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TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (B. KEATING, <sup>JK</sup> PELLEGRINI) <sup>MB</sup>  
DIVISION OF COMMUNICATIONS (SIRIANNI, <sup>WRS</sup> CORDIANO, <sup>W</sup> STAVANJA, <sup>RAT</sup>  
OLLILA, KING <sup>JK</sup>)

RE: DOCKET NO. 960757-TP - PETITION BY METROPOLITAN FIBER  
SYSTEMS OF FLORIDA, INC. FOR ARBITRATION WITH BELLSOUTH  
TELECOMMUNICATIONS, INC. CONCERNING INTERCONNECTION  
RATES, TERMS, AND CONDITIONS, PURSUANT TO THE FEDERAL  
TELECOMMUNICATIONS ACT OF 1996.

DOCKET NO. 960833-TP - PETITION BY AT&T COMMUNICATIONS OF  
THE SOUTHERN STATES, 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.

DOCKET NO. 960846-TP - PETITION BY MCI TELECOMMUNICATIONS  
CORPORATION AND 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.

AGENDA: JUNE 16, 1998 - REGULAR AGENDA - POST HEARING DECISION -  
MOTION FOR RECONSIDERATION - PARTIES MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: I:\PSC\LEG\WP\960833rc.RCM

CASE BACKGROUND

On December 16, 1996, Order No. PSC-96-1531-FOF-TP was issued  
in Docket No. 960757-TP. In that order, which pertained to  
Metropolitan Fiber Systems of Florida, Inc. (MFS) and BellSouth  
Telecommunications, Inc. (BellSouth), the Commission ordered  
BellSouth to file cost studies so that permanent rates could be

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established for specific unbundled network elements. On December 31, 1996, the Commission issued Order No. PSC-96-1579-FOF-TP in Docket Nos. 960833-TP and 960846-TP. In that order, which related to BellSouth, AT&T Communications of the Southern States, Inc. (AT&T) and MCI Telecommunications, Inc. and MCImetro Access Transmission Services, Inc. (MCI), the Commission again ordered BellSouth to file cost studies specifically addressing those elements for which the Commission had established interim rates so that permanent rates could be established. Subsequently, Docket Nos. 960833-TP, 960846-TP, and 960757-TP were consolidated and set for hearing.

On January 26 through January 28, 1998, the Commission conducted an evidentiary hearing for these consolidated dockets. The objective of the proceeding was to establish recurring and non-recurring rates for certain unbundled network elements (UNEs). On April 29, 1998, the Commission issued its Final Order on Arbitration, Order No. PSC-98-0604-FOF-TP. Therein, the Commission set permanent recurring and non-recurring rates for specific UNEs.

On May 14, 1998, BellSouth filed a Motion for Reconsideration of Order No. PSC-98-0604-FOF-TP. BellSouth seeks reconsideration of the Commission's decision to delete certain non-recurring connect and test costs and engineering costs from the rates for certain UNEs. In addition, BellSouth seeks reconsideration of the Commission's decision not to exclude disconnect work times associated with directory transport. On May 26, 1998, MCI and AT&T filed responses to BellSouth's Motion for reconsideration. On May 28, 1998, WorldCom filed a letter stating that it joined in the objections to BellSouth's Motion that were submitted by MCI and AT&T.

In accordance with Order No. PSC-98-0604-FOF-TP, the parties were to submit amendments to their arbitration agreements memorializing and implementing Order No. PSC-98-0604-FOF-TP by May 29, 1998. On that day, AT&T filed a Joint Motion of AT&T and BellSouth for Extension of Time to File Revisions to Interconnection Agreement. WorldCom also filed a Motion for Extension of Time to file its Interconnection Agreement.

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Staff's recommendations on BellSouth's Motion for Reconsideration and the Motions for Extension of Time are set forth below.

### DISCUSSION OF ISSUES

**ISSUE 1:** Should the Commission grant the Motions for Extension of Time?

**RECOMMENDATION:** Yes. Staff recommends that all parties be allowed an extension of time to file their amended agreements within 30 days of the issuance of the Commission's Order from this recommendation.

