

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by MCImetro Access
Transmission Services LLC for arbitration of
certain terms and conditions of proposed
interconnection agreement with BellSouth
Telecommunications, Inc. | Docket No. 050419-Tp

REBUTTAL TESTIMONY OF DENNIS L. RICCA

On Behalf Of

MCImetro Access Transmission Services, LLC

DECEMBER 1, 2005

DOCUMENT NUMBER-DATE

11360 DEC-1 05

FPSC-COMMISSION CLERK

I. INTRODUCTION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19

Q. PLEASE STATE YOUR NAME, YOUR EMPLOYER, YOUR BUSINESS ADDRESS AND ON WHOSE BEHALF YOU ARE OFFERING THIS TESTIMONY.

A. My name is Dennis L. Ricca. I am employed by MCI, Inc. as a Senior Financial Analyst. My business address is 2655 Warrenville Road, Downers Grove, Illinois 60515. I am providing this testimony on behalf of MCImetro Access Transmission Services, LLC (“MCI”).

Q. ARE YOU THE SAME DENNIS L. RICCA WHO PROVIDED DIRECT TESTIMONY IN THIS DOCKET?

A. Yes, I am.

II. PURPOSE OF TESTIMONY

Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

A. The purpose of this Rebuttal Testimony is to respond to the prefiled direct testimony of BellSouth witnesses Shelley L. Decker and Pam Tipton who address the same provisions of the interconnection agreement (“ICA”) involving reciprocal compensation and network interconnection methods as I addressed in my Direct Testimony. My Rebuttal Testimony responds to Issues 15, 17(A), 17(B), 17(C), 18, 19, 22, 23, 25 and 26.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

III. DISCUSSION:

Q. HAVE YOU REVIEWED BELLSOUTH'S DIRECT TESTIMONY FILED WITH THE COMMISSION ON SEPTEMBER 30, 2005?

A. Yes, I have reviewed the direct testimony of BellSouth witnesses Tipton, Decker, Fogle and Owens. Only Ms. Tipton's and Ms. Decker's testimony pertains to the issues I address here.

A. RELATIVE USE FACTOR ("RUF") FOR INTERCONNECTION TRUNKS

ISSUE 15

Should the parties pay each other for two-way interconnection facilities based on their proportionate share of originated traffic or on a 50-50 basis? (Attachment 3, Section 4.10)

Q. MS. DECKER DESCRIBES MCI'S POSITION AS SUPPORTING THE PROPORTIONATE SHARING OF COSTS ON TRAFFIC CARRIED OVER THE TWO-WAY TRUNKS ON A MONTHLY RECURRING BASIS. (DECKER DIRECT, PP. 3-4.) HAS MCI MODIFIED ITS POSITION ON THIS ISSUE?

A. Yes. In response to BellSouth's concerns about limitations in its CABS billing system, at pages 8-10 of my Direct Testimony, I proposed using six-month averages revised twice per year to determine the RUF for the following six months. To simplify billing, a single RUF could be used for all trunk groups statewide. This approach would provide a more reasonable and accurate

1 allocation of costs than the 50-50 split proposed by BellSouth witness Decker
2 and would obviate the need for a true-up determination every six months.

3 **Q. MS. DECKER QUANTIFIES THE NUMBER OF CURRENT ONE-WAY**
4 **AND TWO-WAY INTERCONNECTION TRUNKS THAT MCI AND**
5 **BELLSOUTH HAVE IN FLORIDA WITH ONLY A CERTAIN**
6 **PERCENTAGE OF THOSE TRUNKS CURRENTLY TWO-WAY.**
7 **USING THAT QUANTIFICATION, MS. DECKER SUGGESTS THAT**
8 **50% OF THE MONTHLY CHARGE FOR THOSE TWO-WAY TRUNKS**
9 **IS ONLY A RELATIVELY SMALL AMOUNT PER MONTH. (DECKER**
10 **DIRECT, P. 5.) IS THAT AN ACCURATE ASSESSMENT?**

11 **A.** No, it is not. First, Ms. Decker has not included any associated mileage charges
12 in her comparison, nor does she note that MCI and BellSouth are currently
13 working to convert all existing one-way interconnection trunks to two-way
14 interconnection trunks. Additionally, because MCI only has one POI in most
15 LATAs, BellSouth may be missing significant mileage costs in LATAs in which
16 there are multiple tandems, particularly in situations in which there is enough
17 traffic to an end office served by the remote tandem to justify a direct end office
18 trunk to that end office.

19 **Q. HOW DOES MCI PROPOSE TO TAKE INTO ACCOUNT ONE-WAY**
20 **TRUNK GROUPS THAT ARE CONVERTED TO TWO-WAY TRUNK**
21 **GROUPS WHEN THE RUF IS CALCULATED?**

1 A. If two one-way trunk groups with traffic in opposite directions are converted to
2 one two-way trunk groups, then the previous six month's usage of both trunk
3 groups should be used to determine the RUF.

