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**ORIGINAL**

August 17, 2000

**BY HAND DELIVERY**

Blanca Bayó  
 Director, Records and Reporting  
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Re: Docket No. ~~000649-TP~~

Dear Ms. Bayó:

Enclosed for filing on behalf of MCImetro Access Transmission Services, LLC and MCI WORLDCOM Communications, Inc. are the original and fifteen copies of the Prefiled Direct Testimony of:

- 1) Don Price - 10078-00
- 2) Lee Olson - 10079-00
- 3) Michael S. Messina - 10080-00
- 4) Sherry Lichtenberg - 10081-00
- 5) Marsha Emch - 10082-00

By copies of this letter, this testimony has been furnished to the parties on the attached service list.

Very truly yours,



Richard D. Melson

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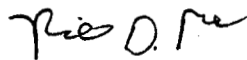
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was furnished to the following by U.S. Mail or Hand Delivery (\*) this 17th day of August, 2000:

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Attorney

**ORIGINAL**

**BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION**

**DOCKET NO. 000649-TP**

**PREFILED DIRECT TESTIMONY  
OF DON PRICE  
ON BEHALF OF WORLDCOM, INC.**

**August 17, 2000**

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

1 Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

2 A. My name is Don Price. My business address is 701 Brazos, Suite 600, Austin,  
3 Texas 78701.

4 Q. PLEASE DESCRIBE YOUR EDUCATION AND EMPLOYMENT  
5 BACKGROUND.

6 A. I have a Bachelor of Arts degree in Sociology from the University of Texas at  
7 Arlington, conferred in 1976, and was awarded a Master of Arts in Sociology  
8 from the University of Texas at Arlington in 1978. My telecommunications  
9 career spans more than twenty years, beginning in 1979 with GTE (General  
10 Telephone Company of the Southwest), where my role in the Economic Planning  
11 department included responsibility for making internal forecasts of central office  
12 switching equipment and outside plant needs. I assumed positions of increasing  
13 responsibilities during my five years with GTE, becoming familiar with many of  
14 the workings of a regulated local exchange telephone company, including the  
15 business office, billing systems, and network design and operations. In 1983, I  
16 was hired as a Telecommunications Rate Analyst in the Engineering Division of  
17 the Public Utility Commission of Texas. In that role, I provided policy  
18 recommendations and testimony on a variety of telecommunications pricing and  
19 tariff issues including switched and special access charges, long distance  
20 services, and numerous other local and long distance service offerings. In 1986,  
21 I began my employment with MCI Telecommunications Corporation (whose  
22 parent in 1998 merged with WorldCom, Inc.) in the State Regulatory department  
23 in Austin, Texas. Over the past fourteen years I have provided expert testimony

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1 on complex pricing and policy issues in twelve states, and have represented the  
2 company on such issues before the FCC. I have also made presentations on  
3 telecommunications policy issues before professional and trade associations.  
4 Following the passage of the Telecommunications Act of 1996 ("Act"), I was  
5 closely involved with developing MCI's policy positions for use in negotiations  
6 with incumbent local exchange carriers and in subsequent arbitration proceedings  
7 to resolve disputes arising in such negotiations. I personally testified on broad  
8 policy issues in the initial round of arbitrations on behalf of MCI in North  
9 Carolina, Florida, and Texas. My current responsibilities involve developing  
10 policy for use in state regulatory proceedings across the company's domestic  
11 operations, including input on interconnection negotiations and enforcement  
12 actions related to disputes over interpretations of interconnection agreement  
13 terms and conditions.

14 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

15 A. The purpose of my testimony is to assist the Florida Public Service Commission  
16 ("Commission") in resolving disputed issues between MCI metro Access  
17 Transmission Services, LLC ("MCI m") and MCI WORLDCOM  
18 Communications, Inc. ("MWC"), both subsidiaries of WorldCom (and which I  
19 will refer to collectively as "WorldCom"), and BellSouth Telecommunications,  
20 Inc. ("BellSouth"), with regard to this arbitration. My testimony relates to  
21 Attachments 1, 2, 3, 4, 6, 7, 8 and 9 and Part A of the Interconnection  
22 Agreement, and covers Issues 1-3, 6, 7, 7A, 9, 18, 22, 23, 28, 29, 39, 40, 43, 45-  
23 47, 51, 53, 53A, 67, 68, 75, 92-94, 97, 99-103, and 107-111.

1 **A. PRICING**

2 **ISSUE 1**

3 *Should the electronically ordered NRC apply in the event an order is*  
4 *submitted manually when electronic interfaces are not available or not*  
5 *functioning within specified standards or parameters? (Attachment 1,*  
6 *Section 2.9.)*  
7

8 **Q. WHAT IS THE LANGUAGE IN DISPUTE ON THIS ISSUE?**

9 **A.** WorldCom has proposed the following language in Attachment 1:

10 2.9.1 LSRs submitted by means of one of the available electronic  
11 interfaces will incur the per LSR nonrecurring OSS electronic ordering  
12 charge associated with electronically ordered facilities as specified in  
13 Table 1 of this Attachment. Provided that electronic interfaces are  
14 functioning within specified standards and parameters, LSRs submitted  
15 by means other than one of the available electronic interfaces (mail, fax,  
16 courier, etc.) will incur a nonrecurring manual ordering charges  
17 associated with manually ordered facilities as specified in Table 1 of this  
18 Attachment. An individual LSR will be identified for billing purposes by  
19 its Purchase Order Number (PON). If electronic interfaces are not  
20 available or not functioning within specified standards or parameters at  
21 the time when the LSR is submitted, the manual ordering nonrecurring  
22 charge does not apply. The electronically ordered nonrecurring charge  
23 will apply in the event LSRs are submitted manually when electronic  
24 interfaces are not available or not functioning within specified standards  
25 or parameters. Each LSR and all its supplements or clarifications issued,  
26 regardless of their number, will count as a single LSR for nonrecurring  
27 charge billing purposes. Nonrecurring charges will not be refunded for  
28 LSRs that are canceled by WorldCom.

29

30 **Q. WHAT ARE THE PARTIES' POSITIONS ON THIS ISSUE?**

31 **A.** WorldCom's position is that it should pay the electronic, rather than the manual,  
32 non recurring OSS charge when BellSouth does not provide electronic ordering  
33 for ALECs for the service in question, but does provide electronic ordering for  
34 itself. BellSouth's position is that WorldCom should have to pay the manual  
35 ordering charge under these circumstances.

1 **Q. SHOULD BELLSOUTH BE PERMITTED TO CHARGE ALECS FOR**  
2 **MANUAL OSS PROCESSING, WHEN BELLSOUTH'S OWN RETAIL**  
3 **SYSTEMS ARE AUTOMATED, AND WHEN BELLSOUTH DOES NOT**  
4 **MAKE ELECTRONIC OSS INTERFACES AVAILABLE TO ITS**  
5 **COMPETITORS?**

6 A. No. This is, by definition, not based on forward-looking economic principles, and  
7 is unreasonable and discriminatory and thus violates the Telecommunications  
8 Act of 1996 (the "Act"). If BellSouth uses electronic processes for its own OSS  
9 and does not provide electronic processes to its competitors to obtain what  
10 amounts to substantially the same elements or services, it is not providing parity.  
11 In its *First Report and Order*, FCC 96-325, In the matter of Implementation of  
12 the Local Competition Provisions in the Telecommunications Act of 1996, CC  
13 Docket No. 96-98, Released August 8, 1996 (the "*Local Competition Order*"),  
14 the FCC stated, at paragraph 523, that "(o)bviusly, an incumbent that provisions  
15 network resources electronically does not discharge its obligation under section  
16 251 (c) (3) by offering competing providers access that involves human  
17 intervention." Certainly that access must be provided within the same time  
18 frames enjoyed by the incumbent.

19 **Q. ARE THERE PUBLIC POLICY REASONS WHY BELLSOUTH SHOULD**  
20 **NOT BE ABLE TO CHARGE ALECS FOR MANUAL OSS WHEN IT**  
21 **PROVIDES ELECTRONIC OSS TO ITSELF?**

22 A. Yes. BellSouth should not be encouraged to use inefficient, costly systems to  
23 serve ALECs when it provides substantially the same elements or services to its

1 own customers using electronic processes. Indeed, BellSouth should be strongly  
2 encouraged to do just the opposite.

3 **ISSUE 2**

4 *What prices should be included in the agreement? (Attachment 1,*  
5 *Appendix 1.)*

6  
7 **Q. WHAT IS WORLDCOM'S PRICING PROPOSAL?**

8 A. WorldCom's pricing proposal, based on orders of this Commission, is included  
9 in Appendix 1 to Attachment 1 of the Interconnection Agreements. WorldCom's  
10 proposal essentially is that the Commission adopt previously approved rates in  
11 the agreements and provide an interim rate of zero for other rates, subject of  
12 course to true up once permanent rates have been approved in the UNE cost  
13 docket. (Docket No. 990649-TP).

14 **ISSUE 3**

15 *Should the resale discount apply to all telecommunication services*  
16 *BellSouth offers to end users, regardless of the tariff in which the service*  
17 *is contained? (Attachment 2, Section 1.1.1.)*

18  
19 **Q. WHAT CONTRACT LANGUAGE HAVE THE PARTIES PROPOSED**  
20 **CONCERNING THE SERVICES BELL SOUTH MUST PROVIDE ON A**  
21 **RESALE BASIS?**

22 A. WorldCom has proposed the following language in Attachment 2:

23 1.1.1. Local Resale shall include all Telecommunications  
24 Services offered by BellSouth to parties other than  
25 telecommunications carriers, regardless of the particular tariff or  
26 other method by which such Telecommunications Services are  
27 offered. For example, Local Resale shall include  
28 Telecommunications Services offered in BellSouth's access tariffs  
29 and made available to parties other than telecommunications  
30 carriers, regardless of whether or not such Telecommunications  
31 Services are offered in other tariffs, too. Local Resale shall be



1 subject only to the limitations and restrictions set forth in this  
2 Agreement.

3  
4 BellSouth has proposed the following competing language:

5  
6 1.1.1. MCI may resell the tariffed local exchange and toll  
7 Telecommunications Services of BellSouth contained in the  
8 General Subscriber Service Tariff and Private Line Service Tariff.  
9 Local Resale can only be used in the same manner as specified in  
10 BellSouth's Tariffs. Local Resale is subject to the same terms and  
11 conditions as are specified for such services when furnished to an  
12 individual end user of BellSouth in the appropriate section of  
13 BellSouth's Tariffs.

14  
15 **Q. WHAT IS WORLDCOM'S POSITION ON THIS ISSUE?**

16  
17 A. Offering a retail service under a tariff other than the private line or GSST tariffs  
18 does not preclude a company from the wholesale discount.

19 **Q. WHAT IS BELL SOUTH'S POSITION CONCERNING THIS**  
20 **PROVISION?**

21 A. BellSouth contends that only private line and GSST tariff services should be  
22 available for the resale discount.

23 **Q. WHAT DO THE ACT AND FCC RULES REQUIRE CONCERNING**  
24 **SERVICES THAT MUST BE PROVIDED ON A RESALE BASIS?**

25 A. The Act requires BellSouth "not to prohibit, and not to impose unreasonable or  
26 discriminatory conditions or limitations on, the resale of its telecommunications  
27 services." Act, § 251 (b)(1). BellSouth is required to "offer to any requesting  
28 telecommunications carrier any telecommunications service that [BellSouth]  
29 offers on a retail basis to subscribers that are not telecommunications carriers for  
30 resale at wholesale rates." 47 C.F.R. § 51.605(a).

1 Q. DOES BELLSOUTH'S POSITION COMPLY WITH THOSE  
2 PROVISIONS?

3 A. No. BellSouth seeks to discriminate against WorldCom by denying it the right to  
4 resell services included in BellSouth's Federal and State Access tariffs, even  
5 when BellSouth offers those services to end users. Thus, under BellSouth's  
6 position it would be free to include retail services in its access tariffs and offer  
7 such services to its end users, while prohibiting WorldCom from reselling those  
8 services at prices that would enable it to compete with BellSouth. Such a result  
9 would not be consistent with the requirements of the Act.

10 ISSUE 6

11 *Should BellSouth be directed to perform, upon request, the functions*  
12 *necessary to combine unbundled network elements that are ordinarily*  
13 *combined in its network? (Attachment 1, Section 1.5; Attachment 3,*  
14 *Section 2.4)*

15  
16 Q. PLEASE STATE WORLDCOM'S POSITION REGARDING THIS ISSUE.

17 A. BellSouth should be directed to perform, upon request, the functions necessary to  
18 combine unbundled network elements that are ordinarily combined in  
19 BellSouth's network.

20 Q. WHAT LANGUAGE HAS WORLDCOM PROPOSED CONCERNING  
21 THIS ISSUE?

22 A. WorldCom has proposed the following language in Attachment 3:

23  
24 2.4 ... At MCI's request, BellSouth shall provide Typical  
25 Combinations of Network Elements to MCI. Typical  
26 Combinations are those that are ordinarily combined within the  
27 BellSouth network, in the manner which they are typically  
28 combined. Thus, MCI may order Typical Combinations of  
29 Network Elements, even if the particular Network Elements being

1 ordered are not actually physically connected at the time the order  
2 is placed.

3  
4 **Q. PLEASE STATE BELLSOUTH'S POSITION.**

5  
6 A. Only those elements that already have been combined in BellSouth's  
7 network must be provided to ALECs in combined form.

8 **Q. WHAT ARE THE DUTIES TO WHICH BELLSOUTH IS SUBJECT**  
9 **WITH RESPECT TO UNBUNDLING ITS NETWORK?**

10 A. As emphasized by the Supreme Court in *AT&T Corp. v. Iowa Utilities Board*,  
11 ILECs, including BellSouth, are subject under the Telecommunications Act to  
12 duties intended to facilitate market entry. Foremost among these duties is the  
13 ILEC's obligation under 47 U.S.C. § 251(c) to share its network with  
14 competitors. Section 251(c)(3) establishes:

15 The duty to provide, to any requesting telecommunications  
16 carrier for the provision of a telecommunications service,  
17 nondiscriminatory access to network elements on an  
18 unbundled basis at any technically feasible point on rates,  
19 terms, and conditions that are just, reasonable, and  
20 nondiscriminatory in accordance with the terms and  
21 conditions of the agreement and the requirements of this  
22 section and section 252. An incumbent local exchange  
23 carrier shall provide such unbundled network elements in a  
24 manner that allows requesting carriers to combine such  
25 elements in order to provide such telecommunications  
26 service.

27  
28 **Q. HAS THE FCC PROMULGATED RULES TO FURTHER DEFINE**  
29 **BELLSOUTH'S DUTIES IN THIS RESPECT?**

30 A. Yes. In August 1996 the FCC issued its *First Report and Order* ("*Local*  
31 *Competition Order*"), FCC 96-325, In re Implementation of the Local  
32 Competition Provisions in the Telecommunications Act of 1996, CC Docket No.

1 96-98, to implement the local competition provisions of the Act. The FCC  
2 explicitly declined to impose a requirement of facility ownership on carriers who  
3 sought to lease network elements. *Id.*, ¶¶328-340. The effect of this omission  
4 was to allow competitors to provide local phone service relying solely on the  
5 elements in an incumbent's network.

6 The FCC pricing rules then promulgated continue to govern the  
7 Commission's decision in this proceeding. They include 47 C.F.R. section  
8 51.503 (General Pricing Standard) and, as discussed in more detail below, 47  
9 C.F.R. section 51.315 (Combination of unbundled network elements). The latter  
10 rule, and its section (b) in particular, is often referred to as the "all elements"  
11 rule. Section 51.315 (b) states: "Except upon request, an incumbent LEC shall  
12 not separate requested network elements that the incumbent LEC currently  
13 combines."

14 **Q. HAS BELLSOUTH CHALLENGED THESE RULES?**

15 A. Yes. In the aftermath of the *Local Competition Order*, ILECs, including  
16 BellSouth, argued that this "all elements" rule undermined the goal of  
17 encouraging entrants to develop their own facilities. The Eighth Circuit,  
18 however, to which the appeal of the *Local Competition Order* was brought,  
19 deferred to the FCC's approach. The Eighth Circuit was of the view that the  
20 language of §251(c)(3) indicates that "a requesting carrier may achieve the  
21 capability to provide telecommunications service completely through access to  
22 the unbundled elements of an incumbent LEC's network." 120 F.3d. at 814.

1                   The Eighth Circuit, however, thought that the FCC went too far in  
2                   enacting 47 C.F.R. section 315(b). As characterized by the Supreme Court in  
3                   *Iowa Utilities Board*:

4                   The Court of Appeals believed that [allowing requesting  
5                   carriers to lease the incumbent's entire, preassembled  
6                   network] would render the resale provision of the statute a  
7                   dead letter, because by leasing the entire network rather  
8                   than purchasing and reselling service offerings, entrants  
9                   could obtain the same product-finished service-at a cost-  
10                  based, rather than wholesale, rate. 120 F.3d, at 813.  
11                  Apparently reasoning that the word "unbundled" in  
12                  §251(c)(3) meant "physically separated," the [Eighth  
13                  Circuit] vacated Rule 315(b) for requiring access to the  
14                  incumbent LEC's network elements "on a bundled rather  
15                  than an unbundled basis."

16   **Q.       WHAT WAS THE RESULT OF THIS LITIGATION?**

17   **A.       The Supreme Court reversed the Eighth Circuit. In *Iowa Utilities Board***  
18                  the Court concluded that

19                  It was entirely reasonable for the [FCC] to find that the  
20                  text does not command this conclusion. It forbids  
21                  incumbents to sabotage network elements that are  
22                  provided in discrete pieces, and thus assuredly  
23                  contemplates that elements may be requested and provided  
24                  in this form (which the [FCC's] rules do not prohibit). But  
25                  it does not say, or even remotely imply, that elements must  
26                  be provided only in this fashion [i.e., disconnected] and  
27                  never in combined form. . . As the [FCC] explains, it is  
28                  aimed at preventing incumbent LECs from  
29                  "disconnect[ing] previously connected elements, over the  
30                  objection of the requesting carrier, not for any productive  
31                  reason, but just to impose wasteful reconnection costs on  
32                  new entrants." . . . It is true that Rule 315(b) could allow  
33                  entrants access to an entire preassembled network. In the  
34                  absence of Rule 315(b), however, incumbents could  
35                  impose wasteful costs on even those carriers who  
36                  requested less than the whole network. It is well within the  
37                  bounds of the reasonable for the Commission to opt in  
38                  favor of ensuring against an anticompetitive practice.

39

1 Thus, in reinstating Rule 315 (b), the Supreme Court agreed that the FCC  
2 reasonably concluded that the Act does not require an ALEC to own any  
3 facilities in conjunction with UNEs leased from an ILEC. Instead, according to  
4 the Supreme Court ALECs are entitled to “an entire preassembled network.”

5 The Supreme Court remanded to the FCC to further evaluate the  
6 unbundling obligations of section 251 of the Act.

7 **Q. WHAT OCCURRED ON REMAND?**

8 A. Because of pending issues before the Eighth Circuit, the FCC in the *Third*  
9 *Report and Order and Fourth Further Notice of Proposed Rulemaking* (“*UNE*  
10 *Remand Order*” sometimes referred to as the “*Rule 319 Remand Order*”), FCC  
11 99-238, In the Matter of Implementation of the Local Competition Provisions of  
12 the Telecommunications Act of 1996, CC Docket No. 96-98, released November  
13 5, 1999, declined to revisit the “currently combines” requirement of Rule 51.315  
14 (b). The FCC did restate, based on its pronouncement in its *Local Competition*  
15 *Order*, that an incumbent LEC must provision network element combinations  
16 where such elements are “ordinarily combined within [the] network, in the  
17 manner which they are typically combined.” *UNE Remand Order*, at paragraph  
18 479. The FCC also clearly stated that it has concluded that the “proper reading of  
19 ‘currently combines’ in rule 51.315 (b) means ‘ordinarily combined within [the  
20 incumbent’s] network, in the manner which they are typically combined.’” *Id.* at  
21 paragraph 479, quoting the *Local Competition Order*.

22 **Q. WHAT IS THE EFFECT OF THE FCC RULES ON THIS ISSUE?**

1 A. According to the FCC, then, ALECs can purchase UNEs in combination, such as  
2 a loop and a port, even when the network elements supporting the underlying  
3 service are not physically connected at the time the service is ordered, because  
4 those UNEs are typically combined. ALECs can then obtain UNE combinations  
5 at UNE prices. *Id.* at ¶¶ 480, 486.

6 Thus Rule 315 (b) requires a LEC to provide UNE combinations, not  
7 already combined, provided the LEC "currently combines" them for its  
8 customers. Rule 315(b), by its own terms, applies to elements that the  
9 incumbent "currently combines," not merely elements that are "currently  
10 combined." In the *Local Competition Order*, at paragraph 296, the FCC stated  
11 that the proper reading of "currently combines" is "ordinarily combined within  
12 their network, in the manner which they are typically combined." Accordingly,  
13 the only FCC interpretation of "currently combines" remains the literal one,  
14 contained in the *Local Competition Order*.

15 **Q. DOES THE RECENT DECISION BY THE EIGHTH CIRCUIT CHANGE**  
16 **YOUR OPINION?**

17 A. No. It is clear from that decision that FCC Rule 51.315(b) remains in effect.  
18 That rule supports WorldCom's position in this case.

19 **Q. WHAT CONCLUSIONS DO YOU DRAW FROM THE FCC RULES AND**  
20 **THE DECISIONS YOU HAVE REVIEWED?**

21 A. A ruling requiring BellSouth to combine currently unconnected network  
22 elements that are ordinarily combined is consistent with the intent of the  
23 Telecommunications Act to hasten competitive entry through a number of

1 service delivery methods, including use of leased network elements. It is also  
2 consistent with the Supreme Court's ruling in *Iowa Utilities Board*, which  
3 rejected the view that Section 251(c)(3) of the Act only allows the leasing of  
4 "discrete pieces" of network elements. *Id.* At 737.

5 Nothing in the Telecommunications Act precludes a requirement that  
6 BellSouth lease network elements in combined form. Moreover, a Commission  
7 ruling directing BellSouth to combine elements upon request, when, in this  
8 instance, those elements are ordinarily combined by the incumbent, is reasonable  
9 and pro-competitive, as well as required by section 315 (b), thus fulfilling the  
10 fundamental purpose of the Act. A contrary ruling would either limit the  
11 benefits of competition to those end users for which historical practice has  
12 dictated, in some cases arbitrarily, that BellSouth has previously combined  
13 network elements, or not discourage BellSouth from separating previously  
14 combined elements. The Act imposes no limitation on competitors' ability to  
15 provide a "completed service" by relying solely on the incumbent's network  
16 elements rather than any facilities owned by the competitors, and 315 (b) requires  
17 it. Incumbent LECs must provide UNE combinations even if they are not  
18 already combined.

19 Further, those network elements, if combined, cannot be separated except  
20 at the request of competitors, and must be provided to competitors at cost-based  
21 rates. BellSouth must commit to making available all combinations of UNEs in  
22 its network at cost-based rates.



1 **Q. WHAT ELEMENTS DOES BELLSOUTH CURRENTLY COMBINE IN**  
2 **ITS NETWORK?**

3 A. There is no question that BellSouth currently combines, for example, all elements  
4 included in UNE-P to provide its own local service, and that BellSouth currently  
5 combines loop and transport (sometimes referred to as the "enhanced extended  
6 loop" or "EEL") to provide special access services.