**STAFF ANALYSIS:** In accordance with Order No. PSC-98-0604-FOF-TP, the parties were required to file with the Commission amendments to their arbitration agreements by May 29, 1998. On May 29, 1998, AT&T filed a Joint Motion of AT&T and BellSouth for Extension of Time to File Revisions to Interconnection Agreement. Therein, AT&T and BellSouth seek additional time to file their amended agreement until after the Commission's decision on BellSouth's Motion for Reconsideration.

Specifically, AT&T and BellSouth seek leave to file their agreement, including any revisions that may be required as a result of the Commission's determination on BellSouth's Motion for Reconsideration, within 15 days of the issuance of the Commission's Order.

On May 29, 1998, WorldCom also filed a Motion for Extension of Time to file its revised arbitration agreement with BellSouth. In its Motion, WorldCom asks that it be granted a 30-day extension to file its final agreement with BellSouth. WorldCom states that this additional time is necessary not only because of BellSouth's Motion for Reconsideration, but also because the parties have not completed and reviewed the changes to the agreement required by Order No. PSC-98-0604-FOF-TP. WorldCom states that BellSouth agrees with WorldCom's request for an extension of time.

Staff believes that an extension of time to file the agreements is appropriate in view of BellSouth's Motion for Reconsideration. In order to be consistent for all parties, staff

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recommends that the Commission allow the parties to file their final agreements, incorporating any changes that may result from BellSouth's Motion for Reconsideration, within 30 days of the issuance of the Commission's Order from this recommendation.

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**ISSUE 2:** Should the Commission grant BellSouth's Motion for Reconsideration of Order No. PSC-98-0604-FOF-TP?

**RECOMMENDATION:** BellSouth's Motion should be granted, in part, and denied, in part.

The Commission should deny BellSouth's Motion as it relates to the Access Customer Advocacy Center, to the exclusion of certain engineering and connection and testing costs from 2-wire ADSL-compatible loop and 2-wire and 4-wire HDSL-compatible loops, and to the exclusion of costs for engineering job function code 31XX. BellSouth has not identified any point of fact or law that the Commission overlooked or failed to consider in rendering its Order on these points.

The Commission should grant BellSouth's Motion as it relates to unbundled network element G.6.8, directory transport - installation NRC, per trunk or signaling connection. BellSouth has demonstrated that the rates for this element include inappropriate disconnect costs, which the Commission overlooked when it set these rates. The Commission should, therefore, approve the rates for G.6.8 set forth in Attachment A to this recommendation.

Finally, the Commission should clarify that because the costs of engineering job function code 31XX appear to have been recovered through recurring costs, as indicated by Exhibit 45, these costs have been excluded from non-recurring charges. The Commission should also clarify that the work times for job function code 4N5X, which are set forth on page 3 of Attachment A, are approved.

**STAFF ANALYSIS:** The proper standard of review for a motion for reconsideration is whether the motion identifies a point of fact or law which was overlooked or which the Commission failed to consider in rendering its Order. See Stewart Bonded Warehouse, Inc. v. Bevis, 294 So. 2d 315 (Fla. 1974); Diamond Cab Co. v. King, 146 So. 2d 889 (Fla. 1962); and Pingree v. Quaintance, 394 So. 2d 161 (Fla. 1st DCA 1981). In a motion for reconsideration, it is not appropriate to reargue matters that have already been considered. Sherwood v. State, 111 So. 2d 96 (Fla. 3rd DCA 1959); citing State ex. rel. Jaytex Realty Co. V. Green, 105 So. 2d 817 (Fla. 1st DCA 1958). Furthermore, a motion for reconsideration should not be granted "based upon an arbitrary feeling that a mistake may have been made, but should be based upon specific factual matters set forth in the record and susceptible to review." Stewart Bonded

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Warehouse, Inc. v. Bevis, 294 So. 2d 315, 317 (Fla. 1974).

BellSouth

In its Motion, BellSouth states that the Commission modified BellSouth's inputs into the TELRIC calculator in order to derive the rates that the Commission ultimately approved. BellSouth states that it requested a copy of the model in order to examine the modifications and approved outputs. BellSouth asserts that its analysis of the modified model has revealed that non-recurring costs for connecting and testing, as well as for engineering, were deleted from the rates for certain UNEs. BellSouth further asserts that this deletion was unjustified because there was no evidence in the record to support the deletion.