4 **Q. AT PAGE 4 OF HER DIRECT TESTIMONY, MS. DECKER SUGGESTS**
5 **THAT THE EFFECT OF BELLSOUTH'S PROPOSAL MAY**
6 **ACTUALLY FAVOR MCI. DO YOU BELIEVE THAT TO BE THE**
7 **CASE?**

8 A. No. Given the relatively low percentage of trunks that have been converted to
9 two-way trunks, it does not surprise me that Ms. Decker finds that her snapshot
10 revealed that a 50-50 split favors MCI, but I do not expect that to continue.
11 Once the conversion process is complete, I would expect that substantially more
12 traffic will be terminated to MCI over these trunks than will be terminated to
13 BellSouth. In any event, proportionate sharing is fair to both parties, regardless
14 of which party benefits monetarily.

15 MCI only wants the parties' costs for interconnection trunks to be
16 accurately reflected in accordance with the FCC's *First Report and Order*.¹ The
17 issue is not what favors MCI today but whose proposal for allocating
18 interconnection trunk costs is more closely aligned with the FCC's rules
19 implementing the local competition provisions of the Act. MCI's proposed
20 language should be adopted because it more faithful to *First Report and Order*.

1 **Q. HAS MCI ENTERED INTO RUF ARRANGEMENTS WITH OTHER**
2 **CARRIERS?**

3 A. Yes. MCI has agreements with SBC, Qwest and other ILECS to use the RUF.
4 These agreements demonstrate that MCI's proposal is common in the industry
5 and administratively workable.

6 **B. JURISDICTIONAL AND VFX ISSUES**

7 **ISSUE 17A**

8
9 *To what extent should the definition of local traffic allow for the origination and*
10 *termination of traffic in two different LATAs? (Attachment 3, Section 7.1)*

11
12 **Q. ON PAGES 23-25 OF HER DIRECT TESTIMONY, MS. TIPTON**
13 **ADDRESSES ISSUE 17A. MS. TIPTON STATES THAT THE ISSUE IS**
14 **NOT ACCURATELY WORDED AND IS "AN ATTEMPT BY MCI TO**
15 **INTERJECT INTERLATA VIRTUAL NXX OR FX-LIKE SERVICES**
16 **INTO THIS ARBITRATION IN AN ATTEMPT TO AVOID PAYING**
17 **ACCESS CHARGES." DO YOU AGREE?**

18 A. No. This dispute simply concerns whether a local calling area may extend
19 beyond LATA boundaries and has nothing to do with FX-like services.
20 BellSouth cites no legal prohibition against local calling areas extending beyond
21 LATA boundaries and I am aware of none. BellSouth should not be allowed to

¹ See In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket 96-98, FCC 96-325 (released Aug. 8, 1996) at ¶ 1062 ("First Report and Order").

1 dictate what shape MCI's local calling areas may take in the future. If MCI
2 seeks to enlarge its local calling areas, it will pursue whatever regulatory
3 approval is required and any concerns about MCI's request may be taken up at
4 that time.

5 **ISSUE 17B**

6
7 *Should traffic be jurisdictionalized based on the actual physical location of the calling*
8 *and called parties, or based on the originating and terminating NPA/NXXs?*
9 *(Attachment 3, Section 7.1)*
10

11 **ISSUE 22**

12
13 *(A) How should FX-like or vNXX services offered by MCI to its customers be treated*
14 *for intercarrier compensation purposes? If this traffic is not local, how should it be*
15 *identified and what rates apply? (Attachment 3, Section 7.5.4 and 7.5.5)*

16 **Q. MS. TIPTON STATES IN HER FIRST ANSWER ON THIS ISSUE THAT**
17 **"THE JURISDICTION OF A CALL IS DETERMINED BY ITS**
18 **PHYSICAL END POINTS." DO YOU AGREE?**

19 **A.** No. In every instance of which I am aware, the jurisdiction of calls transmitted
20 within the traditional public switched telephone network ("PSTN") has been
21 based on the rate center of the originating NPA-NXX and the rate center of the
22 terminating NPA-NXX. Thus, the physical end points of calls have never been
23 used to rate traffic. The physical location of rates centers are used as a surrogate
24 for the physical end points of the call. Additionally, the physical location of the
25 rate centers is determined by the rating point of the calling and called NPA-

1 NXXs. Even BellSouth does not use physical end points of the call to determine
2 whether its end user should be charged for a local, intrastate toll or interstate toll
3 call. Nor to date has it done so when determining the jurisdiction of calls for
4 intercarrier compensation purposes. If it did, there would be no reason for
5 BellSouth to seek to require the reports from MCI it seeks in this section of the
6 ICA. BellSouth uses the rating points of the calling and called NPA-NXX to
7 determine jurisdiction. There simply is no valid reason to deviate from this
8 approach. Not only does MCI's proposal continue the status quo regarding the
9 determination of jurisdiction, but also, as explained below, there currently is no
10 technically feasible way to deviate from this approach despite BellSouth's
11 attempts to the contrary.

