

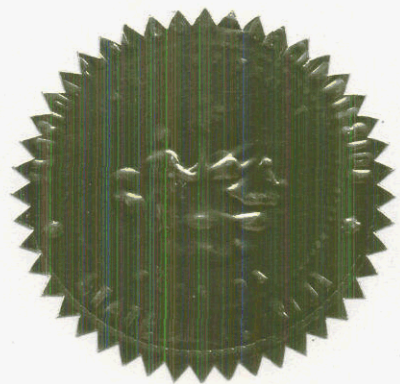
BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of

Complaint of MCI Metro Access:
Transmission Services, Inc.
against BellSouth
Telecommunications, Inc.
for breach of approved
interconnection agreement.

DOCKET NO. 980281-TP



VOLUME 1
Pages 1 through 146

PROCEEDING: HEARING

BEFORE: CHAIRMAN JULIA L. JOHNSON
COMMISSIONER J. TERRY DEASON
COMMISSIONER SUSAN F. CLARK
COMMISSIONER JOE GARCIA
COMMISSIONER E. LEON JACOBS, JR.

DATE: Wednesday, August 5, 1998

TIME: Commenced at 9:30 a.m.

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: JOY KELLY, CSR, RPR
Chief, Bureau of Reporting

DOCUMENT NUMBER - DATE
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FPSC-RECORDS/REPORTING

1 **APPEARANCES:**

2 **RICHARD D. MELSON**, Hopping Green Sams and
3 Smith, Post Office Box 6526, Tallahassee, Florida
4 32314, appearing on behalf of **MCImetro Access**
5 **Transmission Services, Inc.**

6 **NANCY B. WHITE**, and **J. PHILLIP CARVER**, 150
7 South Monroe Street, Suite 400, Tallahassee, Florida
8 32301, appearing on behalf of **BellSouth**
9 **Telecommunications, Inc.**

10 **CATHERINE BEDELL**, Florida Public Service
11 Commission, Division of Legal Services, 2540 Shumard
12 Oak Boulevard, Tallahassee, Florida 32399-0870,
13 appearing on behalf of the **Commission Staff.**

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I N D E X

WITNESSES - VOLUME 1

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P R O C E E D I N G S

(Hearing convened at 9:40 a.m.)

CHAIRMAN JOHNSON: We're going to go ahead and begin the proceeding. Staff, could you please read the notice.

MS. BEDELL: Pursuant to notice, this time and place was set for hearing in Docket 980281-TP, complaint of MCImetro Access Transmission Services, Inc. against BellSouth Telecommunications, Inc. for breach of approved Interconnection Agreement.

CHAIRMAN JOHNSON: Thank you. We'll take appearances.

MS. WHITE: Nancy White and Phil Carver for BellSouth Telecommunications, Incorporated.

MR. MELSON: Richard Melson of Hopping Green Sams and Smith, on behalf of MCImetro Access Transmission Services, Inc.

MS. BEDELL: Catherine Bedell on behalf of Public Service Commission Staff.

CHAIRMAN JOHNSON: Staff, are there any preliminary matters?

MS. BEDELL: Staff is aware of just one, which is the request for official recognition. We have submitted to you all two lists. One is MCI's list and the other is Staff's. They are substantially

1 similar, and Staff would recommend you take them as
2 Composite Exhibit 1.

3 **CHAIRMAN JOHNSON:** Without objection, we'll
4 take official recognition of these documents and mark
5 them as Composite Exhibit 1. Short title, "Official
6 Recognition Lists."

7 (Exhibit 1 marked for identification.)

8 **CHAIRMAN JOHNSON:** Is it proper to go ahead
9 and move these?

10 **MS. BEDELL:** Sure.

11 **CHAIRMAN JOHNSON:** We will admit Exhibit 1
12 which was the Composite Official Recognition List.

13 (Exhibit 1 received in evidence.)

14 **CHAIRMAN JOHNSON:** Any other preliminary
15 matters? Seeing none, at this time then any of the
16 witnesses that are in the room, if you could stand,
17 I'll go ahead and swear you in. If you'd raise your
18 right hand. (Witnesses collectively sworn.)

19 MCI, if you would call your first witness.

20 **MR. MELSON:** MCI calls Ron Martinez.

21

22

23

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25

RONALD MARTINEZ

1
2 was called as a witness on behalf of MCI Metro Access
3 Transmission Services, Inc. and, having been duly
4 sworn, testified as follows:

DIRECT EXAMINATION

5
6 **BY MR. MELSON:**

7 **Q** Mr. Martinez, would you please state your
8 name and business address?

9 **A** My name is Ronald Martinez, and my business
10 address is 780 Johnson Ferry Road, Atlanta, Georgia
11 30042.

12 **Q** By whom are you employed and in what
13 capacity?

14 **A** I'm employed by MCI. I'm Executive Staff
15 No. 2 working in the law and public policy area and
16 working with the business units.

17 **Q** Have you prefiled direct testimony in this
18 docket consisting of 24 pages?

19 **A** Yes.

20 **Q** Do you have any changes or corrections to
21 that testimony?

22 **A** No.

23 **Q** If I were to ask you the same questions
24 today would your answers be the same?

25 **A** Yes.

1 **MR. MELSON:** Madam Chairman, I'd ask that
2 Mr. Martinez's direct testimony be inserted into the
3 record as though read.

4 **CHAIRMAN JOHNSON:** It will be so inserted.

5 **Q** **(By Mr. Melson)** Mr. Martinez, do you have
6 12 exhibits attached to your testimony identified as
7 RM-1 through RM-12?

8 **A** Yes.

9 **Q** Do you have any changes or corrections to
10 those exhibits?

11 **A** No.

12 **MR. MELSON:** Madam Chairman, I'd ask RM-1
13 through 12 be identified as Composite Exhibit 2.

14 **CHAIRMAN JOHNSON:** We'll identify RM-1
15 through RM-12 as Composite Exhibit 2.

16 (Exhibit 2 marked for identification.)

17 **Q** **(By Mr. Melson)** Mr. Martinez, have you
18 also prefiled rebuttal testimony in this docket
19 consisting of 15 pages?

20 **A** Yes.

21 **Q** Do you have any changes or corrections to
22 your rebuttal testimony?

23 **A** No.

24 **Q** And, again, if I were to ask you the same
25 questions today would your answers be the same?

1 **A** Yes.

2 **MR. MELSON:** I'd ask that Mr. Martinez's
3 rebuttal testimony be inserted into the record as
4 though read.

5 **CHAIRMAN JOHNSON:** It will be so inserted.

6 **Q** **(By Mr. Melson)** And there were no exhibits
7 attached to your rebuttal testimony; is that correct?

8 **A** That's correct.

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2 **DIRECT TESTIMONY OF RONALD MARTINEZ**

3 **ON BEHALF OF**

4 **MCIMETRO ACCESS TRANSMISSION SERVICES, INC.**

5 **DOCKET NO. 980281-TP**

6 **May 4, 1998**

7
8 **Q. PLEASE STATE YOUR NAME, ADDRESS AND POSITION.**

9 A. My name is Ronald Martinez. My business address is 780 Johnson Ferry Road,
10 Atlanta Georgia 30342. I am employed by MCI Telecommunications Corporation
11 in the Law and Public Policy Group as an Executive Staff Member II. My
12 responsibilities in my current position include working with the MCI business units
13 to ensure timely introduction of products and services.

14
15 **Q. PLEASE PROVIDE INFORMATION ON YOUR BACKGROUND AND**
16 **EXPERIENCE.**

17 A. In my previous position at MCI, I managed the business relationships between MCI
18 and approximately 500 independent local exchange companies in twenty-one states.
19 I have experience in network engineering, administration and planning; facilities
20 engineering, management and planning; network sales; and technical sales support.
21 Prior to joining MCI, I was the Director of Labs for Contel Executone for several
22 years. Before that, I worked for sixteen years in the Bell system in numerous
23 engineering, sales and sales support functions. I have a Master of Science degree in
24 Operations Research and a Bachelor of Science Degree in Electrical Engineering
25 from the University of New Haven.

1

2 **Q. ARE YOU FAMILIAR WITH THE INTERCONNECTION AGREEMENT**
3 **THAT IS THE SUBJECT OF THIS PROCEEDING?**

4 A. Yes. I was heavily involved in the negotiation of the Interconnection Agreement
5 (the Agreement) on behalf of MCImetro Access Transmission Services, Inc.
6 (MCImetro), which is the MCI subsidiary that provides local telephone service.
7 Although I am not a lawyer, I am quite familiar with the provisions discussed below
8 and the parties intentions when negotiating and drafting those provisions.

9

10 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

11 A. The purpose of my testimony is to provide information to the Commission
12 concerning the relevant provisions of the Agreement and to put those provisions in
13 the proper context. Further, with respect to Counts One, Nine through Twelve and
14 Fourteen, I discuss the failure of BellSouth Telecommunications, Inc. ("BellSouth")
15 to comply with the Agreement. I have attached a copy of the complete Agreement
16 to my testimony as Exhibit 2 (RM-1) and a copy of relevant excerpts from the
17 Agreement as Exhibit 2 (RM-2).

18

19

OSS: GENERAL CLAIM

20 ***COUNT ONE: FAILURE TO PROVIDE OSS INFORMATION***

21 **Q. PLEASE SUMMARIZE THE BASIS FOR MCIMETRO'S CLAIM THAT**
22 **BELLSOUTH MUST DISCLOSE THE OSS SYSTEMS AND RELATED**
23 **DATA BASES THAT BELLSOUTH USES FOR ITS OWN CUSTOMERS.**

24 A. Several provisions in the Agreement require BellSouth to provide OSS systems to
25 MCImetro at parity with what BellSouth provides to its own customers. While I am

1 not a lawyer, I understand that such parity also is required by the
2 Telecommunications Act of 1996 (the "Act"). To determine whether parity is being
3 provided, MCImetro must obtain information concerning the Operations Support
4 Systems (OSS) that BellSouth uses for its customers and the databases that are used
5 by those systems. Otherwise, MCImetro cannot learn all of the OSS capabilities it is
6 entitled to, and the parity provisions of the Agreement and the Act could not be fully
7 enforced.

8

9 **Q. WHAT ARE THE PARITY PROVISIONS TO WHICH YOU REFER?**

10 A. Several provisions of the Agreement require that parity in OSS systems must be
11 provided. Key provisions include the following:

- 12 • "Except as otherwise provided herein, each party shall perform its
13 obligations hereunder at a performance level no less than the level which it
14 uses for its own operations, or those of its Affiliates, but in no event shall a
15 party use less than reasonable care in the performance of its duties
16 hereunder." Agreement, Part A, § 13.1.
- 17 • "BellSouth agrees that it will provide to MCI on a nondiscriminatory basis
18 unbundled Network Elements and ancillary services as set forth in this
19 Agreement and the operations support systems as set forth in this
20 Agreement. BellSouth further agrees that these services, or their functional
21 components, will contain all the same features, functions and capabilities and
22 be provided at a level of quality at least equal to the level which it provides
23 to itself or its Affiliates." Agreement, Part A, § 13.3.
- 24 • "BellSouth agrees that order entry, provisioning, installation, trouble
25 resolution, maintenance, billing and service quality with respect to Local

1 Resale will be provided at least as expeditiously as BellSouth provides for
2 itself or for its own retail local service or to others, or to its Affiliates, and
3 that it will provide such services to MCIIm in a competitively neutral
4 fashion.” Agreement, Part A, § 13.8.

- 5 • “During the term of this Agreement, BellSouth shall provide necessary
6 ordering and provisioning business process support as well as those technical
7 and systems interfaces as may be required to enable MCIIm to provide at
8 least the same level and quality of service for all resale services, functions,
9 features, capabilities and unbundled Network Elements as BellSouth
10 provides itself, its Affiliates or its own subscribers. BellSouth shall provide
11 MCIIm with the same level of ordering and provisioning support as BellSouth
12 provides itself in accordance with standards and performance measurements
13 that are at least equal to the highest level of standards and/or performance
14 measurements that BellSouth uses and/or which are required by law,
15 regulatory agency, or by BellSouth's own internal procedures, whichever are
16 the most rigorous. These standards shall apply to the quality of the
17 technology, equipment, facilities, processes, and techniques (including, but
18 not limited to, such new architecture, equipment, facilities, and interfaces as
19 BellSouth may deploy) that BellSouth provides to MCIIm under this
20 Agreement.” Agreement, Attachment VIII, § 2.1.2 (quoted in pertinent
21 part).
- 22 • “BellSouth and MCIIm shall agree on and implement interim solutions [prior
23 to EBI] for each interface within thirty (30) days after the effective Date of
24 this Agreement, unless otherwise specified in Exhibit A of this Attachment.
25 The interim interface(s) shall, at a minimum, provide MCIIm the same

1 functionality and level of service as is currently provided by the electronic
2 interfaces used by BellSouth for its own systems, users, or subscribers.”

3 Agreement, Attachment VIII, § 2.3.1.3.

- 4 • “During the term of this Agreement, BellSouth shall provide necessary
5 maintenance business process support as well as those technical and systems
6 interfaces required to enable MCIIm to provide at least the same level and
7 quality of service for all services for resale, functions, features, capabilities
8 and unbundled elements or combinations of elements as BellSouth provides
9 itself, its subscribers any of its Affiliated (sic) or subsidiaries or any other
10 entity. BellSouth shall provide MCIIm with the same level of maintenance
11 support as BellSouth provides itself in accordance with standards and
12 performance measurements that are at least equal to the highest level of
13 standards and/or performance measurements that BellSouth uses and/or
14 which are required by law, regulatory agency, or by BellSouth’s own internal
15 procedures, whichever are the most rigorous. These standards shall apply to
16 the quality of the technology, equipment, facilities, processes, and techniques
17 (including, but not limited to, such new architecture, equipment, facilities,
18 and interfaces as BellSouth may deploy) that BellSouth provides to MCIIm
19 under this Agreement.” Agreement, Attachment VIII, § 5.1.1.1.

20

21 **Q. HAS MCIMETRO REQUESTED BELLSOUTH TO PROVIDE**
22 **INFORMATION ABOUT ITS SYSTEMS AND DATA BASES?**

23 A. Yes. Prior to June 10, 1997, MCImetro requested certain information concerning
24 the systems and information available to BellSouth representatives. BellSouth
25 responded by memorandum dated June 10, 1997 attaching several flow charts

1 concerning the OSS available to CLECs rather than to BellSouth itself. A copy of
2 this memorandum is attached to my testimony as Exhibit 2 (RM-3). MCImetro
3 responded with an E-Mail and attached memorandum dated June 18, 1997
4 specifying the information requested, and sent a follow-up memorandum dated July
5 3, 1997 after no response was received. Copies of the June 18 E-Mail and attached
6 memorandum and the July 3 memorandum are attached to my testimony as Exhibits
7 2 (RM-4) and 2 (RM-5), respectively. BellSouth responded by E-Mail dated
8 July 11, 1997, stating that the requested information was provided in the testimony
9 of Gloria Calhoun in Section 271 proceedings outside Florida. A copy of this E-
10 mail is attached as Exhibit 2 (RM-6). In fact, in that testimony Ms. Calhoun only
11 spoke of the OSS BellSouth uses for its own customers in general terms that did not
12 provide the detailed information required by MCImetro.

13
14 On July 14, 1997, Ms. Calhoun was cross-examined in a hearing in Georgia
15 concerning BellSouth's SGAT. During the cross-examination, MCI made the
16 following request concerning BellSouth's OSS and received the following response:

17 Q [MCI Counsel]: Ms. Calhoun, the staff had asked for a
18 view of RNS or the BellSouth systems and you extended that
19 – an invitation to the Commission's staff. Would BellSouth
20 be willing to extend a similar invitation to CLECs or the
21 parties in this docket so that we could all view the RNS?

22
23 A [BellSouth Witness Calhoun]: I don't see why not.

24
25 In the Matter of Consideration of BellSouth Telecommunications, Inc.'s Service

1 Pursuant to Section 271 of the Telecommunications Act of 1996, Georgia PSC
2 Docket No. 6863-U, p. 3622.

3

4 By letter dated July 16, 1997, counsel for MCI followed up on Ms. Calhoun's
5 statement and requested that MCI and other CLECs be allowed to view the
6 operation of BellSouth's ordering and pre-ordering OSS on-site at BellSouth's
7 offices. A copy of this letter is attached to my testimony as Exhibit 2 (RM-7).
8 When BellSouth failed to respond, MCI's counsel sent a second request dated July
9 24, 1997, a copy of which is attached as Exhibit 2 (RM-8). By letter dated July
10 29, 1997, just two days before the conclusion of the hearing, BellSouth's attorney
11 stated that the requested demonstration would not be permitted. A copy of that
12 letter is attached as Exhibit 2 (RM-9).

13

14 Since then, MCImetro has requested information on BellSouth's OSS and databases
15 by letter dated December 24, 1997, which is attached as Exhibit 6 (BG-1) to the
16 testimony of Bryan Green. BellSouth refused to provide the requested information
17 by letter dated February 24, 1998, which is attached to Mr. Green's testimony as
18 Exhibit 6 (BG-2).

19

20 **Q. SINCE THE GEORGIA 271 CASE, HAVE YOU HAD ANY**
21 **OPPORTUNITIES TO LEARN MORE ABOUT THE OSS BELLSOUTH**
22 **USES FOR ITS OWN CUSTOMERS?**

23 **A.** Yes. In subsequent Section 271 proceedings in Florida and Alabama, BellSouth was
24 ordered by those Commissions to give demonstrations of its OSS capabilities and to
25 permit limited questioning from CLECs. I witnessed both demonstrations.

1 Although the demonstrations were quite superficial, they demonstrated beyond any
2 doubt that, contrary to BellSouth's contentions in the Georgia 271 proceeding,
3 BellSouth has OSS capabilities that are markedly superior to what it provides to
4 CLECs. As a result of the Florida demonstration in particular, MCImetro was able
5 to begin requesting additional capabilities, some of which MCImetro is seeking in
6 this enforcement action.

7
8 **Q. WHY SHOULD BELLSOUTH BE REQUIRED TO DISCLOSE THE**
9 **REQUESTED INFORMATION ABOUT ITS OSS SYSTEMS AND DATA**
10 **BASES?**

11 A. Put simply, under the provisions quoted above, MCImetro is entitled to receive OSS
12 at parity with what BellSouth provides itself. MCImetro is entitled to know what
13 BellSouth's capabilities are so that it may obtain these capabilities for itself. Because
14 the demonstrations in Florida and Alabama were quite limited, MCImetro was
15 afforded only a brief glimpse into BellSouth's systems. Only when BellSouth is
16 required to make a thorough and systematic disclosure will MCImetro be able to
17 ascertain the capabilities and information to which it is entitled under the parity
18 standard. Such a disclosure would be the first step towards contractual compliance.

19
20 The information MCImetro has requested is reasonably suited to the parity inquiry.
21 MCImetro first asks for a detailed listing of all OSS systems that BellSouth uses.
22 Such a list easily could be provided and could be compared to a list of systems that
23 BellSouth provides for MCImetro's use. MCImetro also has requested the technical
24 specifications for the listed systems, which will enable it to assess what functions
25 BellSouth performs for its own retail operations and compare those functions to

1 those available to MCImetro. The database listing requested by MCImetro, like the
2 systems listing, easily could be provided and would allow for ready comparison.
3 Finally, the data base descriptions MCImetro requests would enable it to determine
4 the kind of information included in each data base used by BellSouth's OSS.

5

6

OSS: CLAIMS RELATING TO PRE-ORDERING

7

COUNT TWO: FAILURE TO PROVIDE A DOWNLOAD OF THE SAG DATA

8

Q. WHAT IS THE STREET ADDRESS GUIDE?

9 A. The Street Address Guide, commonly referred to as the "SAG," is a computer
10 database that includes address information for Florida residents and businesses. This
11 database also is commonly referred to as the regional street address guide, or
12 "RSAG."

13

14

**Q. WHAT IS THE BASIS FOR MCIMETRO'S CLAIM THAT IT IS
15 ENTITLED TO OBTAIN A DOWNLOAD OF THE SAG DATA FROM
16 BELLSOUTH?**

17

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A. The Agreement and the Act. When the Agreement was negotiated, MCImetro
recognized the importance of the SAG and did not want to be dependent on
BellSouth for access to it. The contractual right to obtain a download of the SAG
was made quite clear. The Agreement provides: "Within thirty (30) days after the
Effective Date of this Agreement, BellSouth shall provide to MCI the SAG data,
or its equivalent, in electronic form. All changes to the SAG shall be made available
to MCI on the same day as the change to the data is made." Agreement,
Attachment VIII, § 2.1.3.1.

