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BELLSOUTH TELECOMMUNICATIONS, INC.
DIRECT TESTIMONY OF PAM TIPTON
BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NO. 050419-TP
OCTOBER 21, 2005

Q. PLEASE STATE YOUR NAME, YOUR POSITION WITH BELLSOUTH TELECOMMUNICATIONS, INC. ("BELLSOUTH"), AND YOUR BUSINESS ADDRESS.

A. My name is Pam Tipton. I am employed by BellSouth Telecommunications, Inc., as a Director, Regulatory and External Affairs, responsible for regulatory policy implementation in BellSouth's nine-state region. My business address is 675 West Peachtree Street, Atlanta, Georgia 30375.

Q. PLEASE SUMMARIZE YOUR BACKGROUND AND EXPERIENCE.

A. I received a Bachelor of Arts in Economics from Agnes Scott College in 1986, and a Masters Certification in Project Management from George Washington University in 1996. I have over 17 years experience in telecommunications, with my primary focus in the areas of process development, services implementation, product management, marketing strategy and regulatory policy implementation. I joined Southern Bell in 1987, as a manager in Interconnection Operations,

1 holding several roles over a 5-year period including process
2 development and execution, quality controls and services
3 implementation. In 1994, I became a Senior Manager with
4 responsibility for End User Access Services and implementation of
5 Virtual and (later) Physical Collocation. In 2000, I became Director,
6 Interconnection Services, responsible for development and
7 implementation of UNE products, and later development of marketing
8 and business strategies. In June 2003, I became responsible for
9 implementation of state and federal regulatory mandates for Local and
10 Access markets, the development of regulatory strategies and the
11 management of the switched services product portfolio. I assumed my
12 current responsibilities on August 1, 2005.

13

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

15

16 A. The purpose of my testimony is to provide BellSouth's position on
17 several unresolved policy issues raised in the Petition for Arbitration,
18 filed June 20, 2005, with the Florida Public Service Commission
19 ("Commission") by MCImetro Access Transmission Services, LLC
20 ("MCI"). Further, I provide supporting evidence that the interconnection
21 agreement language proposed by BellSouth is the appropriate
22 language that should be adopted for this interconnection agreement by
23 the Commission.

24

1 Q. PLEASE IDENTIFY BELLSOUTH'S WITNESSES AND THE
2 UNRESOLVED ISSUES THEY ADDRESS IN THEIR DIRECT
3 TESTIMONY.

4

5 A. The chart below identifies the BellSouth witnesses and the unresolved
6 issues they address in whole or in part in their Direct Testimony:

7

Witness	Issue Nos.
Pam Tipton	Issues 1, 2, 3, 11, 12, 17, 18, 19, 23, 26, 31, 33, and 34
Shelley Decker	Issues 15, 21, 22, 24, and 25
Eric Fogle	Issues 3 (partial), 27 and 29
Eddie Owens	Issues 9, 30, and 32

8

9 Issues 16 and 20 have successfully been resolved between the parties;
10 therefore, BellSouth offers no prefiled testimony on these issues. If it is
11 later determined that any of these issues is not completely resolved,
12 BellSouth reserves the right to file additional testimony.

13

14 Q. DO YOU HAVE ANY PRELIMINARY COMMENTS?

15

16 A. Yes. There are unresolved issues in this arbitration that have
17 underlying legal arguments. Because I am not an attorney, I am not
18 offering a legal opinion on these issues. I respond to these issues
19 purely from a policy perspective. BellSouth will address all legal

1 arguments in its post-hearing brief.

2

3 **Issue 1: What Language Should Be Included In The Parties'**
4 **Interconnection Agreement ("Agreement") To Limit Or Eliminate, (A)**
5 **Liability In General; (B) Liability Arising From Tariffs Or Contracts With**
6 **End Users; Or (C) Liability For Indirect, Incidental Or Consequential**
7 **Damages?**

8

9 Q. WHAT IS BELLSOUTH'S POSITION ON ISSUE 1(A)?

10

11 A. The limitation on each Party's liability in circumstances other than gross
12 negligence or willful misconduct should be the industry standard
13 limitation, which is a credit for the actual cost of the services or
14 functions not performed or improperly performed. This is the same
15 standard that both MCI and BellSouth use to limit their liability to their
16 end users in their tariffs and used by MCI in its customer service
17 agreements.¹

18

19 Q. ARE THERE OTHER REASONS WHY THE COMMISSION SHOULD
20 ADOPT BELLSOUTH'S POSITION ON THIS ISSUE?

21

22 A. Yes. MCI's position is that there should be no limitation of liability.
23 BellSouth's Unbundled Network Element ("UNE") rates, however, do

¹ See MCI General Service Agreement at 23; MCI Florida Tariff at Section 2.1.4.9; BellSouth Florida GSST Section A2.5.1, collectively attached as Exhibit PAT-1.

1 not take into account the potential of having unlimited liability for
2 services provided to MCI. For instance, under MCI's proposal,
3 BellSouth's liability to MCI could be millions of dollars for services that
4 BellSouth sells MCI at government-mandated TELRIC rates. Thus,
5 adopting MCI's position would require BellSouth's UNE costs to be
6 increased to take into account this unlimited, non-standard, and
7 unprecedented risk. The more rational approach would be for this
8 Commission to adopt the industry standard limitation of bill credits,
9 which BellSouth advances here.

10

11 Q. HAS THIS COMMISSION ADDRESSED THIS ISSUE BEFORE?

12

13 A. Yes. In the Joint Petitioner arbitration proceeding (Docket No.
14 040130), this Commission adopted the bill credit standard, stating:

15

16 . . . [A] party's liability should be limited to the
17 issuance of bill credits in all circumstances other than
18 gross negligence or willful misconduct.²

19

20 Q. HAS ANY OTHER COMMISSION ADDRESSED THIS ISSUE
21 BEFORE?

22

23 A. Yes. The Kentucky Public Service Commission ("Kentucky
24 Commission") recently ruled the same way in their Joint Petitioner

² *Final Order Regarding Petition for Arbitration*, FPSC Docket No. 040130-TP, Order No. PSC-05-0975-FOF-TP, issued October 11, 2005, at p. 8. ("*Florida Joint Petitioner Arbitration Order*").

1 arbitration proceeding (Case No. 2004-00044) as it also determined
2 that each party's liability in an interconnection agreement should be
3 limited to bill credits.³

4

5 Similarly, in the North Carolina Utilities Commission's ("NCUC")
6 *Recommended Arbitration Order* in the Joint Petitioner arbitration
7 proceeding (Docket No. Docket P-772, Sub 8), the NCUC Panel agreed
8 with BellSouth and determined that each party's liability should be
9 limited to bill credits, holding:

10

11 The Commission concludes that BellSouth's proposed
12 language providing that liability with respect to this
13 issue should be limited to service credits should be
14 adopted.⁴

15

16 Other state commissions have reached similar conclusions. *See Sprint*
17 *Communications, LP*, Case No. 96-1021-TP-ARB (Ohio P.U.C. Dec.
18 27, 1996) ("The panel does not believe that GTE's proposal to limit its
19 liability to Sprint to the same degree it limits its liability to its own retail
20 customers is unreasonable... In accordance with the Commission's
21 award in 96-832, it is appropriate for GTE to limit its liability in the same
22 manner in which it limits its liability to its customers."); *In the Matter of*
23 *the Petition of the CLEC Coalition for Arbitration Against Southwestern*
24 *Bell Telephone, L.P.*, Docket No. 05-BTKT-365-ARB at 102 (Feb. 16,

³ See Kentucky Public Service Commission *Order*, Case No. 2004-00044, issued September 26, 2005 at p3. ("*Kentucky Joint Petitioner Arbitration Order*")

⁴ See NCUC *Recommended Arbitration Order*, Docket P-772, Sub 8 et al, issued July 26, 2005, at p11 ("*NCUC Joint Petitioner RAO*").

1 2005) (refusing to adopt the Joint Petitioners’ and CLEC proposal for
2 limitation of liability language that exceeded bill credits).

3

4 While not binding but consistent with all of these decisions, the Federal
5 Communications Commission’s (“FCC”) Wireline Competition Bureau
6 held in the *Virginia Arbitration Order* that an ILEC’s liability to a
7 Competitive Local Exchange Carrier (“CLEC”) should be the same
8 liability that an ILEC has to its retail customers. “Specifically, we find
9 that, in determining the scope of Verizon’s liability, it is appropriate for
10 Verizon to treat WorldCom in the same manner as it treats its own
11 customers.”⁵ BellSouth’s proposal complies with this standard as the
12 limitation of liability that it is seeking here – bill credits – is the same
13 standard that applies to its end users.

14

15 Q. WHAT IS BELL SOUTH’S POSITION ON ISSUE 1(B)?

16

17 A. The purpose of this Issue is to protect BellSouth from liability in the
18 event MCI chooses not to limit liability to its end users within industry
19 standards and BellSouth suffers harm as a result of that decision. In
20 other words, this issue is to ensure BellSouth is in the same position
21 that it would be in if the CLEC end user was a BellSouth end user. If
22 MCI’s customer was a BellSouth customer, BellSouth’s liability would

⁵ *In the Matter of Petition of WorldCom, Inc. Pursuant to Section 252(E)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission*, CC Docket No. 00-218, 17 FCC Rcd. 27039 (Jul. 17, 2002) (“*Virginia Arbitration Order*”) at ¶ 709.

1 be limited to bill credits (the industry standard) as set forth in
2 BellSouth's tariff. BellSouth should not experience any additional risks
3 simply because it is the wholesale supplier to MCI. Simply put, if MCI
4 elects not to limit its liability to its end users/customers in accordance
5 with industry norms, MCI should bear the risk of loss arising from that
6 business decision and not pass this risk to its wholesale suppliers.

7

8 Q. IS BELLSOUTH ATTEMPTING TO DICTATE THE TERMS BY WHICH
9 MCI CAN OFFER SERVICES TO ITS CUSTOMERS?

10

11 A. No. If MCI wants to make a product more attractive by offering a
12 service guarantee or by not limiting its liability to industry standards,
13 there is nothing to stop MCI from doing so. BellSouth, however, should
14 not be asked to share, on an involuntary basis, this business risk.
15 BellSouth's language is reasonable and ensures that BellSouth's
16 ultimate exposure for an MCI end user is the same as it would be for a
17 BellSouth end user.

18

19 Q. HAS THIS COMMISSION MADE A PRIOR DECISION RELATING TO
20 THIS ISSUE?

21

22 A. Yes. In the Joint Petitioner arbitration proceeding, the Commission
23 adopted BellSouth's proposed language, stating:

24

25 ...CLECs have the ability to limit their liability through
26 their customer agreements and/or tariffs. If a CLEC

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does not limit its liability through its customer agreements and/or tariff, then ***the CLEC should bear the resulting risk.***⁶ (Emphasis added.)

Q. ARE THERE OTHER ARBITRATION DECISIONS THAT SUPPORT BELLSOUTH'S POSITION ON THIS ISSUE?

A. Yes. The Kentucky Commission reached this same conclusion in its Joint Petitioner arbitration proceeding as it found that “the Joint Petitioners should use the industry standard limitation of liability in their relationship with their end-users to limit the exposure to which BellSouth would be subject in the absence of such industry standard language.”⁷

Likewise, in its *Recommended Arbitration Order* in the Joint Petitioner arbitration proceeding, the NCUC Panel adopted BellSouth’s language for this issue:

The Commission concludes that if a party elects not to place standard industry limitations of liability in its contracts with end users or in its tariffs, that party shall indemnify the other party for any loss resulting from this decision. Accordingly, BellSouth’s proposed language in the Agreement, in the General Terms and Conditions, Section 10.4.2 should be adopted.⁸

⁶ *Florida Joint Petitioner Arbitration Order* at p. 10.
⁷ *Kentucky Joint Petitioner Arbitration Order* at p. 4.
⁸ *NCUC Joint Petitioner RAO* at p. 13.

1 Q. WHAT IS BELLSOUTH'S POSITION ON ISSUE 1(C)?

2

3 A. Indirect, incidental or consequential damages should be defined
4 according to the pertinent state law. Although I am not an attorney, I
5 understand that, in every state, there is a body of law that has
6 developed as the courts have defined the parameters of what
7 constitutes "indirect, incidental or consequential damages." This
8 definition should control and apply to the parties in the context of this
9 Interconnection Agreement.

10

11 Q. HAS THIS COMMISSION MADE A PRIOR DECISION RELATING TO
12 THIS ISSUE?

13

14 A. Yes. This Commission agreed with BellSouth in its Joint Petitioner
15 arbitration proceeding, finding:

16

17 . . . [W]e shall not define indirect, incidental or
18 consequential damages for purposes of the
19 Agreement. The decision of whether a particular type
20 of damage is indirect, incidental or consequential shall
21 be made, **consistent with applicable law**, if and
22 when a specific damage claim is presented to the
23 Commission, the FCC or a court of law.⁹ (Emphasis
24 added.)

25

⁹ *Florida Joint Petitioner Arbitration Order* at p. 11. The Kentucky Commission adopted BellSouth's position as well on this issue. See *Kentucky Joint Petitioner Arbitration Order* at p. 5.

1 Q. HAVE ANY OTHER STATE ARBITRATION DECISIONS SUPPORTED
2 BELL SOUTH'S POSITION ON THIS ISSUE?

3

4 A. Yes. In the *NCUC Joint Petitioner RAO*, the NCUC adopted
5 BellSouth's position. In doing so, the NCUC Panel stated as follows:

6

7 The Commission concludes that the rights of end
8 users should be defined ***pursuant to state contract***
9 ***law***. The Commission further concludes that
10 incidental, indirect, and consequential damage should
11 be defined ***pursuant to state law***. Therefore, the
12 Commission believes BellSouth's proposed language
13 for Section 10.4.4 should be adopted.¹⁰ (Emphasis
14 added.)

15

16 Q. DOES MCI EXPOSE ITSELF TO INDIRECT, CONSEQUENTIAL, AND
17 INCIDENTAL DAMAGES TO ITS END USERS?

18

19 A. No. In its tariffs and customer service agreements, MCI specifically
20 states that they will not be liable to its end users for indirect,
21 consequential, and incidental damages. See PT1, MCI FL Tariff at
22 2.1.4.1; MCI Customer Service Agreement at 24. Specifically, the
23 provision addressing this issue in its Customer Service Agreement
24 states, verbatim:

25

26 IN NO EVENT WILL THE COMPANY BE LIABLE
27 TO YOU FOR ANY INDIRECT, SPECIAL,
28 INCIDENTAL, CONSEQUENTIAL, EXEMPLARY,
29 OR PUNITIVE LOSS OR DAMAGE OF ANY KIND,

¹⁰ *NCUC Joint Petitioner RAO* at p. 15.

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INCLUDING LOST PROFITS (WHETHER OR NOT THE COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES) BY REASON OF ANY ACT OR OMISSION IN ITS PERFORMANCE UNDER THIS AGREEMENT.

BellSouth is simply asking that the same limitations that MCI imposes on its own end users regarding indirect, consequential, and incidental damages apply here as well. That is, the Commission should find that neither party should be liable for indirect, consequential, and incidental damages.

Issue 2: What Terms Or Conditions, If Any, Should Be Included In The Agreement Regarding The Appropriate Forum To Address Disputes?

Q. CAN YOU PLEASE DESCRIBE THE ISSUE?

A. This issue centers on whether the parties should be required to submit disputes that are within the expertise or jurisdiction of the Commission or FCC to the Commission or FCC for resolution. BellSouth takes the position that the Commission should order such a requirement but that, if the dispute is outside the jurisdiction or expertise of the Commission or FCC, the parties can take the dispute to a court of law. Conversely, MCI takes the position that the parties should be able to bring a dispute to a court of law even in circumstances when the Commission has jurisdiction and/or expertise to resolve the dispute. That simply doesn't

1 seem to make sense, especially in the event the Commission is clearly
2 the body with the expertise to address the dispute.

3

4 Q. CAN YOU PROVIDE FURTHER SUPPORT FOR BELLSOUTH'S
5 POSITION?

6

7 A. Yes. First, there can be no question that the Commission should
8 resolve matters that are within its expertise and jurisdiction.
9 Interconnection agreements achieved through either voluntary
10 negotiations or through compulsory arbitration are established pursuant
11 to Section 252 of the 1996 Act. Specifically, Section 252(e)(1) requires
12 that any interconnection agreement adopted by negotiation or
13 arbitration be submitted to the Commission for approval. As such,
14 unlike a court that is not familiar with the issues, state commissions are
15 in the best position to resolve disputes relating to the interpretation or
16 enforcement of an agreement that it approved pursuant to the 1996 Act.

17

18 The U.S. Court of Appeals for the Eleventh Circuit used this same
19 rationale to find that state commissions have the authority under the
20 1996 Act to interpret interconnection agreements. As stated by the
21 court: "Moreover, the language of § 252 persuades us that in granting
22 to the public service commissions the power to approve or reject
23 interconnection agreements, Congress intended to include the power to
24 interpret and enforce *in the first instance* and to subject their

1 determination to challenges in the federal courts.”¹¹ The FCC has also
2 held that, “due to its role in the approval process, a state commission is
3 well-suited to address disputes arising from interconnection
4 agreements.”¹²

5

6 Likewise, the FCC, having regulatory oversight over ILECs and CLECs
7 and their obligations under the 1996 Act, also has expertise to resolve
8 disputes relating to the interpretation and implementation of the
9 agreement. Accordingly, the FCC is another available forum that MCI
10 could employ to resolve disputes relating to the interpretation and
11 implementation of the agreement.

12

13 Q. DO YOU HAVE ANY OTHER CONCERNS WITH MCI’S PROPOSAL?

14

15 A. Yes. At its core, MCI’s proposed language would result in the
16 Commission standing by or seeking to intervene in a state court
17 proceeding initiated by MCI in a foreign state to resolve disputes
18 relating to provisions that the Commission arbitrated and approved.
19 Clearly, the Commission should be involved in disputes relating to
20 agreements that it arbitrates and approves. Adoption of MCI’s proposal
21 could effectively prohibit the Commission from such a role.