12 BellSouth proposes to use inconsistent procedures for defining the
13 jurisdiction of a call – using the rating points of the calling and called NPA-
14 NXX for charging end-users for the call and using the physical location of the
15 calling and called parties for purposes of inter-carrier compensation. Further, as
16 I stated in my Direct Testimony, there is no reason to charge different
17 compensation rates for different jurisdictional minutes, let alone for minutes in
18 the same jurisdiction as is the case here.

19 **Q. MS. TIPTON ASSERTS THAT IT IS MCI THAT “DEFIES THE**
20 **HISTORICAL STANDARD FOR DETERMINING INTERCARRIER**

1 **COMPENSATION” JURISDICTION. (TIPTON DIRECT, P. 25.) IS**
2 **THAT THE CASE?**

3 A. No. As I have already stated, the historical practice has been to use the calling
4 and called NPA-NXX rating points to determine jurisdiction. Further, only by
5 pretending that BellSouth never offered FX service can Ms. Tipton even make
6 such an allegation.

7 When BellSouth offers FX service, it charges its own end users for the
8 calls placed to the FX customer (which customer resides in an exchange outside
9 of the local calling area (a foreign exchange) of the assigned NPA-NXX) at
10 local service rates. The customer that BellSouth charges for hauling that call to
11 the distant or foreign exchange is the end user to whom the FX number
12 terminates. In this case, two carriers are involved in completing the call and the
13 intercarrier compensation should be consistent with this historic pricing
14 treatment.

15 BellSouth still charges its end user customers as if they have placed a
16 local call. It then hands this locally dialed and locally charged call to MCI in the
17 same manner it does for every other local call at the exact same location as
18 every other local call exchanged between the parties. Focusing solely on calls
19 from BellSouth’s customers to MCI customers and 1) how those calls are
20 transported by BellSouth, 2) the costs those calls impose on BellSouth and 3) the
21 revenue generated by the rates charged to BellSouth’s customers, there are

1 absolutely no network distinctions, nor costing distinctions nor revenue
2 distinctions to be made between a VNXX call and any other local call. A
3 diagram showing that the two call types use the BellSouth network in an
4 identical fashion is appended to this testimony as Exhibit DLR-2. It is up to
5 MCI to collect from the terminating customer the revenue that it requires to
6 transport the call to the distant exchange. How MCI recovers those costs should
7 be decided solely via discussions between MCI and its customer.

8 **Q. HOW HAS THE COMMISSION ADDRESSED THIS ISSUE**
9 **PREVIOUSLY?**

10 A. Yes, but only in part. The Commission ruled in the *Reciprocal Compensation*
11 *Order*² that intercarrier compensation for non-ISP bound vNXX traffic should
12 be based on the end points of a call rather on the originating and terminating
13 NPA/NXXs.³ The Commission expressly did not rule on the VNXX issue with
14 respect to ISP-bound traffic.

15 **Q. SHOULD THE COMMISSION ADDRESS THE VNXX ISSUE WITH**
16 **RESPECT TO ISP-BOUND TRAFFIC IN THIS ARBITRATION?**

² *Investigation into appropriate methods to compensate carriers for exchange of traffic subject to Section 251 of the Telecommunications Act of 1996, Order on Reciprocal Compensation, Docket No. 000075-TP (Phases II and IIA), Order No. PSC-02-1248-FOF-TP (2002) ("Order on Reciprocal Compensation").*

³ Although I quoted the portion of the Commission's ruling embodying this conclusion in my Direct Testimony, at page 20 of my testimony I mistakenly suggested that the Commission had ruled that non-ISP-bound VNXX should be treated as local. This statement related to another state and will be deleted from my Direct Testimony.

1 A. Yes. The parties have not carved out ISP-bound traffic from the VNXX issue in
2 this case. It is appropriate for the Commission to rule that MCI may assign an
3 NPA/NXX to an ISP customer outside the rate center for that NPA/NXX, and
4 that calls to such ISPs that otherwise would be considered local based on the
5 originating and terminating NPA/NXXs will be handled at the ISP-bound traffic
6 rates that have been agreed upon by the parties based on the FCC's *ISP Remand*
7 *Order*.