1 **Q. HOW DO YOU RESPOND TO BELLSOUTH'S CONTENTION THAT IT**
2 **HAS FULFILLED ITS DUTY UNDER SUBSECTION 2.1.3.1 BY GIVING**
3 **MCIMETRO ACCESS TO THE RSAG VIA LENS?**

4 A. BellSouth misreads the Agreement. Subsection 2.1.3.1 refers to a one-time
5 occurrence -- provision of the SAG data or its equivalent -- that was supposed to
6 have taken place within thirty days after the Agreement's effective date, followed by
7 the provision of updates as revisions were made by BellSouth. Provision of online
8 access to the RSAG is covered in Attachment VIII, Subsection 2.3.2.5, which
9 provides: "At MCI's option, BellSouth will provide MCI the capability to
10 validate addresses by access to BellSouth's Regional Street Address Guide (RSAG)
11 via dial-up or LAN to WAN access. Implementation time frames will be negotiated
12 between the parties." The existence of this provision covering online access
13 demonstrates that the parties intended it to confer rights distinct from and in
14 addition to the right to an electronic download provided in Subsection 2.1.3.1.

15
16 **Q. HAS BELLSOUTH PROVIDED MCIMETRO A DOWNLOAD OF THE**
17 **SAG DATA?**

18 A. No. MCI's requests for a download of the RSAG and BellSouth's refusals to
19 provide it are discussed in the testimony of Bryan Green.

20
21 **Q. DOES ANY OTHER PART OF THE AGREEMENT DEMONSTRATE**
22 **THAT THE PARTIES INTENDED THAT BELLSOUTH WOULD**
23 **PROVIDE A DOWNLOAD OF THE SAG DATA?**

1 A. Yes. The chart attached to Attachment VIII of the Agreement notes that BellSouth
 2 was to provide all SAG information on a "One-time only" basis and that changes
 3 were to be provided on the "same day as changes occur." Attachment VIII, p. 93.
 4 (The chart also notes that the long-term solution to the SAG issue was provision of
 5 the SAG data via an electronic interface. This long-term solution refers to
 6 electronic bonding, which would provide a safety valve in cases where MCImetro
 7 was unable to validate an address internally.) Thus, it is clear that BellSouth was
 8 required to provide a one-time download of the SAG data as provided in subsection
 9 2.1.3.1 of Attachment VIII.

10

11 ***COUNT THREE: FAILURE TO PROVIDE PARITY IN DUE DATE INTERVALS***

12 **Q. WHAT DUTIES DOES BELL SOUTH HAVE TO MCIMETRO UNDER**
 13 **THE AGREEMENT WITH RESPECT TO INSTALLATION DUE DATES?**

14 A. Determination of installation due dates is a pre-ordering function and thus BellSouth
 15 must provide MCImetro the same capability to determine due dates as BellSouth
 16 provides for itself. Agreement, Part A, §§ 13.1, 13.3, 13.8; Agreement, Attachment
 17 VIII, §§ 2.1.2, 2.3.1.3. In addition, Attachment VIII, Subsection 2.2.4.3 provides:
 18 "BellSouth shall supply MCIm with due date intervals to be used by MCIm
 19 personnel to determine service installation dates."

20

21 **Q. HAS BELL SOUTH COMPLIED WITH THESE PROVISIONS?**

22 A. No. The failure of BellSouth to do so is discussed in the testimony of Bryan Green.

23

24 ***COUNT FOUR: FAILURE TO PROVIDE PARITY IN ACCESS TO TELEPHONE***

25 ***NUMBERS AND TELEPHONE NUMBER INFORMATION***

1 **Q. WHAT DUTIES DOES BELLSOUTH HAVE TO MCIMETRO UNDER**
2 **THE AGREEMENT WITH RESPECT TO CUSTOMER SERVICE**
3 **RECORDS?**

4 A. BellSouth has responsibility for assigning telephone numbers to MCImetro upon
5 request. Agreement, Attachment VIII, § 2.1.8. Further, BellSouth must provide
6 nondiscriminatory access to the telephone number assignment function; provide the
7 same capabilities with respect to telephone number assignment as it provides to itself
8 at the same or higher a level of quality; and provide telephone number assignment to
9 MCImetro at least as expeditiously as for itself and others, in a competitively neutral
10 fashion. Agreement, Part A, §§ 13.1, 13.3, 13.8, Attachment VIII, §§ 2.1.2,
11 2.3.1.3.

12
13 **Q. HAS BELLSOUTH COMPLIED WITH THESE PROVISIONS?**

14 A. No. The failure of BellSouth to do so is discussed in the testimony of Bryan Green.

15

16 ***COUNT FIVE: FAILURE TO PROVIDE PARITY IN ACCESS TO USOC***

17 ***INFORMATION***

18 **Q. WHAT DUTIES DOES BELLSOUTH HAVE TO MCIMETRO UNDER**
19 **THE AGREEMENT WITH RESPECT TO USOC INFORMATION?**

20 A. BellSouth must provide nondiscriminatory access to this information; provide the
21 same capabilities with respect to obtaining this information as it provides to itself at
22 the same or higher a level of quality; and provide this information to MCImetro at
23 least as expeditiously as for itself and others, in a competitively neutral fashion.
24 Agreement, Part A, §§ 13.1, 13.3, 13.8, Attachment VIII, §§ 2.1.2, 2.3.1.3.

25

1 **Q. HAS BELLSOUTH COMPLIED WITH THESE PROVISIONS?**

2 A. No. The failure of BellSouth to do so is discussed in the testimony of Bryan Green.

3

4 ***COUNT SIX: FAILURE TO PROVIDE CUSTOMER SERVICE RECORD***

5 ***INFORMATION***

6 **Q. WHAT DUTIES DOES BELLSOUTH HAVE TO MCIMETRO UNDER**

7 **THE AGREEMENT WITH RESPECT TO CUSTOMER SERVICE**

8 **RECORD INFORMATION?**

9 A. Under the Agreement, BellSouth is required to "provide MCIIm with customer
10 service records, including without limitation Customer Proprietary Network
11 Information (CPNI), except such information as BellSouth is not authorized to
12 release either by the customer or pursuant to applicable law, rule or regulation."
13 Agreement, Attachment VIII, § 2.3.2.3. Subject to these limitations, BellSouth
14 must provide nondiscriminatory access to this information; provide the same
15 capabilities with respect to obtaining this information as it provides to itself at the
16 same or higher a level of quality; and provide this information to MCIImetro at least
17 as expeditiously as for itself and others, in a competitively neutral fashion.
18 Agreement, Part A, §§ 13.1, 13.3, 13.8, Attachment VIII, §§ 2.1.2, 2.3.1.3.

19

20 **Q. HAS BELLSOUTH COMPLIED WITH THESE PROVISIONS?**

21 A. No. The failure of BellSouth to do so is discussed in the testimony of Bryan Green.

22

23 **OSS: ORDERING AND PROVISIONING CLAIMS**

24 ***COUNT SEVEN: FAILURE TO PROVIDE PARITY IN SERVICE JEOPARDY***

25 ***NOTIFICATION***

1 Q. WHAT DUTIES DOES BELLSOUTH HAVE WITH RESPECT TO
2 SERVICE JEOPARDY NOTIFICATION?

3 A. Attachment VIII, Subsection 2.2.9.1 of the Agreement provides: "BellSouth shall
4 provide to MCI notification of any jeopardy situations prior to the Committed Due
5 Date, missed appointments and any other delay or problem in completing work
6 specified on MCI's service order as detailed on the FOC." Under the parity
7 provisions of the Agreement, BellSouth must provide jeopardy notification
8 equivalent to what it provides itself for its internal orders. Agreement, Part A, §§
9 13.1, 13.3, 13.8; Agreement, Attachment VIII, §§ 2.1.2, 2.3.1.3.

10

11 Q. HAS BELLSOUTH COMPLIED WITH THESE PROVISIONS?

12 A. No. The failure of BellSouth to do so is discussed in the testimony of Bryan Green.

13

14 *COUNT EIGHT: FAILURE TO PROVIDE FOCs IN COMPLIANCE WITH THE*
15 *INTERCONNECTION AGREEMENT*

16 Q. GENERALLY, WHAT PERFORMANCE STANDARD DOES THE
17 AGREEMENT REQUIRE WITH RESPECT TO FIRM ORDER
18 CONFIRMATIONS?

19 A. For electronic orders, firm order confirmations (FOCs) must be provided within 4
20 hours 99% of the time. For manual orders, FOCs must be provided within 24
21 hours 99% of the time. Agreement, Attachment VIII, § 2.5.3.1.

22

23 Q. DOES THIS OBLIGATION APPLY TO ORDERS FOR OFF-NET T1S
24 ORDERED VIA ACCESS SERVICE REQUEST WHEN THE OFF-NET
25 T1S ARE PROVISIONED FOR LOCAL SERVICE?

1 A. Yes. In Part B of the Agreement, access service request (ASR) is defined as “the
2 industry standard forms and supporting documentation used for ordering Access
3 Services.” After that definition, the Agreement specifies that “[t]he ASR may be
4 used to order trunking and facilities between MCI and ILEC for Local
5 Interconnection.” The performance standards in the Interconnection Agreement
6 thus apply to the provisioning of off-net T1s ordered via ASRs for local service.
7

8 **Q. HAS BELLSOUTH COMPLIED WITH THE PERFORMANCE
9 STANDARDS FOR FOCS?**

10 A. No. The failure of BellSouth to do so is discussed in the testimony of Bryan Green.
11

12 **OTHER CLAIMS**

13 ***COUNT NINE: FAILURE TO PROVIDE NETWORK BLOCKAGE***

14 ***MEASUREMENTS***

15 **Q. WHAT DUTIES DOES BELLSOUTH HAVE WITH RESPECT TO
16 NETWORK BLOCKAGE MEASUREMENTS?**

17 A. The Agreement provides that interconnection “will be provided in a competitively
18 neutral fashion . . . and be at least equal in quality to the level provided by BellSouth
19 to itself or its Affiliates.” Agreement, Part A, § 13.2. To comply with this
20 provision, BellSouth must provide adequate network blockage data so that
21 MCImetro can determine whether parity is being provided and so that MCImetro
22 can properly engineer its network.
23

24 **Q. HAS THE COMMISSION ADDRESSED THE ISSUE OF NETWORK
25 BLOCKAGE DATA?**

1 A. Yes. In the order issued by the Commission in the Section 271 proceedings held in
2 Docket No. 960786-TL (271 Order), the Commission required BellSouth to
3 “provide ALECs with more frequent and better data on their traffic over BellSouth’s
4 network”; “to demonstrate that any blockages experienced by ALECs are not
5 excessive in comparison to the blockages experienced by BellSouth”; to work
6 together with ALECs to improve intercompany communications; and to “provide
7 data sufficient to show that blockage levels are comparable between BellSouth and
8 ALEC traffic.” 271 Order, p. 59.

9

10 **Q. HAS MCI REQUESTED SUCH INFORMATION FROM BELLSOUTH?**

11 A. Yes. In the December 24 letter, MCImetro requested BellSouth to provide for the
12 most recent three month period (i) blockage data on all common trunk groups
13 utilized for ALEC traffic that experienced blockage; (ii) blockage data on all of
14 MCI’s interconnection trunk groups from BellSouth’s end offices and tandems to
15 MCI’s points of termination that experienced blockage; (iii) blockage data on all
16 ALEC interconnection trunk groups from BellSouth’s end offices and tandems to
17 ALEC points of termination that experienced blockage; and (iv) similar blockage
18 data on all trunks carrying BellSouth local traffic. MCImetro further requested
19 BellSouth to provide the same information on a month-to-month basis going
20 forward.

21

22 **Q. HOW DID BELLSOUTH RESPOND?**

23 A. In the February 11 letter, BellSouth states that it is preparing to make available
24 certain performance measurement data by March 1998. The only reports on
25 blockage data are the CLEC Trunk Group Service Report, BellSouth CTTG

1 Blocking Report, Local Network Trunk Group Service Report and BellSouth
2 Local Network Blocking Report. These reports fall far short of providing the
3 information requested by MCImetro and that is needed to gauge trunk group
4 blockage.

5

6 **Q. WHAT RELIEF DOES MCIMETRO SEEK IN THIS ACTION?**

7 A. MCImetro requests that BellSouth be required to provide the information that
8 MCImetro requested in its December 24 letter.

9

10 ***COUNT TEN: FAILURE TO PROVIDE INFORMATION ON LOCAL TANDEM***
11 ***INTERCONNECTION***

12 **Q. WHAT ARE LOCAL TANDEMS?**

13 A. Local tandems are tandems in BellSouth's network that interconnect end offices but
14 do not provide access for long-distance traffic.

15

16 **Q. WHAT DUTIES DOES BELLSOUTH HAVE WITH RESPECT TO LOCAL**
17 **TANDEM INTERCONNECTION?**

18 A. Under the Agreement, BellSouth is required to provide interconnection to
19 MCImetro that is at least equal in quality to what BellSouth provides to itself, in a
20 competitively neutral fashion. 47 U.S.C. § 251(c); Agreement, Part A, § 13.2.
21 BellSouth therefore is required to provide interconnection to MCImetro at
22 BellSouth's local tandems.

23

24 **Q. HAS MCIMETRO SOUGHT INFORMATION CONCERNING**
25 **INTERCONNECTION TO BELLSOUTH'S LOCAL TANDEMS?**

1 A. Yes. In its December 24 letter, MCImetro requested BellSouth to confirm that
2 MCImetro would be permitted to interconnect at BellSouth local tandems and to
3 provide all information necessary to do so. MCImetro further requested BellSouth
4 to confirm that, once MCImetro is interconnected at the BellSouth local tandem,
5 MCImetro's traffic will travel on the same trunk groups as BellSouth's local traffic
6 and that all existing independent telephone company local and EAS traffic routes
7 served by the local tandem will be identified and made available to MCImetro traffic.

8

9 **Q. HOW DID BELLSOUTH RESPOND?**

10 A. In the February 11 letter, BellSouth confirmed that MCImetro may interconnect at
11 local tandems, but refused to provide the information necessary to do so and to
12 confirm that MCImetro's traffic will travel on the same trunk groups as BellSouth's
13 local traffic and that all existing independent telephone company local and EAS
14 traffic routes served by the local tandem will be identified and made available to
15 MCImetro traffic.

16

17 **Q. WHAT RELIEF DOES MCIMETRO SEEK IN THIS ACTION WITH**
18 **RESPECT TO LOCAL TANDEM INTERCONNECTION?**

19 A. MCImetro requests that BellSouth be required to provide the information necessary
20 for MCImetro to interconnect at BellSouth's local tandems; to route MCImetro's
21 traffic on the same trunk groups as BellSouth's local traffic; and to identify and
22 make available to MCImetro traffic all existing independent telephone company
23 local and EAS traffic routes served by BellSouth local tandems.

24

25 ***COUNT ELEVEN: FAILURE TO PROVIDE FLAT-RATE USAGE DATA***

1 **Q. WHAT IS RECORDED USAGE DATA?**

2 A. Telephone switches can and do record information about local and long distance
3 calls, such as when each call is made and its duration. Such information is used for
4 billing purposes and also can be used in creating new products based on what the
5 information reveals about calling patterns. The Agreement defines Recorded Usage
6 Data to include a number of categories of information, including information
7 concerning completed calls. Agreement, Attachment VIII, § 4.1.1.3.

8

9 **Q. WHY DOES MCIMETRO WANT FLAT-RATE USAGE DATA?**

10 A. Obtaining Recorded Usage Data on completed flat service local calls will allow
11 MCImetro to evaluate new local service products involving measured service rates
12 that could provide cost savings to customers who limit their telephone usage and
13 currently are being charged flat rates. MCImetro cannot assess these alternative
14 service offerings without learning about all of its customers' usage patterns.

15

16 **Q. WHAT DUTY DOES BELL SOUTH HAVE TO PROVIDE MCIMETRO**
17 **WITH RECORDED USAGE DATA?**

18 A. The Agreement requires BellSouth to provide MCImetro with Recorded Usage
19 Data in accordance with the provisions of Section 4 of Attachment VIII.
20 Agreement, Attachment VIII, § 4.1.1.2. In the following subsection, the Agreement
21 provides: "BellSouth shall provide MCIIm with copies of detail usage on MCIIm
22 accounts." Agreement, Attachment VIII, § 4.1.1.3. The Agreement further
23 provides that "BellSouth shall provide to MCIIm Recorded Usage Data for MCIIm
24 subscribers." Agreement, Attachment VIII, § 4.1.1.5.

25

1 **Q. WHAT DUTY DOES BELLSOUTH HAVE TO PROVIDE MCIMETRO**
2 **WITH RECORDED USAGE DATA FOR COMPLETED, FLAT-RATE**
3 **LOCAL CALLS?**

4 A. Subsection 4.1.1.3 does not place any limitation on the term "Completed Calls," so
5 it includes all completed calls, whether local, intraLATA or long distance.
6 Considering that an important objective of the Agreement was to interconnect
7 MCImetro's and BellSouth's local networks, the parties could not have intended
8 (and, based on my involvement, did not intend) that local, flat-rate calls be excluded
9 from Recorded Usage Data. BellSouth thus is required to provide flat-rate usage
10 data when MCImetro requests it.

11

12 **Q. HAS MCIMETRO REQUESTED BELLSOUTH TO PROVIDE FLAT-RATE**
13 **USAGE DATA?**

14 A. Yes, we have been requesting it for some time. By letter dated May 13, 1997,
15 BellSouth acknowledged that MCImetro had made several requests for this data,
16 and BellSouth refused to provide it on the ground that BellSouth did not "extract
17 call detail for flat rate service for its own use at this time." BellSouth suggested that
18 MCImetro submit a BFR if it wished to obtain flat-rate usage data. A copy of this
19 letter is attached as Exhibit 2 (RM-10). MCImetro again requested flat-rate
20 usage data by letter dated August 18, 1997, noting that under the Agreement
21 MCImetro is entitled to obtain such data and that a BFR is not necessary. A copy
22 of this letter is attached as Exhibit 2 (RM-11). By letter dated August 22, 1997,
23 BellSouth again rejected MCImetro's request. A copy of the August 22 letter is
24 attached as Exhibit 2 (RM-12).

25

1 **Q. WHAT RELIEF DOES MCIMETRO SEEK IN THIS ACTION WITH**
2 **RESPECT TO FLAT-RATE USAGE DATA?**

3 A. MCImetro is requesting that BellSouth be required to provide flat-rate usage data
4 upon request by MCImetro.
5

6 ***COUNT TWELVE: FAILURE TO PROVIDE ACCESS TO DIRECTORY LISTING***
7 ***INFORMATION***

8 **Q. WHY DOES MCIMETRO NEED ACCESS TO DIRECTORY LISTING**
9 **INFORMATION?**

10 A. MCImetro must have directory listing information in order to provide its own
11 directory assistance service. To be able to compete, MCImetro must obtain listings
12 not only for BellSouth's customers, but also for the customers of other alternative
13 local exchange carriers (ALECs).
14

15 **Q. WHAT DUTY DOES BELL SOUTH HAVE TO PROVIDE DIRECTORY**
16 **LISTING INFORMATION IT HAS FOR THE CUSTOMERS OF OTHER**
17 **ALECS?**

18 A. Attachment VIII, Subsection 6.1.6.1 of the Agreement provides: "BellSouth shall
19 provide to MCI, to the extent authorized, the residential, business and government
20 subscriber records used by BellSouth to create and maintain its Directory Assistance
21 Data Base, in a non-discriminatory manner."
22

23 **Q. HAS MCIMETRO NOTIFIED BELL SOUTH THAT IT WANTS TO**
24 **OBTAIN DIRECTORY LISTINGS FOR OTHER ALECS?**

25 A. Yes, MCImetro raised this issue in the December 24 letter, but in its February 11

1 letter BellSouth continues to refuse to provide listings for all ALECs them on the
2 ground that its contracts with certain ALECs prevent BellSouth from disclosing the
3 listings to third parties.

4

5 **Q. IS BELLSOUTH CORRECT THAT IT LACKS THE AUTHORITY TO**
6 **DISCLOSE THE DIRECTORY LISTINGS OF INDEPENDENT**
7 **TELEPHONE COMPANIES?**

8 A. No. The authority to provide directory listings of independent telephone companies
9 is provided by the Telecommunications Act of 1996, which states that local
10 exchange carriers have the duty to provide nondiscriminatory access to directory
11 listing. 47 U.S.C. § 251(b)(3).

12

13 **Q. WHAT RELIEF DOES MCIMETRO SEEK IN THIS ACTION WITH**
14 **RESPECT TO DIRECTORY LISTING INFORMATION?**

15 A. MCImetro is requesting that BellSouth be required to provide directory listing
16 information for the customers of all ALECs to MCImetro.

