



# Public Service Commission

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## -M-E-M-O-R-A-N-D-U-M-

**DATE:** DECEMBER 7, 1998

**TO:** DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYÓ)

**FROM:** DIVISION OF LEGAL SERVICES (BEDELL) *CB*  
DIVISION OF COMMUNICATIONS (STAVANJA) *MUSSELWHITE* *RM*

**RE:** DOCKET NO. 980281-TP - COMPLAINT OF MCI METRO ACCESS TRANSMISSION SERVICES, INC. AGAINST BELL SOUTH TELECOMMUNICATIONS, INC. FOR BREACH OF APPROVED INTERCONNECTION AGREEMENT.

**AGENDA:** 12/15/98 - REGULAR AGENDA - POST HEARING DECISION - PARTICIPATION IS LIMITED TO COMMISSIONERS AND STAFF

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\LEG\WP\980281.RCM

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### CASE BACKGROUND

On February 23, 1998, MCI metro Access Transmission Services, Inc. (MCI) filed a complaint against BellSouth Telecommunications, Inc. (BST) for alleged violations of the Telecommunications Act of 1996, and for alleged breaches of the parties' Interconnection Agreement approved by this Commission on June 19, 1997. On March 16, 1998, BellSouth filed its answer and response to MCI's complaint.

On August 5, 1998, the Commission held a hearing in which it received testimony concerning MCI's claims that BST failed to perform under the terms of the agreement and the Act. Thereafter, by Order No. PSC-98-1484-FOF-TP, issued November 5, 1998, the Commission made its determination on the terms of the agreement and required BST to provide MCI with data and services pursuant to the agreement no later than December 5, 1998. On November 20, 1998, BST filed a timely Motion for Reconsideration, for Clarification

DOCUMENT NUMBER-DATE

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-PSC-RECORDS/REPORTING

DOCKET NO. 980281-TP  
DATE: December 7, 1998

and for Extension of Time on November 20, 1998. MCI timely filed its response on November 30, 1998. This recommendation addresses the pending motion.

**ISSUE 1:** Should the Motion for Reconsideration, for Clarification and for Extension of Time be granted?

**RECOMMENDATION:** The motion should be granted in part and denied in part. Reconsideration of the requirement to provide RSAG data and updates at no cost should be denied. Daily updates of RSAG should be clarified. An extension of time to provide RSAG should be granted. An extension of time to July, 1999, to provide due dates in the inquiry mode of LENS should be denied. An extension of time to February and March, 1999, for the automatic assignment of numbers and for providing vacant NXX codes should be granted. An extension of time to December 31, 1998, to provide FIDs and state validity information for USOCs should be granted. An extension of time to December 19, 1998, to provide the CSR schema and pricing information should be granted. An extension of time to December 19, 1998, to provide missed appointment and service jeopardy notification for resold services via EDI should be granted. An extension of time to August, 1999, to provide local number portability service jeopardy notifications via EDI should be denied. An extension of time to February 15, 1999, to provide FOCs on offnet T-1s should be granted, in part. Clarification on the provision of network blockage data should be provided. An extension of time to December 14, 1998, to provide network blockage data should be granted. An extension of time to December 14, 1998, to provide recorded usage data should be granted. BellSouth shall have until March 15, 1999, to be in full compliance with Order No. PSC-98-1484-FOF-TP, issued November 5, 1998. Failure to comply without consent from MCI will result in the initiation of show cause proceedings. **(BEDELL, STAVANJA, MUSSELWHITE)**

**STAFF ANALYSIS:** As stated in the Case Background BST filed a Motion for Reconsideration, for Clarification and for Extension of Time on November 20, 1998. MCI timely filed its response on November 30, 1998. This recommendation addresses each subject of BST's Motion separately.

