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March 10, 2000

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ORIGINAL

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

Re: MCImetro Complaint -- Docket No. 980281-TP

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RECORDS AND REPORTING

Dear Ms. Bayó:

Enclosed for filing on behalf of MCImetro Access Transmission Services, LLC are the original and fifteen copies of its Motion To Enforce Commission Orders.

By copy of this letter, this document is being furnished to the parties on the attached service list.

Very truly yours,

Richard D. Melson

RDM/kcg

Enclosures

cc: Parties of Record

- AFA
- APP
- CAF
- CMU
- CTR
- EAG
- LEG
- MAS
- OPC
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FPSC-RECORDS/REPORTING

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of MCImetro Access)
Transmission Services, LLC against) Docket No. 980281-TP
BellSouth Telecommunications, Inc.)
For Breach of Approved) Filed: March 10, 2000
Interconnection Agreement)

MCIMETRO ACCESS TRANSMISSION SERVICES, LLC's
MOTION TO ENFORCE COMMISSION ORDERS

MCImetro Access Transmission Services, LLC (MCIm) files this motion to request the Commission to enforce Order Nos. PSC-98-1484-FOF-TP and PSC-99-0081-FOF-TP in this docket and to direct BellSouth Telecommunications, Inc. (BellSouth) to provide a download of the agreed upon portion of the Regional Street Address Guide (RSAG) without requiring a license agreement.

1. In its Complaint against BellSouth filed on February 23, 1998, MCIm sought (among other things) a download of the RSAG that BellSouth was required to provide under the parties' Interconnection Agreement (Agreement). In its November 5, 1998 Order Resolving Complaint on Interconnection Agreement Compliance (Order No. PSC-98-1484-FOF-TP), the Commission concluded that the Agreement did require BellSouth to provide such a download. The Commission directed the parties to negotiate in good faith an appropriate subset of the database to be provided, which

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would exclude any BellSouth proprietary information, but include at a minimum all of the Florida address and facility availability data. The Order also required BellSouth to provide subsequent updates on the same day as the changes occur. Finally, the Commission concluded that the Agreement required BellSouth to provide the RSAG database subset and updates at its own cost.

2. On November 20, 1998, BellSouth filed a Motion for Reconsideration, for Clarification, and for Extension of Time. With respect to the RSAG issue, BellSouth sought reconsideration concerning whether the Agreement required it to provide the download and updates at no cost. BellSouth also sought a clarification of the Order that would permit BellSouth to provide updates within twenty-four hours of the change by sending the entire RSAG download daily at MCI's request. Finally, BellSouth sought to extend the time for compliance to thirty days after the parties negotiated the subset of the RSAG that would be provided. BellSouth did not request that the download and updates be made subject to a license agreement.

3. By Order dated January 11, 1999 (Order No. PSC-99-0081-FOF-TP), the Commission denied BellSouth's Motion for Reconsideration on the RSAG cost issue. The Commission

granted BellSouth's Motion for Clarification in that it permitted BellSouth to provide RSAG updates within the same time frames and in the same manner that BellSouth provided updates to itself. The Commission noted, however, that the Agreement required BellSouth to provide updates to the RSAG download, not additional daily downloads of the entire database. The Commission granted BellSouth's Motion for Extension of Time, to which MCIIm had not objected.

4. MCIIm has specified the subset of the RSAG that it wants BellSouth to download, and BellSouth has confirmed that it is operationally ready to download the data. BellSouth has refused to provide the download, however, until MCIIm signs a license agreement restricting MCIIm's usage of the data. BellSouth did not raise the alleged need for a license agreement at the hearing or in its Motion for Reconsideration, and the Commission in its Orders did not require MCIIm to sign such an agreement. Indeed, it would have made little sense for the Commission to have done so (even if BellSouth had requested it) because the Orders limited the RSAG download and updates to nonproprietary portions of the database.

5. Although MCIIm regarded BellSouth's request for a license agreement as improper and unauthorized, MCIIm attempted to negotiate such an agreement with BellSouth in

an effort to resolve the RSAG issue without further Commission involvement. After it appeared that the parties had reached impasse, MCIIm responded to the Commission Staff's invitation and arranged meetings with MCIIm, BellSouth and Staff to discuss the RSAG issue and one other matter not at issue here. Unfortunately, these meetings did not result in a resolution of the RSAG issue.

6. The license agreement that BellSouth has demanded is onerous and unreasonable. Among other things, the agreement provides that (a) BellSouth will retain title to any works MCIIm derives from RSAG data; (b) MCIIm may not transfer RSAG data to any affiliate; (c) RSAG data only may be used for purposes of local telecommunications; and (d) MCIIm must return RSAG data upon termination of the Agreement. None of these conditions is contemplated by the provisions of the Interconnection Agreement making the RSAG available to MCIIm. And none of these conditions was imposed by the Commission after this case was litigated for almost a year. MCIIm is still a new entrant in the Florida local market and cannot now identify all business uses to which the RSAG might be put. MCIIm certainly has no intention of attempting to sell the data on the open market (even assuming there were a market for such nonproprietary data), and MCIIm would agree to such a restriction. MCIIm

should not, however, be bound by additional restrictions that the Commission did not order and that BellSouth did not even raise during the extensive litigation of this matter.

7. BellSouth has attempted to justify its demand for a license agreement on the theory that the RSAG data has intrinsic value. But the only unique value the data has is that it is correctly formatted for validating addresses in the BellSouth system. For applications such as marketing (about which BellSouth has expressed concern), the data is no better than several other sources. BellSouth's attempted justification therefore is without merit. Even if BellSouth had raised the license agreement issue at the appropriate time -- during the litigation of this matter, not after the Commission had ruled against BellSouth -- the correct decision would have been not to require MCI to sign such an agreement.

WHEREFORE, based on the foregoing, MCI respectfully requests that the Commission order BellSouth to immediately download the designated portion of the RSAG to MCI, and to provide updates, without MCI being required to sign the license agreement BellSouth demands.

RESPECTFULLY SUBMITTED this 10th day of March, 2000.

HOPPING GREEN SAMS & SMITH,
P.A.

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and

DULANEY L. O'ROARK III
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Six Concourse Parkway
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Atlanta, GA 30328

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was furnished to the following parties by U. S. Mail or Hand Delivery** this 10th day of March, 2000.

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P. O. R.

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