

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition by Metropolitan) DOCKET NO. 960757-TP
Fiber Systems of Florida, Inc.) ORDER NO. PSC-97-0235-FOF-TP
for Arbitration with BellSouth) ISSUED: February 27, 1997
Telecommunications, Inc.)
Concerning Interconnection)
Rates, Terms and Conditions)
Pursuant to the Federal)
Telecommunications Act of 1996.)
_____)

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman
SUSAN F. CLARK
J. TERRY DEASON
JOE GARCIA
DIANE K. KIESLING

FINAL ORDER DENYING MOTION FOR RECONSIDERATION
AND APPROVING ARBITRATED INTERCONNECTION AGREEMENT

BY THE COMMISSION:

On February 8, 1996, Metropolitan Fiber Systems of Florida, Inc., now known as MFS Communications Company, Inc. (MFS) began negotiations for interconnection with BellSouth Telecommunications, Inc. (BellSouth). On June 28, 1996, MFS filed a petition with us requesting arbitration with BellSouth under the Telecommunications Act of 1996 (the Act). Following negotiations, three substantive issues remained to be arbitrated: the appropriate rates, terms and conditions for billing, collection, and rating of information services traffic; the appropriate rate for unbundled loops; and the terms, conditions, and rates for physical collocation. To resolve these issues, a hearing was conducted on August 27 and 28, 1996.

On August 8, 1996, the Federal Communications Commission (FCC) released its First Report and Order in CC Docket No. 96-98 (FCC Order). The Order established the FCC's requirements for interconnection, unbundling and resale based on its interpretation of the Act. We appealed certain portions of the FCC Order, and requested a stay of the order pending that appeal. On October 15, 1996, the Eighth Circuit Court of Appeals granted a stay of the FCC's rules implementing Section 252(i) and the pricing provisions of the Act.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

On December 16, 1996, we issued Order No. PSC-96-1531-FOF-TP, resolving the issues in MFS' petition for arbitration with BellSouth. In Order No. PSC-96-1531-FOF-TP, we directed the parties to file an agreement implementing our arbitration decision within 30 days of the date this order was issued. We stated that if the agreement was consistent with our arbitration decision the agreement would be deemed approved without further Commission action. We further stated that if the agreement was not consistent with our decision, we would review it.

On December 31, 1996, MFS filed a Motion for Reconsideration. On January 6, 1997, BellSouth filed a Memorandum in Opposition to MFS' Motion for Reconsideration. Neither party filed a request for Oral Argument on the Motion for Reconsideration.

On January 17, 1997, BellSouth Telecommunications, Inc. (BellSouth) and MFS Communications Company, Inc. (MFS) filed an amendment to their negotiated partial interconnection agreement previously approved in Order No. PSC-96-1508-FOF-TP, issued December 12, 1996. The amended agreement contains the arbitrated issues.

We address herein the motion for reconsideration, the response to the motion, and whether the arbitrated agreement is consistent with our arbitration decision. We have reviewed the agreement because it contains interim rates for collocation that differ from the interim rates that we established in our arbitration decision.

Motion for Reconsideration and
Memorandum in Opposition

The proper standard of review for a motion for reconsideration is whether the motion identifies some material and relevant point of fact or law which was overlooked or which we failed to consider in rendering our order. See Diamond Cab Co. v. King, 146 So. 2d 889 (Fla. 1962); Pingree v. Quaintance, 394 So. 2d 161 (Fla. 1st DCA 1981). In a motion for reconsideration, it is not appropriate to reargue matters that we have already considered. See Sherwood v. State, 111 So. 2d 96 (Fla. 3rd DCA 1959), citing State ex. rel. Jaytex Realty Co. v. Green, 105 So. 2d 817 (Fla. 1st DCA 1958) (the petition should not be used to reargue matters already addressed in briefs and oral argument).

MFS

In its motion, MFS states several reasons why we should reconsider our decision in Order No. PSC-96-1531-FOF-TP and reopen the hearing in this docket.

First, MFS asserts that we must reconsider our decision because MFS' petition for arbitration was submitted prior to the Eighth Circuit's stay of the FCC's rules. MFS states that because the arbitration was conducted prior to the Eighth Circuit's stay, it participated in the proceedings under the belief that the FCC's rules were in effect. Thus, MFS states that it developed the record in accordance with the federal rules and did not address post-stay alternatives. MFS asserts that if the FCC Order had been stayed when MFS presented its case, it would have addressed alternatives to the federal rules.

MFS also asserts that application of the TSLRIC-based standard raises due process problems. MFS states that according to the FCC Order, if a TELRIC study was not available, we were required to use the FCC's interim proxy rates. MFS states that it believed this standard for establishing unbundled loop rates would remain in effect throughout the arbitration. MFS believed that BellSouth's TSLRIC study would, therefore, be rejected. MFS argues that it did not have notice that we might apply standards other than those set forth in the federal rules; therefore, MFS argues that it was denied a fair opportunity to be heard and to fully analyze and rebut much of the evidence presented in this case.

MFS next argues that we must reconsider our decision because we did not fully explain the basis for the prices we set for analog loops. MFS states that it presented uncontradicted evidence that 2-wire analog loops and 2-wire ISDN loops should be priced the same, yet we set the analog loop rate at \$17.00 and the ISDN loop rate at \$40.00. MFS also argues that we failed to explain the basis for 4-wire analog loop rates. MFS argues that we must explain why we decided that 2-wire loops should be priced differently and why 4-wire loops are priced 176% higher than the equivalent 2-wire loops.

MFS further argues that we must reconsider our decision not to order geographic deaveraging of the unbundled loop rates. MFS asserts that we misinterpreted the Act when we stated that the Act "permits, but does not require geographic deaveraging." See Order PSC-96-1531-FOF-TP at 11. MFS states that it presented uncontradicted evidence regarding deaveraging. MFS argues, therefore, that we should have applied MFS' deaveraging method in the arbitration.

Finally, MFS argues that we must reconsider our decision regarding collocation rates because our decision does not comply with the Act. MFS states that we improperly relied upon BellSouth's Collocation Handbook as the basis for interim collocation rates, when BellSouth had conceded that its Handbook

contained too many recurring fees. MFS further asserts that we have not specified how we intend to set permanent collocation rates. Thus, MFS asserts that we should open a docket to address BellSouth's contested cost study, to establish permanent collocation rates, and to determine whether the interim rates are subject to true up.

BellSouth

In its Memorandum in Opposition to MFS' Motion for Reconsideration, BellSouth argues that MFS' motion fails to identify any point of fact or law that we overlooked or failed to consider. BellSouth asserts that the only basis for MFS' motion is that the FCC Order upon which MFS relied in developing its case was not final at the time of the hearing. BellSouth argues, however, that both it and MFS were well aware of the status of the FCC's proceedings. BellSouth asserts that MFS simply chose a strategic approach in presenting its case which, in the end, was not successful.

BellSouth further asserts that we did address every point of fact and law identified in MFS' motion. In support, BellSouth notes our extensive discussion of its TSLRIC cost study in the Order. BellSouth adds that MFS has made only a cursory attempt to argue that any of our findings were based on insufficient evidence.

BellSouth also states that the relief which MFS has requested cannot be provided through a motion for reconsideration. BellSouth argues that MFS has not asked that we change our conclusions regarding loop rates, but that we open a generic docket to address permanent rates. As such, BellSouth argues that MFS is asking us to disregard our factual determination and begin consideration of rates again in a generic docket. BellSouth argues that such a request does not identify some previously unconsidered point of fact or law.

In addition, BellSouth argues that MFS has provided no basis for asking us to reconsider our decision on deaveraged loop rates and collocation rates. BellSouth states that we addressed both in the Order. Therein, we found that MFS' deaveraging methodology was inappropriate because it did not reflect actual cost differences, while its proposed collocation rates were not supported in the record.

Finding

Upon consideration of the arguments and the record, MFS' Motion for Reconsideration is hereby denied. Each of the points raised by MFS in its motion were either considered by us in making our determination in this case or are simply not a basis for reconsideration of the Order. Thus, MFS has identified no point of fact or law that we failed to consider in rendering our Order.