7 With regard to the EEL, since the release of the *UNE Remand Order*, the  
8 FCC has reiterated the ILECs' obligation to make the EEL available to ALECs  
9 for local exchange service. *Supplemental Order, In the Matter of*  
10 *Implementation of the Local Competition Provisions of the Telecommunications*  
11 *Act of 1996*, CC Docket No. 96-98 (release November 24, 1999). On November  
12 24, 1999, the FCC issued a Supplemental Order to its Third Report and Order. In  
13 this Supplemental Order, the FCC modified its conclusion in paragraph 486 of  
14 the Third Report and Order to allow incumbent LECs to constrain the use of  
15 combinations of unbundled loops and transport network elements by IXCs as a  
16 substitute for special access service. Supplemental Order, ¶ 4. IXCs may not  
17 convert special access services to combinations of unbundled loops and transport  
18 network elements, whether or not the IXCs self-provide entrance facilities, unless  
19 the IXC uses the combination "to provide a significant amount of local exchange  
20 service, in addition to exchange access service, to a particular customer." *Id.* at ¶  
21 5. Thus the EEL is a combination of UNEs, rather than "special access".

22 **Q. HOW HAS THIS COMMISSION RULED WITH REGARD TO THE**  
23 **"CURRENTLY COMBINES" ISSUE?**

1 A. Yes. This Commission, in *Order No. PSC-99-1989-FOF-TP*, in In re: Motions  
2 of AT&T Communications of the Southern States, Inc., and MCI  
3 Telecommunications Corporation and MCI Metro Access Transmission Services,  
4 Inc., to Compel BellSouth Telecommunications, Inc. to Comply with Order PSC-  
5 96-1579-FOF-TP and To Set Non-Recurring Charges for Combinations of  
6 Network Elements with BellSouth Telecommunications, Inc. Pursuant to their  
7 Agreement, issued October 11, 1999, stated with respect to *Iowa Utilities Board*,  
8 that, "while the Court did not use the specific term 'recreate,' we believe that the  
9 Court's opinion allows an entrant to purchase UNE combinations that recreate  
10 retail services at prices based on forward-looking costs."

11 **Q. HAVE ANY OTHER STATE PUBLIC SERVICE COMMISSIONS IN**  
12 **THE BELLSOUTH REGION RULED ON THE ISSUE REGARDING**  
13 **UNE COMBINATIONS?**

14 A. Yes. In its Order dated February 1, 2000, in In re Generic Proceeding to  
15 Establish Long-Term Pricing Policies for Unbundled Network Elements, Docket  
16 No. 10692-U, the Georgia Commission ruled that ALECs can order UNE  
17 combinations, even if the particular elements being ordered are not actually  
18 physically connected at the time the order is placed.

19           Regarding the "currently combines" requirement, the Georgia  
20 Commission observed:

21           BellSouth has interpreted the term "currently combines" as  
22 "currently combined." BellSouth defines the term to mean  
23 those elements "that are physically in a combined state as  
24 of the time the CLEC requests them and which can be  
25 converted to UNEs on a 'switch as is' or 'switch with  
26 changes' basis. . . . Currently combined elements only

1 include loops, ports, transport or other elements that are  
2 currently installed for the existing customer that the CLEC  
3 wishes to serve."  
4

5 The Georgia Commission then stated that:

6 at the very least, Rule 315(b) requires BellSouth to provide  
7 combinations of elements that are already physically  
8 connected to each other regardless of whether they are  
9 currently being used to serve a particular customer. The  
10 Supreme Court, however, did not state that it was  
11 reinstating Rule 315(b) only to the extent it prohibited  
12 incumbents from ripping apart elements currently  
13 physically connected to each other. It reinstated Rule  
14 315(b) in its entirety, and it did so based on its  
15 interpretation of the nondiscrimination language of Section  
16 251(c)(3).  
17

18 The Georgia Commission accordingly found that "currently combines" means  
19 "ordinarily combined" within the BellSouth network. P. 5. Thus ALECs can  
20 order combinations of ordinarily combined elements, even if the particular  
21 elements being ordered are not actually physically connected at the time the  
22 order is placed. It is my understanding the Georgia Commission has issued  
23 decisions in subsequent Section 252 arbitrations consistent with its policy as  
24 articulated in Docket No. 10692-U.

25 **Q. WHAT WOULD BE THE EFFECT IF THE COMMISSION ADOPTED**  
26 **BELLSOUTH'S ARGUMENT?**

27 **A.** If this Commission were to limit the definition of "currently combines" to the  
28 more restrictive "currently combined" interpretation, the process of obtaining  
29 elements would be more cumbersome and would serve no purpose except to  
30 complicate the ordering process and thus impede competition.

31 This is the conclusion reached by the Georgia Commission:

1 even assuming arguendo that 'currently combines' means  
2 'currently combined,' rather than go through the circuitous  
3 process of requiring the CLEC to submit two orders (e.g.,  
4 one for special access followed by another to convert the  
5 special access to UNEs) to receive the UNE combination,  
6 the process should be streamlined to allows CLECs to  
7 place only one order for the UNE combination.  
8

9 BellSouth's argument appears to create an absurd dichotomy between existing  
10 customers and new customers. The absurdity of this argument can be understood  
11 with a simple example: According to BellSouth, an ALEC could offer residential  
12 service to Mr. Jones by using a loop/port combination if Mr. Jones is an existing  
13 BellSouth customer for this service. The network facilities used to provide  
14 residential service to Mr. Jones' house are currently combined. If Mr. Jones,  
15 however, were to sell his house to his friend Mr. Smith, under BellSouth's  
16 proposal the ALEC might not be able to offer service using the loop/port  
17 combination to Mr. Smith because he is not an existing BellSouth customer. The  
18 same local loop, the same switch port – and the same connection between them –  
19 would remain in place, but BellSouth would no longer consider these facilities to  
20 be connected for the purpose of defining a UNE combination that could be  
21 purchased.

22 The equal absurdity of the proposed existing/new location dichotomy is  
23 also readily apparent from the following example: So long as Mr. Jones were to  
24 stay in his existing house (where he is a BellSouth customer), an ALEC may  
25 offer residential service to him by using a loop/port combination. If, however, he  
26 were to build a house down the street that will also be served by BellSouth's  
27 network, the ALEC would be unable to provide service to him using a loop/port

1 combination, even though the connection from the new house to the BellSouth  
2 network (including the loop to port combination) would have been established.  
3 Presumably, however, if Mr. Jones first signs up for BellSouth's residential  
4 service, he would then be eligible to be served by an ALEC using a loop/port  
5 combination because he would no longer represent a new location.

6 **Q. WOULD THERE BE A COMPETITIVE ADVANTAGE TO BELL SOUTH**  
7 **IN THIS RESPECT?**

8 A. Absolutely. The advantage to BellSouth in these situations should be clear.

9 **Q. PLEASE SUMMARIZE YOUR TESTIMONY IN THIS REGARD.**

10 A. The FCC's Rule 315 (b), the Supreme Court's decision in *AT&T v. Iowa Utilities*  
11 *Board*, the *UNE Remand Order* and this Commission's October 11, 1999 Order  
12 require that BellSouth perform the functions necessary to combine unbundled  
13 network elements that are ordinarily combined in BellSouth's network.

14 **ISSUE 7**

15 *Should BellSouth be required to combine network elements that are not*  
16 *ordinarily combined in its network? (Attachment 3, Section 2.11)*

17 **Q. PLEASE STATE WORLDCOM'S POSITION REGARDING THIS ISSUE.**

18 A. BellSouth should be directed to perform, upon request, the functions necessary to  
19 combine unbundled network elements that are not ordinarily combined in its  
20 network.

21 **Q. WHAT LANGUAGE HAS WORLDCOM PROPOSED CONCERNING**  
22 **THIS ISSUE?**

23 A. WorldCom has proposed the following language:  
24

1                   2.11 BellSouth shall offer each Network Element individually  
2                   and, at MCI's request, will combine Network Elements that are  
3                   not currently combined. BellSouth shall not require MCI to  
4                   combine Network Elements. BellSouth shall not require MCI to  
5                   own or control any local exchange facilities as a condition of  
6                   offering to MCI any Network Element or combination. Charges  
7                   for combinations and combining Network Elements are set forth in  
8                   Attachment 1, and are inclusive and no other charges apply.  
9                   BellSouth and MCI agree to attempt in good faith to resolve any  
10                  alleged errors or omissions in Attachment 1.

11  
12 **Q. PLEASE STATE BELL SOUTH'S POSITION.**

13 A. No. BellSouth claims it should not be required to provide such combinations.

14 **Q. ARE THERE FCC RULES THAT MAY BE CONSULTED TO RESOLVE**  
15 **THIS ISSUE?**

16 A. Yes. The local competition order promulgated the following rules that are  
17 relevant to this inquiry:

18                   **47 C.F.R. section 51.503 General Pricing Standards**

19                   (a) An incumbent LEC shall offer elements to requesting  
20                   telecommunications carriers at rates, terms, and conditions  
21                   that are just, reasonable, and nondiscriminatory.

22  
23                   **47 C.F.R. section 51.315 Combination of unbundled**  
24                   **network elements**

25                   (a) An incumbent LEC shall provide unbundled network  
26                   elements in a manner that allows requesting  
27                   telecommunications carriers to combine such network  
28                   elements in order to provide a telecommunications service.

29                   (b) Except upon request, an incumbent LEC shall not separate  
30                   requested network elements that the incumbent LEC  
31                   currently combines.

32                   (c) Upon request, an incumbent LEC shall perform the  
33                   functions necessary to combine unbundled network  
34                   elements in any manner, even if those elements are not  
35                   ordinarily combined in the incumbent LEC's network,  
36                   provided that such combination is:

37                   (1) Technically feasible; and

38                   (2) Would not impair the ability of other carriers to obtain  
39                   access to unbundled network elements or to interconnect  
40                   with the incumbent LEC's network.

- 1 (d) Upon request, an incumbent LEC shall perform the  
2 functions necessary to combine unbundled network  
3 elements with elements possessed by the requesting  
4 telecommunications carrier in any technically feasible  
5 manner.  
6 (e) An incumbent LEC that denies a request to combine  
7 elements pursuant to paragraph (c) (1) or paragraph (d) of  
8 this section must prove to the state commission that the  
9 request combination is not technically feasible.  
10 (f) An incumbent LEC that denies a request to combine  
11 elements pursuant to paragraph (c) (2) of this section must  
12 prove to the state commission that the requested  
13 combination would impair the ability of other carriers to  
14 obtain access to unbundled network elements or to  
15 interconnect with the incumbent LEC's network.  
16

17 Also, Section 51.307 (c) of the FCC's rules provides that ILECs must offer  
18 UNEs in a manner that allows the requesting carrier to provide any  
19 telecommunications service that can be offered by means of that network  
20 element. Rule 51.309 (b) provides that an ILEC cannot impose restrictions on  
21 UNEs in a manner that would impair an ALEC from offering  
22 telecommunications service in the manner the requesting carrier intends. Rule  
23 51.313 (a) provides that UNEs must be made available equally to all requesting  
24 carriers without regard for the intended use of such UNEs. Rule 51.809 (a)  
25 provides that an ILEC may not limit the availability of any individual  
26 interconnection, service, or network element only to those requesting carriers  
27 serving a comparable class of subscribers or providing the same service.

28 **Q. WHAT DID THE SUPREME COURT SAY ABOUT THESE RULES?**

29 A. These rules, including Rule 315 (b), have been upheld by the Supreme Court, in  
30 *Iowa Utilities Board*. In the *UNE Remand Order*, discussed with respect to Issue

1 6, the FCC declined to reinstate sections 315 (c) - (f) of its regulations, given the  
2 pending remand before the Eighth Circuit of those rules. *Id.* at Paragraph 481.  
3 The FCC did opine, however, that section 251 (c) (3) of the 1996 Act provides a  
4 sound basis for reinstating those sections. *UNE Remand Order*, Paragraphs 481-  
5 82. Specifically, the FCC noted:

6 As a general matter, however, we believe that the  
7 reasoning of the Supreme Court's decision to reinstate rule  
8 51.315 (b) based on the nondiscrimination language of  
9 section 251 (c) (3) applies equally to rules 51.315 (c) - (f).  
10 Specifically, the Court held that section 251 (c) (3)'s non-  
11 discrimination requirement means that access provided by  
12 the incumbent LEC must be at least equal in quality to that  
13 which the incumbent LEC provides to itself. We note that  
14 incumbent LECs routinely combine loop and transport  
15 elements for themselves. For example, incumbent LECs  
16 routinely provide combinations of loop and transport  
17 elements for themselves in order to: (1) deliver data traffic  
18 to their own packet switches; (2) provide private line  
19 services; and (3) provide foreign exchange service. In  
20 addition, we note that incumbent LECs routinely provide  
21 the functional equivalent of the EEL through their special  
22 access offerings.

23  
24 We believe that the basis upon which the Eighth Circuit  
25 invalidated rules 51.315 (c) - (f) has been called into  
26 question by the Supreme Court's decision. In particular,  
27 the Eighth Circuit determined that 'unbundled' meant  
28 physical separation of network elements. The Supreme  
29 Court also stated that section 251 (c) 'does not say, or even  
30 remotely imply, that elements must be provided [in  
31 discrete pieces, and never in combined form.]' We also  
32 note that an additional basis for the Eighth Circuit's  
33 decision to invalidate rules 51.315 (b)-(f) was its  
34 understanding that incumbents 'would rather grant their  
35 competitors access to their facilities' than combine  
36 elements on behalf of requesting carriers. Experience over  
37 the last year demonstrates that incumbent LECs have  
38 refused to provide access to network elements so that  
39 competitors could combine them, except in situations  
40 where competitive LECs have collocated in the  
41 incumbent's central offices. Accordingly, we believe that



1 section 251 (c) (3) provides a sound basis for reinstating  
2 rules 51.315 (c) – (f).  
3

4 **Q. WHAT ELSE DID THE *UNE REMAND ORDER* STATE WITH REGARD**  
5 **TO *UNE* COMBINATIONS?**

6 A. Nothing in the *UNE Remand Order* changes the “technically feasible” standard.  
7 It is technically feasible for BellSouth to combine, for example, a loop and a port.  
8 Indeed, the *UNE Remand Order* reaffirms that there is one *UNE* pricing standard  
9 and that there are no rules resulting from that order that conflict with existing  
10 rules or the FCC. Thus section 252 (d)’s pricing standards apply whether a  
11 carrier obtains a network element in discrete form, or in combined form.  
12 Consequently, the FCC’s rules never exclude, and at times specifically require,  
13 combined network elements. *UNEs* must be provisioned in combination where  
14 such combinations are technically feasible. The *UNE Remand Order* reaffirms  
15 these basic rules.

16 **Q. HAVE COURTS RULED ON THIS ISSUE?**

17 A. Yes. The Ninth Circuit Court of Appeals recently ruled that it "necessarily  
18 follows from [*Iowa Utilities Board*] that requiring [the ILEC] to combine  
19 unbundled network elements is not inconsistent with the [Telecommunications]  
20 Act . . . the Act does not say or imply that network elements may only be leased  
21 in discrete parts." *U.S. WEST Communications v. MFS Intelenet, Inc*, 1999 WL  
22 799082, \*7 (9<sup>th</sup> Cir. Oct. 8, 1999). The provision at issue stated that US WEST  
23 “agrees to perform and MFS agrees to pay for the functions necessary to combine  
24 requested elements in any technically feasible manner either with other elements  
25 from [US WEST’s] network, or with elements possessed by MFS.” In response

1 to U.S. WEST's argument that the Eighth Circuit's invalidation of FCC Rules  
2 315(c)-(f) required the Ninth Circuit to conclude that a state commission's order  
3 requiring an ILEC to provide combinations violates the Act, the Ninth Circuit  
4 stated:

5  
6 The Supreme Court opinion . . . undermined the Eighth Circuit's  
7 rationale for invalidating this regulation. Although the Supreme  
8 Court did not directly review the Eighth Circuit's invalidation of §  
9 51.315(c)-(f), its interpretation of 47 U.S.C. § 251(c)(3)  
10 demonstrates that the Eighth Circuit erred when it concluded that  
11 the regulation was inconsistent with the Act. We must follow the  
12 Supreme Court's reading of the Act despite the Eighth Circuit's  
13 prior invalidation of the nearly identical FCC regulation. Id.

14  
15 **Q. HAS THE EIGHTH CIRCUIT ADDRESSED THIS ISSUE?**

16  
17 A. Yes. The Eighth Circuit has held that Rules 51.315(c)-(f) should remain vacated.  
18 Given the difference of opinion between the Ninth Circuit and the Eighth  
19 Circuits on this issue, it appears likely that the United States Supreme Court  
20 again will be called upon to address the combinations issue.

21 **Q. WHAT IS YOUR RECOMMENDATION TO THE COMMISSION?**

22 A. The Commission should exercise its discretion to require BellSouth to combine  
23 elements not ordinarily connected in BellSouth's network. Such a ruling would  
24 ensure that WorldCom can offer the same functionalities and services as  
25 BellSouth and will allow greater innovation in service delivery to customers.  
26 BellSouth possesses superior information about its network and superior access  
27 to its network so as to perform these connections. This fact remains despite any  
28 pronouncements by the courts. And thus, BellSouth will not be providing  
29 nondiscriminatory access unless combinations are provided as described herein.

1 **ISSUE 7A**

2 *Should BellSouth charge MCIW only for UNEs that it orders and uses, and*  
3 *should UNEs ordered and used by MCIW be considered part of its network for*  
4 *reciprocal compensation and switched access charges? (Attachment 3, Section*  
5 *2.12 and Attachment 4, Section 9.11)*  
6

7 **Q. WHAT IS THE LANGUAGE IN DISPUTE ON THIS ISSUE?**

8 **A.** WorldCom is proposing the following language in Attachment 3, which has been  
9 updated since the Petition in this case was filed:

10 2.12 When MCIIm uses an unbundled Network Element, or a  
11 combination of unbundled Network Elements, BellSouth shall  
12 charge MCIIm only for those Network Elements ordered by MCIIm  
13 or used by MCIIm to carry traffic. To the extent MCIIm orders or  
14 uses BellSouth's Network Elements, those Network Elements shall  
15 be considered to be part of MCIIm's network for the purpose of  
16 calculating charges for reciprocal compensation and switched  
17 access under Attachment 4 of this Agreement.  
18

19 2.12.1 As an example of Section 2.12, above, if MCIIm orders  
20 local switching and loop as unbundled Network Elements,  
21 BellSouth shall charge MCIIm the appropriate charges set forth  
22 in Attachment 1 of this Agreement for local switching, loop and  
23 any other portions of BellSouth's network used to carry traffic  
24 (e.g., transport and tandem switching). In this example, the  
25 local switching and loop as well as any other unbundled  
26 network elements (e.g., transport and tandem switching) used by  
27 MCIIm to carry traffic shall be considered part of MCIIm's  
28 network for the calculation of reciprocal compensation and  
29 switched access, as applicable, under Attachment 4 of this  
30 Agreement.  
31

32 WorldCom also proposes the following language in Attachment 4, which also has  
33 been updated:

34 9.11 When MCIIm orders or uses BellSouth unbundled Network  
35 Elements pursuant to Attachment 3 of this Agreement, those  
36 elements ordered or used shall be considered part of MCIIm's  
37 network for the purpose of calculating reciprocal compensation  
38 and switched access charges in this Attachment.

1 **Q. WHAT IS WORLDCOM'S POSITION ON THIS ISSUE?**

2 A. WorldCom should be billed for UNEs that it orders or uses. For example, when  
3 WorldCom orders a loop and local switching as UNEs, it should be required to  
4 pay, under the UNE provisions of the agreement, for those two elements. If any  
5 other portions of BellSouth's network (such as transport and tandem switching)  
6 are used to carry traffic originated over this loop and local switching  
7 combination, their use should be paid for consistent with the UNE provisions of  
8 the agreement as well.

9 Further, once WorldCom purchases a UNE or UNE combination, those  
10 UNEs become a part of its network for all purposes, including the determination  
11 of who is entitled for compensation to traffic originated or terminated over those  
12 elements. Thus when WorldCom leases a loop and local switching combination  
13 to serve a particular customer, WorldCom is entitled to receive reciprocal  
14 compensation when BellSouth terminates local traffic to that WorldCom  
15 customer, and is entitled to received switched access charges when long distance  
16 calls are originated or terminated over those UNEs and any other UNEs used to  
17 handle the call.

18 **ISSUE 9**

19 *Should MCIW be required to use a special construction process, with*  
20 *additional costs, to order facilities of the type normally used at a location,*  
21 *but not available at the time of the order? (Attachment 3, Section 4.1.1.)*  
22

23 **Q. WHAT LANGUAGE HAS BELL SOUTH PROPOSED CONCERNING**  
24 **WHEN BELL SOUTH'S SPECIAL CONSTRUCTION PROCESS**  
25 **SHOULD BE USED?**

1 A. BellSouth has proposed the following language in Attachment 3:

2 4.1.1 If a requested loop type is not available at a location  
3 requested by MCI and cannot be made available by loop  
4 conditioning, then WorldCom can use the Special Construction  
5 process to determine additional costs required to provide the loop  
6 type ordered.

7  
8 **Q. WHAT IS WORLDCOM'S POSITION ON THIS ISSUE?**

9  
10 A. The special construction process only should be required when the requested  
11 facilities are not of the type normally used at a location.

12 **Q. WHAT IS BELL SOUTH'S POSITION ON THIS ISSUE?**

13 A. The special construction process should be required regardless of whether the  
14 requested facilities are of the type normally used at a location.

15 **Q. WHAT IS THE BASIS FOR WORLDCOM'S POSITION?**

16 A. WorldCom should not be required to use the special construction process when  
17 the loop type is normally used at the location, but facilities have been exhausted.  
18 Take for example a situation in which a small business customer elects to use  
19 WorldCom for local service and wants to add a second line to his business. The  
20 second line will be identical to the first in capabilities, but the service will be  
21 provided by WorldCom. WorldCom would place the order and BellSouth might  
22 decline to fulfill it, due to the unavailability of additional lines. Under the terms  
23 proposed by BellSouth, WorldCom would then have to use the special  
24 construction process to have BellSouth deploy a brand new line to the customer's  
25 premise. Such an undertaking would be inappropriate from a network  
26 engineering standpoint and extremely wasteful.

1           Moreover, the interval for that customer awaiting service on a second line  
2           would be unacceptable and the cost would be prohibitively expensive to  
3           WorldCom. Additionally, WorldCom does not wish to have facilities built for it  
4           in such an instance; providing the second line is a simple provisioning issue for  
5           which BellSouth should be responsible.

#### 6   **ISSUE 18**

7  
8           *Is BellSouth required to provide all technically feasible unbundled*  
9           *dedicated transport between locations and equipment designated by*  
10           *MCIW so long as the facilities are used to provide telecommunications*  
11           *services, including interoffice transmission facilities to network nodes*  
12           *connected to MCIW switches and to the switches or wire centers of other*  
13           *requesting carriers? (Attachment 3, Section 10.1.)*

14  
15   **Q.       WHAT CONTRACT LANGUAGE HAVE THE PARTIES PROPOSED**  
16   **CONCERNING THE END POINTS FOR DEDICATED TRANSPORT?**

17   **A.**The parties have proposed the following language in Attachment 3 (the disputed  
18           language proposed by WorldCom is in bold):

19  
20           10.1 Definition: Dedicated Transport is BellSouth transmission  
21           facilities, including all technically feasible capacity-related  
22           services including, but not limited to, DS1, DS3 and OCn levels,  
23           dedicated to a particular customer or carrier, that provides  
24           telecommunications between wire centers owned by BellSouth or  
25           requesting telecommunications carriers, or between switches  
26           owned by BellSouth or requesting telecommunications carriers.  
27           **The end points of dedicated transport need not be wire centers**  
28           **or switch locations, and they may be facilities of other**  
29           **requesting telecommunications carriers besides MCIW. At**  
30           **MCIW's and a third party carrier's request, BellSouth shall**  
31           **provide local channel-dedicated and/or interoffice transport-**  
32           **dedicated between MCIW and the third party carrier. Such**  
33           **transport shall be provided at transmission rates specified by**  
34           **MCIW, including, but not limited to, DS1, DS3, and STS-1**  
35           Dedicated Transport is depicted below in Figure 3.