#### REGIONAL STREET ADDRESS GUIDE (RSAG)

##### Reconsideration

BST requests reconsideration, clarification and an extension of time related to RSAG data. First, BST seeks reconsideration of the determination that the RSAG data and updates should be provided to MCI at no cost to MCI. BST argues that there is no basis or rationale for this decision and that it is contrary to Florida law and Section 252(d) of the Act. BST also argues that the decision

is also unreasonable because there is a cost involved. MCIm responds that the contract provides that BST will provide the data at no cost, just as the contract provides for Metropolitan Street Address Guide (MSAG) data at no cost. MCIm further argues that BST fails to explain how Florida law or Section 252(d) of the Act are violated by the contract terms.

Rule 25-22.060(1)(a), Florida Administrative Code, permits a party who is adversely affected by an order of the Commission to file a motion for reconsideration of that order. As argued in BST's Motion, the standard for determining whether reconsideration is appropriate is set forth in Diamond Cab Co. Of Miami v. King, 146 So. 2d 889, 891 (Fla. 1962). In Diamond Cab, the Florida Supreme Court declared that the purpose of a petition for reconsideration is to bring to an agency's attention a point of law or fact which it overlooked or failed to consider when it rendered its order. In Stewart Bonded Warehouse, Inc. v. Bevis, 294 So. 2d 315, 317 (Fla. 1974), the Court found that the granting of a petition for reconsideration should be based on specific factual matters set forth in the record and susceptible to review. Staff has applied this rationale in our review of BST's motion.

Staff recommends that the Commission has not overlooked or failed to consider any evidence. The evidence relied on was the contract itself. The terms of the contract clearly require BST to provide RSAG data and updates to MCIm. The contract is silent as to any cost associated with the provision of this data or any charge to MCIm for the provision of the data. Staff recognizes that there is a cost associated with generating the download and updates of the RSAG data; however, BST has failed to show that the Commission has overlooked any provision in the contract which provides for recovery of that cost. BST fails to cite the specific Florida law it relies on for the argument that it is guaranteed cost recovery even where it has not contracted for such recovery. Staff is not aware of any Florida law that is violated when the parties to an interconnection agreement contract for the provision of certain data without including a provision for the related cost. BST also relies on Section 252(d) of the Act as grounds for reconsideration. Section 252(d) provides for pricing standards in arbitration proceedings. This is not an arbitration proceeding; it is a contract enforcement proceeding. We are not aware of any provision in the Act that guarantees BST entitlement to costs well after a contract became effective where no such costs were agreed to by the parties and just because an enforcement action was brought against it. Therefore, staff recommends that BST's Motion for Reconsideration on the issue of costs for providing RSAG data and updates should be denied. Staff cannot find any fact that has

been overlooked or that the Commission has failed to consider. Staff has not found any law that is contrary to the decision, nor do we believe that the requirement to provide the data at no cost to MCI is unreasonable where MSAG data, as an example, has been contracted to be provided, and is provided, at no cost.

#### Clarification

BST seeks clarification of that part of the Order requiring updates to the RSAG data on a daily basis. BST states that it provides itself RSAG updates within 24 hours of a change being made. BST wants to clarify that it will provide daily updates by sending MCI the entire RSAG download daily. MCI argues that the request for clarification is itself unclear; first, because it is not clear why BST would send updates to itself and second, because it is hard to believe that when it does transmit RSAG changes to itself that BST downloads the entire database.

Staff recommends granting the request for clarification. Staff also recommends that the clarification should reaffirm that the RSAG data updates should be provided within the same time frames and in the same manner that BST provides to itself. Staff agrees with MCI that it seems unlikely that BST sends itself an entire database download everyday to capture changes in the RSAG database. Further, the parties' agreement requires BST to provide updates subsequent to the initial database download, not additional daily downloads of the entire database. Therefore, staff recommends that BST should provide MCI with daily updates to the RSAG database in the same time frames that BST provides updates to itself.

#### Extension of Time

BST requests an extension of time of thirty days from BST's receipt of MCI's specifications as to subsets to provide the download of the RSAG data and updates. The purpose of this extension is to allow time for the parties to negotiate the subsets of data to be delivered to MCI and to allow for a reasonable period of time for implementation. MCI does not object to this extension of time. Staff recommends that this request for extension of time is reasonable and should be granted.