8 **Q. WHY IS SUCH A RULING IMPORTANT AS A PRACTICAL MATTER?**

9 A. MCI uses VNXX to enable ISPs to provide dial-up internet service to
10 customers, many of whom are in less populated areas with fewer choices for
11 internet access. Although ISP-bound calls are not subject to access charges
12 regardless of whether they would otherwise be considered local or long distance,
13 the parties' billing systems are not configured to distinguish toll from ISP-bound
14 traffic. As a practical matter, therefore, to ensure that customers are not charged
15 toll rates for these calls, it is necessary to provide ISPs with NPA/NXXs that are
16 local to their customers.

17 **Q. SHOULD THE COMMISSION REACH A DIFFERENT CONCLUSION**
18 **WITH RESPECT TO NON-ISP-BOUND TRAFFIC THAN IN ITS**
19 **ORDER ON RECIPROCAL COMPENSATION?**

1 A. Yes. The Commission's *Order on Reciprocal Compensation* does not address
2 the FCC's decision in the *Virginia Arbitration Order*⁴ because post-hearing
3 briefs were filed before the *Virginia Arbitration Order* was issued. As I noted in
4 my Direct Testimony, in ruling in favor of CLECs, the FCC's Wireline
5 Competition Bureau rejected the position that VNXX calls should be rated based
6 on their geographic end points. The FCC's decision provides ample reason for
7 the Commission to revisit its decision with respect to non-ISP-bound traffic.

8 **Q. MS. DECKER POINTS TO MCI'S TESTIMONY FROM FIVE YEARS**
9 **AGO TO THE EFFECT THAT INTERLATA CALLS ARE NOT LOCAL.**
10 **(DECKER DIRECT, PP. 12-13.) WHY HAS MCI CHANGED ITS**
11 **POSITION?**

12 A. MCI's previous testimony was given long before the explosion of VoIP traffic
13 that we are now seeing. As I testify below and in my Direct Testimony on pages
14 24-39, and as the FCC has found,⁵ end point analyses – even those using the
15 NPA-NXX rating points I support above – are no longer useful in determining
16 the jurisdictional nature of some types of traffic.

⁴ *Petition of WorldCom, Inc. et al. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia Inc., and for Expedited Arbitration*, CC Docket Nos. 00-218, 00-249 and 00-251, Memorandum Opinion and Order, DA-02-1731 (rel. July 17, 2002) ("*Virginia Arbitration Order*").

⁵ *Vonage Holdings Corporation Petition for Declaratory Ruling Concerning an Order of the Minnesota Public Utilities Commission*, WC Docket No. 03-211, Order, FCC 04-267 (rel. Nov. 12, 2004) ("*Vonage Declaratory Ruling*").

1 **Q. AT PAGES 26-27, MS. TIPTON ADDRESSES OPTIONAL EXTENDED**
2 **AREA SERVICE (“EAS”) TRAFFIC AND PROVIDES BRIEF**
3 **TESTIMONY INDICATING THAT IT SHOULD BE TREATED AS**
4 **LOCAL BECAUSE IT IS INCLUDED IN THE COMMISSION’S RULES**
5 **AS LOCAL TRAFFIC. DO YOU AGREE WITH THAT TESTIMONY?**

6 **A.** No, I do not. BellSouth cannot have it both ways – it cannot require MCI to pay
7 intrastate switched access charges for calls that it only agrees to compensate at
8 local reciprocal compensation rates. Whatever the Commission decides, the
9 compensation rate and the area (or the method for determining the area) must be
10 the same (i.e. reciprocal) for both parties. BellSouth’s approach is
11 discriminatory and should be rejected.

12 **C. VOIP ISSUES**

13 **ISSUE 18**

14 *Should IP/PSTN and PSTN/IP/PSTN traffic be excluded from the definition of*
15 *intraLATA traffic? (Attachment 3, Sections 7.2 and 7.5.1)*
16

17

18 **ISSUE 19**

19 *What intercarrier compensation regime should be used for IP/PSTN and*
20 *PSTN/IP/PSTN traffic? (Attachment 3, Section 7.5.1)*
21

22 **ISSUE 23**

23 *How should IP/PSTN and PSTN/IP/PSTN traffic be categorized for purposes of*
24 *determining compensation for interconnection facilities and termination of traffic?*
25 *(Attachment 3, Sections 7.6.3, 7.6.4, 7.6.5 and 7.7, MCI Factors Guide, Sections 1.1.4,*
26 *2.2.2, 2.6.1, 2.7 and 2.7.1).*
27
28

1 **Q. MS. TIPTON ADDRESSES THESE THREE VOIP ISSUES AT PAGES**
2 **28-32 OF HER DIRECT TESTIMONY AND DEFINES IP/PSTN**
3 **TRAFFIC ON PAGE 29. DO YOU AGREE WITH HER DEFINITION?**

4 A. No. In fact, BellSouth and MCI have agreed upon the following definition of
5 IP-PSTN traffic in Section 2.18 of Attachment 3: “**IP/PSTN Traffic** is a subset
6 of IP Enabled Services that undergoes a Net Protocol Conversion as defined
7 herein, between the calling and called parties.” Thus, traffic that originates on
8 the PSTN and terminates on an IP network is also considered IP/PSTN traffic.