36  
37  
38

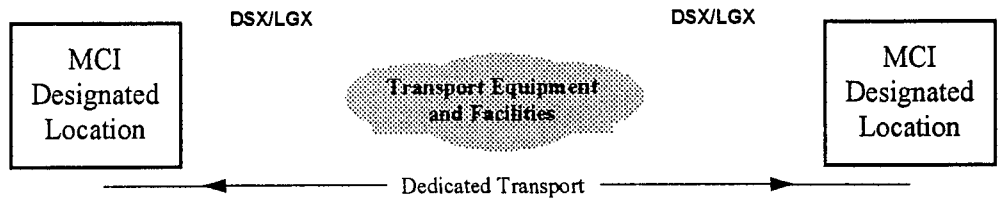


Figure 3

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**Q. WHAT IS WORLDCOM'S POSITION ON THIS ISSUE?**

A. WorldCom's position is that BellSouth is required to provide dedicated interoffice transmission facilities to the locations and equipment designated by WorldCom, including network nodes connected to WorldCom wire centers and switches and to the wire centers and switches of other requesting carriers.

**Q. WHAT IS BELLSOUTH'S POSITION?**

A. BellSouth contends that it only is required to provide dedicated transport between BellSouth and WorldCom switches and wire centers.

**Q. WHAT FCC REQUIREMENTS APPLY TO THIS ISSUE?**

A. FCC rules require BellSouth to provide nondiscriminatory access to interoffice transmission facilities on an unbundled basis to any requesting telecommunications carrier for the provision of a telecommunications service.

47 C.F.R. § 51.319(d). Dedicated transport is defined as

incumbent LEC transmission facilities, including all technically feasible capacity-related services including, but not limited to, DS1, DS3 and OCn levels, dedicated to a particular customer or carrier, that provide telecommunications between wire centers owned by incumbent LECs or requesting telecommunications carriers, or between switches owned by incumbent LECs or requesting telecommunications carriers.

47 C.F.R. § 51.319(d)(1)(A). BellSouth is required to "[p]rovide all technically feasible transmission facilities, features, functions, and capabilities that the

1 requesting telecommunications carrier could use to provide telecommunications  
2 services.” 47 C.F.R. § 51.319(d)(2)(B). Further, BellSouth must permit a  
3 requesting carrier to connect unbundled interoffice transmission facilities to  
4 equipment designated by the requesting carrier. 47 C.F.R. § 51.319(d)(2)(C).

5 BellSouth’s unbundling obligation “extends *throughout* its ubiquitous  
6 transport network.” *Rule 319 Remand Order*, ¶ 324 (emphasis added). Thus,  
7 BellSouth is not required to build new transport facilities to meet specific  
8 requests by ALECs for point-to-point service, but it is required to provide  
9 unbundled service where it has facilities in place.

10 **Q. WHY DOES WORLDCOM NEED BELL SOUTH TO PROVIDE**  
11 **DEDICATED TRANSPORT TO POINTS THAT ARE NOT IN**  
12 **BELL SOUTH OR WORLDCOM WIRE CENTERS OR END OFFICES?**

13 A. WorldCom “local loops” ride SONET rings and can traverse several serving wire  
14 center territories to get between a customer and the serving switch. These  
15 “loops” can be routed through several transport nodes within WorldCom’s  
16 network to connect the customer to the switch. The SONET rings that connect  
17 the switching node to the transport nodes (which then link to the separate  
18 SONET rings that terminate in the customer premise) act in a similar way as  
19 BellSouth’s common transport. Because of the way WorldCom’s network is  
20 configured, it will often be most efficient to link transport nodes to BellSouth  
21 dedicated transport rather than making the link at the WorldCom switch.



1                   This approach is consistent with the *Rule 319 Remand Order*. In  
2                   rejecting ILEC claims that unbundled transport should not be made available  
3                   because competitive alternatives are available, the FCC noted that

4                   [t]he competitive alternatives that are available along  
5                   limited point-to-point routes do not necessarily allow  
6                   competitive LECs to connect their collocation  
7                   arrangements or switching nodes according to the needs of  
8                   their individual network designs. These carriers also  
9                   require dedicated transport to deliver traffic from their  
10                  own traffic aggregation points to the incumbent LECs  
11                  network for purposes of interconnection.  
12

13                  *Rule 319 Remand Order*, ¶ 346.  
14

15                  **Q.    WHY DOES WORLDCOM NEED BELLSOUTH TO PROVIDE**  
16                  **DEDICATED TRANSPORT TO THIRD PARTY CARRIERS?**

17                  A.    BellSouth typically will have transport facilities to those carriers that WorldCom  
18                  lacks. In such cases, frequently it will be more efficient for WorldCom to lease  
19                  such facilities from BellSouth rather than constructing its own.

20                  **Q.    MUST BELLSOUTH PROVIDE DEDICATED TRANSPORT TO THIRD**  
21                  **PARTY CARRIERS WITH WHICH BELLSOUTH IS**  
22                  **INTERCONNECTED?**

23                  A.    Yes. As I already have noted, the FCC has required ILECs to provide dedicated  
24                  transport throughout their networks. *Rule 319 Remand Order*, ¶ 324. In  
25                  addition, the FCC’s definition of dedicated transport applies to the provision of  
26                  telecommunications between wire centers and switches and of ILECs and  
27                  “requesting telecommunications carriers.” 47 C.F.R. § 51.319(d)(1)(A).”  
28                  “Requesting telecommunications carriers” in this context means all requesting  
29                  carriers with whom BellSouth is interconnected.

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**ISSUE 22**

*Should the Interconnection Agreements contain MCIW's proposed terms addressing line sharing, including line sharing in the UNE-P and unbundled loop configurations? (Attachment 3, Sections 14.1-14.1.8.)*

**Q. WHAT IS THE STATUS OF THIS ISSUE WITH RESPECT TO LINE SHARING?**

A. WorldCom and BellSouth are now negotiating provisions regarding line-sharing, and there no longer appears to be a dispute as to whether line-sharing should be addressed in the agreement, only what the substance of the line sharing provisions should be. WorldCom has recently submitted language to BellSouth based on BellSouth's agreement with COVAD and certain other terms and conditions. BellSouth has not yet responded to WorldCom's proposal, and we therefore do not know what concerns, if any, BellSouth may have.

**Q. WHAT SHOULD THE COMMISSION DO?**

A. The Commission should adopt the line sharing and loop qualification language recently proposed by WorldCom. This language is consistent with the FCC's regulations and should be included in the Interconnection Agreement between the parties.

**Q. BELLSOUTH HAS ASSERTED THAT IT IS NOT REQUIRED BY FCC RULES TO PROVIDE PACKET SWITCHING AND OPERATOR SERVICES AND DIRECTORY ASSISTANCE ON AN UNBUNDLED BASIS. DO YOU AGREE WITH THIS ASSERTION?**

A. No. The FCC has ruled that packet switching and directory assistance and operator services must be provided as unbundled network elements under certain

1 conditions. WorldCom has proposed contract language which is consistent with  
2 the rules adopted by the FCC.

3 **Q. WHEN IS BELLSOUTH REQUIRED TO PROVIDE PACKET**  
4 **SWITCHING AS AN UNBUNDLED NETWORK ELEMENT?**

5 A. The FCC has required ILECs to make packet switching available as an  
6 unbundled network element when the ILEC has deployed DLC systems, there are  
7 no spare copper loops capable of supporting DSL service, the ILEC has not  
8 permitted the new entrant to collocate its Digital Subscriber Line Access  
9 Multiplexer at the remote terminal, and the incumbent has deployed packet  
10 switching for its own use. Rule 319 (c)(3)(B)

11 **Q. HAS WORLDCOM PROPOSED CONTRACT LANGUAGE REQUIRING**  
12 **BELLSOUTH TO MAKE PACKET SWITCHING AVAILABLE AS AN**  
13 **UNBUNDLED NETWORK ELEMENT CONSISTENT WITH THESE**  
14 **RULES?**

15 A. Yes, the contract language proposed by WorldCom is consistent with the FCC's  
16 rules.

17 **ISSUE 23**

18  
19 *Does MCIW's right to dedicated transport as an unbundled network*  
20 *element include SONET rings that exist on BellSouth's network?*  
21 *(Attachment 3, Sections 10.2.3, 10.5.2, 10.5.6.3, 10.5.9, 10.6, 10.7.2.16.)*  
22

23 **Q. HAS WORLDCOM PROPOSED CONTRACT LANGUAGE**  
24 **REGARDING PROVISION OF UNBUNDLED TRANSPORT AS A**  
25 **SONET SYETEM?**

1 A. Yes, WorldCom has proposed several provisions which require BellSouth to  
2 provide unbundled transport as a UNE consistent with the Act and FCC  
3 regulations. Some of these provisions relate to provision of SONET transport  
4 systems in a ring architecture in addition to point to point systems, electronic  
5 provisioning control of SONET rings, the technical requirements of dedicated  
6 transport using SONET technology, the use of industry standard SONET  
7 interfaces, and digital cross connect systems with SONET ring terminal  
8 functionality, where technically feasible. These provisions, which are too  
9 lengthy to reprint here, are found at Attachment 3, Sections 10.2.3, 10.5.2,  
10 10.5.6.3, 10.5.9, 10.6 and 10.7.2.16.

11 **Q. HAS AN ISSUE ARISEN WITH RESPECT TO THESE PROVISIONS?**

12 A. Yes, basically BellSouth has objected to any and all provisions dealing with  
13 SONET ring architecture. BellSouth has cited paragraph 324 of the FCC's *UNE*  
14 *Remand Order* in rejecting WorldCom's request that unbundled transport be  
15 provided as a SONET ring architecture.

16 **Q. PLEASE DESCRIBE THE SONET RING UNBUNDLED TRANSPORT**  
17 **THAT WORLDCOM HAS SOUGHT TO INCLUDE IN THE**  
18 **INTERCONNECTION AGREEMENT.**

19 A. The provisions proposed by WorldCom require BellSouth to provide unbundled  
20 transport as a SONET ring wherever BellSouth has existing fiber facilities in  
21 place for a SONET ring. WorldCom has not proposed that BellSouth construct  
22 new facilities where facilities do not exist.

1 **Q. IS BELL SOUTH REQUIRED TO PROVIDE UNBUNDLED TRANSPORT**  
2 **IN A SONET RING ARCHITECTURE WHERE THE FACILITIES TO**  
3 **DO SO EXIST?**

4 A. Yes, the FCC has made that very clear, and nothing in the paragraph relied upon  
5 by BellSouth detracts from that obligation. The FCC stated that “[a]lthough we  
6 conclude that an incumbent LEC’s unbundling obligation extends throughout its  
7 ubiquitous transport network, including ring transport architectures, we do not  
8 require incumbent LEC’s to construct new transport facilities to meet specific  
9 competitive LEC point-to point demand requirements for facilities that the  
10 incumbent LEC has not deployed for its own use.” (*UNE Remand Order*,  
11 paragraph 324.)

12 **Q. THE FCC REFERS TO TRANSPORT FACILITIES IN THE QUOTED**  
13 **PARAGRAPH. WHAT ARE TRANSPORT FACILITIES?**

14 A. Transport facilities are the medium used to transmit messages, in this case fiber.  
15 When the FCC says that incumbents must provide unbundled transport, including  
16 ring transport architectures, but that they are not required to construct new  
17 transport facilities, this means that the incumbent does not have to construct new  
18 fiber where none exists. On the other hand, in the words of the FCC “an  
19 incumbent LEC’s unbundling obligation extends throughout its ubiquitous  
20 transport network, including ring transport architectures....” Thus, where  
21 facilities do exist, BellSouth is required to provide unbundled transport as a  
22 SONET ring architecture.

1 Q. DOES THE LANGUAGE PROPOSED BY WORLDCOM REQUIRE  
2 BELLSOUTH TO CONSTRUCT NEW FIBER TRANSPORT  
3 FACILITIES?

4 A. No, it does not. WorldCom's proposed language does not require BellSouth to  
5 construct new fiber facilities. It only requires BellSouth to add the necessary  
6 electronics to existing fiber transport facilities to provide unbundled transport in  
7 a SONET ring architecture. As noted above, this is precisely what the FCC has  
8 required of incumbents.

9 Q. DOES BELLSOUTH'S UBIQUITOUS TRANSPORT NETWORK  
10 CONTAIN A HIGH PERCENTAGE OF FIBER FACILITIES?

11 A. Yes, more than 80% of BellSouth's interoffice network consists of fiber facilities  
12 in a ring architecture. Provision of interoffice transport in a ring architecture is  
13 technically feasible and the facilities to do so exist throughout BellSouth's  
14 network.

15 ISSUE 28

16  
17 *Should BellSouth provide the calling name database via electronic*  
18 *download, magnetic tape, or via similar convenient media? (Attachment 3,*  
19 *Section 13.7.)*

20  
21 Q. HAS WORLDCOM PROPOSED CONTRACT LANGUAGE  
22 ADDRESSING THE ISSUE OF THE CALLING NAME DATABASE?

23 A. Yes, WorldCom has proposed Attachment 3, Section 13.7, which provides as  
24 follows: "Calling Name (CNAM) Database: The CNAM Database contains  
25 subscriber information (including name and telephone number) used to show the  
26 customer name of an incoming call on a display attached to the telephone.

1 BellSouth shall provide the CNAM Database in accordance with the following.”

2 Thereafter, a series of detailed subsections follow.

3 **Q. WHAT ISSUE HAS ARISEN WITH RESPECT TO PROVISION OF THE**  
4 **CALLING NAME DATABASE?**

5 A. BellSouth refuses to provide a download of the calling name database.

6  
7 **Q. WHY DOES WORLDCOM REQUIRE A DOWNLOAD OF THE**  
8 **CALLING NAME DATABASE?**

9 A. The calling name database is needed in order to provide a number of services to  
10 WorldCom’s customers, including Caller ID with name service. The database  
11 should be provided via electronic download or on magnetic tape because this is  
12 the most efficient means of providing it.

13 **Q. WHAT HAS THE FCC RULED WITH RESPECT TO THE CALLING**  
14 **NAME DATABASE?**

15 A. The FCC has ruled that “Incumbent LECs must also offer unbundled access to  
16 call-related databases, including, but not limited to, the Line Information  
17 database (LIDB), Toll Free Calling database, Number Portability database,  
18 Calling Name database, Operator Services/Directory Assistance databases,  
19 Advanced Intelligent Network databases, and the AIN platform and  
20 architecture.” *Rule 319 Remand Order, Executive Summary* (between  
21 paragraphs 15 and 16).

22 **Q. WHY SHOULD THE CALLING NAME DATABASE BE PROVIDED VIA**  
23 **ELECTRONIC DOWNLOAD?**

1 A. Electronic download is the most efficient, least costly means of providing the  
2 database. It is technically feasible to provide the information in this form, and  
3 indeed, the directory assistance database is provided via electronic download.  
4 There is no reason why the calling name database cannot be provided in the  
5 manner as is the directory assistance database.

6  
7 B. Interconnection.

8 **ISSUE 29**

9  
10 *Should calls from MCIW customers to BellSouth customers served via*  
11 *Uniserve, Zipconnect, or any other similar service, be terminated by*  
12 *BellSouth from the point of interconnection in the same manner as other*  
13 *local traffic, without a requirement for special trunking? (Attachment 4,*  
14 *Section 1.1.1.)*

15  
16 Q. **WHAT LANGUAGE HAS WORLDCOM PROPOSED CONCERNING**  
17 **THIS ISSUE?**

18 A. WorldCom has proposed the following language in Attachment 4:

19  
20 1.1.1 BellSouth shall not require MCIW to establish trunks for  
21 local interconnection to points other than the Point of  
22 Interconnection because of a particular service offered by  
23 BellSouth to its customers (e.g. Uniserv or ZipConnect).

24  
25 Q. **MR. OLSON'S TESTIMONY DESCRIBES THE DIFFERENT TRUNK**  
26 **GROUPS THAT SHOULD BE ESTABLISHED BETWEEN BELL SOUTH**  
27 **AND WORLDCOM. IS THERE AN ISSUE WITH RESPECT TO THE**  
28 **ESTABLISHMENT OF TRUNK GROUPS?**

29 A. Yes, there is. BellSouth will not accept calls over the existing FGD local  
30 interconnection trunks for termination to a BellSouth Uniserv customer.

31 BellSouth designed Uniserv to work on its TOPS platform using FGC MOSS



1 trunking. In those areas where BellSouth has deployed this service, its design  
2 has required WorldCom to install new trunk groups from our local switches to  
3 the BellSouth TOPS platform. This new trunking requirement has increased our  
4 cost of doing business to support a BellSouth service for which BellSouth  
5 collects the revenue.

6 **Q. WHAT IS UNISERV?**

7  
8 A. Uniserv is a BellSouth retail service which allows BellSouth business subscribers  
9 to have their customers dial a single telephone number from anywhere in the  
10 LATA to call to a single service location. Uniserv is a free call to the caller with  
11 BellSouth being compensated for the call by its business customer.

12 **Q. SHOULD SPECIAL OPERATOR SERVICES TRUNK GROUPS BE**  
13 **REQUIRED FOR THE TERMINATION OF CALLS BY WORLDCOM**  
14 **CUSTOMERS TO BELL SOUTH UNISERV CUSTOMERS?**

15 A. No, special trunk groups should not be required. These calls should be sent over  
16 the local interconnection trunk group and then terminated by BellSouth as are  
17 other local or intraLATA calls. BellSouth's proposed requirement that  
18 WorldCom establish special operator trunk groups for these calls adds  
19 complexity to the network, adds cost, and reduces trunking efficiencies.

20 **Q. ARE THERE OTHER REASONS WHY BELL SOUTH'S PROPOSAL**  
21 **THAT OPERATOR SERVICES TRUNKS BE ESTABLISHED FOR**  
22 **UNISERV CALLS SHOULD BE REJECTED?**

23 A. Yes, BellSouth's position requires WorldCom to deliver Uniserv calls to the  
24 TOPS switch in violation of the provisions of the Act and FCC's *Local*

1 *Competition Order* which allow WorldCom to interconnect at any technically  
 2 feasible point of its choosing. In addition, BellSouth's position is inconsistent  
 3 with its duty to transport and terminate all traffic that is delivered to the  
 4 interconnection point.

5 **Q. WHAT SHOULD THE COMMISSION DO?**

6 A. The Commission should direct BellSouth to accept calls directed to its Uniserv  
 7 customers at the interconnection point and transport and terminate these calls  
 8 from that point.

9 **ISSUE 39**

10 *How should Wireless Type 1 and Type 2A traffic be treated under the*  
 11 *Interconnection Agreements? (Attachment 4, Section 9.7.2)*

12  
 13 **Q. WHAT LANGUAGE UNDERLIES THIS ISSUE?**

14  
 15 A. BellSouth has proposed the following Section 9.7.2 of Attachment 4:

16 Rates for transiting local transit traffic shall be as set forth in Attachment  
 17 1 of this Agreement. Wireless Type 1 traffic shall not be treated as transit  
 18 traffic from a routing or billing perspective. Wireless Type 2A traffic  
 19 shall not be treated as transit traffic from a routing or billing perspective  
 20 until BellSouth and the Wireless carrier have the capability to properly  
 21 meet-point-bill in accordance with MECAB guidelines.  
 22

23 This language is intended to perpetuate BellSouth's current practices with respect  
 24 to this traffic, which WorldCom opposes for the reasons set forth below.

25 **Q. HOW SHOULD WIRELESS TYPE 1 AND WIRELESS TYPE 2A**  
 26 **TRAFFIC BE TREATED UNDER THE INTERCONNECTION**  
 27 **AGREEMENT?**

28 A. This issue involves Wireless Type 1 and Type 2A traffic, which is transit traffic  
 29 originated by one carrier, delivered to BellSouth's tandem, tandem switched by  
 30 BellSouth to the network of a third carrier, and then terminated by the third

1 carrier. BellSouth receives a transiting fee for this service, as it should.  
2 However, it also charges the ALEC originating carrier for reciprocal  
3 compensation, which BellSouth retains. WorldCom disagrees with this practice.  
4 The carrier that ultimately terminates the call, the third carrier in this three  
5 carrier transaction, should receive the reciprocal compensation payment.  
6 BellSouth should be directed to turn over to the terminating carrier the reciprocal  
7 compensation payment which BellSouth currently collects from the originating  
8 carrier. Of course, BellSouth would retain the transiting fee (tandem switching)  
9 which it charges the originating carrier. The call termination revenue which  
10 BellSouth bills the originating carrier should be remitted to the carrier who  
11 actually performs the call termination function.

12 BellSouth's practice of retaining reciprocal compensation payments on  
13 this traffic could subject WorldCom to liability to the CMRS provider. For  
14 example, where WorldCom originates traffic to a CMRS provider and BellSouth  
15 transits the call, BellSouth will charge reciprocal compensation to WorldCom  
16 and retain it. The CMRS provider, which should be entitled to the payment, may  
17 seek such payment from WorldCom which had originated the call and had turned  
18 over the payment to BellSouth. Clearly, WorldCom should not have to pay  
19 reciprocal compensation twice. Therefore, if the Commission does not direct  
20 BellSouth to remit the reciprocal compensation to the terminating carrier, it  
21 should at a minimum direct BellSouth to indemnify WorldCom against any  
22 lawsuit filed by the CMRS provider that results from BellSouth's practice of  
23 retaining the reciprocal compensation payment.

1           Finally, BellSouth has indicated that for Type 2A traffic, it intends to end  
2 the practice of billing for such traffic as landline traffic when the involved parties  
3 have the necessary meet point billing system capabilities. WorldCom requests  
4 that BellSouth be directed to continue to provide the billing function as it does  
5 now, but as noted above, that the payments in all cases be remitted to the carrier  
6 performing the terminating function.

7   **ISSUE 40**

8           *What is the appropriate definition of internet protocol (IP) and how*  
9           *should outbound voice calls over IP telephony be treated for purposes of*  
10           *reciprocal compensation? (Attachment 4, Sections 9.3.3 )*

11  
12   **Q.    WHAT IS THE LANGUAGE IN DISPUTE CONCERNING THIS ISSUE?**

13  
14   A.    BellSouth has proposed the following language as Section 9.3.3 of Attachment 4:

15                   “Switched Access Traffic is as defined in the BellSouth Access Tariff.

16                   Additionally, IP Telephony traffic will be considered switched access traffic.”

17                   WorldCom opposes this for the reasons discussed below.

18   **Q.    HAS BELL SOUTH PROPOSED THAT IP TELEPHONY BE TREATED**  
19           **IN THE INTERCONNECTION AGREEMENT AS SWITCHED ACCESS**  
20           **FOR PURPOSES OF INTER-CARRIER COMPENSATION?**

21   A.    Yes, it has. However, as discussed below, BellSouth has not defined IP; it has  
22           mischaracterized the traffic it seeks to address; it eliminates the only form of  
23           intercarrier compensation appropriate to the traffic (reciprocal compensation);  
24           and it has not established that the subject of assessing access charges on this  
25           traffic is an appropriate subject for this arbitration.

