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RECORDS AND
REPORTING

August 26, 1998

ORIGINAL

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

Re: Special Project No. 980000B-SP

Dear Ms. Bayó:

Enclosed is an original and fifteen copies of BellSouth Telecommunication's Inc.'s Reply Comments, 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.

Sincerely,

Nancy B. White
Nancy B. White (P/W)

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Enclosures

cc: A. M. Lombardo
R. G. Beatty
William J. Ellenberg II

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FPSC-RECORDS/REPORTING

ORIGINAL

IN RE: Access by Telecommunications) Special Project No.: 980000B-SP
 Companies to Customers in)
 Multi-Tenant Environments)
 _____) File Date: August 26, 1998

**BELLSOUTH TELECOMMUNICATIONS, INC.'s
REPLY COMMENTS**

COMES NOW, BellSouth Telecommunications, Inc. ("BellSouth") through counsel, and in response to the Positions and Comments made at the August 12, 1988 workshop, and contained in the proposed positions of the MTE Access Coalition, hereby files its Reply Comments. In support thereof, BellSouth states the following:

A. Areas of General or Conditional Agreement

1. Direct Access: Consistent with its first set of comments in this proceeding, BellSouth agrees in principle that tenants should have the opportunity to obtain telecommunications services from their carrier of choice. However, BellSouth conditions its agreement in two ways:

First, "direct access" must be defined as a tenant's ability to obtain service at a demarcation point within his/her discrete premises, consistent with Rule 25-4.0345, Florida Administrative Code. Any intervention by a third party nullifies the relevance of the modifying word, "direct". Demarcation at a Minimum Point Of Entry (MPOE) is not "direct access". It is simply "access", or more descriptively, "indirect access", since the carrier's service delivery to the end user hinges on the performance of a third party.

Second, equivalent terms and conditions should apply to equivalently positioned carriers. There is a difference, however, between Alternative Local Exchange Carriers ("ALECs") and Carriers of Last Resort ("COLRs") and this distinction must be recognized and addressed. COLRs have more obligations and less latitude than ALECs and, therefore, must be afforded direct access based upon terms and conditions contained in the COLRs' filed tariffs.

As BellSouth has previously pointed out, when a COLR is operating out of its franchised territory (that is, is acting as an ALEC), direct access should be granted on generally equal terms and conditions with other ALECs. For example, if BellSouth were to offer service in GTE's franchised territory in competition with GTE and other ALECs, then BellSouth and such ALECs should be granted direct access on generally equivalent terms and conditions. GTE's access rights and obligations would be in accordance with its filed tariffs.

BellSouth wishes to point out, however, that this should not be interpreted as restricting an ALEC's or owner's ability to negotiate individualized terms and conditions for occupation of the building since the value-added equation between owners and individual ALECs may vary considerably.

2. Commission's Authority: BellSouth agrees that, if the Florida Public Service Commission ("Commission") believes that its authority over access issues is unclear, it should obtain a clarification from the State Legislature. Formulating and implementing rules for direct access inevitably involves very detailed "nuts and bolts" issues which the PSC is well equipped to handle via

rulemaking proceedings. Thus, a broad statement of policy may be all that is needed from the Legislature to remove any concerns the Commission may have regarding its authority over access issues.

3. Definition Of Multi-Tenant Environment : BellSouth agrees that the definition of a multi-tenant environment should include residential, commercial, new and existing properties. Transient properties should not be excluded from this definition. BellSouth is often requested to provide service to transients at hotels, marinas, trailer parks and other such properties. Unless some valid reason for excluding transient properties is offered, it is BellSouth's position that such properties should be included in the definition of multi-tenant environment.

4. Scope Of Telecommunications Services: BellSouth agrees that all telecommunications services over which the Commission retains or acquires jurisdiction should be included in multi-tenant environment access. In addition, as BellSouth has stated in its earlier comments, there is no reason to preclude carriers from providing any services that are offered for lawful purposes once access is obtained to a MTE property.

