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October 14, 2002

**BY HAND DELIVERY**

Ms. Blanca Bayó, Director  
The Commission Clerk and Administrative Services  
Room 110, Easley Building  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, Florida 32399-0850

Re: Docket No. 990649A-TP

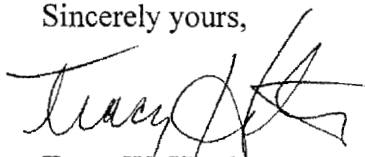
Dear Ms. Bayó:

Enclosed for filing on behalf of AT&T Communications of the Southern States, LLC and MCI WorldCom, Inc. are an original and fifteen copies of AT&T and WorldCom's Motion for Reconsideration in the above referenced docket. --

Please acknowledge receipt of this letter by stamping the extra copy of this letter "filed" and returning the same to me.

Thank you for your assistance with this filing.

Sincerely yours,

  
Tracy W. Hatch

TWH/amb

Enclosure

cc: Virginia Tate, Esq.  
Parties of Record

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FPSC-COMMISSION CLERK

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Investigation into pricing of )  
unbundled network elements )  
\_\_\_\_\_)

Docket No. 990649A-TP

Filed: October 14, 2002

**AT&T COMMUNICATIONS OF THE SOUTHERN STATES, LLC,  
AND  
MCI WORLDCOM, INC.**

**MOTION FOR RECONSIDERATION**

Comes now, AT&T Communications of the Southern States, LLC, (AT&T) and MCI WorldCom, Inc. (MCI) by and through undersigned counsel, and pursuant to Rule 25-22.060, Florida Administrative Code respectfully moves for the Florida Public Service Commission (“Commission”) to reconsider and to clarify the hereinbelow identified portions of Order No. PSC-02-1311-FOF-TP, issued in this docket on September 27, 2002.

1. On May 25, 2001, the Commission issued its *Final Order on Rates for Unbundled Network Elements Provided by BellSouth*, Order No. PSC-01-1181-FOF-TP (Order No. 01-1181). The Order addressed the appropriate methodology, assumptions, and inputs for establishing rates for unbundled network elements for BellSouth Telecommunications Inc. (BellSouth). In particular the Commission ordered BellSouth to file, within 120 days of the issuance of Order No. 01-1181, a “bottoms-up” loop cost study, explicitly modeling engineering, structures and cable installation.

2. BellSouth filed its 120-Day, “bottoms-up” study on September 24, 2001. On October 8, 2001, BellSouth filed the first set of revisions to its cost study to reflect these necessary changes as a result of the Commission’s decision on reconsideration,

reflected in Order No. PSC-01-2051-FOF-TP. On November 2, 2001, BellSouth filed its second set of revisions to its cost study to update Daily Usage File (DUF) information. On January 28, 2002, BellSouth filed its third set of revisions to its already frequently revised 120-Day cost study.

3. On September 27, 2002, the Commission issued its *Order On Rates for Unbundled Network Elements Provided By BellSouth Telecommunications, Inc. (120-Day Filing)*, Order No. PSC-02-1311-FOF-TP (the "Order"). Among other issues, the Order addressed the various changes that BellSouth was directed to make in its 120-Day filing to present a bottoms-up cost study explicitly modeling engineering, structures and cable installation.

#### **INFLATION RATES**

4. The inflation rates used by BellSouth in its 120-Day filing were the same as those used in its previous cost study that was the subject of Order Nos. 01-1181 and 01-2051. The inflation factors used by BellSouth were based on a 1998 base year with projections for inflation for 2000-2002. See Order No. 02-1311, p. 108.