Specifically, BellSouth states that the Access Customer Advocacy Center (ACAC) component of the Connect and Turn-up Test costs was excluded because the Commission indicated that ACAC was an operation support system (OSS) developed for use by alternative local exchange companies (ALECs). BellSouth notes that in this proceeding the Commission excluded all ALEC-specific OSS costs. BellSouth argues, however, that the ACAC was originally developed for use by interexchange carriers, rather than ALECs. BellSouth also argues that ACAC job function codes relate to provisioning functions, not ordering functions. The particular provisioning function codes, 471X and 4AXX, are the preparation of layout records and orders, and testing and coordination. BellSouth asserts that the Commission specifically stated that testing was a function that BellSouth should provide to the ALECs. For these reasons, BellSouth argues that the ACAC component of the Connect and Turn-Up costs should have been included.

Regarding 2-wire ADSL-compatible loop and 2-wire and 4-wire HDSL-compatible loops, BellSouth asserts that the Commission did not explain why certain engineering, testing and connection costs were excluded. BellSouth argues that the Commission made its decision without justification or explanation, and should, therefore, include these costs.

BellSouth further argues that the Commission improperly deleted engineering, testing, and connection costs from DS-1 Local Channel and DS-1 Level Facility Termination for Directory Assistance Transport and Dedicated Transport. BellSouth argues that the Commission should not have eliminated the engineering

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costs for job function code 31XX associated with switching equipment without providing some additional rationale or justification for excluding these costs. BellSouth also argues that the Commission should not have excluded the costs for connect and testing job function code 471X. As previously indicated, this code relates to the layout records and orders associated with ACAC.

Finally, BellSouth states that the Commission did not eliminate the disconnect work times for directory transport - installation NRC, per trunk or signaling connection. BellSouth states that although it does not believe that these work times should be excluded, the Commission should modify its Order to be consistent with the elimination of these costs from other UNEs.

#### MCI and AT&T

In their responses to BellSouth's Motion, MCI and AT&T both argue that the Commission did not make a mistake in excluding the ACAC component of the Connect and Turn-Up Test costs. The parties argue that BellSouth's witness Landry stated on cross-examination at the hearing, and in his deposition, that the ACAC was set up to meet the ALECs' needs and to address the ALECs' specific issues and concerns about services. The parties also argue that BellSouth's cost study input forms describe ACAC as performing a manual coordination and dispatch function. The parties assert that the function performed by the ACAC would be more appropriately performed by an automated OSS system; thus, it was appropriate for the Commission to exclude the ACAC component as an ALEC-specific OSS.

Regarding the ADSL-compatible loops and the HDSL-compatible loops, the parties argue that the engineering and connection costs that were eliminated were proposed by WorldCom, not by BellSouth. The parties state that the origin of these costs was clearly identified in the Commission staff's recommendation on pages 112 and 113. The parties further state that WorldCom did not propose work times as a supplement to the work times proposed by BellSouth, but instead as a replacement. Thus, the parties argue that if BellSouth wants WorldCom's work times to be included, then BellSouth's work times should be eliminated.

In addition, MCI and AT&T argue that the elimination of the costs for job function code 31XX is explained on page 174 of the Commission staff's recommendation. The parties assert that the Commission staff stated there that the 31XX costs were "[r]ecovered in recurring rates by applying Telco Labor Loading Factors (EXH 45)." The parties argue, therefore, that it was appropriate for the Commission to eliminate these costs from the non-recurring rates, because to do otherwise would allow BellSouth to double recover its costs.

Based on the foregoing, MCI and AT&T state that the Commission should deny BellSouth's Motion for Reconsideration.

### Analysis

#### I. ACAC

Staff does not believe that BellSouth has identified any fact that the Commission overlooked in rendering its order, nor has BellSouth identified any mistake made by the Commission in applying the law to this case as it relates to the ACAC component of Connect and Turn-Up Test costs. Staff notes that BellSouth's witness Landry did, in fact, state that

In the case of the customer point of contact, and in the case of the ACAC, those centers were set up specifically to respond to ALEC needs as far as single points of contacts and a point where their trouble reports and turn up of certain services are coordinated through.