9 **Q. MS. TIPTON CONTENDS THE COMMISSION LACKS JURISDICTION**
10 **TO ADDRESS THIS ISSUE. (TIPTON DIRECT, P. 26.) DO YOU**
11 **AGREE?**

12 A. No. The parties have negotiated extensively on this subject and it is subject to
13 arbitration. Further, although I am not a lawyer, MCI’s position is that the
14 Commission is not otherwise preempted from determining VoIP interconnection
15 rates for reasons that will be addressed by counsel in MCI’s brief.

16 **Q. AT PAGE 36 OF YOUR DIRECT TESTIMONY YOU STATED THAT**
17 **UNDER THE *VONAGE DECLARATORY RULING*, CERTAIN TRAFFIC**
18 **WAS NOT WITHIN THE STATE’S JURISDICTION? PLEASE**
19 **EXPLAIN.**

20 A. The *Vonage Declaratory Ruling* preempted certain state regulation of VoIP
21 services like the one being offered by Vonage. Although I am not a lawyer, my

1 understanding is that the FCC did not preempt the Commission from
2 considering the terms and conditions for the exchange of VoIP traffic in this
3 arbitration.

4 **Q. MS. TIPTON URGES THE COMMISSION, SHOULD IT CONSIDER**
5 **THIS ISSUE, TO APPLY “THE FCC’S HISTORICAL STANDARD OF**
6 **USING THE END POINTS OF THE CALL TO DETERMINE**
7 **INTERCARRIER COMPENSATION FOR IP/PSTN TRAFFIC.”**
8 **(TIPTON DIRECT, P. 30.) DO YOU AGREE?**

9 A. No. BellSouth proposes that VoIP calls be jurisdictionalized based on the
10 geographic location of the calling and called parties. BellSouth ignores the
11 FCC’s classification of this traffic as information services traffic and its
12 proposal should therefore be rejected out of hand.

13 As explained in my Direct Testimony, the FCC indicated in the *Vonage*
14 decision that an end-point analysis is no longer even appropriate when analyzing
15 the jurisdiction of VoIP calls.⁶ There is a good reason for the FCC’s decision –
16 when VoIP technology is used, there is no feasible way to determine where the
17 person on the VoIP end of the call is located. Some VoIP services allow their
18 customers to use a high-speed internet connection anywhere they take their
19 computer, and many hotels offer the same option either for a small additional fee
20 or as part of the regular room rate.

⁶ *Vonage decision*, ¶¶ 23-32.

1 Thus, a customer who normally resides in Orlando can obtain a VoIP
2 service from a VoIP provider and use that VoIP service to place calls from her
3 home in Orlando on Saturday, her hotel in New York on Sunday and Monday,
4 and her client's offices in Hamburg, Germany on Wednesday. BellSouth does
5 not even attempt to address the issue of how it would rate calls in the manner it
6 suggests.

7 To require that MCI, or any other telecommunications provider for that
8 matter, to base the determination of the jurisdiction of such VoIP calls on the
9 actual physical location of the end user customers is consequently wholly
10 inappropriate. The Commission should reject BellSouth's unworkable proposal,
11 which is designed only to change the current market environment and increase
12 BellSouth's revenue stream by inappropriately permitting it to assess access
13 charges on information services.

14 **Q. MS. TIPTON NEXT CLAIMS THAT BECAUSE THE FCC HAS**
15 **MANDATED IN ITS *E911 ORDER* THAT ALL INTERCONNECTED**
16 **VOIP PROVIDERS MUST OBTAIN FROM EACH CUSTOMER, PRIOR**
17 **TO THE INITIATION OF SERVICE, THE PHYSICAL LOCATION AT**
18 **WHICH THE SERVICE WILL FIRST BE UTILIZED AND ALLOW**
19 **THE END USER TO UPDATE HIS OR HER REGISTERED LOCATION**
20 **IN A TIMELY MANNER, MCI SHOULD BE ABLE TO DETERMINE**

1 **THE ORIGINATING LOCATION OF EACH IP VOICE CALL THAT IS**
2 **TERMINATED ON THE PSTN. DO YOU AGREE?**

3 A. No. First, there are no specifics and there is no current standard for inputting all
4 information into a call signaling stream. Second, if the price of a call were tied
5 to the customer's reported location, end-users would be given the incentive to
6 send incorrect locations depending on the destination they are calling. For
7 example, when calling Orlando from Chicago, to avoid any long distance
8 charges from their IP provider, they may input Orlando as their registered
9 location, and, even if the ability to place the registered location into the
10 signaling stream were available, BellSouth would still be out its switched access
11 revenue. Moreover, there is no requirement and no standard for the service
12 address information put into the 911 system by a VoIP provider to flow through
13 to the telecommunications carriers that carry (non-911) calls.