¹¹ See *BellSouth Telecommunications, Inc. v. MCI Metro Access Transmission Services, Inc.*, 317 F.3d 1270, 1277 (11th Cir. 2003) (emphasis added).

¹² *Id.* (quoting *In re: Starpower*, 15 FCC Rcd at 11280 (2000)).

1

2 Q. HAS THIS COMMISSION ADDRESSED THIS ISSUE?

3

4 A. Yes. While not adopting BellSouth's express language, this
5 Commission acknowledged in the Joint Petitioner arbitration that it "has
6 primary jurisdiction over most disputes arising from interconnection
7 agreements and that a petition filed in an improper forum would
8 ultimately be subject to being dismissed or held in abeyance while [the
9 Commission] addressed matters within [its] jurisdiction."¹³

10

11 Q. HAS ANY OTHER STATE COMMISSION RECENTLY ADDRESSED
12 THIS ISSUE?

13

14 A. The Kentucky Commission adopted BellSouth's position in the Joint
15 Petitioner arbitration, holding "[t]he Commission finds that this
16 Commission has primary jurisdiction over issues regarding the
17 interpretation and implementation of interconnection agreements
18 approved by this Commission. As such, disputes arising under such
19 interconnection agreements must be brought before this Commission
20 before they proceed to a court of general jurisdiction."¹⁴

21

22

¹³ *Florida Joint Petitioner Arbitration Order* at p. 15.

¹⁴ *Kentucky Joint Petitioner Arbitration Order* at p. 7.

1 **Issue 3: What Rates, Terms, And Conditions For The Disputed Rate**
2 **Elements In Attachment 2 Should Be Incorporated Into The Agreement?**

3

4 Q. WHAT DISPUTES ARE ENCOMPASSED WITHIN THIS ISSUE?

5

6 A. This issue relates to certain TELRIC rates proposed by BellSouth in
7 Attachment 2 that have yet to be approved by the Commission. The
8 specific rates in dispute include the following:

9

10 1. **Circuit Facility Assignment (“CFA”) Conversions or**
11 **Rearrangements.** With this service, BellSouth moves a
12 working MCI circuit from one CFA to another MCI CFA, where
13 both CFAs terminate in the same BellSouth central office.
14 BellSouth has proposed a TELRIC rate for this activity.

15

16 2. **Conversions from Special Access (“SPA”) to Stand-Alone**
17 **UNEs.** This service is for converting MCI SPA circuits to
18 stand-alone UNEs. BellSouth has provided MCI with a
19 TELRIC rate for these services as well.

20

21 Q. IF BELLSOUTH PROPOSED TELRIC RATES FOR THESE
22 SERVICES, WHY IS MCI ARBITRATING THE ISSUE?

23

24 A. BellSouth is unclear as to why MCI is objecting to the TELRIC rates
25 proposed by BellSouth, especially since MCI has not proposed an

1 alternative rate for each service or provided BellSouth with any counter-
2 proposal setting forth any specific critiques or objections to the
3 proposed rates. In other words, MCI is simply disagreeing with
4 BellSouth's proposed rates with no supporting rationale, counter-
5 proposals, or cost studies.

6
7 It appears that rather than studying the rates that BellSouth has
8 proposed, looking at the relevant cost data and making a decision for
9 itself about whether the rates are appropriate or not, MCI has decided
10 to take the position that no rate that has not been vetted by this
11 Commission is acceptable to them. If true, that certainly lends a new
12 meaning to the scope of MCI's obligation to negotiate in good faith, and
13 if upheld, would create the situation that every negotiation where rates
14 were involved would have to be arbitrated. Because BellSouth has
15 proposed rates, yet MCI hasn't countered or provided any specific
16 concerns that BellSouth can address at this point, this is a matter that
17 BellSouth may have to address more extensively in rebuttal, presuming
18 that MCI details its concerns in its direct testimony.

19

20 ***Issue 11: (A2) By When Should MCI Be Required To Identify Those UNE***
21 ***Services In Its Embedded Base That It Is Required To Disconnect Or***
22 ***Convert To Other Bellsouth Services In An Unimpaired Wire Center?***
23 ***(A3) If MCI Does Not Identify The Subject Services Within The Specified***
24 ***Period Of Time Identified In (A2), What Rates, Terms, And Conditions***
25 ***Apply?***

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

A. To the extent the Commission's Generic Proceeding addresses these discrete issues, and assuming no separate agreement to the contrary, the Commission's ruling in the Generic Proceeding should govern. Nevertheless, in an abundance of caution and to ensure an orderly transition for de-listed UNEs, BellSouth proposes the following:

As to subpart (A2), to initiate the transition process, MCI must submit a spreadsheet to BellSouth by December 9, 2005 that identifies the UNE high capacity loop and transport services in its Embedded Base (i.e., the high capacity loop and transport UNEs that are served from wire centers that meet the FCC's non-impairment thresholds), that it is terminating or converting to other BellSouth services. BellSouth will then work with MCI to establish a project schedule that ensures completion of conversion and/or disconnection of those former UNEs by the end of the transition period (March 10, 2006). BellSouth will make any such conversions at the switch-as-is rate.

As clarification, BellSouth is not proposing that it will begin issuing conversion orders on December 9, 2005. Instead, BellSouth proposes the process of identifying the Embedded Base begin no later than December 9, 2005 to ensure adequate time to complete the transition process in an orderly fashion, up to and including March 10, 2006. If

1 this information is not provided to BellSouth by December 9, 2005, the
2 ultimate risk is that BellSouth will not be able to work with MCI to
3 effectuate the necessary changes by the deadline imposed by the FCC.

4
5 Regarding subpart (A3), should MCI fail to timely submit a
6 spreadsheet(s) as set forth in subpart (A2) above, BellSouth will identify
7 the subject services and transition them to other BellSouth services.
8 MCI must pay all applicable disconnection and installation nonrecurring
9 charges associated with transitioning de-listed UNEs. BellSouth is
10 concerned that, without the imposition of these full, nonrecurring
11 charges past a date certain, CLECs will delay complying with the law.

12
13 ***Issue 12: Should MCI Be Required To Indemnify BellSouth For***
14 ***BellSouth's Own Negligent Act Committed In Conjunction With***
15 ***BellSouth's Provision Of PBX Locate Service?***

16
17 Q. CAN YOU PLEASE DESCRIBE THE ISSUE?

18
19 A. This issue involves the situation where MCI provides a PBX or PBX-like
20 service, and there is a call for emergency services at some point behind
21 that PBX. A good example would be the situation where there is an
22 office campus, consisting of several buildings, all served by the same
23 PBX. If someone on that campus dials "911," the emergency service
24 responder needs to know where on the campus the calling station is
25 located. BellSouth provides this sort of service to its own retail end

1 user customers through its PinPoint service and voluntarily offers PBX
2 Locate Service as a wholesale service to CLECs that allows CLECs to
3 provide their end users with the equivalent functionality of PinPoint.
4 Both products allow emergency personnel to locate the specific PBX
5 station (e.g. in a campus/hotel/hospital environment) from which a 911
6 call was originated.

7
8 The issue for the Commission's consideration is not whether or how
9 BellSouth should provide this service, but again it is a liability issue,
10 similar to the prior liability issues that I have discussed. That is, the
11 issue is whether MCI should be subject to the same indemnification
12 terms and conditions that BellSouth's PinPoint retail customers are
13 subject to when MCI purchases the voluntary PBX Locate service.

14
15 Q. WHAT IS BELLSOUTH'S POSITION?

16
17 A. BellSouth is already fulfilling its on-going obligation to provide CLECs
18 with access to its 911 database. However, MCI has no legal right to
19 receive, as part of BellSouth's obligation to provide 911 service in
20 general, the specific PBX Locate Service. It is something that
21 BellSouth offers on a voluntary basis. As such, MCI should obtain the
22 service pursuant to the same terms and conditions that apply to
23 BellSouth's retail customers for PinPoint in its tariff, including the retail
24 customers' indemnification obligations. In other words, BellSouth
25 should not be compelled, as MCI is attempting to do, to put MCI in a

1 better position with its end users with regard to this type of service, than
2 the position BellSouth is in with its end users. As I stated earlier, if MCI,
3 as a part of its customer service, wants to expose itself to additional
4 liability in situations like this, it can. BellSouth, however, should not be
5 compelled to share this risk, when BellSouth chooses not to do so.

6

7 Q. DOES MCI HAVE GENERAL LIMITATION OF LIABILITY LANGUAGE
8 IN ITS FLORIDA TARIFFS THAT APPLIES TO ITS OWN
9 CUSTOMERS FOR THE PROVISION OF 911 SERVICES?

10

11 A. Yes. In its Florida *Local Exchange Service* tariff¹⁵, MCI includes a
12 limitation of liability statement with respect to Emergency Number 911
13 Service:

14

15 This service is offered solely as an aid in handling
16 assistance calls in connection with fire, police and
17 other emergencies. The Company is not responsible
18 for any losses, claims, demands, suits or any liability
19 whatsoever, whether suffered, made, instituted or
20 asserted by the Customer or by any other party or
21 person for any personal injury to or death of any
22 person or persons and for any loss, damage or
23 destruction of any property, whether owned by the

¹⁵ See MCI Florida Tariff at Section 2.1.4.14(a)

1 Customer or others, caused or claimed to have been
2 caused by: (1) mistakes, omissions, interruptions,
3 delays, or errors or other defects in the provision of
4 this service, or (2) installation, operation, failure to
5 operate, maintenance, removal, presence, condition,
6 location or use of any equipment and facilities
7 furnishing this service.

8

9 Q. DOES FLORIDA HAVE A GENERAL LIMITATION OF LIABILITY
10 STATUTE THAT APPLIES TO THE PROVISION OF 911 SERVICES?

11

12 A. Yes. Florida law exempts telephone companies from any civil damage
13 claims in connection with developing or operating a 911 system.
14 Specifically, Florida Statute § 365.171(14) provides:

15

16 *INDEMNIFICATION AND LIMITATION OF*
17 *LIABILITY.* --All local governments are authorized
18 to undertake to indemnify the telephone company
19 against liability in accordance with the telephone
20 company's lawfully filed tariffs. Regardless of any
21 indemnification agreement, a telephone company
22 or commercial mobile radio service provider as
23 defined in s. 364.02 shall not be liable for damages
24 resulting from or in connection with "911" service
25 or identification of the telephone number, address,
26 or name associated with any person accessing
27 "911" service, unless the telephone company or
28 commercial radio service provider acted with
29 malicious purpose or in a manner exhibiting wanton
30 and willful disregard of human rights, safety, or
31 property in providing such services.
32

1 Thus, Florida law recognizes that the company providing the underlying
2 911 services needs to be protected from civil liability associated with
3 providing that service, even where that company is negligent.
4 Accordingly, while BellSouth makes every effort to provide all of its 911
5 services with the highest level of accuracy and reliability, Florida law
6 recognizes that BellSouth, as a service supplier, should be protected in
7 the event of an unintended mistake. Consequently, the concept that
8 MCI objects to is essentially already mandated by the law.

9

10 ***Issue 17: (A) To What Extent Should The Definition Of Local Traffic***
11 ***Allow For The Origination And Termination Of Traffic In Two Different***
12 ***LATAs?, (B) Should Traffic Be Jurisdictionally Based On The Actual***
13 ***Physical Location Of The Calling And Called Parties, Or Based On The***
14 ***Originating And Terminating NPA/NXX?, (C) Should Local Traffic Include***
15 ***Optional Extended Calling Plans As Set Forth In The Originating Party's***
16 ***Tariff, Or Only Non-Optional Extended Calling Plans (Such As Extended***
17 ***Area Service ("EAS"))?***

18

19 Q. CAN YOU PLEASE EXPLAIN WHAT IS IN DISPUTE WITH ISSUE
20 17(A)?

21

22 A. Yes. Although not phrased to accurately describe the issue, 17(A)
23 (along with Issues 17(B) and 22) is an attempt by MCI to interject
24 interLATA virtual NXX or FX-like services into this arbitration in an
25 attempt to avoid paying access charges. Specifically, based on MCI's

1 proposed language, the dispute is limited to whether the definition of
2 “local traffic” and thus the application of reciprocal compensation can be
3 expanded to include interLATA virtual NXX or FX-like services.

4

5 Q. CAN YOU PLEASE EXPAND ON WHAT IS IN DISPUTE WITH ISSUE
6 17(A)?

7

8 A. Yes. Both parties agree that calls that originate and terminate in the
9 same exchange are local. Further, both parties agree that calls that
10 originate and terminate in non-optional, Commission mandated,
11 Extended Area Service (“EAS”) plans are also local. Where the parties
12 disagree is MCI’s attempt to bootstrap into the definition of local traffic
13 interLATA virtual NXX and FX-like traffic.

14

15 For example, based upon MCI’s proposed language, the definition of
16 local traffic would include interLATA calls that appear to originate and
17 terminate in the same exchange or local calling area based on the
18 NPA/NXX assigned by MCI. Thus, under MCI’s definition, a call from
19 an MCI customer in Denver, who is assigned an 850/577 NPA/NXX by
20 MCI, to an end user customer actually residing in Tallahassee with the
21 same NPA/NXX would be considered a local call subject to reciprocal
22 compensation.

23

24 As already admitted by MCI before the NCUC (as Ms. Decker points
25 out in her testimony), MCI agrees that this exact call cannot be

1 considered local because it crosses LATA boundaries. Ms. Decker fully
2 articulates additional reasons why this type of traffic cannot be
3 considered local for intercarrier compensation purposes.

4

5 Q. WHAT IS BELLSOUTH'S POSITION ON ISSUE 17(B)?

6

7 A. This is the third issue in this arbitration where MCI is attempting to use
8 interLATA virtual NXX or FX-like services to avoid paying switched
9 access charges. As referenced above and as more fully stated by
10 BellSouth witness Decker, the jurisdiction of a call is determined by its
11 physical end points. Accordingly, regardless of the NPA/NXX assigned,
12 if a call originates and terminates in two different LATAs in Florida, then
13 that call is interLATA in nature and switched access should be paid.
14 As made clear above, adoption of MCI's position on this issue would
15 result in MCI paying reciprocal compensation instead of switched
16 access simply because it chose to provide the customer with a
17 NPA/NXX that is not reflective of where the call actually originated.
18 Such a scenario defies the historical standard for determining
19 intercarrier compensation and results in MCI avoiding its switched
20 access obligations and therefore should be rejected.

21

22 Q. HAS THIS COMMISSION ADDRESSED THIS ISSUE BEFORE?

23

24 A. Yes. In Docket No. 000075-TP Phases II and IIA, this Commission
25 addressed this exact issue. The Commission ruled that the end points

1 of the call should determine jurisdiction and that reciprocal
2 compensation should not apply to virtual NXX traffic. Specifically, the
3 FPSC stated, in pertinent part:

4

5 In addition, we find that intercarrier compensation
6 for calls to these numbers shall be based upon the
7 end points of the particular calls. This approach will
8 ensure that intercarrier compensation will not hinge
9 on a carrier's provisioning and routing method, or
10 an end user's service selection. We find that calls
11 terminated to end users outside the local calling
12 area in which their NPA/NXXs are homed are not
13 local calls for purposes of intercarrier
14 compensation; therefore, we find that carriers shall
15 not be obligated to pay reciprocal compensation for
16 this traffic.¹⁶

17

18 Further, Ms. Decker identifies additional state commissions that have
19 rejected MCI's position for this issue. For the sake of brevity, I will not
20 repeat Ms. Decker's testimony here.

21

22 Q. WHAT IS BELLSOUTH'S POSITION ON ISSUE 17(C)?

23

24 A. All Optional Extended Calling plans, such as Area Plus, should be
25 considered local traffic.

26

¹⁶ *Investigation into appropriate methods to compensate carriers for exchange of traffic subject to Section 251 of the Telecommunications Act of 1996*, Docket No. 000075-TP, Order No. PSC-02-1248-FOF-TP (Sept. 10, 2001) at p. 33.

1 Q. DOES BELLSOUTH HAVE ANY SUPPORT FOR ITS POSITION?

2

3 A. Yes. Florida Statutes include optional calling plans in its definition of
4 "Basic local telephone service". Specifically, Section 364.02 of the
5 Florida Code provides the following definition:

6

7 "Basic local telecommunications service" means
8 voice-grade, flat-rate residential, and flat-rate single-
9 line business local exchange services which provide
10 dial tone, local usage necessary to place unlimited
11 calls within a local exchange area, dual tone
12 multifrequency dialing, and access to the following:
13 emergency services such as "911," all locally
14 available interexchange companies, directory
15 assistance, operator services, relay services, and an
16 alphabetical directory listing. For a local exchange
17 telecommunications company, the term shall include
18 any extended area service routes, and extended
19 calling service in existence or ordered by the
20 commission on or before July 1, 1995.
21

22 Further, the FCC's defines "Telephone Toll Service" as "telephone
23 service between stations in different exchange areas for which there is
24 made a separate charge not included in contracts with subscribers for
25 exchange service." 47 C.F.R. § 51.5. With the purchase of Optional
26 Calling Plans, like Area Plus, the BellSouth end user is not charged a
27 separate toll charge for a call that otherwise would be a toll call.
28 Accordingly, calls made pursuant to Optional Calling Plans should be
29 treated as local as they fall outside the FCC's definition of a "Telephone
30 Toll Call."
31

1 **Issue 18: Should IP/PSTN And PSTN/IP/PSTN Traffic Be Excluded From**
2 **The Definition Of IntraLATA Toll Traffic?**

3

4 **Issue 19: What Intercarrier Compensation Regime Should Be Used For**
5 **IP/PSTN And PSTN/IP/PSTN Traffic?**

6

7 **Issue 23: How Should IP/PSTN And PSTN/IP/PSTN Traffic Be**
8 **Categorized For Purposes Of Determining Compensation For**
9 **Interconnection Facilities And Termination Of Traffic?**

10

11 Q. WHY DID YOU ELECT TO COMBINE THESE ISSUES IN YOUR
12 TESTIMONY AND WHAT IS THE COMMONALITY AMONG ALL
13 THREE ISSUES?