MFS requests that we reconsider our decision because MFS proceeded under the assumption that the FCC Order and rules would remain in effect. This is not a basis for reconsideration. We will not reevaluate our decision simply because MFS made a strategic decision to rely on the FCC's non-final Order. MFS' strategic approach is not a point of fact or law that would serve as the basis for reconsideration.

Furthermore, we heard and considered a significant amount of evidence regarding both the TSLRIC methodology and the TELRIC methodology. We made our decision to use a particular cost study based upon the evidence. Likewise, a substantial amount of evidence was presented regarding unbundled loop rates, 2-wire analog loop rates, collocation rates, and the geographic deaveraging of unbundled loop rates, upon which we made our determination. Thus, MFS has not identified anything that we failed to consider. MFS has only indicated that it could have presented more evidence on the issues had it recognized that the FCC Order and rules might not remain in effect. We cannot be said to have overlooked or failed to consider evidence that MFS never presented.

Finally, we find no basis for MFS' assertion that we have misinterpreted the Act. The law may be the subject of various interpretations, and MFS' disagreement with our interpretation of the Act does not raise a point of fact or law that we failed to consider.

Based on the foregoing, MFS' Motion for Reconsideration is denied for failure to identify any material and relevant point of fact or law that we failed to consider in making our determination on the issues.

Arbitrated Interconnection Agreement

By Order No. PSC-96-1531-FOF-TP, we directed BellSouth and MFS to submit a written agreement memorializing our arbitration decision within 30 days of the date the Order was issued. We

further stated that if the agreement was not consistent with our decision, we would review it. Section 252(e)(4) provides that the state commission must act to approve or reject the agreement adopted by arbitration within 30 days of its submission by the parties or it shall be deemed approved. BellSouth and MFS seek approval of their arbitrated interconnection agreement under the Telecommunications Act of 1996 (the Act).

We have thoroughly reviewed the BellSouth and MFS arbitrated agreement for compliance with the Act. We note that the Act provides that an agreement should only be rejected if it does not meet the requirements of section 251, including the regulations prescribed by the FCC pursuant to section 251, or the standards set forth in subsection (d) of section 252.

The arbitrated agreement will amend the negotiated partial interconnection agreement, which we approved by Order No. PSC-96-1508-FOF-TP. This arbitrated agreement provides the appropriate rates, terms and conditions for billing, collection, and rating of information services traffic; the appropriate rates for unbundled loops; and the terms, conditions, and rates for physical collocation. We have reviewed this agreement because Article VI - Section 6.2 of the agreement contains interim rates for collocation that differ from the interim rates we established in our arbitration decision.

In Order PSC-96-1531-FOF-TP, we directed the parties to use the rates provided in BellSouth's Telecommunications Handbook for Collocation in the interim until we set cost-based rates for physical collocation, or until the FCC approves a BellSouth tariff for physical collocation. BellSouth states that the rates in the agreement were derived by using an updated handbook as the starting point and then the parties negotiated the rates. Most of the rates listed in Attachment A, Exhibit F for collocation are the same or lower than the rates in the handbook; however, some of the rates are higher. Attachment B contains the rates from the previous and current collocation handbook. Attachments A and B are incorporated within this Order.

While the interim rates for collocation that the parties have established in their agreement are different than the interim rates we set in our arbitration decision, the parties' agreed interim rates are consistent with our intent. The proposed rates are interim rates that the parties will use only until we set permanent collocation rates based on adequate cost studies. Most of the rates are either lower or the same as the rates we established. We believe the rates are consistent with the Act and the FCC's Order regarding interim rates. The parties have agreed to the rates, and

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the rates do not appear to be discriminatory or contrary to the public interest. All other substantive terms and implementation matters in the agreement are consistent with our arbitration decision. Based on the foregoing, we hereby approve the arbitrated agreement between BellSouth and MFS.

Based on the foregoing, it is therefore

ORDERED by the Florida Public Service Commission that MFS Communications Company, Inc.'s Motion for Reconsideration is denied. It is further

ORDERED that the arbitrated interconnection agreement submitted by BellSouth Telecommunications, Inc. and MFS Communications Company, Inc., attached and incorporated herein as Attachment A, is approved. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 27th day of February, 1997.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

by: Kay Flynn
Chief, Bureau of Records

(S E A L)

BC

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.

ATTACHMENT A

ATTACHMENT

Mary Jo Poed
Attorney

Southern Bell

Legal Department
4300 Southern Bell Center
Atlanta, Georgia 30375
404 529-7208



January 17, 1997

Ms. Blanca S. Bayo
Director, Division of Records & Reporting
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399

Re: Docket No. 960757-TP

Dear Ms. Bayo:

Enclosed is an Amendment to the Interconnection Agreement between BellSouth Telecommunications, Inc. and MFS Communications Company, Inc. The Amendment is filed in response to the Commission's December 16, 1996 decision and order and is consistent with the provisions of that Order. Exhibit B of the Amendment incorporates a Physical Collocation Agreement negotiated by the Parties. This Collocation Agreement establishes interim rates for collocation until this Commission can set cost-based rates for physical collocation, or until the FCC approves a BellSouth tariff for physical collocation and allows MFS to contract directly with BellSouth-approved vendors for provisioning physical collocation facilities.

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FPSC-RECORDS/REPORTING

Pursuant to the terms of the December 16, 1996 Order, it is our understanding that this Amendment is deemed approved without further Commission action as it is consistent with the arbitration decision.

BELLSOUTH TELECOMMUNICATIONS, INC.

Mary Jo Peed

Mary Jo Peed (22)
Counsel

MFS COMMUNICATIONS CO., INC

Richard M. Rindler

Richard M. Rindler (22)
Counsel

AMENDMENT

TO

THE FLORIDA PARTIAL
INTERCONNECTION AGREEMENT BETWEEN
MFS COMMUNICATIONS CO., INC. AND
BELLSOUTH TELECOMMUNICATIONS, INC. DATED AUGUST 26, 1996

Pursuant to this Agreement (the "Amendment"), MFS Communications Co., Inc., ("MFS") and BellSouth Telecommunications, Inc. ("BellSouth") hereinafter referred to collectively as the "Parties" hereby agree to amend that certain Florida Partial Interconnection Agreement between the Parties dated August 26, 1996 ("Interconnection Agreement").

NOW THEREFORE, in consideration of the mutual provisions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, MFS and BellSouth hereby covenant and agree as follows:

1. The Parties agree that BellSouth will, upon request, provide and MFS will accept and pay for 2 wire and 4 wire analog voice grade loops and for 2 wire ISDN digital grade loops the rates set forth in Exhibit A attached to this Amendment which is incorporated herein by reference. The Parties further agree that BellSouth will, upon request, provide and MFS will accept and pay for 2 wire ADSL compatible loops, and 2 wire and 4 wire HDSL compatible loops the rates set forth in Exhibit A.
2. The Parties agree that the rates, terms and conditions as set forth Exhibit B which is incorporated herein by reference shall apply to physical collocation arrangements between BellSouth and MFS. The rates set forth in Exhibit B hereto will be interim until such time as the Florida Public Service Commission sets cost-based rates for physical collocation or until the Federal Communications Commission ("FCC") approves a BellSouth tariff for physical collocation, whichever event occurs first.
3. For the purposes of handling (rating and billing) of end user calls to Information Service Providers ("ISP"), the Parties agree that each will provide the other, upon request, call detail for the rating of ISP calls and will then return the rated call detail to the requesting party. The requesting party will then bill its end user for the ISP call. It is further agreed that neither party may deduct or retain for itself any portion of the amounts due an ISP unless that party has a written, properly executed contractual agreement with said ISP specifying the appropriate charge to be deducted or retained. To the extent that the providing party incurs any additional costs as a result of handling the rating and billing of ISP calls for the requesting party, nothing in this paragraph shall preclude the providing party from recovering these costs through incremental charges to the requesting party. The parties shall negotiate these charges and in the event of a failure to agree on such charges shall arbitrate these charges before the Commission. To the extent a party provides these services prior to the establishment of such charges, such services

shall be retroactively compensated at the set rate within 30 days of the establishment of such a rate.

4. The Parties agree that all of the other provisions of the Florida Interconnection Agreement, dated August 26, 1996, shall remain in full force and effect. Nothing in this Amendment shall in any way limit MFS' ability to select substitute rates pursuant to the terms of Section 24.0 of the Interconnection Agreement relating to Section 252(l) Obligations.