5. Repair and Indemnification: BellSouth agrees that carriers should be responsible for property damages caused by the carrier; and that the carrier should indemnify the owner for damages and liability resulting from the carrier's installations.

B. AREAS OF DISAGREEMENT

1. Compensation For Multi-tenant Environment ("MTE") Access: COLR access must be differentiated from ALEC access. As BellSouth emphasized in its first set of comments, the terms and conditions for COLR access are contained in its filed tariffs which impose service rates and quality indices that are subject to scrutiny, approval and enforcement by the Commission. The same obligations do not apply to ALECs and, therefore, access terms and conditions should not be equivalent. ALECs have the freedom to refuse to serve a property *for any reason whatsoever*. COLRs do not, nor by definition, should they have the same freedom.

With regard to MTE access by non-COLR carriers, including BellSouth when operating out of its franchise area, access should be a matter of free market negotiations between the property owner, end user(s) and the carrier. Attempting to legislate fee levels for access in a scenario where all three parties bring widely variable values to the bargaining table is an incorrect and futile endeavor.

Furthermore, it is arguably inequitable to impose legislated negotiating constraints on property owners when ALECs are free to walk away from negotiations at any time, for any reason. One must question whether ALECs would be willing to accept "mandatory service provisioning" in situations where an owner agreed to accept predetermined access fees. Operating as an ALEC, BellSouth would not.

2. Responsibility For E911 Capability: BellSouth disagrees that the maintenance of E911 capability for each tenant in an MTE remains the serving carrier's responsibility. BellSouth's disagreement lies not in the principle that carriers must accommodate end users' ability to dial access 911 services, but rather in the fact that this statement is unconditioned in any way.

In its first set of comments, BellSouth explained several circumstances where a tenant's ability to access, and be located by, 911 emergency personnel could be jeopardized. Rather than reiterating comments already filed on this issue, BellSouth respectfully refers the Commission Staff and other parties to paragraph 2.G. in BellSouth's first filed set of comments.

C. OTHER ISSUES

1. Demarcation Point

Several parties have argued that the Commission should mandate a Minimum Point Of Entry ("MPOE") demarcation point for MTE properties. They further propose that any embedded wiring beyond the MPOE should become available to other parties at little or no cost.

Arguments for an MPOE demarcation point fail to address the consequences of such a move by the Commission. For example, there are components and aspects of the existing network at MTEs other than "wire". In order to meet the growing needs and demands of its customers, BellSouth's network in MTE environments has evolved to be very complex, including fiber optic cables, digital loop electronics, multiplexers, optical network units ("ONUs"),

batteries, rectifier bays, screened cables, digital loopback interfaces, central office power cables for ONUs, coaxial cables, digital cross-connect panels, alarm monitoring devices, lightning protectors. It is not simply a case of access to "wire". If a MPOE were to be established at an existing property, who will maintain ownership, control, records, maintenance and repair responsibilities for all cabling, wiring and equipment beyond the MPOE? Issues arise as to how contention for a limited resource (the cable, wiring and equipment) by multiple carriers will be administered and who will pay for and/or physically perform the work associated with rearranging existing cable, wire and equipment to the MPOE.

Parties arguing for an MPOE do not address who will be responsible for extending service from the MPOE to the end user, nor how any one carrier's activities will affect the technical performance of existing services carried over the same cables, wiring or equipment. The issue of who exactly is responsible for installing cable, wire and equipment beyond a MPOE demarcation point for new properties has not been considered and neither has the critical issue of who will have the authority and knowledge to decide what technology will be installed beyond a MPOE demarcation point for new properties. Proponents of an MPOE do not address the issue of who will upgrade the embedded facilities to accommodate one or more end user's need for high bandwidth, who an end user or the Commission will hold responsible if the cable, wire or equipment does not work, and who will fix the facilities in the event of a natural disaster. Can

incumbent local exchange carriers ("ILECs") effectively provide mandated resale if their responsibility ends at the MPOE; and the potential effects of MPOE on end users' address records in E911 data bases are additional issues that have not been addressed.

