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November 29, 1999

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

Re: Docket No. 990649-TP

Dear Mrs. Bayo:

Enclosed for filing in the above-referenced docket are an original and fifteen (15) copies of AT&T Communications of the Southern States, Inc.'s and MCI WorldCom, Inc.'s Response to the Joint Motion of GTE Florida Incorporated and BellSouth Telecommunications, Inc. to Strike the Surrebuttal Testimony of Don J. Wood.

Copies of the foregoing are being served on all parties of record in accordance with the attached Certificate of Service.

Thank you for your assistance with this matter.

Yours truly,

Tracy Hatch
Tracy Hatch

- AFA _____
- APP _____
- CAF _____
- CMU Delida
- CTR _____
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CERTIFICATE OF SERVICE
DOCKET 990649-TP

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished via
U.S. Mail to the following parties of record on this 29th day of November, 1999:

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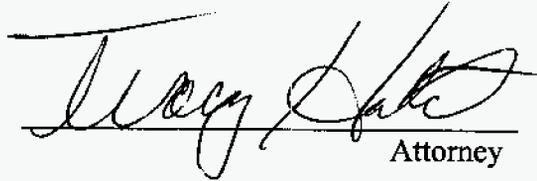
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BEFORE THE PUBLIC SERVICE COMMISSION

In re: Investigation into Pricing of)
Unbundled Network Elements)
_____)

DOCKET NO. 990649-TP

Filed: November 29, 1999

AT&T'S AND MCI WORLDCOM'S RESPONSE

TO

**THE JOINT MOTION OF GTE FLORIDA INCORPORATED AND
BELLSOUTH TELECOMMUNICATIONS, INC. TO STRIKE THE
SURREBUTTAL TESTIMONY OF DON J. WOOD**

MCI WorldCom, Inc, (MCI WorldCom) and AT&T Communications of the Southern States, Inc. (AT&T) hereby respond to the Joint Motion of GTE Florida Incorporated (GTE) and BellSouth Telecommunications, Inc. (BellSouth) to Strike the surrebuttal testimony of Don J. Wood on Behalf of AT&T Communications of the Southern States, Inc. and MCI WorldCom Inc. AT&T and MCI WorldCom request the Commission to deny the joint motion to strike on the basis that the testimony of Mr. Wood is appropriate surrebuttal and rests well within the scope of the rebuttal testimony filed in this proceeding.

As the Joint movants point out, the purpose of surrebuttal testimony is to allow parties to respond to other parties rebuttal testimony. The test for appropriate surrebuttal is whether the testimony falls within the scope of the rebuttal testimony upon which it comments, specifically, whether the testimony responds to a matter raised in the rebuttal. Mr. Wood's surrebuttal testimony clearly meets this test.

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The essential issue raised by the motion to strike is what is the scope of surrebuttal testimony. Surrebuttal is constrained by the scope of the rebuttal testimony to which it is directed. Appropriate surrebuttal testimony can only respond to and comment on matters raised in the rebuttal testimony; it can not raise entirely new matters not responsive to the rebuttal. If the surrebuttal responds to matters raised by the rebuttal testimony, it must be allowed to stand absent some other evidentiary objection¹. Mr. Wood's surrebuttal testimony passes this test.

Although GTE and BellSouth raise a number of arguments regarding the nature of Mr. Wood's testimony, all of which fail to address the appropriate test for surrebuttal, a review of Mr. Wood's surrebuttal testimony and the rebuttal testimony filed by BellSouth and GTE, shows that Mr. Wood's surrebuttal falls well within the scope of the rebuttal testimony. Attached as Exhibit A is a detailed list correlating Mr. Wood's testimony to the portions of witness' testimony which it rebuts. Accordingly, it is appropriate surrebuttal and the motion to strike should be denied on this basis alone.

GTE and BellSouth first argue that the surrebuttal is improper because it expands on and adds detail to Dr. Ankum's testimony. This argument is specious. The fact that Mr. Wood's surrebuttal testimony adds detail and examples, taken in conjunction with Dr. Ankum's testimony, provides more or better information is irrelevant to the test. The test is whether the surrebuttal is responsive to the rebuttal. The answer is clear that it is as shown in Exhibit A.

Joint movants' second argument that it is not legitimate to respond to the rebuttal testimony of the Joint movants with surrebuttal that takes a different view than the rebuttal is quite puzzling. The very essence of rebuttal testimony or in this case surrebuttal testimony is that a party does not agree with the testimony under review. This disagreement necessarily will reflect a "different view" and the associated surrebuttal testimony must of necessity reflect this different view. If the views were not different, there would be no reason to respond with surrebuttal.