5. The Parties further agree that this Amendment memorializes the Florida Public Service Commission's arbitration decision in Docket No. 960757, and has been prepared for submission to the Commission to comply with that decision. The Parties agree that execution of this Amendment and its submission to the Commission is made without prejudice to the rights of either Party to challenge the Commission's arbitration decision under appropriate provisions of law.

6. The Parties further agree that either or both of the Parties is authorized to submit this Amendment to the Florida Public Service Commission or other regulatory body having jurisdiction over the subject matter of this Amendment, for approval subject to Section 252(e) of the federal Telecommunications Act of 1996.

IN WITNESS WHEREOF, the Parties hereto have caused this Amendment to be executed by their respective duly authorized representatives on the date indicated below.

MFS COMMUNICATIONS CO., INC.

BELLSOUTH TELECOMMUNICATIONS,
INC.

By: _____

By: _____

DATE: _____

DATE: _____

shall be retroactively compensated at the set rate within 30 days of the establishment of such a rate.

4. The Parties agree that all of the other provisions of the Florida Interconnection Agreement, dated August 26, 1996, shall remain in full force and effect. Nothing in this Amendment shall in any way limit MFS' ability to select substitute rates pursuant to the terms of Section 24.0 of the Interconnection Agreement relating to Section 252(l) Obligations.

5. The Parties further agree that this Amendment memorializes the Florida Public Service Commission's arbitration decision in Docket No. 960757, and has been prepared for submission to the Commission to comply with that decision. The Parties agree that execution of this Amendment and its submission to the Commission is made without prejudice to the rights of either Party to challenge the Commission's arbitration decision under appropriate provisions of law.

6. The Parties further agree that either or both of the Parties is authorized to submit this Amendment to the Florida Public Service Commission or other regulatory body having jurisdiction over the subject matter of this Amendment, for approval subject to Section 252(e) of the federal Telecommunications Act of 1996.

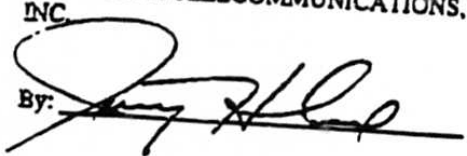
IN WITNESS WHEREOF, the Parties hereto have caused this Amendment to be executed by their respective duly authorized representatives on the date indicated below.

MFS COMMUNICATIONS CO., INC.

By: _____

DATE: _____

BELLSOUTH TELECOMMUNICATIONS, INC.

By: 

DATE: 01/17/97

shall be retroactively compensated at the set rate within 30 days of the establishment of such a rate.

4. The Parties agree that all of the other provisions of the Florida Interconnection Agreement, dated August 26, 1996, shall remain in full force and effect. Nothing in this Amendment shall in any way limit MFS' ability to select substitute rates pursuant to the terms of Section 24.0 of the Interconnection Agreement relating to Section 252(f) Obligations.

5. The Parties further agree that this Amendment memorializes the Florida Public Service Commission's arbitration decision in Docket No. 960757, and has been prepared for submission to the Commission to comply with that decision. The Parties agree that execution of this Amendment and its submission to the Commission is made without prejudice to the rights of either Party to challenge the Commission's arbitration decision under appropriate provisions of law.

6. The Parties further agree that either or both of the Parties is authorized to submit this Amendment to the Florida Public Service Commission or other regulatory body having jurisdiction over the subject matter of this Amendment, for approval subject to Section 252(e) of the federal Telecommunications Act of 1996.

IN WITNESS WHEREOF, the Parties have caused this Amendment to be executed by their respective duly authorized representatives on the date indicated below.

MFS COMMUNICATIONS CO., INC.

By: David A. Potts

DATE: 1/17/97

BEYLSOUTH TELECOMMUNICATIONS, INC.

By: _____

DATE: _____

EXHIBIT A

STATE: Florida

Rate Element	Monthly	Nonrecurring	
		First	Additional
Unbundled Exchange Access Loop			
2-Wire Analog	\$17.00	\$140.00	\$42.00
4-Wire Analog	\$30.00	\$141.00	\$43.00
2-Wire ADSL/HDSL compatible	\$17.00*	\$140.00*	\$42.00*
4-Wire HDSL compatible	\$30.00*	\$141.00*	\$43.00*
2-Wire ISDN Digital	\$40.00	\$306.00	\$283.00

* plus the costs of any additional conditioning required

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EXHIBIT "B"

**AMENDMENT TO THE
FLORIDA INTERCONNECTION AGREEMENT
DATED AUGUST 26, 1996**

BETWEEN

BELLSOUTH TELECOMMUNICATIONS, INC.

AND

MFS COMMUNICATIONS COMPANY, INC.

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**AMENDMENT TO THE FLORIDA INTERCONNECTION AGREEMENT
BETWEEN BELLSOUTH TELECOMMUNICATIONS, INC. AND
MFS COMMUNICATIONS CO., INC., DATED AUGUST 26, 1996**

Pursuant to this Amendment ("the Agreement"), MFS COMMUNICATIONS COMPANY, INC. ("MFS") and BELLSOUTH TELECOMMUNICATIONS, INC. ("BellSouth"), hereinafter referred to collectively as the "Parties," hereby agree to amend that certain Interconnection Agreement between the Parties dated August 26, 1996 ("Interconnection Agreement").

NOW THEREFORE, in consideration of the mutual agreements and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, BellSouth and MFS (the "Parties") hereby covenant and agree as follows:

ARTICLE I - PREMISES

1.1 Right to Use. Subject to this Agreement, BellSouth grants to MFS the right to use the premises described on Exhibit C of this Agreement ("Premises"), attached and incorporated herein, within real property at each site identified in that Exhibit. The Parties agree that Exhibit C of this Agreement may be amended from time to time during the term of this Agreement to include additional Premises.

1.2 Relocation. Notwithstanding Section 1.1, in the event that it is necessary for the Premises to be moved within the structure in which the Premises is located ("Physical Collocation Site") or to another BellSouth Physical Collocation Site, at MFS's option, MFS shall move its facilities to the new Premises. MFS shall be responsible for the preparation of the new Premises if such relocation arises from circumstances beyond the reasonable control of BellSouth, including condemnation or government order or regulation that makes the continued occupancy of the Premises or Physical Collocation Site impossible. Otherwise BellSouth shall be responsible for any such preparation and shall bear all costs associated with the relocation.

If MFS requests that the Premises be moved within the Physical Collocation Site or to another BellSouth Physical Collocation Site, BellSouth shall permit MFS to relocate the Premises, subject to

availability of space and associated requirements. MFS shall be responsible for all applicable charges associated with the move, including the reinstallation of its equipment and facilities and the preparation of the new Premises.

In either such event, the new Premises shall be deemed the "Premises" hereunder and the new Physical Collocation Site (where applicable) the "Physical Collocation Site."

1.3 The Premises. BellSouth agrees, at MFS's sole cost and expense as set forth herein, to prepare the Premises in accordance with working drawings and specifications as provided by MFS within its initial order for each Premises. The preparation shall be arranged by BellSouth in compliance with all applicable codes, ordinances, resolutions, regulations and laws. In return for MFS's agreement to make the payments required by Section 2.1 hereof, BellSouth agrees to pursue diligently the preparation of the Premises for use by MFS.

ARTICLE II - EFFECTIVENESS AND REGULATORY APPROVAL

2.1 Submission to State Commission. The Agreement is prepared as a component of the Interconnection Agreement under Sections 251 and 252 of the Telecommunications Act of 1996, between BellSouth and MFS Communications Company, Inc., and the Parties intend to submit the Agreement to the Florida Public Service Commission ("Commission") for approval under the provisions of 47 U.S.C. § 252. This Agreement is conditioned upon the approval of this Agreement. After execution of this Agreement, the Parties shall submit it and the applicable Interconnection Agreement to the Commission for approval, and shall defend the Agreement and support any reasonable effort to have this Agreement so approved, including the supplying of witnesses and testimony if a hearing is held.

2.2 Failure to Receive Approval. If this Agreement does not receive such unqualified approval, the Parties shall proceed pursuant to paragraph 36.1.5 of the Interconnection Agreement. Any agreement to modify shall not waive the right of either party to pursue any appeal of the ruling made by any reviewing regulatory commission.