17

18 ***COUNT FOURTEEN: DISCRIMINATORY USE OF SOFT DIAL TONE SERVICE***

19 **Q. WHAT IS SOFT DIAL TONE SERVICE?**

20 A. Soft dial tone service permits a customer whose telephone line has been
21 disconnected to call 911. BellSouth's soft dial tone service is called QuickService.

22

23 **Q. FROM THE CUSTOMER'S STANDPOINT, HOW DOES QUICKSERVICE**
24 **WORK?**

25 A. The customer who has a disconnected line still has access to 911 service, but if any

1 other three digits are dialed, a recording is played, stating: "You can only dial '911'
2 from this line. To reach BellSouth or another Local Service Provider, you must call
3 from another location."
4

5 **Q. DOES THE AGREEMENT SPEAK TO THE PROVISION OF SOFT DIAL**
6 **TONE SERVICE?**

7 A. Yes. Attachment III, Subsection 7.2.1.11.4 of the Agreement provides: "Where
8 BellSouth provides soft dial tone, it shall do so on a competitively-neutral basis."
9

10 **Q. DOES QUICKSERVICE COMPLY WITH THE AGREEMENT?**

11 A. No. The message is not competitively neutral because it refers to BellSouth and
12 only to BellSouth by name.
13

14 **Q. HAS MCIMETRO ATTEMPTED TO RESOLVE THIS ISSUE WITH**
15 **BELLSOUTH?**

16 A. Yes, MCImetro raised this issue in its December 24 letter, but BellSouth in its
17 February 11 letter refused to change its position.
18

19 **Q. WHAT RELIEF DOES MCIMETRO SEEK IN THIS ACTION WITH**
20 **RESPECT TO THE SOFT DIAL TONE ISSUE?**

21 A. MCImetro is requesting that BellSouth be required to provide a soft-dial message
22 along the following lines: "This telephone only may be used for emergency access
23 to 911. To order service for this line, please call one of the local service providers
24 in your area." Such a message would convey the necessary information without
25 providing a competitive advantage to any local service provider.

1 Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

2 A. Yes, it does at this time.

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1 **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**
2 **REBUTTAL TESTIMONY OF RONALD MARTINEZ**
3 **ON BEHALF OF**
4 **MCIMETRO ACCESS TRANSMISSION SERVICES, INC**
5 **DOCKET NO. 980281-TP**
6 **JUNE 29, 1998**

7
8 **Q. PLEASE STATE YOUR NAME, ADDRESS AND TITLE.**

9 A. My name is Ronald Martinez. My business address is 780 Johnson Ferry Road,
10 Atlanta Georgia 30342. I am employed by MCI Telecommunications
11 Corporation in the Law and Public Policy Group as an Executive Staff Member
12 II.

13

14 **Q. ARE YOU THE SAME RONALD MARTINEZ THAT FILED DIRECT**
15 **TESTIMONY IN THIS DOCKET ON MAY 4, 1998?**

16 A. Yes.

17

18 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

19 A. The purpose of my rebuttal testimony is to respond to some of the statements
20 made by BellSouth witnesses Stacy, Milner and Hendrix in their direct
21 testimony filed on June 1, 1998. I will not attempt to respond to every
22 allegation made by those witnesses because much of their testimony has been

1 addressed adequately in my direct testimony.

2

3

OSS: GENERAL CLAIM

4

COUNT ONE: FAILURE TO PROVIDE OSS INFORMATION

5

Q. AT PAGES 6 AND 7 OF HIS TESTIMONY, MR. STACY ASSERTS

6

THAT NOTHING IN THE TELECOMMUNICATIONS ACT OF 1996

7

OR THE INTERCONNECTION AGREEMENT OBLIGATES

8

BELLSOUTH TO MAKE THE DISCLOSURES REQUESTED IN

9

COUNT ONE. PLEASE COMMENT.

10

A. The Telecommunications Act of 1996 (Act) and the Interconnection Agreement

11

(Agreement) require that BellSouth provide parity in the OSS offered to

12

MCImetro, but generally do not specify how parity is to be achieved. The

13

Agreement does require BellSouth to provide data on certain performance

14

measures and standards as one means of achieving parity, but performance

15

measures are not made the exclusive means of accomplishing this objective. As

16

a practical matter, the parity required by the Act and the Agreement cannot be

17

achieved unless BellSouth is required to disclose its systems and databases so

18

that MCImetro (and other ALECs) can determine the OSS capabilities to which

19

it is entitled. Disclosure therefore should be required to effectuate the Act and

20

the Agreement.

21

22

Q. DOES MCIMETRO SEEK THE REQUESTED DISCLOSURE FOR THE

1 **PURPOSE OF OBTAINING BELLSOUTH'S INTELLECTUAL**
2 **PROPERTY?**

3 A. No. MCImetro wishes to assess the capabilities of BellSouth's OSS so that it
4 can require BellSouth to provide those same capabilities to MCImetro.
5 BellSouth should not be allowed to shroud its systems in secrecy and prevent
6 legitimate inquiry into whether true parity is being provided. MCImetro does
7 not seek to acquire BellSouth's intellectual property and would be willing to
8 agree to appropriate restrictions on MCImetro's use of the information
9 provided by BellSouth.

10

11 **OSS: CLAIMS RELATING TO PRE-ORDERING**

12 ***COUNT TWO: FAILURE TO PROVIDE A DOWNLOAD OF THE SAG DATA***

13 **Q. WHAT NEGOTIATIONS TOOK PLACE REGARDING THE SAG**
14 **ISSUE?**

15 A. I made it clear during the negotiations that MCImetro's goal was to be able to
16 validate addresses in-house so that MCImetro would not be beholden to
17 BellSouth for this critical function. Subsection 2.1.3.1 clearly expresses this
18 intention by providing that BellSouth would provide the SAG data to
19 MCImetro within thirty days. The parties also discussed MCImetro's need to
20 have electronic access to the SAG data because it might take some time for
21 MCImetro to use its download of the SAG data to develop an address
22 validation capability. This concern was addressed in Subsection 2.3.2.5 by

1 giving MCImetro the option to obtain access to the SAG data through
2 BellSouth's electronic databases.

3

4 **COUNT SIX: FAILURE TO PROVIDE CUSTOMER SERVICE RECORD**

5 **INFORMATION**

6 **Q. AT PAGE 31 OF HIS TESTIMONY, MR. STACY CONTENDS THAT**
7 **BELLSOUTH IS ENTITLED TO LIMIT CSR INFORMATION TO**
8 **CERTAIN CATEGORIES OF INFORMATION. PLEASE COMMENT.**

9 A. The Agreement does entitle MCImetro to obtain subscriber profile information
10 through an electronic interface, but that subsection does not purport to limit the
11 CSR information that MCImetro may obtain, other than as the parties may
12 agree to protect subscribers' privacy. Agreement, Attachment VIII, Section
13 2.3.2.3.1. BellSouth did not have the right unilaterally to determine what
14 information would be provided.

15

16 **OTHER CLAIMS**

17 **COUNT NINE: FAILURE TO PROVIDE NETWORK BLOCKAGE**

18 **MEASUREMENTS**

19 **Q. DOES TRUNK BLOCKAGE DATA DESCRIBED IN MR. STACY'S**
20 **TESTIMONY SATISFY BELLSOUTH'S OBLIGATIONS UNDER THE**
21 **ACT AND THE AGREEMENT?**

22 A. No. BellSouth fails to provide information on trunk blockage necessary for

1 ALECs to engineer their networks and to assess whether BellSouth is providing
2 *the same trunking capacity to ALECs as for itself.* BellSouth provides ALECs
3 with blockage information for trunk groups that experience certain levels of
4 blockage (2% or 3% blockage during the “time consistent busy hour”), whereas
5 BellSouth has information showing blockage below these maximum levels.
6 Thus, while ALECs only are given information showing where emergencies
7 already exist, BellSouth has information that enables it to prevent the
8 emergencies from occurring in the first place. ALECs must rely on this
9 information from BellSouth because ALECs’ switches do not indicate that
10 traffic from BellSouth’s network is not getting through. Further, customers
11 often are unaware of the difference between a normal busy signal and a “fast
12 busy” that indicates blockage, so they cannot call the problem to ALECs’
13 attention. BellSouth’s practice of refusing to provide critical blockage
14 information in its possession constitutes the failure to provide parity under the
15 Act and the Agreement.

16

17 **Q. IS THE TRUNK BLOCKAGE DATA PROVIDED BY BELLSOUTH**
18 **SUBSTANTIALLY DIFFERENT THAN WHAT IT WAS PROVIDING**
19 **WHEN THE COMMISSION ORDERED BELLSOUTH TO PROVIDE**
20 **MORE FREQUENT AND BETTER NETWORK BLOCKAGE DATA?**

21 **A.** No. BellSouth’s reports described in Mr. Stacy’s testimony provide
22 substantially the same information as when the Commission issued its order in

1 the Section 271 proceedings held in Docket No. 960786-TL (271 Order).
2 BellSouth has not complied with the Commission's requirement that it provide
3 more frequent and better data. See 271 Order, p. 59.
4

5 ***COUNT TEN: FAILURE TO PROVIDE INFORMATION ON LOCAL TANDEM***
6 ***INTERCONNECTION***

7 **Q. AT PAGE 43 OF HIS TESTIMONY, MR. STACY DISCUSSES**
8 **BELLSOUTH'S DECISION TO PROVIDE INTERCONNECTION TO**
9 **ITS LOCAL NETWORK THROUGH ITS ACCESS TANDEMS.**
10 **PLEASE COMMENT.**

11 **A.** The first point to note is that BellSouth's decision was made without consulting
12 ALECs, but rather was made unilaterally by BellSouth. Indeed, BellSouth
13 initially did not even inform MCImetro that local tandems existed. MCImetro
14 assumed that BellSouth itself used access tandems to serve the tandem function
15 for local calls, as is the case in most parts of the country.

16
17 In any event, I question whether BellSouth made the decision to exclude
18 ALECs from their local tandem network for benevolent reasons as it contends.
19 BellSouth's decision threatened to place a large and unknown amount of local
20 traffic through the access tandems, which would have burdened the network
21 used by interexchange companies and ALECs at the same time it freed up the
22 local network used exclusively by BellSouth. Such an arrangement had great

1 potential for discriminatory treatment and was not acceptable to MCImetro.

2

3 **Q. ONCE BELLSOUTH AGREED TO PERMIT LOCAL TANDEM**
4 **INTERCONNECTION, DID IT COOPERATE IN PROVIDING SUCH**
5 **INTERCONNECTION ON A NONDISCRIMINATORY BASIS?**

6 A. Unfortunately, no. MCImetro experienced a great deal of trouble obtaining
7 accurate information about the local tandem network during the fourth quarter
8 of 1997 when MCImetro was attempting to place an order for trunk groups to
9 interconnect with local tandems in Atlanta. For example, BellSouth failed to
10 update the Local Exchange Routing Guide (LERG) with local tandem
11 information, so it was necessary to obtain updated information directly from
12 BellSouth, including lists of switches that subtended each of the local tandems.
13 When we reviewed these lists, we discovered that they excluded switches for
14 independent telephone companies and then learned that BellSouth did not
15 intend to permit MCImetro to interconnect with such companies at the local
16 tandems, making interconnection much more expensive. MCImetro then sent
17 its December 24, 1997 letter (attached to the Direct Testimony of Bryan Green
18 as Exhibit 6 (BG-1)) requesting, among other things, that BellSouth confirm
19 that all existing independent telephone company local and EAS traffic routes
20 served by the local tandem would be identified and made available to MCImetro
21 traffic. In its February 11, 1998 letter (attached to the Direct Testimony of
22 Bryan Green as Exhibit 6 (BG-3)), BellSouth refused to provide this

1 confirmation.

2

3 **Q. HAS BELL SOUTH CHANGED ITS POSITION AFTER MCIMETRO**
4 **BROUGHT THIS ACTION?**

5 A. Apparently, although more information will be required to say for certain. At
6 page 11 of his testimony, Mr. Milner states that under BellSouth's basic local
7 tandem interconnection option, an ALEC's traffic would travel over the same
8 trunk groups as are used from the BellSouth local tandem to the BellSouth end
9 office switch or the wireless service provider's switch. Likewise, with respect
10 to the enhanced local tandem interconnection option, that an ALEC's traffic
11 would travel over the same trunk groups as are used from BellSouth's tandem
12 to the BellSouth end office switch. I note, however, that BellSouth does not
13 confirm that the same trunk groups will be used from the local tandem to local
14 telephone companies' switches, so that point apparently still needs to be
15 resolved.

16

17 It appears that the enhanced local tandem interconnection option that BellSouth
18 is developing may address MCImetro's concerns about local tandem
19 interconnection with local telephone companies. But several questions remain
20 to be answered. For example, Mr. Milner states at pages 11 and 12 of his
21 testimony that BellSouth is in the process of expanding its basic offering to an
22 enhanced offering, and also that the enhanced local tandem option is currently

1 available at all of BellSouth's Florida local tandems but one. BellSouth should
2 clarify whether the enhanced local tandem option is operational today or not,
3 and if not when it will be. Further, BellSouth should state whether it will
4 attempt to charge ALECs for exercising the enhanced local tandem
5 interconnection option and whether it will attempt to impose any other terms or
6 conditions.

7

8 **Q. PLEASE COMMENT ON THE LIST OF SWITCHES SUBTENDING**
9 **LOCAL TANDEMS SHOWN IN EXHIBIT ___ (WKM-3) AND MR.**
10 **MILNER'S OFFER TO PROVIDE A SIMILAR LIST FOR**
11 **BELLSOUTH'S LOCAL TANDEMS IN FLORIDA.**

12 A. Mr. Milner's testimony raises the question of whether BellSouth has updated
13 the LERG to include all the required information concerning its Florida local
14 tandems and subtending switches. If this information has been updated, it
15 would not be necessary for BellSouth to provide additional lists to MCImetro.
16 If the information has not been updated, then MCImetro would need an up-to-
17 date list (including switches of independent telephone companies, which the list
18 in Exhibit ___ (WKM-3) does not include), and, more importantly, would need
19 BellSouth to keep the LERG updated as it is supposed to do.

20

21 ***COUNT ELEVEN: FAILURE TO PROVIDE FLAT-RATE USAGE DATA***

22 **Q. PLEASE COMMENT ON MR. HENDRIX'S INTERPRETATION OF**

1 **THE AGREEMENT WITH RESPECT TO RECORDED USAGE DATA**
2 **AT PAGES 14-15 OF HIS TESTIMONY.**

3 A. I disagree with Mr. Hendrix's contention that BellSouth only is obligated to
4 provide usage data for billable usage. Mr. Hendrix asserts that Subsection
5 4.1.1.1 of Attachment VIII somehow limits BellSouth's duty to provide
6 recorded usage data. It does not. Subsection 4.1.1.1 merely states that
7 "BellSouth shall comply with BellSouth EMR industry standards in delivering
8 customer usage data to MCIIm." Under the provisions of Section 4, in
9 particular Subsection 4.1.1.3 and 4.1.1.5, MCIImetro is entitled to detail usage
10 information on its customers' completed calls. These provisions are not limited
11 to billable usage, and, contrary to Mr. Hendrix's testimony, nothing in
12 Subsection 4.2 purports to impose such a limitation.

13

14 **Q. DO THE NEGOTIATIONS THAT TOOK PLACE CONCERNING**
15 **FLAT-RATE USAGE DATA CONFIRM YOUR READING OF THE**
16 **AGREEMENT?**

17 A. Yes. I was responsible for negotiating the recorded usage data provisions on
18 behalf of MCIImetro and recall the negotiations relating to the provision of flat-
19 rate data. Mr. Hendrix was not present during those negotiations. BellSouth's
20 position during the negotiations was that it did not record flat-rate data and
21 therefore could not provide it. Based on my experience in the
22 telecommunications industry, I doubted that this position was correct. To

1 resolve the impasse, the parties agreed that BellSouth would be required to
2 provide recorded usage data on all completed calls (as now provided in
3 Subsection 4.1.1.3). This result satisfied both parties because if, as I suspected,
4 BellSouth recorded flat-rate usage data, BellSouth would be required to
5 provide it at MCImetro's request, but if BellSouth did not record the data,
6 MCImetro would be required to submit a bona fide request for BellSouth to
7 develop the capability to do so.

8

9 **Q. DOES BELLSOUTH RECORD FLAT-RATE USAGE DATA?**

10 **A.** Yes. BellSouth has acknowledged in testimony in Georgia and Tennessee that
11 most of its switches record flat-rate usage information, although BellSouth does
12 not process this usage data through its billing system. Under the Agreement,
13 MCImetro is entitled to obtain this flat-rate usage data upon request.

14

15 ***COUNT TWELVE: FAILURE TO PROVIDE ACCESS TO DIRECTORY***

16 ***LISTING INFORMATION***

17 **Q. AT PAGE 15 OF HIS TESTIMONY, MR. MILNER CONTENDS THAT**
18 **BELLSOUTH'S CONTRACTS WITH OTHER TELEPHONE**
19 **COMPANIES PRECLUDE IT FROM MAKING THEIR LISTINGS**
20 **AVAILABLE TO MCIMETRO. DO YOU AGREE?**

21 **A.** No. As I discussed in my direct testimony, the Act requires all local exchange
22 carriers to provide nondiscriminatory access to directory listing. 47 U.S.C. §

1 251(b)(3). Obviously, this duty supersedes any contractual restriction in
2 BellSouth's agreements with other telephone companies.

3

4 **Q. HAS THE FCC DISCUSSED THE ISSUE OF ACCESS TO**
5 **DIRECTORY LISTING INFORMATION?**

6 **A. Yes. In an order issued in February of this year, the FCC put in perspective**
7 **BellSouth's control of the directory assistance database. It stated:**

8 We agree with MCI that BellSouth obtained directory
9 listings from other LECs for use in its directory
10 assistance services solely because of its dominant
11 position in the provision of local exchange services
12 throughout its region. That position enables BellSouth to
13 include listings of customers of other incumbent LECs
14 and competitive LECs as well as its own customers
15 within the databases it uses to provide reverse directory
16 services. Because BellSouth has the vast majority of
17 access lines within its region, it is to the advantage of
18 independent LECs and competitive LECs to have the
19 listings of their customers included in BellSouth's
20 directory listing databases so that callers throughout the
21 region using BellSouth's lines can obtain the telephone
22 numbers of non-BellSouth customers. In some instances

1 at least, the other independent LEC or competitive LEC
 2 does not charge BellSouth for including these listings
 3 within those databases, presumably because it is
 4 economically beneficial for that independent or
 5 competitive LEC to have its customers' listings
 6 maintained in the BellSouth databases.

7
 8 In the Matters of Bell Operating Companies Petitions for Forbearance from the
 9 Application of Section 272 of the Communications Act of 1934, as amended, to
 10 Certain Activities, CC Docket No. 96-149, February 6, 1998, ¶ 81 (BOC
 11 Order). That case involved the question of whether BellSouth and other BOCs
 12 could provide reverse directory services, which provide a customer's name,
 13 address, or both, upon the input of the telephone subscriber's number, using the
 14 same database that is used for directory assistance. See BOC Order ¶¶ 52, 55.
 15 The FCC ruled that it would not require BellSouth to use a separate affiliate to
 16 provide reverse directory services, but only if BellSouth makes available to
 17 CLECs "all directory listing information that it uses to provide its interLATA
 18 reverse directory services." BOC Order ¶ 83.

19
 20 **Q. AT PAGE 17 OF HIS TESTIMONY, MR. MILNER RECOMMENDS**
 21 **THAT THE COMMISSION INITIATE A GENERIC PROCEEDING**
 22 **CONCERNING THE DIRECTORY LISTING ISSUE. PLEASE**

1 COMMENT.

2 A. A generic proceeding should not be required to determine whether BellSouth
3 should comply with the Act and the Agreement.

4

5 **COUNT FOURTEEN: DISCRIMINATORY USE OF SOFT DIAL TONE**
6 **SERVICE**

7 **Q. DOES BELLSOUTH'S SOFT DIAL TONE SERVICE COMPLY WITH**
8 **THE FCC'S DECISION IN FCC ORDER 97-418?**

9 A. No. BellSouth's reliance on In the Matter of Application of BellSouth
10 Corporation Pursuant to Section 271 of the Communications Act of 1934, as
11 amended, to Provide In-Region, InterLATA Services in South Carolina, CC
12 Docket No. 97-208, December 24, 1997, ¶ 233 (Dec. 24, 1997) is misplaced.
13 In that case, the FCC held that BellSouth service representatives could use a
14 telemarketing script in which the representatives offered to read from a list of
15 long distance providers, but also recommended BellSouth. If requested, the
16 representatives were required to read the other long distance carriers from the
17 list. The FCC balanced the nondiscrimination requirement of Section 251 with
18 the right to jointly market services under Section 272 and held that the script
19 was permissible. Here, the Agreement calls for no such balancing, but rather its
20 competitive neutrality standard prohibits any preferential treatment that would
21 give BellSouth a leg up on its competitors.