1 **Q. DOES BELLSOUTH PROPOSE AN ACTUAL DEFINITION OF**  
2 **INTERNET PROTOCOL (“IP”) IN SUPPORT OF ITS POSITION ON**  
3 **THE TREATMENT OF THIS TRAFFIC?**

4 A. No. While BellSouth frames this issue as being at least somewhat related to the  
5 definition of IP, its proposed contract language merely makes a sweeping  
6 generalization as to the “use” of IP, not what IP actually is.

7 This is a significant failing, as defining IP is a prerequisite for any  
8 discussion of how such traffic should be treated. In its 1998 Report to Congress,  
9 the Federal Communications Commission (“FCC”) examined “Internet-based  
10 services known as IP telephony.” Federal-State Joint Board on Universal  
11 Service, Report to Congress, CC Docket No. 96-45, FCC 98-67 at para. 83 (April  
12 10, 1998) (“Report”). The FCC defined “IP telephony” as “services [that] enable  
13 real-time voice transmission using Internet protocols,” Report at para. 84, and  
14 recognized that a “wide range of service can be provided using packetized  
15 voice.” Report at para. 90. Ultimately, the FCC declined to make any definitive  
16 pronouncements regarding the regulatory status of various specific forms of IP  
17 telephony. Report at para. 90. The FCC has also declined to require providers of  
18 IP telephony to pay access charges.

19 **Q. WHAT INCONSISTENCIES DO YOU SEE WITH BELLSOUTH’S**  
20 **PROPOSED TREATMENT OF IP BASED TRAFFIC WHEN COMPARED**  
21 **TO THE FCC DEFINITION OF IP TELEPHONY?**

22 A. BellSouth’s proposal suggests that the mere presence of IP indicates that  
23 “traditional long-distance calling” is the service being provided. BellSouth’s

1 proposal fails to recognize that IP telephony can be utilized to provide, in the  
2 FCC's words, a "wide range of service." (Bell South also alleges that there is an  
3 "increasing use of IP technology" and then concludes that such increased use  
4 somehow justifies its proposal. WorldCom fails to see the relevance of  
5 frequency of use of a particular technology to classification of traffic.) Treating  
6 all traffic which utilizes IP as long-distance would erroneously categorize all  
7 such traffic that is actually *local* in nature.

8 **Q. IS THE BELL SOUTH PROPOSAL CONSISTENT WITH ESTABLISHED**  
9 **INTER-CARRIER COMPENSATION MECHANISMS?**

10 A. No. There are only two forms of inter-carrier compensation local carriers receive  
11 for assisting each other in delivering calls: "reciprocal compensation" and  
12 "access charges." Congress recognized that when a customer of one carrier  
13 makes a local call to a customer of another carrier, the caller pays only its own  
14 carrier for the telephone services – leaving the other carrier uncompensated. The  
15 Telecommunications Act of 1996 therefore requires the caller's local carrier to  
16 compensate the other carrier whose facilities are used to complete the local call.  
17 The second form of inter-carrier compensation is access charges. When a caller  
18 makes a long-distance call, he pays his long-distance company – not his local  
19 carrier – for the call. The long-distance company pays access charges to local  
20 telephone carriers to compensate them for originating and terminating the long-  
21 distance calls over their networks.

22 Because the FCC has not imposed interstate access charges on IP  
23 telephony, the only available form of inter-carrier compensation for the services

1 at issue in this arbitration is reciprocal compensation. As this Commission has  
2 previously recognized, reciprocal compensation applies to calls delivered to ISPs  
3 in the local calling area.

4 **Q. WHAT IS WORLDCOM'S POSITION ON WHETHER THIS**  
5 **COMMISSION SHOULD REQUIRE PAYMENT OF ACCESS CHARGES**  
6 **ON LONG DISTANCE CALLS UTILIZING PHONE-TO-PHONE IP**  
7 **TELEPHONY?**

8 A. The question of whether long-distance carriers should pay interstate access  
9 charges when they utilize IP telephony is beyond the scope of this arbitration  
10 proceeding.

11 The issue of access charges for interstate long distance calls is clearly  
12 within the jurisdiction of the FCC and not this Commission. While BellSouth  
13 tries to argue that these calls should be classified as switched exchange access  
14 traffic and be subject to access charges, that is a question that the FCC, not this  
15 Commission, must answer. In fact, BellSouth has presented the very arguments  
16 it makes here to the FCC and the FCC has not adopted BellSouth's arguments.  
17 Instead, in its 1998 Report to Congress, Docket No. 96-45, FCC 98-67 (April 10,  
18 1998) ("FCC Report"), the FCC examined the issue of IP telephony including the  
19 arguments of Bell South and concluded that it would be inappropriate to make  
20 any definitive pronouncements in the absence of a more complete record focused  
21 on individual service offerings. (FCC Report, ¶ 89.) The FCC further  
22 specifically declined to impose access charges on IP telephony noting that "we  
23 will likely face difficult and contested issues relating to the assessment of access

1 charges on these providers . . . We intend to examine these issues more closely  
2 based on the more complete records developed in future proceedings.” (FCC  
3 Report, ¶ 91.) Because federal law currently does not allow access charges to  
4 be imposed on IP Telephony, it would be contrary to federal law and the Florida  
5 Commission’s jurisdiction for it to impose access charges on interstate long  
6 distance calls utilizing Phone-to Phone IP Telephony.

7 Moreover, because the FCC will be addressing the issue of access charges  
8 in this area, it would be appropriate for this Commission to await the FCC’s  
9 decision before addressing the issue of access charges for intrastate long  
10 distance calls utilizing Phone-to-Phone IP Telephony. This is particularly true  
11 because the FCC has recognized that it may be difficult to determine whether  
12 particular IP telephony calls are interstate or intrastate and intends to address that  
13 issue in the context of determining whether access charges should apply. (FCC  
14 Report, ¶ 91.)

15 The FCC has announced plans to institute a proceeding to examine issues  
16 associated with IP telephony during the next six months. (TR Daily, June 30,  
17 2000). For all of the reasons noted above, the Commission should await the  
18 FCC’s decision rather than addressing this issue in this arbitration proceeding.

19 **ISSUE 42**

20 *Should MCIW be permitted to route access traffic directly to BellSouth*  
21 *end offices or must it route such traffic to BellSouth's access tandem?*  
22 *(Attachment 4, Section 2.3.8.)*

23  
24 **Q. WHAT LANGUAGE HAS BELLSOUTH PROPOSED CONCERNING**  
25 **WHETHER WORLDCOM SHOULD BE REQUIRED TO ROUTE**



1           **SWITCHED ACCESS TRAFFIC TO BELLSOUTH'S ACCESS**  
2           **TANDEM?**

3    A.    BellSouth has proposed the following language in Attachment 4, which  
4           WorldCom opposes:

5                       2.3.8 MCIIm agrees not to deliver switched access traffic to  
6                       BellSouth for termination except over MCIIm ordered switched  
7                       access trunks and facilities.

8  
9    **Q.    WHAT IS WORLDCOM'S POSITION ON THIS ISSUE?**

10  
11   A.    BellSouth should not be permitted to require WorldCom to route all terminating  
12           switched access traffic to a BellSouth access tandem. This requirement would  
13           allow BellSouth to monopolize the tandem services business, and WorldCom  
14           should be permitted to offer such services.

15   **Q.    WHAT IS BELLSOUTH'S POSITION ON THIS ISSUE?**

16   A.    BellSouth contends WorldCom should be prohibited from delivering switched  
17           access traffic by any means other than switched access trunks and facilities.

18   **Q.    WHAT IS THE BASIS FOR WORLDCOM'S POSITION?**

19   A.    The prohibition BellSouth proposes effectively would require WorldCom to  
20           route all toll traffic to BellSouth's access tandems using special access facilities,  
21           and would preclude WorldCom from routing toll traffic from its own tandem  
22           switches to BellSouth end offices. BellSouth's language would ensure that it  
23           always would be able to charge for tandem and transport when terminating toll  
24           traffic, and would eliminate competition for tandem and transport services.  
25           BellSouth's proposed language is anticompetitive and should be rejected.

1 **Q. IS WORLDCOM SEEKING TO AVOID THE PAYMENT OF ACCESS**  
2 **CHARGES ON LONG DISTANCE CALLS?**

3 A. No. WorldCom objects to the language proposed by BellSouth because  
4 WorldCom does not want language in the Agreement that would preclude  
5 WorldCom from offering tandem services to other carriers, as described above.  
6 BellSouth incorrectly suggests that WorldCom's opposition to the language  
7 proposed by BellSouth is an attempt to disguise switched access traffic as local  
8 traffic over local interconnection trunks. Perhaps BellSouth misunderstands  
9 WorldCom's intent. In fact, BellSouth's proposal will perpetuate its monopoly  
10 over the provision of access services to IXCs in violation of the Act. WorldCom  
11 is entitled to provide the tandem and transport services associated with toll  
12 calling and if WorldCom does so, BellSouth will be entitled to bill the access  
13 charges associated with the access services it provides at the end office.

14 **ISSUE 43**

15 *When the ANI, CPN and BTN are not available, should the parties be*  
16 *required to include in the information transmitted with the call the NPA/NXX*  
17 *associated with the trunk group or the telephone number associated with the*  
18 *trunk group? (Attachment 4, Section 9.2.2.)*  
19

20 **Q. WHAT LANGUAGE HAS WORLDCOM PROPOSED CONCERNING**  
21 **THE INFORMATION THAT SHOULD BE INCLUDED IN THE**  
22 **TRANSMISSION OF TELEPHONE CALLS?**

23 A. WorldCom has proposed the following language in Attachment 4, with the  
24 disputed language shown in bold:

25 9.2.2 Each Party will include in the information transmitted to the  
26 other for each call being terminated on the other Party's network  
27 the originating CPN, if recorded , otherwise ANI or billing

1 telephone number (BTN) will be provided, where recorded.  
2 Where ANI or BTN are not recorded, the **telephone number**  
3 assigned to the trunk group for recording purposes will be inserted  
4 in the BTN field.  
5

6 **Q. WHAT IS WORLDCOM'S POSITION ON THIS ISSUE?**

7  
8 A. The parties should be required to provide the telephone number associated with  
9 the trunk.

10 **Q. WHAT IS BELL SOUTH'S POSITION ON THIS ISSUE?**

11 A. BellSouth's position is that it is sufficient for it to provide the NPA/NXX of the  
12 number assigned to the trunk group rather than the entire telephone number.

13 **Q. WHAT IS THE BASIS FOR WORLDCOM'S POSITION?**

14 A. When the ANI, CPN and BTN are not available, the parties should include in the  
15 information transmitted with the call the telephone number associated with the  
16 trunk group used to originate the call. This information enables the parties to  
17 identify the source of the call and thus to bill the appropriate rates to the  
18 appropriate party. If only the NPA/NXX is provided, the actual source of the  
19 call cannot be determined and billing and auditing of bills will not be accurate.

20 **ISSUE 45**

21 *How should third party local transit traffic be routed and billed by the*  
22 *parties? (Attachment 4, Sections 9.7.1., 10.7.1.1, )*

23  
24 **Q. WHAT LANGUAGE GIVES RISE TO THIS ISSUE?**

25  
26 A. WorldCom has proposed the following sections 9.7.1 and 10.7.1.1 that BellSouth  
27 has objected to:

28 9.7.1 For calls that transit BellSouth's network, whether they originate  
29 from MCI and terminate to a third party LEC, CLEC or CMRS  
30 provider, or originate from that third party and terminate to MCI, and  
31 transit BellSouth's network, MCI may require BellSouth to make

1 arrangements directly with that third party for any compensation owed in  
2 connection with such calls on MCIIm's behalf, or deal directly with that  
3 third party, at MCIIm's option.

4  
5 10.7.1.1 If MCIIm requires BellSouth to make arrangements directly with  
6 a third party LEC, CLEC or CMRS provider on MCIIm's behalf,  
7 BellSouth shall compensate MCIIm for such calls terminating to MCIIm  
8 using MCIIm's rates as described herein, and charge MCIIm for such calls  
9 terminating to that third party as if such calls had terminated in  
10 BellSouth's network, using BellSouth's rates as described herein.  
11

12 **Q. HOW SHOULD THIRD PARTY TRANSIT TRAFFIC BE ROUTED AND**  
13 **BILLED BY THE PARTIES?**

14 A. Transit traffic, whether the jurisdiction of the call is local or intraLATA toll,  
15 should be routed and billed in the most efficient way possible for all LECs.  
16 From a routing perspective, this traffic should be exchanged over the same  
17 logical trunk group as all other local and intraLATA toll traffic. This reduces  
18 the number of trunk groups needed for both companies, and keeps translations  
19 simple for both companies. Typically, the volume of transit traffic does not  
20 warrant its own trunk group to each tandem. From a billing perspective, it is also  
21 efficient to minimize the number of bills and record exchange for transit traffic.  
22 It is best to illustrate using a couple of call flow examples. If a call is originated  
23 from WorldCom, transited by BellSouth, and terminated to an independent LEC,  
24 WorldCom proposes that BellSouth bill WorldCom for a transiting charge, and  
25 the call termination charges as well. BellSouth would then settle up with the  
26 independent LEC, as it has have done for years. The independent LEC would  
27 not have to go through the network expense of separate trunk groups and billing  
28 expense for billing this small volume of traffic from WorldCom, but obtains

1 payment from BellSouth, since BellSouth billed WorldCom. All carriers along  
2 the route are compensated for their piece of carrying the call. In the reciprocal  
3 fashion, if a call is originated from an independent LEC, transited through  
4 BellSouth, and terminated to WorldCom, WorldCom proposes that BellSouth  
5 bill the independent for a transiting charge (if applicable), and WorldCom bill  
6 BellSouth for terminating that call on the WorldCom network. Again, BellSouth  
7 would obtain payment from the independent LEC. This practice is consistent  
8 with the Ordering and Billing Forum (OBF) Meet Point Billing Guidelines  
9 (single bill/single tariff option). Again, this reduces the number of trunks groups,  
10 record exchange, and number of bills (to render and to audit) for all carriers.

11 **Q. WHAT ARE BELLSOUTH'S OBJECTIONS TO THIS APPROACH?**

12 A. BellSouth has two objections. First, BellSouth does not want to render a bill for  
13 reciprocal compensation to the originating carrier as described above. Instead, it  
14 believes that the terminating carrier should bill the originating carrier. Second,  
15 BellSouth wants WorldCom to establish separate trunk groups for transit traffic.

16 **Q. CAN YOU DESCRIBE ANOTHER INSTANCE IN WHICH BELLSOUTH  
17 RENDERS BILLS FOR RECIPROCAL COMPENSATION ON THIRD  
18 PARTY TRANSIT TRAFFIC?**

19 A. Yes, as discussed above with respect to Wireless Type 1 and Wireless Type 2A  
20 traffic (Issue 39), BellSouth bills the originating carrier for call termination.  
21 BellSouth does this even though BellSouth does not actually terminate the call  
22 but rather transits it to another carrier for termination. The process used by  
23 BellSouth on Wireless Type 1 and Type 2A traffic of billing the originating

1 carrier for call termination should also apply to other types of third party transit  
2 traffic. Of course, as noted with respect to Issue 39, BellSouth should retain the  
3 transiting fee but should remit the reciprocal compensation payment to the carrier  
4 that actually provides the call termination.

5 **Q. PLEASE COMMENT ON BELL SOUTH'S OBJECTION TO TRANSIT**  
6 **TRAFFIC BEING ROUTED OVER THE LOCAL INTERCONNECTION**  
7 **TRUNK.**

8 A. From a network perspective, again, it is WorldCom's position to route the  
9 local/intraLATA and transit traffic on a combined trunk group. There are  
10 tremendous network efficiencies by combining these three traffic types, from a  
11 facilities, trunking, and switch port perspective, and also translations table  
12 maintenance. The Commission should rule specifically that all of these types of  
13 traffic can be sent over the same trunk. Any requirement that separate trunks be  
14 established for transit traffic is just a wasteful use of scarce resources.

15 **ISSUE 46**  
16

17 *Under what conditions, if any, should the parties be permitted to assign an*  
18 *NPA/NXX code to end users outside the rate center in which the NPA/NXX is*  
19 *homed? (Attachment 4, Sections 9.4.6. and 9.10.)*  
20

21 **Q. WHAT LANGUAGE HAS BELL SOUTH PROPOSED THAT GIVES RISE**  
22 **TO THIS ISSUE?**

23 A. BellSouth has proposed the following Sections 9.4.6 and 9.10 of Attachment 4:  
24

25  
26 9.10 The Parties agree that the jurisdiction of a call is determined  
27 by its originating and terminating (end-to-end) points. For the  
28 purpose of delivery of BellSouth originating traffic to MCI, Im,  
29 BellSouth will pay to MCI, Im reciprocal compensation for Local  
30 Traffic terminating to MCI, Im end users physically located in the  
31 BellSouth rate center to which the MCI, Im end user's NPA/NXX is

1 assigned. If MCIIm assigns NPA/NXXs to specific BellSouth rate  
2 centers and assigns numbers from those NPA/NXXs to MCIIm end  
3 users physically located outside of the rate center to which the  
4 NPA/NXX is assigned, BellSouth traffic originating from within  
5 the BellSouth rate center where the NPA/NXX is assigned and  
6 terminating to a MCIIm customer physically located outside of  
7 such rate center, and at a location toll to the BellSouth originating  
8 rate center, shall not be deemed Local Traffic, and no  
9 compensation from BellSouth to MCIIm shall be due therefor.  
10 Further, MCIIm agrees to identify such traffic to BellSouth and to  
11 compensate BellSouth for originating and transporting such traffic  
12 to MCIIm at BellSouth's tariffed intrastate switched access rates.  
13 In addition, MCIIm should not use NPA/NXXs to collect  
14 BellSouth originated local or intraLATA toll traffic and for  
15 delivery to a point outside the LATA from where the originating  
16 NPA/NXX rate center resides.

17  
18 9.4.6 If MCIIm does not identify such traffic to BellSouth, to the best of  
19 BellSouth's ability BellSouth will determine which whole MCIIm  
20 NPA/NXXs on which to charge the applicable rates for originating  
21 intrastate network access service as reflected in BellSouth's Intrastate  
22 Access Service Tariff. BellSouth shall make appropriate billing  
23 adjustments if MCIIm can provide sufficient information for BellSouth to  
24 determine whether said traffic is local or toll

25  
26 WorldCom opposes this language for the reasons set forth below.

27  
28 **Q. PLEASE ADDRESS BELLSOUTH'S PROPOSAL REGARDING AN**  
29 **ALECS' RIGHT TO ASSIGN NPA/NXXS.**

30 **A.** In order to impose BellSouth's view of what local services an ALEC should  
31 offer, Bell South proposes to restrict the ability of ALECs to assign NPA/NXX  
32 codes to ALEC end users by forcing such assignments to be tied to the physical  
33 location of the ALEC's end user. BellSouth proposes that ALECs be prohibited  
34 from assigning NPA/NXXs to end users located outside the local calling area of  
35 the rate center with which the NPA/NXX has been associated. As justification,  
36 BellSouth asserts that without this restriction it would not be able to make a  
37 determination as to the jurisdiction of the traffic (i.e., local vs. non-local)

1 originated by BellSouth end users.

2 **Q. DOES WORLDCOM PROPOSE TO ASSIGN NPA/NXX CODES IN**  
3 **SUCH A MANNER AS TO MAKE IT IMPOSSIBLE FOR BELLSOUTH**  
4 **TO IDENTIFY THE JURISDICTION OF TRAFFIC?**

5 A. No. BellSouth's confusion is self-imposed. Jurisdiction of traffic is properly  
6 determined by comparing the rate centers associated with the originating and  
7 terminating NPA/NXXs for any given call.

8 **Q. IS THE COMPARISON OF RATE CENTERS, AS DESCRIBED BY**  
9 **WORLDCOM ABOVE, CONSISTENT WITH INDUSTRY PRACTICES**  
10 **WITH REGARD TO RATING AND ROUTING OF TRAFFIC?**

11 A. Yes. Comparison of the rate centers associated with the calling and called  
12 NPA/NXXs is consistent with how the jurisdiction of traffic and the applicability  
13 of toll charges are determined within the industry today.

14 For illustrative purposes I would refer to the September 2, 1999 Decision  
15 99-09-029 by the California Public Utilities Commission, in their in Rulemaking  
16 95-04-043 / Investigation 95-04-044 regarding use of central office (NXX)  
17 codes, as it provides a brief summary of industry practices as follows:

18 *The rating of telephone calls by wireline carriers is based*  
19 *on a geographically determined system which classifies*  
20 *calls as local, intra local access and transport area*  
21 *(LATA) toll, or interLATA long distance. Telephone*  
22 *numbers are assigned by a neutral Code Administrator to*  
23 *telephone carriers in blocks of 10,000 numbers based*  
24 *upon the North American Numbering Plan (NANP). Each*  
25 *10,000-number block is identified by a three-digit area*  
26 *code (or Number Plan Area, NPA), followed by a three-*  
27 *digit (NXX) central office code. Every NPA-NXX code*  
28 *corresponds to a unique "rate center," which is a*  
29 *designated geographical point within an exchange from*



1                   *which calling distances are measured to determine any*  
2                   *retail toll charges for calls between telephone numbers.*  
3                   *(Emphasis added) Every rate center is identified by*  
4                   *vertical and horizontal (V&H) coordinates analogous to*  
5                   *longitude and latitude lines used in navigation. These*  
6                   *V&H coordinates are used to calculate mileage between*  
7                   *rate centers for rating purposes. [Footnote omitted]*  
8

9   **Q.    WHAT DECISION DID THE CALIFORNIA PUBLIC UTILITIES**  
10           **COMMISSION REACH WITH REGARD TO HOW CALLS**  
11           **SHOULD BE RATED?**

12   A:    The Commission, in the same decision, went on to address the issue of call rating  
13           as local or toll. At page 21 in Decision 99-09-029 dated September 2, 1999, in  
14           Rulemaking 95-04-043 / 95-04-044 the Commission determined that:

15                   As discussed below, we conclude that the rating of calls as toll or  
16                   local should be based upon the designated rate center of the NXX  
17                   prefix of the calling and called parties' numbers. Even if the called  
18                   party may be physically located in a different exchange from where  
19                   the call is rated, the relevant rating point is the rate center of the  
20                   NXX prefix.

21  
22           In support of its position on rating of calls the Commission, in its decision at  
23           page 22, noted that Pacific's tariff for Message Telecommunications Service  
24           prescribes that "Toll rates between points (cities, towns, or localities) are based  
25           on the airline distance between *rate centers*." The Commission goes on to say,  
26           "Thus, it is the applicable rate center as identified by telephone number prefix,  
27           not the physical location of the calling or called party that is used to rate calls."

28   **Q.    HOW DOES THE BELL SOUTH TARIFF ADDRESS THIS RATING**  
29           **PROCESS?**

30   A.    Similar language to that noted by the CAPUC in its determination on the rating  
31           of calls can be found in the BellSouth Florida General Subscriber Services Tariff

1 at Section A18. Long Distance Message Telecommunications Service,  
2 Subsection A18.2.B. Here the BellSouth tariff specifies that "Rates for service  
3 between points are based on airline mileage between *rate centers*." (Emphasis  
4 added.)