2.3 Preparation Prior to Regulatory Approval. At the written election of MFS, BellSouth shall begin preparing the Premises for MFS prior to receiving the approval required by Section 2.1 hereof. Except as specified in the Interconnection Agreement, the evidence of such election shall be the completion of BellSouth's Application and Inquiry Process (including the remittance of an Application Fee), the delivery to BellSouth of a revised physical collocation Application/Firm Order form and the associated prepayment of nonrecurring fees. Should MFS require entrance facility placement, the nonrecurring fee shall be the Entrance Cable Installation Fee as stated in Exhibit B of this Agreement. Should MFS not require entrance facility placement, the nonrecurring fees shall be the Space Preparation Fee as stated in Exhibit B of this Agreement. Payment to BellSouth of the other charges due under this Agreement shall be as stated in Article IV, following. Upon such an election, this Agreement shall become effective but only insofar as to be applicable to Premises preparation. If the Agreement does not become fully effective as contemplated by this Article, MFS shall be entitled to a refund of only the space preparation and construction payments that it previously submitted to BellSouth, less actual costs demonstrably incurred. All such refunds shall be predicated on the removal by MFS of any equipment that MFS placed within the Premises or the Physical Collocation Site.

ARTICLE III - TERM

3.1 Commencement Date. This Agreement shall be a term agreement, beginning on the "Commencement Date" and ending on a date five years afterwards. The "Commencement Date" shall be the first day after MFS's equipment becomes operational as described in Section 3.2. At the end of the term and unless the Parties agree to an extension or a superseding arrangement, this Agreement shall automatically convert to a month-to-month Agreement.

3.2 Occupancy. Unless there are unusual circumstances, BellSouth will notify MFS that the Premises is ready for occupancy within five (5) days after BellSouth completes preparations described in Section 2.3 (Space Preparation). MFS must place operational telecommunications equipment in the

Premises and connect with BellSouth's network within one-hundred eighty (180) days after receipt of such notice; provided, however, that such one-hundred eighty day period shall not begin until regulatory approval is obtained under Article II and, further, that BellSouth may extend beyond the one-hundred eighty days upon a demonstration by MFS of best efforts to meet that deadline and circumstances beyond its reasonable control that prevented MFS from meeting that deadline. If MFS fails to do so, MFS's right to occupy the Premises is terminated on the sixtieth (60th) day after BellSouth provides to MFS written notice of such failure and MFS does not place operational telecommunications equipment in the Premises and connect with BellSouth's network by such sixtieth day. In any such event, MFS shall be liable in an amount equal to the unpaid balance of the preparation charges due. For purposes of this Section, MFS's telecommunications equipment is considered to be operational and interconnected when connected to BellSouth's network for the purpose of providing service.

ARTICLE IV - PREMISES CHARGES

4.1 Monthly Charges. Beginning on the date on which MFS first occupies the completed Premises, MFS shall pay to BellSouth monthly floor space fees as specified in Exhibit A of this Agreement. MFS shall pay to BellSouth any other applicable monthly fees specified in Exhibit A of this Agreement beginning on the Commencement Date.

4.2 Billing of Monthly Charges. Billing for Monthly Charges shall occur on or about the 25th day of each month, with payment due thirty (30) days from the bill date. BellSouth may change its billing date practices upon providing ninety (90) days written notice to MFS. Each BellSouth bill must identify the Premises location by CLLI and/or address and must separately identify any non-contiguous Premises within the Physical Collocation Site. Further, BellSouth must specify separately for each Premises CLLI and/or address and for any non-contiguous Premises each rate element individually along with the quantity purchased by MFS at that Premises and the individual rate charged for each element along with the dates for which such charges apply. MFS agrees to include complete and accurate information on its

completed collocation application form and Access Service Request ("ASR") form(s) in order to assist BellSouth in its efforts to produce accurate bills. BellSouth agrees to promptly correct any and all inaccuracies within bills that it submits to MFS. MFS shall not be liable for late payment fees when BellSouth bills submitted to it are incorrect. BellSouth shall extend the payment due date to thirty (30) days from the date on which both Parties have reconciled all amounts reflected on incorrect bills. Further, BellSouth commits to implement a billing accuracy improvement process in order to eliminate problems that persist for more than three (3) consecutive months.

4.3 Nonrecurring Charges. Payment to BellSouth of any additional nonrecurring charges not specified in 2.3, 4.1 or 4.2 preceding shall be due one month after MFS's equipment is installed at the Premises, is interconnected with BellSouth and is operational as described in Section 3.2 preceding. No nonrecurring charges other than those reflected in Exhibit B of this Agreement shall apply unless expressly accepted by MFS in writing prior to BellSouth proceeding with the related installation activities.

- a) MFS agrees to pay to BellSouth the Premises Application Fee designated in Exhibit B of this Agreement, per location, coincident with the submission to BellSouth of a completed Application inquiry document for that location.
- b) The one-time charge for preparing the Premises for use by MFS as well as all other one-time charges associated with MFS's request shall be exactly as stated in Exhibit B of this Agreement.
- c) BellSouth will contract for and perform the procurement, construction and preparation activities underlying the Monthly Fees and Nonrecurring Charges, using the same or consistent practices that are used by BellSouth for other construction and preparation work performed in the Physical Collocation Site and shall make every possible effort to obtain all necessary approvals and permits, where applicable, promptly. BellSouth will obtain more than one trade subcontractor submission to the extent available when the initial trade subcontractor bid, proposal or quotation associated with an ICB pursuant to

Exhibit B of this Agreement will exceed a cost to MFS of ten-thousand dollars (\$10,000.00) per one-hundred square foot area. It is understood and agreed that any such request for additional subcontractor submissions will likely add to the time necessary to provide physical collocation and, for that reason, MFS reserves the right to authorize BellSouth to forgo such additional bids but will only do so in writing. BellSouth will permit MFS to inspect supporting documentation for the Monthly Fees and Nonrecurring Charges pursuant to Section 31.0 of the Interconnection Agreement. This documentation will be in the form of internal BellSouth cost study data for activities performed and materials used by BellSouth and AIA document G702 for contract work and/or materials. Any dispute regarding such BellSouth charges will be subject to the dispute resolution provisions contained within Section 33.0 of the Interconnection Agreement. Notwithstanding the above, MFS may directly contract with any supplier, vendor, subcontractor, or contractor that BellSouth approves for such work (including but not limited to the procurement and installation of cages, equipment and power plant facilities from the Premises to BellSouth's power distribution panel, e.g., BellSouth's Breaker Distribution Fuse Bay) and may, at MFS's election, be solely responsible for any and all payments due to such supplier, vendor, subcontractor or contractor for such procurement, construction and preparation activities. Where MFS exercises this right, MFS shall pay to BellSouth only those amounts associated with labor hours of BellSouth personnel necessary for such BellSouth personnel to observe and approve such work at the Premises within the Physical Collocation Site.

d) Nonrecurring Charges associated with the point-of-termination bay shall be applied to MFS by BellSouth only where MFS requests in writing within its completed collocation application form that BellSouth supply such point-of-termination bay. Otherwise, MFS shall be responsible for purchasing such point-of-termination bays and for arranging their

installation by a vendor, subcontractor or contractor approved by BellSouth to perform such work. Upon such election, MFS agrees to supply to BellSouth a point-of-termination bay which meets BellSouth's technical specifications as applied to BellSouth's own network.

- e) MFS's failure to pay to BellSouth as specified in this Agreement, excluding bona fide billing disputes, constitutes a material breach of this Agreement. Under such circumstances, within sixty (60) days following its receipt of BellSouth's written notification, MFS must either bring its billing account(s) associated with that Premises current or must vacate the Premises.

4.4 Preparation. BellSouth will begin preparation on execution of this Agreement and upon receipt of written notice from MFS as described in Section 2.3.

4.5 Pre-Preparation Access. BellSouth shall permit MFS to have access to the Premises for the purpose of inspection once physical collocation site preparation activities have begun. MFS agrees to limit the number of such inspections to one per Premises except where such inspection exposes a non-conformance with MFS's requirements as stated in its initial request or this Agreement in which case BellSouth shall be obligated to promptly correct the nonconformance at its expense and to permit MFS one additional inspection in order for BellSouth to demonstrate full conformance.