14

15 A. As a common thread, all three issues address how Internet
16 Protocol/Public Switched Telephone Network ("IP/PSTN") traffic and
17 Public Switched Telephone Network/Internet Protocol/Public Switched
18 Telephone Network ("PSTN/IP/PSTN") traffic should be treated for
19 intercarrier compensation purposes, and ultimately, whether the
20 Commission has jurisdiction over this traffic. Thus, my testimony
21 presents BellSouth's position on all three IP/PSTN and PSTN/IP/PSTN
22 traffic issues together.

23

24

1 Q. IN GENERAL, WHAT IS IP/PSTN TRAFFIC?

2

3 A. IP/PSTN is voice traffic that *originates* from a computer, IP telephone,
4 or other device in Internet Protocol (“IP”) format destined for *termination*
5 to an end user served by the public switched telephone network. This
6 traffic is routed in IP format over a private internet or the public Internet
7 until it is ultimately handed off to the local service provider (ILEC or
8 CLEC) that provides local telephone service to the terminating end
9 user.

10

11 Q. PLEASE DESCRIBE THE DISPUTE RELATING TO IP/PSTN
12 TRAFFIC, AS WELL AS BELLSOUTH’S POSITION.

13

14 A. The threshold dispute is whether this Commission has the jurisdiction to
15 regulate this traffic. The answer to this question is no. The FCC
16 recently determined in the *Vonage Order* that IP/PSTN traffic is
17 jurisdictionally mixed and that the FCC alone has the authority to
18 regulate the interstate portion of the traffic. *See In the Matter of*
19 *Vonage Holdings Corporation*, WC Docket No. 03-211, FCC 04-267 at
20 ¶ 18 (Nov. 12, 2004) (“*Vonage Order*”). Further, the FCC preempted
21 any state regulation of the intrastate portion of the traffic because it
22 found that state regulation “would thwart or impede the lawful exercise
23 of federal authority over the interstate component of the
24 communications.” *Id.* at ¶ 19. Accordingly, this Commission has no
25 jurisdiction to address IP/PSTN traffic, including the determination of

1 what method of intercarrier compensation is appropriate in a Section
2 252 agreement or otherwise.

3

4 The Florida Legislature also prohibits the Commission from regulating
5 this type of traffic. Specifically, Section 364.013 provides: “Broadband
6 service and the provision of voice-over-Internet-protocol (VOIP) shall be
7 free of state regulation except as delineated in this chapter or as
8 specifically authorized by federal law, regardless of the provider,
9 platform, or protocol. Likewise, Section 364. 011, Florida Statutes
10 states that VOIP services are “exempt from oversight by the
11 commission” Thus, under federal and state law, this Commission
12 cannot regulate IP/PSTN traffic.

13

14 In an abundance of caution and in the event that the Commission
15 disregards the FCC’s *Vonage Order*, BellSouth submits that the
16 Commission should apply the FCC’s historical standard of using the
17 end points of the call to determine intercarrier compensation for
18 IP/PSTN traffic.

19

20 While the FCC did not expressly address intercarrier compensation in
21 the *Vonage Order*, the FCC has done nothing to date to change its
22 rules and standards which dictate that the end points of the call
23 determine the appropriate intercarrier compensation for traffic. Further,
24 the FCC determined in its *E911 Order* (WC Docket No. 04-36, FCC 05-
25 116 at ¶ 46) that all interconnected VOIP providers “must obtain from

1 each customer, prior to the initiation of service, the physical location at
2 which the service will first be utilized” and allow the end user “to update
3 his or her Registered Location at will and in a timely manner.” Thus,
4 MCI should be able to determine the originating location of each IP
5 voice call that is terminated on the PSTN such that the physical end
6 point of the call is appropriate for IP/PSTN traffic.

7

8 Q. IN GENERAL, WHAT IS PSTN/IP/PSTN TRAFFIC?

9

10 A. PSTN/IP/PSTN is traffic that *originates* from an end user of a local
11 exchange company (ILEC or CLEC) using the public switched
12 telephone network, is routed over some type of Internet Protocol facility,
13 such as IP transport or an IP softswitch at some point in the
14 transmission of the call, and is ultimately *terminated* to an end user also
15 served by the public switched telephone network. This traffic is
16 sometimes known as “IP-in-the-middle” traffic.

17

18 Q. CAN YOU PLEASE DESCRIBE THE DISPUTE AND BELLSOUTH’S
19 POSITION?

20

21 A. Once again, this issue deals with the type of intercarrier compensation
22 that applies to this type of traffic. The FCC determined in its *AT&T IP in*
23 *the Middle Order*, (WC Docket No. 02-361, FCC 04-97 at ¶ 12, 15) that,
24 the PSTN/IP/PSTN traffic at issue in that proceeding is a
25 telecommunications service and that this traffic is subject to access

1 charges. Thus, as with IP/PSTN traffic, the geographical end points of
2 PSTN/IP/PSTN traffic should establish jurisdiction for compensation
3 purposes, until such time as the FCC rules differently. As a result, the
4 Commission need not address this issue. And, in any event, as set
5 forth above, the Commission has no authority to address the issue
6 under state law.

7

8 ***Issue 26: Is BellSouth Obligated To Act As A Transit Carrier? If So,***
9 ***What Is The Appropriate Transit Rate?***

10

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

12

13 First, it is important to understand that BellSouth is not required to
14 provide a transit traffic function because such a function is not a Section
15 251 obligation under the 1996 Act. As a result, the Commission cannot
16 require BellSouth to provide the service at TELRIC. Additionally, this
17 issue is not appropriate for arbitration in this proceeding because it
18 involves a request by the CLECs that is not encompassed within
19 BellSouth's obligations pursuant to Section 251 of the Act.

20

21 Nevertheless, should BellSouth agree to provide the transit traffic
22 function, it should be at rates, terms, and conditions contained in a
23 separately negotiated agreement or, in the absence of such an
24 agreement, pursuant to BellSouth's transit traffic tariff. Agreeing to
25 provide this service, however, should not be used to penalize BellSouth

1 and impose rates for a service that, pursuant to a separate agreement,
2 the Commission would not even be privy to. BellSouth should be able
3 to impose upon MCI a Tandem Intermediary Charge because
4 BellSouth: (1) is not obligated to provide the transit function to a CLEC;
5 and (2) the CLEC has the ability, and, indeed, the right pursuant to
6 Sections 251(a) & (b) of the 1996 Act, to request direct interconnection
7 to other carriers.

8

9 Q. PLEASE EXPLAIN WHY BELLSOUTH IS NOT REQUIRED TO ACT
10 AS A TRANSIT SERVICES PROVIDER FOR CLECS OR ANY OTHER
11 CARRIERS.

12

13 A. The FCC has pronounced that, “[t]o date, the Commission’s rules have
14 not required incumbent LECs to provide transiting.”¹⁷ Similarly, in its
15 *Virginia Arbitration Order*, the Wireline Competition Bureau of the FCC
16 acknowledged that the FCC has never imposed a duty to provide transit
17 services, stating as follows:

18

19 We reject AT&T’s proposal because it would
20 require Verizon to provide transit service at
21 TELRIC rates without limitation. While Verizon as

¹⁷ *In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; and Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket Nos. 01-338, 96-98 and 98-147, *Report and Order and Order on Remand and Further Notice of Proposed Rulemaking*, 18 FCC Rcd 16978 (2003), corrected by *Errata*, 18 FCC Rcd 19020 (2003), vacated and remanded in part, *aff’d in part, United States Telecom Ass’n v. FCC*, 359 F.3d 554 (D.C. Cir. 2004) (“*USTA II*”), *cert. denied*, 125 S. Ct. 313 (2004) (referred to, interchangeably, as the “*Triennial Review Order*” or the “*TRO*”) at ¶ 534, n. 1640.

1 an incumbent LEC is required to provide
2 interconnection at forward-looking cost under the
3 Commission's rules implementing section
4 251(c)(2), the Commission has not had occasion to
5 determine whether incumbent LECs have a duty to
6 provide transit service under this provision of the
7 statute, nor do we find clear Commission precedent
8 or rules declaring such a duty. In the absence of
9 such a precedent or rule, we decline, on delegated
10 authority, to determine for the first time that Verizon
11 has a section 251(c)(2) duty to provide transit
12 service at TELRIC rates. Furthermore, any duty
13 Verizon may have under 251(a)(1) of the Act to
14 provide transit service would not require that
15 service to be priced at TELRIC.

16

17 *Virginia Arbitration Order* at ¶ 117 (emphasis added).

18

19 The Wireline Competition Bureau subsequently reaffirmed these
20 principles in denying AT&T's request for reconsideration, wherein it
21 found that (1) it "did not find that Verizon had a legal obligation to
22 provide transit service at TELRIC"; and (2) it "d[id] not agree with
23 AT&T's assertion that the Virginia Commission would have been
24 required to agree with AT&T that Verizon must provide transit service
25 under the Act, nor do we agree that the Bureau was required to so
26 conclude."¹⁸

27

28 Even prior to the *Virginia Arbitration Order*, the FCC refused to find that
29 BellSouth had an obligation to provide its transit service at TELRIC.

¹⁸ *In the Matter of Petition of WorldCom, Inc. Pursuant to Section 252(E)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation*, CC Docket No. 00-251, *Order on Arbitration*, 19 FCC Rcd 8467 (May 14, 2004) at ¶ 3.

1 Specifically, in granting BellSouth's 5-State 271 application, the FCC
2 stated: "To the extent that NuVox's arguments apply to BellSouth's
3 pricing of transit trunks, we note that the Commission has not had
4 occasion to determine whether incumbent LECs have a duty to provide
5 transit service under section 251(c)(2), and we do not find clear
6 Commission precedent or rules declaring such a duty. We therefore do
7 not find a violation of checklist item 1 in connection with BellSouth's
8 provision of transit trunks."¹⁹

9
10 Q. WHEN PERFORMING A TRANSIT FUNCTION, DOES BELLSOUTH
11 INCUR COSTS THAT ARE NOT ADDRESSED BY THE TELRIC
12 RATES ORDERED BY THIS COMMISSION?

13
14 A. Yes. BellSouth incurs costs in sending records to the terminating
15 carrier identifying the originating carrier, the costs of ensuring that
16 BellSouth is not being billed for a third-party's transit traffic, and the
17 costs that BellSouth has incurred and continues to incur due to disputes
18 arising from the failure on the part of the CLECs to enter into traffic
19 exchange arrangements with terminating carriers. BellSouth does not
20 currently charge the CLECs for these records and does not recover
21 those costs in any other manner.

22

¹⁹ *In the Matter of Joint Application By Bellsouth Corporation, Bellsouth Telecommunications, Inc., and Bellsouth Long Distance, Inc. for Provision of In-Region, Interlata Services in Alabama, Kentucky, Mississippi, North Carolina, And South Carolina*, WC Docket No. 02-150, FCC 02-260, 17 FCC Rcd 17595 (Sept. 18, 2002) at fn. 849.

1 In the Joint Petitioner arbitration proceeding, this Commission
2 recognized that BellSouth did incur “costs associated with providing a
3 transiting function, such as providing billing records to the terminating
4 carrier and the cost of reconciling improper billing by the terminating
5 carrier when BellSouth is the intermediary or transiting carrier.”²⁰ The
6 Commission determined that such costs “were not being recovered
7 through tandem switching and common transport charges” and
8 therefore, allowed BellSouth to recover its costs by charging CLECs a
9 TIC.²¹

10

11 Q. HAS THIS COMMISSION ADDRESSED THE ISSUE OF
12 BELLSOUTH’S OBLIGATION TO BE A TRANSIT CARRIER BEFORE?

13

14 A. Yes. As identified above, just recently in the Joint Petitioners arbitration
15 proceeding, the Commission held regarding the TIC that “[a] TELRIC
16 rate is inappropriate because transit service has not been determined to
17 be a § 251 UNE.”²² Thus, the Commission has already determined that
18 a non-TELRIC rate for the TIC was appropriate.

19

20

²⁰ *Florida Joint Petitioner Arbitration Order* at p. 52.

²¹ *Id.* p. 53.

²² *Florida Joint Petitioner Arbitration Order* at p. 52. In contrast, the Kentucky Commission appears to have denied BellSouth’s position in some fashion but it does allow BellSouth to charge the TIC to the extent BellSouth was previously charging for it. *See Kentucky Joint Petitioner Arbitration Order* at p. 15. The NCUC Panel also did not accept BellSouth’s position on the TIC. Nevertheless, BellSouth has asked the Kentucky Commission to reconsider its ruling and has filed objections to the NCUC Panel’s ruling to the full commission.

1 Q. HAS ANY OTHER STATE COMMISSION IN BELLSOUTH'S REGION
2 RECENTLY ADDRESSED THIS ISSUE?

3

4 A. Yes. The Georgia Public Service Commission ("Georgia Commission")
5 recently determined that BellSouth does not have to provide the transit
6 function at TELRIC and has ordered CLECs pay a non-TELRIC transit
7 intermediary charge ("TIC") of \$.0025 as an interim rate.²³

8

9 Accordingly, the overwhelming federal precedent in conjunction with
10 state commission decisions on this issue establishes that there is no
11 authority to support any finding that BellSouth has a Section 251
12 obligation to provide its transit service or that it must provide the service
13 at TELRIC.

14

15 ***Issue 31: Should BellSouth Provide A Download With Daily Updates To***
16 ***The Directory Assistance Database (DADS) To MCI, At A***
17 ***Nondiscriminatory Price?***

18

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

20

21 A. BellSouth is currently providing access to DADS to all competing DA
22 providers, including MCI, on a nondiscriminatory basis and at just and

²³ See *BellSouth's Petition for a Declaratory Ruling Regarding Transit Traffic*, Docket No. 16772-U, *Order on Transit Traffic Involving Competitive Local Exchange Carriers and Independent Telephone Companies*, G.P.S.C. (Mar. 24, 2005).

1 reasonable rates pursuant to BellSouth's tariff. BellSouth is no longer
2 obligated to provide access to DADS at TELRIC rates under Section
3 251 as MCI claims. To the extent MCI is seeking a download of DADS
4 or any other database from BellSouth, such a request should be
5 rejected. The FCC concluded in the TRO that "[w]e reject the
6 competitive LECs' assertions that, we should require in this proceeding
7 unbundled access to the incumbent LEC databases for bulk transfer of
8 information for competitive carriers to maintain their own call-related
9 databases." ²⁴ Thus, to the extent MCI is asking for a download of
10 DADS or any other database, the FCC has already considered and
11 rejected such a request and BellSouth requests the Commission to rule
12 likewise.

13

14 ***Issue 33: How Should The Rate For The Calculation Of Late Payments***
15 ***Be Determined?***

16

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

18

19 A. The rate for calculation of late payment charges should be compliant
20 with BellSouth's tariffs regarding late payment charges. It is
21 unnecessary to include a late payment pricing table or appendix in this
22 proceeding as suggested by MCI.

23

²⁴ TRO at ¶ 558, n. 1725.

1 **Issue 34: What Terms And Conditions Apply To: (A) Nonpayment Of**
2 **Past Due Billings And Additional Amounts That Become Past Due During**
3 **Any Suspension? (B) Non Payment of a Requested Deposit?**

4

5 Q. WHAT IS BELLSOUTH'S POSITION ON ISSUE 34 (A)?

6

7 A. If MCI receives a notice of suspension or termination from BellSouth as
8 a result of MCI's failure to pay timely, then MCI should be required to
9 pay all amounts that are past due as of the due date of the pending
10 suspension or termination action.

11

12 Q. PLEASE PROVIDE SUPPORT FOR YOUR POSITION.

13

14 A. By definition, the collections process is triggered when a customer does
15 not pay its bills according to the terms of the Agreement. Once a CLEC
16 fails to meet its financial obligations and the matter is referred to
17 collections, the risk associated with the customer is higher, based on
18 the customer's own behavior. Under MCI's proposed language,
19 BellSouth would be limited to collecting only the amount that was stated
20 in the past due letter regardless of MCI's payment performance for
21 subsequent bill cycles.

22

23 Often, after receipt of a notice of past-due charges, the parties will enter
24 into discussions related to payment arrangements in an effort to resolve
25 the matter without the need for suspension or termination. During this

1 time, while BellSouth is working with the CLEC to avoid disruption of
2 access to ordering systems or disruption of service to end users, even
3 though the CLEC has not paid for the services, BellSouth is continuing
4 to provide service to the CLEC and any additional payments that
5 become past due subsequent to the first notice should be rectified by
6 the CLEC at the same time as it pays for the original past due charges.

7
8 Again, this situation only arises when a CLEC fails to fulfill its most
9 fundamental contractual obligation—paying for the services it receives
10 in a timely manner. BellSouth has the right and responsibility to protect
11 itself from the higher risk associated with non-payment by ensuring that
12 customers are not allowed to increase the likelihood of bad debt.

13
14 Q. DOES BELLSOUTH HAVE ANY RECENT FINANCIAL EXPERIENCE
15 WITH MCI THAT FURTHER SUPPORTS ITS POSITION?

16
17 A. Yes. In the recent past, MCI filed for bankruptcy because of its poor
18 financial condition. Accordingly, MCI constitutes a high credit risk, and
19 BellSouth needs to protect itself from financial exposure for the
20 nonpayment of services provided. BellSouth's position addresses this
21 exact risk as it prevents MCI from using the notification and cure
22 process to obtain an ever-revolving extension for the payment of
23 amounts that are past due.