(TR page 538, line 25 through page 539, line 2). The ACAC's manual coordinating function, as described by witness Landry, clearly relates to provisioning, repair and maintenance of UNEs for ALECs, thus defining the ACAC as a manual OSS developed specifically for ALECs. As such, the costs for job function codes 471X and 4AXX were properly excluded by the Commission based upon competent, substantial evidence in the record and in accordance with Order No. PSC-98-0123-PCO-TP, issued January 22, 1998. See Order No. PSC-98-0604-FOF-TP, at page 163. BellSouth has not identified any fact that the Commission overlooked in making its determination on this point, nor has it demonstrated that the Commission made a mistake in applying the law in rendering its Order on this point.



## II. LOOP WORK TIMES AND COSTS

As it pertains to the deletion of certain engineering, and connection and testing work times and associated costs from 2-wire ADSL-compatible loop, and 2-wire and 4-wire HDSL-compatible loops, staff notes that the work times excluded on pages 105 and 108 - 109 were engineering and testing times proposed by WorldCom. WorldCom's proposed non-recurring charges for these areas are fully discussed on pages 101 - 104 of Order No. PSC-98-0604-FOF-TP. Therein, the Commission explained that "We do not find that there is sufficient evidence in this record to support WorldCom's claim that tariffed rates can be used to support WorldCom's rate proposal." The Commission also stated that it believed that actual costs might exceed trial costs in response to WorldCom's assertions to the contrary. See Order No. PSC-98-0604-FOF-TP, at page 103.

On pages 104 and 107 of the Order, the Commission further stated that it approved the work times shown in Tables X and XI based upon the discussion in the Order regarding non-recurring charges. The Commission's decision to exclude WorldCom's proposed work times and associated costs was based upon competent, substantial evidence that WorldCom's proposal was not adequately supported. Therefore, BellSouth has not identified a point of fact or law that the Commission overlooked or failed to consider in rendering its Order as it relates to the exclusion of these work times.

## III. JOB FUNCTION CODE 31XX

As for the exclusion of costs for engineering job function code 31XX, hearing Exhibit 45 demonstrates that the costs for this function are recovered through recurring rates. Staff's recommendation refers to this at footnote 1 of Table 1e-3 on page 174. Also, regarding BellSouth's reference to hearing Exhibit 14, staff notes that this exhibit indicates that job function code 31XX develops and monitors plans for space required for facilities, equipment, and operations support system, in addition to performing other functions. By definition, monitoring is a recurring activity. It is appropriate, therefore, to recover the costs associated with this function through recurring rates.

The Commission's decision to exclude the costs associated with this function are based upon competent, substantial evidence in the

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record. BellSouth has not identified a point of fact or law that the Commission overlooked or failed to consider in rendering its Order on this point. Staff notes, however, that due to a scrivener's error, footnote 1 of Table 1e-3 was deleted in converting that table to Table XVII on page 151 of the Commission's Order. Staff recommends, therefore, that the Commission clarify its Order to reflect that because the costs of engineering job function code 31XX appear to have been recovered through recurring costs, as indicated by Exhibit 45, these costs have been excluded from non-recurring charges.

#### **IV. G.6.8. - DISCONNECT WORK TIMES**

Finally, staff has reviewed the rates for unbundled network element G.6.8, directory transport - installation NRC, per trunk or signaling connection, and has found that BellSouth is correct that the disconnect work times were improperly included in the calculation of the rate. This is an inadvertent error that staff recommends the Commission amend to maintain consistent methodology within its Order. Page 1 of Attachment A to this recommendation shows the correct rates for this element, excluding the disconnect work times. Staff also notes that on page 152 of the Order, in Table XVIII, the work times for function code 4N5X were not reflected. The work times for this function were, however, included in the calculation of the rate for element G.6.8. Therefore, staff recommends that the Commission clarify that the work times for job function code 4N5X, which are set forth on page 3 of Attachment A, are approved.

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**ISSUE 3:** Should this docket be closed?

**RECOMMENDATION:** No. If the Commission approves staff's recommendation in Issue 1, the parties should be required to submit their amended interconnection agreements for approval within 30 days of the Commission's Agenda Conference. This Docket should remain open pending Commission approval of the agreements in accordance with Section 252 of the Telecommunications Act of 1996.

**STAFF ANALYSIS:** If the Commission approves staff's recommendation in Issue 1, the parties should be required to submit their amended agreements for approval within 30 days of the Commission's Agenda Conference. This Docket should remain open pending Commission approval of the interconnection agreements in accordance with Section 252 of the Telecommunications Act of 1996.