4.6 Breach Prior to Commencement Date. If MFS cancels its request for collocation at a Premise after BellSouth has begun preparation of the Premises then, in addition to any other remedies that BellSouth might have, MFS shall be liable in the amount equal to the non-recoverable costs. Non-recoverable costs include the cost of equipment and material that have no other use and that were ordered, provided or used; subcontractor charges paid by BellSouth for work performed exclusively on behalf of MFS; the non-recoverable cost of installation and removal of facilities and equipment for the exclusive use of MFS, including the costs of equipment and material ordered, provided and used; labor for work done on behalf of MFS for preparation; transportation and any other associated costs directly

attributable to MFS's written request and that will not benefit BellSouth, other Interconnectors or any other party. BellSouth shall provide MFS with a detailed invoice showing the costs it incurred associated with preparation and shall demonstrate to MFS that neither it nor any other party will benefit from such work, equipment or materials covered by such costs. In no event shall MFS be liable for costs exceeding fifty-percent of the total nonrecurring amounts reflected on Exhibit B of this Agreement.

4.7 Space Preparation Fee True-Up. For all work performed by BellSouth and by vendors, subcontractors and contractors hired by BellSouth in order to prepare the Premises pursuant to MFS's written request and pursuant to 4.3 preceding, BellSouth shall within ninety (90) days of the completion of the Premises preparation work perform a true-up of all BellSouth, vendor, subcontractor and contractor bill amounts associated with any ICB pricing performed pursuant to Exhibit B of this Agreement. If the resulting total cost is less than that paid by MFS, then BellSouth shall within thirty (30) days refund to MFS the difference between the actual cost and the payment that MFS had previously submitted to BellSouth. Alternatively, if the total cost exceeds that previously paid by MFS, then MFS shall submit payment to BellSouth for the difference within thirty (30) days for its receipt of the bill for such an amount. Nothing in either case releases BellSouth from its obligation to make best efforts to achieve the lowest-available cost for the preparation work that it proves is necessary or releases BellSouth from its obligation to allow MFS to inspect such documents pursuant to 4.3 preceding.

ARTICLE V - INTERCONNECTION CHARGES

5.1 Charges for interconnection and collocation shall be set forth in Exhibits A and B of this Agreement.

5.2 BellSouth and MFS agree that the price of collocation accommodations should be based on the economic costs of providing collocation accommodations as required in Section 252(d)(1) of the Telecommunications Act. The prices in this Agreement are interim until such time as the Commission determines permanent prices. The Parties agree to implement the permanent prices after the issuance of

a final nonappealable order from the Commission.

ARTICLE VI - DEMARCATION POINT

6.1 Cable Entrances. MFS shall use a dielectric fiber optic cable as a transmission medium to the Premises, or other transmission media as it determines is necessary in order to provide services for which it has legal and regulatory authority. MFS shall be permitted at least two (2) cable entrance routes into the Premises whenever two entrance routes are used by BellSouth at that Physical Collocation Site. MFS-provided riser cable, which will be connected to the entrance fibers, must be fire retardant.

6.2 Demarcation Point. BellSouth and MFS shall designate the point(s) of interconnection within the Physical Collocation Site as the point(s) of physical demarcation between MFS's network and BellSouth's network, with each being responsible for maintenance and other ownership obligations and responsibilities on its side of that demarcation point. BellSouth and MFS anticipate that the demarcation point will be within the point-of-termination bay which MFS may elect to provide and install pursuant to 4.3 preceding. Where the point of termination bay is not the Demarcation Point, the point(s) of interconnection shall be specified in Exhibit D of this Agreement.

ARTICLE VII - USE OF PREMISES

7.1 Nature of Use. The Premises are to be used by MFS for purposes of locating equipment and facilities within BellSouth's Physical Collocation Sites to connect with BellSouth services or facilities and other interconnectors. BellSouth shall permit MFS to place, maintain and operate on Premises any equipment that MFS is authorized by BellSouth or by Federal or State regulators to place, maintain and operate in collocation or interconnection space and that is necessary for MFS to provide any and all services which MFS has legal authority to provide as long as the equipment meets the same standards that BellSouth applies without exception to its own equipment and locations used to provide telecommunications services. Consistent with the nature of the Premises and the environment of the

Premises. MFS shall not use the Premises for retail or sales purposes. No signs or marking of any kind by MFS shall be permitted on the Premises or on the grounds surrounding the Premises.

7.2 Administrative Uses. MFS may use the Premises for placement of equipment and facilities only. Each of MFS's employees, agents and contractors shall be permitted access to the Premises at all reasonable times, provided that MFS's employees, agents and contractors comply with BellSouth's policies and practices pertaining to fire, safety and security, and that each such individual openly wears a picture identification badge issued by MFS reflecting the individual's name and company name/logo. MFS agrees to comply promptly with all laws, ordinances and regulations affecting the use of the Premises. Upon the expiration of this Agreement, MFS shall surrender the Premises to BellSouth in the same condition as when first occupied by MFS except for ordinary wear and tear.

7.3 Threat to Network or Facilities. MFS equipment or operating practices representing a significant demonstrable technical threat to BellSouth's network or facilities, including the Premises, are strictly prohibited.

7.4 Interference or Impairment. Notwithstanding any other provision hereof, the characteristics and methods of operation of any equipment or facilities placed in the Premises shall not interfere with or impair service over any facilities of BellSouth or the facilities of any other person or entity located in the Physical Collocation Site; create hazards for or cause damage to those facilities, the Premises, or the Physical Collocation Site; impair the privacy of any communications carried in, from, or through the Physical Collocation Site; or create hazards or cause physical harm to any individual or the public. Any of the foregoing events would be a material breach of this Agreement if, after BellSouth's submission to MFS of written notice of such interference or impairment, MFS did not promptly work to eliminate the interference or impairment.

7.5 Interconnection to Others. MFS may directly connect to other Interconnectors' facilities within the Physical Collocation Site via BellSouth-provided connections. BellSouth agrees to provide to MFS, upon its receipt of MFS's written request, any facilities necessary for such interconnection wherever

such facilities exist or can be made available and BellSouth shall provide any such facilities pursuant to 4.3 preceding and Exhibits A and B of this Agreement. Further, BellSouth agrees to provide to MFS, upon its receipt of MFS's written request, service interconnection at rates specified in Exhibits A and B of this Agreement, and BellSouth will facilitate interconnection of MFS's collocation equipment to other services offered in BellSouth's tariffs or other Agreements entered into between the Parties hereof (e.g., SMARTRing Service). For the purposes of Interconnection to other telecommunications carriers who are collocated within the same Physical Collocation site as MFS, where the other carrier's agreement regarding collocation differs from this Agreement, the less restrictive terms and conditions relating to such direct interconnection and the lower charges for such direct interconnection ("cross connections") in the two agreements shall apply for all such direct interconnections between the other telecommunications carrier and MFS. MFS agrees to continue to pay to BellSouth all applicable Monthly Charges for space, power and for all other interconnection circuits at the Premises.

7.6 Personality and its Removal. Subject to the Article, MFS may place or install in or on the Premises such fixtures and equipment as it shall deem desirable for the conduct of business. Personal property, fixtures and equipment placed by MFS in the Premises shall not become a part of the Premises, even if nailed, screwed or otherwise fastened to the Premises, but shall retain their status as personality and may be removed by MFS at any time. Any damage caused to the Premises by the removal of such property shall be promptly repaired by MFS at its expense.

7.7 Alterations In no case shall MFS or any person purporting to be acting through or on behalf of MFS make any rearrangement, modification, improvement, addition, repair, or other alteration to the Premises or the Physical Collocation Site without the advance written permission and direction of BellSouth. BellSouth shall make best efforts to honor any reasonable request for a modification, improvement, addition, repair, or other alteration proposed by MFS, provided that BellSouth shall have the right to, for reasons that it specifies in writing, reject or modify any such request except as required by state or federal regulators. The cost of any such specialized alterations shall be paid by MFS in

accordance with the terms and conditions identified in Article IV herein.