14 **Q. FINALLY, MS. TIPTON CONCLUDES HER TESTIMONY OF THESE**
15 **THREE ISSUES BY ADDRESSING PSTN/IP/PSTN TRAFFIC. (TIPTON**
16 **DIRECT, PP. 31-32.) DO YOU AGREE WITH HER POSITION?**

17 A. No. As I pointed out in my Direct Testimony at pages 26-27, PSTN/IP/PSTN is
18 not the IP-in-the-middle traffic that was identified by the FCC in the AT&T
19 Declaratory Ruling.⁷ Ms. Tipton overlooked the agreed-upon definition in the
20 ICA that clearly indicates that **"PSTN/IP/PSTN Traffic** is a subset of IP

1 Enabled Services that is not IP/PSTN Traffic and that features enhanced services
2 that provide customers a capability for generating, acquiring, storing,
3 transforming, processing, retrieving, utilizing, or making available information.”
4 In the *AT&T Declaratory Ruling*, the FCC found that this traffic is information
5 services traffic and therefore exempt from the FCC’s access charge regime, as
6 set forth in my Direct Testimony.

7 **Q. WHAT IS YOUR RECOMMENDATION TO THE COMMISSION ON**
8 **THIS ISSUE?**

9 A. The Commission should adopt MCI’s proposed VOIP language.

10 **D. TRANSIT ISSUES**

11 **ISSUE 25**

12
13 *Should a transiting party have to pay the terminating party intercarrier compensation*
14 *if the transiting party is unable to provide the terminating party the records necessary*
15 *for the terminating party to bill the originating third party? (Attachment 3, Section*
16 *7.10.1)*

17 **ISSUE 26**

18
19 *Is BellSouth obligated to act as a transit carrier? If so, what is the appropriate transit*
20 *rate? (Attachment 3, Section 7.10.2)*

21 **Q. DO YOU HAVE A RESPONSE TO MS. DECKER’S TESTIMONY AT**
22 **PAGES 14-17 ON ISSUE 25?**

⁷ *In the Matter of Petition for Declaratory Ruling that AT&T’s Phone-to-Phone IP Telephony Services are exempt from Access Charges*, Order in WC Docket No. 02-361, released April 21, 2004 (FCC 04-97), ¶ 1.

1 A. Yes. Ms. Decker is correct that BellSouth cannot be held liable for not passing
2 on information that it did not receive or received inaccurately. Issue 25,
3 however, concerns whether BellSouth can simply claim that X number of
4 minutes were transit minutes, not pay for those minutes based on that claim, and
5 not provide any evidence as to who the originating carrier was or what carrier
6 handed the call to BellSouth. Only if BellSouth provides this kind of
7 information can MCI reasonably suppress billing BellSouth or issue a credit to
8 BellSouth for the minutes billed. Without that information, MCI only knows
9 that the call came to MCI on a BellSouth trunk group and MCI has no choice but
10 to bill BellSouth and expect payment under the terms and conditions of this ICA
11 or MCI's state or interstate tariffs. Of course MCI will work out issues of
12 routing errors or deliberate misrouting by third-party carriers with BellSouth as
13 we have worked issues such as those from the lowest levels of the organization
14 to the highest. BellSouth cannot be allowed *carte blanche* discretion to not pay
15 reciprocal compensation based solely upon an unsubstantiated claim that the
16 traffic was generated by a third party.

17 **Q. HOW DOES MS. TIPTON ADDRESS ISSUE 26?**

18 A. Ms Tipton addresses BellSouth's position that BellSouth is not required to
19 provide transit functions under Section 251 of the Act. I disagree with her
20 testimony in several respects. Ms. Tipton asserts that because, in its *Virginia*
21 *Arbitration Order*, the Wireline Competition Bureau ("WCB") declined to

1 impose a Section 251(c)(2) duty to provide transit at TELRIC rates, BellSouth
2 cannot be forced to provide such rates by this Commission. That is not the case.