#### DUE DATE CALCULATION

By Order No. PSC-98-1484-FOF-TP, BST was required to provide to MCI the ability to calculate due dates for unbundled network elements (UNEs) in the inquiry mode of the Local Exchange

Navigational System (LENS) by December 5, 1998. BST requests an extension of time to July, 1999, to provide the due date calculation for UNEs in the Telecommunications Access Gateway (TAG) interface which will have LENS capabilities. BST explains that the extension of time is necessary because of the complexity of the work, because there is no retail analog, and because of the prioritization of modifications to BST's OSS systems. MCIm argues that this request is an attempt by BST to comply at its leisure and to limit the scope of the Order by promising to provide due date calculations for UNEs in TAG and LENS, but not in EDI TCP/IP/SSL3 which is the mode MCI intends to use as its pre-ordering interface once it becomes available.

Staff recommends denying BST's request for an extension of time. BST's Witness Stacey testified that an electronic due date calculation function in the inquiry mode of LENS should be available by December 30, 1998. BST made due date calculations for resold services available in the inquiry mode of LENS on November 14, 1998. The Commission also ordered BST to provide MCIm with a due date calculation function for UNEs in LENS. BST has not explained why the UNEs function cannot be timely implemented nor has BST explained why MCIm must wait until the TAG interface is developed in order to be able to calculate due dates for UNEs. As MCIm notes in its response, the TAG interface is not even an interface MCIm plans to use when the national standard interfaces are developed. Staff believes that BST has failed to sufficiently justify an extension of time for the due date calculation for UNEs. Therefore, staff recommends denying BST's request for an extension of time.

#### NUMBER RESERVATION

BST requested an extension of time until February, 1999, to provide automatic telephone number assignment in LENS and an extension until March, 1999, to provide vacant NXX codes in TAG. MCIm has no objection to this request. Staff believes the request is reasonable and recommends that it be granted.

#### UNIVERSAL ORDER CODES (USOCs)

BST requests an extension until the end of December within which to provide Field Identifiers and state validity information in the same comma-spaces value format that BST provides to MCIm for USOCs. MCIm does not object to this request. Staff believes this request is reasonable and recommends that it should be granted.

CUSTOMER SERVICE RECORD (CSR) INFORMATION

BST requests an extension of time until December 19, 1998, within which to provide pricing information on CSRs and a schema of the CSR. MCIm has no objection to this request. Staff believes this request is reasonable and recommends that it be granted.

JEOPARDY NOTIFICATION

BST requests an extension of time until December 19, 1998, within which to provide service jeopardy notifications for resold services and UNES. MCIm does not object to the extension of time to December 19, 1998, for the provision of service jeopardy notification for resold services and UNES. Staff recommends that the request for an extension of time to December 19, 1998, for the provision of service jeopardy notification for resold services and UNES is reasonable and should be granted.

BST also requests an extension of time until August, 1999, within which to make local number portability (LNP) service jeopardy notification available. As basis for its request BST asserts that the additional time is needed because of the relatively low volumes of such jeopardies and the prioritization of various modifications to BST's OSS systems. MCIm objects to the extension of time to August, 1999. MCIm argues that BST has an obligation to provide the LNP service jeopardy notifications now and that BST's request to the Commission to accommodate BST's timetables and priorities should be denied. MCIm further argues that it is not necessary for BST to wait until LNP service jeopardy notification is available in EDI in order to provide such notification. MCIm also states that the delay in providing this information is of particular concern because BST already has LNP in place in its Metropolitan Statistical Areas (MSAs).

Staff recommends that the extension of time to August, 1999, to provide LNP service jeopardy notifications is not reasonable and should be denied. With LNP available in the MSAs, it is unfair and unreasonable for BST to delay the provision of service jeopardy notification for LNP. Staff recognizes that it may be August until LNP service jeopardy notification is available through EDI; however, staff believes BST has an obligation under its contract to provide the LNP service jeopardy notification to MCIm in the meantime. BST has not provided a sufficient basis for a delay of eight months for a service that has already been contracted for. For these reasons, staff recommends the denial of BST's request for an extension of time.

