission deleted engineering and connect and testing costs that were proper and appropriate (Order, p. 151).

Costs for connect and testing job function code 471X were eliminated. (Id.). Again, this is a job function representing the preparation of layout records and orders by the ACAC. (Hearing Exhibit 14). As has been noted earlier, the ACAC is not an element of OSS. Costs for engineering job function code 31XX were also eliminated. This job function code concerns network activities in connection with switching

equipment, among other things (Hearing Exhibit 14). There is no explanation or rationale for the deletion of these costs and, accordingly, these costs should be restored.

III. Deletion of Disconnect Work Times

In connection with BellSouth's analysis of the Commission's modified cost model, BellSouth discovered that the disconnect work times for unbundled network element G.6.8, directory transport - installation NRC, per trunk or signaling connection, had not been eliminated. Although BellSouth is opposed to the elimination of these disconnect work times, the Commission should be aware of its oversight, so that the Order may be modified accordingly.

III. Conclusion

BellSouth requests that its Motion for Reconsideration be granted and that the Commission adopt BellSouth's position on the issues discussed herein.

Respectfully submitted this 14th day of May, 1998.

BELLSOUTH TELECOMMUNICATIONS, INC.



ROBERT G. BEATTY (BW)
NANCY B. WHITE
c/o Nancy Sims
150 South Monroe Street, #400
Tallahassee, Florida 32301
(305) 347-5555



WILLIAM J. ELLENBERG II (BW)
675 West Peachtree Street, #4300
Atlanta, Georgia 30375
(404) 335-0711

CERTIFICATE OF SERVICE
DOCKET NOS. 960833-TP, 960846-TP and 960757-TP

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by

Federal Express this 14th day of May, 1998 to the following:

Charles J. Pelligrini
Staff Counsel
Division of Legal Services
Florida Public Service Comm.
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
Tel. No. (850) 413-6232
Fax. No. (850) 413-6250

Tracy Hatch, Esq. (+)
Michael W. Tye, Esq.
101 N. Monroe Street
Suite 700
Tallahassee, Florida 32301
Attys. for AT&T
Tel. (850) 425-6364
Fax. (850) 425-6361

Mark A. Logan, Esq.
Brian D. Ballard, Esq.
Bryant, Miller & Olive, P.A.
201 S. Monroe Street
Tallahassee, Florida 32301
Attys. for AT&T
Tel. (850) 222-8611
Fax. (850) 224-1544

Richard D. Melson, Esq.
Hopping Green Sams & Smith
123 South Calhoun Street
P.O. Box 6526
Tallahassee, Florida 32314
Tel. (850) 222-7500
Fax. (850) 224-8551
Atty. for MCImetro

Floyd R. Self, Esq. (+)
Messer, Caparello, Madsen,
Goldman & Metz, P.A.
215 South Monroe Street
Suite 701
Tallahassee, FL 32302-1876
Tel. (850) 222-0720
Fax. (850) 224-4359
Atty. for MFS/WorldCom, Inc.

Mr. Brian Sulmonetti (+)
Director, Regulatory Affairs
WorldCom, Inc.
1515 South Federal Highway, Suite 400
Boca Raton, FL 33432
Tel. (561) 750-2940
Fax. (561) 750-2629

Mr. Thomas K. Bond (+)
MCI Metro Access Transmission
Services, Inc.
780 Johnson Ferry Road
Suite 700
Atlanta, GA 30342
Tel. No. (404) 267-6315
Fax. No. (404) 267-5992

(+) Protective/Non-Disclosure
Agreement


Nancy B. White (hw)