BellSouth's and GTE's third argument that Mr. Wood's exhibit, the HAI Inputs Portfolio, is not responsive to any testimony and is improper direct, mischaracterizes the purpose of the exhibit. Mr. Wood clearly states that the exhibit is proffered simply as an example of the nature and extent of the documentation that should accompany a cost model. The exhibit is offered for no other purpose than illustration of what should be expected in terms of documentation in a cost model. Contrary to Joint movants' claims, the proffer of the exhibit as an illustrative example of a model's documentation does not introduce or submit for consideration the HAI model. Indeed, the model has not been presented here. Nothing in Mr. Wood's testimony implies or suggests any purpose other than an illustration of the appropriate documentation of a cost model.

Joint movants' fourth argument that the surrebuttal testimony has "curtailed the Joint movants' ability to fashion meaningful discovery in response to AT&T's and MCI's newly disclosed positions" is truly specious. Joint movants have had Mr. Wood's testimony since it was filed on October 15, 1999. Joint movants fail to explain how, in

¹ The principal such objection would be relevance. BellSouth and GTE have not, nor could they, argue that the surrebuttal testimony of Mr. Wood is not relevant to the proceeding.

the approximately five weeks since the testimony was filed, Joint movants have not been able to serve any discovery requests on AT&T or MCI WorldCom. Neither do they explain how their failure to conduct discovery somehow amounts to a failure to play fair.

The Joint movants' fifth argument, that AT&T and MCI WorldCom should have filed their surrebuttal testimony as part of their direct case, again misses the mark. Again, the test is whether the surrebuttal testimony is within the scope of the rebuttal testimony. The issue is not whether the information could possibly have been included in direct testimony. AT&T and MCI WorldCom again note that Mr. Wood's surrebuttal testimony is within the proper scope of the rebuttal as shown in Exhibit A.

Joint movants' sixth argument that they will have no opportunity to respond to Mr. Wood's surrebuttal and to submit rebuttal evidence as required by Section 120.57(1)(b)(4), Florida Statutes, is misplaced. To the extent that Joint movants' will not have an opportunity to submit sur-surrebuttal testimony, they are correct. This, however, is the inevitable result of a testimony filing cycle; not a violation of Chapter 120. To the extent that any party disagrees with any statement in some other party's surrebuttal, there will be no opportunity to file additional testimony. All parties are treated equally in this respect. A testimony filing cycle must end at some point. To do otherwise would lead to a never-ending stream of rebuttal to rebuttal to rebuttal *ad nauseum*. Joint movants will have ample opportunity to cross-examine and submit additional exhibits during the hearing in this proceeding, the same opportunity all other parties will have to address other parties surrebuttal.

GTE and BellSouth note in their seventh argument that there was an informal conference with Staff where the Staff voiced concern over the lack of detail in the then-

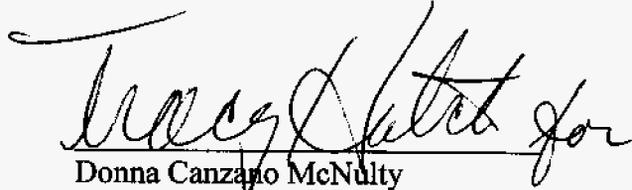
filed testimony and solicited the parties to provide more detail in their surrebuttal filings. AT&T and MCI WorldCom agree that the Staff did not intend to encourage anything contrary to law nor did they. To the extent that Staff desired more detail in the filings, Mr. Wood has attempted to supply appropriate detail within the scope of his surrebuttal testimony. Simply supplying more detail can not transmute the testimony from appropriate to inappropriate. The level of detail is irrelevant.

The Joint movants' eighth argument, that staff discovery is the more appropriate manner to elicit the information in Mr. Wood's testimony, makes little sense. How Staff obtains the information is completely irrelevant to the test for appropriate surrebuttal.

BellSouth's and GTE's final argument, that the HAI Inputs Portfolio is improper because it contravenes Staff's admonitions against submissions of specific input values in this phase of proceeding, again mischaracterizes the purpose of the exhibit. Indeed, the HAI Inputs Portfolio simply illustrates the nature and extent of the documentation needed to substantiate a cost model. Mr. Wood's testimony is absolutely clear on this point. No other purpose can be suggested or implied from his testimony.

BellSouth's and GTE's arguments have failed to show that the surrebuttal testimony of Mr. Don Wood is not appropriate surrebuttal testimony. As shown, the testimony is clearly responsive to the rebuttal testimony of BellSouth's and GTE's witnesses. Accordingly, AT&T and MCI WorldCom respectfully request that the Joint Motion to Strike be denied.

Respectfully submitted, November 29, 1999.



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EXHIBIT A

Page 4, line 17 through Page 8, line 6 of Mr. Wood's surrebuttal testimony addresses the conceptually correct answer to be provided by a UNE cost study produced by the ILECs. This testimony is directly responsive to the rebuttal testimony of the following ILEC witnesses:

Tucek, Page 7 lines 2-18.
Caldwell, Page 2 lines 17-18.
Caldwell, Page 4 lines 6-9.

