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January 18, 2001

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

RE: Docket No. 000649-TP (MCI Arbitration)

Dear Mrs. Bayo:

It has been brought to our attention that the Post-Hearing Brief filed by BellSouth Telecommunications, Inc. ("BellSouth") in the above-referenced proceeding inadvertently failed to discuss the three legal issues raised by the Staff. BellSouth apologizes for this oversight and regrets any inconvenience this omission may have caused.

BellSouth has reviewed the discussion of these three legal issues contained in the Post-Hearing Brief filed by MCImetro Access Transmission Services, LLC and MCI WorldCom Communications, Inc. (collectively "MCI"). BellSouth agrees generally with MCI's analysis of the Commission's jurisdiction (Issue A) and the Commission's authority and obligation to arbitrate issues concerning liquidated damages and specific performance in light of *MCI Telecommunications Corp. v. BellSouth Telecommunications, Inc., et al*, Case No. 4:97cv141-RH (N.D. Fla. June 6, 2000) (Issue B). However, there are two points that BellSouth believes warrant additional discussion.

First, MCI correctly points out that the United States District Court for the Northern District of Florida has determined that the Commission is required to arbitrate and resolve all issues brought to the Commission, not just those that are subject to arbitration under the Telecommunications Act of 1996 ("1996 Act"). *MCI Telecommunications Corp. v. BellSouth Telecommunications, Inc., et al*,

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Case No. 4:97cv141-RH (N.D. Fla. June 6, 2000). BellSouth has appealed that case to the United States Court of Appeals for the Eleventh Circuit, where a panel has rejected the appeal on jurisdictional grounds, since the District Court remanded the matter to the Commission rather than issuing a final order. Reconsideration has been sought, but clearly the District Court opinion is binding on the Commission until that decision is reversed. Nevertheless, that decision does not require that the Commission resolve any issue in any particular manner, just that the Commission arbitrate and resolve each "open issue." Such a resolution could result in the Commission concluding that BellSouth is not obligated to provide what MCI wants in the way of liquidated damages or specific performance on any terms. What the Commission cannot do, as long as the District Court decision stands, is refuse to consider or resolve an issue raised by the parties.

Second, MCI's discussion of the "legal standard" that should apply in resolving issues concerning liquidated damages and specific performance (Issue C) only underscores the fallacy in the District Court's approach. While MCI urges the Commission to apply concepts of "commercial reasonableness," such an approach does not constitute a governing "legal standard." Indeed, since there is, by definition, no statutory or regulatory provision under the 1996 Act governing liquidated damages or specific performance, there is no legal standard by which the Commission can judge MCI's requests.

BellSouth appreciates the opportunity to present its views on the three legal issues raised by the Staff and again apologizes for failing to do so in its Post-Hearing Brief. BellSouth has enclosed an original and 15 copies of this letter for filing in the captioned docket. An additional copy of this letter is enclosed. Please mark it to indicate that the original was filed and return the copy to me. Copies have been served on the parties shown on the attached Certificate of Service.

Sincerely,



T. Michael Twomey

Enclosures

cc: All Parties of Record
Nancy B. White
Marshall M. Criser III
R. Douglas Lackey

**CERTIFICATE OF SERVICE
Docket No. 000649-TP**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via

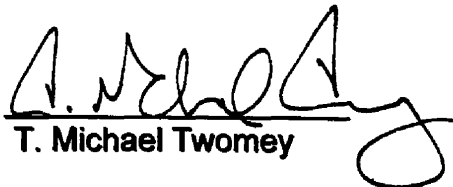
U.S. Mail this 18th day of January, 2001 to the following:

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(#) Signed Protective Agreement