5 **Q. IF A REQUIREMENT TO ASSIGN NPA/NXXS TO CUSTOMERS**  
6 **PHYSICALLY LOCATED WITHIN THE LOCAL CALLING AREA OF**  
7 **THE RATE CENTER ASSOCIATED WITH THE NPA/NXX IS NOT**  
8 **NECESSARY FOR DISTINGUISHING TRAFFIC, WHAT OTHER**  
9 **BENEFITS WOULD BELLSOUTH ENJOY IF SUCH A RESTRICTION**  
10 **WERE ALLOWED?**

11 A. This restriction would effectively prohibit an ALEC from directly competing  
12 with BellSouth for some local services. This would specifically impact Foreign  
13 Exchange (FX) service and variations of that service.

14 **Q. HOW DOES THIS RESTRICTION IMPACT FX SERVICE?**

15 A. Assignment of an NPA/NXX "located" in an exchange different than the  
16 exchange in which the end user is located is the very definition of FX service.  
17 ALECs offer this service today in direct competition with the ILECs. With  
18 BellSouth's proposed restriction ALECs would no longer be able to offer FX  
19 service.

20 **Q. DOES BELLSOUTH VIOLATE THE VERY RESTRICTION**  
21 **THEY ARE ATTEMPTING TO PLACE ON WORLDCOM IN THE**  
22 **PROVISION OF THEIR OWN PROVISION OF FX SERVICE?**

23 A: Yes. BellSouth's General Subscriber Service Tariff for Florida at A9.1.1.A

1 specifies that "Foreign exchange service is exchange service furnished to a  
2 subscriber from an exchange other than the one from which the subscriber would  
3 normally be served, allowing subscribers to have local presence and two-way  
4 communications in an exchange different from their own."

5 In other words, if the retail FX service is provided by BellSouth,  
6 NPA/NXXs can be assigned to end users outside the local calling area of the rate  
7 center with which the NPA/NXX has been associated. And, the jurisdiction (i.e.,  
8 local vs. toll) of traffic delivered from the foreign exchange to the end user will  
9 be determined as if the end user were physically located in the foreign exchange.  
10 Under the BellSouth proposal, an ALEC could not offer FX service; but even if it  
11 could such traffic would be classified as toll. As noted above, this is inconsistent  
12 with BellSouth's treatment of its own FX service.

13 Simply, BellSouth's proposal, in violation of the Act, would effectively  
14 prohibit WorldCom from offering FX service in competition with BellSouth.  
15 This position is anti-competitive, anti-consumer, and inconsistent with the notion  
16 of parity.

17 **Q. FOR WHAT OTHER LOCAL SERVICE WOULD COMPETITION**  
18 **BE DAMAGED IF BELLSOUTH'S PROPOSED RESTRICTION**  
19 **WERE ADOPTED?**

20 **A.** Competition with BellSouth's Primary Rate ISDN Extended Reach Service  
21 (ERS) would also be eliminated if BellSouth's proposal is adopted. At Section  
22 A42.3.1.P. of the General Subscriber Service Tariff this service is described as  
23 follows:

1 ERS is designed to "extend the reach" of the Inward Data Option  
2 customer from a centrally located metropolitan local calling area  
3 into the areas of the LATA which are available on a foreign  
4 exchange basis. The ERS customer purchases telephone numbers  
5 within each desired foreign exchange area to allow their clients to  
6 call them at no charge.

7  
8 Again, for BellSouth to offer this service they must engage in exactly the same  
9 practices (assigning NPA/NXXs to end users located outside the local calling  
10 area of the rate center associated with the NPA/NXX and determining a local  
11 jurisdiction for this traffic regardless of the actual end points) which it seeks to  
12 prohibit an ALEC from engaging in. BellSouth also has no problem determining  
13 jurisdiction of this traffic (local) by comparing the rate centers associated with  
14 the originating and terminating NPA/NXXs regardless of the physical location of  
15 the end user.

16 Once again, grant of BellSouth's proposal will eliminate competition for  
17 this FX type service.

18 **Q. ASIDE FROM ELIMINATING ALEC COMPETITORS FROM THE FX**  
19 **MARKET, WHAT OTHER ANTI-COMPETITIVE IMPLICATIONS ARE**  
20 **INVOLVED WITH BELL SOUTH'S PROPOSED RESTRICTION?**

21 A. Elimination of competition for the ERS service should be viewed as particularly  
22 troubling, as this is a service favored by Internet Service Providers (ISP). It  
23 allows ISPs to establish a point of presence in a single metropolitan area and then  
24 to have their customers reach them from foreign exchanges on a local call basis.

25 Making this service available only from the monopoly ILEC, which has  
26 its own ISP, will put upward pressure on rates and provide no incentive (and  
27 perhaps even a disincentive) for the ILEC to offer a high level of service and / or

1 innovations. Such changes will not only result in upward pressure on rates for  
2 Internet access service in Florida but may well inhibit the availability of Internet  
3 access in the more remote and rural areas of the state.

4 The actions of a competitive market are the reason this service exists. To  
5 allow BST to prohibit an ALEC from providing this service will jeopardize the  
6 gains made by ISPs and by end users seeking competitive choices among ISPs.

7 **Q. WHAT DOES WORLDCOM BELIEVE IS THE PROPER TREATMENT**  
8 **OF THIS ISSUE?**

9 A. The proper resolution of this issue is for ALECs to be allowed to establish  
10 routing points different than the rating points associated with the NPA/NXX  
11 being assigned to the ALEC's end user with no restriction on location of the end  
12 user as long as that location is within the same LATA as the NPA/NXX being  
13 assigned. Further, the proper method for determination of traffic jurisdiction is  
14 to compare the rate centers associated with the originating and terminating  
15 NPA/NXXs.

16 **Q. IS THERE AN EXAMPLE OF ANOTHER STATE REACHING**  
17 **THE CONCLUSION PROPOSED BY WORLDCOM?**

18 A. Yes. The California Public Utilities Commission (CPUC) has addressed this very  
19 issue. In Decision 99-09-029 dated September 2, 1999, in Rulemaking 95-04-  
20 043 95-04-044 at page 17, the Commission determined that:

21 Rather than imposing policies restricting carriers' service options,  
22 we believe the proper approach is to provide incentives for  
23 carriers to expand their service offerings so that NXX codes will  
24 become more fully utilized.  
25

1 Accordingly, we find no basis to prohibit carriers from assigning  
2 NXX prefixes rated for one exchange to customers located in  
3 another exchange as a means of offering a local presence where  
4 such an arrangement is technologically and economically  
5 efficient, and where intercarrier compensation is fairly provided.  
6 We shall not prohibit CLCs from designating different rating and  
7 routing points just because such an approach may differ from  
8 traditional methods used by ILECs. Such a prohibition would  
9 undermine the incentives for carriers to develop innovative  
10 service alternatives in the most economically and technologically  
11 efficient manner.  
12

13 **ISSUE 47**

14  
15 *Should reciprocal compensation payments be made for calls bound to*  
16 *ISPs? (Attachment 4, Section 9.3.2; Part B, Section 80)*

17  
18 **Q. WHAT IS THE LANGUAGE IN DISPUTE CONCERNING THIS ISSUE?**

19 **A.** Two sections are in dispute. Attachment 4 includes the following language, with  
20 WorldCom's proposed language in bold, and BellSouth's proposed language in  
21 bold and underlined:

22 9.3.2 Local Traffic **includes does not include** traffic directed to  
23 Internet Service Providers.

24  
25 WorldCom proposes the following definition in Part B, Section 80:

26  
27 **Internet Service Providers are entities that provide**  
28 **their customers the ability to obtain on-line**  
29 **information through the Internet by combining**  
30 **computer processing, information storage, protocol**  
31 **conversion, and routing with transmission to enable**  
32 **users to access Internet content and services.**

33  
34 BellSouth proposes the following definition in Part B, Section 80:

35  
36 **“INTERNET SERVICE PROVIDER” or “ISP”**  
37 **provides services offered over common carrier**  
38 **telecommunications facilities used in interstate**  
39 **communications, which employ computer processing**  
40 **applications. ISPs combine computer processing,**  
41 **information storage, protocol conversion, and routing**  
42 **with transmission to enable users to access Internet**

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content and services. Internet Service Providers are a subset of Information Service Providers; either can be referred to as ISPs; both are a subset of Enhanced Service Providers (ESPs).

**Q. PLEASE SIMPLY DESCRIBE THE DISPUTE OVER PAYMENT OF RECIPROCAL COMPENSATION FOR ISP-BOUND TRAFFIC.**

A. The issue is really quite simple. BellSouth urges the Commission not to require payment of reciprocal compensation for ISP-bound traffic because it maintains such calls are not local. WorldCom, like other ALECs who have arbitrated this issue in Florida, focuses on which party incurs costs. WorldCom reasons that since a BellSouth customer who uses WorldCom's network to complete a call causes costs for WorldCom, BellSouth must compensate WorldCom for such costs.

**Q. HAS THE COMMISSION SPOKEN TO THIS ISSUE?**

A. Yes. The Commission's Orders are entirely consistent with the position of WorldCom on this issue. For example, in the ITC^DeltaCom Arbitration (Docket No. 990750-TP) the Commission on March 15, 2000 held in Order No. PSC-00-0537-FOF-TP that until the FCC issues binding rules, the parties should continue to operate under their existing agreements with respect to reciprocal compensation. In WorldCom's case, the Commission has previously found that the existing agreement requires the payment of reciprocal compensation for ISP-bound calls. (Order No. PSC-98-1216-FOF-TP issued September 15, 1998.)

**Q. WOULD YOU COMMENT ON THE MANNER IN WHICH ALECs AND ILECs TRANSPORT AND DELIVER ISP-BOUND CALLS?**

1 A. Yes. The best way to understand this is from the context of a single call, wherein  
2 the local customer uses her basic local service provided by BellSouth to dial-up  
3 an Internet service provider who is a local service customer of WorldCom. The  
4 steps in such a call are described below in terms of how the carriers' switches  
5 perform their various functions in establishing the requested connection.

6 The first step occurs when the BellSouth local service customer clicks on  
7 a "dial-up" icon on her computer to dial the ISP's access number. (When the  
8 icon was established, the user name and password, as well as the ISP's access  
9 number, was stored in the computer so that the customer merely has to click the  
10 "connect" button on the icon for the computer to dial the number using the  
11 computer's modem.)

12 Upon clicking on the computer icon, the computer sends information to  
13 BellSouth's local switch serving the customer advising the switch that the  
14 customer has gone "off-hook." (The "off-hook" condition is telephone-speak for  
15 how the switch reacts when the customer lifts the receiver off the switch-hook or  
16 hits the "talk" button on a cordless handset.) In response to the "off hook"  
17 condition, the BellSouth local switch provides a dial tone, which signals that it is  
18 ready for the customer to dial the called party's telephone number -- in this  
19 instance, the ISP.

20 When dial tone is sensed on the line, the customer's computer acts  
21 precisely like a touch tone phone and sends the multi-frequency tones  
22 corresponding to the ISP's telephone number.



1           To properly route the call, the BellSouth local switch first analyzes the  
2           dialed telephone number -- or more accurately, the NPA-NXX of the dialed  
3           number -- to determine whether the call is local, intraLATA toll, or interLATA.  
4           This is done by analyzing the dialed number in conjunction with the local calling  
5           scope for the switch. If the switch determines that the dialed number is, for  
6           example, a WorldCom number within the local calling area of the BellSouth  
7           customer, the ILEC switch would send to WorldCom a SS7 message requesting  
8           an open local interconnection trunk for transmission and alerting WorldCom of  
9           the called party's number.

10           In response to the ILEC's SS7 message, WorldCom would respond with  
11           appropriate SS7 messages, advising of the available local interconnection trunk  
12           path between the carriers' local switches and that the called party's line is not  
13           busy. At the same time, WorldCom's local switch would analyze the dialed  
14           number (in the same way it would any incoming call) and signal the customer's  
15           customer premises equipment -- by providing "ring current" or its equivalent --  
16           that an incoming call is being attempted.

17           At the originating end, in response to the SS7 signaling information from  
18           WorldCom, the ILEC's local switch would route the call to the available local  
19           interconnection trunk path for completion by WorldCom.

20           When the called party (the WorldCom end user customer) goes "off  
21           hook," the WorldCom local switch senses that the call has been answered and  
22           completes the call, and provides to the ILEC an SS7 message ("address  
23           complete" or "answer") notifying that the call has been answered. That message

1 instructs both carriers' networks to keep up the connection which has been  
2 established between the two end users on the two networks, until one or the other  
3 of the end users goes "on hook", signaling that the call is finished and the  
4 connection can be taken down.

5 **Q. HOW LONG DOES IT TAKE FOR THE NETWORKS TO COMPLETE**  
6 **THE VARIOUS STEPS YOU HAVE DESCRIBED?**

7 A. All of the steps occur almost instantaneously.

8 **Q. WITH RESPECT TO COMPENSATION AS BETWEEN CARRIERS FOR**  
9 **THE TRANSPORT AND DELIVERY OF ISP-BOUND TRAFFIC, WHAT**  
10 **RULES CURRENTLY GOVERN?**

11 A. Generally, when two (or more) interconnecting carriers collaborate to deliver a  
12 call, the carriers are compensated for carrying that traffic through either  
13 reciprocal compensation or access charges. When two LECs jointly provide  
14 interstate access (e.g., by delivering a call to an interexchange carrier), the  
15 carriers will share access revenues received from the interstate service provider.  
16 Conversely, when two LECs collaborate to complete a local call, the originating  
17 carrier is compensated by its end user and the terminating carrier is entitled to  
18 reciprocal compensation pursuant to section 251(b)(5) of the Act. Section  
19 251(b)(5) of the Act requires all LECs "to establish reciprocal compensation  
20 arrangements for the transport and termination of telecommunications." In *the*  
21 *Local Competition Order*, the FCC construed this provision to apply only to the  
22 transport and termination of "local" telecommunications traffic.

1           At the same time, however, as discussed above, ISP-bound traffic has  
2           been treated as local traffic for many years. Moreover, BellSouth has no means,  
3           other than mere estimations, of determining what ISP-bound traffic it delivers to  
4           WorldCom or to any other ALEC. Thus BellSouth has no means to distinguish  
5           or segregate ISP-bound traffic from other traffic that originates on the BellSouth  
6           network, is transported to an ALEC having a switch, and is delivered to the  
7           ALEC's ISP customer – all located within the same local calling area.

8   **Q.   HAS THE FCC ISSUED ANY DECISIONS REGARDING ISP-BOUND**  
9   **TRAFFIC?**

10  A.   Yes. The FCC issued its *Declaratory Ruling in CC Docket No. 96-98 and Notice*  
11   *of Proposed Rulemaking in CC Docket No. 99-68 (“Declaratory Ruling”), In the*  
12   *Matter of Implementation of the Local Competition Provisions in the*  
13   *Telecommunications Act of 1996 and Inter-Carrier Compensation for ISP-*  
14   *Bound Traffic*, released February 26, 1999.

15  **Q.   WHAT DID THE FCC CONCLUDE IN THE *DECLARATORY RULING*?**

16  A.   In the *Declaratory Ruling*, the FCC concluded that ISP-bound traffic is  
17   “jurisdictionally mixed and appears to be largely interstate.” Yet this conclusion  
18   “does not in itself determine whether reciprocal compensation is due in any  
19   particular instance.” *Id.*, paragraph 1. Indeed, the FCC specifically affirmed the  
20   right of state commissions to determine that reciprocal compensation should be  
21   paid for ISP-bound traffic. *Id.* ¶ 25.

22  **Q.   HAS ANY JUDICIAL REVIEW OF THE *DECLARATORY RULING***  
23   **OCCURRED?**

1 A. Yes. Indeed, in ruling on the *Declaratory Ruling*, the D.C. Circuit Court of  
2 Appeal rejected each of the RBOCs' claims: that calls to ISPs must be viewed  
3 on an end-to-end basis to determine whether they are local traffic, and that calls  
4 do not terminate at the ISP; that the fact that access charges do not apply to this  
5 traffic demonstrates that these calls are interstate; and that prior FCC law  
6 supports the analysis used in the *Declaratory Ruling*. *Bell Atlantic Telephone*  
7 *Companies v. Federal Communications Commission*, 206 F.3d 1 (D.C.Cir. 2000)  
8 With *Bell Atlantic*, there is substantial reason to doubt whether the FCC would  
9 ever be able to adequately justify any decision characterizing ISP traffic as  
10 "interstate access service" that does not terminate on the ALEC's network. I say  
11 this for several reasons:

12 First, the D.C. Circuit ruled that the FCC's jurisdictional "end-to-end  
13 analysis" in the *ISP Declaratory Ruling*, which, like BellSouth, ignored prior  
14 FCC decisions and the relevant definitions in the Act, including "exchange  
15 access," is inapplicable to the reciprocal compensation arena. (*Bell Atlantic* at 6-  
16 7). The D.C. Circuit stated:

17 In fact, the extension of "end-to-end" analysis from  
18 jurisdictional purposes to the present context yields  
19 *intuitively backwards results* . . . . [The] arguments  
20 supporting use of the end-to-end analysis in the  
21 jurisdictional analysis are not obviously transferable  
22 to this context.

23  
24 (*Id.* at 6, emphasis added.)

25 According to the Court, the FCC in the *Declaratory Ruling* had provided  
26 no "explanation why [an "end to end analysis"] is relevant to discerning whether  
27 a call to an ISP should fit within the local call model of two collaborating LECs

1 or the long-distance model of a long-distance carrier collaborating with two  
2 LECs.” *Id.* at 5.

3 Second, the D.C. Circuit held that the FCC ignored its own definition of  
4 “termination,” which occurs with “switching . . . at the terminating carrier’s end  
5 office (or equivalent facility) and delivery of that traffic from that switch to the  
6 called party’s premises.” (*Implementation of the Local Competition Provisions of  
7 the Telecommunications Act of 1996, CC Docket No. 96-98, First Report and  
8 Order, FCC 96-325 (“Local Competition Order”), ¶ 1040.* Under that  
9 regulation, which took effect in August 1996:

10 Calls to ISPs appear to fit this definition [of termination]: the  
11 traffic is switched by the LEC whose customer is the ISP and  
12 then delivered to the ISP, *which is clearly the called party.*

13  
14 (*Id.* at 6, emphasis added.)

15 Thus calls to ISPs “terminate” within a local calling area, as a result of  
16 switching by a local exchange carrier like WorldCom and delivery by that carrier  
17 to the ISP located within the local calling area.

18 Moreover, telecommunications service *does* terminate at the ISP because  
19 ISPs provide customers with *information services*, not telecommunication  
20 services. The D.C. Circuit concluded that calls to ISPs terminate at the ISP  
21 because the information services that an ISP provides are distinct from the  
22 separate telecommunications service used to connect the caller to the ISP. As  
23 the D.C. Circuit stated:

24 ISPs . . . are “information service providers,” . . . which upon  
25 receiving a call *originate* further communications to deliver  
26 and retrieve information to and from distant websites . . . .

1                   **Although ISPs use telecommunications services to provide**  
2                   information services, they are not telecommunications  
3                   providers (as are long-distance carriers).

4  
5                   (*Id.*, at 6-7, emphasis added.)

6                   Third, the D.C. Circuit held that calls to ISPs are not like long-distance  
7                   calls. (*Id.* at \*8). In so deciding, the D.C. Circuit discerned that the cases the  
8                   FCC relied upon in the *ISP Declaratory Ruling*, in applying its jurisdictional end-  
9                   to-end analysis, were "not on point." (*Id.* at 6). The D.C. Circuit observed that  
10                  “(t)he [FCC] acknowledged in a footnote that the cases it relied upon were  
11                  distinguishable, but dismissed the problem out-of-hand.” (*Id.* at 6). The  
12                  footnote, in which the FCC had attempted to justify its reliance on these cases,  
13                  states

14                                 Although the cited cases involve interexchange carriers  
15                                 rather than ISPs, and the [FCC] has observed that *it is not*  
16                                 *clear that [information service providers] use the public*  
17                                 *switched network in a manner analogous to IXCs,*’ the  
18                                 [FCC’s] observation does not affect the jurisdictional  
19                                 analysis.”

20  
21                   (*Id.*, quoting *ISP Declaratory Ruling*, at ¶12, n36, which quotes the *Access*  
22                   *Charge Reform Order*, 12 FCC Rcd at 16133 (¶ 345) (1997), emphasis  
23                   added.)

24                   The D.C. Circuit, in vacating the *ISP Declaratory Ruling*, however,  
25                   concluded:

26                                 It is not clear how this helps the [FCC]. Even if the  
27                                 difference between ISPs and traditional long-distance  
28                                 carriers is irrelevant for jurisdictional purposes, it appears  
29                                 relevant for purposes of reciprocal compensation.  
30                                 ***Although ISPs use telecommunications to provide***  
31                                 ***information service, they are not themselves***  
32                                 ***telecommunications providers (as are long-distance***

1                    *carriers*). In this regard an ISP appears, as MCI  
2                    WorldCom argued, no different from many businesses,  
3                    such as `pizza delivery firms, travel reservation agencies,  
4                    credit card verification firms or taxicab companies,' which  
5                    use a variety of communication services to provide their  
6                    goods or services to their customers.  
7

8                    (*Bell Atlantic* at 6-7, citations and paragraph break omitted, emphasis added.)

9                    The D.C. Circuit stated:

10                    [The FCC has] referred to calls to information service  
11                    providers as local ... When accused of inconsistency  
12                    in the present matter, the [FCC] flipped the argument  
13                    on its head, arguing that its exemption of ESPs from  
14                    access charges actually confirms 'its understanding  
15                    that ESPs in fact use interstate access service;  
16                    otherwise, the exemption would not be necessary.' ...  
17                    *This is not very compelling.*

18                    (*Id.* at 8, emphasis added.) The Court vacated the *Declaratory Ruling* for want of  
19                    reasoned decision-making, and remanded to the FCC for further proceedings.

20                    *Thus the D.C. Circuit Court has rejected every basis for BellSouth's*  
21                    *position. There is now no FCC order regarding this issue that even suggests*  
22                    *that calls to ISPs are anything but local, and the Court's analysis strongly*  
23                    *suggests these calls are local.*

24                    Nonetheless, I discuss the *Declaratory Ruling* to show that, even under  
25                    the FCC's analysis in that decision, the Commission should adopt WorldCom's  
26                    position.

27                    **Q. PLEASE DISCUSS THE DECLARATORY RULING.**

28                    A. The FCC in the *Declaratory Ruling* acknowledged that "our policy of treating  
29                    ISP-bound traffic as local for purposes of interstate access charges would, if  
30                    applied in the separate context of reciprocal compensation, suggest that such

1 compensation is due for that traffic.” The FCC also stated in paragraph 24 that  
2 since there was no contrary federal rule:

3 parties entering into interconnection agreements may  
4 reasonably have agreed, for the purposes of determining  
5 whether reciprocal compensation should apply to ISP-  
6 bound traffic, that such traffic should be treated in the  
7 same manner as local traffic.  
8

9 Thus a state commission decision to impose reciprocal compensation obligations  
10 in an arbitration proceeding would not conflict with any FCC rule. *Id.* ¶ 26.  
11 Indeed, the FCC set forth a number of factors that a state commission could  
12 consider in determining whether reciprocal compensation should apply to ISP-  
13 bound traffic.

14 A review of these factors would indicate that reciprocal compensation  
15 should be applicable here. For example: (i) ISP traffic is indistinguishable from  
16 other local traffic and is carried on the same local interconnection trunks; (ii)  
17 BellSouth customers dial a local number to reach their ISP; (iii) BellSouth treats  
18 calls by its customers to an ISP as local calls, and does not bill those calls; (iv)  
19 ISPs purchase service out of local business tariffs; and (v) BellSouth has treated  
20 calls to ISPs as local calls in the jurisdictional separations documents filed with  
21 the FCC.