22

1 Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?

2 A. Yes, it does at this time.

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1 Q (By Mr. Melson) Could you please briefly
2 summarize your testimony?

3 A Yes. Commissioners, I'll be brief.

4 This case concerns 13 ways in which MCI
5 MCImetro believes that BellSouth has breached the
6 parties' Interconnection Agreement.

7 My testimony does two things. First, for
8 each of the 13 counts in our complaint I identify the
9 specific contract provisions which BellSouth has
10 violated. Some of these are general provisions which
11 essentially require that BellSouth provide OSS
12 functions and capabilities to MCImetro at parity with
13 what BellSouth uses itself. Other provisions relate
14 specifically to the individual counts of our
15 complaint.

16 In general, Mr. Hendrix of BellSouth agrees
17 as to which contract provisions are involved. We
18 simply have a different understanding of what those
19 provisions require.

20 As the primary negotiator for the Florida
21 Interconnection Agreement, I was intimately involved
22 in the negotiation of these contractual requirements.
23 And I believe in every case they support the claims
24 MCImetro has made in this proceeding.

25 Second. For issues 9 through 13 I describe

1 the ways that BellSouth has failed to live up to its
2 contractual obligations. The following is a summary
3 of these items.

4 Issue 9 deals with network blockage
5 measurement information. Although BellSouth is
6 providing some network blockage reports to MCI metro,
7 it is not providing the level of detail that is
8 required for us to anticipate network blockage
9 problems and fix them before blockage reaches
10 unacceptable levels.

11 BellSouth is also not providing the level of
12 detail necessary for MCI metro to judge whether the
13 quality of service provided to MCI is equal to what
14 BellSouth enjoys for its own local traffic.

15 Issue 10 deals with local tandem
16 interconnection. BellSouth offers local tandem
17 interconnection and has recently begun providing most
18 of the data that MCI needs to interconnect at the
19 local tandems. However, there are still some areas
20 where BellSouth's information appears to be incomplete
21 or inaccurate.

22 Issue 11 deals with recorded usage data.
23 MCI metro has a right under the agreement to receive
24 recorded usage data for all completed calls.
25 BellSouth has refused to provide that data for flat

1 rated resold services or UNE combinations.

2 Issue 12 deals with access to directory
3 listing information. If MCImetro wants to provide
4 directory assistance service using its own operators,
5 it must have access to the same directory assistance
6 database that's available to BellSouth. However, the
7 information provided to MCI does not include listings
8 for customers of all of the ALECs, and is, therefore,
9 inferior to the access that BellSouth enjoys.

10 Finally, Issue 13 deals with BellSouth's
11 obligation under the agreement to provide soft dial
12 tone in a nondiscriminatory manner. The recording
13 that BellSouth uses on lines equipped with soft dial
14 tone violates this requirement since it mentions
15 BellSouth and only BellSouth by name.

16 Mr. Green will provide more detail on the
17 problems outlined in the Issues 1 through 8. And this
18 concludes my summary.

19 **CHAIRMAN JOHNSON:** Thank you.

20 **COMMISSIONER CLARK:** I just wanted to ask
21 one clarifying point. When you talked about
22 blockage --

23 **WITNESS MARTINEZ:** Yes.

24 **COMMISSIONER CLARK:** -- are you referring
25 only to mobile connections?

1 **WITNESS MARTINEZ:** Mobile connections?

2 **COMMISSIONER CLARK:** I thought you said --
3 look back in your summary and see what it said about
4 mobile?

5 **WITNESS MARTINEZ:** I'll read it again, if
6 you would --

7 **COMMISSIONER CLARK:** Yeah, that would be
8 great.

9 **WITNESS MARTINEZ:** Issue 9 deals with
10 network blockage measurement information. "Although
11 BellSouth is providing some network blockage reports
12 to MCI MCImetro, it's not providing the level of
13 detail that is required for us to anticipate network
14 blockage problems and fix them before blockage reaches
15 unacceptable levels. BellSouth is also not providing
16 the level of detail necessary for MCImetro to judge
17 whether the quality of service provided to MCI is
18 equal to what BellSouth enjoys for its own local
19 traffic."

20 **COMMISSIONER CLARK:** Okay. That's it?

21 **WITNESS MARTINEZ:** That's it.

22 **MR. MELSON:** The witness is tendered for
23 cross.

24 **CHAIRMAN JOHNSON:** Okay. BellSouth.

25 **MR. CARVER:** Thank you. Madam Chairman, a

1 couple of preliminary things I'd like to take care of
2 before I begin cross.

3 Mr. Martinez gave a deposition on July 23rd,
4 and I'd like to have that identified and also move it
5 into evidence.

6 **CHAIRMAN JOHNSON:** I'm sorry. I was reading
7 something in his testimony. What did you say?

8 **MR. CARVER:** Mr. Martinez gave his
9 deposition on July 23rd and I'd like to have that
10 identified and moved into evidence, please. And Mr.
11 Greer is handing that out.

12 The other preliminary matter is that I'm
13 going to be talking with Mr. Martinez about some
14 provisions of the contract. And there are excerpts of
15 the contract that are attached to Mr. Hendrix's
16 testimony and those will be entered into the record
17 when Mr. Hendrix takes the stand. I do have some
18 extra copies we'd like to hand out. It's a little
19 easier to follow.

20 **CHAIRMAN JOHNSON:** So I'll mark the July
21 23rd, 1998, deposition transcript as Exhibit 3.

22 **MR. CARVER:** Yes, ma'am.

23 (Exhibit 3 marked for identification.)

24 **COMMISSIONER GARCIA:** Madam Chairman, what
25 is Exhibit 2?

1 **CHAIRMAN JOHNSON:** It's the attachment to --
2 his exhibits, that's RM-1 through 12.

3 **COMMISSIONER GARCIA:** Okay. Mr. Carver,
4 since we're dealing with preliminaries --

5 **MR. CARVER:** Yes, sir.

6 **COMMISSIONER GARCIA:** Straighten your
7 collar. (Laughter) It's --

8 **MR. CARVER:** Thank you. It's taken on a
9 life of its own --

10 **COMMISSIONER GARCIA:** It's just distracting
11 to me. I keep looking and wanting to straighten your
12 collar. (Laughter)

13 **CHAIRMAN JOHNSON:** And before you start, and
14 I apologize I wasn't focusing in because I had a
15 question for the witness.

16 The soft dial message issue, could you
17 explain that because you -- could you explain that?

18 **WITNESS MARTINEZ:** Soft dial tone. Soft
19 dial tone occurs when a subscriber leaves the state or
20 for whatever reason abandons that phone and dial tone
21 is left on the line. Dial tone is actually mandated
22 by this Commission so that it can access 911. Well,
23 there's a recording on that for access to service.
24 And part of our contract says that that should be a
25 nondiscriminatory message. And the message -- it was

1 originally just BellSouth, and they did modify it to
2 show BellSouth and/or other ALECs. But we still feel
3 that the mention of their name is not
4 nondiscriminatory. It should simply say "Call your
5 local service provider."

6 **CHAIRMAN JOHNSON:** And I was looking at the
7 language on Page 23. I want a better understanding.
8 So you all want the language "This telephone only may
9 be used for emergency access." What you all are
10 trying to do is have no one's name identified to it?
11 Because you all don't even have --

12 **COMMISSIONER CLARK:** You just want it to say
13 local service provider.

14 **WITNESS MARTINEZ:** Local service provider.

15 **COMMISSIONER CLARK:** How are they going to
16 know who that is?

17 **WITNESS MARTINEZ:** Well --

18 **COMMISSIONER GARCIA:** Wouldn't that be
19 possible to just -- what is the local service 611,
20 isn't that --

21 **WITNESS MARTINEZ:** That's repair, BellSouth
22 repair.

23 **COMMISSIONER GARCIA:** Okay.

24 **CHAIRMAN JOHNSON:** But you want it as the
25 second sentence, "To order service for this line,

1 please call one of your local service providers."

2 **WITNESS MARTINEZ:** That's correct.

3 **CHAIRMAN JOHNSON:** Right now they modified
4 it but it says BellSouth or -- what does it say now?

5 **WITNESS MARTINEZ:** I believe -- I can't
6 quote it verbatim but I believe it states call
7 BellSouth or one of the alternate local providers in
8 your area.

9 **CHAIRMAN JOHNSON:** Okay. I understand.
10 Thank you.

11 **COMMISSIONER CLARK:** I was just curious as
12 to how are they going to know who they are?

13 **WITNESS MARTINEZ:** Well, I know that we're
14 listed in the telephone directory, and I would assume
15 that most of the others would be listed there.

16 It's obviously the responsibility of the
17 carriers themselves, the local exchange carriers, to
18 make their number and name available, and that would
19 be, in my mind, to the telephone directory. So in the
20 directory itself you would find the various carriers
21 that serve that area. I don't think intuitively they
22 would know what to call.

23 **CHAIRMAN JOHNSON:** Okay.

24 **MR. CARVER:** Thank you.

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CROSS EXAMINATION

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BY MR. CARVER:

Q Good morning, Mr. Martinez.

A Good morning.

Q My name is Phil Carver and I represent
BellSouth.

I have a number of questions for you, but
before I get into those I want to ask one or two
follow-up questions on the soft dial tone issue.

BellSouth is currently the only carrier of
last resort in a given area, correct?

A Is that -- I'm not sure of the term "carrier
of last resort." Is that an official term?

Q Yes. Do you not know what that term means?

A No. No, I don't.

Q Well, let me ask you this: If a customer
wants local service in BellSouth's service territory,
do you know if BellSouth is obligated to provide that
service to them?

A BellSouth has a tariff and would be
obligated to provide service to anyone who requested
it.

Q Okay. Now, the other new entrant, such as
MCI just as an example, MCI doesn't serve customers in
all parts of the state, does it?

1 **A** If a customer -- and I'm not totally
2 familiar with our tariff down here, but if -- we have
3 a tariff, we hang it on the wall and any customer that
4 calls up can order that service from our tariff.

5 **Q** But my question is you don't provide service
6 in all areas of state, do you, local service?

7 **A** Today? No.

8 **Q** I don't believe you provide any residential
9 service, do you?

10 **A** I don't believe -- if we took some of the
11 test circuits down, but I don't believe we do.

12 **Q** Okay. So then say, for example, if a
13 residential customer in -- well, I'll just pick
14 Miami -- moved into an apartment and they wanted
15 service, BellSouth would be the only provider that
16 would be necessarily required by the rules of this
17 Commission to provide service to them, correct?

18 **A** No, I don't believe that's true. I believe
19 we have a tariff on the books, and if the customer
20 called us, we would be obligated under our tariff to
21 provide that service.

22 **Q** But to get back in my earlier question, MCI
23 is not serving any residential customers today,
24 correct?

25 **A** That's correct.

1 Q So MCI would not serve that customer in
2 Miami, that hypothetical customer, correct?

3 A No. I have to disagree again. If they
4 called specifically and asked for the service we
5 couldn't deny it. I mean, we have a tariff. We have
6 to honor that tariff.

7 Q You have a tariff filed today under which
8 service is being offered to residential customers?

9 A We have a tariff, a generalized tariff.
10 They would pay the rates that are inclusive in that
11 tariff.

12 Q Okay. So if somebody in Miami, a
13 residential customer, called up MCI today, it's your
14 testimony that MCI would provide service to them?

15 A We would -- we would be forced to -- not
16 forced, but we would honor our tariff obligations. I
17 believe the rate structures would be somewhat
18 unfavorable to that residential customer. But we
19 would be obligated under the tariff to provide the
20 services that we've tariffed.

21 Q Okay. Just so I'm clear, I asked you
22 originally about Miami. Is it your testimony that MCI
23 is, in effect, available to provide service to
24 residential customers throughout the entire state of
25 Florida today?

1 **A** Again, I'm not totally familiar with our
2 tariff, but I don't believe the state of Florida
3 allows us to file tariffs that are other than
4 statewide. So we would be obligated to provide the
5 service that we have in our tariff.

6 **Q** And you're ready to do that. If someone
7 calls you up for service, you will provide it?

8 **A** We will -- through the use of a combination
9 of network elements and/or even though we have
10 publicly said no resale, but if we were forced to we
11 would do resale. We would honor the tariffs.

12 **Q** Okay. Now, you're not obviously in a
13 position to make that same commitment on behalf of
14 other carriers, are you?

15 **A** No.

16 **Q** Okay. So then other carriers that might be
17 listed as possible alternatives might take the
18 position that they don't provide residential service
19 in particular areas of the state, correct?

20 **A** Yes. Again, I would imagine if they have a
21 tariff on the books, they would be obligated to live
22 up to their tariff, but I don't know about their
23 tariffs.

24 **Q** Mr. Martinez, just as -- for a matter of
25 clarity, to keep the record clear, let me ask you if

1 you could do something for me. If I ask a question
2 that can be responded to with a yes or no, could you
3 please give the yes or no before you explain?

4 A Yes.

5 Q I'd appreciate that.

6 Okay. To go into my general questions,
7 there were just one or two things I wanted to clarify.
8 I think you may have covered this first in your
9 summary, but I just want to be sure. There are 13
10 counts in the Complaint filed by MCI, correct?

11 A That's correct.

12 Q And in each of these counts -- well, I
13 should say each one relates to some part of the
14 agreement between MCI and BellSouth that MCI claims
15 BellSouth has breached, correct?

16 A Yes.

17 Q And other than these alleged breaches, MCI
18 is not claiming that BellSouth has violated the Act in
19 some other way, is it?

20 A In this proceeding?

21 Q Yes.

22 A No.

23 Q Thank you. Let's turn to Count 1.

24 **COMMISSIONER GARCIA:** I'm sorry, Mr. Carver.

25 Could you repeat the question that he answered "no"

1 to.

2 **MR. CARVER:** My question was is MCI claiming
3 that BellSouth has violated the Act in some way
4 independent of the alleged breaches of contract.

5 **COMMISSIONER GARCIA:** Okay.

6 **Q** **(By Mr. Carver)** In Count 1, just to sort
7 of summarize it, in this count MCI claims that
8 BellSouth is obligated to provide it with information
9 as to the databases and OSS systems that BellSouth
10 uses; is that correct?

11 **A** Could you repeat that question, please?

12 **Q** Okay. I'm just summarizing your Count 1
13 position. As I understand it, MCI is claiming that
14 BellSouth has an obligation to provide MCI with
15 information about the databases and the OSS systems
16 that BellSouth uses to provision service?

17 **A** Yes.

18 **Q** Okay. And it general -- on Pages 3 to 5 in
19 your direct testimony you state the contractual
20 provisions you believe supports this claim, correct?

21 **A** Yes.

22 **Q** And I believe all together you cite about
23 six different provisions from Part A and from
24 Attachment VIII, correct?

25 **A** Yes.

1 Q And in your testimony you refer to these
2 generally as the parity provisions, correct?

3 A Yes.

4 Q Now, can we agree that there's nothing in
5 the language of the contract -- in these six
6 provisions or otherwise, that expressly says that MCI
7 will have access to BellSouth's OSS systems?

8 A I'm sorry. I struggled with this question
9 during the -- could you repeat that?

10 Q Sure. Can we agree that there's nothing in
11 the contract, either in the provisions you cite or
12 otherwise, where the contract expressly says that MCI
13 shall have access to BellSouth's OSS systems. Can you
14 agree to that?

15 A No.

16 Q Okay. So the contract expressly, in so many
17 words, says that MCI shall have access to BellSouth's
18 OSS systems?

19 A Yes.

20 Q Can you show us the provision --

21 **COMMISSIONER JACOBS:** Are we speaking about
22 the OSS system that BellSouth uses internally or that
23 it provides to CLECs?

24 **WITNESS MARTINEZ:** Well, they are at parity
25 so it's their OSS systems, and that's what I am --

1 **MR. CARVER:** My understanding of their claim
2 is they want to see the information for BellSouth
3 independent of what BellSouth provides to them. So
4 that's what my question went to, which is BellSouth
5 systems.

6 **Q** **(By Mr. Carver)** Did you understand the
7 question that way, Mr. Martinez?

8 **A** I've struggled with this question also in
9 the deposition. We do have the right, under the
10 contract, to have access to your systems, your OSS
11 systems.

12 **Q** Okay. Mr. Martinez, do you remember giving
13 your deposition, which has now been introduced into
14 evidence, I believe you gave it on July 23, 1998?

15 **A** Yes.

16 **Q** Do you have a copy of that with you?

17 **A** Yes, I do.

18 **Q** Could you please turn to Page 9 of your
19 copy.

20 **A** (Witness complies.)

21 **Q** And I'm going to read two questions and
22 answers here then I'm going to ask you if that's your
23 testimony. Page 9, Line 16.

24 "Question: Let's turn to the language of
25 the contract. In your testimony on Page 3 and I

1 believe it goes into Page 4 and Page 5, you cite the
2 provisions that you believe entitle MCI to this
3 information; is that correct?" And you say yes.

4 Next question: "Now, can we agree that
5 there is nothing in the language that you've cited
6 here that expressly says that MCI shall have access to
7 BellSouth's OSS systems?

8 "Answer: That is correct. Each one
9 addresses parity."

10 Now was this the testimony you gave in your
11 deposition?

12 A Yes.

13 Q Now, are you now saying there's something in
14 the contract that explicitly says that MCI shall have
15 access to BellSouth's OSS systems?

16 A Yes. And I had the same problem with this
17 question in the deposition.

18 We talked in terms of information, and I
19 think that appears in the front of this where we
20 started talking about access about information to the
21 OSS systems, which the contract is mute on.

22 But with respect to electronic bonding,
23 which is the lead paragraph in Attachment VIII, where
24 we would be bonded to your systems as an agreement in
25 that, that agreement would be within 12 months of your

1 establishing that from the access world.

2 The function of electronic bonding is, in
3 fact, the merging of the -- those systems; our systems
4 and your systems. So it would be, in fact, direct
5 access for your OSS systems.

6 Q Now, as part of your answer did you just say
7 that the contract is mute on access to OSS systems?
8 Did you say that?

9 A Information.

10 Q On information?

11 A Yes.

12 Q And that's what you're asking for in Count
13 1, information?

14 A Yes.

15 Q Just to be clear, if you look at these
16 particular provisions that you've cited, none of them
17 say specifically that MCI shall have access to
18 information about BellSouth's OSS systems, do they?

19 A That is correct.

20 Q No, they don't?

21 A Your statement is correct.

22 Q Okay. I think we're on the same page.

23 Now, you were one of the MCI employees who
24 helped negotiate this agreement on MCI's behalf; is
25 that correct?

1 **A** Yes, I was.

2 **Q** At the time the agreement was negotiated,
3 MCI did not envision receiving information about all
4 of BellSouth's OSS systems at that time, did it?

5 **A** That's correct.

6 **Q** Okay. And, in fact, MCI's belief that it
7 needed to have access to BellSouth's OSS systems only
8 developed sometime after the contract was executed,
9 correct?

10 **A** That's correct.

11 **Q** That's all I have on Count 1.

12 Moving to Count 2.

13 **CHAIRMAN JOHNSON:** Can we go back to Count
14 1?

15 **MR. CARVER:** Yes, ma'am.

16 **CHAIRMAN JOHNSON:** What was your final
17 answer with respect to whether or not there was
18 anything explicit in the contract? I apologize. I
19 was disrupted.

20 **WITNESS MARTINEZ:** Yes, there is. In the
21 negotiation process we negotiated for what is called
22 electronic bonding.

23 In a electronic bonding arena our systems
24 would actually literally interface with their OSS
25 systems, the same systems that they would use. I can

1 give you the direct quote on that. It's right at the
2 beginning of the contract agreement, if you so desire.

3 **CHAIRMAN JOHNSON:** That might be helpful
4 because -- and while you're looking for that, because
5 as I read the testimony, too, it seemed as if you were
6 saying -- not that the contract said it on its face,
7 but that implicitly in order to determine if there was
8 parity, there was like some implicit agreement that
9 you'd come in and look at their systems and see what
10 they offer themselves. And that's what you all needed
11 to do to ensure yourself that there was parity but
12 that wasn't on the face of the agreement or in the
13 text of the agreements.

14 **WITNESS MARTINEZ:** Yes, that is correct.
15 That is the reason that we rely heavily on the parity
16 issues. When discussing -- and especially in
17 Attachment VIII where we talked about interfacing for
18 order processing, maintenance, all of the elements
19 associated, it was imperative that the interim as well
20 the long-term solutions be at parity with theirs. And
21 in fact, in one of the paragraphs they actually
22 warranted that these systems would, in fact, be at
23 parity.