24

1 Q. IS THERE ANY GUESSWORK INVOLVED WITH BELLSOUTH'S
2 POSITION?

3

4 A. No. A CLEC that fails to timely pay undisputed amounts that are past
5 due is provided with a (i) written notice of the amount that must be paid
6 to avoid suspension or termination; and (ii) a spread sheet (also known
7 as an aging report) that shows, by billing account number, the current
8 amount owed, the past due amount owed, disputed amounts, and for
9 the CLECs' convenience, the total amount that has or will become due,
10 less disputed and current charges. Additionally, the CLEC and
11 BellSouth are in constant communication during the cure period
12 regarding the nonpayment of past due amounts. Thus, there is no
13 guesswork by the CLEC regarding how much has to be paid in order to
14 avoid suspension or termination.

15

16 Q. HAS THIS COMMISSION PREVIOUSLY RULED BELLSOUTH'S
17 FAVOR ON THIS VERY ISSUE?

18

19 A. Yes. In its Joint Petitioner arbitration proceeding, the Commission
20 approved the same position advanced by BellSouth in this docket,
21 finding:

22

23 [A] CLEC shall be required to pay past due
24 undisputed amounts in addition to those specified in
25 BellSouth's notice of suspension or termination for

1 nonpayment in order to avoid suspension of
2 termination.²⁵

3

4 Q. WHAT IS BELLSOUTH'S POSITION ON ISSUE 34 (B)?

5

6 A. If a customer of BellSouth, including MCI, refuses to remit a deposit
7 required by BellSouth within 30 calendar days, BellSouth should be
8 permitted to terminate service to the customer. Thirty calendar days is
9 a reasonable time period within which a carrier should meet its fiscal
10 responsibilities.

11

12 Q. PLEASE EXPLAIN BELLSOUTH'S POSITION.

13

14 To protect its financial interests, BellSouth should be able to terminate
15 service if MCI fails to pay a deposit demand within 30 calendar days. It
16 is undisputed that BellSouth has a contractual right to a deposit. It is
17 also undisputed that the parties have agreed to objective and specific
18 criteria regarding deposits that govern BellSouth's right to demand a
19 deposit. Accordingly, it logically follows that, if MCI fails to satisfy the
20 objective and specific deposit criteria, thereby triggering BellSouth's
21 right to a deposit, then BellSouth should be permitted to terminate
22 service if MCI refuses to respond to a deposit demand within 30
23 calendar days. Termination for non-payment of amounts owed is not a

²⁵ *Florida Joint Petitioner Arbitration Order* at p. 66. In contrast, the Kentucky Commission and NCUC Panel did not accept BellSouth's position on this issue. However, BellSouth is seeking reconsideration or objecting to each decision.

1 novel concept; it is expressly authorized by MCI's customer service
2 agreement. See PT1, MCI Customer Service Agreement at 15.

3

4 Carriers are valued customers; however, BellSouth has a responsibility
5 to its shareholders and to its other customers to not assume
6 unnecessary risk. This is especially true because it takes BellSouth
7 approximately 74 days to disconnect service to a CLEC for
8 nonpayment. BellSouth should not be expected to incur any additional
9 financial risk as a result of MCI's failure to honor its undisputed deposit
10 obligations.

11

12 Q. ARE THERE STATE ARBITRATION DECISIONS THAT SUPPORT
13 BELL SOUTH'S POSITION ON ISSUE 34 (B)?

14

15 A. Yes. Again, in the Joint Petitioner arbitration proceeding, this
16 Commission adopted BellSouth's position, stating:

17

18 BellSouth is entitled to terminate service to the CLEC
19 pursuant to the process for termination due to non-
20 payment if the CLEC refuses to (1) remit any deposit
21 required by BellSouth; and (2) does not dispute the
22 deposit request per Section 1.8.7 of the proposed
23 Agreement, within 30 calendar days.²⁶

24

²⁶ *Florida Joint Petitioner Arbitration Order* at p. 73. In contrast, the Kentucky Commission did not accept BellSouth's position on this issue. See *Kentucky Joint Petitioner Arbitration Order* at p. 20. However, the Kentucky Commission's ruling is the subject of a Motion for Rehearing filed by BellSouth.

1 Likewise, in its *Recommended Arbitration Order* in the Joint Petitioner
2 arbitration proceeding, the NCUC Panel ruled in BellSouth's favor on
3 this issue and found:

4
5 ...the Commission concludes that the language
6 proposed by BellSouth with respect to termination of
7 service due to non-payment of a deposit for Section
8 1.8.6 is appropriate.²⁷

9

10 Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

11

12 A. Yes.

13

14 [Docs #604821]

15

16

²⁷



**General Service Agreement
For Residential Customers**

Your Account at Your Fingertips!

Access your account online and find
out more about this document
with MCI's Online Account Manager

www.mci.com/service

Effective Date - October 1, 2005

**General Service Agreement
for Residential Customers**

Thank you for choosing service from MCI Communications Services, Inc. or Telecom*USA, Inc., or their successors ("Company").

PLEASE READ THIS GENERAL SERVICE AGREEMENT CAREFULLY. This governs the relationship between you and the Company and explains, among other things, the following:

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I. THE AGREEMENT

Your agreement ("Agreement") with the Company consists of this General Service Agreement, the Company's website, and the current terms of any optional calling plan (for example, "Neighborhood Complete"; "MCI One® Savings"; or "Friends & Family®"), promotion, and/or authorized written communications you have received from the Company. If you have not selected an optional calling plan, all of the Company's Basic Service(s) and Rates (described below) will apply. If you have selected an optional calling plan, only some of the Company's Basic Service(s) and Rates will apply.

BY ENROLLING IN, USING, OR PAYING FOR COMPANY SERVICES, YOU AGREE TO THE RATES, CHARGES, AND TERMS AND CONDITIONS IN THIS AGREEMENT. IF THIS AGREEMENT IS NOT ACCEPTABLE TO YOU, DO NOT USE THE SERVICES AND NOTIFY THE COMPANY IMMEDIATELY AT 1-800-444-3333.

The Company may change this Agreement at any time. Any changes to your Interstate Dial 1 rates will become effective only after the Company notifies you at least 15 days in advance of such change through one of the

following means: (i) by postcard or letter; (ii) by a message with your invoice; (iii) by calling and speaking to you or by leaving a message for you; or (iv) by e-mail, with your consent. Written notice to you will be sent to your last known address as reflected in the Company's records. Written notice is deemed received 3 days after deposit in the U.S. mail, postage prepaid, and properly addressed according to the address in the Company's records. At a minimum, changes to any other rates, charges (including rates and charges for international services), or terms or conditions in the Agreement will be published in the Company's website at least 15 days in advance of such change and will be incorporated by reference into this Agreement.

For purposes of the Agreement, "you" means the residential customer, defined as either (i) the person identified in the Company's account records as responsible for payment of all charges; or (ii) any other person with actual or apparent authority to represent that person or to use the service(s).

This Agreement covers your state-to-state and international services and charges. Rates and charges for international calls and any associated terms and conditions associated with such calls can be found by visiting our website at www.mci.com/service or by calling Company Customer Service toll-free at 1-800-444-3333. To the extent permitted by law, this Agreement also covers the Company's local or intrastate service(s) and charges and the Company's dial around service(s) and charges, where the Agreement's provisions relating to these services and charges are not in conflict with applicable tariffs filed with state or federal agencies.

The rates and charges found in the Agreement are effective as of October 1, 2005 and are subject to change. For your most current rates and charges, the most current version of this General Service Agreement, or if you have questions about your services, please visit our website at <http://www.mci.com/service/> or call us toll-free at 1-800-444-3333.

II. SERVICE

A. Optional Calling Plans

If you request an optional calling plan, that calling plan is described in a separate document that is either included along with this General Service Agreement or was sent to

you when you initially selected the calling plan from the Company. For the current terms of any optional calling plan, please visit our website at <http://www.mci.com/service> or call toll-free at 1-800-444-3333. The terms of your optional calling plan are incorporated by reference in this Agreement. Please note that, under an optional calling plan that has different per minute rates for different time periods, when a call is begun during one time period and then ends during another time period, the rate for the time period during which the call begins applies for the entire call.

B. Promotions / Bonus Offers

Promotions and/or bonus offers may be communicated to you orally or in writing at the Company's discretion. For all promotions or bonus offers, your eligibility is limited as follows:

1. Only one bonus/affinity program at any one time will be associated with any account or customer.
2. Only one enrollment bonus will be awarded to any customer.
3. Sign-up bonuses or promotions are available only to new customers of the Company.
4. To receive on-going benefits of a bonus award or promotion, you must be a customer of the Company and in good standing at the time such award or promotion is scheduled to be granted.
5. The Company reserves the right to amend or terminate bonus programs and/or promotions upon appropriate notice to you.
6. If you are eligible to receive either free minutes of calling or airline frequent flyer miles under any Company promotion(s), you will not be eligible to receive, during any 12-month period, a total amount of free minutes of calling in excess of 1,500 minutes, or a total amount of airline frequent flyer miles in excess of 25,000 miles, not including miles earned for ongoing usage of Company services.

C. Basic Services and Rates

Set forth below are the Company's basic rates for listed services. The rates in Paragraphs C.1-5 and C.8 below on pages 4-6 and 9 **may not apply if you have enrolled in an optional calling plan**, but the rates in Paragraphs C.6-7 and C.10 below on pages 6-13 will apply regardless of any optional calling plan in which you have enrolled.

1. Basic Interstate Dial 1

This service allows you to place a long distance call from your home telephone by dialing 1 + area code + 7-digit telephone number, if you have selected the Company for long distance service and if both your home telephone and the called number are located within the U.S. mainland, Alaska, Hawaii, or certain U.S. territories. There is a \$4.95 monthly charge for this service.

Per Minute Rates

<u>All Day Monday-Friday</u>	<u>All Day Saturday and Sunday</u>
\$0.35	\$0.05

When a call is begun during one time period and then ends during another time period, the rate for each time period applies for the portion of the call occurring during that time period.

2. International Services

This service allows you to place a long distance call to an international location, if you have selected the Company for long distance service and your home telephone number is located within the U.S. mainland, Alaska, Hawaii, or certain U.S. territories. You may find international rates and charges on the Company's website at <http://www.mci.com/service> or by calling Company Customer Service toll-free at 1-800-444-3333. You may place a call to an international location from your home telephone by dialing 011 + country code + telephone number for countries other than Canada and certain Caribbean areas, or by dialing 1 + area code + telephone number for Canada and certain Caribbean areas.

3. Basic In-State Dial 1 Long Distance and Local Toll

This Agreement applies to in-state long distance and local toll calls in those states that do not regulate rates through filings with the state public utility commission. Rates vary among such states and are subject to change, so please contact the Company for specific rate information. Current basic in-state Dial 1 rates in such states do not exceed \$0.50 per minute.

4. Basic Calling Card

Making calls by using your Company-issued calling card

allows you the convenience of billing to your account calls made while away from your home. You can access this service by dialing a Company-provided toll free number assigned under this service plus the calling card number and a 4-digit security code, which you can select. You may originate calls from either touch-tone or rotary telephones. (Calls originating from rotary telephones will be completed with the assistance of operators and at an additional charge.)

State-to-State Per-Minute Rate: \$1.25

Per-Call Surcharge:

Direct Dial You place a Company-issued calling card call without using the Company's operator services: \$1.75

In those states referenced in Paragraph II.C.3 above on page 4, for Direct Dial in-state long distance and local toll calls made by using your Company-issued calling card, rates and surcharges vary by state and are subject to change. Please contact the Company for specific rate information. For such calling card calls, current rates do not exceed \$0.60 per minute and current in-state surcharges do not exceed \$0.99 per call.

Station-to-Station You use the Company's operator services to place a Company-issued calling card call to reach another number and the call is billed to your Company-issued calling card: \$2.25

Person-to-Person You use the Company's operator services to place a Company-issued calling card call to reach a specific person and the call is billed to your Company-issued calling card only if the specific person is available: \$4.90

5. Basic Personal 800 Service

This service, which is part of the Company's Basic Service and its Optional Calling Plans, provides you with a toll free telephone number and a 4-digit security code, with which you may receive calls from any location within the U.S. mainland, Alaska, Hawaii, and the U.S. territories. Your account will be billed for these state-to-state calls at the per-minute rate set forth below.

A Personal 800 Customer shares access to a toll free number with other Customers. You may not retain the toll free number or any right therein when your Personal 800

service is discontinued. There is a limit of ten Personal 800 numbers per customer telephone number.

Per-Minute Rate: \$0.45

In those states referenced in Paragraph II.C.3 above on page 4, for in-state long distance and local toll calls placed to your Personal 800 service number, rates vary by state and are subject to change. Please contact the Company for specific rate information. Current rates for such calls do not exceed \$0.45 per minute.

6. Directory Assistance

You may access Directory Assistance ("DA") by dialing 1 + area code + 555-1212. A charge will be applied to each call for information for any telephone number in the U.S. mainland, Alaska, Hawaii, the U.S. territories, and certain international locations. One request may be made on each DA call. The DA charge applies to each call regardless of whether or not the DA operator is able to furnish the requested telephone number.

Per-Call Charge: \$3.49

Additional Per-Call Charge for Call Completion.

You ask a live or automated Company operator to complete a call to the DA listing requested: \$0.35

Directory Assistance for International Location Calls:
Service is accessed by dialing "00" which connects you with a Company operator who will assist you in obtaining directory assistance in countries outside of the U.S.

For all countries outside of the U.S. (except Canada): \$7.94

For Canada: \$2.49

7. Operator Assistance

The following rates and surcharges apply to long distance calls that are completed with the assistance of the Company's automated or live operator services, except that the surcharges do not apply for calls to certain international locations that may be reached only with the assistance of operator services (see our website at www.mci.com/service for a list of such international locations, or call Company Customer Service at

1-800-444-3333). These operator services options can be accessed by dialing "00" or by dialing 0 + the interstate long distance area code + the 7-digit number.

Per-Minute Rate for all calls identified in this section:
\$1.15

A Per-Call Surcharge of \$6.50 applies to each of the following types of calls:

Station-to-Station You place a call by using the Company's operator services to reach another number and the call is billed to the originating number.

Station-to-Station Collect You place a call by using the Company's operator services to reach another number and, if accepted by the called station, the call is completed and billed to the called number.

Station-to-Station — Third Party-Billed You ask the Company's operator services to place a call for you to reach one number, but to bill the call to a third number which is neither the originating nor the called number. Charges may be billed, and the call may be completed, only if the operator obtains verbal acceptance from the third party.

Station-to-Station — Non-Company-Issued Card Calling You place a call by using the Company's operator services to reach another number, and you ask that the call be billed to your credit card or a local calling card issued by a local telephone company.

Person-to-Person — Non-Company-Issued Card Calling You place a call by using the Company's operator services to reach a specific person and ask for the call to be billed to your credit card or a local calling card issued by a local telephone company. If that person is available, the call is completed and billed to that credit card or non-Company-issued calling card.

A Per-Call Surcharge of \$12.50 applies to each of the following types of calls:

Person-to-Person You place a call by using the Company's operator services to reach a specific person and, if that person is available, the call is completed and billed to the originating number.

Person-to-Person Collect You place a call by using the Company's operator services to reach a specific person and, if the specific person is available and accepts

the call, the call is completed and billed to the called number.

Person-to-Person — Third Party-Billed You ask the Company's operator services to place a call for you to reach a specific person, but to bill the call to a third number which is neither the originating nor the called number. Charges may be billed, and the call may be completed, only if the person is available and if the operator obtains verbal acceptance from the third party.

A Per-Call Surcharge of \$1.95 applies to the following type of call:

Coin-Sent Paid Calls You place a long distance call to a number at a location in the U.S. mainland, Alaska, Hawaii, or the U.S. territories and make the call from a public or semi-public payphone located in the U.S. mainland, Alaska, Hawaii, or the U.S. territories, which call is paid for by inserting coins during the progress of the call.

The following Per-Call Surcharges also may apply to calls using the Company's operator services and, if applicable, will be applied in addition to the above rates and surcharges:

Operator Dialed You use a live Company operator to dial the call. (This surcharge, however, does not apply to Company-issued calling card calls or to Non-Company-Issued Card Calling — Station-to-Station or Non-Company-Issued Card Calling — Person-to-Person as identified above.): \$1.55

Casual Calling Surcharge This surcharge applies: (i) to calls made when all the following 3 conditions apply: (1) when a call is completed over the Company's network and the caller does not have an active account with the Company ("Casual Calling"); (2) with a non-Company-issued calling card or a credit card; and (3) by using the Company's operator services; and (ii) to calls made when both of the following 2 conditions apply: (1) if either of the following apply: (a) after cancellation of your Company service resulting from you or your local telephone company providing assurances to the Company that you have switched carriers, your telephone line actually remains designated to the Company at the local telephone company's switch; or (b) the Company cancels your account and blocks your line from placing calls on the Company's network for a reason described in Section V.B below on pages 20-22 and you have not changed carriers within 120 days of the line being blocked, and

then the Company lifts such block and allows you access to the Company's network; and (2) by using the Company's operator services: \$3.50

Different rates may apply for operator service-assisted calls considered local or intraLATA calls. Please contact the Company for specific rate information.

8. Rounding Policy

For billing purposes, the length of each call is rounded to the next higher full minute. If the computed charge for a call includes a fraction of a cent, the fraction is rounded down to the nearest whole cent. If the computed charges for taxes and surcharges include a fraction of a cent, the fraction is rounded to the nearest whole cent.