Other issues related to forced moves of existing demarcation points to demarcation points at the MPOE raise a multitude of issues such as jurisdiction, unconstitutional taking of property, ambiguous customer service commitments, and customer confusion. The serious questions and problems enumerated above do not have easy solutions. MPOE is *not* simply a matter of moving a demarc and handing over embedded "wire", as some ALECs have proposed. Moving to MPOE has the very real potential of seriously fragmenting and degrading the level of BellSouth's service responsibilities that the Commission, owners and end users have come to expect in the State of Florida.

The existing Commission demarcation point rule is not the problem; nor is the alleged inability of ALECs to access embedded BellSouth facilities. If a problem exists with ALECs' ability to install facilities at MTEs, the source of that problem more likely lies in the fact that some property owners today do not properly plan and install adequate support structures to accommodate multiple carriers. More effective planning and installation of support structures would solve several problems at once; specifically:

- (1) provide a means for each carrier to install its technology of choice;
- (2) eliminate the need for a carrier to alter its technologies to accommodate another carrier's technical requirements;
- (3) eliminate the need for rules (such as the existing STS rule) which forces ILECs to use another carrier's wiring;

- (4) eliminate any demarcation point issues since the owner, serving carrier, and end user can establish mutually agreeable demarcation points;
- (5) eliminate the fragmented service responsibilities inherent with MPOE demarcation;
- (6) allow media (wiring) technology changes by providing a means for carriers to remove and replace; and
- (7) eliminate property owners' worries and/or involvement in extending telecommunications services to end users.

GTE's comments made at the August 12 Workshop in favor of a MPOE demarcation was linked to a proposed accelerated (five year) amortization schedule which would allow GTE to quickly divest itself of all facilities at MTEs. BellSouth does not agree with GTE's plan. To the contrary, BellSouth is convinced that end users want carriers to provide single source, end-to-end responsibility and that the further fragmentation of responsibility that results with MPOE will only serve to further frustrate end users.

Some parties point to the purported success of MPOE in Texas; however, there is no evidence to indicate that end users are better served by MPOE demarcation. In states where BellSouth operates and where MPOE has occasionally been requested by owners, it has been BellSouth's experience that disjointed service responsibility and end user dissatisfaction have been the consistent, unfortunate result.

No valid arguments have been presented that demonstrate how end users will benefit from a mandated MPOE demarcation point rule. Added choice of carriers at residential MTEs can be more effectively implemented if owners effectively plan for multiple carrier support structures as is commonly done in

commercial buildings. The installation of multi-user conduits, trenches, riser sleeves, equipment closets, etc., is a reasonable course of action for property owners in this new environment. It is certainly not unreasonable to expect property owners who desire to provide their tenants the broadest possible choices of advanced telecommunications services to provide the necessary means by which such choices may be made available. Indeed, many property owners are today successfully addressing this situation.

2. Access to BellSouth's Wiring

Some parties inaccurately accused BellSouth of not allowing other carriers to access its embedded network facilities. No party however, was able to name a specific instance where BellSouth has refused to allow such access. On the contrary, BellSouth pointed out several instances where access to wiring from the entry point of a building to each tenant's premises (Network Terminating Wire) is, in fact, included in existing interconnection agreements with certain ALECs. The interconnection agreements referenced above are reciprocal. BellSouth itself has entered into agreements with ALECs for the use of their wiring. BellSouth has occasionally used this alternative when a property owner has prohibited BellSouth from installing its own wiring on the property. BellSouth's policy is to encourage owners to install structures which accommodate other carriers' wiring and, further, to share pathways and spaces with any other party.

In summary, the Commission's existing demarcation point rule serves the interests of end users. Mandated MPOE must be rejected on the grounds that it fails to promote benefits to end users.

Respectfully submitted this 26th day of August, 1998.

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