Page 8, line 8 through Page 11, line 5 of Mr. Wood's surrebuttal testimony addresses the issue of how consumer benefits depend directly on UNE costing and pricing. This testimony is directly responsive to the rebuttal testimony of the following ILEC witnesses:

Trimble, Page 8 line 9 through Page 10, line 7.
Hendrix, Page 8 lines 8-16.
Emmerson, Page 6 line 9 through Page 7, line 17.
Varner, Page 6 lines 4-14.

Page 11, line 7 through Page 18, line 13 of Mr. Wood's surrebuttal testimony explains why embedded characteristics of the ILEC networks and operations cannot be used as a starting point for the calculation of economic costs. This testimony is directly responsive to the rebuttal testimony of the following ILEC witnesses:

Tucek, Page 7 lines 2-18.
Emmerson, Page 2 line 21 through Page 3 line 15.
Caldwell, Page 2 line 2 through Page 3 line 20.
Caldwell, Page 4 line 13 through Page 5 line 24.
Caldwell, Page 7 lines 2-4.
Caldwell, Page 8, line 24 through Page 10, line 7.
Caldwell, Page 10 line 25 through Page 12, line 10.
Caldwell, Page 14 line 19 through Page 15, line 19.

Page 18, line 15 through Page 20, line 7 and Page 21, line 14 through Page 23, line 2 of Mr. Wood's surrebuttal testimony addresses the ILEC claim that UNE rates should or must recover "actual" costs. This testimony is directly responsive to the rebuttal testimony of the following ILEC witnesses:

Trimble, Page 15 lines 20-25.
Trimble, Page 17 lines 11-15.
Daone, Page 3 lines 4-23.
Emmerson, Page 4 line 14 through Page 5, line 4.
Varner, Page 10 lines 14-24.

Page 20, line 9 through Page 21, line 12 of Mr. Wood's surrebuttal testimony explains why the ILEC's carrier of last resort obligations should not impact the way in which UNEs are costed and priced. This testimony is directly responsive to the rebuttal testimony of the following ILEC witnesses:

Trimble Page 13 lines 15-22.
Daone, Page 2 line 16 through Page 3, line 2.
Daone, Page 5 lines 10-16.
Daone, Page 9 line 11 through Page 10, line 11.
Hendrix, Page 5 lines 4-6.

Page 21, line 14 through page 23, line 2 of Mr. Wood's surrebuttal testimony addresses the issue of ILEC embedded cost recovery in UNE rates. This testimony is directly responsive to the rebuttal testimony of the following ILEC witnesses:

Varner, Page 6 line 16 Page 7 line 25.
Hendrix, Page 7 line 18 through Page 8 line 18.

Page 23 line 9 through Page 25 line 8 of Mr. Wood's surrebuttal testimony describe the functions that cost models must perform, the criteria that must be applied, how the results should be assessed, and the how the cost studies should be open for review. This testimony is directly responsive to the rebuttal testimony of the following ILEC witnesses:

Caldwell, Page 2 line 7 through Page 13 line 11.
Caldwell, Page 15 line 24 through Page 20 line 15.
Emmerson, Page 2 line 1 through Page 3 line 15.
Tucek, Page 2 lines 2-20.
Varner, Page 2 line 9 through Page 4 line 20.
Hendrix, Page 2 line 5 through Page 5 line 9.
Daone, Page 2 line 16 through Page 3 line 23.
Trimble, Page 2 line 24 through Page 6 line 13.
Trimble, Page 9 line 9 through Page 10 line 7.

Page 26 line 10 through Page 28 line 9 of Mr. Wood's surrebuttal testimony describes the need for ILEC cost models to accurately calculate the cost of UNEs provided in combination. This testimony is directly responsive to the rebuttal testimony of the following ILEC witnesses:

Varner, Page 4 line 22 through Page 6 line 22.
Varner, Page 9 line 11 through Page 11 line 16.
Hendrix, Page 7 line 18 through Page 8 line 18.
Trimble, Page 20 line 1 through Page 21 line 17.

Page 28 line 11 through Page 35 line 17 of Mr. Wood's surrebuttal testimony describe the basic steps that a cost model should perform in order to develop TELRIC costs that are not compromised by characteristics of the ILEC's embedded cost structure. This testimony is directly responsive to the rebuttal testimony of the following ILEC witnesses:

Caldwell, Page 2 line 20 through Page 5 line 24.
Emmerson Page 2 line 21 through Page 3 line 15.
Tucek, Page 2 line 2 through Page 3 line 12.

Page 35 line 19 through Page 59 line 7 of Mr. Wood's surrebuttal testimony describes how conceptually correct inputs to a cost study should be identified and developed. This testimony is directly responsive to rebuttal testimony of the following ILEC witnesses:

Tucek, Page 7 line 2 through Page 8 line 17.
Daone, Page 4 lines 1-23.
Trimble, Page 26 line 20 through Page 27 line 10.
Caldwell, Page 7 line 18 through Page 8 line 22.
Caldwell, Page 10 lines 3-7.
Caldwell, Page 13 lines 1-11.