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August 21, 1998

Mrs. Blanca S. Bayó
Director, Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 971140-TP (Recombination Docket)

Dear Ms. Bayó:

Enclosed is an original and fifteen copies of BellSouth Telecommunication's Inc.'s Response to MCI Metro Access Transmission Services, Inc.'s Proposed "Amendment", which we ask that you file in the captioned matter.

A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return the copy to me. Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely,

Nancy B. White (re)
Nancy B. White

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Enclosures

cc: All parties of record
A. M. Lombardo
R. G. Beatty
William J. Ellenberg II

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**CERTIFICATE OF SERVICE
DOCKET NO. 971140-TP**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via Federal Express this 21st day of August, 1998 to the following:

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Atlanta, GA 30342

Nancy B. White (ke)
Nancy B. White

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

) Filed: August 21, 1998

**BELLSOUTH TELECOMMUNICATIONS, INC.'S
RESPONSE TO MCI's PROPOSED "AMENDMENT"**

BellSouth Telecommunications, Inc. ("BellSouth") respectfully submits this Response to MCI Metro Access Transmission Services, Inc.'s ("MCI") proposed "Amendment Number Two" to the BellSouth-MCI interconnection agreement. In support thereof, BellSouth states the following:

1. On June 12, 1998, the Florida Public Service Commission ("Commission") issued Order No. PSC-98-0810-FOF-TP ("Order"). The Order required the parties to jointly submit a written agreement memorializing and implementing the Order. On June 29, 1998, BellSouth filed a Motion for Reconsideration. On July 13, 1998, BellSouth filed a Motion for Extension of Time to File the Interconnection Agreement required by the Order until after the Motion for Reconsideration was resolved. On that same day, MCI filed a proposed "Amendment Number Two" to the BellSouth - MCI interconnection agreement. MCI's proposed amendment does not comport with the

Order's requirement that the parties jointly should submit the amendment. BellSouth refused to sign the proposed amendment for the following reasons.

2. Notwithstanding any suggestion to the contrary, MCI's proposed amendment does not "memorialize and implement" the Commission's decisions in its Order in this docket, one of the reasons BellSouth refused to execute it. MCI's claims that BellSouth has "frustrated" MCI and has insisted upon "the inclusion of additional language" not required by the Commission is nothing more than a smoke screen to cover MCI's unwillingness to make a serious effort to resolve the issues the parties have been directed to negotiate. (July 13, 1998 Letter from Richard Melson to Blanca S. Bayo).

3. Under the Commission's Order, MCI and BellSouth are obligated to "*negotiate* the price for those network elements combinations that recreate an existing BellSouth retail service, whether or not in existence at the time of MCI's order." (Order at p. 25) (emphasis added). Furthermore, the Commission directed that the parties "determine through *negotiation* what services provisioned through unbundled access, if any, do constitute the recreation of a BellSouth retail service." (*Id.* at 50).

4. These issues are complex as well as controversial, and it may very well be that MCI and BellSouth will be unable to resolve their differences through negotiations. However, BellSouth believes that the Commission wanted the parties to make a good faith effort to do so. Although not reflected in MCI's filing, the parties met one time for approximately 45 minutes to negotiate the services that recreate an incumbent local exchange carrier's retail services. Nevertheless, MCI is apparently

prepared to declare an impasse and has submitted a proposed amendment to that effect. BellSouth believes that the Commission expected more of the parties, and MCI should be expressly directed to negotiate in good faith the issues in the Commission's Order.¹

5. MCI's proposed amendment also is inconsistent with the Commission's ruling on the issue of switched access usage data. This issue concerned whether BellSouth must furnish switched access usage data to MCI. The Commission concluded that "BellSouth is obligated to do so under the terms of the agreement ... when MCI provides service using unbundled local switching." *Id.* at 27.

6. However, the language in MCI's proposed amendment is considerably broader. It purports to obligate BellSouth to provide MCI "with recorded usage data for all completed calls and billable events," without regard to whether such calls or events involve switched access usage data. Besides being inconsistent with the

¹ BellSouth believes that these negotiations will be significantly aided by the Commission's ruling on BellSouth's Motion for Reconsideration, thereby resolving the confusion between the Commission's discussion of migration of an existing BellSouth customer and the Commission's ultimate decisions on the combination of elements that recreate an existing BellSouth retail service. For this reason, BellSouth moved for an extension of time for the parties to file the interconnection agreement until after the Commission resolved the motion for reconsideration.

Commission's Order, MCI's proposed amendment cannot be reconciled with the testimony of MCI's own witness, Chip Parker:

Q. Allright. But just so I'm clear here, if whatever usage data MCI wants is unnecessary to bill interexchange carriers, then that question is not before -- or at least not encompassed within this particular issue. Is that your understanding?

A. Yes.

...

Q. (By Mr. Ross) To the extent that we have a dispute about usage data, the only issue before this Commission is the obligation of BellSouth to provide usage data so that MCI can bill interexchange carriers; is that correct?

A. Yes.

(Hearing Transcript, Vol. I at 59). Through its broadly worded amendment, BellSouth believes that MCI is attempting to obtain relief that MCI was not seeking on an issue that, by its own admission, was not even before this Commission.

7. For the foregoing reasons, the Commission should reject MCI's proposed amendment as being inconsistent with the Commission's Order and should direct the parties to negotiate in good faith and to file a written agreement that complies with the Commission's Order within 14 days after entry of an order resolving BellSouth's motion for reconsideration.

Respectfully submitted this 21st day of August, 1998.

BELLSOUTH TELECOMMUNICATIONS, INC.

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