9. Other Charges

a. Federal Universal Service Fee ("FUSF")

This rate is determined quarterly by the Federal Communications Commission. The current rate may be found at: www.mci.com/fusf

b. Federal Excise Tax

3% of all invoiced interstate, intrastate, local toll, and international charges, not including certain taxes.

c. Federal Excise Tax Surcharge related to air travel awards

If you receive airline miles, flight credits, or other air travel awards in relation to your Company account, then you will receive this surcharge on your invoice, after the miles, flight credits, or other travel awards are posted to your airline account. The surcharge will not exceed \$0.0013 per mile or other air travel award earned; and the surcharge for flight credits will not exceed \$1.1000 per flight credit earned.

d. Carrier Cost Recovery Charge

The Company imposes a monthly charge in order to recover expenses the Company incurs with regard to the national fund for Telecommunications Relay Service, national number portability, access charges, and federal regulatory fees and programs. This charge, assessed on your state-to-state and international charges, is \$1.25 per account per month for long distance customers who do not receive local subscribed services from the Company, and is 1.4% per account per month for local customers.

e. Billing Charges

The Company will assess a fee to receive Company billing through certain billing arrangements. Currently, you will be subject to a monthly \$3.99 Local Telephone Company Billing Option Fee if you receive the Company's charges combined within your local telephone bill (where the Company is not your local telephone provider). The Local Telephone Billing Option Fee will not apply toward the satisfaction of usage volume requirements and will not apply to blind and visually impaired customers who request invoices in Braille or large print. If you receive a monthly paper invoice directly from the Company, you will be subject to a monthly 99c Paper Billing Fee. The Paper Billing Fee will not apply toward the satisfaction of usage volume requirements and will not apply to customers that are enrolled in MCI's Lifeline programs. Customers that enroll in the MCI EasyPay with eAlert program also will not receive this charge, as well as receive a \$1 billing discount each month.

f. Payphone Use Charge

Charges for calls that originate from any payphone in the U.S. or the U.S. territories and are carried over the Company's network will include a \$0.55 charge. This charge will be in addition to applicable basic charges and surcharges.

g. Accounting Code Summary

This feature provides you with 3-digit authorization codes, typically used by different callers in one household using the same telephone line. This feature is only available in areas where the Company has billing arrangements with a local telephone company that permits this type of billing. You will be charged \$2.50 per month per account if you select this feature.

h. Additional Line Charge

If you choose to have more than one telephone line combined on your Company account, MCI will assess a \$2.00 monthly charge for each additional telephone line. This charge does not apply if you subscribe to the Company for local service for any of these telephone lines.

i. Taxes

1. The Company's charges for services provided to you do not include:

- a. applicable federal, state, local, and foreign sales, use, excise, utility, gross receipts and value added taxes;
 - b. any tax imposed by an authority on the benefits of a promotion offered by the Company involving services or goods of a third party;
 - c. other taxes;
 - d. tax-like charges to recover amounts the Company is required by a governmental or quasi-governmental authority to collect from others or pay to others in support of statutory or regulatory funds or programs;
 - e. other tax-like charges; and
 - f. a tax-related surcharge imposed on all charges (net of bad debts) for outbound service originating in, or inbound service terminating in, a jurisdiction which levies, or asserts a claim of right to levy:
 - 1. a gross receipts tax, a license tax, or other tax-like charge on the Company's operations in that jurisdiction based on the Company's gross receipts, revenues or operations in that jurisdiction; or
 - 2. a tax on interstate access charges incurred by the Company for access to telephone exchanges in that jurisdiction based on the amount paid for interstate access charges in that jurisdiction; and
 - g. a tax-related surcharge in addition to the other charges for service, based on billing availability, equal to 2.3% of the total interstate and international charges (including usage and nonusage) after the application of applicable discounts and credits, which allows the Company to recover a portion of the property tax that it pays to state and local jurisdictions.
2. All taxes, tax-like charges, and tax-related surcharges are referred to collectively as "Tax(es)." The Company may elect to impose and collect such Taxes, unless otherwise constrained by court order or direction. You agree to pay all Taxes imposed. If the Company has collected Taxes and a challenged Tax is found to have been invalid and unenforceable, the Company, in its sole discretion, will either reduce service rates for a fixed

period of time in the future in order to flow-through to customers an amount equivalent to the amounts collected, or it will credit or refund such amounts to affected customers (less its reasonable administrative costs), if the amounts collected were retained by the Company or if they were delivered to the jurisdiction and returned to the Company, or it will negotiate an arrangement with the jurisdiction to provide a future benefit for customers in that jurisdiction.

3. If you provide the Company with a duly authorized tax exemption certificate, the Company will exempt you in accordance with law, effective on the date the Company receives the certificate.

4. Taxes based on the Company's net income will be the Company's sole responsibility.

5. If you are required by the laws of any foreign tax jurisdiction to withhold income or profit taxes from a payment, within 90 days of the withholding, you will provide the Company with official tax certificates documenting remittance of the taxes. The tax certificates will be in a form sufficient to document qualification of the taxes for the foreign tax credit allowable against the Company's U.S. corporation income tax, and will be accompanied by an English translation. Upon receipt of the tax certificate, the Company will issue you a credit for the amounts represented thereby.

j. Additional Surcharges

The Company may adjust its rates and charges or impose additional rates and charges in order to recover amounts it is required or permitted by governmental or quasi-governmental authorities to collect from others or pay to others in support of statutory or regulatory funds, fees, or programs ("Governmental Charges"). Examples of such Governmental Charges include, but are not limited to, Universal Service funding, utility and other fees imposed on communications providers, and compensation payable to payphone service providers for use of their payphones to access the Company's service.

k. Telecommunications Relay Service ("TRS") Discount

TRS is comprised of several services including traditional relay services providing "translation services" between a hearing-impaired or speech-impaired individual using a Text Telephone ("TTY") and the spoken word of a hearing individual using a voice telephone. Other relay services such as Speech to Speech and Video Relay are also

available. TRS is available any day at any time at no extra charge.

If you place a call via the Company's National TRS Center, you will receive a 15% interstate discount off the Company's basic rates. TRS calls are not eligible for any discounts or rates associated with optional calling plans and/or promotions. The TRS discount does not apply for calls placed to 900-type information service numbers.

III. RESTRICTIONS ON THE USE OF SERVICE

A. The Company offers its services subject to availability of facilities, limitations of service offerings, and the provisions of this Agreement.

B. Services provided by the Company under this General Service Agreement for Residential Customers will not be used:

1. For any unlawful purpose; or
2. For making telephone calls that terminate into electronic information services, pay-per-call services, or other domestic or international audiotext services; or
3. For international call-back offerings using uncompleted call signaling to any country, when that country has prohibited such an offering by statute or regulatory decision; or
4. For commercial, business, or non-residential purposes.

C. The Company may (a) deny, for any lawful reason, your request for service, or (b) limit or allocate the facilities available to or utilized by any service, if necessary, to manage its network in an efficient manner; meet reasonable service expectations; furnish service to existing and future customers based on forecasted customer requirements; or for any other lawful reason.

D. The Company may, without notice (consistent with governing laws or regulations), block traffic to or from specific countries, country codes, cities, city codes, local telephone exchanges ("NXX exchanges"), individual telephone stations, groups or ranges of individual telephone stations, or calls using certain customer authorization codes, whenever the Company deems it necessary to take such action to prevent (1) the unlawful use of service; (2) nonpayment for service; (3) the use of service in violation of this Agreement; or (4) network blockage or the degradation of service furnished to you or other customers.

E. Due to the portable nature of the Company's calling card codes that are issued to the Company's customers, the Company reserves the right to block, without notice, any calling card code that the Company deems to have been used, or that might be used, for fraudulent purposes. The Company may also intercept calling card calls for the dual purposes of verifying customer information and fraud avoidance. The Company will provide subsequent written notification by mail, and/or voice notification, of such blocking or termination. The Company will unblock as soon as it determines it can do so without undue risk, and it will, upon request by an affected customer, assign new card authorization codes to replace any that were deactivated.

F. Whenever call blocking occurs on lines designated to the Company at the local telephone company's switch, customers or former customers will be unable to access the Company's network in order to make long distance and local toll calls, including, but not limited to, placing calls by dialing 1+ or 1010222 or by using any dial-around code belonging to the Company.

G. Calls may not be placed or received using 1010222 dialing, Collect, Sent Paid, or 3rd Party calling conventions whenever (1) there is no obligation on the part of the serving local telephone company to perform billing and collection on behalf of the Company; or (2) where an obligation exists on the part of the serving local telephone company to perform billing and collection on behalf of the Company, but the local telephone company fails to discharge the obligation properly; or (3) the serving local telephone company fails to furnish, or provides untimely or inadequate, billing name and address ("BNA") to the Company; or (4) the serving local telephone company fails to furnish timely or adequate telephone number installation and disconnect information to the Company. For the purposes of this paragraph, call blocking will occur whenever the Company is unable to recover at least 60% of its billable revenues from customers within a local telephone company service area during any monthly billing period as the result of unavailable, untimely, or inadequate billing and collection or as the result of unavailable, untimely, or inadequate BNA or telephone number installation and disconnect information.

IV. PAYMENT OBLIGATIONS

A. You are responsible for payment of all charges for services furnished to you. This responsibility is not changed by virtue of any use, misuse, or abuse of your service undertaken or caused by third parties. You are

responsible for payments made to anyone other than directly to MCI or to an authorized MCI payment agent. An authorized MCI payment agent is a third party expressly authorized by MCI to accept and forward payments to MCI. You may determine the location of authorized payment agents in the your area by calling 1-800-820-1679.

B. You must promptly notify the Company of any change in your invoicing address or, if applicable, in the credit card or bank account used for payment. You should notify the Company via Customer Service or via e-mail or U.S. mail to the following address: PO Box 4604, Iowa City, IA 52244-4604.

C. Usage charges and any recurring monthly charges are billed after each billing period. In the event the Company changes its rates, recurring monthly charges affected by such change will be assessed at the new rate for the full billing period during which the new recurring charge rate became effective. Following service and/or optional calling plan cancellation, any recurring monthly plan fee charges or monthly fees will be assessed in full for the partial billing period.

D. The Company's bills for service are due upon receipt and subject to a late charge as applicable in your state. Amounts not paid within 21 days of the invoice date will be considered past due. If the Company becomes concerned at any time about your ability to pay for services, the Company may require that you pay its charges within a specified number of days and/or that you make such payments in cash or the equivalent of cash.

E. If your telecommunications payment history is not acceptable to the Company or if your telecommunications payment history is unknown or indeterminable, you may be required, at any time, to provide (i) pre-invoice payment based on usage incurred; (ii) a valid major credit card account number from an issuer acceptable to the Company and authorization for the Company to charge usage to your credit card account; or (iii) agreement that your usage of the Company network and services will be subject to toll usage limits to be determined by the Company. Prior to your compliance with this request, the Company reserves the right to cease accepting and processing service orders. The Company may request subsequent additional pre-invoice payments for usage and may increase or decrease toll usage limits as it deems appropriate. The Company may refuse to furnish services if any charges owed by you to the Company or any Company affiliate are past due for service(s) provided to you.

F. When billing and collection for the Company service is performed on the Company's behalf by a local telephone company, the security deposit requirements and late payment provisions set forth in your service agreement with your local telephone company and/or in its local tariff will apply to your Company-provided service. In addition, where a local telephone company purchases the Company's customer receivables, late payment provisions imposed by the local telephone company will apply to your Company service.

G. If the Company hires a collection agency to collect, or attempt to collect, any charges owed the Company, you will be liable to the Company for an additional payment equal to 35 percent of the charges owed, where permitted by applicable law. If the Company incurs any fees or expenses, including attorneys' fees, in collecting, or attempting to collect, any charges owed the Company other than by hiring a collection agency, you will be liable to the Company for the payment of all such fees and expenses reasonably incurred.

H. In the event payment is made by personal check and your check is not honored by the institution on which it was drawn, the Company will impose, and you will be required to pay, a \$15.00 fee, where permitted by applicable law, in addition to other remedies available to the Company.

I. If billing systems or other support are not available for a service, feature, surcharge, or other charge element at the time of service provision, the Company will bill for that service, feature, surcharge, or other charge element as soon as it is capable of doing so.

J. Handling of Certain Specific Credits

1. If your account has been closed but has a credit balance remaining, the Company will transfer the credit to another of your accounts, if there is one. If you do not have another account and if the credit balance amount is \$10 or more, the Company will mail a check for the balance to you. If you do not have another account and if the credit balance amount is less than \$10, then the Company will mail a check for the balance to you upon your request, provided that you make your request within 12 months of your account being closed.

2. If your telephone line is designated to the Company at the local telephone company's switch and you have been certified in writing to be unable to access or use a manual directory because of a visual or other physical

impairment, you are eligible to receive a credit which will be applied against the per call charge and any applicable operator assistance surcharges specified by the Company for domestic Directory Assistance calls made by dialing Area Code + 555-1212. Only one telephone number per location is entitled to this credit. A maximum of fifty directory assistance calls, including operator-assistance surcharges, per monthly billing period will be eligible for the credit. The actual credit for any one call to directory assistance (including operator-assistance surcharges) will not exceed \$5.00.

3. Promotional and other credits offered by the Company in the marketing of its services cannot be assigned, but must be used by the person to whom they were offered and who earned them in strict accordance with the terms of the offer.

4. In the event that you have been awarded a promotional credit for subscribing to the Company service and do not use the service within 12 months following the date of your service order, the Company reserves the right to cancel the credit from your account and collect the sum involved from you.

5. A credit allowance will be given, or the charge that would otherwise apply will be waived, when (a) you experience poor transmission or are cutoff during a call to Directory Assistance or (b) you are given an incorrect telephone number by a Directory Assistance operator. To obtain such a credit/waiver, you must notify the Company.

6. Except as provided in Paragraphs IV.J.2 and IV.J.5 above on pages 16-17 pertaining to Directory Assistance, the following credit allowances for interruptions of the Company services will be made:

a. For all of the Company's domestic services for which charges are specified on the basis of per minute of use, or on usage of a fraction of a minute, and in which there may be interruption of an individual call, due to a condition in the Company's shared interexchange facilities or in shared access or termination facilities provided by other carriers, which interruption can be remedied by redialing the call:

1. A credit allowance will be made for that portion of a call that is interrupted due to poor transmission (for example, noisy circuit), one

way transmission (one party is unable to hear the other), or involuntary disconnection caused by deficiencies in the Company's service. You may also be granted credit for reaching a wrong number. To receive a credit, you must notify a Company Customer Service representative and furnish information, including the called number, the service subscribed to, the difficulty experienced, and the approximate time the call was placed.

2. Where a call has been disconnected, you will be given a credit allowance equivalent to the charge for the initial minute of the call made to reestablish communications with the other party. If you reach a wrong number, you will be given a credit allowance equivalent to the charge for the initial minute of the call to the wrong number if you report the situation promptly to a Customer Service Representative. This credit allowance for reaching wrong numbers is limited to an aggregate total of \$100 over a 12-month period.

- b. For interruptions in service due to the performance of the telecommunications network furnishing the Company service where such interruptions exceed an individual call and cannot be remedied by redialing the call, you will be given a credit allowance for an interruption subject to conditions related to location, timing, and other pertinent conditions. To receive a credit, you must notify a Company Customer Service representative and furnish information, including the called number, the service subscribed to, the difficulty experienced, and the approximate time of the service interruption.
7. No credit allowances will be made for:
- a. Interruptions caused by your negligence or the negligence of others authorized by you to use your service.
 - b. Interruptions due to the failure of power, equipment, systems, or services not provided by the Company.
 - c. Interruptions during any period during which the Company or its agents are not afforded access to the premises where access lines associated with your services are terminated.

- d. Interruptions during any period when you have released the service to the Company for maintenance or rearrangement purposes, or for the implementation of your order.
- e. Interruptions during periods when you elect not to release the service for testing or repair and continue to use it on an impaired basis.
- f. Noncompletion of calls due to network busy conditions.
- g. Interruptions not reported to the Company.

An interruption period begins when you report to the Company that the service has been interrupted and release it for testing and repair. An interruption period ends when the service is operative again. If you report the service to be inoperative but decline to release it for testing and repair, the service is deemed to be impaired, but not interrupted. If you elect to use another means of communication during the period of interruption, you must pay the charges for the alternative service used.

8. Fraud Credits

- a. The Company will issue you full credit for invoiced charges for calls when the charges are determined to result from a "theft of service" (for example, unauthorized usage following the involuntary theft or loss of a Company product or the establishment of service that you did not intentionally facilitate) involving (a) Company PCS, cellular, or pager services; (b) verified "Clip-on Fraud" associated with equal access services (1010XXX or 1+/0+/0-); or (c) theft of identity or theft of service. The Company will not issue credit for invoiced charges for fraudulent use resulting from your negligent or willful acts or those of an authorized user of your service. To qualify for credit, you must notify the Company in writing within 90 days of receipt of an invoice containing alleged fraudulent charges. In the event a PCS or cellular phone or pager is lost or stolen, you must notify the Company immediately. The Company will then credit you for all charges incurred during a 48-hour time period beginning with the first fraudulent call made.
- b. For fraudulent usage charges, that are established, to the reasonable satisfaction of the Company, to arise out of the compromise of a Calling Card, through no intentional or negligent act or omission by you, the Company will credit you the total amount of charges

resulting from such fraudulent usage. To qualify for credit, you must notify the Company in writing within 90 days of receipt of an invoice containing the alleged fraudulent charges, and you must notify the Company by telephone immediately upon learning that a Calling Card has been compromised.

V. CANCELLATION OF SERVICE

A. By the Customer

1. You can cancel your long distance account at any time. To do so, please contact the Company's Customer Service. Your long distance billing account will be canceled upon your request. While the Company will cancel your long distance billing account, you must contact a new long distance carrier of choice or your local telephone company to ensure you are no longer presubscribed to the Company on your local telephone company's network. Any calls received by the Company over its network during the period between the date of cancellation of your long distance billing account and your billing cycle end date will be rated and billed at your prior calling plan rates. After your billing cycle ends, any calls will be rated and billed at Basic Interstate Dial 1 rates, with no monthly plan fee or minimum, for a period of up to 60 days from the date your long distance billing account was canceled. This period is designed to permit you ample time to select a new carrier. The Company will block all calls on the Company's network placed from your home telephone number between days 61 and day 120 following the date your Company long distance billing account was canceled. This long distance network block can be lifted upon request. If the Company receives calls over its network after the block is lifted on day 120, these calls will be assessed Casual Calling Rates contained in the Company's applicable FCC Tariff. The Company will also cancel your long distance billing account following notification of this change from your local telephone company. If for some reason, the Company does not receive a cancellation order from your local telephone company after you have switched carriers, and you continue to receive invoices from the Company for optional calling plan monthly fees and/or monthly minimum charge amounts, you should call the Company's Customer Service to request that your account be canceled.