ARTICLE VIII - STANDARDS

8 Minimum Standards. This Agreement and the physical collocation provided hereunder is made available subject to and in accordance with the (i) Bellcore Network Equipment Premises System (NEBS) Generic Requirements (GR-63-CORE and GR-1089-CORE), as may be amended at any time and from time to time, and any successor documents, except to the extent that BellSouth deviates from any such requirements for its equipment and the facilities and services that it uses and provides or to the extent that BellSouth allows other Interconnectors to deviate from any such requirements; and, (ii) any statutory and/or regulatory requirements in effect at the execution of this Agreement or that subsequently become effective and then when effective. MFS shall strictly observe and abide by each. BellSouth shall publish and provide to MFS its Reference Handbook for Collocation dated August, 1996 to provide MFS with guidelines and BellSouth's standard operating practices for collocation. BellSouth agrees that the material terms and conditions of collocation are not contained in such a technical publication, nor can BellSouth change the terms and conditions of this Agreement by changing that technical publication; however, any revision made to address situations potentially harmful to BellSouth's network or the Premises or Physical Collocation Site, or to comply with statutory and/or regulatory requirements shall become effective immediately and MFS agrees to take steps to comply with such revisions immediately upon its receipt of BellSouth's written notification of the change.

ARTICLE IX - RESPONSIBILITIES OF MFS AND BELL SOUTH

9.1 Contact Number. MFS and BellSouth are responsible for providing to each other personnel contact numbers for their respective technical personnel who are readily accessible 24 hours a day, 7 days a week, 365 days a year.

9.2 Trouble Status Reports. MFS is responsible for promptly providing trouble report status when requested by BellSouth. Likewise, BellSouth is responsible for promptly providing trouble report status

when requested by MFS.

9.3 Cable Extension. MFS is responsible for bringing its cable to entrance manhole(s) or other appropriate sites designated by BellSouth (e.g., utility poles or cross-connect cabinets), and for leaving sufficient cable length in order for BellSouth to fully extend MFS-provided cable to the Premises. In the alternative, at MFS's option, BellSouth shall provide interconnection facilities from an MFS-designated location (e.g., MFS's Node) to the Premises within the Physical Collocation Site, i.e., "Service Interconnection," and rates for such interconnection arrangements are the same as applicable elements set forth in Exhibits A and B of this Agreement. Nothing in this paragraph shall preclude MFS from obtaining Service Interconnection from BellSouth at any Premises within a Physical Collocation Site for primary or redundant interconnection.

9.4 Regeneration. Regeneration of either DS1 and DS3 signal levels may be provided at MFS's option by MFS, or by BellSouth under its then-standard custom-work order process, except that BellSouth must obtain from MFS a written request for BellSouth to perform such work and a written acceptance of all charges that BellSouth intends to apply to MFS for such regeneration facilities. Otherwise, BellSouth is not entitled to payment for such facilities and MFS is not obligated to accept such arrangements.

9.5 Removal. MFS is responsible for removing any equipment, property or other items that it brings into the Premises or any other part of the Physical Collocation Site. If MFS fails to remove any equipment, property, or other items from the Premises or Physical Collocation Site within thirty (30) days after discontinuance of use, BellSouth may perform the removal and may charge MFS for any materials used in any such removal, and the time spent on such removal at the then-applicable hourly rate for administrative work pursuant to Exhibit B of this Agreement.

9.6 MFS's Equipment and Facilities. MFS is solely responsible for the design, engineering, testing, performance, and maintenance of the equipment and facilities used by MFS in the Premises. MFS will be responsible for servicing, supplying, repairing, installing and maintaining the following facilities within the Premises:

- (a) its cable(s);
- (b) its equipment;
- (c) required point of termination cross connects;
- (d) point of termination maintenance, including replacement fuses and circuit breaker

restoration, to the extent that such fuses and circuit breakers are not controlled by BellSouth and only if and as required; and

- (e) the connection cable and associated equipment which may be required within the Premises to the point(s) of interconnection. BellSouth does not assume any such responsibility unless contracted to perform such work on behalf of MFS.

9.7 Verbal Notifications Required. MFS is responsible for immediate verbal notification to BellSouth of significant outages or operations problems which could impact or degrade BellSouth's network, switches, or services, and for providing an estimated clearing time for restoration. In addition, written notification must be provided within twenty-four (24) hours. Likewise, BellSouth is responsible for providing immediate verbal notification to MFS of problems with BellSouth's network or operations which could impact or degrade MFS's network, switches, or services, and provide an estimated clearing time for restoration. Further, BellSouth shall provide written notification to MFS within the same twenty-four (24) hour interval. For the purposes of this paragraph, written notification may be given by electronic mail so long as the notifying party provide the required verbal notification to the other.

9.8 Service Coordination. MFS is responsible for coordinating with BellSouth to ensure that services are installed in accordance with the service request. Likewise, BellSouth is obligated to coordinate with MFS to ensure the services are installed in accordance with the service request and fulfill the service request in a timely, effective manner.

9.9 Testing. MFS is responsible for testing, to identify and clear a trouble when the trouble has been isolated to an MFS-provided facility or piece of equipment. If BellSouth testing is also required, it will be promptly provided as part of its obligation to provide to MFS network interconnection.

ARTICLE X - QUIET ENJOYMENT

Subject to the other provisions hereof, BellSouth covenants that it has full right and authority to permit the use of the Premises by MFS and that, so long as MFS performs all of its obligations herein, MFS may peaceably and quietly enjoy the Premises during the term hereof.

ARTICLE XI - CASUALTY LOSS

- 11.1 Damage to Premises. If the Premises are damaged by fire or other casualty, and
- (i) the Premises are not rendered untenable in whole or in part, BellSouth shall repair the same at its expense (as hereafter limited) and the Monthly Charges shall not be abated, or
 - (ii) the Premises are rendered untenable in whole or in part and such damage or destruction can be repaired within ninety (90) days, BellSouth has the option to repair the Premises at its expense (as hereafter limited) and all Monthly Charges shall be proportionately abated while MFS was deprived of the use and the interconnection. If the Premises cannot be repaired within ninety (90) days, or BellSouth opts not to rebuild, then this Agreement shall (upon notice to MFS within thirty (30) days following such occurrence) terminate as of the date of such damage. However, BellSouth must provide to MFS comparable substitute interconnection and collocation arrangements at another mutually-agreeable Physical Collocation Site without any charges assessed against MFS when BellSouth is reimbursed by another party for such damage. In instances where BellSouth is not reimbursed by another party for such damage, MFS shall bear all costs associated with the new Premises.

Any obligation on the part of BellSouth to repair the Premises shall be limited to repairing, restoring and rebuilding the Premises as originally prepared for MFS and shall not include any obligation to repair,

restore, rebuild or replace any alterations or improvements made by MFS or by BellSouth on request of MFS; or any fixture or other equipment installed in the Premises by MFS or by BellSouth on request of MFS.

11.2 Damage to Premises. In the event that the Premises shall be so damaged by fire or other casualty that closing, demolition or substantial alteration or reconstruction thereof shall, in BellSouth's opinion, be advisable, then, notwithstanding that the Premises may be unaffected thereby, BellSouth, at its option, may terminate this Agreement by giving MFS ten (10) days prior written notice within thirty (30) days following the date of such occurrence.

ARTICLE XII - THIRD PARTIES OCCUPYING PREMISES

MFS acknowledges and understands that BellSouth may provide space in or access to the Physical Collocation Site to other persons or entities ("Others"), which may include competitors of MFS; that such space may be close to the Premises, possibly including space adjacent to the Premises and/or with access to the outside of the Premises; and that any in-place optional cage around the Premises is a permeable boundary that will not prevent the Others from observing or even damaging MFS's equipment and facilities. In addition to any other applicable limitation, BellSouth shall have no liability with respect to any action or omission by any Other, except in instances involving negligence or willful actions by BellSouth or its agents or employees. MFS shall save and hold BellSouth harmless from any and all costs, expenses, and claims associated with any such acts or omission by any Other.

ARTICLE XIII - SERVICES, UTILITIES, MAINTENANCE AND FACILITIES

13.1 Operating Services. BellSouth, at its sole cost and expense, shall maintain for the Physical Collocation Site customary Premises services, utilities (excluding telephone facilities), including janitor and, where applicable, elevator services, 24 hours a day, 365 days a year. MFS shall be permitted to have a single-line business telephone service for the Premises subject to applicable BellSouth tariffs.