22 **Q. HAS THE FCC CONSIDERED ADOPTING A FEDERAL RULE TO**  
23 **GOVERN COMPENSATION OF ISP-BOUND TRAFFIC?**

24 A. Yes. On June 23, 2000, the FCC solicited comments on the issues raised by the  
25 D.C. Circuit's decision. (Public Notice FCC 00-227 in CC Dockets 96-98 and



1 99-69) The comment period is now closed, and further rulemaking activity  
2 should be forthcoming.

3 **Q. WHAT CONSIDERATIONS, GIVEN THE LONG-STANDING**  
4 **TREATMENT OF ISP-BOUND TRAFFIC AND THE STATUS OF**  
5 **THIS ISSUE BEFORE THE FCC, SHOULD THE COMMISSION**  
6 **REGARD AS PARAMOUNT IN DECIDING THIS ISSUE?**

7 A. Besides the analysis provided above, an important consideration, with respect to  
8 this arbitration, is that, as acknowledged by the FCC, “no matter what the  
9 payment arrangement, LECs incur a cost when delivering traffic to an ISP that  
10 originates on another LEC's network.” *Id.* at paragraph 29.

11 Most states, including Florida, which have addressed this issue have  
12 concluded that reciprocal compensation payments should be made on ISP-bound  
13 traffic. Each of these states has recognized that under the *Declaratory Order* it  
14 possesses the jurisdiction to direct the payment of reciprocal compensation for  
15 ISP-bound traffic. The Commission has certainly ruled on behalf of WorldCom  
16 in the context of an enforcement proceeding, based on our existing  
17 interconnection agreement with BellSouth.

18 Before the *Declaratory Ruling*, the Commission heard several complaint  
19 proceedings against BellSouth for breach of the parties' interconnection  
20 agreements, and in every case the Commission ruled in favor of the ALEC. *E.g.*,  
21 Order No. PSC-98-1216-FOF-TP issued September 15, 1998, in a consolidated  
22 docket involving WorldCom, Teleport Communications Group, Intermedia  
23 Communications, Inc. and MCImetro.

1 Q. WHAT IS YOUR RECOMMENDATION ON THIS ISSUE?

2 A. At a minimum, the Commission should stay the course with its previous  
3 conclusions and require that the provisions of the parties' previous agreement,  
4 which requires reciprocal compensation for ISP-bound traffic, stay in effect. In  
5 my judgment, however, the Commission should go further and require that the  
6 new agreement affirmatively contain WorldCom's proposed language which  
7 explicitly treats ISP-bound traffic as local traffic.

8  
9

#### ISSUE 51

10 *Under what circumstances Is BellSouth required to pay tandem charges*  
11 *when MCIW terminates BellSouth local traffic? (Attachment 4, Sections*  
12 *9.4, 10.4.2, 10.4.2.3.)*

13  
14

15 Q. WHAT LANGUAGE HAVE THE PARTIES PROPOSED CONCERNING  
16 THIS ISSUE?

17 A. WorldCom has proposed the following language:

18 10.4.2 Where MCI's switch serves a geographic area  
19 comparable to the area served by BellSouth's tandem switch,  
20 MCI shall charge BellSouth the same rates BellSouth would  
21 charge MCI for transport and termination of Local Traffic from  
22 BellSouth's tandem switch to BellSouth's End Users.

23

24 10.4.2.1 Transport (where used) – compensation for the  
25 transmission and any necessary tandem switching of Local  
26 Traffic.

27

28 10.4.2.2 The rate for common transport is set forth in Table 1 of  
29 Attachment I under the heading "Local Interconnection (Call  
30 Transport and Termination)." For the purposes of this Section,  
31 both Parties shall bill each other the average mileage of all End  
32 Offices subtending the applicable BellSouth Tandem Office.

33

34 10.4.2.3 The rate for tandem switching is set forth in Table 1 of  
35 Attachment I under the heading "Local Interconnection (Call

1 Transport and Termination).” The tandem switching rate includes  
2 any switching by subtending Tandem Offices. Where MCI’s  
3 Switch serves a geographic area comparable to the area served by  
4 BellSouth’s Tandem Switch, MCI shall charge BellSouth for  
5 transport in accordance with this Section.  
6

7 BellSouth has proposed the following language (except for the bold language  
8 proposed by WorldCom):

9 9.4 The Parties shall provide for the mutual and reciprocal  
10 recovery of the costs for the elemental functions performed in  
11 transporting and terminating local traffic on each other’s network.  
12 The Parties agree that the rates for transport and termination of  
13 calls on its respective networks are as set forth in Attachment 1 of  
14 this Agreement. **The rates for transport and termination of**  
15 **Local Traffic that BellSouth and MCI charge each other are**  
16 **set forth in Attachment 1 of this Agreement.**

17  
18 9.4.1 For the purposes of this Attachment, Common (Shared) Transport  
19 is defined as the transport of the originating Party’s traffic by the  
20 terminating Party over the terminating Party’s common (shared) facilities  
21 between the terminating Party’s tandem switch and end office switch  
22 and/or between the terminating Party’s tandem switches.

23  
24 9.4.2 For the purposes of this Attachment, Tandem Switching is defined  
25 as the function that establishes a communications path between two  
26 switching offices through a third switching office (the Tandem switch).  
27

28 9.4.3 For the purposes of this Attachment, End Office Switching is  
29 defined as the function that establishes a communications path between  
30 the trunk side and line side of the End Office switch.  
31

32 9.4.4 If MCI utilizes a switch outside the LATA and BellSouth chooses  
33 to purchase dedicated or common (shared) transport from MCI for  
34 transport and termination of BellSouth originated traffic, BellSouth will  
35 pay MCI no more than the airline miles between the V & H coordinates  
36 of the Point of Interconnection within the LATA where MCI receives  
37 the BellSouth-originated traffic and the V & H coordinates of a point on  
38 the LATA boundary in the direction of the MCI switch or at a point  
39 otherwise agreed to by the Parties. For these situations, BellSouth will  
40 compensate MCI at either dedicated or common (shared) transport rates  
41 specified in Attachment 1 of this Agreement and based upon the functions  
42 provided by MCI as defined in this Attachment.  
43

1 9.4.5 Neither Party shall represent Switched Access Services traffic as  
2 Local Traffic for purposes of payment of reciprocal compensation.

3  
4 9.4.6 If MCIIm does not identify such traffic to BellSouth, to the best of  
5 BellSouth's ability BellSouth will determine which whole MCIIm  
6 NPA/NXXs on which to charge the applicable rates for originating  
7 intrastate network access service as reflected in BellSouth's Intrastate  
8 Access Service Tariff. BellSouth shall make appropriate billing  
9 adjustments if MCIIm can provide sufficient information for BellSouth to  
10 determine whether said traffic is local or toll.

11  
12 **Q. WHAT ARE THE PARTIES' POSITIONS ON THIS ISSUE?**

13 A. WorldCom's position is that BellSouth should be required to pay WorldCom  
14 transport and termination charges at the same rates BellSouth charges to transport  
15 and terminate traffic from its tandem switches whenever WorldCom uses a  
16 switch that provides functionality equivalent to that of a tandem switch. In  
17 particular, BellSouth should pay the tandem rate whenever a WorldCom switch  
18 serves a geographic area that is comparable to the area served by a BellSouth  
19 tandem switch. BellSouth's position is that WorldCom may not charge the  
20 tandem rate unless it uses a tandem switch in the same network configuration  
21 used by BellSouth.

22 **Q. WHAT PRINCIPLES DID THE FCC ESTABLISH IN THE LOCAL**  
23 **COMPETITION ORDER FOR RECIPROCAL COMPENSATION**  
24 **TO BE PAID TO ALECS?**

25 A. After establishing how reciprocal compensation rates would be determined for  
26 ILECs, the FCC turned to the question of what rates should apply to ALECs.  
27 The FCC concluded that the ILECs' reciprocal compensation rates should be  
28 adopted as the "presumptive proxy" for the ALECs' rates – in other words, the  
29 rates were required to be the same. *Local Competition Order*, ¶ 1085. The only

1 exception to this rule arises when an ALEC establishes that its transport and  
2 termination costs are *higher* than those of the ILEC. *Local Competition Order*, ¶  
3 1089; FCC Rule 51.711(b). The FCC provided a number of reasons for ordering  
4 symmetrical treatment, including the following:

- 5 1. Typically the ILEC and ALEC will be providing service in the same  
6 geographic area, so their forward-looking costs should be the same in  
7 most cases. *Local Competition Order*, ¶ 1085.
- 8 2. Imposing symmetrical rates would not reduce carriers' incentives to  
9 minimize their internal costs. ALECs would have the correct incentives  
10 to minimize their costs because their termination revenues would not vary  
11 directly with changes in their costs. At the same time, ILECs would have  
12 the incentive to reduce their costs because they could be expected to  
13 transport and terminate much more traffic originating on their own  
14 networks than on ALECs' networks. Thus, even assuming ILEC cost  
15 reductions immediately were translated into lower transport and  
16 termination rates, any reduction in reciprocal compensation revenues  
17 would be more than offset by having a more cost-effective network.  
18 *Local Competition Order*, ¶ 1086.
- 19 3. Symmetrical rates might reduce ILECs' ability to use their bargaining  
20 power to negotiate high termination rates for themselves and low  
21 termination rates for ALECs. *Local Competition Order*, ¶ 1087.

22 **Q. WHAT DID THE FCC CONCLUDE CONCERNING SYMMETRY**  
23 **OF TANDEM INTERCONNECTION RATES?**

1 A. The FCC stated the following in paragraph 1090 of the *Local Competition*

2 *Order*:

3 We find that the “additional costs” incurred by a LEC when  
4 transporting and terminating a call that originated on a competing  
5 carrier’s network are likely to vary depending on whether tandem  
6 switching is involved. We, therefore, conclude that states may  
7 establish transport and termination rates in the arbitration process  
8 that vary according to whether the traffic is routed through a  
9 tandem switch or directly to the end-office switch. In such event,  
10 states shall also consider whether new technologies (*e.g.*, fiber  
11 ring or wireless networks) perform functions similar to those  
12 performed by an incumbent LEC’s tandem switch and thus,  
13 whether some or all calls terminating on the new entrant’s  
14 network should be priced the same as the sum of transport and  
15 termination via the incumbent LEC’s tandem switch. *Where the*  
16 *interconnecting carrier’s switch serves a geographic area*  
17 *comparable to that served by the incumbent LEC’s tandem*  
18 *switch, the appropriate proxy for the interconnecting carrier’s*  
19 *additional costs is the LEC tandem interconnection rate.*

20  
21 (Emphasis added.)

22 **Q. PLEASE EXPLAIN WHAT THIS LANGUAGE MEANS IN PRACTICAL**  
23 **TERMS.**

24 A. The FCC reached three conclusions. First, it is appropriate to establish an  
25 additional rate for ILECs when they use a tandem switch in the transport and  
26 termination of ALECs’ local traffic. Second, states may consider whether some  
27 or all calls terminated by an ALEC may be priced at that higher rate if the ALEC  
28 uses alternative technologies or architectures to perform functions similar to  
29 those performed by the ILEC’s tandem switch. Third, the higher rate *must* be  
30 applied when the ALEC’s switch serves a geographic area comparable to that  
31 served by the ILEC’s tandem switch.

1 Q. MUST AN ALEC PROVIDE TANDEM SWITCHING, AS BELLSOUTH  
2 CONTENDS, TO OBTAIN THE HIGHER TANDEM RATE?

3 A. Absolutely not. When the ALEC's switch serves an area comparable to the area  
4 served by an ILEC tandem switch, the ALEC *automatically* is entitled to receive  
5 the tandem interconnection rate in addition to the end office interconnection rate.  
6 In other words, the FCC created a "safe harbor" for ALECs that meet the  
7 geographic comparability test. When that test is satisfied, no proof of functional  
8 comparability is required and the ALEC is entitled to the higher rate.

9 Q. HOW DOES THE FCC'S CODIFICATION OF THIS PRINCIPLE BEAR  
10 ON YOUR ANALYSIS?

11 A. It confirms my analysis. FCC Rule 51.711(a) provides as follows:

12 (a) Rates for transport and termination of local  
13 telecommunications traffic shall be symmetrical, except as  
14 provided in paragraphs (b) and (c) of this section. [These  
15 exceptions do not apply here.]  
16

17 (1) For purposes of this subpart, symmetrical rates are  
18 rates that a carrier other than an incumbent LEC assesses  
19 upon an incumbent LEC for transport and termination of  
20 local telecommunications traffic equal to those that the  
21 incumbent LEC assesses upon the other carrier for the  
22 same services.

23 (2) In cases where both parties are incumbent LECs, or  
24 neither party is an incumbent LEC, a state commission  
25 shall establish the symmetrical rates for transport and  
26 termination based on the larger carrier's forward-looking  
27 costs.  
28

29 (3) *Where the switch of a carrier other than an*  
30 *incumbent LEC serves a geographic area comparable to*  
31 *the area served by the incumbent LEC's tandem switch,*  
32 *the appropriate rate for the carrier other than an*  
33 *incumbent LEC is the incumbent LEC's tandem*  
34 *interconnection rate.*  
35

1 (Emphasis added.) The FCC could not have been more clear. The geographic  
2 comparability rule was adopted without exception or qualification. WorldCom's  
3 proposed language therefore should be adopted.

4 **ISSUE 53**

5  
6 *Should call jurisdiction be based on the calling party number or on*  
7 *jurisdictional factors that represent averages? (Attachment 4, Sections*  
8 *9.6.1 and 10.6.1; Part B, Sections 129-130.)*

9  
10 **Q. WHAT LANGUAGE HAVE THE PARTIES PROPOSED CONCERNING**  
11 **DETERMINATION OF THE JURISDICTION OF BILLED TRAFFIC?**

12 A. The parties have proposed the following language in Attachment 4 (with  
13 WorldCom language in bold and BellSouth language in italics):

14 **10.6.1 The parties will use the calling party number (CPN) to**  
15 **determine the jurisdiction of billed traffic. If the jurisdiction**  
16 **of traffic cannot be determined based on the CPN, the parties**  
17 **will jointly exchange industry standard jurisdictional factors,**  
18 **such as PIU, PIIU, AND PLU.**

19 *9.6.1 The jurisdiction of traffic will be determined based on the*  
20 *jointly exchanged industry standard jurisdictional factors, such as*  
21 *PIU and PLU.*

22 **Q. WHAT IS WORLDCOM'S POSITION ON THIS ISSUE?**

23 A. Calling party number should be used to the extent possible to determine the  
24 jurisdiction of billed traffic.

25 **Q. WHAT IS BELL SOUTH'S POSITION ON THIS ISSUE?**

26 A. BellSouth contends jurisdictional factors such as PIU and PLU should be used in  
27 lieu of calling party number, even when calling party number establishes the  
28 jurisdiction of the call.

29 **Q. WHAT IS THE BASIS FOR WORLDCOM'S POSITION?**



1 A. WorldCom and BellSouth should be as accurate as possible in rendering bills to  
2 one another for call termination. Accuracy in determining whether a given call is  
3 subject to reciprocal compensation payments or access charges is maximized  
4 when the calling party number is used to make the determination. The use of  
5 jurisdictional factors such as percent interstate use (PIU) or percent local use  
6 (PLU) involves the use of averages in lieu of actual data, and is less accurate.  
7 Jurisdictional factors should only be used when calling party number is not  
8 available.

9 WorldCom's proposed language is consistent with practice in the  
10 industry, which is to use call data (to the extent available), rather than  
11 percentages, to determine call jurisdiction. In the great majority of cases, call  
12 data does enable carriers to determine call jurisdiction.

13 **Q. WHAT IS THE APPROPRIATE METHOD FOR THE PARTIES**  
14 **TO USE IN DETERMINING CALL JURISDICTION?**

15 A. The originating carrier should use CPN (or other data such as ANI or BTN) to  
16 determine PLU based on actual data rather than assumptions or the use of  
17 sampling, and provide the PLU to the terminating carrier. The terminating  
18 carrier can then verify the PLU from terminating records for each month's usage  
19 and either ask for clarification or use the PLU for billing.

20  
21 **C. Rights-of-Way, Conduits, Pole Attachments**

22 **ISSUE 67**

23  
24 *When WorldCom has a license to use BellSouth rights-of-way, and*  
25 *BellSouth wishes to convey the property to a third party, should BellSouth*

1 *be required to convey the property subject to WorldCom's license?*  
2 *(Attachment 6, Section 3.6.)*  
3

4 **Q. WHAT LANGUAGE HAS WORLDCOM PROPOSED CONCERNING**  
5 **CONVEYANCES OF BELL SOUTH PROPERTY SUBJECT TO**  
6 **WORLDCOM LICENSE RIGHTS?**

7 A. The parties have agreed to the following language in Attachment 6, except for  
8 the bold language proposed by WorldCom:

9 3.6 No Effect on BellSouth's Right to Convey Property.  
10 Nothing contained in this Attachment or in any license issued  
11 hereunder shall in any way affect the right of BellSouth to convey  
12 to any other person or entity any interest in real or personal  
13 property, including any poles, conduit or ducts to or in which  
14 MCIIm has attached or placed facilities pursuant to licenses issued  
15 under this Section **provided however that BellSouth shall give**  
16 **MCIIm reasonable advance written notice of such intent to**  
17 **convey, and further provided that BellSouth shall only convey**  
18 **the property subject to any licenses granted hereunder.**  
19

20 **Q. WHAT ISSUE GIVES RISE TO THE PARTIES' DISAGREEMENT**  
21 **OVER THIS LANGUAGE?**

22 A. The issue is whether, when WorldCom has a license to use BellSouth rights-of-  
23 way, and BellSouth wishes to convey the property to a third party, BellSouth  
24 should be required to convey the property subject to WorldCom's license.

25 **Q. WHAT IS WORLDCOM'S POSITION ON THIS ISSUE?**

26 A. WorldCom should not be required to forfeit its license rights, and possibly strand  
27 facilities, when BellSouth conveys the underlying property.

28 **Q. WHAT IS BELL SOUTH'S POSITION ON THIS ISSUE?**

29 A. BellSouth contends it should be able to convey the underlying property without  
30 regard to WorldCom licenses.

1 **Q. WHAT IS THE BASIS FOR WORLDCOM'S POSITION?**

2 A. WorldCom should not be put in the position of investing in facilities and  
3 potentially having them be stranded because BellSouth decides to convey the  
4 underlying property. Further, BellSouth should not be able to sell property in a  
5 way that protects its own facilities but not those of WorldCom (such as by selling  
6 the property subject to its own rights, but not those of WorldCom). BellSouth's  
7 position is that it should be able to transfer property without regard for any  
8 licenses WorldCom has or any improvements it has made. This unreasonable  
9 position should be rejected and WorldCom's language should be incorporated  
10 into the parties' agreement.

11 **ISSUE 68**

12 *Should BellSouth require that payments for make-ready work be made in*  
13 *advance? (Attachment 6, Sections 4.7.3 and 5.6.1.)*

14 **Q. WHAT LANGUAGE HAVE THE PARTIES PROPOSED**  
15 **CONCERNING PAYMENTS FOR PRE-LICENSE SURVEYS AND**  
16 **MAKE-READY WORK?**

17 A. The parties have proposed competing Attachment 6, Sections 4.7.3 and  
18 5.6.1, with BellSouth's language requiring payment in advance for pre-  
19 license surveys and make-ready work, and WorldCom's language not  
20 requiring payment in advance.  
21

22 **Q. WHAT IS WORLDCOM'S POSITION ON THIS ISSUE?**

23 A. A requirement for advanced payment for pre-license surveys and make-ready  
24 work would create delays and would not be commercially reasonable.  
25

26 **Q. WHAT IS BELL SOUTH'S POSITION ON THIS ISSUE?**

1 A. Advanced payment should be required.

2 **Q. WHAT IS THE BASIS FOR WORLDCOM'S POSITION?**

3 A. A pre-payment requirement would delay the work and would not be  
4 commercially reasonable. BellSouth should be required to begin work once it  
5 has sent WorldCom an invoice stating the amount that will be charged for the  
6 project in question. WorldCom is willing to pay the invoice within fourteen  
7 days, which would give WorldCom time to process payment, and would be  
8 commercially reasonable.

9 **D. Number Portability**

10 **ISSUE 75**

11 *For end users served by INP, should the end user or the end user's local*  
12 *carrier be responsible for paying the terminating carrier for collect calls,*  
13 *third party billed calls or other operator assisted calls? (Attachment 7,*  
14 *Section 2.6.)*

15  
16 **Q. WHAT LANGUAGE HAS BELLSOUTH PROPOSED CONCERNING**  
17 **WHO SHOULD BE BILLED FOR COLLECT CALLS, THIRD PARTY**  
18 **BILLED CALLS OR OTHER OPERATOR ASSISTED CALLS, WHEN**  
19 **THE END USER IS SERVED BY INP?**

20 A. BellSouth has proposed the following language in Attachment 7:

21  
22 2.6 The calling Party shall be responsible for payment of the  
23 applicable charges for sent-paid calls to the INP number. For  
24 collect, third-Party, or other operator-assisted non-sent paid calls  
25 to the ported telephone number, BellSouth or MCI shall be  
26 responsible for the payment of charges under the same terms and  
27 conditions for which the end user would have been liable for those  
28 charges. Either company may request that the other block collect  
29 and third company non-sent paid calls to the INP assigned  
30 telephone number. If a company does not request blocking, the  
31 other company will provide itemized local usage data for the  
32 billing of non-sent paid calls on the monthly bill of usage charges

1 provided at the individual end user account level. The detail will  
2 include itemization of all billable usage. Each company shall have  
3 the option of receiving this usage data on a daily basis via a data  
4 file transfer arrangement. This arrangement will utilize the  
5 existing industry uniform standard, known as EMI standards, for  
6 exchange of billing data. Files of usage data will be created daily  
7 for the optional service. Usage originated and recorded in the  
8 sending BellSouth RAO will be provided in unrated or rated  
9 format, depending on processing system. MCI usage originated  
10 elsewhere and delivered via CMDS to the sending BellSouth RAO  
11 shall be provided in rated format.  
12

13 **Q. WHAT IS WORLDCOM'S POSITION ON THIS ISSUE?**

14 **A.** The end user should be responsible for payment. The terminating carrier can  
15 obtain billing information from the end user's local carrier.

16 **Q. WHAT IS BELLSOUTH'S POSITION ON THIS ISSUE?**

17 **A.** BellSouth contends the local carrier should be responsible for payment, claiming  
18 it has no way to bill the end user for such calls.

19 **Q. WHAT IS THE BASIS FOR WORLDCOM'S POSITION?**

20 **A.** BellSouth has proposed language that would require the party whose end user  
21 served via INP receives a collect call, third party billed or other operator assisted  
22 call be responsible for payment to the other party. For example, if an WorldCom  
23 end user receives a collect call from a BellSouth customer, BellSouth would  
24 propose that it bill WorldCom for the charges, thus imposing on WorldCom the  
25 responsibility for billing the end user and the risk of nonpayment. BellSouth's  
26 proposal is unreasonable. The practice in the industry is for the toll carrier to bill  
27 the end user directly. The toll carrier can obtain the necessary billing  
28 information (for the applicable charge) from the end user's local carrier.  
29

1 E. **Business Process Requirements**

2 **ISSUE 92**

3  
4 *Should the parties be required to follow the detailed guidelines proposed by*  
5 *MCIW with respect to LNP orders? (Attachment 8, Section 3.6.)*

6  
7 Q. **WHAT LANGUAGE HAVE THE PARTIES PROPOSED CONCERNING**  
8 **GUIDELINES FOR LNP ORDERS?**

9 A. The parties have proposed different guidelines in competing language in  
10 Attachment 8, Section 3.6.

11 Q. **WHAT IS THE GIST OF THE PARTIES' DISPUTE?**

12 A. WorldCom proposes that the parties adhere to OBF-approved process flows and  
13 cutover guidelines for LNP ordering. BellSouth wants the parties to follow its  
14 "Local Number Portability Ordering Guide for CLECs" instead. WorldCom  
15 submits that it makes more sense to rely directly on industry standards developed  
16 by the OBF than on a document incorporating BellSouth's interpretation of those  
17 standards.