3 First, the WCB declined to make findings on whether an ILEC has a
4 Section 251(c)(2) duty to provide transit service because Verizon (the ILEC at
5 issue) *had already agreed to include transit service in the interconnection*
6 *agreements that were being arbitrated.*⁸ Therefore, although Verizon continued
7 to contend that it was providing transit *voluntarily*, rather than under any
8 obligation under the Act, the WCB had no need to reach this legal issue, because
9 it was not a dispute in the arbitration. Given that the full FCC itself had not
10 addressed the question, the WCB stated that it “decline[d]” to rule on the issue
11 “for the first time” under “delegated authority” in its capacity as arbitrator in
12 place of the Virginia Corporation Commission, as Verizon’s agreement to
13 include transiting in the interconnection agreements made it unnecessary for the
14 WCB to do so.⁹

15 Similarly, the WCB’s statements on TELRIC pricing for transit do not
16 apply here. Verizon *had already agreed to provide transit at TELRIC rates up*
17 *to the level of one DS-1 of traffic exchanged with another carrier.*¹⁰

18 MCI routinely negotiates with and establishes direct interconnection
19 trunking with third party carriers when exchanged traffic reaches the DS-1 level,

⁸ *Virginia Arbitration Order* at ¶ 107.

⁹ *Id.* at ¶ 117.

¹⁰ *Id.* at ¶ 107.

1 both in order to avoid tandem expenses that would otherwise be incurred by
2 MCI and the third party carrier, and to alleviate the risk of tandem exhaust for
3 BellSouth. In other words, it is uneconomic for all parties involved to use transit
4 services at the DS-1 level and beyond, as opposed to establishing direct trunking
5 to carry the traffic. Thus, the TELRIC rate issue before the WCB in the *Virginia*
6 *Arbitration Order* (TELRIC rates for transit at the DS-1 level and above) is *not*
7 the TELRIC rate issue before this Commission (TELRIC rates for transit at
8 levels below the DS-1 level). As above, the WCB simply had no occasion to
9 address the question at issue here – application of TELRIC rates to transit traffic
10 below the DS-1 level – because it was not in dispute before the WCB given that
11 Verizon had (appropriately) agreed that TELRIC rates should apply in that
12 context.

13 Even if the WCB's determination in the *Virginia Arbitration Order* stood
14 for the proposition that the FCC has not ruled that transit traffic is not required
15 to be provided at TELRIC rates (which I do not concede), the Commission still
16 can impose reasonable rates in the event that the parties cannot agree to such
17 rates. Such rates can be forward-looking rates and should include a reasonable
18 profit. TELRIC rates fit that description perfectly, and the Commission should
19 continue to require the provision of transit services at TELRIC simply because
20 BellSouth has provided no evidence that its proposed non-TELRIC intermediary
21 charge is just, reasonable or, for that matter, non-discriminatory.

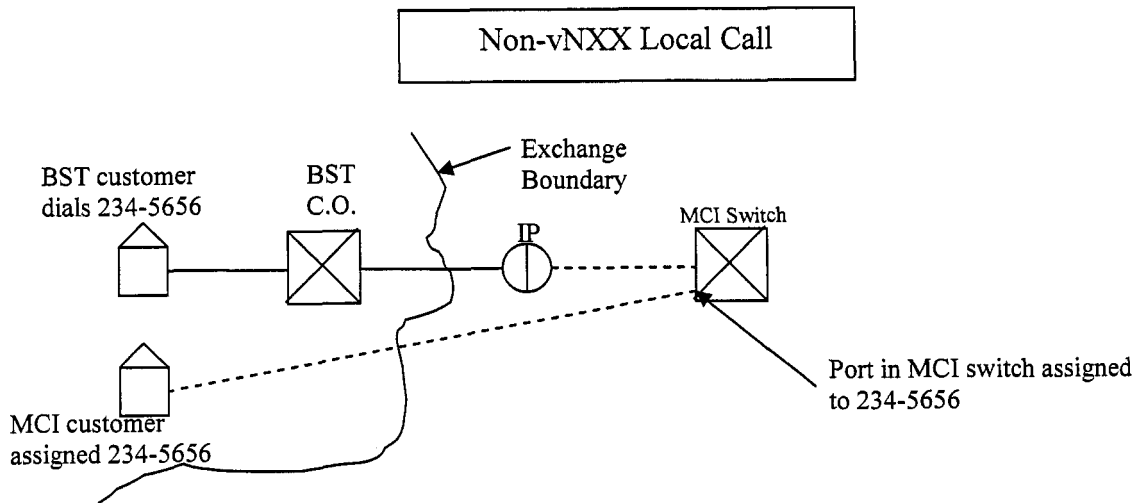
1 It costs BellSouth on a per-minute basis something a little less than its
2 TELRIC rate to provide this service to itself. Thus, when charging rates higher
3 than its TELRIC level, BellSouth by definition discriminates against others vis-
4 à-vis itself since the switching function is identical and imposes identical costs
5 on BellSouth. There is no question that transit service is an interconnection
6 function.¹¹ BellSouth is not permitted to provision transit service in a
7 discriminatory manner, and TELRIC rates allow BellSouth to fully recover its
8 costs and earn a reasonable profit.