13.2 Utilities. BellSouth will provide negative DC and AC power, back-up power, heat, air conditioning and other environmental support necessary for MFS's equipment, in the same manner that it provides such support items for its own equipment within that Premises. Applicable rates shall be set forth in Exhibits A and B of this Agreement.

13.3 Maintenance. BellSouth shall maintain the exterior of the Premises and grounds, and all entrances, stairways, passageways, and exits used by MFS to access the Premises.

13.4 Legal Requirements. BellSouth agrees to make, at its expense, all changes and additions to the Premises required by laws, ordinances, orders or regulations of any municipality, county, state or other public authority including the furnishing of required sanitary facilities and fire protection facilities except where required changes are solely a result of the initiation of work required to prepare the facility for physical collocation. In this instance, such costs will be shared among all current and future MFSs based on the amount of physical collocation space used by MFS. In any instances where such work is performed as the result of the arrangements of another MFS(s) where such work is not necessitated by MFS, MFS is not a party to such costs and therefore shall not pay any such amount.

ARTICLE XIV - CONFLICT OF INTEREST

MFS represents that no employee or agent of BellSouth has been or will be employed, retained, paid a fee, or otherwise has received or will receive any personal compensation or consideration from MFS, or any of MFS's employees or agents in connection with the arranging or negotiation of this Agreement or associated documents. BellSouth represents that no employee or agent of MFS has been or will be employed, retained, paid a fee, or otherwise has received or will receive any personal compensation or consideration from BellSouth, or any of BellSouth's employees or agents in connection with the arranging or negotiation of this Agreement or associated documents.

ARTICLE XV - NOTICES

In addition to the Notice requirements set forth in Section 34.0 of the Interconnection Agreement, the Parties agree that any notice regarding collocation of any matter contained within this Agreement shall also be provided as follows:

If to BellSouth:

If to MFS:

Robert W. McCausland
MFS Communications Company, Inc.
One Tower Lane, Suite 1600
Oakbrook Terrace, IL 60181

Either party hereto may change its address by written notice given to the other party hereto in the manner set forth above.

ARTICLE XVI - INSURANCE

In addition to the requirements of Section 20.13 of the Interconnection Agreement, MFS agrees to maintain, at MFS's expense during the entire time that MFS and its equipment occupies Premises, insurance as specified in this section: (i) Commercial General Liability Insurance in an amount of not less than ten million dollars (\$10,000,000.00) or a combination of Commercial General Liability and Excess/Umbrella coverage totaling not less than ten million dollars (\$10,000,000.00). (ii) Statutory Workers Compensation coverage and Employers' Liability coverage in the amount of one hundred thousand dollars (\$100,000.00) each accident, one hundred thousand dollars (\$100,000.00) each employee by disease, and five-hundred thousand dollars (\$500,000.00) policy limit by disease. (iii) Each policy shall be underwritten by insurance companies licensed to do business in the state where the

Premises is located and having a BEST Insurance Rating of at least B++X (or B++10). BellSouth shall be named as a loss payee on all applicable policies as specified herein. (iv) MFS may elect to purchase business interruption and contingent business interruption insurance, having been advised that BellSouth assumes no liability under this Agreement for loss of profit or revenues should an interruption of service occur, except as specified in 14.1 preceding. (v) All policies purchased by MFS shall be deemed to be primary and not contributing to or in excess of any similar coverage purchased by BellSouth. All insurance must be in effect on or before the date that equipment is delivered to BellSouth's Physical Collocation Site and shall remain in effect for the term of this Agreement or until all MFS's property has been removed from the BellSouth Physical Collocation Site, whichever is longer. (vi) MFS shall furnish to BellSouth certificates of insurance which evidence the minimum levels of insurance set forth herein and the naming of BellSouth as loss payee. Certification must arrive a minimum of ten (10) business days prior to equipment delivery to BellSouth's Physical Collocation Site. Failure to meet this interval may result in equipment installation delays. Certification should be forwarded to: BellSouth Telecommunications, Inc., Attention: Insurance Coordinator, South S9A1, 3535 Colonnade Parkway, Birmingham, AL 35243. (vii) BellSouth may, at its sole discretion, permit MFS to satisfy all or part of the coverages specified herein through self-insurance. (viii) MFS shall arrange for BellSouth to receive at least thirty (30) days advance written notice from MFS's insurance companies of cancellation and shall notify BellSouth in writing to achieve its approval should MFS later elect to self-insure.

ARTICLE XVII - BELLSOUTH'S RIGHT OF ACCESS

BellSouth, its agents, employees, and other BellSouth-authorized persons shall have the right to enter the Premises at any reasonable time to examine its conditions, make repairs required to be made by BellSouth hereunder, and for any other purpose determined to be necessary by BellSouth in complying with the terms of this Agreement and providing telecommunications services at the Physical Collocation Site. BellSouth may access the Premises at any time for purposes of averting any threat of harm imposed

by MFS or its equipment or facilities upon the operation of BellSouth equipment, facilities and/or personnel located outside of the Premises. If routine inspections are required, they shall be conducted at a mutually agreeable time. BellSouth agrees to minimize and to limit any and all instances in which access by its employees, agents or other persons whom it authorizes takes place and agrees not to allow any party which is suspected of any previous instance of wrongdoing of any kind or who has been subject to any form of discipline by BellSouth at any time in the past to enter Premises. BellSouth will, in all instances, provide to MFS written notification of its access to Premises any time that such access occurs without advance notice to MFS and such written notification shall contain a brief explanation of the reason for such access as well as the name(s) and title(s) of such persons and BellSouth shall provide to MFS such written notice within forty-eight (48) hours of the time when such access took place.

ARTICLE XIX - MISCELLANEOUS

19.1 Exhibits. The following Exhibits to this Agreement are attached hereto and made part hereof:

Exhibit A. The Schedule of Interstate and Intrastate Monthly Recurring Charges for Physical Collocation

Exhibit B. The Schedule of Interstate and Intrastate Nonrecurring Charges for Physical Collocation

Exhibit C. Premises Site and CLLI List

Exhibit D. Points of Interconnection

Exhibit E. ICB Exhibit Reflecting Premises Address, CLLI, and ICB Charges

Exhibit F. Interim Rates and Charges Pursuant to Section 5.2 Preceding

19.2 Variations. In the event of variation or discrepancy between any duplicate originals hereof, including exhibits to this Agreement, the original Agreement shall control.

19.3 Future Negotiations. BellSouth may refuse requests for additional space at the Physical

Collocation Site or in any other BellSouth site if MFS is in material breach of this Agreement. In such event, MFS hereby releases and shall hold BellSouth harmless

19.4 No Third Party Beneficiaries. Nothing in this Agreement is intended, nor shall be deemed, to confer any rights or remedies upon any person or legal entity not a party hereto.

19.5 The Parties agree that all of the other provisions of the Florida Interconnection Agreement dated August 26, 1996, shall remain in full force and effect. Further, the following provisions of the Interconnection Agreement shall remain in full force and effect until the termination of this Agreement.

§§ 20.13, 20.14, 20.15, 21.2, 21.3, 21.4, 21.5, 24.0, 26.0, 27.0, 28.0,
29.0, 30.0, 31.0, 33.0, 34.0, 35.0, 36.0

IN WITNESS WHEREOF, the duly authorized representatives of the Parties have executed and delivered this Agreement as of the day and year first above written.

BELLSOUTH TELECOMMUNICATIONS, INC.

By: _____

Title: _____

MFS:

By: _____

Title: _____

Collocation Site or in any other BellSouth site if MFS is in material breach of this Agreement. In such event, MFS hereby releases and shall hold BellSouth harmless

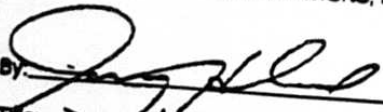
19.4 No Third Party Beneficiaries. Nothing in this Agreement is intended, nor shall be deemed, to confer any rights or remedies upon any person or legal entity not a party hereto.

19.5 The Parties agree that all of the other provisions of the Florida Interconnection Agreement dated August 26, 1996, shall remain in full force and effect. Further, the following provisions of the Interconnection Agreement shall remain in full force and effect until the termination of this Agreement.