FIRM ORDER CONFIRMATIONS (FOCs)

BST requests an extension of time until February 15, 1999, to provide FOCs on off-net T-1s within 24 hours of a complete and accurate Access Service Request (ASR) faxed to the ICSC. The basis for this request for an extension of time is BST's asserted need to insure the identification and implementation of process changes and the need to train personnel on those changes. MCIIm argues that BST should be required to provide "true" FOCs without any further delay. Staff recommends granting the request for extension of time. However, it denies BST's request to the extent that what BST is asking to provide to MCIIm as an FOC in February does not appear to be a true FOC. Based on BST's motion, it appears to staff that BST is only attempting to provide a date that it believes it can complete the order. BST states that the FOC will contain a commitment date "based on BellSouth's standard intervals for unbundled network elements, *without verification of available resources or facilities.*" (BST Motion at 8, emphasis added) However, the agreement between the parties requires BST to provide an FOC containing the following:

The FOC shall contain on a per line and/or trunk basis, where applicable, and enumeration of MCIIm's ordered unbundled Network Elements (and the specific BellSouth naming convention that applies to that element or combination), features, functions, resale services, options, physical interconnection, quantity, and *BellSouth Committed Due Date for order completion.* (Agreement, Attachment VIII, Section 2.2.6.1, emphasis added)

It is clear to staff that the agreement requires BST to provide a FOC with a committed order completion due date for a MCIIm order. Staff believes that a FOC without a due date commitment is of no use to MCIIm. In addition, staff believes that MCIIm cannot inform the customer when the service can be provided without firm commitment of order completion by BST.

Therefore, staff recommends that the Commission grant the extension of time to February, 1999; however, the resulting FOC capability must comply with the terms of the agreement cited above.

OTHER EXTENSIONS OF TIME REQUESTED

BST also requested extensions of time to December 15, 1998, for Network Blockage Information, and to December 31, 1998, for Recorded Usage Data. MCI does not object to these extensions. Staff believes that these extensions are reasonable and should be granted.

CONCLUSION

In conclusion, staff recommends that BST's Motion for Reconsideration, for Clarification and for Extension of Time should be granted in part and denied in part. Reconsideration of the requirement to provide RSAG data and updates at no cost should be denied. Daily updates of RSAG should be clarified. An extension of time to provide RSAG should be granted. An extension of time to July, 1999, to provide due dates in the inquiry mode of LENS should be denied. An extension of time to February and March, 1999, for the automatic assignment of numbers and for providing vacant NXX codes should be granted. An extension of time to December 31, 1998, to provide FIDs and state validity information for USOCs should be granted. An extension of time to December 19, 1998, to provide the CSR schema and pricing information should be granted. An extension of time to December 19, 1998, to provide missed appointment and service jeopardy notification for resold services via EDI should be granted. An extension of time to August, 1999, to provide local number portability service jeopardy notifications via EDI should be denied. An extension of time to February 15, 1999, to provide FOCs on offnet T-1s should be granted, in part. Clarification on the provision of network blockage data should be provided. An extension of time to December 14, 1998, to provide network blockage data should be granted. An extension of time to December 14, 1998, to provide recorded usage data should be granted. BellSouth shall have until March 15, 1999, to be in full compliance with Order No. PSC-98-1484-FOF-TP, issued November 5, 1998. Failure to comply without consent from MCI will result in the initiation of show cause proceedings.

Staff also recommends that these extensions of time should be considered firm deadlines for compliance, not goals.

DOCKET NO. 980281-TP  
DATE: December 7, 1998

**ISSUE 2:** Should this docket be closed?

**RECOMMENDATION:** No. This docket should remain open until BST complies with the requirements of Order No. PSC-98-1484-FOF-TP.  
**(BEDELL)**

**STAFF ANALYSIS:** This docket should remain open until BST complies with the requirements of Order No. PSC-98-1484-FOF-TP.