2. If, within 90 days of signing up for the Company's service(s), you are dissatisfied, for any reason, with the

long distance service(s) provided by the Company and wish to cancel such service(s) and return to your prior long distance carrier, you may receive a credit equal to any Primary Interexchange Carrier change and order processing charges you incur in returning to your prior carrier, up to \$5.00 per line, maximum of 5 lines. Such credits are limited to one such reimbursement per customer, for each of up to 5 lines per customer. In order to obtain such credits, you are required to call the Company's Customer Service and request a "Satisfaction Guarantee" credit.

B. By the Company

1. The Company reserves the right to discontinue furnishing services, cancel your account, and/or block your access to the Company network, without incurring any liability, immediately and without notice if the Company deems that such action is necessary to prevent or to protect against fraud or to otherwise protect the Company's personnel, agents, facilities, or services. Without limitation, the Company may take such actions if:

- a. You refuse to furnish information or furnish false information that (i) is essential for billing; or (ii) pertains to your creditworthiness, your status under federal and/or state low income programs, your past or current use of common carrier communications service, or your planned use of such service;
- b. You indicate that you will not comply with a request for security for the payment for services;
- c. The Company has received notice from your local telephone company that the local telephone company has cancelled your local exchange service;
- d. Your service usage charges exceed established parameters based on your history of usage, which may indicate an unlikelihood of payment or possible fraud;
- e. You have been given written notice by the Company of any past due amount (which remains unpaid, in whole or in part) for any of the Company's or an affiliated carrier's service to which you either subscribe or had subscribed or used;
- f. You either refuse to pay when billed for service or indicate to the Company or an entity billing on the

Company's behalf that you do not intend to pay for service used by you;

- g. You use the service to transmit or receive a message, locate a person, or otherwise give or obtain information without payment for the service (i.e., signaling);
 - h. You use, or attempt to use, service with the intent to avoid the payment, either in whole or in part, of the charges for the service by (i) using or attempting to use service by rearranging, tampering with, or making connections to service in an unauthorized manner; or (ii) using tricks, schemes, false or invalid numbers, false credit devices, or other fraudulent means or devices;
 - i. You act, or fail to act, in a manner that hinders or frustrates any investigation by the Company or others having legal authority to investigate your legal obligations;
 - j. Your telephone equipment fails to pass back to the Company the appropriate signal to start and stop billing for a call;
 - k. You were previously provided with notice of breach of contract, took corrective action, but thereafter engage in the same breach activity;
 - l. You subscribe to a Company-issued calling card service and have not used the service (with the exception of calls to Directory Assistance) for 24 months. In such case, the Company will deactivate the calling card to reduce the risk of fraud or abuse. If you wish to renew service, the Company will promptly provide a new card; or
 - m. The Company has made available service to you and you have failed to place the available service into actual and substantial use during the 90-day period immediately following its availability, or, if during any service term, you have not actually and substantially used the available service for any consecutive 90-day period. As used in this paragraph, "actual and substantial use" will mean a pattern of use that discloses an intent on your part to employ the service to transmit information of your choosing.
2. The Company reserves the right to discontinue furnishing services, cancel your account, and/or block

your access to the Company network, without incurring any liability, immediately upon written notice to you if:

- a. Any invoice charges remain outstanding and owed by you after the 21st day from the date of the invoice notifying you of the charges; or
 - b. You fail to comply with a request by the Company for security for the payment for services.
3. The discontinuance of service(s) by the Company pursuant to these provisions does not relieve you of any obligation to pay the Company for charges due and owing for service(s) furnished up to the time of discontinuance.

VI. LIABILITY

A. Except for granting credit allowances for interruptions of service as provided for in Paragraph IV.J above on pages 16-19, the Company will not be liable for: (i) any failure of performance due to causes beyond its control, including, but not limited to, acts of God, fires, floods or other catastrophes; national emergencies, insurrections, riots or wars, terrorist acts, strikes, lockouts, work stoppages or other labor difficulties; preemption of existing services to restore service in compliance with the FCC's Rules and Regulations; and any law, order, regulation or other action of any governing authority or agency thereof; or (ii) delayed installation of the Company's facilities or commencement of service.

B. With respect to any other factual allegation, legal claim, or dispute by you or by any others, for damages associated with the ordering (including the reservation of any specific number for use with a service), installation (including delays thereof), provision, termination, maintenance, repair, interruption, or restoration of any service or facilities offered by the Company, the Company's liability, if any, will be limited to credit allowances for interruptions of service as provided for in Paragraph IV.J above on pages 16-19. In addition to these credit allowances, if any, the Company's liability is limited as follows:

1. With respect to the routing of calls by the Company to public safety answering points or municipal emergency service providers, the Company's liability, if any, will be limited to the lesser of: (a) the actual monetary damages incurred and proved by you as the direct result of the Company's action, or failure to act, in routing the call, or (b) the sum of \$1,000.00.

2. With respect to the Company's offering of TRS, any service provided by the Company that involves receiving, translating, transmitting, or delivering messages by telephone, text telephone, a Telecommunications Device for the Deaf, or any other instrument over the facilities of the Company or any connecting carriers or through any TRS centers operated by the Company or its agents, the Company's liability will not exceed an amount equal to the Company's charge for a one minute call to the called station at the time the affected call was made.

3. With respect to the provisioning of, or any error or omission in, data, information, or content furnished in connection with any service provided by the Company, for example, Directory Assistance, the Company's liability will be limited to the lesser of: (a) the amount of actual money damages proven by you to have been incurred as the proximate result of your reliance on such data, information, or content; or (b) \$100.

C. The Company's liability for willful misconduct, if established as a result of judicial, administrative, or arbitration proceedings, is not limited by this Agreement.

D. IN NO EVENT WILL THE COMPANY BE LIABLE TO YOU FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE LOSS OR DAMAGE OF ANY KIND, INCLUDING LOST PROFITS (WHETHER OR NOT THE COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES) BY REASON OF ANY ACT OR OMISSION IN ITS PERFORMANCE UNDER THIS AGREEMENT.

E. The Company will be indemnified, defended, and held harmless by you and/or by others authorized by you to use the service against all claims of loss or damage arising from the use of service furnished by the Company, including:

1. Allegations or claims for libel, slander, invasion of privacy, or infringement of copyright arising out of the material, data, information, or other content transmitted via the Company service; and

2. All other allegations and claims arising out of any intentional act or omission by you or others using the service, in connection with any service provided by the Company.

F. THE COMPANY MAKES NO EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES

ABOUT ITS SERVICES AND DISCLAIMS ANY IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF TITLE OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE OR NON-INFRINGEMENT. THE COMPANY DOES NOT AUTHORIZE ANYONE TO MAKE A WARRANTY ON THE COMPANY'S BEHALF AND YOU MAY NOT RELY ON ANY STATEMENT OF WARRANTY AS A WARRANTY BY THE COMPANY.

G. The Company will not be liable for any act or omission of any other company or companies furnishing a portion of the service, or from any act or omission of a third party, including those vendors participating in the Company offerings made to you, or for damages associated with service, channels, or equipment that it does not furnish, or for damages that result from the operation of customer provided systems, equipment, facilities or services that are interconnected with the Company services.

VII. PRIVACY

A. Privacy Policy

It is the Company's policy not to sell or rent its personally-identifiable customer information to unaffiliated companies or organizations. In the future, should the Company decide to sell or rent such information to those entities, it will provide notification and the opportunity for its customers to indicate that they would prefer the Company not sell or rent such information about them to such third parties. Such notice may be provided by amending the Agreement or any other comparably-effective means. The Company reserves the right to contact its customers regarding the Company's products and services.

B. Caller ID

Due to federal rules, your telephone number (i.e., calling party number or "CPN") may be identified to a called party if that party has Caller ID capability. You can prevent this from occurring on an interstate call by dialing *67 (or 1167 on rotary or pulse-dialing telephones) prior to placing the interstate call. If you have per-line blocking, you must dial *82 (or 1182 for rotary or pulse-dialing telephones) prior to placing an interstate call to allow a called party to identify your CPN. Because these Caller ID-related services are provided by your local telephone company, you should contact your local telephone company for rate information for such services.

VIII. DISPUTE RESOLUTION

THIS SECTION PROVIDES FOR RESOLUTION OF MOST DISPUTES THROUGH BINDING ARBITRATION.

A. If you have a dispute regarding your service or bill, please first call Company Customer Service at 1-800-444-3333.

B. Before initiating or participating in any arbitration or other resolution proceeding concerning any aspect of this Agreement or regarding the Company's products or services, you must notify the Company in writing of such a dispute and give the Company at least 60 days (from the time you first notify the Company in writing) to resolve the dispute. Such written notice should be mailed to: MCI, P.O. Box 4607, Iowa City, IA 52244-9853.

C. If you do not notify the Company in writing of a dispute with respect to the Company's charges, or application of Taxes, within 6 months from the date of the disputed invoice, such invoice will be deemed to be correct and binding on you.

D. Any dispute arising out of or related to this Agreement or the Company's products or services that is not satisfactorily resolved within 60 days from the date you notify the Company in writing, regardless as to whether the dispute is based in contract, tort, statute, fraud, misrepresentation, or any other legal or equitable theory, must be submitted either to the American Arbitration Association ("AAA") or to JAMS ("JAMS"), for final and binding arbitration. The arbitration will be conducted pursuant to the AAA Arbitration Rules for the Resolution of Consumer-Related Disputes ("AAA Rules") or the JAMS Streamlined Arbitration Rules and Procedures and Minimum Standards of Procedural Fairness ("JAMS Rules"), respectively, as such rules are in effect on the date of commencement of the arbitration, and as such rules are modified by this Agreement. Either party may contact AAA in writing at: AAA Central Case Management Center, 13455 Noel Road, Suite 1750, Dallas, TX 75240-6636; or JAMS in writing at: 1101 17th Street, N.W., Suite 808, Washington, DC 20036. For more information regarding AAA or JAMS, you may visit their respective websites at <http://www.adr.org> or <http://www.jamsadr.com>.

E. Under the AAA Rules and the JAMS Rules, you may also have the right to take certain disputes to small claims court. Additionally, you may be able to seek relief from an

appropriate governmental administrative agency (such as the Federal Communications Commission).

F. The arbitration will be based only on the written submissions of the parties and documents submitted to the arbitrator, unless the parties agree or the arbitrator orders otherwise.

G. The arbitration procedures set forth in this Dispute Resolution section are governed by the United States Arbitration Act, 9 U.S.C. §§ 1-16 et seq. ("USAA"). Any controversy over whether an issue is arbitrable will be determined by the arbitrator. The award may be confirmed and enforced in any court of competent jurisdiction. All post-award proceedings will be governed by the USAA.

H. For any arbitration in which you claim less than \$10,000, the Company will pay your filing fee with AAA or JAMS and all of AAA's or JAMS' other costs and fees. For claims between \$10,000 and \$75,000, you will pay a fee to the AAA or JAMS of no more than \$125, and the Company will pay all of the AAA's or JAMS' other costs and fees. If you elect an arbitration process other than a document ("desk") or telephone arbitration, you must pay your allocated share of any higher administrative fees and costs for the process you select. Except to the extent authorized by statute and awarded by the arbitrator, each party will bear the cost of preparing and presenting its own case.

I. Any in-person arbitration proceedings will be held at the location that AAA or JAMS selects in the state where you reside, unless otherwise mutually agreed upon by the parties.

J. Each dispute will be decided on an individual basis and will not be consolidated in any action with the disputes or claims of other consumers or customers. You agree that you may not bring any dispute or claim as a class action or as a private attorney general, and you agree not to act as a class representative or participate as a member of a class of claimants with respect to any dispute or claim relating to this Agreement or the services provided by the Company.

K. Any dispute or claim arising out of or relating to this Agreement or the services provided by the Company must be brought within two (2) years or within the period of time provided by an applicable statute after the date on which the basis for the dispute or claim first arises.

L. If any portion of this Dispute Resolution section is determined by a court to be inapplicable or invalid, then the remainder will still be fully effective and enforceable.

IX. MISCELLANEOUS PROVISIONS

A. This General Service Agreement and the terms of any optional calling plan, promotion, and/or authorized written communications you have received constitute the entire Agreement between you and the Company, and supersedes any and all prior agreements, oral or written, concerning the subject matter. If there is any inconsistency or conflict between the terms of any optional calling plan, promotion, and/or authorized written communications you have received and the provisions of this Agreement, the provisions of this Agreement will control.

B. If you either voluntarily cancel your Company account or if the Company cancels your service for any reason set forth above, the Company will have no obligation whatsoever to assist you in any respect in switching from the Company to another carrier.

C. Customers may not modify or assign this Agreement. In its sole discretion, the Company may assign this Agreement.

D. No waiver of this Agreement or any of its terms and conditions is valid.

E. This Agreement is binding upon you and the Company and upon, respectively, your and the Company's agents and heirs.

F. Each provision of this Agreement applies to the fullest extent permitted by applicable law. If any part or provision of this Agreement is finally determined to be invalid or unenforceable under applicable law by a court of competent jurisdiction, then that part or provision will be ineffective only to the extent of such invalidity or unenforceability, without in any way affecting the remaining parts or provisions of this Agreement.

G. This Agreement is governed by and construed under the laws of the State of New York and applicable federal law, without regard to choice of law principles.

H. Any liability or obligation of a party to the other party under the provisions of Sections I, III, IV, VI, VIII, and IX, as applicable, will, in each case, survive cancellation or termination of this Agreement.

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MCImetro ACCESS TRANSMISSION
SERVICES, LLC

F.P.S.C. PRICE LIST NO. 2
ORIGINAL SHEET 1

LOCAL EXCHANGE SERVICE

This price list contains the descriptions, regulations, service standards, and rates applicable to the furnishing of service and facilities for telecommunications services provided by MCImetro Access Transmission SERVICES, LLC, with principle offices at 1801 Pennsylvania Avenue, NW, Washington, DC 20006. This price list applies for services furnished within the state of Florida. This price list is on file with the Florida Public Service Commission and copies may be inspected during normal business hours at the Company's principle place of business.

MCImetro ACCESS TRANSMISSION SERVICES, LLC

REGULATIONS AND SCHEDULE OF INTRASTATE CHARGES
APPLYING TO LOCAL EXCHANGE SERVICE
WITHIN THE STATE OF FLORIDA

Issued: October 29, 1996

Effective: October 30, 1996

Sandy Chandler
Tariff Manager
MCImetro Access Transmission Services, LLC
6 Concourse Parkway, Suite 3200, Atlanta, GA 30328

MCImetro ACCESS TRANSMISSION
SERVICES, LLC

F.P.S.C. PRICE LIST NO. 2
ORIGINAL SHEET NO. 20

LOCAL EXCHANGE SERVICE

2. Regulations (Cont'd)

2.1 Undertaking of the Company (Cont'd)

2.1.4 Liability of the Company

- 2.1.4.1 The liability of the Company for damages arising out of the furnishing of its services, including but not limited to mistakes, omissions, interruptions, delays, or errors, other defects, or representations by the Company, or use of these services or damages arising out of the failure to furnish the service whether caused by acts or omission, shall be limited to the extension of allowances for interruption as set forth in Section 2.6, below. The extension of such allowances for interruption shall be the sole remedy of the Customer and the sole liability of the Company. The Company will not be liable for any direct, indirect, incidental, special, consequential, exemplary or punitive damages to Customer as a result of any Company service, equipment or facilities, or the acts or omissions or negligence of the Company's employees or agents.
- 2.1.4.2 The Company's liability for willful misconduct, if established as a result of judicial or administrative proceedings, is not limited by this price list. The Company's liability, if any, with regard to delayed installation of Company facilities or commencement of service, shall not exceed \$1,000. With respect to any other claim or suit, by a Customer or by any others, for damages associated with the ordering (including the reservation of any specific number for use with a service), installation (including delays thereof), provision, termination, maintenance, repair, interruption or restoration of any service or facilities offered under this price list, and subject to the provisions of Section 2.6, the Company's liability, if any, shall be limited as provided herein.

MCImetro ACCESS TRANSMISSION
SERVICES, LLC

F.P.S.C. PRICE LIST NO. 2
ORIGINAL SHEET NO. 21

LOCAL EXCHANGE SERVICE

2. Regulations (Cont'd)

2.1 Undertaking of the Company (Cont'd)

2.1.4 Liability of the Company (Cont'd)

- 2.1.4.3 The Company shall not be liable for any delay or failure of performance or equipment due to causes beyond its control, including but not limited to: acts of God, fire, flood, explosion or other catastrophes; any law, order, regulation, direction, action or request of the United States government or of any other government, including state and local governments having or claiming jurisdiction over the Company, or of any department, agency, commission, bureau, corporation or other instrumentality of any one or more of these federal, state, or local governments, or of any military authority; preemption of existing service in compliance with national emergencies; insurrections; riots; wars; unavailability of rights-of-way or materials, or strikes, lockouts, work stoppages, or other labor difficulties.
- 2.1.4.4 The Company shall not be liable for: (a) any act or omission of any entity furnishing the Company or the Company's Customers facilities or equipment used for or with the services the Company offers; or (b) for the acts or omissions of other common carriers or warehousemen.
- 2.1.4.5 The Company shall not be liable for any damages or losses due to the fault or negligence of the Customer or due to the failure or malfunction of Customer-provided equipment or facilities.