**BellSouth TELRIC Calculator**  
**Unbundled Network Cost Elements Summary Report**  
**Florida**  
**USRFL018 - Final Staff Recommended Changes, TELRIC**

Cost Element	Recurring	Non Recurring	Non-Recurring			
			First	Additional	Initial	Subsequent
G.6.8 Directory Transport - Installation NRC, Per Trunk or Signaling Connection			\$206.06	\$4.71		

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ATTACHMENT A

**Nonrecurring Cost Summary**

Florida

G.6.8 - Directory Transport - Installation NRC, Per Trunk or Signaling Connection

5/29/98

**Nonrecurring Cost**

	<u>First</u>			<u>Additional</u>		
	<u>Direct Cost</u>	<u>Shared Cost</u>	<u>TELRIC</u>	<u>Direct Cost</u>	<u>Shared Cost</u>	<u>TELRIC</u>
Nonrecurring Cost Development Sheet Col H	\$193.0695	\$0.0000	\$193.0695	\$4.4175	\$0.0000	\$4.4175
Total Cost	\$193.0695	\$0.0000	\$193.0695	\$4.4175	\$0.0000	\$4.4175
Gross Receipts Tax Factor			X 1.0153			X 1.0153
Cost (including Gross Receipts Tax)			\$196.0235			\$4.4851
Common Cost Factor			X 1.0512			X 1.0512
<b>Nonrecurring Economic Cost</b>			<b>\$206.0599</b>			<b>\$4.7147</b>

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Nonrecurring Cost Development

Florida  
G.S.S - Directory Transport - Installation NRC, Per Trunk or Signaling Connection

5/28/98		A		B		C	D=A+C		E=B+C		F	G=E*F		H=D+G		
Function	JFC/ Payband	JFC/Payband Description	Installation Workman		Disconnect Workman		Direct Labor Rate	Install Cost		Disconnect Cost		Discount Factor	Discounted Disconnect Cost		Direct Cost	
			First	Additional	First	Additional		First	Additional	First	Additional		First	Additional	First	Additional
Engineering	4N2X	Switch & Trunk Based Translations	2.2600	0.0500	0.0000	0.0000	\$44.63	\$100.4175	\$2.2315	\$0.0000	\$0.0000	0.8718	\$0.0000	\$0.0000	\$100.4175	\$2.2315
Engineering	4N5X	Trunk & Carrier Group (TCG)	0.1000	0.0500	0.0000	0.0000	\$43.72	\$4.3720	\$2.1860	\$0.0000	\$0.0000	0.8718	\$0.0000	\$0.0000	\$4.3720	\$2.1860
Connect & Test	430X	CO Install & Misc Field - Switch Eq	2.0000	0.0000	0.0000	0.0000	\$44.14	\$88.2800	\$0.0000	\$0.0000	\$0.0000	0.8718	\$0.0000	\$0.0000	\$88.2800	\$0.0000
														Total	\$193.0695	\$4.4175

Function	JFC/ Payband	JFC/Payband Description	Installation Workman		Disconnect Workman		TELARC Labor Rate	Install Cost		Disconnect Cost		Discount Factor	Discounted Disconnect Cost		TELARC	
			First	Additional	First	Additional		First	Additional	First	Additional		First	Additional	First	Additional
Engineering	4N2X	Switch & Trunk Based Translations	2.2600	0.0500	0.0000	0.0000	\$44.63	\$100.4175	\$2.2315	\$0.0000	\$0.0000	0.8718	\$0.0000	\$0.0000	\$100.4175	\$2.2315
Engineering	4N5X	Trunk & Carrier Group (TCG)	0.1000	0.0500	0.0000	0.0000	\$43.72	\$4.3720	\$2.1860	\$0.0000	\$0.0000	0.8718	\$0.0000	\$0.0000	\$4.3720	\$2.1860
Connect & Test	430X	CO Install & Misc Field - Switch Eq	2.0000	0.0000	0.0000	0.0000	\$44.14	\$88.2800	\$0.0000	\$0.0000	\$0.0000	0.8718	\$0.0000	\$0.0000	\$88.2800	\$0.0000
														Total	\$193.0695	\$4.4175

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