18 **ISSUE 93**

19 *By when must the parties bill for previously unbilled amounts? By when must*  
20 *they submit bills to one another? (Attachment 8, Sections 4.2.3.4.2, 4.2.3.4.4,*  
21 *4.2.3.4.5 and 4.2.3.5.)*

22  
23 Q. **WHAT LANGUAGE HAVE THE PARTIES PROPOSED**  
24 **CONCERNING TIMELY BILLING?**

25 A. WorldCom has proposed the following language in Attachment 8, with agreed  
26 upon language in normal font, WorldCom language in bold and BellSouth  
27 language in italics:

1 4.2.3.4 The Parties shall provide to each other monthly  
2 Connectivity Bills that included all Connectivity Charges incurred  
3 by and credits and/or adjustments due to the Purchasing Party for  
4 those services ordered, established, utilized, or performed  
5 pursuant to this Agreement. The Parties shall render bills in a  
6 single bill cycle. Billing Account Numbers (BANs) shall be  
7 consolidated by service type according to OBF guidelines and as  
8 mutually agreed to by the Parties. Bill format shall be in  
9 compliance with OBF guidelines. Detailed documentation shall  
10 be sent with the bill for any debit/credit adjustments. Each bill  
11 provided by either Party shall include:

12 4.2.3.4.2. any known unbilled non-usage sensitive charges  
13 for prior periods which are incurred under this Agreement  
14 **on or before one (1) year preceding the Bill Date except**  
15 *to the extent permitted by law;*

16 4.2.3.4.4. any known unbilled usage sensitive charges for  
17 prior periods which were incurred under this Agreement  
18 **on or before one (1) year preceding the Bill Date except**  
19 *to the extent permitted by law;*

20 4.2.3.4.5. any known unbilled adjustments, which were  
21 incurred under this Agreement **on or before one (1) year**  
22 **preceding the Bill Date except to the extent permitted by**  
23 *law*, and substantiated with complete documentation  
24 detailing specific adjustments.

25  
26 4.2.3.5 The Bill Date must be present on each bill transmitted by  
27 the Parties, and must be a valid calendar date **and not more than**  
28 **ninety (90) days old.**

29 **Q. WHAT IS WORLDCOM'S POSITION ON THIS ISSUE?**

30  
31 A. Parties must bill for previously unbilled amounts within one year of the bill date.  
32 The bill date should be no more than ninety days old.

33 **Q. WHAT IS BELL SOUTH'S POSITION ON THIS ISSUE?**

34 A. Parties may bill for previously unbilled amounts until the statute of limitations  
35 expires, and there should be no deadline for submitting bills.

36 **Q. WHAT IS THE BASIS FOR WORLDCOM'S POSITION?**

1 A. Ninety days is sufficient time to render a bill and one year is sufficient to account  
2 for any previously unbilled amounts. Putting reasonable time limitations on  
3 billing will encourage prompt bills and bill corrections, and will allow the parties  
4 to close their books on past activity within a reasonable time.

5 **Q. IS WORLDCOM ASKING THAT BELL SOUTH BE HELD TO A  
6 HIGHER STANDARD THAN IT IS WILLING TO MEET ITSELF?**

7 A. No. WorldCom intends to render its bills to BellSouth under the terms it has  
8 proposed. WorldCom believes that its proposal to render bills every ninety days  
9 and to bill all previously unbilled amounts within one year is eminently  
10 reasonable. Putting reasonable time limitations on billing encourages prompt  
11 bills and bill corrections, and permits parties to close their books on past activity  
12 within a reasonable time.

13 **ISSUE 94**

14 *Should BellSouth be permitted to disconnect service to WorldCom for*  
15 *nonpayment? (Attachment 8, Section 4.2.18.)*

16  
17 **Q. WHAT LANGUAGE HAVE THE PARTIES PROPOSED CONCERNING  
18 DISCONNECTION FOR NONPAYMENT?**

19 A. WorldCom has proposed the following language:  
20

21 4.2.18 Nonpayment. Absent a good faith billing dispute, if payment of  
22 account is not received by the bill day in the month after the original bill  
23 day, the billing Party may pursue dispute resolution according to the  
24 provisions of Part A.

25 BellSouth has proposed the following language:

26 4.2.18.1 Absent a good faith billing dispute, if payment of account is not  
27 received by the bill day in the month after the original bill day, the billing  
28 Party may provide written notice to billed party, that additional  
29 applications for service will be refused and that any pending orders for



1 service will not be completed if payment is not received by the fifteenth  
2 day following the date of the notice. In addition the billing Party may, at  
3 the same time, give thirty days notice to the person designated by the  
4 billed Party to receive notices of noncompliance, and discontinue the  
5 provision of existing services to the billed Party at any time thereafter  
6 without further notice.

7

8 **Q. WHAT IS WORLDCOM'S POSITION ON THIS ISSUE?**

9

10 A. The parties should not disconnect for nonpayment. The appropriate remedy  
11 should be determined in dispute resolution.

12 **Q. WHAT IS BELL SOUTH'S POSITION ON THIS ISSUE?**

13 A. Disconnection should be an available remedy.

14 **Q. WHAT IS THE BASIS FOR WORLDCOM'S POSITION?**

15 A. Disconnection is a draconian remedy that would have a negative impact on  
16 consumers. This is not how carriers resolve disputes. If BellSouth determined  
17 that payment was being withheld in bad faith, it could cut off (or threaten to cut  
18 off) all of WorldCom's customers being served via resale or UNEs. BellSouth  
19 should not be able to hold WorldCom's customers hostage so it can maximize its  
20 bargaining leverage. Dispute resolution is the appropriate remedy when one of  
21 the parties claims that payment is being withheld in bad faith.

22 The consequences to Florida consumers and to local exchange  
23 competition are too great to permit BellSouth to have the contractual right to give  
24 thirty days notice that it will terminate service to its dependent competitor one  
25 month after a bill is rendered. Customers would have their basic local service cut  
26 off and would naturally blame WorldCom for terminating service. BellSouth  
27 should not be granted such leverage (the threat of turning off customers' dial

1 tone) to exact settlement from WorldCom when disputes arise. Normal dispute  
2 resolution processes, as proposed by WorldCom, should be followed.

3 **ISSUE 96**

4 *Should BellSouth be required to give written notice when a central office*  
5 *conversion will take place before midnight or after 4 a.m.? (Attachment 8,*  
6 *Section 6.2.4.)*

7  
8 **Q. WHAT LANGUAGE HAVE THE PARTIES PROPOSED CONCERNING**  
9 **NOTIFICATION OF CENTRAL OFFICE CONVERSIONS?**

10 A. WorldCom has proposed the following language in Attachment 8, with agreed  
11 upon language in normal case, WorldCom language in bold and BellSouth  
12 language in italics:

13 6.2.4 For services provided through resale, BellSouth agrees to  
14 provide scheduled maintenance for residential and small business  
15 subscribers, consisting of cable throws, performed with test sets  
16 which prevent the subscribers' services from being interrupted  
17 during the activity. BellSouth shall monitor individual cutover  
18 work to insure that the service is not in use prior to the cut.  
19 Central office conversions shall be publicized through the media  
20 and will occur after midnight and before 4:00A.M., unless MCI  
21 is provided with **written notification** *notification via web posting*.

22  
23 **Q. WHAT IS WORLDCOM'S POSITION ON THIS ISSUE?**

24 A. Written notice should be required.

25 **Q. WHAT IS BELL SOUTH'S POSITION ON THIS ISSUE?**

26 A. Notice via web posting should be required.

27 **Q. WHAT IS THE BASIS FOR WORLDCOM'S POSITION?**

28 A. The parties have agreed that central office conversions will occur after midnight  
29 and before 4 a.m., unless WorldCom is notified to the contrary. Central office  
30 conversions can involve taking down ALECs' switched service, and therefore it

1 is critical that WorldCom receive written notice in the event such a conversion is  
2 expected to take place at another time. BellSouth's proposal that notification be  
3 made via web posting is insufficient for transmitting such important information.  
4

5 **F. Ancillary Services**

6 **ISSUE 97**

7 *Should BellSouth be required to provide WorldCom with notice of changes to*  
8 *NPA/NXXs linked to Public Safety Answering Points as soon as such changes*  
9 *occur? (Attachment 9, Section 1.1.6.)*  
10

11 **Q. WHAT LANGUAGE HAS WORLDCOM PROPOSED CONCERNING**  
12 **NOTICE OF CHANGES TO NPA/NXXS LINKED TO PUBLIC SAFETY**  
13 **ANSWERING POINTS?**

14 A. WorldCom has proposed the following language in Attachment 9:

15 1.1.6. BellSouth shall transmit to MCI all changes, alterations,  
16 modifications, and updates to the emergency public agency  
17 telephone numbers linked to all NPA NXX's as soon as such  
18 changes occur. This transmission will be in a mutually agreed to  
19 electronic format, if and when such an electronic format becomes  
20 available.  
21

22 **Q. WHAT IS WORLDCOM'S POSITION ON THIS ISSUE?**  
23

24 A. Obtaining this information is a matter of public safety and it should be provided  
25 as soon as such changes occur.

26 **Q. WHY DOES WORLDCOM REQUIRE NOTICE OF CHANGES TO**  
27 **NPA/NXXs LINKED TO PUBLIC SAFETY ANSWERING**  
28 **POINTS?**

29 A. WorldCom needs this immediate access to this information in order to direct  
30 emergency 911 calls to the correct Public Safety Answering Point ("PSAP"). If a

1 911 call is directed to the wrong PSAP because the correct number has not been  
2 provided by BellSouth, an emergency situation may go unanswered or may be  
3 answered in an untimely fashion. The information is critical for public safety  
4 and is included in the operator services database, which is a UNE BellSouth must  
5 provide under the Act.

6 **Q. WHY HAS BELL SOUTH REFUSED TO PROVIDE THIS**  
7 **INFORMATION?**

8 A. BellSouth claims that this information is proprietary and cannot be disclosed.

9 **Q. DOES BELL SOUTH'S POSITION HAVE ANY MERIT?**

10 A. No. Despite BellSouth's claims that the information is proprietary and cannot be  
11 disclosed (to another LEC) without the consent of the PSAP, it offers no  
12 evidence that this is so. BellSouth treats the telephone number of a PSAP as  
13 though it were the same as the number of a residential customer. Obviously, it is  
14 not. PSAPs are run by official government agencies charged with a public safety  
15 mission. They have an interest in ensuring that 911 calls are routed to the correct  
16 site by all telephone companies. The Commission should direct BellSouth to  
17 provide the notice of changes in PSAP numbers as requested by WorldCom.  
18 Such a Commission Order should satisfy any concerns BellSouth has regarding  
19 voluntarily providing the numbers.

20 **ISSUE 99**

21 *Should BellSouth be required to provide MCIW with 10 digit PSAP numbers?*  
22 *(Attachment 9, Section 1.3.17.)*

23  
24 **Q. WHAT LANGUAGE HAS WORLDCOM PROPOSED CONCERNING**  
25 **BELL SOUTH'S PROVISION OF PSAP NUMBERS TO WORLDCOM?**

1 A. WorldCom has proposed the following language in Attachment 9, which  
2 BellSouth has not accepted:

3 1.3.17 BellSouth, where available, shall work with the appropriate  
4 government agency to provide MCI the ten-digit POTS number  
5 of each PSAP which sub-tends each BellSouth selective  
6 router/911 tandem to which MCI is interconnected.  
7

8 **Q. WHAT IS WORLDCOM'S POSITION ON THIS ISSUE?**

9 A. WorldCom's position is that BellSouth should be required to provide this  
10 information.

11 **Q. WHAT IS THE BASIS FOR WORLDCOM'S POSITION?**

12 A. A PSAP is a center to which E-911 calls are directed. A PSAP number is a ten  
13 digit number used by telephone companies to route calls to the E-911 center in a  
14 local calling area. Obviously, it is important for WorldCom to obtain PSAP  
15 numbers for public safety purposes. BellSouth has proposed that WorldCom  
16 obtain PSAP numbers from local E-911 authorities because BellSouth believes it  
17 lacks the authority to disclose PSAP numbers to WorldCom. If such  
18 authorization is required, the Commission can provide it in this proceeding. In  
19 addition, the PSAP database is an operator services database to which BellSouth  
20 must provide access under Rule 319. It should be noted that the language  
21 WorldCom is requesting is included in the current BST-WorldCom  
22 interconnection agreement.

23 **ISSUE 100**

24 *Should BellSouth operators be required to ask MCIW customers for their*  
25 *carrier of choice when such customers request a rate quote or time and*  
26 *charges? (Attachment 9, Section 2.2.2.12.)*  
27

1 **Q. WHAT LANGUAGE HAVE THE PARTIES PROPOSED CONCERNING**  
2 **REQUESTS FOR RATE QUOTES AND CHARGES?**

3 A. WorldCom has proposed the following language in Attachment 9, which  
4 BellSouth has not accepted:

5 2.2.2.12 Upon a subscriber request for either a rate quote or time  
6 and charges, BellSouth shall, through a neutral response, inquire  
7 of the subscriber from which carrier the rate or time and charges is  
8 requested. The operator will connect the call to that carrier.  
9

10 **Q. WHAT IS WORLDCOM'S POSITION ON THIS ISSUE?**

11 A. BellSouth operators should be required to ask WorldCom customers for their  
12 carrier of choice when they request a rate quote or time charge.

13 **Q. WHAT IS BELLSOUTH'S POSITION ON THIS ISSUE?**

14 A. BellSouth's position is that its operators should not be required to inquire as to  
15 the customer's carrier of choice in this situation.

16 **Q. WHAT IS THE BASIS FOR WORLDCOM'S POSITION?**

17 A. One function performed by BellSouth operators is responding to customer  
18 inquiries concerning rates and time charges. For example, a customer may  
19 request the rate for a long distance call from Atlanta to Athens at a certain time  
20 of day, or may ask how long he or she spent on a long distance call and how  
21 much it cost. BellSouth operators today ask the caller for his or her carrier of  
22 choice, and then forward the caller to that carrier.

23 WorldCom's proposed language would require BellSouth operators to  
24 inquire as to the customer's carrier of choice when the caller requests a rate quote  
25 or time and charges, and forward the caller to that carrier. BellSouth has refused

1 to agree to this language. The language proposed by WorldCom is included in  
2 the current interconnection agreement and is consistent with sound public policy.

3 **Q. WHY SHOULD BELLSOUTH OPERATORS ASK WORLDCOM**  
4 **CUSTOMERS FOR THEIR CARRIER OF CHOICE WHEN SUCH**  
5 **CUSTOMERS REQUEST A QUOTE OF TIME AND CHARGES?**

6 A. The contract language proposed by WorldCom applies when BellSouth is  
7 providing operator services to a WorldCom customer on WorldCom's behalf.  
8 Given the fact that the service is being provided to an WorldCom customer, and  
9 that WorldCom is paying BellSouth for providing operator services, it is  
10 reasonable that BellSouth ask the customer for its carrier of choice, rather than  
11 assuming that BellSouth is the carrier of choice.

12 **Q. IS WORLDCOM ASKING BELLSOUTH TO PROVIDE A SERVICE**  
13 **FOR FREE?**

14 A. No it is not. WorldCom pays BellSouth for the operator services on a per minute  
15 of work time basis. Therefore, BellSouth will be paid for having its operators  
16 take the time to ask the customer for its carrier of choice.

17 **ISSUE 101**

18 *Is BellSouth required to provide shared transport in connection with the*  
19 *provision of custom branding? Is MCIW required to purchase dedicated*  
20 *transport in connection with the provision of custom branding? (Attachment 9,*  
21 *Sections 2.2.4.3.3, 2.8.1, 2.8.1.1, 3.2.1.1, 3.2.4.3.3, 3.5.2, and 3.5.2.1.)*

22 **Q. WHAT LANGUAGE HAVE THE PARTIES PROPOSED CONCERNING**  
23 **ROUTING OF OS/DA TRAFFIC TO BELLSOUTH'S OS/DA**  
24 **PLATFORMS?**  
25

1 A. The parties have proposed the following language in Attachment 9 (with  
2 BellSouth language in italics and WorldCom language in bold):

3 *2.2.4.3.3 Custom Branding and Self Branding require MCIIm to*  
4 *order dedicated trunking from each BellSouth end office identified*  
5 *by MCIIm, to either the BellSouth Traffic Operator Position*  
6 *System (TOPS) or MCIIm Operator Service Provider. Rates for*  
7 *trunks are set forth in Attachment 1. [This provision concerns*  
8 *OS.]*  
9

10 2.8.1 BellSouth shall route resale and UNE-P Operator Services  
11 traffic to MCIIm's designated platform **using switched access**  
12 **facilities that provide ANI, or in any other manner agreed to**  
13 **by MCIIm. MCIIm shall order selective routing and separate**  
14 **trunk groups to the designated platform for each BellSouth end**  
15 **office identified by MCIIm.**

16  
17 **2.8.1.1 At its option, MCIIm may order, and BellSouth shall**  
18 **provision, separate trunk groups from the BellSouth access tandem**  
19 **or end office to MCIIm's platform, as directed by MCIIm.**  
20

21 3.2.1.1 At MCI's option, BellSouth shall route all **411, 1411,**  
22 **555-1212 Directory Assistance** traffic to MCIIm's Directory  
23 Assistance Services platform. *MCIIm shall order selective routing*  
24 *and separate trunk groups to the designated platform for each*  
25 *BellSouth end office identified by MCIIm. using FGD signaling*  
26 **either through direct end office trunking or via the access**  
27 **tandem.**  
28

29 *3.2.4.3.3 Custom Branding and Self Branding require MCIIm to*  
30 *order dedicated trunking from each BellSouth end office*  
31 *identified by MCIIm, to either the BellSouth Traffic Operator*  
32 *Position System (TOPS) or MCIIm Operator Service Provider.*  
33 *Rates for trunks are set forth in Attachment 1. [This provision*  
34 *concerns DA.]*  
35

36 **3.5.2 BellSouth shall route resale and UNE-P Directory**  
37 **Assistance traffic to MCIIm's designated platform using**  
38 **switched access facilities that provide ANI, or in any other**  
39 **manner agreed to by MCIIm.**  
40

41 **3.5.2.1 At its option, MCIIm may order, and BellSouth shall**  
42 **provision, separate trunk groups from the BellSouth access**  
43 **tandem or end office to MCIIm's platform, as directed by**  
44 **MCIIm.**



1  
2 **Q. WHAT IS THE ISSUE THAT GIVES RISE TO THE PARTIES'**  
3 **DIFFERENCES CONCERNING THIS LANGUAGE?**

4 A. The issue is what means BellSouth must use to transport OS/DA traffic from its  
5 switches to its OS/DA platform, when WorldCom requests branding for such  
6 calls.

7 **Q. WHAT IS WORLDCOM'S POSITION ON THIS ISSUE?**

8 A. WorldCom's position is that BellSouth must provide branding for WorldCom's  
9 OS/DA traffic routed to BellSouth's OS/DA platform without requiring  
10 dedicated trunking.

11 **Q. WHAT IS BELLSOUTH'S POSITION?**

12 A. BellSouth maintains that dedicated trunk groups must be used to obtain custom  
13 branding.

14 **Q. WHAT IS THE BASIS FOR WORLDCOM'S POSITION?**

15 A. If WorldCom uses BellSouth's OS/DA platform, it must be able to route its  
16 OS/DA traffic there in an efficient manner and obtain custom branding. Custom  
17 branding involves BellSouth branding calls to its OS/DA platform in the name of  
18 the ALEC whose customer is calling. FCC rules provide as follows:

19 The refusal of a providing local exchange carrier (LEC) to comply  
20 with the reasonable request of a competing provider that the  
21 providing LEC rebrand its operator services and directory  
22 assistance, or remove its brand from such services, creates a  
23 presumption that the providing LEC is unlawfully restricting  
24 access to its operator services and directory assistance. The  
25 providing LEC can rebut this presumption by demonstrating that it  
26 lacks the capability to comply with the competing provider's  
27 request.  
28

1 47 C.F.R. § 51.217(d). WorldCom's request is that BellSouth brand WorldCom's  
2 calls without requiring dedicated trunking to do so. When WorldCom does not  
3 have enough traffic coming from a particular BellSouth end office to justify  
4 dedicated trunking for OS/DA traffic, it must be able to use shared transport.  
5 Both Bell Atlantic and SBC have developed the capability to provide branding  
6 from OS/DA calls using shared transport. BellSouth can provide the same  
7 capability, and should be required to do so.

8 **Q. WHY IS THIS AN IMPORTANT ISSUE?**

9 A. When WorldCom begins offering service via UNE-P on a mass market basis, it  
10 will not, at least initially, have sufficient OS/DA traffic volumes to justify  
11 dedicated trunking. Under BellSouth's proposal, WorldCom would have to  
12 obtain dedicated trunks to every end office where it had even a single customer  
13 served by UNE-P. This is clearly an inefficient and costly arrangement that  
14 would impede the development of local competition.

15 **ISSUE 102**

16 *Should the parties provide "inward operator services" through local*  
17 *interconnection trunk groups using network routable access codes BellSouth*  
18 *establishes through the LERG? (Attachment 9, Sections 2.6.1-2.6.4.)*  
19

20 **Q. WHAT LANGUAGE HAS WORLDCOM PROPOSED CONCERNING**  
21 **INWARD OPERATOR SERVICES?**

22 A. WorldCom has proposed the following language in Attachment 9, with the  
23 disputed language shown in bold:

24 2.6.1 If MCIIm does not use BellSouth's operator services for  
25 Operator Call Processing, MCIIm may order Inward Operator  
26 Services from BellSouth.  
27

1 2.6.2 Inward Operator Services allows the MCIIm operator to  
2 route inward to a BellSouth operator when a MCIIm end user has  
3 requested the busy line verification and/or interruption of a  
4 BellSouth end user's line (and/or end user lines for which  
5 Operator Call Processing is performed on behalf of other LECs by  
6 BellSouth.) At the request of the MCIIm operator, the BellSouth  
7 operator shall check for conversation. If the BellSouth operator  
8 hears "scrambled" conversation, the BellSouth operator shall  
9 perform an interruption if requested. The BellSouth operator shall  
10 report the results to the MCIIm operator who shall report to the  
11 MCIIm end user.

12  
13 2.6.3 MCIIm, at its option, may order, and BellSouth shall  
14 provision, trunks from its own operator services platform directly  
15 to BellSouth's operator service center. **Alternatively, MCIIm**  
16 **may use the Local Interconnection Trunk Groups using the**  
17 **network-routable access codes BellSouth establishes in the**  
18 **LERG.**

19  
20 2.6.4 **Where INP/LNP is deployed and when a BLV/BLVI**  
21 **request for a ported number is directed to a BellSouth**  
22 **operator and the query is not successful (for example, the**  
23 **request yields an abnormal result), the BellSouth operator**  
24 **shall confirm whether the number has been ported and shall**  
25 **direct the request to the appropriate operator.**

26  
27 **Q. WHAT IS WORLDCOM'S POSITION ON THIS ISSUE?**

28  
29 **A.** Local interconnection trunks often afford the most efficient way to provide this  
30 service and should be provided.