24 And that's one of the reasons, as I pointed
25 out in my deposition, with the warranty and the

1 explicit discussions that we had with respect to
2 parity, that we did not anticipate that we would need
3 to go and look and see what their systems did to
4 understand whether or not we had parity.

5 **COMMISSIONER JACOBS:** Can I direct you to
6 your Attachment VIII, specifically to Page 12.

7 **COMMISSIONER GARCIA:** Which one?

8 **COMMISSIONER JACOBS:** Attachment VIII. I
9 guess that's exhibit --

10 **COMMISSIONER GARCIA:** 2.

11 **COMMISSIONER JACOBS:** To his direct.

12 Page 12. Explain to me what Section 2.3 means? What
13 was anticipated to be provided under that section?

14 **WITNESS MARTINEZ:** I'm sorry, I didn't catch
15 the reference.

16 **COMMISSIONER JACOBS:** Section 2.3, system
17 interfaces and information exchanges on Page 12 of
18 Attachment VIII. I believe it's your direct
19 testimony.

20 **WITNESS MARTINEZ:** 2.3.

21 **COMMISSIONER JACOBS:** Yes. Section 2.3.

22 **CHAIRMAN JOHNSON:** It's the handwritten
23 page.

24 **COMMISSIONER JACOBS:** I'm sorry. I see the
25 confusion. It's the handwritten -- that's the

1 sequential page -- Attachment VIII is Page 19.

2 **WITNESS MARTINEZ:** I'm sorry. I'm looking
3 at the contract and you're looking off of this -- it's
4 on Page 19.

5 **COMMISSIONER JACOBS:** I'm sorry. I
6 misspoke.

7 **WITNESS MARTINEZ:** "BellSouth shall provide
8 real-time and interactive access via electronic
9 interfaces as detailed in this Agreement to perform
10 pre-service ordering, service trouble reporting,
11 service order processing and provisioning, customer
12 usage data transfer and local account maintenance. If
13 any of the processes require additional capabilities,
14 BellSouth shall developed the additional capabilities
15 by January 1, 1997. If BellSouth can't meet that
16 deadline, BellSouth shall file a report with the
17 Commission that outlines why it cannot meet the
18 deadline, the date by which such systems will be
19 implemented, and the description of the system or
20 process which will be used in the interim. BellSouth
21 and MCIm shall establish a joint implementation team
22 to assure the implementation of the real-time and
23 interactive interfaces. These electronic interfaces
24 such conform to industry standards where such
25 standards exist or are developed."

1 **COMMISSIONER JACOBS:** What I'm interested in
2 is let's go back to the date, a time which this
3 contract was executed. And I want to kind of
4 understand what would have been anticipated in order
5 to meet these provisions.

6 **WITNESS MARTINEZ:** There were a number of
7 functions that were mandated with respect to the Act
8 that had to be there. If any of these functions
9 were -- in fact, a date was set as January 1, 1997, by
10 the FCC -- we, in fact, arbitrated that date. We said
11 it should be January 1997, and BellSouth wanted a
12 later date. This Commission found that, in fact, we
13 were arbitrating this in March of '98, while I was
14 correct -- that it was impractical to go and actually
15 say something should be done after the fact. The date
16 itself was mandated by the FCC.

17 What this paragraph was intended to do was
18 if any of those systems were, in fact, not ready or
19 been developed that would meet the specifications,
20 then they would provide to us the details as to what
21 they were doing, how they were going to do it. And
22 that was the information aspect of that paragraph.

23 **COMMISSIONER JACOBS:** In the first instance,
24 how would these services have been provided? In other
25 words, what would have been the delivered product to

1 facilitate these electronic interfaces?

2 **WITNESS MARTINEZ:** There was a statement of
3 fact in here about interim arrangements.

4 **COMMISSIONER JACOBS:** No, no. I mean final
5 arrangements. What were the final product --

6 **WITNESS MARTINEZ:** The final product
7 differed based on the attributes that you had. On the
8 maintenance it was to be electronic bonding. That, in
9 fact, has been implemented. That our maintenance
10 systems would be bonded together so that we pass
11 orders direct, or trouble problems directly into the
12 systems. From a ordering perspective, the ultimate
13 solution was to have been electronic bonding 12 months
14 after. The solution, however, was tempered by
15 whatever the OBF decided but EB was one of the
16 solutions EDI --

17 **COMMISSIONER JACOBS:** What is OBF?

18 **WITNESS MARTINEZ:** Order billing form. It's
19 an -- I don't like to call it a standards
20 organization, but it's a committee that meets from all
21 of the industry participants that deal with issues
22 that confront them not only in the long distance arena
23 but in the local arena -- how can we collectively
24 create something that everybody can live by. They
25 have opted EDI. EDI, therefore, is the interface, the

1 ordering process, and as well as the preordering
2 process should be following. That was all covered in
3 this agreement. But in addition to that was another
4 interim interim, if you would, because we were talking
5 about getting started. EDI was still on the drawing
6 boards; EB was still on the drawing boards. They were
7 to provide interim solutions that would be at parity
8 with the solution that they had in place today without
9 the standards effect.

10 **COMMISSIONER JACOBS:** Okay. So the idea
11 here is that there would have been some electronic
12 exchange of information which was due sometime in the
13 future, after the execution of the document.

14 **WITNESS MARTINEZ:** Yes.

15 **COMMISSIONER JACOBS:** Pending continued
16 development of that.

17 **WITNESS MARTINEZ:** Yes.

18 **COMMISSIONER JACOBS:** In the interim, there
19 would be major steps to provide some kind of exchange;
20 perhaps not totally rising to the level of a full
21 electronic exchange.

22 **WITNESS MARTINEZ:** Yes.

23 **COMMISSIONER JACOBS:** Is that a fair
24 statement.

25 **WITNESS MARTINEZ:** Yes.

1 **COMMISSIONER JACOBS:** But this provision
2 anticipated some final product which would allow full
3 electronic interface. Is that a fair statement?

4 **WITNESS MARTINEZ:** Yes. Yes.

5 **COMMISSIONER JACOBS:** And this says "shall
6 conform to industry standards." I assume that there
7 may have been some standards other than an OSS. There
8 were other type facilities that could have delivered
9 this functionality other than an OSS-type system?

10 **WITNESS MARTINEZ:** I guess I'm so embedded
11 in the term "OSS" now --

12 **COMMISSIONER JACOBS:** I understand. But I'm
13 just asking about the functionality of it. Because
14 that is a tendency to get wrapped up in the term.

15 **WITNESS MARTINEZ:** There is functionality.
16 And what we were trying to safeguard obviously, a
17 carrier such as MCI that's national in scope, to
18 develop against individual proprietary interfaces in
19 each and every arena would have been in itself a
20 barrier to entry in those arenas. You just can't do
21 that much development with your systems. So it was a
22 move -- really, a concentrated move throughout this
23 contract to adhere to standards and to adhere to them
24 as they were developed. And even to preclude
25 standards if the standards were in the written form

1 and hadn't been voted on, that we would act
2 accordingly in starting to implement some of these.

3 **COMMISSIONER JACOBS:** Thank you.

4 **COMMISSIONER CLARK:** Mr. Martinez, I'm
5 confused. I thought you indicated in an answer that
6 you needed access to this OSS system so you could
7 electronically interface. Is that what you've asked
8 for?

9 **WITNESS MARTINEZ:** In the contract or the
10 complaint?

11 **COMMISSIONER CLARK:** In the complaint. I
12 thought you were alleging you needed access. I
13 thought one of your answers was you needed -- to
14 Mr. Carver was you needed access to it so you could
15 electronically interface with it.

16 **WITNESS MARTINEZ:** I believe the question --
17 and I'm just going to paraphrase it and I'll answer
18 you yes or no and I apologize --

19 **COMMISSIONER CLARK:** Okay.

20 **WITNESS MARTINEZ:** The question that
21 Mr. Carver posed to me was whether the contract
22 foresaw accessing BellSouth's OSS.

23 **COMMISSIONER CLARK:** Okay.

24 **WITNESS MARTINEZ:** Which I do believe it
25 does.

1 **COMMISSIONER CLARK:** And the reason you
2 believe it does?

3 **WITNESS MARTINEZ:** I'm sorry?

4 **COMMISSIONER CLARK:** And the reason you
5 believe it does?

6 **WITNESS MARTINEZ:** Because we spent much
7 time talking about the electronic interfaces, and
8 specifically the electronic bonding attributes, which
9 in itself says I'm bonded to their systems. That my
10 systems are talking directly to their systems.

11 **COMMISSIONER CLARK:** And, therefore, you
12 have under the contract that that was anticipated to
13 give you access to their internal OSS systems.

14 **WITNESS MARTINEZ:** Yes. Those systems that
15 were necessary that they used would be bonded to our
16 systems so that we would use the same systems to
17 produce the orders to produce everything on line.

18 **COMMISSIONER CLARK:** What is the language in
19 the contract you say addresses that?

20 **WITNESS MARTINEZ:** There's a number of them.
21 The system's interface, when we go back to the
22 beginning of each of the sections in the Agreement
23 where we talk about the specifics -- that's what I'm
24 going through now. (Pause)

25 All right. On the Ordering and Provisions,

1 Section 2, generally in each -- I'm sorry. I'm on
2 Page 6 of the contract, Section 2.

3 **COMMISSIONER CLARK:** Tell me again whose
4 testimony that's attached to. I'm not sure I have it.
5 Hendrix? Which one are you using?

6 **MR. MELSON:** Commissioner Clark, the entire
7 contract has not been reproduced in any witness's
8 testimony. I think both Mr. Martinez and Mr. Hendrix
9 attached excerpts that were relevant to the counts in
10 the complaint.

11 I don't want to interject in a way that is
12 unhelpful, but I believe the discussion that's going
13 on now is really not something we are complaining
14 about today. This is sort of a --

15 **COMMISSIONER CLARK:** Well, good. Because I
16 was confused. Because I thought Issue 1 was you
17 wanted access to that system so you could tell if you
18 were getting the same level of information; not that
19 the contract said you had access to it so you could
20 interface to it. That's what I thought you said.

21 **WITNESS MARTINEZ:** I'm sorry then. No. The
22 complaint is really access to the information about
23 their systems to understand if we are receiving the
24 parity that is so profusive through this contract.

25 **COMMISSIONER CLARK:** Then I misunderstood

1 your answers to Mr. Carver and I'm sorry.

2 **CHAIRMAN JOHNSON:** Mr. Carver.

3 **Q** (By Mr. Carver) Okay. Let me ask two or
4 three more questions.

5 **COMMISSIONER CLARK:** To confuse me more.

6 **MR. CARVER:** I'm not sure -- make sure I
7 understand where we are at this point.

8 **Q** (By Mr. Carver) Okay, first of all you
9 agree that the contract does not expressly -- and
10 "expressly" is the key word here -- say at any point
11 that MCI shall have access to information about all of
12 BellSouth's OSS systems, correct?

13 **A** Yes.

14 **Q** And your position is, is that in order to
15 ensure there's parity, MCI decided after the fact of
16 the execution of the contract that it needed this
17 information, correct?

18 **A** Yes.

19 **Q** Okay. Thank you.

20 Moving to Count 2. Now, just to summarize,
21 this is MCI's contention, that BellSouth is obligated
22 under the contract to provide a download of SAG or
23 street address guide data, correct?

24 **A** Yes.

25 **Q** Let me ask you generally, are you aware of

1 the OSS order that was entered some months ago by the
2 Georgia Commission?

3 **A** No.

4 **Q** Okay. Then without getting into that, let
5 me just ask you sort of a high level question. In
6 your opinion does that Order resolve this issue or is
7 there still something for the Florida Commission to
8 do?

9 **A** I answered the first question that I
10 wasn't -- I am aware from the deposition that Georgia
11 may have ordered you to provide the SAG data. In that
12 instance if you provided it, you know, in its
13 entirety, and at no cost to MCI, then that would be --
14 that would, in fact, close this issue and make it
15 mute.

16 **COMMISSIONER JACOBS:** Excuse me. Did we
17 take -- we didn't take notice of the Georgia order.
18 Could you explain briefly what it says.

19 **MR. CARVER:** Yes. And Mr. Stacy will be
20 able to address this at greater length. Basically
21 there was as OSS proceeding in Georgia which was part
22 of the 271 case. And in that Georgia ordered
23 BellSouth for 271 purposes to provide this particular
24 data but it did not say that the data had to be
25 provided at no cost. Instead, the parties were

1 directed to go back and try to negotiate a price for
2 the data.

3 Q (By Mr. Carver) Is that your understanding
4 or do you have knowledge of that, Mr. Martinez?

5 A I have not been involved deeply in that. I
6 was not aware there was an order out.

7 Q Okay. In this particular proceeding you're
8 claiming that you're entitled to this information
9 under the contract, correct?

10 A Yes.

11 Q And you're claiming you're entitled to get
12 it without paying any additional money for it,
13 correct?

14 A Yes.

15 Q So the price may be the real sticking point?

16 A Yes.

17 Q Okay. Now, the particular provision in the
18 contract you refer to in your testimony as supporting
19 this claim is Article VIII 2.1.3.1, correct?

20 A I believe that is correct, yes.

21 Q Okay. The particular language in this
22 section simply refers to providing the information in
23 electronic form, correct?

24 A Yes.

25 Q It does not make any specific reference to

1 downloading, does it?

2 A No.

3 Q Now, the information is available from
4 BellSouth through the LENS interface, is it not?

5 A The information in the --

6 Q In the RSAG data can be accessed through the
7 LENS interface, correct?

8 A I believe you're correct.

9 Q And accessing that information through the
10 LENS interface is accessing it in a electronic form,
11 correct?

12 A I think that's a question for our OSS
13 witness. But I would --

14 Q Okay. So you're saying you don't know
15 whether LENS transmission -- or transmitting --
16 transmitting information through a LENS interface, you
17 don't know whether that's electronic?

18 A Well, in the paragraph 2.1.3.1 I think we
19 disagreed really on one word. You are to provide the
20 data. Not to provide access to the data. You are to
21 provide to MCI the SAG data. This is -- as I pointed
22 out, is backed up in the charts that appear at the end
23 of this attachment where SAG data is provided one
24 time. Now, given those constraints, I don't see how
25 any access media would, in fact, satisfy this

1 requirement.

2 Q Okay. You told us your position. Now what
3 I'm going to ask you to do is to go back and answer
4 the specific question I've asked you, which, again, is
5 transmitting the information through the LENS
6 interface, is that an electronic form of transmission?

7 A I guess, yes.

8 Q Yes, it is?

9 A I'm still going to defer that question to
10 Mr. Green, our OSS witness. But I would assume that
11 one could consider it an electronic form.

12 Q Okay. Then looking just at the language of
13 2.1.3.1 where it says that the information is to be
14 transmitted in electronic form, if it's established --
15 take it this way, as a hypothetical. Hypothetically
16 if LENS transmission is electronic, then the
17 transmission of this information by way of LENS would
18 satisfy this particular provision of the contract,
19 wouldn't it?

20 A 2.1.3.1?

21 Q Yes.

22 A No.

23 Q Again, focussing just on the language here?

24 A No.

25 Q It would not?

1 A No.

2 Q Tell me what it is in the language of this
3 particular provision that would not be satisfied by
4 electronic LENS transmission?

5 A It's to provide to MCImetro the SAG data.
6 Not to provide access to the data. To provide the
7 data.

8 Q Okay. So it's your testimony that if you
9 have access to it through the LENS interface, then
10 it's not being provided to you?

11 A Yes. Yes. Because that's covered in another
12 section of the contract where we have the option. And
13 the reason that was put in there as an option it was
14 going to take time for us to take this data and build
15 the interfaces we needed on our side so that we could
16 access it. So I inserted that section where we have
17 the option to gain access through a LAN-to-LAN
18 connection which I assume that LENS would then fall
19 into that category.

20 Q So it's your testimony that the word
21 "provide" necessarily means a download, and that it
22 can't mean any other form of electronic transmission;
23 is that correct?

24 A It could refer to mag tape.

25 Q Was it intended to refer to mag tape?

1 **A** It was left to a point where it could be
2 provided via mag tape.

3 **COMMISSIONER CLARK:** Is the mag tape
4 electronic form?

5 **WITNESS MARTINEZ:** Not really. It is
6 sometimes considered one of the lower echelons of
7 electronic exchange in the sense that they download it
8 off their PC -- off their computer on to a diskette or
9 mag, and then we take it in verbatim and put it on.
10 It is -- it's a common use of that in large data
11 exchange where you might tie up lines or something.

12 **COMMISSIONER CLARK:** Okay.

13 **Q** **(By Mr. Carver)** Mr. Martinez, if your
14 intention was in this language to require that the
15 information be downloaded, why didn't you just put the
16 word "download" in the contract?

17 **A** That would have excluded the -- as I said
18 the mag tape. There are multiple ways that we can get
19 the bulk of this data. The idea was to provide it to
20 us, the data.

21 **Q** So it's your testimony that you didn't
22 specifically ask for a download because that would
23 have excluded having it transmitted by mag tape. Is
24 that what you said?

25 **A** To provide it via magnetic tape.

1 Q And that was a conscious decision not to use
2 the word "download" for that reason?

3 A No. It was never in the original -- the
4 original draft of the document, which was drafted, I
5 think it was September or something, it was filed in
6 the original 251, 252 case -- and, in fact, the only
7 disagreement that we had on this entire paragraph was
8 in the "or it's equivalent in electronic form". There
9 was a adder in there that said you will also provide
10 us with paper copies of the entire database. And as
11 was pointed out to me by BellSouth, this would
12 probably require a truck to be backed up to your
13 building and wouldn't be the best mode for either of
14 us. A wasted expense. And I agreed. That if we got
15 the data, we could, in fact, if we wanted a hard copy
16 of it, we could, in fact, print it off ourselves
17 rather than put the burden on them. So that's the
18 only part of that paragraph that was ever disagreed
19 to.

20 **COMMISSIONER CLARK:** Mr. Martinez, remind me
21 again, when this issue first arose and you asked for
22 it and you were refused --

23 **WITNESS MARTINEZ:** Yes.

24 **COMMISSIONER CLARK:** When did that happen
25 again?

1 **WITNESS MARTINEZ:** Within 30 days of the
2 contract.

3 **Q** **(By Mr. Carver)** Other than this word
4 "provide" here in the contract, is there anything else
5 in the contract at all that you contend entitles MCI
6 to a download?

7 **A** Yes. In the summary that we put in the
8 contract, which is contained on pages, I believe,
9 93 -- 93 through 98. There's a specific reference on
10 Page 93. The table is created such that in this first
11 section is subscriber information. It's a business
12 function, long-term solution, real-time access to
13 data, real-time process -- transaction processing,
14 frequency time interval and interim solution.

15 And according to SAG, SAG is the business
16 function. BellSouth provides all street address guide
17 information. Long-term solution, electronic
18 interface. Real-time access to data, no. Real-time
19 transaction processing; not applicable. Frequency
20 time interval; one time only. And the interim
21 solution was to be negotiated.

22 The table itself is followed at the end with
23 a comment, "This exhibit specifies for each
24 information exchange between MCI and BellSouth the
25 type of interface, whether realtime access and

1 processing is required, and the frequency of
2 information exchanges. This information is required
3 to ensure that both parties are in agreement on each
4 other's interface requirements."

5 Q You've lost me. What part of all of that
6 says you're entitled to a download?

7 A The exclusion of real-time access or
8 real-time access to data or real-time processing as
9 being not applicable or no. One time only. Now
10 whether that's on mag tape or a one-time download.
11 And the reason it's one time is you do not want the
12 expense of -- if for some reason we get the one-time
13 load and we screw up and we lose it, you are only
14 obligated to give us that entire database once.

15 Q Okay. So you're saying that what this
16 language means is that we are obligated to provide you
17 with a download, but only one time.

18 A That is correct.

19 Q And that the one-time-only language was
20 specifically chosen to refer to a download?

21 A Yes. That's what would refer to that.
22 Download or a mag tape.

23 Q Mr. Martinez, let me ask you, do you recall
24 testifying --

25 COMMISSIONER DEASON: Let me interrupt. I'm

1 sorry. What about updates to the database.

2 **WITNESS MARTINEZ:** Yes. In the section
3 itself it talks about that the updates will be on a
4 daily basis and at parity with theirs.

5 **COMMISSIONER DEASON:** So you want it one
6 time once a day.

7 **WITNESS MARTINEZ:** No. One time was the
8 load of the entire database. And then --

9 **COMMISSIONER DEASON:** Yeah, but for your
10 database to be workable you have to have updates to
11 it.