MCImetro ACCESS TRANSMISSION
SERVICES, LLC

F.P.S.C. PRICE LIST NO. 2
ORIGINAL SHEET NO. 22

LOCAL EXCHANGE SERVICE

2. Regulations (Cont'd)

2.1 Undertaking of the Company (Cont'd)

2.1.4 Liability of the Company (Cont'd)

- 2.1.4.6 The Customer shall indemnify and hold the Company harmless from any and all loss, claims, demands, suits or other action, or any liability whatsoever, whether suffered, made, instituted, or asserted by any other party or person(s), and for any loss, damage, or destruction of any property, whether owned by the Customer or others, caused or claimed to have been caused directly or indirectly by the installation, operation, failure to operate, maintenance, removal, condition, location or use of any installation provided by the Company. The Company reserves the right to require each Customer to sign an agreement acknowledging acceptance of the provisions of this section as a condition precedent to such installations.
- 2.1.4.7 The Company shall not be liable for any defacement of or damage to Customer premises resulting from the furnishing of services or equipment on such premises or the installation or removal thereof, unless such defacement or damage is caused by gross negligence or willful misconduct of the Company's agents or employees. No agents or employees of other participating carriers shall be deemed to be agents or employees of the Company.

MCImetro ACCESS TRANSMISSION
SERVICES, LLC

F.P.S.C. PRICE LIST NO. 2
ORIGINAL SHEET NO. 23

LOCAL EXCHANGE SERVICE

2. Regulations (Cont'd)

2.1 Undertaking of the Company (Cont'd)

2.1.4 Liability of the Company (Cont'd)

2.1.4.8 Notwithstanding the Customer's obligations as set forth in Section 2.3.2, the Company shall be indemnified, defended, and held harmless by the Customer or by others authorized by it to use the service against any claim, loss or damage arising from Customer's use of services furnished under this price list, including:

- claims for libel, slander, invasion of privacy or infringement of copyright arising from the material, data, information, or other content transmitted via the Company's service; and
- patent infringement claims arising from combining or connecting the service offered by the Company with apparatus and systems of the Customer or others
- all other claims arising out of any act or omission of the Customer or others, in connection with any service provided by the Company pursuant to this price list.

2.1.4.9 The entire liability of the Company for any claim, loss, damage or expense from any cause whatsoever shall in no event exceed sums actually paid to the Company by the Customer for the specific services giving rise to the claim, and no action or proceeding against the Company shall be commenced more than one year after the service is rendered.

MCImetro ACCESS TRANSMISSION
SERVICES, LLC

F.P.S.C. PRICE LIST NO. 2
ORIGINAL SHEET NO. 24

LOCAL EXCHANGE SERVICE

2. Regulations (Cont'd)

2.1 Undertaking of the Company (Cont'd)

2.1.4 Liability of the Company (Cont'd)

- 2.1.4.10 The Company makes no warranties or representations, express or implied, including warranties of merchantability or fitness for a particular use, except those expressly set forth herein.
- 2.1.4.11 The Company shall not be liable for any act or omission of any other company or companies furnishing a portion of the service, or for damages associated with service, channels, or equipment which it does not furnish, or for damages which result from the operation of Customer-provided systems, equipment, facilities or services which are interconnected with Company services.
- 2.1.4.12 The Company does not guarantee nor make any warranty with respect to service installations at locations at which there is present an atmosphere that is explosive, prone to fire, dangerous or otherwise unsuitable for such installations. The Customer shall indemnify and hold the Company harmless from any and all loss, claims, demands, suits or other action, or any liability whatsoever, whether suffered, made, instituted or asserted by the Customer or by any other party, for any personal injury to, or death of, any person or persons, or for any loss, damage or destruction of any property, whether owned by the Customer or others, caused or claimed to have been caused, directly or indirectly, by the installation, operation, failure to operate, maintenance, removal, presence, condition, locations or use of service furnished by the Company at such locations.

MCImetro ACCESS TRANSMISSION
SERVICES, LLC

F.P.S.C. PRICE LIST NO. 2
ORIGINAL SHEET NO. 25

LOCAL EXCHANGE SERVICE

2. Regulations (Cont'd)

2.1 Undertaking of the Company (Cont'd)

2.1.4 Liability of the Company (Cont'd)

2.1.4.13 The Company shall not be liable for the Customer's failure to fulfill its obligations to take all necessary steps including, without limitation, obtaining, installing and maintaining all necessary equipment, materials and supplies, for interconnecting the terminal equipment or communications system of the Customer, or any third party acting as its agent, to the Company's network. The Customer shall secure all licenses, permits, rights-of-way, and other arrangements necessary for such interconnection. In addition, the Customer shall ensure that its equipment and/or system or that of its agent is properly interfaced with the Company's service, that the signals emitted into the Company's network are of the proper mode, band-width, power, data speed, and signal level for the intended use of the Customer and in compliance with the criteria set forth in Section 2.1.6 following, and that the signals do not damage Company equipment, injure its personnel or degrade service to other Customers. If the Customer or its agent fails to maintain and operate its equipment and/or system or that of its agent properly, with resulting imminent harm to Company equipment, personnel, or the quality of service to other Customers, the Company may, upon written notice, require the use of protective equipment at the Customer's expense. If this fails to produce satisfactory quality and safety, the company may, upon written notice, terminate the Customer's service without liability.

MCImetro ACCESS TRANSMISSION
SERVICES, LLC

F.P.S.C. PRICE LIST NO. 2
ORIGINAL SHEET NO. 26

LOCAL EXCHANGE SERVICE

2. Regulations (Cont'd)

2.1 Undertaking of the Company (Cont'd)

2.1.4 Liability of the Company (Cont'd)

2.1.4.14 With respect to Emergency Number 911 Service:

- (a) This service is offered solely as an aid in handling assistance calls in connection with fire, police and other emergencies. The Company is not responsible for any losses, claims, demands, suits or any liability whatsoever, whether suffered, made, instituted or asserted by the Customer or by any other party or person for any personal injury to or death of any person or persons, and for any loss, damage or destruction of any property, whether owned by the Customer or others, caused or claimed to have been caused by: (1) mistakes, omissions, interruptions, delays, errors or other defects in the provision of this service, or (2) installation, operation, failure to operate, maintenance, removal, presence, condition, location or use of any equipment and facilities furnishing this service.

MCImetro ACCESS TRANSMISSION
SERVICES, LLC

F.P.S.C. PRICE LIST NO. 2
ORIGINAL SHEET NO. 27

LOCAL EXCHANGE SERVICE

2. Regulations (Cont'd)

2.1 Undertaking of the Company (Cont'd)

2.1.4 Liability of the Company (Cont'd)

2.1.4.14 (Cont'd)

(b) Neither is the Company responsible for any infringement or invasion of the right of privacy of any person or persons, caused or claimed to have been caused, directly or indirectly, by the installation, operation, failure to operate, maintenance, removal, presence, condition, occasion or use of emergency 911 service features and the equipment associated therewith, or by any services furnished by the Company including, but not limited to, the identification of the telephone number, address or name associated with the telephone used by the party or parties accessing emergency 911 service, and which arise out of the negligence or other wrongful act of the Company, the Customer, its Users, agencies or municipalities, or the employees or agents of any one of them.

2.1.4.15 The Company's liability arising from errors or omissions in Directory Listings, other than charged listings, shall be limited to the amount of actual impairment to the Customer's service and in no event shall exceed one-half the amount of the fixed monthly charges applicable to exchange service affected during the period covered by the directory in which the error or omission occurs. In cases of charged Directory Listings, the liability of the Company shall be limited to an amount not exceeding the amount of charges for the charged listings involved during the period covered by the directory in which the error or omission occurs.

MCImetro ACCESS TRANSMISSION
SERVICES, LLC

F.P.S.C. PRICE LIST NO. 2
ORIGINAL SHEET NO. 28

LOCAL EXCHANGE SERVICE

2. Regulations (Cont'd)

2.1 Undertaking of the Company (Cont'd)

2.1.4 Liability of the Company (Cont'd)

- 2.1.4.16 In conjunction with a non-published telephone number, as described in Section 3.4.5.3, the Company will not be liable for failure or refusal to complete any call to such telephone when the call is not placed by number. The Company will try to prevent the disclosure of the number of such telephone, but will not be liable should such number be divulged.
- 2.1.4.17 When a Customer with a non-published telephone number, as defined herein, places a call to the Emergency 911 Service, the Company will release the name and address of the calling party, where such information can be determined, to the appropriate local governmental authority responsible for the Emergency 911 Service upon request of such governmental authority. By subscribing to service under this price list, Customer acknowledges and agrees with the release of information as described above.
- 2.1.4.18 In conjunction with the Busy Line Verification and Interrupt Service as described in Section 3.3.2, the Customer shall indemnify and save the Company harmless against all claims that may arise from either party to the interrupted call or any person.
- 2.1.4.19 The Company shall not be liable for any act or omission concerning the implementation of Presubscription, as defined herein.

MCImetro ACCESS TRANSMISSION
SERVICES, LLC

F.P.S.C. PRICE LIST NO. 2
ORIGINAL SHEET NO. 38

LOCAL EXCHANGE SERVICE

2. Regulations (Cont'd)

2.5 Payment Arrangements

2.5.1 Payment for Service

The Customer is responsible for payment of all charges for service and facilities furnished by the Company to the Customer or its Joint or Authorized Users. Objections must be received by the Company within 30 days after statement of account is rendered, or the charges shall be deemed correct and binding upon the Customer. If an entity other than the Company imposes charges on the Company, in addition to its own internal costs, in connection with a service for which a Company Non-Recurring Charge is specified, those charges may be passed on to the Customer.

2.5.1.1 Taxes: The Customer is responsible for the payment of any sales, use, gross receipts, excise, access or other local, state and federal taxes, charges or surcharges (however designated) excluding taxes on the Company's net income imposed on or based upon the provision of Local Exchange Service, all of which shall be separately designated on the Company's invoices. Any taxes imposed by a local jurisdiction (e.g. County and municipal taxes) will only be recovered from those Customers residing in the affected jurisdictions. It shall be the responsibility of the Customer to pay any such taxes that subsequently become applicable retroactively.

MCImetro ACCESS TRANSMISSION
SERVICES, LLC

F.P.S.C. PRICE LIST NO. 2
ORIGINAL SHEET NO. 39

LOCAL EXCHANGE SERVICE

2. Regulations (Cont'd)

2.5 Payment Arrangements (Cont'd)

2.5.1 Payment for Service (Cont'd)

- 2.5.1.2 A surcharge is imposed on all charges for service originating at addresses in states which levy, or assert a claim of right to levy, a gross receipts tax on the Company's operations in any such state, or a tax on interstate access charges incurred by the Company for originating access to telephone exchanges in that state. ¹ This surcharge is based on the particular state's receipts tax and other state taxes imposed directly or indirectly upon the Company by virtue of, and measured by, the gross receipts or revenues of the Company in that state and/or payment of interstate access charges in that state. The surcharge will be shown as a separate line item on the Customer's monthly invoice.

¹ Pending the conclusion of any challenge to a jurisdiction's right to impose a gross receipts tax, the Company may elect to impose and collect a surcharge covering such taxes, unless otherwise constrained by court order or direction, or it may elect not to impose and collect the surcharge. If it has collected a surcharge and the challenged tax is found to have been invalid and unenforceable, the Company will credit or refund such amounts to affected Customers (less its reasonable administrative costs), if the funds collected were retained by the Company or if they were delivered over to the taxing jurisdiction and returned to the Company.

MCImetro ACCESS TRANSMISSION
SERVICES, LLC

F.P.S.C. PRICE LIST NO. 2
1ST REVISED SHEET NO. 40
CANCELS ORIGINAL SHEET NO. 40

LOCAL EXCHANGE SERVICE

2. Regulations (Cont'd)

2.5 Payment Arrangements (Cont'd)

2.5.2 Billing and Collection of Charges

Bills will be rendered monthly to Customer.

2.5.2.1 All service, installation, monthly Recurring Charges and Non-Recurring Charges are due and payable upon receipt.

2.5.2.2 The Company shall present bills for Recurring Charges monthly to the Customer, in advance of the month which service is provided.

2.5.2.3 For new customers or existing customers whose service is disconnected, the charge for the fraction of the month in which service was furnished will be calculated on a pro rata basis. For this purpose, every month is considered to have 30 days.

2.5.2.4 Amounts not paid within 30 days after the date of invoice are considered past due.

2.5.2.5 A \$10.00 charge will be assessed for checks with insufficient funds or non-existing accounts.

MCImetro ACCESS TRANSMISSION
SERVICES, LLC

F.P.S.C. PRICE LIST NO. 2
ORIGINAL SHEET NO. 41

LOCAL EXCHANGE SERVICE

2. Regulations (Cont'd)

2.5 Payment Arrangements (Cont'd)

2.5.3 Disputed Bills

The Customer shall notify the Company of any disputed items on a bill within 30 days of receipt of the bill. If the Customer and the Company are unable to resolve the dispute to their mutual satisfaction, the Customer may file a complaint with the Florida Public Service Commission in accordance with the Commission's rules of procedure.

2.5.3.1 The date of the dispute shall be the date the Company receives sufficient documentation to enable it to investigate the dispute.

The date of the resolution is the date the Company completes its investigation and notifies the Customer of the disposition of the dispute.

2.5.4 Advance Payments

To safeguard its interests, the Company may require a Customer to make an Advance Payment before services and facilities are furnished. The Advance Payment will not exceed an amount equal to the Non-Recurring Charge(s) and one month's charges for the service or facility. In addition, where special construction is involved, the Advance Payment may also include an amount equal to the estimated Non-Recurring Charges for the special construction and Recurring Charges (if any) for a period to be set between the Company and the Customer. The Advance Payment will be credited to the Customer's initial bill. An Advance Payment may be required in addition to a deposit.

MCImetro ACCESS TRANSMISSION SERVICES, LLC

F.P.S.C. PRICE LIST NO. 2 ORIGINAL SHEET NO. 42

LOCAL EXCHANGE SERVICE

2. Regulations (Cont'd)

2.5 Payment Arrangements (Cont'd)

2.5.5 Deposits

2.5.5.1 Applicants for service or existing Customer's whose financial condition is not acceptable to the Company, or is not a matter of general knowledge, may be required at any time to provide the Company a security deposit. The deposit requested will be in cash or the equivalent of cash, and will be held as a guarantee for the payment of charges. A deposit does not relieve the Customer of the responsibility for the prompt payment of bills on presentation. The deposit will not exceed an amount equal to:

- (a) two month's charges for a service or facility which has a minimum payment period of one month; or
- (b) the charges that would apply for the minimum payment period for a service or facility which has a minimum payment period of more than one month; except that the deposit may include an additional amount in event that a termination charge is applicable. In addition, the Company shall be entitled to require such an applicant or Customer to pay all its bills within a specified period of time, and to make such payments in cash or the equivalent of cash. At the Company's option, such deposit may be refunded to the Customer's account at any time. Also, the Company reserves the right to cease accepting and processing Service Orders after it has requested a security deposit and prior to the Customer's compliance with this request.

2.5.5.2 A deposit may be required in addition to an advance payment.

MCImetro ACCESS TRANSMISSION
SERVICES, LLC

F.P.S.C. PRICE LIST NO. 2
ORIGINAL SHEET NO. 43

LOCAL EXCHANGE SERVICE

2. Regulations (Cont'd)

2.5 Payment Arrangements (Cont'd)

2.5.5 Deposits (Cont'd)

2.5.5.3 When a service or facility is discontinued, the amount of a deposit, if any, will be applied to the Customer's account and any credit balance remaining will be refunded. Before the service or facility is discontinued, the Company may, at its option, return the deposit or credit it to the Customer's account.

2.5.5.4 Deposits held for business customers will accrue interest at a rate of seven (7) percent per annum. Interest on a deposit shall accrue annually and, if requested, shall be annually credited to the customer by deducting such interest from the amount of the next bill for service following the accrual date.

2.5.6 Discontinuance of Service

2.5.6.1 Upon nonpayment of any amounts owing to the Company, and after 30 days from the due date, the Company may, by giving ten days' prior written notice to the Customer, discontinue or suspend service without incurring any liability.

2.5.6.2 Upon violation of any of the other material terms or conditions for furnishing service, the Company may, by giving 30 days' prior notice in writing to the Customer, discontinue or suspend service without incurring any liability if such violation continues during that period.

MCImetro ACCESS TRANSMISSION
SERVICES, LLC

F.P.S.C. PRICE LIST NO. 2
ORIGINAL SHEET NO. 44

LOCAL EXCHANGE SERVICE

2. Regulations (Cont'd)

2.5 Payment Arrangements (Cont'd)

2.5.6 Discontinuance of Service (Cont'd)

- 2.5.6.3 Upon condemnation of any material portion of the facilities used by the Company to provide service to a Customer or if a casualty renders all or any material portion of such facilities inoperable beyond feasible repair, the Company, by notice to the Customer, may discontinue or suspend service without incurring any liability.
- 2.5.6.4 Upon the Customer's insolvency, assignment for the benefit of creditors, filing for bankruptcy or reorganization, failing to discharge an involuntary petition within the time permitted by law, or abandonment of service, the Company may, with prior notice to the customer, immediately discontinue or suspend service without incurring any liability.
- 2.5.6.5 Upon any governmental prohibition, or required alteration of the services to be provided or any violation of any applicable law or regulation, the Company may immediately discontinue or suspend service without incurring any liability.
- 2.5.6.6 The Company may discontinue the furnishing of any and/or all service(s) to a Customer, without incurring any liability:
 - 2.5.6.6.1 Immediately and without notice if the Company deems that such action is necessary to prevent or to protect against fraud or to otherwise protect its personnel, agents, facilities or services. The Company may discontinue service pursuant to this sub-section 2.5.6.6.1 (a-f) if:*

MCImetro ACCESS TRANSMISSION
SERVICES, LLC

F.P.S.C. PRICE LIST NO. 2
ORIGINAL SHEET NO. 45

LOCAL EXCHANGE SERVICE

2. Regulations (Cont'd)

2.5 Payment Arrangements (Cont'd)

2.5.6 Discontinuance of Service (Cont'd)

2.5.6.6 (Cont'd)

2.5.6.6.1 (Cont'd)

- (a) The Customer refuses to furnish information to the Company regarding the Customer's credit-worthiness, its past or current use of common carrier communications services or its planned use of service(s); or
- (b) The Customer provides false information to the Company regarding the Customer's identity, address, credit-worthiness, past or current use of common carrier communications services, or its planned use of the Company's service(s); or
- (c) The Customer has been given ten (10) day written notice by the Company of any past due amount (which remains unpaid in whole or in part) for any of the Company's other common carrier communications services to which the Customer either subscribes or had subscribed or used; or

MCImetro ACCESS TRANSMISSION
SERVICES, LLC

F.P.S.C. PRICE LIST NO. 2
ORIGINAL SHEET NO. 46

LOCAL EXCHANGE SERVICE

2. Regulations (Cont'd)

2.5 Payment Arrangements (Cont'd)

2.5.6 Discontinuance of Service (Cont'd)

2.5.6.6 (Cont'd)

2.5.6.6.1 (Cont'd)

- (d) The Customer uses, or attempts to use, service with the intent to avoid the payment, either in whole or in part, of the tariffed charges for the service by:
 - (d.1) Using or attempting to use service by rearranging, tampering with, or making connections to the Company's service not authorized by this price list; or
 - (d.2) Using tricks, schemes, false or invalid numbers, false credit devices, electronic devices; or
 - (d.3) Any other fraudulent means or devices; or
- (e) Use of service in such a manner as to interfere with the service of other users; or
- (f) Use of service for unlawful purposes.