5. AT&T and WorldCom Telecommunications, Inc. ("WorldCom") as acknowledged in Order 01-1311, presented the most recent actual inflation information that BellSouth has experienced for 2000 and 2001. This information was supplied by BellSouth through discovery in this proceeding. BellSouth at no time contested that the updated actual inflation rates experienced by BellSouth and presented by AT&T were in error. The actual inflation information shows without any possible doubt that BellSouth's projected inflation rates filed with its cost study have overstated the rates of inflation that have been used to establish UNE prices in this proceeding. This overstatement causes

UNE loop rates to be higher than they should be based on the more accurate actual inflation rates experienced by BellSouth for the years 2000 and 2001. The incorrect excessive inflation rate comes on top of the Commission's decision in Order No. 01-2051 to allow BellSouth to double recover for inflation through inflation of material prices and again through the application of a cost of capital that includes inflation. 6. In response to AT&T's and MCI's contention that BellSouth's actual inflation experience should be used in lieu of the inflation rates in its 120-Day filing, BellSouth argued that more recent actual BellSouth specific inflation rates should not be used to calculate UNE loop rates because all the materials prices and other factors in the Phase I cost study as well as in the 120-Day study were based on 1998 data and that consistency required that actual correct inflation information not be used. See Order No. 02-1311, p. 107-8.

7. BellSouth's claim of strict consistency is wrong. BellSouth has routinely revised and updated various rates as well as factors in this 120-Day proceeding. In its November 2, 2001 filing, BellSouth submitted revisions to its ODUF, ADUF and EODUF cost studies, despite the fact that this was not required by the Commission as part of the 120-Day filing. In its filing, BellSouth revised its usage projections for DUF messages. Order 02-1311, p. 69. In addition to revising its DUF message projections, BellSouth submitted dramatically higher software development costs compared to its prior September filing. In particular, BellSouth's filing contained increased developmental labor hours and also revised the labor rates to reflect higher 2002-2004 contractor labor costs. In explaining why the labor costs increased seven times from its previous filing, BellSouth's witness Caldwell stated, "as we've learned more about it and worked more with it going forward, we felt it would take more time." Order No. 01-1311,

p. 65. As noted in Order No. 02-1311, BellSouth never mentioned the increases in DUF costs in its filing. It is interesting to note that BellSouth's revised DUF message projections were updated with actual messages from January to April 2001 and projections for the remainder. It is just as interesting to note that BellSouth's software development costs included actual updated labor rates and activity time. Consistency was clearly not a concern of BellSouth when it wanted to submit revisions to its prior base data based on updated actual information. The Commission rejected the inclusion of BellSouth's increased costs from software development because the costs had already largely been amortized or otherwise recovered in its prior excessive DUF rates. Order No. 02-1311, p. 65. The Commission did not reject the changes because they were inconsistent with BellSouth's base data.

8. BellSouth again filed revisions to its 120-Day study on January 28, 2002. In this revised filing, BellSouth revised certain engineering factors, revised the number of placing hours for the feeder/distribution interface and updated the inputs for underground excavation and manhole costs. Some of these changes were in BellSouth's favor and some were in the ALEC's favor. All would have been precluded based on "consistency" with the prior base data in earlier filings yet neither BellSouth nor the other parties argues that consistency should bar accuracy. The Commission itself should not do so here.

9. The Commission erred in relying on simple consistency as a basis for rejecting using BellSouth's actual inflation experience in setting UNE rates. As is demonstrated by the record of revisions in this proceeding filed by BellSouth, there is no rule or practice of consistency. BellSouth itself has no claim to consistency even in this proceeding. When BellSouth has determined that accuracy requires revisions to its

model or its inputs, it has made revisions with little fanfare albeit not necessarily without controversy. However, none of the controversy has been over consistency.

10. In view of the foregoing, AT&T urges the Commission to reconsider its decision to reject the application of inflation rates that all parties acknowledge are a more accurate reflection of BellSouth's inflation experience. Failure to apply the most recent accurate BellSouth specific inflation rates will result in UNE loop rates that are not accurate based on known actual BellSouth specific information. Application of inaccurate inflation rates in the name of blind consistency will ensure that the rates are consistently too high and consistently wrong for as long as these UNE rates are in effect.

#### **CLARIFICATION OF BELLSOUTH'S SUBSEQUENT COST STUDIES**

11. On numerous points throughout Order No. 02-1311, the Commission notes that the methodology proposed by AT&T and MCI will result in a more accurate bottoms-up cost study but notes that the record does not contain sufficient information to quantify or otherwise implement the more accurate methodology. For each of the following, the Commission should clarify the order to require BellSouth, in all future cost filings, to present a true bottoms-up analysis that includes not only those changes required by the Order, but also the following changes to BellSouth's modeling methodology:

a. In Section I.A.1, Engineering Factor, the Commission notes in its discussion of engineering factors that option four in eliminating the linear loadings would be to order BellSouth to modify the BSTLM logic to have engineering costs reflect a correlation to internal direct labor and contract direct labor but exclude material costs.