12 **WITNESS MARTINEZ:** That is correct.

13 **COMMISSIONER DEASON:** You want that one
14 time, once a day.

15 **WITNESS MARTINEZ:** Those would happen as
16 occurred. If they had no updates to their SAG
17 database during that day, then there would be no need
18 to transmit.

19 **COMMISSIONER DEASON:** How do you want that
20 transmitted? One time once a day?

21 **WITNESS MARTINEZ:** They were as occurred.

22 **COMMISSIONER DEASON:** Do you want that on a
23 printed piece of paper? Do you want that on a mag
24 tape? How do you want that?

25 **WITNESS MARTINEZ:** That was to be

1 electronically transferred.

2 **COMMISSIONER DEASON:** In what form?

3 **WITNESS MARTINEZ:** We would have used NDM at
4 that point. Once we got the database established, the
5 protocol that MCI prefers on day-to-day transactions
6 would be network data mover, which is the NDM
7 protocol.

8 **Q** **(By Mr. Carver)** Just to follow up on that,
9 Mr. Martinez, the daily updates, are you saying that
10 those were to be by download or that those were not to
11 be by download?

12 **A** Those would have been -- they would have
13 been downloaded electronically.

14 **Q** Okay. So the download then -- your
15 testimony is that BellSouth would be obligated to
16 download the entire database and to provide you daily
17 updates by download.

18 **A** Yes. And the downloading in that sense is
19 the use of the network data mover protocol which has
20 been established between our two companies for years.

21 **Q** And this obligation that you've just told us
22 about that includes daily updates every day, that's
23 what's referred to by "one time only"?

24 **A** No. "One time only" refers only to the
25 entire database. You have to get the data first

1 before you can get the changes. Once you have the
2 data base, the data base would be useless within a
3 month if you didn't have the updates to the database.

4 Q So the one-time-only language refers to
5 downloading. But you're saying that the downloading
6 requirement also includes an obligation to update by
7 download every day, correct?

8 A Same day -- and I'll again refer to a
9 chart --

10 Q Could I have a yes or no before you explain?

11 A Yes, there's a specific reference in the
12 same chart, the second level.

13 BellSouth provides changes to street address
14 guide information, SAG, long-term solution electronic
15 interface, real-time access to data, no. Real-time
16 processing; not applicable. Frequency and time; same
17 day as changes occur. And the interim solution was to
18 be negotiated.

19 Q Okay. In terms of the daily updates, what
20 language is it that you rely upon to say that that has
21 to be done by download if it's not the one-time only?

22 A The long-term solution would have been
23 electronic interface transferring the changes to us.
24 At that point in time we don't -- then we refer to
25 that as a download.

1 Q And you've testified you don't know whether
2 transmission by way of LENS interface is in electronic
3 form, correct?

4 A If transmission of data is in electronic
5 form?

6 Q Well, I just want to confirm, I think you
7 told us earlier you don't know personally whether use
8 of LENS to transmit information, whether that's in
9 electronic form. Is that what you testified earlier?

10 A No. I was confused. I think I ultimately
11 said yes, I believe that it would be an electronic
12 form.

13 Q Okay. So LENS transmit -- so now you're
14 saying LENS transmission is electronic form, and you
15 know that, correct?

16 A I know that?

17 Q Yeah.

18 A No. I believe LENS to be an electronic
19 access means.

20 Q Okay. You've lost me when you say you
21 believe. Do you know this to be true or do you just
22 not know? Or is LENS electronic?

23 A Yes, I believe LENS is electronic.

24 Q Okay. Thank you.

25 Now, moving on to Count 5, MCI contends it's

1 entitled to a list of all BellSouth USOCs that relate
2 to the ordering and provisioning of services, correct?

3 A Yes.

4 Q Now, in your testimony you say that MCI is
5 entitled to this information under Part A of the
6 contract Sections 13.1, 13.3 and 13.8?

7 A Correct.

8 Q Now 13.1 is a general provision that relates
9 to parity performance, correct?

10 A Yes.

11 Q 13.3 is a provision that relates to
12 providing unbundled network elements on a
13 nondiscriminatory basis, correct?

14 A Yes.

15 Q And 13.8 is a provision that has to do with
16 parity in the specific context of resell, correct?

17 A Yes.

18 Q 13.1 doesn't make any reference to USOCs,
19 does it?

20 A No.

21 Q 13.3 doesn't make any reference to USOCs,
22 does it?

23 A No.

24 Q 13.8 doesn't make any reference to USOCs,
25 correct?

1 A Yes, that's correct.

2 Q Thank you. Count 8. Now, Count 8, as I
3 understand it, involves the firm order commitment, or
4 FOC, process as applied to orders of off-net T-1s; is
5 that correct?

6 A Yes.

7 Q Let me ask you as a general proposition,
8 would you agree that the firm order commitment process
9 would only apply to items that are ordered under the
10 Interconnection Agreement?

11 A Yes. The Interconnection Agreement covers
12 the firm order confirmation.

13 Q Okay. Now, off-net T-1s are services that
14 can be ordered from BellSouth's access tariff,
15 correct?

16 A Could you repeat that question?

17 Q Off-net T-1s, the service that's at issue in
18 Count 8, those can be ordered from BellSouth's access
19 tariff, correct?

20 A Yes. The functionality that would represent
21 the digital loop between the subscriber's PBX trunks
22 and our switched dial tone would be comparable to the
23 functionality, the point-to-point DS-1 that you would
24 find in your access tariff.

25 Q Now, as to the particular alternate T-1s

1 that are referenced in the complaint in Count 8, did
2 MCI pay for these or has MCI paid for these?

3 A Yes, I believe they have.

4 Q Now, did MCI pay the rate that's set forth
5 in BellSouth's access tariff?

6 A Yes, I believe they did.

7 Q Now, would you agree generally that Section
8 A -- I'm sorry, I should say Part A, Section 1 of the
9 contract provides the scope of the contract?

10 A I'm sorry?

11 Q Part A at the very beginning Section 1, that
12 that provides the scope under Terms and Conditions?

13 A Part -- we're in Attachment VIII.

14 Q Yes.

15 A Well, my copy, it says Part A. Part A,
16 Terms and Conditions.

17 Q Exactly. Terms and Conditions, Section 1,
18 scope of the agreement.

19 A Yes.

20 Q Now, if you look at that paragraph it states
21 that the agreement covers the rights of the parties in
22 regard to interconnection, local resale, network
23 elements and ancillary services, correct?

24 A Yes.

25 Q It does not say that the contract covers

1 items ordered from tariffs, does it?

2 A No. And the fact that we designed this
3 contract to be all inclusive; that it was cover to
4 cover. That there would be no need to go out and do
5 anything other than what's under this agreement.

6 Q So it's your position that anything MCI
7 orders from BellSouth is covered by the agreement.
8 Period. No exceptions. Is that correct?

9 A That's correct.

10 Q Now, Section 1 we've just read about the
11 scope of the agreement, it doesn't say that, does it?

12 A Doesn't say what?

13 Q What your position, that the agreement
14 covers everything you order? That's not set forth in
15 the scope of the agreement section, is it?

16 A I'm going to say that this was negotiated by
17 an attorney for MCI. And I think you're asking for a
18 legal opinion of a very complicated section of a
19 contract. It would be my interpretation that it was
20 all inclusive. That everything in this contract --
21 that this entailed everything we needed with respect
22 to services.

23 Q Okay. We understand that's your position.
24 My question is looking at 1.1 there, does it say that
25 there expressly?

1 **A** Specifies the rights and obligations of each
2 party with respect to purchase and sale of
3 interconnection local resale network elements and
4 ancillary services.

5 **Q** Right. So there's nothing there in the
6 language that says what you contend; that anything MCI
7 orders is covered by the interconnection without
8 exception. That language doesn't appear there, does
9 it.

10 **A** Those are the elements that we need.

11 **Q** Okay. My question is the language that
12 anything you order is covered by the agreement, that
13 doesn't appear in this section, does it?

14 **A** The specific words that you just -- no.
15 That doesn't appear there.

16 **Q** And there's no reference in this section
17 under "Scope" to things ordered from tariffs, correct?

18 **A** No. Nor could I envision there be.

19 **Q** Okay. Thank you.

20 **COMMISSIONER CLARK:** Mr. Carver, do you know
21 if we have a copy of that, what you just read?

22 **MR. CARVER:** Let me check.

23 **COMMISSIONER GARCIA:** Could you read that
24 again and then give me your interpretation of how that
25 means anything -- everything is inclusive.

1 **WITNESS MARTINEZ:** "This agreement,
2 including Parts A, B and C. And, for the record, A is
3 Terms and Conditions of the contract; B are
4 Definitions; and C are the ten attachments comprising
5 the contract. Specifies the rights and obligations of
6 each party with respect to the purchase and sale of
7 interconnection, local resale, network elements and
8 ancillary services. This Part A sets forth the
9 general terms and conditions governing the agreement.
10 Certain terms used in this agreement shall have the
11 meanings defined in Part B, Definitions, or as
12 otherwise elsewhere defined throughout this Agreement.
13 Other terms used but not defined herein will have the
14 meanings ascribed to them in the Act, in the
15 applicable FCC rules and regulations in effect. Part
16 C sets forth, among other things, descriptions of the
17 services, prices, technical and business requirements
18 and physical and network security requirements.

19 "It was the intent of this contract to be
20 all inclusive. That we would never need to go outside
21 of this contract to obtain the services that we would
22 need to get into the local business."

23 **COMMISSIONER GARCIA:** Where do you read the
24 concept that Mr. Carver's trying to get to; that he
25 says it's not in there. How do you find it in there?

1 I don't want you to be a lawyer. Just want you to
2 tell me what your thinking is about this.

3 **WITNESS MARTINEZ:** The elements of what are
4 defined here, which is the purchase and sale of
5 interconnection, which I need to connect my switches
6 to their switches; local resale, if I were in the
7 resale market, to be able to obtain those services;
8 network elements and ancillary services. Network
9 elements are the combined network elements, the
10 network elements I would need. And the ancillary
11 services would be any service I would need to serve
12 that customer, and in this instance I would say that
13 the off-net T-1 --

14 **COMMISSIONER GARCIA:** If I asked you what's
15 not in there, could you point out what's not in there?
16 What's not comprehended there that you would need? Do
17 you think there's anything that's outside of that?

18 I'm trying to ask Mr. Carver's question from
19 another point of view. Trying to ask Mr. Carver's
20 question, in that Mr. Carver keeps repeating the line
21 "that it's all inclusive. Where is that specific
22 language?" Let me ask it another way. What isn't in
23 there that you would need to do business?

24 **WITNESS MARTINEZ:** Nothing, to my knowledge.
25 That doesn't mean that there isn't something, some

1 service or something that's defined someplace that
2 wasn't covered, in which case we would have to come
3 back through a BFR process. So the BFR process even
4 allows us to add additional services that we might
5 need that weren't defined in here.

6 **COMMISSIONER JACOBS:** That process would
7 allow you the option of bringing those under the
8 Agreement as opposed to pursuing it from the tariff?

9 **WITNESS MARTINEZ:** Yes.

10 **Q (By Mr. Carver)** For these particular T-1s,
11 you didn't use that BFR process, did you?

12 **A** No. There was no need for it.

13 **Q** In fact, and I think you've told us for this
14 particular T-1s, you ordered them and you paid the
15 tariffed price, correct?

16 **A** I believe that that's the case, yes. You
17 billed us the rate and we paid it.

18 **Q** Thank you.

19 **MR. CARVER:** Before I move on to Section 9,
20 one thing, to answer Commissioner Clark's questions,
21 Section 1.1 was not included in our testimony but
22 we're going to make a copy of that.

23 **Q (By Mr. Carver)** Let me ask a general
24 question, we did not attach as an exhibit the entire
25 contract because it's huge. But we are getting it in

1 all sorts of sections. Would it be helpful for us to
2 file this as a late-filed exhibit?

3 **MR. MELSON:** Commissioner Clark, we have
4 identified it as an exhibit to Mr. Martinez's
5 testimony. We're providing a copy to the court
6 reporter so there will be one in the docket file but
7 because of the volume we did not file 15 copies of it.

8 **COMMISSIONER CLARK:** I'm satisfied with
9 that. If you give me the pages you cross examine on
10 that's helpful. And then if I need to look at them
11 I'll go there. I just don't really want the whole
12 Agreement.

13 **MR. CARVER:** I understand.

14 **Q (By Mr. Carver)** Mr. Martinez, let's talk
15 about Count 9 a little bit which relates to blockage.
16 Now, this is blockage on trunks that in one way or
17 another are utilized by MCI, correct?

18 **A** I'm sorry, I missed that.

19 **Q** The issue in general relates to the level of
20 blockage or information about blockage on trunks that
21 are utilized in one way or another by MCI, correct?

22 **A** MCI local traffic, yes.

23 **Q** Now, you are currently receiving all of the
24 information that you need regarding trunks used for
25 common transport, correct?

1 **A** From MCIT's perspective, yes.

2 **Q** Okay. I'm not sure I understand your
3 qualification. When you say from MCIT's perspective,
4 are you receiving the information you need or not?

5 **A** MCIT, which is a separate entity, is
6 receiving what is referred to as the IC 100 Report.
7 This is a comprehensive report that details out any
8 blockage that occurs on any common transport trunk
9 group carrying traffic from your end offices to a
10 tandem, and any independent telephone company who has
11 so stipulated and allow you to submit that into the
12 report.

13 The information that's provided to MCImetro
14 is an Exception Report, an Exception Report that
15 really only reports those elements, again from the
16 common transport trunk group perspective, that are
17 falling into a category of immediate action required.
18 They have violated the -- and I hate to use the words
19 "standards", but T1M1 Committee's recommendation on
20 design of the common transport; a document, by the
21 way, that BellSouth co-authored with MCI and two or
22 three other LECs.

23 **COMMISSIONER CLARK:** Mr. Carver, I think you
24 better ask the question again. I got lost.

25 **MR. CARVER:** I'm not sure I remember it.

1

2 **Q** **(By Mr. Carver)** I think my question was is
3 MCI getting all of the information it needs? And if I
4 understand your answer, maybe I'll just paraphrase it
5 to try to move this along -- I think you just said
6 that MCIT is but MCI_m is not?

7 **A** That's correct.

8 **Q** Okay.

9 **COMMISSIONER CLARK:** All right, MCIT is
10 what?

11 **WITNESS MARTINEZ:** MCI Telecommunications,
12 the long distance company.

13 **COMMISSIONER CLARK:** And this is Metro we're
14 talking about.

15 **WITNESS MARTINEZ:** This is Metro.

16 **COMMISSIONER CLARK:** And you're not getting
17 that information.

18 **WITNESS MARTINEZ:** That's correct. The
19 reports that are being proffered by BellSouth fall
20 very short of what those recommends in the T1M1
21 Committee would have been.

22 **COMMISSIONER CLARK:** Okay.

23 **Q** **(By Mr. Carver)** Just to clarify, do you
24 recall testifying in Tennessee in BellSouth's 271 case
25 on May 27th?

1 **A** Yes.

2 **Q** Okay. Let me read you a question and answer
3 that appear on Page 265 of that transcript and ask you
4 if this is your testimony. And I only have one copy.
5 But if you need to look at it, I'll walk it down to
6 you.

7 Page 265, Lines 14 through 18.

8 "Question: Just so I'm clear as to what
9 your answer to my question was, MCI is getting all of
10 the blockage data that it wants from BellSouth with
11 respect to common transport trunk groups.

12 "Answer: Yes." Now is that what you
13 testified to in Tennessee?

14 **A** Yes. And I believe that's what I testified
15 here. If I recall the testimony, I had the same
16 problem there that I had here, that there are two
17 separate entities: MCIT and MCImetro. That MCIT
18 receives, based on the T1M1, the recommendation or
19 the -- I again hesitate to use the word "standards" --
20 receives that. It is not mandatory. It is something
21 that BellSouth does provide. In fact, I think I went
22 on to say that BellSouth does provide that in a very
23 timely fashion. They provide it within 15 days of the
24 end of the month and we do receive it on the 15th day.
25 They are very prompt and attentive to that. And it

1 does include all of the blockage data -- all; even the
2 minute blockage that occurs on the trunk group.

3 Q Well, Mr. Martinez, let me ask you -- and
4 again, I'll walk this down to you if you need to look
5 at it. But when you said yes, you were getting all of
6 the information you needed for a common trunk group
7 blockage in Tennessee, you didn't distinguish between
8 MCIm and MCIT then, did you?

9 A I believe the distinguishing part came
10 before in that testimony. We spent quite a bit of
11 time, if I'm not mistaken, talking about what MCIT
12 gets; what MCIm is being asked to receive. And I
13 think I also talked in terms of the fragile nature of
14 what is received by the long distance company. That
15 is because it's not a standard it's not mandatory.
16 That's why from a Metro's perspective, it needs to be
17 part and parcel of what they receive so that they will
18 always receive it, as that information is far more
19 important to them in these early days than it is to
20 MCIT at the moment. Although it is important to MCIT
21 as well.

22 MR. CARVER: Madam Chairman, since this
23 examination is taking a while, I hesitate to go back
24 through the transcript in Tennessee and question the
25 witness additionally on it. I think it will speak for

1 itself. I'd like to request this be identified and
2 admitted into evidence. This would be the testimony,
3 cross examination of Mr. Martinez in the 271 case in
4 Tennessee.

5 **MR. MELSON:** Do you intend to put in the
6 entire transcript of his testimony from Tennessee?

7 **MR. CARVER:** I don't need it for my
8 purposes, but if you'd like that that's fine with me.
9 I have no objection.

10 **MR. MELSON:** I don't have an objection but
11 I'd like to have the whole thing in. The witness has
12 explained the context in which he gave the answer and
13 I think we're going to need the whole thing to see
14 that context.

15 **COMMISSIONER CLARK:** Madam Chair, why don't
16 you supplement it with what you need. How long is
17 that testimony?

18 **MR. MELSON:** Looks like he has
19 four-to-a-page copy. I don't know.

20 **MR. CARVER:** The cross examination I'd like
21 to put in. As I understood Mr. Martinez, he said that
22 he qualified this somewhere in cross examination. And
23 that looks to be about 37 pages. So that's all that
24 I'm moving in. But, again, if counsel wants to move
25 some other portion in, I don't object.

1 **COMMISSIONER CLARK:** Sorry.

2 **MR. CARVER:** What I'm moving in is the cross
3 examination by BellSouth of Mr. Martinez in Tennessee.

4 **MR. MELSON:** Fine. MCI does not object.

5 **MR. CARVER:** It was not clear whether
6 Mr. Melson wanted his direct in or someone else's
7 cross --

8 **CHAIRMAN JOHNSON:** So you want the --

9 **MR. MELSON:** The entire cross by BellSouth.

10 **CHAIRMAN JOHNSON:** That's what I understood.
11 And I'm sorry, Mr. Carver, you said you wanted that --
12 do we have the --

13 **MR. CARVER:** We'll have to provide you.

14 **CHAIRMAN JOHNSON:** You want to do that as an
15 exhibit?

16 **MR. CARVER:** Yes, ma'am.

17 **CHAIRMAN JOHNSON:** Let me go ahead -- and it
18 will be marked as Exhibit 4. And it's
19 Mr. Martinez's --

20 **MR. CARVER:** Cross examination-Tennessee,
21 Tennessee -- well, in Tennessee.

22 **CHAIRMAN JOHNSON:** "Cross examination in
23 Tennessee" will be the short title. "BellSouth's
24 cross examination of Martinez in Tennessee."

25 (Exhibit 4 marked for identification.)

1 Q (By Mr. Carver) Mr. Martinez, to get back
2 to the topic, BellSouth is providing at least some
3 information regarding blockage on the trunks in
4 question, correct?

5 A Yes.

6 Q And basically BellSouth is providing
7 information on blockage when it exceeds a certain
8 threshold, correct?

9 A Yes.

10 Q And the threshold is 3% for dedicated
11 trunks, is that your understanding?

12 A Yes.

13 Q And 2% for common transport.

14 A Yes. And the reason there's a difference
15 has to do with the design blocking criteria that
16 establishes on each trunk group. The common transport
17 is half a percent, and on local its 1%. However, if
18 any local trunk were to carry a single interstate
19 call, then the blockage criteria, even based on the
20 contract, would then fall to a half of a percent.

21 Q These percentages that we're talking about,
22 is it your understanding that these represent the
23 percentage of blockage that would occur at the busiest
24 time of the day?

25 A What you are representing -- it's my

1 understanding that you're representing the -- time
2 consistent busy-hour. So during a study period,
3 however you -- the standard would be 21 days. During
4 that 21 days this would be the hour consistent through
5 that study period that had the most blockage. It does
6 not necessarily mean that it is the most blockage that
7 occurred on a trunk group.