§§ 20.13, 20.14, 20.15, 21.2, 21.3, 21.4, 21.5, 24.0, 26.0, 27.0, 28.0,
28.0, 30.0, 31.0, 33.0, 34.0, 35.0, 36.0

IN WITNESS WHEREOF, the duly authorized representatives of the Parties have executed and delivered this Agreement as of the day and year first above written.

BELLSOUTH TELECOMMUNICATIONS, INC.

By: 
Title: Director 01/17/97

MFS:

By: _____
Title: _____

Colocation Site or in any other BellSouth site if LDC is in material breach of this Agreement. In such event, MFS hereby releases and shall hold BellSouth harmless

19.4 No Third Party Beneficiaries. Nothing in this Agreement is intended, nor shall be deemed, to confer any rights or remedies upon any person or legal entity not a party herein.

19.5 The Parties agree that all of the other provisions of the Florida Interconnection Agreement dated August 25, 1996, shall remain in full force and effect. Further, the following provisions of the Interconnection Agreement shall remain in full force and effect until the termination of this Agreement.

- §§ 20.13, 20.14, 20.15, 21.2, 21.3, 21.4, 21.5, 24.0, 26.0, 27.0, 28.0,
- 29.0, 30.0, 31.0, 32.0, 34.0, 35.0, 39.0

IN WITNESS WHEREOF, the duly authorized representatives of the Parties have executed and delivered this Agreement as of the day and year first above written.

BELLSOUTH TELECOMMUNICATIONS, INC.

By: _____
Title: _____

MFS:
By: Daniel N. Pate 1/17/97
Title: VP - Government Affairs

ORDER NO. PSC-97-0235-FOF-TP
DOCKET NO. 960757-TP
PAGE 41

EXHIBIT A

The Schedule of Interests and Interest-Related Recurring Charges for Physical Collection

Interim rates and charges pursuant to Section 6.3 C/F reflected on Schedule F.

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EXHIBIT B

The Schedule of Interests and Interests Nonrecurring Charges for Physical Collocation

Interim rates and charges pursuant to Section 6.2 are reflected on Schedule F.

EXHIBIT C
The Premises SIDs and CLI List

Premises Address

Premises CLI

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

(Additional Exhibit C pages may be added for additional Premises.)

EXHIBIT D

Points of Interconnection

Premises CLLI

Premises Point of Interconnection

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

(Additional Exhibit D pages may be added for additional Premises.)

EXHIBIT E

The Schedule of Interests and Involvement ICS Elements for Physical Collocation

Premises Address:

Premises CLLI:

Element - _____ ; S _____
Element - _____ ; S _____
Element - _____ ; S _____
Element - _____ ; S _____

SONET F

The Schedule of Interim Rates and Charges for Physical Collocation Pursuant to Section 6.2

<u>Data Element Description</u>	<u>Type of Rate/Charge</u>	<u>Rate/Charge</u>
Application Fee	ISC	\$1,000.00
Space Preparation	ISC	ISC
Space Construction	ISC	\$4,000.00
Cable Installation	ISC	\$2,700.00
Floor Space Zone A	FE	\$7.00
Floor Space Zone B	FE	\$6.75
DC Power	FC	\$3.00
Cable Support Structure	FC	\$12.15
DS1 Cross Connect	FC	\$8.00
DS3 Cross Connect	FC	\$72.00
DS1 or DS3 Cross Connect	ISC First	\$102.00
DS1 or DS3 Cross Connect	ISC Additional	\$27.00
POT Bay - DS1	FC	\$1.20
POT Bay - DS3	FC	\$8.00
Security Escort	Overnight - Half Hour	\$41.00
Security Escort	Overnight - First Half Hour	\$48.00
Security Escort	Overnight - First Half Hour	\$88.00
Security Escort	Overnight - Additional	\$28.00
Security Escort	Overnight - Additional	\$38.00
Security Escort	Overnight - Additional	\$38.00

Other Elements: Cross Connects associated with bundled loops shall be provided pursuant to the Interconnection Agreement. Service Interconnection shall be provided at transport rates reflected in effective BellSouth Access Tariffs. Previously-requested SONET cross connects shall be provided pursuant to the FCC's filing process for CAP services.

ATTACHMENT B

PREVIOUS
 Rates for Negotiated Interconnection

ATTACH/
 Page 1c

Rate Element	Application/Description	Type of charge	Rate
Application Fee	Applies per arrangement per location	Non recurring	\$ 3,848.30
Space Preparation Fee	Applies for survey and design of space, covers shared building modification costs	Non recurring	ICB *(1)
Space Construction Fee	Covers materials and construction of optional cage in 100 square foot increments	Non recurring	Will not be less than \$1,788.00 \$ 29,744.00 *(2)
Cable Installation Fee	Applies per entrance cable	Non recurring	\$ 4,650.00
Floor Space	Per square foot, for Zone A and Zone B offices respectively	Monthly Recurring	\$9.31 / \$8.38 *(3)
Power	Per ampere based on manufacturer's specifications	Monthly Recurring	\$ 5.14 per ampere
Cable Support Structure	Applies per entrance cable	Monthly Recurring	\$13.35 per cable
POT bay	Optional Point of Termination bay; rate is per DS1 / DS3 cross-connect respectively	Monthly Recurring	\$1.20 / \$5.00 *(4)
Cross-connects	Per DS1 / DS3 respectively	Monthly Recurring	\$ 9.28 / \$ 72.48
Security escort	First and additional half hour increments, per tariff rate in Basic time (B), Overtime (O) and Premium time (P).	As required This is a tariffed charge.	\$41.00 / \$25.00 B \$48.00 / \$30.00 O \$55.00 / \$35.00 P

- Note 1: Will be determined at the time of the application based on building and space modification requirements for shared space at the requested C.O.
 Note 2: Applies only to collocators who wish to purchase a steel-gauge cage enclosure.
 Note 3: See attached list for zone A offices as of May 1996. This list will be amended monthly.
 Note 4: Applies when collocator does not supply their own POT bay.

02-10-97 05:32PM

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P004/004

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P018/021

ATT. B
 pg 2056

CURRENT
Rates for Negotiated Interconnection

Rate Element	Application/Description	Type of charge	Rate
Application Fee	Applies per arrangement per location	Non recurring	\$ 3,850.00
Space Preparation Fee	Applies for survey and design of space, covers shared building modification costs	Non recurring	ICB ^{*(1)} Will not be less than \$1,788.00
Space Construction Fee	Covers materials and construction of optional enclosure in 100 sq ft increments	Non recurring	\$ 4,500.00 ^{*(2)}
Cable Installation Fee	Applies per entrance cable	Non recurring	\$ 2,750.00
Floor Space	Per square foot, for Zone A and Zone B offices respectively	Monthly Recurring	\$7.50 / \$6.75 ^{*(3)}
Power	Per ampere based on manufacturer's specifications	Monthly Recurring	\$ 5.00 per ampere
Cable Support Structure	Applies per entrance cable	Monthly Recurring	\$13.35 per cable
POT bay	Optional Point of Termination bay; per 2-wire / 4-wire and per DS1 / DS3 cross-connect respectively	Monthly Recurring	\$.40 / \$1.20 \$1.20 / \$8.00 ^{*(4)}
Cross-connects	Per 2-wire / 4-wire respectively	Monthly Rec. - first Non-rec. - addtl	\$ 1.10 / \$ 1.60 \$155.00 \$ 26.00
	Per DS1 / DS3 respectively	Monthly Rec. - first Non-rec. - addtl	\$ 8.00 / \$ 72.00 \$135.00 \$ 27.00
Security escort	First and additional half-hour increments, per tariff rate in Basic time (B), Overtime (C), and Premium time (P).	As required	\$41.00 / \$25.00 B \$48.00 / \$30.00 O \$55.00 / \$35.00 P This is a tariffed charge.

Note 1: Will be determined at the time of the application, based on building and space modification requirements for shared space at the requested C.O.

Note 2: Applies only to collocation who wish to purchase a steel-gauge cage enclosure.

Note 3: See attached list for zone A offices as of November 1996. This list is subject to amendment.

Note 4: Will be combined with cross-connect charge as one element in the near future.