Order No. 02-1311, p. 14. The Commission should order BellSouth to implement this change in all futures UNE cost filings

b. In Section I.A.2.a, Structure Costs, the Commission, in discussing option three for resolving the question of application of miscellaneous contractor charges, noted that the most accurate approach would group costs by type of placement. This would provide the most accurate method of determining what cost should be associated with structure related activities. Order 02-1311, p. 17. The Commission should order BellSouth to implement this change in all future UNE cost filings.

c. In Section I.A.2.d, Buried Excavation Contract Labor, the Commission expressed frustration that the record did not allow detailed findings that would support detailed individual inputs for each type of buried excavation rather than the one size fits all approach proposed by BellSouth. Order 02-1311, p. 24. The Commission should order BellSouth to implement this change in all futures UNE cost filings.

d. In Section I.A.2.h, Underground Excavation Contract Labor, the Commission notes that allocating restoration costs for asphalt, concrete and sod to the appropriate underground excavation categories instead of spreading the cost of all three across all categories of excavation has merit but notes that the record does not provide sufficient detail to implement. Order 02-1311, p. 30. The Commission should order BellSouth to implement this change in all futures UNE cost filings.

e. In Section I.A.2.i, Conduit Material, the Commission noted that the BellSouth did not provide enough support to perform a reasonable allocation of conduit

loading costs between the fiber and copper. Order No. 02-1311, p. 32. The Commission should order BellSouth to implement this change in all futures UNE cost filings.

f. In Section I.A.3.a.iii, Copper Cable Stub Investment, the Commission noted that copper stub cable investment should be removed but could not quantify the input needed to accomplish this removal. Order 02-1311, p. 52. The Commission should order BellSouth to implement this change in all futures UNE cost filings.

g. In Section I.B, Modifications to Loop Rates or Rate Structure, the Commission noted that, even with the modifications to the inputs discussed throughout the order, that the 120-Day filing still did not meet the Commission's requirement to eliminate linear loadings. The Commission expressed reservations regarding the "bottoms-up" inputs provided in the record. Order No. 02-1311, p. 58. The Commission should require that all subsequent cost filings by BellSouth be strictly bottoms-up to insure that UNE prices are accurately set according to TELRIC standards.

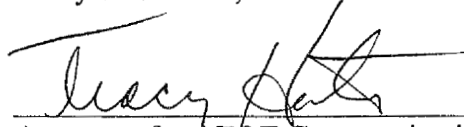
12. The Commission should clarify Order No. 02-1311 to require BellSouth to include all the modifications set forth above in all future TELRIC cost studies filed with the Commission. Failure to require BellSouth to file bottoms-up studies consistent with the noted changes will insure that all parties will continue to litigate the same flaws in BellSouths "bottoms-up" studies over and over again.

WHEREFORE, based on the foregoing, AT&T respectfully requests that the Commission reconsider its decision in Order No. PSC-02-1311-FOF-TP and require the use of updated actual inflation rates as set forth above and clarify the Order to require

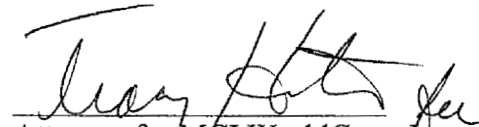


that BellSouth, in all future TELRIC cost study filings, implement the proposed changes noted above to insure that such cost studies are bottoms-up.

Respectfully submitted this 14<sup>th</sup> day of October, 2002.

  
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## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served on the following parties by Hand Delivery (\*) and/or U. S. Mail this 14th day of October, 2002.

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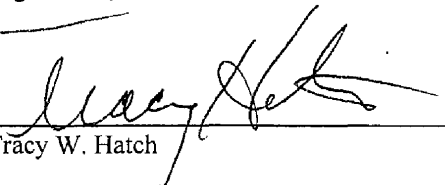
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