8 Q Okay. I didn't understand your distinction.
9 During the 21 day period this would be -- could you
10 explain again?

11 A The time consistent busy-hour. This would
12 be the -- during the study period, the hour of the day
13 throughout that period that experienced the greatest
14 level of blockage consistently across that hour.

15 Q So basically during the test period this
16 would be the particular hour of the day that
17 experienced the greatest amount of blockage.

18 A Consistently, yes, across the study period.

19 Q Okay. Thank you.

20 Now, MCI takes the position, does it not,
21 that BellSouth must report to it any measurable
22 blockage on trunks that MCI uses no matter how small
23 the amount is?

24 A Yes.

25 Q Let me ask you generally, just to shift

1 gears for a moment, do you consider this to be a
2 parity issues?

3 **A** I'm sorry?

4 **Q** Do you consider this to be a parity issue?

5 **A** I hadn't thought about it that way. Yes, it
6 would be a parity issue. You have access to the
7 switch records. Your switches are pulled hourly and
8 your traffic engineers have, at best, access to that
9 trunk data no later than two hours after the hour that
10 was just completed. But we are not asking for that,
11 although I would love to see it; have access real-time
12 to that data. It would suffice in this case to
13 provide the detail; as I point it, all blockage.

14 **Q** Let me try that from different perspective.
15 On Page 15 of your testimony I think you say that this
16 count is supported by the language in Part A, Section
17 13.2 of the Agreement, correct?

18 **A** Yes.

19 **Q** And you quote some of the language there.
20 And specifically the language that you quote is that
21 "interconnection will be provided in a competitively
22 neutral fashion and be at least equal in quality to
23 the level provided by BellSouth to itself or its
24 affiliates?

25 **A** Yes.

1 Q So in other words, if BellSouth provides
2 blockage or other interconnection information to MCI,
3 that's equal or better in quality to what it provides
4 to itself, then that particular provision of the
5 contract would be met, correct?

6 A Yes.

7 Q Okay. Now, if BellSouth engineered its
8 network to keep blockage on its trunks below a
9 threshold, and blockage on trunks dedicated to MCI for
10 local usage is also below that threshold -- in other
11 words, BellSouth is below the threshold that it sets
12 for itself; MCI is also below that threshold --
13 wouldn't that constitute equal treatment?

14 A You have a contract requirement in
15 Attachment IV.

16 Q Okay. Mr. Martinez, I hesitate to cut you
17 off but my question was if BellSouth and MCI are both
18 below the threshold that BellSouth sets for itself, is
19 that equal treatment. Now, could you please give me a
20 yes or no before you explain?

21 A It's a hypothetical. I'm just having a
22 difficult time understanding the threshold concept.

23 Q Okay. Let's say BellSouth engineers its
24 trunks to have less than 3% blockage on an ongoing
25 basis. And it basically handles MCI traffic, so it

1 also has less than 3%. So in other words, the 3%
2 standard applies to both. Would you agree in that
3 instance they are both being treated the same?

4 **A** Again, I'm having a problem because that is
5 not your design objective for your local network.
6 That is really a tariff requirement that you have that
7 talks to that threshold level. You design your
8 network at a 1%, so we were told during the
9 negotiations, and in your contract you are obligated
10 to maintain ours at that 1% level. So 3% is not
11 contractually even something that's relevant.

12 **Q** Are you unable to answer my question because
13 I used 3% just as a parity figure? Is that what
14 you're saying?

15 **A** Yes.

16 **Q** Let's use 1% then. Let's say BellSouth
17 maintains its -- hypothetically its trunks in 1% and
18 it maintains MCI's at 1%. Is that equal treatment?

19 **A** Yes.

20 **Q** Okay. But if BellSouth maintains its trunks
21 at 3% and MCI's at 3%, you're not able to say whether
22 that's equal treatment also? Is that your testimony?

23 **A** That may be equal treatment, but it would
24 not live up to the contractual requirements that
25 BellSouth would have.

1 Q Okay. Now, are you an engineer by training?

2 A Yes.

3 Q Have you ever performed network design as
4 part of your duties with MCI?

5 A With MCI? No.

6 Q With any other telecommunications carrier?

7 A Yes.

8 Q As to MCI's own network, does MCI observe
9 Bellcore standards regarding blockage?

10 A MCI adheres to the T1M1 Committees standards
11 or, again, mutual consented agreements. Bellcore is a
12 Bell-owned research facility.

13 Q So is your answer then that MCI does not
14 observe Bellcore standards?

15 A Bellcore standards?

16 Q Yes.

17 A No. Only if they conform to the industry
18 standards.

19 Q So you are saying there are industry
20 standards though, correct?

21 A Yes.

22 Q What are the industry standards for an
23 acceptable level of blockage?

24 A On common transport trunk group?

25 Q Yes.

1 A It's one-half a percent. The one-half
2 percent is an engineering criteria that the design of
3 which would last through the busy period, which may or
4 may not be a year. In other words, an engineer is to
5 set forth a design on a trunk group, that at the end
6 of the busy period would be at that level of blockage.
7 Should, during that period of time that that trunk
8 group exceeds the design blocking objective, which in
9 this case is a half percent -- there's an engineering
10 judgment factor that's taken into consideration; that
11 some abnormal condition caused this to happen so that
12 it wasn't a violation of the forecast that was used to
13 size the trunk group to get through that period of
14 time. If the engineer answers yes, then nothing else
15 is done.

16 If that anomaly, or that violation, occurs a
17 second time -- and that's again it breaches the half a
18 percent factor, then it is no longer a anomaly and the
19 engineer must take corrective action.

20 In addition to that, there is consideration
21 within the T1M1 scope that because the study period
22 varies on trunk groups -- you don't always have the
23 standard 21 days. However, even under 21 days it is
24 theoretically possible, based on the days that you are
25 studying, to have a measurement higher than a half a

1 percent that really does not represent a violation of
2 this forecast. However, the standard goes on to say
3 should this level exceed a number -- and in this case
4 it's a graphic demonstration and we sometimes disagree
5 as to what that level is -- we claim it could be 2%;
6 BellSouth claims it to be 3%. But whatever it is, 2
7 or 3%, once it exceeds 3.0001, it is no longer
8 considered a misnomer. It is now a complete violation
9 of that forecast, and is now called the immediate
10 action level. At that immediate action level the
11 party who controls that trunk group -- in other words,
12 the party from which the traffic is emanating from --
13 must take immediate action to resolve the forecast
14 problem and put trunks in.

15 That's the extent of that Agreement. And
16 that Agreement, by the way was, as I said, co-written
17 by BellSouth. It was in BellSouth's center sometime
18 around '88 or '89. I know because I attended the
19 meeting. I was asked by our representatives because I
20 was the local person in the area to come and take part
21 in that meeting.

22 Q Mr. Martinez, let's go back to my question.
23 My question was what MCI does now. Is everything that
24 you told me a recitation of MCI's practices?

25 A MCI follows those standards.

1 Q Okay. So you're not saying that if the
2 blockage is more than one-half of a percent that MCI
3 redesign its trunks, are you?

4 A Yes, I am. It exceeds -- we are required by
5 that standard -- again, to go back how the standard
6 was established. Go back to divestiture where we were
7 guaranteed the equal treatment between ourselves and
8 another carrier, which at that time was AT&T. How
9 could one that had direct trunks to every end office
10 conceivably in the United States, and a new entry that
11 was going through a tandem, conceivably have equal
12 access?

13 What the FCC did was to ask AT&T, "How do
14 you design your network?" And AT&T responded, "If
15 it's equal access, I design it at 1%. If it's
16 nonequal access, I design at 2%." The 1% on the
17 common became the standard. One-half of that 1% was
18 given to the ILECs to design from the end office to
19 the tandem, and one-half of that 1% was the
20 responsibility of the carrier to so equip its tandem
21 trunks -- the tandem connections at one-half a percent
22 blockage.

23 Q I want to be clear on your answer. Are you
24 testifying that if the trunks that MCI has -- I'm
25 talking about your own trunks now, common transport --

1 if the blockage exceeds one-half of 1% in a given test
2 period, then you redesign your trunks. Period. Is
3 that your testimony?

4 A That would be -- the first occurrence would
5 probably be the same thing that your engineers do.
6 Was this an anomaly?

7 Q Is that a yes or a no?

8 A Engineering questions are never an easy yes
9 or no.

10 Q Let me ask it this way. What I'm trying to
11 find out is, are you saying that cut and dried, if you
12 exceed .5 you re-engineer your trunks or are you
13 saying it depends? Can you tell me that much? Is it
14 a hard and fast rule? Are you saying maybe you'll
15 redesign and maybe you won't, depending on other
16 factors?

17 A Depending on factors. Just as the same
18 factors applied -- the first occurrence of a violation
19 of a forecast. Forecasts are not scientific things.
20 They can of themselves be wrong. There could have
21 been some anomaly that happened. If it happened a
22 second time, yes, they immediately go on and
23 re-engineer that group.

24 Q So your testimony now is if you exceed .5
25 percent blockage during two test periods then you

1 redesign your trunks?

2 **A** Yes.

3 **Q** Would this be two consecutive test periods?

4 **A** Yes.

5 **Q** What if you exceeded on a test period, and
6 then you have three for four test periods where it's
7 fine and then you exceed it again, would you
8 necessarily take corrective action again?

9 **A** You'd go back and review. If you had that
10 kind of historic violation of forecasts, you would now
11 go back and look at our forecasted data. Because
12 you're forecasting basically a percentage of what you
13 think your traffic will grow. And if you violated it
14 that quickly, you'd go back and look at the parameters
15 you were using for forecasting and see if those
16 parameters were set too slow -- you don't want to go
17 back and revisit trunk groups every year. That's what
18 I'm saying. You try to engineer it to the best of
19 your knowledge. And this happened -- if you recall,
20 in those periods we were growing at 20% a year, so we
21 actually overengineered --

22 **COMMISSIONER CLARK:** Mr. Carver, can I
23 interrupt a minute, because I'm having trouble
24 following the questions and the answers to the
25 questions as they relate to -- I assume this is

1 Issue 9.

2 **WITNESS MARTINEZ:** Yes.

3 **COMMISSIONER CLARK:** Okay. And what
4 information is BellSouth currently providing you with
5 respect to blockage information?

6 **WITNESS MARTINEZ:** They are providing
7 exception reports. What I would call exception
8 reports. Those are trunk groups that are exceeding
9 this threshold.

10 **COMMISSIONER CLARK:** And what's the
11 threshold?

12 **WITNESS MARTINEZ:** I believe it's 3%. It's
13 part of a demonstration -- not a demonstration but an
14 exhibit that -- a late-filed exhibit.

15 **COMMISSIONER CLARK:** I just want to know
16 from your perspective what are you getting from
17 BellSouth?

18 **WITNESS MARTINEZ:** We're getting what I
19 would call exception reports on the common transport,
20 which are those trunks that have violated that
21 immediate action limit. We are then getting a summary
22 of the --

23 **COMMISSIONER CLARK:** Go back for a minute.
24 What do you mean, immediate action report?

25 **WITNESS MARTINEZ:** Well -- and previously I

1 mentioned the T1M1 paper and the basic standard that
2 set a level by which once you exceeded that level, it
3 was no longer a question whether there was a forecast
4 violation or not. There was. The trunk was in
5 trouble. And the party controlling that trunk had to
6 take immediate action to get that trunk group back to
7 its design level.

8 **COMMISSIONER CLARK:** But your testimony is
9 the only reports you're getting is if the blockage
10 rates exceeds 3%.

11 **WITNESS MARTINEZ:** That's on the common
12 transport, yes, ma'am.

13 **COMMISSIONER CLARK:** What's on the other?

14 **WITNESS MARTINEZ:** Those are also true of
15 the others as well. The exception reports of MCI's
16 that are experiencing problems. And then there is a
17 summary by state, X number of trunks, and the bottom
18 of that report would show the number of trunks that
19 exceeded this level.

20 **COMMISSIONER CLARK:** Go to your testimony on
21 Page 16, your direct testimony. You list those things
22 that you think you should get.

23 **WITNESS MARTINEZ:** Yes.

24 **COMMISSIONER CLARK:** All right. As I
25 understand your testimony, you are getting blockage

1 data on all common trunk groups utilized by ALEC
2 traffic, and that's when it exceeds 3%; is that
3 correct?

4 **WITNESS MARTINEZ:** That's correct.

5 **COMMISSIONER CLARK:** All right. What about
6 the next one, blockage data on all MCI trunks from
7 BellSouth's end offices and tandems to MCI's point of
8 termination. Are you getting that?

9 **WITNESS MARTINEZ:** No. Only to the extent
10 they exceed the threshold.

11 **COMMISSIONER CLARK:** 3%. All right.
12 Blockage on data on all ALEC interconnection trunks
13 from BellSouth's end offices and tandems to ALECs.
14 Are you getting that?

15 **WITNESS MARTINEZ:** No. This would be the
16 industry, as a rule. There, again, we get a
17 comparison; the industry versus BellSouth with respect
18 to the 3% threshold.

19 **COMMISSIONER CLARK:** Let me give you an
20 example then. You want the blockage data on, say,
21 AT&T's trunks, if it's an ALEC.

22 **WITNESS MARTINEZ:** All composite. I mean,
23 it would be an average of the industry. We would not
24 want, you know, nor I think that they would provide,
25 the specific information on a specific ALEC to us.

1 All we're looking at is -- you know, you design these
2 ALEC trunks; what was the blocking that was occurring
3 on those.

4 **COMMISSIONER CLARK:** All right. Then you
5 want it for -- lastly you want to see what BellSouth
6 is doing.

7 **WITNESS MARTINEZ:** Yes.

8 **COMMISSIONER CLARK:** All right. Which
9 you're not getting.

10 **WITNESS MARTINEZ:** Again, that data is
11 provided on a threshold level.

12 **COMMISSIONER CLARK:** 3%.

13 **WITNESS MARTINEZ:** Yes.

14 **COMMISSIONER CLARK:** So is what you're
15 really asking for a different threshold level?

16 **WITNESS MARTINEZ:** It's actually all
17 blockage that occurs on the trunk groups. And there's
18 a very important reason for that.

19 **COMMISSIONER CLARK:** I just want to know
20 what you want.

21 **WITNESS MARTINEZ:** All blockage on the
22 trunks.

23 **COMMISSIONER CLARK:** Regardless of the
24 level. You even want it if it's below one-half of 1%.

25 **WITNESS MARTINEZ:** Yes. And that's probably

1 the most critical because that's their design
2 objective. That's what they designed the group for,
3 to last through the busy period.

4 **COMMISSIONER CLARK:** I appreciate that. I
5 just am trying to find out what you want.

6 **WITNESS MARTINEZ:** All right.

7 **COMMISSIONER CLARK:** Okay. Thanks.

8 **Q** **(By Mr. Carver)** So Mr. Martinez, just to
9 be clear, the four things you asked for on Page 16,
10 BellSouth is providing reports that are responsive to
11 all four of these requests. However, BellSouth is not
12 providing the -- well, let me put it this way,
13 BellSouth is providing the information at a particular
14 threshold and you want more information, correct?

15 **A** Yes.

16 **Q** Okay. And what you want is information
17 about any measurable blockage whatsoever?

18 **A** Yes.

19 **Q** So, for example, if on a particular trunk
20 the blockage were one one-hundredth of 1% you would
21 want to know that?

22 **A** I believe your program rounds to the nearest
23 tenth, so it's a tenth of a percent of blockage.

24 **Q** So that if we're one-tenth of 1% you would
25 want to know that?

1 **A** Yes.

2 **Q** Now, as a practical matter, if MCI finds
3 that the blockage is one-tenth of 1% consistently, is
4 it going to order more trunks or otherwise redesign
5 its network?

6 **A** No.

7 **Q** Now, let me ask you, on the interconnection
8 trunks that MCI has, they are connected to MCI
9 switches, correct?

10 **A** Yes.

11 **Q** You could, going through your own switches,
12 get any level of detail about these particular trunks,
13 couldn't you?

14 **A** We get actually hourly printouts. We pull
15 all of our switches on the traffic that flows from us.
16 The traffic that comes to us is invisible. We don't
17 know what's happening. We only know there's a volume.
18 We don't know if there's blockage.

19 **COMMISSIONER CLARK:** So the answer is no,
20 you cannot get the data on MCI trunks for inbound
21 traffic.

22 **WITNESS MARTINEZ:** That's correct.

23 **Q** **(By Mr. Carver)** And there's nothing in
24 your switch that would allow you to do that that
25 you're aware of?

1 **A** No.

2 **Q** Okay.

3 **MR. CARVER:** That's all I have on that
4 count. Let's move to Count 11.

5 **COMMISSIONER CLARK:** Let me just ask a
6 question, Mr. Martinez. If you were not going to take
7 any action below a certain level of blockage, why do
8 you need to know?

9 **WITNESS MARTINEZ:** Because the phenomenon of
10 a blocking is -- it depends on the trunk size, as
11 blockage starts to increase, it reaches a point what
12 is called the knee, where it will take off
13 exponentially. You must capture and completely fix
14 that trunk group before you get into a condition where
15 you get excessive blocking.

16 **COMMISSIONER CLARK:** What is that level?

17 **WITNESS MARTINEZ:** It differs by the size of
18 the trunk group.

19 **COMMISSIONER CLARK:** Okay.

20 **WITNESS MARTINEZ:** Generally in speaking,
21 it's also based on the design blocking objective that
22 you set. What are you designing a trunk group to. If
23 you design to half a percent, somewhere after that you
24 will start to see traffic will start to -- blockage
25 will start to increase. And the reason is retries.

1 People will start to retry to make their call so that
2 those calls weren't anticipated. And what generally
3 will happen, if you just get a trunk go and never
4 maintain it, it will kill itself with nothing but
5 retries. Everybody trying to re-attempt.

6 **COMMISSIONER CLARK:** So can you provide that
7 information to BellSouth as to what -- I assume you're
8 designing your system.

9 **WITNESS MARTINEZ:** Yes.

10 **COMMISSIONER CLARK:** Can you simply tell
11 them what you want for each type of line?

12 **WITNESS MARTINEZ:** Yes. In fact, in the
13 contract we've spelled that out.

14 **COMMISSIONER CLARK:** And what is that?

15 **WITNESS MARTINEZ:** 1% on the local trunk
16 groups would be the design criteria. Any trunk group
17 that carried an interstate call would be a half a
18 percent, which is consistent with the T1M1 standards.

19 **COMMISSIONER CLARK:** So those are the
20 thresholds you want instead of 3%. Would that be
21 correct?

22 **WITNESS MARTINEZ:** That's the design
23 objective they must maintain. The threshold is just
24 something else.

25 **COMMISSIONER CLARK:** Thank you.

1 Q (By Mr. Carver) Just to be clear, though,
2 you're not asking for the information cut off at any
3 threshold. You want all of the blockage information
4 that is measurable, period.

5 A Yes.

6 Q Okay. Moving to Count 11, would you agree
7 that MCI's position is that BellSouth is obligated to
8 provide MCI with flat rate usage data?

9 A Yes.

10 Q And just to clarify, your position is that
11 if BellSouth records the information, but does not use
12 it for its own service offerings, that it nevertheless
13 has to provided it to MCI --

14 A Yes.

15 Q -- correct? Now, in support of this
16 contending I believe you cite in your testimony
17 several contract provisions, but one in particular is
18 Attachment VIII 4.1.1.3, correct?

19 A That's correct.

20 Q Does this particular provision of the
21 consider say expressly that BellSouth will provide to
22 you flat rate information that it doesn't use for
23 purposes of its own service?

24 A Yes. It's under the first category of the
25 types of calls. Categories of information.

1 Q Just to backup, you're saying it says that
2 expressly?

3 A Yes.

4 Q Tell us where.

5 A In that paragraph. Categories of
6 information. Completed calls. It's all completed
7 calls.

8 Q So your testimony is that the general
9 reference to all completed calls would include flat
10 rate usage calls for which BellSouth doesn't use any
11 recorded information?

12 **COMMISSIONER CLARK:** I'm sorry. What page
13 are you on of the agreement?

14 **MR. CARVER:** It's Attachment VIII, Page 41.

15 **MR. MELSON:** Pages 20 and 21 of the exhibit.

16 **COMMISSIONER CLARK:** You've both confused
17 me. I have Attachment VIII.

18 **MR. CARVER:** It's Attachment VIII. In the
19 contract it's Page 41. I believe Mr. Melson said it
20 was 21 in the exhibit.

21 **MR. MELSON:** Page 21 of Mr. Martinez's RM-2.

22 **COMMISSIONER CLARK:** Got it.