MCImetro ACCESS TRANSMISSION SERVICES, LLC

F.P.S.C. PRICE LIST NO. 2
2ND REVISED SHEET NO. 47
CANCELS 1ST REVISED SHEET NO. 47

LOCAL EXCHANGE SERVICE

2. Regulations (Cont'd)

2.5 Payment Arrangements (Cont'd)

2.5.6 Discontinuance of Service (Cont'd)

2.5.6.6 (Cont'd)

2.5.6.6.2 Immediately, upon written notice to a Customer who has failed to pay any sum within 30 days of the date when payment was due;

2.5.6.6.3 Upon ten (10) days written notice to the Customer, after failure of the Customer to comply with a request made by the Company for security for the payment of service in accordance with Section 2.5.5; or

2.5.6.6.4 Ten (10) days after sending the Customer written notice of noncompliance with any provision of this price list if the noncompliance is not corrected within that ten (10) day period; or

2.5.6.7 The suspension or discontinuance of service(s) by the Company pursuant to this Section does not relieve the Customer of any obligation to pay the Company for charges due and owing for service(s) furnished during the time of or up to suspension or discontinuance.

2.5.6.8 Upon the Company's discontinuance of service to the Customer under Section 2.5.6.1 or 2.5.6.2, all applicable charges, including termination charges, shall become due. This is in addition to all other remedies that may be available to the Company at law or in equity or under any other provision of this price list.

2.5.7 For residential service customers, a late payment charge of 1.5% may be assessed on payments not received within 30 days from the invoice date, where capabilities exist. The late payment charge will be applied to the entire unpaid balance of the customer's monthly invoice, including taxes. The late payment charge will not be applied to any disputed portion of the unpaid balance unless the dispute is resolved against the customer. The late payment charge of 1.5% is not applicable to subsequent rebilling of any amount to which a late payment charge has already been applied. Late charges are to be applied without discrimination.

2.5.8 For Business Service Customers, a late payment charge at the rate of 1.5 per month will accrue upon any unpaid amount commencing 31 days after remittance was due to MCI. The late payment charge will be applied to the entire unpaid balance of the customer's monthly invoice, including taxes. The late payment charge will not be applied to any disputed portion of the unpaid balance unless the dispute is resolved against the customer.

The late payment charge of 1.5% is not applicable to subsequent rebilling of any amount to which a late payment charge has already been applied. Late charges are to be applied without discrimination.

2.5.9 Paper Invoices

For business Customers who receive notification that invoicing will change to E-Billing and who do not elect to use E-Billing, but continue to receive paper invoices, the following monthly recurring charge will apply per invoice based on the number of sheets in the paper invoice:

Monthly Recurring Charge

1-55 sheets of paper:	\$5.00
56 or more sheets of paper:	\$25.00

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MCImetro ACCESS TRANSMISSION
SERVICES, LLC

F.P.S.C. PRICE LIST NO. 2
1ST REVISED SHEET NO. 47.1
CANCELS ORIGINAL SHEET NO. 47.1

LOCAL EXCHANGE SERVICE

2. Regulations (Cont'd)

2.5 Payment Arrangements (Cont'd)

2.5.11 No Fault Found Dispatch Charge for Business Customers

The Customer is responsible for the payment of a No Fault Found Dispatch Charge when:

- when requested by the Customer, maintenance personnel visit the Customer's premises, and
- as a result of the visit, the proper functioning of the WorldCom service is confirmed (i.e., the cause of the trouble condition was other than a malfunction of a WorldCom service or of WorldCom maintained equipment). This can include, but not be limited to, customer requested dispatches
- Where the root cause of a trouble is proven to be within the scope of the customer's or customer's vendor-owned equipment not maintained by WorldCom.
- Where the root cause of a trouble has been proven to be within the scope of the customers or customer's vendor-owned inside wiring.
- To provide WorldCom technical assistance to the customer or customer's vendor in performing specific testing to isolate a problem which has been proved off the WorldCom network and is not within any WorldCom contract supported area.
- To provide WorldCom technical assistance to the customer or customer's vendor in isolating or repairing a fault or installation support for areas not within WorldCom contract supported equipment, network or services.
- In which the root cause of a trouble has been proven to be off the WorldCom network and is not within any WorldCom contract supported area and proves to be within the scope of the customer's or customer's vendor-owned network.

The charges are non-recurring, and are charged per visit as follows:

- ◆ Normal Working Hours : \$265 per visit
- ◆ Outside of Normal Working Hours : \$400 per visit

Normal Working Hours are defined as Monday to Friday, 7 am to 7pm in the time zone of the customer's location of the dispatch. If a visit begins and/or ends outside this period, it is considered Outside of Normal Working Hours.

Any dispatch that begins or ends from 12:01 am to 12:00 am the following day the time zone of the Customer's Premises on these holiday's will also be considered "Outside of Normal Working Hours":

New Year's Day
Martin Luther King Jr. Day
Presidents' Day
Memorial Day
Independence Day
Labor Day
Thanksgiving Day
Day after Thanksgiving
Christmas Day

BELLSOUTH
TELECOMMUNICATIONS, INC.
FLORIDA

GENERAL SUBSCRIBER SERVICE TARIFF

First Revised Page 26
Cancels Original Page 26

ISSUED: September 1, 2005
BY: Marshall M. Criser III, President -FL
Miami, Florida

EFFECTIVE: September 16, 2005

A2. GENERAL REGULATIONS

(T)

A2.4 Payment Arrangements and Credit Allowances (Cont'd)**A2.4.10 Payment Plans for Contract Services (Cont'd)**

L. Exception To Termination Liability For State, County, And Municipal Governments
(See A2.4.8 of this Tariff.)

M. Moves of Service(s) under PPCS

Termination Liability Charges will not apply to customer requests for moves of service under PPCS from one location to another location subject to the following:

1. The original and new premises locations must be in Company territory within the same state.
2. The move from the original location to the new location must be completed within thirty days of the original premises disconnect date.
3. No lapse in billing will occur for moves of service under PPCS.
4. Orders to disconnect the existing service and reestablish it at the new location must be related.
5. Any rate elements from the original location that are not reestablished at the new location will be subject to applicable Termination Liability charges.
6. Any additions made at the new location will be treated as coterminous additions in accordance with D. preceding.
7. All regulations and charges for changes made to the service coincident to the move shall apply.
8. All appropriate nonrecurring charges for moves of service as specified in this Tariff will apply.
9. Moves of service that involve a change of jurisdiction, e.g., intraLATA to intrastate, intrastate to interstate, etc., will not be treated as a disconnect of service with regard to Termination Liability Charge application. The customer must subscribe to a payment arrangement offered in the appropriate interstate tariff which is at least the minimum number of months allowable under Payment Plan A or equals/exceeds the remaining contract period, whichever is greater.

A2.4.11 Economic Waiver Exception to Termination Liability for Business Customers

(N)

BellSouth will waive early-termination liability charges associated with a BellSouth Local Exchange Term Election Agreement plan, program, or promotion for business customers who voluntarily and in good faith file bankruptcy under Chapter 7 of the U.S. Bankruptcy Code, 11 U.S.C. Sections 101-1330. This exception is a one-time waiver. To qualify for this waiver, subscriber must present a copy of the Chapter 7 Bankruptcy filing to BellSouth, must disconnect all their local exchange service as a result of going out of business, and must have had an existing local exchange Term Election Agreement in effect for at least six (6) months. This exception only applies to disconnects and bankruptcy filings after September 16, 2005. This waiver does not apply to product contracts, Letters of Election, Contract Service Arrangements, or Special Assembly. Subscriber may not have any other outstanding amounts due except the termination liability.

(N)

A2.5 Liability of the Company**A2.5.1 Service Irregularities**

The liability of the Company for damages arising out of impairment of service provided to its subscribers such as defects or failure in facilities furnished by the Company or mistakes, omissions, interruptions, preemptions, delays, errors or defects in the provision of its services set forth herein or any portion of its services, occurring in the course of furnishing such facilities or services and not caused by the negligence of the subscriber, or of the Company in failing to maintain proper standards of maintenance and operation and to exercise reasonable supervision shall in no event exceed an amount equivalent to the proportionate charge to the subscriber for the period of service during which such mistake, omission, interruption, preemption, delay, error or defect in transmission or defect or failure in facilities or services occurs.

BELLSOUTH
TELECOMMUNICATIONS, INC.
FLORIDA

GENERAL SUBSCRIBER SERVICE TARIFF

Original Page 27

ISSUED: July 1, 1996
BY: Joseph P. Lacher, President - FL
Miami, Florida

EFFECTIVE: July 15, 1996

A2. GENERAL REGULATIONS¹

(N)

A2.5 Liability of the Company (Cont'd)

A2.5.1 Service Irregularities (Cont'd)

The Company shall not be liable for damage arising out of mistakes, omissions, preemptions, interruptions, delays, errors or defects in transmission or other injury, including but not limited to injuries to persons or property from voltages or currents transmitted over the service of the Company, (1) caused by customer-provided equipment (except where a contributing cause is the malfunctioning of a company-provided connecting arrangement, in which event the liability of the Company shall not exceed an amount equal to the proportional amount of the Company billing for the period of service during which such mistake, omission, interruption, preemption, delay, error, defect in transmission or injury occurs), or (2) not prevented by customer-provided equipment but which would have been prevented had company-provided equipment been used.

A2.5.2 Use of Facilities of Other Connecting Carriers

When suitable arrangements can be made, facilities of other connecting carriers may be used in conjunction with this Company's facilities in establishing connections to points not reached by this Company's facilities. Neither this Company nor any connecting carrier participating in a service shall be liable for any act or omission of any other company or companies furnishing a portion of such service.

A2.5.3 Indemnifying Agreement

The Company shall be indemnified and saved harmless by the subscriber or subscribers against claims for libel, slander, or the infringement of copyright arising directly or indirectly from the material transmitted over the facilities or the use thereof; against claims for infringement of patents arising from combining with, or using in connection with, facilities furnished by the Company, apparatus and systems of the subscriber; and against all other claims arising out of any act or omission of the subscriber in connection with the facilities provided by the Company.

A2.5.4 Defacement of Premises

The Company is not liable for any defacement of or damage to the premises of a subscriber resulting from the furnishing of service or the attachment of the equipment and associated wiring furnished by the Company on such premises or by the installation or removal thereof, when such defacement or damage is not the result of negligence of employees of the Company.

A2.5.5 Period for the Presentation of Claims

The Company shall not be liable for damages or statutory penalties in any case where a claim is not presented in writing within sixty days after the alleged delinquency occurs.

Note 1: Text is shown as new due to reissue of all Tariff Sections. No changes in rates or regulations were made with this Filing.

BELLSOUTH
TELECOMMUNICATIONS, INC.
FLORIDA

GENERAL SUBSCRIBER SERVICE TARIFF

ISSUED: July 1, 1996
BY: Joseph P. Lacher, President - FL
Miami, Florida

EFFECTIVE: July 15, 1996

A2. GENERAL REGULATIONS¹

(N)

A2.5 Liability of the Company (Cont'd)

A2.5.6 Equipment in Explosive Atmosphere

- A. The Company does not guarantee nor make any warranty with respect to equipment and facilities provided by it for use in an explosive atmosphere. The subscriber shall indemnify and hold the Company harmless from any and all loss, claims, demands, suits, or other action, or any liability whatsoever, whether suffered, made, instituted or asserted by the subscriber or by any other party or person, for any personal injury to or death of any person or persons, and for any loss, damage or destruction of any property, whether owned by the subscriber or others, caused or claimed to have been caused directly or indirectly by the installation, operation failure to operate maintenance, removal, presence, condition, location or use said equipment so provided.
- B. The Company may require each subscriber to sign an agreement for the furnishing of such equipment as a condition precedent to the furnishing of such equipment.
- C. The subscriber shall furnish, install and maintain sealed conduit with explosion-proof fittings between this equipment and points outside the hazardous area where connection may be made with regular facilities of the Company. The subscriber may be required to install and maintain this equipment within the hazardous area if, in the opinion of the Company, injury or damage to Company employees or property might result from installation or maintenance by the Company.

A2.5.7 Reserved for Future Use

A2.5.8 Reserved for Future Use

A2.5.9 Reserved for Future Use

A2.5.10 Reserved for Future Use

A2.5.11 Application Testing

The Company makes no warranties with respect to the performance of certain services for any and all possible customer applications which may utilize these services. The Company will provide a limited amount of such service(s) subject to the conditions specified in A. and B. following. Such service is to be utilized without charge in an initial application test with a customer for no longer than 60 days from the date of installation. The purpose of an application test is to determine the appropriateness of that specific service(s) for that specific application prior to the customer placing a firm order for such service(s).

- A. Tariffed services which are approved for use in Application Testing are listed in 1. following. Additional regulations for tariffed services that may be used in an application test are listed in the specific tariff section for that service. Services to be provided in an application test are subject to the availability of facilities and equipment as determined by the Company.
 1. Tariffed services authorized for use in application testing and the specific tariff reference addressing service-specific regulations are as follows:
 - FlexServ[®] service (Reference: A32.1.3.A.1.)
 - Frame Relay Service (Reference: A40.1.2.B.3.d.)

Note 1: Text is shown as new due to reissue of all Tariff Sections. No changes in rates or regulations were made with this Filing.

*Registered Service Mark of BellSouth Corporation

BELLSOUTH
TELECOMMUNICATIONS, INC.
FLORIDA

GENERAL SUBSCRIBER SERVICE TARIFF

Second Revised Page 29
Cancels First Revised Page 29

ISSUED: October 20, 1999
BY: Joseph P. Lacher, President -FL
Miami, Florida

EFFECTIVE: November 4, 1999

A2. GENERAL REGULATIONS**A2.5 Liability of the Company (Cont'd)****A2.5.11 Application Testing (Cont'd)**

A. (Cont'd)

1. Tariffed services authorized for use in application testing and the specific tariff reference addressing service-specific regulations are as follows: (Cont'd)

- Connectionless Data Service (CDS) (Reference: A40.4.2.C.4.c.)

- Broadband Exchange Line Service (Reference: A40.5.3.A.5)

B. Services that are utilized in an application test with a customer may be provided without charge for an application test period of up to sixty days. Such service is provided for the specific purpose of conducting an application test with a customer and is not intended to be utilized as a substitute for temporary service.

1. Upon completion of the application test where the customer determines that the performance of the services utilized are unacceptable for the application, the application test service will be removed without charge to the customer.

2. Upon completion of the application test where the customer determines that the performance of the services utilized are acceptable for the application and no changes to the test service configuration are required, the customer will be billed the appropriate nonrecurring charges for the test service and monthly billing will begin at that time.¹

3. Upon completion of the application test where the customer determines that the performance of the services utilized are acceptable for the application, however, the test service configuration must be changed, the customer shall be responsible for both the appropriate nonrecurring charges for the application test service plus all appropriate charges for the rearrangement of the service. Monthly billing shall begin for the rearranged service.¹

A2.5.12 Limitation of Liability

A. Unauthorized Computer Intrusion

The Company's liability, if any, for its willful misconduct is not limited by this section of this Tariff. With respect to any other claim or suit by a subscriber, common carrier, reseller, or any other party for damages caused by, or associated with, any unauthorized computer intrusion, including but not limited to the input of damaging information such as a virus, time bomb, any unauthorized access, interference, alteration, destruction, theft of, or tampering with, a Company computer, switch, data, database, software, information, network or other similar system, the Company's liability, if any, shall not exceed an amount equal to the proportionate charge by the Company for the service for the period during which the service provided by the Company was affected or so utilized.

Each subscriber of the Company shall be responsible for providing appropriate security measures to protect the subscriber's computer, data, or telecommunications network.

B. Transmission of Data

Voice-grade lines are primarily conditioned to handle data speeds up to 9.6 kilobits per second (kbps). The Company makes no guarantee that voice-grade access lines and/or facilities are suitable for the transmission of data. However, in those cases where the transmission of data is attempted, the Company shall not be held liable for any damage, harm or loss of data caused by the subscriber using the Company's voice-grade telephone access lines and/or facilities for the transmission of data. The Company's liability shall be limited to errors or damages to the transmission of voice messages over these facilities, and the liability shall be limited to an amount equal to the proportionate amount of the Company's billing for the period of service during which the errors or damages occur.

(T)

C. Errors or Damages Caused by System Date Limitations

The Company's liability for errors or damage resulting from the inability of the Company's systems to process unusual date requirements, shall be limited to an amount equal to the proportionate amount of the Company's billing for the period of service during which the errors or damages occur.

D. Unauthorized Devices

The Company shall not be liable or responsible for any damage or harm that may occur as the result of unauthorized devices or the failure of the Company to detect unauthorized devices on the subscriber's line.

Note 1: Any additional service requested to be installed upon completion of the application test shall be subject to standard tariff nonrecurring charges and rates as set forth in each service tariff.