31 **Q. WHAT IS BELL SOUTH'S POSITION ON THIS ISSUE?**

32 **A.** Dedicated trunks must be ordered before this service can be provided,  
33 otherwise BellSouth will be forced to use the operator codes in end  
34 offices.

35 **Q. WHAT IS THE BASIS FOR WORLDCOM'S POSITION?**

36 **A.** WorldCom is proposing that the parties be able to order trunking for inward  
37 operator services (i.e., operator-to-operator calls) in two ways: (a) direct trunks

1 from the WorldCom operator services platform directly to BellSouth's operator  
2 services center; and (b) through local interconnection trunk groups using network  
3 routable access codes BellSouth establishes in the LERG. BellSouth only is  
4 willing to provide operator-to-operator calls via direct trunks. Because local  
5 interconnection trunks often will afford the most efficient means of providing  
6 this service, BellSouth should be required to provide the service using either  
7 method as requested by WorldCom.

8 **Q. DOES BELLSOUTH ACKNOWLEDGE THAT OPERATOR TO**  
9 **OPERATOR TRAFFIC IS SENT VIA SPECIAL CODES AVAILABLE**  
10 **TO THE OPERATORS AS NOTED IN WORLDCOM'S PROPOSAL?**

11 A. Yes.

12 **Q. WHY THEN DOES BELLSOUTH OPPOSE WORLDCOM'S PROPOSED**  
13 **CONTRACT LANGUAGE?**

14 A. I believe that BellSouth misunderstands the language proposed by WorldCom  
15 because WorldCom's proposal would not require BellSouth to use the operator  
16 codes in any end offices.

17 **Q. PLEASE ELABORATE.**

18 A. The proposal made by WorldCom would work as follows: WorldCom's  
19 operator would dial the appropriate code for the BellSouth operator and the call  
20 would route over the local interconnection trunk to BellSouth's access tandem to  
21 BellSouth's operator services platform. The routing has nothing to do with  
22 BellSouth end offices. Indeed, WorldCom operator services platforms do not  
23 subtend BellSouth end offices and there is no need for them to do so.

1 **Q. WHAT SHOULD THE COMMISSION DO?**

2 A. The Commission should adopt the contract language proposed by WorldCom.

3  
4

**ISSUE 103**

5 *Should BellSouth operators be required to connect WorldCom*  
6 *subscribers dialing "0" and requesting directory assistance to any*  
7 *directory assistance platform designated by MCI WorldCom?*  
8 *(Attachment 9, Section 2.7.2.)*  
9

10 **Q. WHAT LANGUAGE HAS WORLDCOM PROPOSED CONCERNING**  
11 **CONNECTING WORLDCOM CUSTOMERS DIALING "0" TO THE**  
12 **DIRECTORY ASSISTANCE PLATFORM DESIGNATED BY**  
13 **WORLDCOM?**

14 A. WorldCom has proposed the following language in Attachment 9:

15 2.7.2 BellSouth will connect the MCIIm subscribers dialing "0" to  
16 any Directory Assistance platform designated by MCIIm.  
17 BellSouth may charge MCIIm as specified in Attachment I.  
18

19 **Q. WHAT IS WORLDCOM'S POSITION ON THIS ISSUE?**

20  
21 A. BellSouth operators should not automatically route calls for directory assistance  
22 from WorldCom customers to the BellSouth directory assistance platform, but  
23 should follow the routing instructions provided by WorldCom.

24 **Q. WHAT IS BELLSOUTH'S POSITION ON THIS ISSUE?**

25  
26 A. BellSouth's position is that its operator services platform does not have the  
27 capability to connect to WorldCom's directory assistance platform and that  
28 BellSouth is not required to enable WorldCom to do so.

1 **Q. WHY SHOULD BELLSOUTH BE REQUIRED TO CONNECT THESE**  
2 **CALLS TO WORLDCOM'S DESIGNATED DIRECTORY ASSISTANCE**  
3 **PLATFORM?**

4 A. There are several reasons. First, the customer that would be impacted by this  
5 provision would be an WorldCom customer who was trying to reach  
6 WorldCom's directory assistance service but dialed "O" in error. The fact that  
7 the customer misdialed does not entitle BellSouth to snare the call, like a spider  
8 with a fly that has strayed into its web. Second, WorldCom will have to pay  
9 BellSouth for the operator's service, so BellSouth will be compensated for  
10 routing of the call to WorldCom. Finally, BellSouth should route the call to  
11 WorldCom's directory assistance platform as a matter of parity. If a BellSouth  
12 customer dials "O" and asks for directory assistance, BellSouth will route the  
13 call to BellSouth's directory assistance platform. If an WorldCom customer  
14 dials "O" and asks for directory assistance, BellSouth should route the call to  
15 WorldCom's directory assistance platform.

16 **G. General Terms and Conditions**

17 **ISSUE 107**

18 *Should the parties be liable in damages, without a liability cap, to one*  
19 *another for their failure to honor in one or more material respects any*  
20 *one or more of the material provisions of the Agreements? (Part A,*  
21 *Sections 11.1.1 and 11.1.2.)*  
22

23 **Q. WHAT LANGUAGE HAVE THE PARTIES PROPOSED CONCERNING**  
24 **A LIABILITY CAP?**

25 A. WorldCom has proposed the following language in Part A (disputed language is  
26 shown in bold):

1 11.1. Liability Cap.  
2

3 11.1.1 With respect to any claim or suit, whether based in contract, tort  
4 or any other theory of legal liability, by MCI, any MCI customer or  
5 by any other person or entity, for damages associated with any of the  
6 services provided by BellSouth pursuant to or in connection with this  
7 Agreement, including but not limited to the installation, provision,  
8 preemption, termination, maintenance, repair or restoration of service,  
9 and subject to the provisions of the remainder of this Section, BellSouth's  
10 liability shall be limited to an amount equal to the proportionate charge  
11 for the service provided pursuant to this Agreement for the period during  
12 which the service was affected. Notwithstanding the foregoing, claims for  
13 damages by MCI, any MCI customer or any other person or entity  
14 resulting from the gross negligence or willful misconduct of BellSouth  
15 **and claims for damages by MCI resulting from the failure of**  
16 **BellSouth to honor in one or more material respects any one or more**  
17 **of the material provisions of this Agreement** shall not be subject to  
18 such limitation of liability.  
19

20 11.1.2 With respect to any claim or suit, whether based in contract, tort  
21 or any other theory of legal liability, by BellSouth, any BellSouth  
22 customer or by any other person or entity, for damages associated with  
23 any of the services provided by MCI pursuant to or in connection with  
24 this Agreement, including but not limited to the installation, provision,  
25 preemption, termination, maintenance, repair or restoration of service,  
26 and subject to the provisions of the remainder of this Section, MCI's  
27 liability shall be limited to an amount equal to the proportionate charge  
28 for the service provided pursuant to this Agreement for the period during  
29 which the service was affected. Notwithstanding the foregoing, claims for  
30 damages by BellSouth, any BellSouth customer or any other person or  
31 entity resulting from the gross negligence or willful misconduct of MCI  
32 **and claims for damages by BellSouth resulting from the failure of**  
33 **MCI to honor in one or more material respects any one or more of**  
34 **the material provisions of this Agreement** shall not be subject to such  
35 limitation of liability.  
36

37 **Q. WHAT IS WORLDCOM'S POSITION ON THIS ISSUE?**  
38

39 **A.** There should be no limitation of liability for material breaches of the Agreement.

40 **Q. WHAT IS BELL SOUTH'S POSITION ON THIS ISSUE?**

41 **A.** BellSouth contends there should be such a limitation.

42 **Q. WHAT IS THE BASIS FOR WORLDCOM'S POSITION?**

1 A. The parties should be given the proper incentives to comply with the Agreement.  
2 Without an exception to the liability cap for material breaches, BellSouth would  
3 have an incentive to breach the contract when the benefit to BellSouth exceeded  
4 its possible liability. The language WorldCom has proposed is reciprocal, is  
5 commercially reasonable, and should be adopted.

6 **ISSUE 108**

7 *Should WorldCom be able to obtain specific performance as a remedy for*  
8 *BellSouth's breach of contract? (Part A, Section 14.1.)*  
9

10 **Q. WHAT LANGUAGE HAS WORLDCOM PROPOSED CONCERNING**  
11 **THE AVAILABILITY OF SPECIFIC PERFORMANCE?**

12 A. WorldCom has proposed the following language in Part A:  
13

14 14.1 The obligations of BellSouth and the Services offered under  
15 this Agreement are unique. Accordingly, in addition to any other  
16 available rights or remedies, MCI may seek specific  
17 performance as a remedy.  
18

19 **Q. WHAT IS WORLDCOM'S POSITION ON THIS ISSUE?**  
20

21 A. Services under the Agreement are unique, and specific performance is an  
22 appropriate remedy for BellSouth's failure to provide the services as required in  
23 the Agreement.

24 **Q. WHAT IS BELL SOUTH'S POSITION ON THIS ISSUE?**

25 A. BellSouth contends that whether specific performance is appropriate must be  
26 decided on a case by case basis. BellSouth also asserts that this issue is not  
27 appropriate for arbitration.

28 **Q. WHAT IS THE BASIS FOR WORLDCOM'S POSITION?**



1 A. The nature of the services provided by BellSouth under the Agreement are such  
2 that specific performance will be the most appropriate remedy. BellSouth is the  
3 monopoly seller of interconnection, resale services and UNEs, and is often a  
4 reluctant seller at that. WorldCom must have the ability to require BellSouth to  
5 provide elements and services, through enforcement actions brought to this  
6 Commission if necessary. The Commission will be hamstrung in discharging its  
7 responsibility to enforce interconnection agreements if it cannot order BellSouth  
8 to comply with their terms. The right to specific performance is included in the  
9 current Interconnection Agreement. WorldCom should continue to have the right  
10 to seek that remedy.

11 **ISSUE 109**

12 *Should BellSouth be required to permit WorldCom to substitute more*  
13 *favorable terms and conditions obtained by a third party through*  
14 *negotiation or otherwise, effective as of the date of WorldCom's request.*  
15 *Should BellSouth be required to post on its web site all BellSouth's*  
16 *interconnection agreements with third parties within fifteen days of the*  
17 *filing of such agreements with the Florida PSC? (Part A, Section 18.)*  
18

19 **Q. WHAT LANGUAGE HAVE THE PARTIES PROPOSED CONCERNING**  
20 **BELLSOUTH'S PROVISION OF NONDISCRIMINATORY TERMS AND**  
21 **CONDITIONS?**

22 A. WorldCom has proposed the following language in Part A:

23 Section 18. Non-Discriminatory Treatment

24 If as a result of any proceeding or filing before any Court, State  
25 Commission, or the Federal Communications Commission, voluntary  
26 agreement or arbitration proceeding pursuant to the Act or pursuant to  
27 any applicable state law, BellSouth becomes obligated to provide  
28 Services and Elements, whether or not presently covered by this  
29 Agreement, to a third party at rates or on terms and conditions more  
30 favorable to such third party than the applicable provisions of this  
31 Agreement, MCI shall have the option to substitute such more favorable

1 rates, terms, and conditions for the relevant provisions of this Agreement  
2 which shall apply to the same States as such other Party, and such  
3 substituted rates, terms or conditions shall be deemed to have been  
4 effective under this Agreement as of the date such substituted rates,  
5 terms, or conditions are requested by MCI. BellSouth shall post on its  
6 web site any BellSouth agreement between BellSouth and any third party  
7 within fifteen (15) days of the filing of such agreement with any state  
8 Commission.

9  
10 **Q. WHAT ISSUES GIVES RISE TO THE PARTIES' DISAGREEMENT**  
11 **OVER THIS LANGUAGE?**

12 A. There are two related issues. The first is whether, when WorldCom substitutes  
13 more favorable terms and conditions obtained by a third party through  
14 negotiation or otherwise, those terms should be effective as of the date of  
15 WorldCom's request. The second is whether BellSouth should be required to  
16 post on its web site its interconnection agreements within fifteen days of the day  
17 they are filed with the Commission.

18 **Q. WHAT IS WORLDCOM'S POSITION ON THIS ISSUE?**

19  
20 A. BellSouth should provide nondiscriminatory treatment, and provide WorldCom  
21 with such agreements.

22 **Q. WHAT IS BELL SOUTH'S POSITION ON THIS ISSUE?**

23 A. BellSouth does not agree that substituted language should be effective as of the  
24 date it is requested, and is not willing to post its agreements on its web site, or  
25 otherwise provide them to WorldCom.

26 **Q. WHAT IS THE BASIS FOR WORLDCOM'S POSITION?**

27 A. Under Section 252(i) of the Act, WorldCom is entitled to obtain a rate, term or  
28 condition that a third party obtains from BellSouth. This right prevents  
29 BellSouth from bestowing special rates, terms and conditions on certain carriers

1 that gives them a competitive advantage. When WorldCom elects to adopt a rate,  
2 term or condition from another party's interconnection agreement, the effective  
3 date should be when WorldCom elects to adopt the terms and conditions.

4 As a practical matter, if WorldCom is to take advantage of this right, it  
5 must have ready access to the interconnection agreements of third parties.  
6 BellSouth therefore should be required to provide WorldCom any  
7 interconnection agreement between BellSouth and a third party within fifteen  
8 days of the filing of the agreement, as WorldCom's current interconnection  
9 agreement requires. If BellSouth, contrary to the Act, does not file the  
10 agreement, then it should provide WorldCom with a copy within fifteen days of  
11 execution. To make this process as efficient as possible, WorldCom is willing to  
12 allow BellSouth to discharge this obligation by posting the agreements on its web  
13 site.

14 **ISSUE 110**

15 *Should BellSouth be required to take all actions necessary to ensure that*  
16 *WorldCom confidential information does not fall into the hands of*  
17 *BellSouth's retail operations, and should BellSouth bear the burden of*  
18 *proving that such disclosure falls within enumerated exceptions? (Part A,*  
19 *Section 20.1.1.1.)*

20  
21 **Q. WHAT LANGUAGE HAVE THE PARTIES PROPOSED CONCERNING**  
22 **BELLSOUTH'S TREATMENT OF CONFIDENTIAL INFORMATION?**

23 **A.** The parties have proposed the following language in Part A (WorldCom's  
24 proposed language that BellSouth disputes is in bold; BellSouth's  
25 proposed language that WorldCom disputes is in bold and underlined):

26 20.1.1.1 Notwithstanding the provisions of Section 20.1.1, under  
27 no circumstances will BellSouth disclose MCI's Confidential

1 Information to, or permit access to MCI's Confidential  
2 Information by, the retail operations or any employee thereof, or  
3 the retail customer representatives of, BellSouth or any BellSouth  
4 Affiliate, or any independent contractors to any of the foregoing,  
5 and BellSouth and any BellSouth Affiliate shall take **all actions**  
6 **necessary reasonable measures** to ensure that any such retail  
7 operations and any employees thereof, their respective retail  
8 customer representatives, and any independent contractors of any  
9 of the foregoing, cannot access MCI's Confidential Information.  
10 **In the event that the retail operations, any employees thereof,**  
11 **or retail customer representatives of BellSouth or any**  
12 **BellSouth Affiliate, or any independent contractors to any of**  
13 **the foregoing, possess or have knowledge of any MCI**  
14 **Confidential Information, that fact will establish a rebuttable**  
15 **presumption that BellSouth breached its obligations under**  
16 **this Section 20, and BellSouth will bear the full burden of**  
17 **showing that BellSouth as to such Confidential Information is**  
18 **subject to one or more of the exceptions set forth in Section**  
19 **20.1.2.**

20  
21 **Q. WHAT IS WORLDCOM'S POSITION ON THIS ISSUE?**

22  
23 A. BellSouth should take all measures necessary to protect WorldCom's  
24 confidential information from BellSouth's retail operations, and should bear the  
25 burden of proving that disclosure falls within enumerated exceptions.

26 **Q. WHAT IS BELL SOUTH'S POSITION ON THIS ISSUE?**

27 A. BellSouth proposes that it only should be required to take all reasonable  
28 measures to protect confidential information from BellSouth's retail operations,  
29 and should not bear the burden of proving that disclosure falls within enumerated  
30 exceptions.

31 **Q. WHAT IS THE BASIS FOR WORLDCOM'S POSITION?**

32 A. By virtue of BellSouth's position as WorldCom's sole supplier of many services  
33 and elements, BellSouth comes into possession of WorldCom confidential  
34 information. It is critical that this information not fall into the hands of

1 BellSouth's retail operation, which could use the information to its competitive  
2 advantage. BellSouth is only willing to "take all reasonable measures" to  
3 safeguard WorldCom's confidential information from its retail operations, and is  
4 not willing to assume the burden of establishing that disclosure of such  
5 information falls into one of the enumerated exceptions (such as the exception  
6 for when confidential information becomes public through no breach of contract  
7 by BellSouth).

8 BellSouth's proposal does not go far enough to protect WorldCom's  
9 confidential information. BellSouth should be required to take all actions  
10 necessary to ensure that its retail operations do not obtain such information. If  
11 such disclosure does occur, a rebuttable presumption should arise that BellSouth  
12 has breached its obligations to preserve confidentiality, and BellSouth should  
13 bear the burden of proving that the disclosure was permissible under one of the  
14 exceptions enumerated in Part A, section 19.1.2.

15 **ISSUE 111**

16 *Should WorldCom's proposed procedures be followed for usage audits*  
17 *for reporting and auditing of PIUs and PLUs? (Part A, Section 21.2.)*

18  
19 **Q. WHAT LANGUAGE IN PART A IS IN DISPUTE CONCERNING**  
20 **AUDIT RIGHTS?**

21 **A.** The parties have proposed the following language (with WorldCom language in  
22 **Bold and BellSouth language in bold and underlined):**

23 21.2 The following shall apply to usage audits for call transport and  
24 termination:

25 **21.2.1 Percent Local Usage. Each Party will report to the other a**  
26 **Percentage Local Usage ("PLU"). For purposes of developing the**

1 PLU, each Party shall consider every local call and every long  
2 distance call, excluding transit traffic. By the first of January, April,  
3 July and October of each year, BellSouth and MCIm shall provide a  
4 positive report monthly updating the PLU. The Parties shall use  
5 calling party number information, where available, to determine  
6 PLUs. Where calling party number information is not available, the  
7 Parties shall use their best efforts to estimate an accurate PLU.  
8 Where the PLU is utilized to determine call jurisdiction and where  
9 the terminating Party has message recording technology that can be  
10 used to correctly identify the jurisdiction of traffic terminated as  
11 defined in this Agreement, such information, in lieu of the PLU  
12 factor, shall, at the terminating Party's option, be utilized by the  
13 terminating Party to determine the appropriate local usage  
14 compensation to be paid.

15 21.2.2 Percent Interstate Usage. For combined interstate and  
16 intrastate MCIm traffic terminated by BellSouth over the same  
17 facilities, MCIm will be required to provide a projected Percentage  
18 Interstate Usage ("PIU") to BellSouth. All jurisdictional report  
19 requirements, rules and regulations for Interexchange Carriers  
20 specified in BellSouth's Intrastate Access Services Tariff will apply to  
21 MCIm. After interstate and intrastate traffic percentages have been  
22 determined by use of PIU procedures, the PLU factor will be used for  
23 application and billing of local interconnection. Where the PIU and  
24 PLU are utilized to determine call jurisdiction and where the  
25 terminating Party has message recording technology that can be used  
26 to correctly identifies the jurisdiction of traffic terminated as defined  
27 in this Agreement, such information, in lieu of the PIU and PLU  
28 factors, shall, at the terminating Party's option, be utilized by the  
29 terminating Party to determine the appropriate local usage  
30 compensation to be paid.

31  
32 **21.2.3 Subject to reasonable security requirements and at the**  
33 **expense of the auditing Party, either Party may audit the books,**  
34 **records and other documents, including but not limited to PIU and**  
35 **PLU reports, of the other Party for the purpose of evaluating usage**  
36 **pertaining to transport and termination of local traffic. Where such**  
37 **usage data is being transmitted through CABS, the audit shall be**  
38 **conducted in accordance with CABS or other applicable**  
39 **requirements approved by the appropriate State Commission. If**  
40 **data is not being transferred via CABS, either Local Traffic and to**  
41 **ensure proper billing of traffic. Either Party may request an audit**  
42 **for such purpose once each Contract Year. Either Party may employ**  
43 **other persons or firms. The auditing party shall employ a mutually**  
44 **acceptable independent third party auditor for this purpose. Such**  
45 **audit shall take place at a time and place agreed on by the Parties no**

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later than thirty (30) days after notice thereof to the Party being audited.

**21.2.4 The Parties shall retain records of call detail for a minimum of nine months from which usage audits, including a PIU and PLU, can be ascertained. The PLU and PIU shall be adjusted based upon the audit results and shall apply to the usage for the quarter for which the audit was completed, to the usage for the quarter prior to completion of the audit, and to the usage for the two quarters following completion of the audit. The Parties shall promptly correct any reported usage error that is revealed in an audit, including making payment of any underpayment and refunding any overpayment after the Parties have agreed upon the accuracy of the audit results. Any Disputes concerning audit results shall be resolved pursuant to the Dispute Resolution procedures described in Section 22 of this Part A.**

**21.2.5 The Parties shall cooperate fully in any such usage audit, providing reasonable access to any and all appropriate employees and books, records and other documents reasonably necessary to assess the usage pertaining to transport and terminating of local traffic. If, as a result of an audit, either Party is found to have overstated the PLU and/or PIU or otherwise incorrectly reported the jurisdiction of traffic by twenty percentage points (20%) or more, that Party shall reimburse the auditing Party for the cost of the audit.**

**Q. WHY DOES WORLDCOM CONTEND THAT ITS PROPOSAL IS BETTER THAN BELLSOUTH'S?**

A. WorldCom's proposal is better for a number of reasons. For example, WorldCom's proposal requires the parties to use calling party number, where available, to determine percent local usage ("PLU"), and permits the parties to audit each others records to ensure that PLU was calculated correctly. BellSouth's proposal does not require that PLU be calculated based on calling party number.

In addition, BellSouth appears to have taken the audit process outlined in its tariff regarding interexchange carriers and amended it only slightly to arrive at the audit process it proposes here. Indeed, BellSouth's proposal regarding the

1 PIU states that "requirements, rules and regulations for Interexchange Carriers  
2 specified in BellSouth's Intrastate Access Services Tariff" will apply to  
3 WorldCom. This is inappropriate and one-sided. WorldCom has proposed that  
4 the contract contain all audit language, without reference to BellSouth's access  
5 tariffs. If BellSouth believes that something in its access tariffs is important  
6 enough to have in the contract, WorldCom is willing to consider any particular  
7 language BellSouth would like to propose. Instead, however, BellSouth is  
8 attempting to treat MCI and MWC as interexchange carriers, rather than as the  
9 local exchange carriers that they are.

10 **Q. IS THE PIU SOMETHING FOR WHICH A LOCAL**  
11 **INTERCONNECTION AGREEMENT SHOULD CONTAIN AUDIT**  
12 **PROCEDURES?**

13 A. No. The relevant information is actual local usage data. Local usage is what  
14 matters in a local interconnection agreement like this one. PIU has no  
15 application under the terms of the agreement. Moreover, WorldCom intends to  
16 supply actual local usage data where available (which is most of the time) and  
17 the PLU factor would be needed only as a substitute when actual data is not  
18 available.

19 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

20 A. Yes.

21  
22  
23