9 **Q. AT PAGE 36, MS. TIPTON CLAIMS THAT THIS COMMISSION**
10 **ADOPTED BELLSOUTH'S POSITION ON THIS ISSUE IN ITS *FINAL***
11 ***ORDER REGARDING PETITION FOR ARBITRATION*, FPSC DOCKET**
12 **NO. 040130-TP, ORDER NO. PSC-05-0975-FOF-TP. SHE REQUESTS**
13 **THAT THE COMMISSION MOVE FORWARD WITH THIS NEW TIC**
14 **RATE. SHOULD THE COMMISSION DO SO?**

15 **A.** No. As I testified in my Direct Testimony, not only have almost all states
16 rejected proposals similar to that advocated by BellSouth, they also have been
17 backed by the federal courts when they have ordered transit to be provided and
18 to be provided at TELRIC rates. (*See*, Direct Testimony at page 43, lines 4-7
19 and footnote 31.)

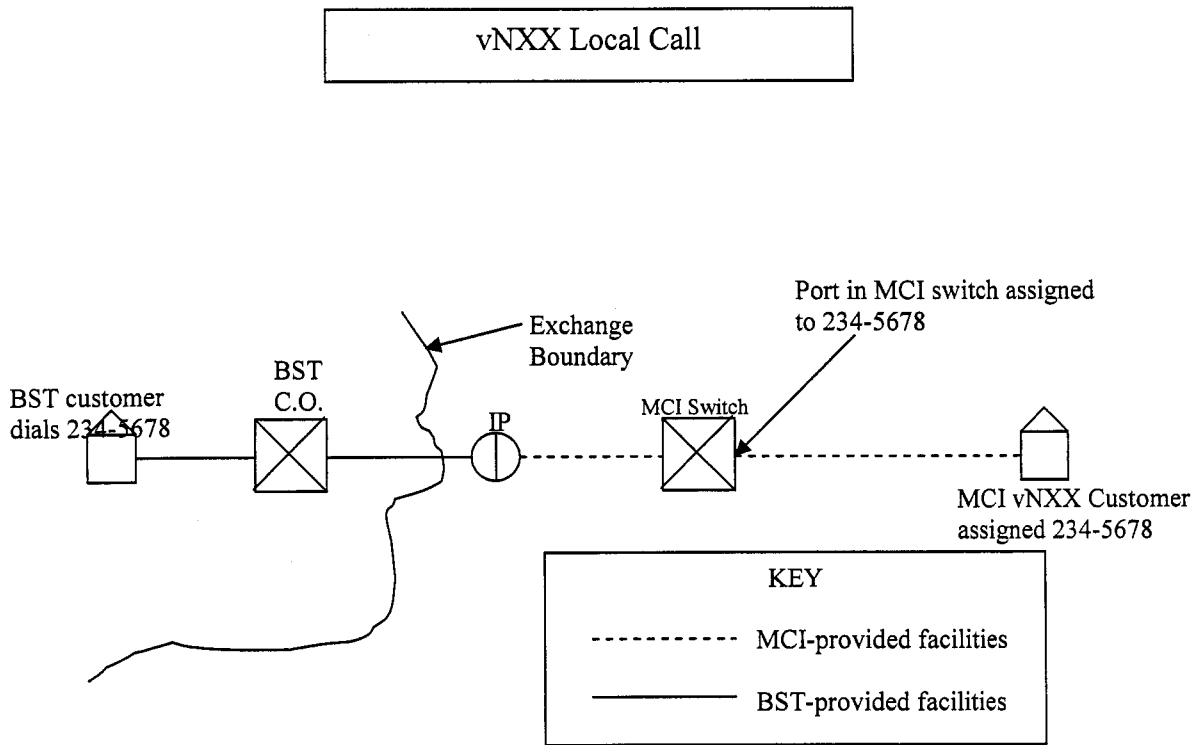
¹¹ See *First Report and Order* at ¶ 997.

Diagram Illustrating vNXX Routing Compared to Local non-vNXX Routing



KEY	
-----	MCI-provided facilities
————	BST-provided facilities

Diagram Illustrating vNXX Routing Compared to Local non-vNXX Routing



As is clear from the above-two diagrams, The BellSouth facilities involved in switching and transporting both the vNXX local call (bottom diagram) and the non-vNXX local call (top diagram) are identical. The switching function for the two calls is identical. There can be no difference in the costs to BellSouth for these two calls.