23 Q **(By Mr. Carver)** Just to be clear, your
24 testimony is that the general reference here to
25 completed calls is what you believe obligates you to

1 this flat rate usage information?

2 **A** Yes. And, in fact, during the negotiation
3 this was an item that we discussed at length.
4 BellSouth contended that they did not record these
5 calls. I contended from my engineering days that they
6 did. To resolve this issue, the idea of a BFR was put
7 in there. And the whole idea of this language was if
8 they, in fact, recorded the traffic, we would get it.
9 If they didn't record the traffic, then the BFR
10 process could be used and I could fund, if you would,
11 the equipment necessary to record it.

12 There was never a question in the
13 negotiation process as to whether or not we would
14 receive it. The only question was whether or not they
15 recorded it.

16 **Q** Now, Mr. Martinez, as part of the
17 negotiation process, the parties sent proposed drafts
18 of agreements to one another, correct?

19 **A** Yes.

20 **Q** And at one point in this process MCI sent
21 particular language to BellSouth on 4.1.1.3 that
22 differed from the language that appeared in the final
23 contract, correct?

24 **A** There would have been exchanges on almost
25 anyone. This particular paragraph was resolved at a

1 meeting with your Schmeez (ph) -- I can't remember the
2 young lady's name -- that came in to describe their
3 inability to record when we had a discussion.

4 The compromising language that you see here
5 was put forth by Mr. Klimacheck (ph) who got -- I
6 suggested get with my attorney because I wanted to
7 make sure the language was inclusive of what I was
8 after, and that BellSouth's language was inclusive of
9 what they were after. The two attorneys agreed that
10 this paragraph would cover both parties. That if they
11 recorded, I got the date. If they didn't record, then
12 I would have to use a BFR to provide that.

13 Q Let me ask you this, if you recall and if
14 not I have something here that perhaps I could refresh
15 your recollection with. But do you recall did MCI
16 submit to BellSouth a draft in which it included in
17 the language to be recorded what I'm about to read
18 you. "Recording of completed calls which ILEC does
19 not record for its own service offerings, e.g. flat
20 rate free calling area service." Now, didn't MCI
21 submit a proposal that had that language in it
22 specifically?

23 A I'm going to go back to the draft copy and
24 that will spur my memory.

25 Q I have a copy of the draft here also. If

1 you'd like I'll bring it down to you?

2 **A** I've got it here.

3 **Q** Okay.

4 **A** I don't remember that.

5 **Q** Do you have that in your draft?

6 **A** I have the draft right here.

7 **Q** Okay. And that language is not there?

8 **A** No.

9 **Q** Okay. Let me show you the draft I have and
10 see if you can identify it. I just have one copy.

11 (Counsel shows document to witness.)

12 (Pause)

13 **Q** I only have the one copy. With the
14 permission of Chair and the Commission, I'm just going
15 to ask a few questions from right here in that's okay.

16 Mr. Martinez, let me ask you first of all,
17 can you tell me if the document I've shown is a copy
18 of an earlier draft of the agreement?

19 (Shows document to witness.)

20 **A** The day time stamps -- when we exchanged
21 electronic versions, we would also date stamp the copy
22 so each one knew when the others were changed. These
23 do indicate that there were -- this was a 11-8 --
24 November the 8th, '96, rendition that was provided.
25 It's not red lined so I don't know --

1 Q Let's take them one at a time. This is an
2 earlier agreement.

3 A Okay, yes.

4 Q Was it an earlier agreement containing
5 proposed language by MCI?

6 A What we're looking at in 4.1.1.3 is exactly
7 what I have here in 4.1.1.3 in the original draft that
8 was provided to this Commission in the 251-252
9 proceeding.

10 Q So the document I've shown you does include
11 language that MCI proposed?

12 A Yes.

13 Q Okay. Now, doesn't this document, among
14 the -- Section 4.1.1.3 states the information that
15 will be provided. And it specifically says "recording
16 of completed calls which ILEC does not record for its
17 own service offerings, e.g. flat rate free calling
18 area service." That language appears here, correct?

19 A That's correct.

20 Q And that was MCI's proposed language,
21 correct?

22 A That's correct.

23 Q And this language does not appear in the
24 final agreement, correct?

25 A That's correct.

1 **COMMISSIONER CLARK:** Mr. Carver, would it be
2 able to get a copy of that?

3 **MR. CARVER:** Definitely.

4 **COMMISSIONER CLARK:** Mr. Martinez, then you
5 agree that that was language proposed by MCI?

6 **WITNESS MARTINEZ:** When we struck the
7 agreement --

8 **COMMISSIONER CLARK:** Yes or no.

9 **WITNESS MARTINEZ:** Yes. When we struck the
10 agreement to formulate the final paragraph, that was
11 our understanding that if they record the traffic we
12 get it. And if we were to have something like that in
13 there, it was mandating them even though they couldn't
14 record it. So as a compromise, we accepted their
15 language, which basically said write a BFR if we don't
16 have something that you need.

17 Now, I'm not a lawyer, so I left it up on
18 two lawyers to fine tune the language that ultimately
19 went in. But that was our understanding when we left
20 that provision. That if they record, I get the data.
21 If they don't record, I could press the BFR, but in
22 most likelihood not do that because of the expense
23 involved.

24 **Q** **(By Mr. Carver)** Mr. Martinez, let's move
25 to Count 12. Now, first of all let's see if we're on

1 the same page about the issue.

2 The issue here is that MCI wants directory
3 information from BellSouth for independent companies,
4 and BellSouth's position is that it cannot give you
5 that information without the consent of those carriers
6 because of its contractual obligation. And there are
7 certain carriers that will not give consent to provide
8 that information to MCI. I know that's kind of long,
9 but is that your understanding of the situation?

10 **A** Yes. I believe that's -- I believe that's
11 correct.

12 **Q** Let's assume, and I don't -- well, there's a
13 particular carrier, we won't get into particular
14 companies -- but let's just say there's a carrier that
15 forbids us to give you their information. Do you have
16 any reason to believe that we can go against their
17 wishes and provide that information to you without
18 breaching our contract with them?

19 **A** Yes. As you know, that our opinion is that
20 the Act supersedes the contracts. The Act is the law.
21 The Act basically says that all LECs -- it doesn't
22 restrict to ILECs. It says all LECs must provide this
23 information.

24 **Q** Let's take it one step at a time. Without
25 getting into the Act, let's assume we're just talking

1 about the contract. Do you have any reason to believe
2 that doing that would not be a breach of the contract
3 based on the contract itself?

4 A Do I -- you always phrase these so I'm not
5 sure whether I'm supposed to answer yes or no.

6 Q Have you looked at these contracts?

7 A Which?

8 Q The contracts between BellSouth and
9 third-party carriers whose information you want?

10 A No. From the ITC perspective, those were
11 deemed by you to be confidential, so I've never seen
12 the provisions of those. The AT&T one, I have not had
13 a chance to review and I know you did, in your
14 deposition, point to -- there I went, mentioned that.

15 Q Let me ask it this way. I think in his
16 testimony I think Mr. Stacy says we're prohibited
17 under these contracts from giving that information.
18 Do you have any reason to believe that's not true?

19 A No. In fact, if one looks at your SGAT,
20 your SGAT perpetuates that. It has a simple little
21 statement in there that says you will treat this
22 information as confidential. So it's to perpetuity
23 of this confidentiality that bothers us.

24 Q Now, to back up a little bit, again, MCI's
25 position is even if we're contractually bound not to

1 give you the information, you think the Act
2 nevertheless allows us to do it?

3 **A** The Act allows you to do one of two things.
4 The Act is one of parity. If that data were not in
5 your database, then we would not have any right to
6 that data. So you really have two options. One is to
7 remove the data so that neither of us have access --
8 not very customer oriented -- or you can provide the
9 data.

10 **Q** Okay. Earlier when I asked you if we
11 provided this it was a breach of contract, I believe
12 you testified no, it isn't, because the Act supersedes
13 the contract, correct?

14 **A** That's correct.

15 **Q** So it's your position that regardless of
16 what the contract says, the Act allows us to give you
17 that information even if it would otherwise be a
18 breach of the contract?

19 **A** It allows you to give it to us. It also
20 allows you to take it out of your database.

21 **Q** Okay. So you're suggesting that one
22 alternative is we could simply take those companies
23 that won't provide the information and take them out
24 of our database and not have their directory
25 information in it at all?

1 **A** Yes. We would be at parity.

2 **Q** Wouldn't that breach our interconnection
3 agreements with them?

4 **A** Again, I don't believe so because the Act
5 again is clear. I believe that with your market
6 presence, your dominance in the market, no lesser LEC
7 would want that to happen. So I believe that they
8 would agree to it.

9 **Q** And you consider AT&T to be a lesser LEC?

10 **A** In the local arena, yes.

11 **Q** MCI could get this information directly from
12 the independent companies, could they not?

13 **A** Yes, we can.

14 **Q** You, in fact, have made attempts to do so,
15 have you not?

16 **A** Yes, we have.

17 **MR. CARVER:** Thank you. That's all I have.

18 **CHAIRMAN JOHNSON:** All right. Staff.

19 **CROSS EXAMINATION**

20 **BY MS. BEDELL:**

21 **Q** So I don't lose the train of thought where
22 we were, what has been the result of the attempts to
23 get the listings from the other companies?

24 **A** The status of Florida is that we now have
25 all of the independent telephone companies.

1 Unfortunately, we do not have the CLECs. So we are in
2 the throws of trying to get those people to understand
3 their obligations under the Act. And as more CLECs
4 come on obviously it just perpetuates that.

5 Q You have contacted them and they have
6 refused to provide the information?

7 A I'm not sure whether -- I know that the
8 individual who has responsibility for the database
9 was, in fact, going to be contacting the four carriers
10 that had been identified. Now whether that contact
11 has been made, I don't know. I do know that we have
12 reached agreement with all of the independents in the
13 state, either through Sprint or through BellSouth or
14 through GTE.

15 COMMISSIONER CLARK: I'm sorry. You said
16 the CLECs were not providing the information?

17 WITNESS MARTINEZ: Yes. The CLECs'
18 information is also under this restriction.

19 COMMISSIONER CLARK: Are you a CLEC?

20 WITNESS MARTINEZ: Yes.

21 COMMISSIONER CLARK: Do you restrict

22 access --

23 WITNESS MARTINEZ: Absolutely not. In fact,
24 a story: When we first bought under Metro, or started
25 receiving the information, we noticed that Metro's

1 customers were not there. And we called BellSouth and
2 they said, "No. Your agreement says you'd have to
3 give us a waiver." And we said, "Not -- no way does
4 our contract restrict in any way, shape or form your
5 providing that data to anybody. We consider that to
6 be the repository of data where all CLECs should have
7 the opportunity to go and obtain it from their
8 database or DADS database, the dominant carrier in
9 that market." So at that point in time we, in fact,
10 wrote them a letter to that extent and they started
11 giving us the Metro information.

12 Q (By Ms. Bedell) I'm going to take you back
13 all the way to the SAG data in Issue 2. I believe if
14 I understood your testimony correctly, you made the
15 statement that the SAG data should be provided at no
16 cost.

17 A That is correct.

18 Q And what is the basis for your statement
19 that it should be provided at no cost?

20 A There's two. The first is there's a
21 parallel to that, and that's the MSAG, that's master
22 street access guide that's used for 911. That was in
23 fact turned over within the 30-day period at no cost
24 to MCI. The SAG should have been in the same
25 category. If you then go and look at the price list,

1 had there been anticipated a price for an unbundled
2 network element or a data business like that, it would
3 have been listed in the price list. There is no such
4 price list. There was never anticipated, never
5 discussion about price with respect to either of those
6 databases.

7 Q I have a question about T-1s.

8 A T-1s.

9 Q Is it your understanding that T-1s, as a
10 network element, are available under the
11 Interconnection Agreement?

12 A Yes.

13 Q And is it also your understanding that this
14 Commission sets the rates for the use of the T-1s?

15 A Yes.

16 Q Can you tell me if MCImetro has attempted to
17 order 4-wire loop and T-1 combinations from BellSouth?

18 A Yes, they have.

19 Q And were these combinations provided?

20 A No, they were not.

21 Q And can you explain to us what your
22 understanding of the reason why they were not
23 provided?

24 A It's my understanding that BellSouth viewed
25 the combinations to replicate another service that

1 they had called, I believe, MegaLink, which is a
2 service that's out of their general exchange tariff.
3 Our view of this service that we are asking for is
4 that of a digital loop. If it happens to somehow or
5 another look like a DS-1, all DS-1s look alike. The
6 difference in this one is that it is, in fact, a
7 service that would be for whom our customers --
8 private branch exchange, key system or whatever -- to
9 our switch to draw dial tone. To me that's a loop and
10 it's just simply the most cost-effective way to
11 provide, if you would, bulk loops to serve a customer.

12 Q And I have one question about the branding
13 related to the soft dial. What is your understanding
14 of competitively neutral? What is it that you would
15 expect? I think you had this question earlier, but
16 what is it you would expect to hear?

17 A Our anticipation would be that either no
18 company is named specifically or all companies are
19 named specifically. And obviously the latter would be
20 somewhat burdensome on any recording device, so it
21 would seem to me that the only option available really
22 is to have no company named specifically. And that it
23 simply says contact your local service provider for
24 service.

25 Q Would it be correct what you would be

1 looking for in the soft dial would be the same as what
2 I believe has already been established by the FCC for
3 call completion and directory assistance service and
4 operator calls?

5 **A** I don't think I'm aware of -- this is FCC?

6 **Q** It is part of the rules. It's 51.613. It's
7 on the restrictions on resale. Let me just read this
8 to you and see if this would be what you would be
9 expecting. This is (c)(2), and this is for purposes
10 of this subpart, branding -- "Unbranding or rebranding
11 shall mean that the operator call completion or
12 directory assistance services are offered in such a
13 matter that an incumbent LECs brand-name or other
14 identifying information is not identified to
15 subscribers, or that such services are offered in such
16 a matter that identifies to subscribers the requesting
17 carrier's brand-name or other identifying
18 information."

19 **A** Yes.

20 **Q** Thank you.

21 **MS. BEDELL:** We don't have any other
22 questions.

23 **CHAIRMAN JOHNSON:** How much redirect will
24 you have?

25 **MR. MELSON:** Maybe two minutes.

1 **CHAIRMAN JOHNSON:** Commissioners, any other
2 questions?

3 **COMMISSIONER JACOBS:** I had a question
4 relating to the interface.

5 There's obviously some level of disparity in
6 you're being able to gain information through the LENS
7 and through the -- I think there was mention of an
8 electronic interface that comes through LENS. Are you
9 aware of that?

10 **WITNESS MARTINEZ:** Yes. I remember the
11 series of questions.

12 **COMMISSIONER JACOBS:** Okay. What is the
13 discrepancy that you receive by that level of
14 interface as opposed to OSS?

15 **WITNESS MARTINEZ:** Well -- and this is also
16 a question you might want to direct to Bryan Green
17 when he comes up, but it's a level of integration,
18 one, and the access method.

19 This is clear in the contract as far as our
20 discussions were; they provide us the data. The
21 reason that is there so that we can build our own
22 systems and create the types of integration that we
23 need without interference as information would come.

24 The use of an access media, while deemed to
25 be appropriate on an interim basis, was never deemed

1 to be appropriate on a long-term basis because it
2 would not have the kind of integration capabilities
3 that we would want. We would want to build as much
4 in-house as we possibly could.

5 **COMMISSIONER JACOBS:** How does it relate to
6 your competitiveness?

7 **WITNESS MARTINEZ:** I would assume that they
8 would want the same information.

9 **COMMISSIONER JACOBS:** No. How does that
10 impact on your ability to compete?

11 **WITNESS MARTINEZ:** Well, the need to
12 integration -- the need to integrate your ordering
13 process with what you exist -- your existing systems
14 themselves is a critical piece in just the flow of a
15 sales call to be able to just simply take the order,
16 go through and press a button and that order happens
17 and your records are billed for billing purposes on
18 your side. And a perfectly valid order is placed
19 through the proper gateway system into the -- in this
20 case BellSouth systems.

21 That requires information to do that. And
22 information -- one of the most critical information
23 pieces that you have in the writing of an order is to
24 get the address right. Probably the single most
25 occurring reject of an order is for the name and the

1 address not to match what is in a billing system of
2 the ILEC. It's just the nature of the beast.

3 In fact, the unfortunate circumstances, if
4 you were to spell their name wrong at the time you
5 took up your service, it becomes your official name in
6 their Bell records. You even could find yourself not
7 being able to make some changes.

8 It's an imperative item for order
9 correctness that requires that data. And the
10 integration of that in the back end makes it easier
11 for a new entrant like MCI if they do that integration
12 themselves. They control it. They have got the
13 database. They can work within their systems to allow
14 that information to exchange on a real-time basis.

15 **COMMISSIONER JACOBS:** Thank you.

16 **CHAIRMAN JOHNSON:** Redirect?

17 **MR. MELSON:** I think I've shortened it.

18 **REDIRECT EXAMINATION**

19 **BY MR. MELSON:**

20 **Q** I think there's two questions, Mr. Martinez.

21 First, with regard to operation support
22 systems prior to the time that you get to a permanent
23 electronic bonding solution, in that interim period of
24 time do the parity provisions in the contract still
25 apply?

1 **A** Yes.

2 **Q** You indicated that MCI is looking for
3 blockage reports on any measurable blockage on trunks
4 that fall into the four categories in your testimony.
5 Does MCI, the long distance carrier, get blockage
6 reports that include all measurable blockage?

7 **A** Yes.

8 **MR. MELSON:** That's all.

9 **COMMISSIONER CLARK:** Okay. Exhibits.

10 **MR. MELSON:** MCI moves Exhibit 2.

11 **CHAIRMAN JOHNSON:** Show it admitted without
12 objection.

13 **MR. CARVER:** No objection.

14 **CHAIRMAN JOHNSON:** Your exhibits.

15 Exhibit 3.

16 **MR. CARVER:** We would like to move in 3 and
17 I believe 4 will be provided, like to move that in,
18 and filing also -- actually I wouldn't have raised 5.
19 That was the request for the draft of the earlier
20 agreement. I don't think we have a number for that
21 yet, but if we could have that identified as No. 5 we
22 will provide that later.

23 **CHAIRMAN JOHNSON:** Let's go back to 4. I've
24 admitted 3 without objection. That was the
25 transcript. 4, is there any objection -- I know we

1 don't have the text yet. We could do it as a
2 late-filed and admit it later. If there's no
3 objection, I'll admit it.

4 **MR. MELSON:** Correct, no objection.

5 **CHAIRMAN JOHNSON:** No objection. So we'll
6 show that admitted. You already gave a copy to the
7 court reporter?

8 **MR. CARVER:** I haven't yet. We'll be able
9 to have copies probably as soon as lunch is over.

10 **CHAIRMAN JOHNSON:** 5 will be --

11 **MR. CARVER:** That will be the language from
12 an earlier draft of the contract between MCI and
13 BellSouth. I think the particular provision was
14 4.1.1.3.

15 **CHAIRMAN JOHNSON:** 4.1.1.3.

16 **MR. CARVER:** Yes, ma'am.

17 **CHAIRMAN JOHNSON:** I'll leave that as a
18 late-filed.

19 **MR. CARVER:** Yes, ma'am.

20 **CHAIRMAN JOHNSON:** Short title is "Language
21 from Earlier Draft Contract, Section 4.1.1.3."

22 **MR. MELSON:** Commissioner Johnson, could I
23 ask Mr. Carver, I have not look at that earlier draft.
24 Would it be possible to include all of Section 4.1.1
25 which appears to be just about three pages so that if

1 there are any subsections that interact we will have
2 them as well.

3 **MR. CARVER:** That's fine. No objection.

4 **CHAIRMAN JOHNSON:** So we're going to change
5 that to 4.1.1.

6 **COMMISSIONER CLARK:** That doesn't need to be
7 late-filed. You have that with you. You can go copy
8 and bring them, right?

9 **MR. CARVER:** That's true. I guess I should
10 say it's not going to be very late because we'll have
11 copies within a hour or so.

12 **CHAIRMAN JOHNSON:** Okay. Is there an
13 objection to admitting that?

14 **MR. MELSON:** No objection.

15 **CHAIRMAN JOHNSON:** We'll show that admitted.

16 (Exhibit 2, 3 and 4 received in evidence.)

17 (Exhibit 5 marked for identification and
18 received in evidence.)

19 **MR. MELSON:** May Mr. Martinez be excused?

20 **CHAIRMAN JOHNSON:** That's all of the
21 exhibits? Yes, you may be excused.

22 We're going to go ahead and take a lunch
23 break, 35 minutes. We'll start at quarter after 12.

24 (Transcript continues in sequence in
25 Volume 2.)