

HOPPING GREEN SAMS & SMITH

PROFESSIONAL ASSOCIATION

ATTORNEYS AND COUNSELORS

123 SOUTH CALHOUN STREET

POST OFFICE BOX 6526

TALLAHASSEE, FLORIDA 32314

(850) 222-7500

FAX (850) 224-8551

FAX (850) 425-3415

www.hgss.com

Writer's Direct Dial No.

(850) 425-2313

May 2, 2001

JAMES S. ALVES
BRIAN H. BIBEAU
ROCHELLE A. BIRNBAUM
RICHARD S. BRIGHTMAN
KEVIN B. COVINGTON
PETER C. CUNNINGHAM
RALPH A. DeMEO
JODY L. FINKLEA
WILLIAM H. GREEN
WADE L. HOPPING
GARY K. HUNTER, JR.
JONATHAN T. JOHNSON
ROBERT A. MANNING
FRANK E. MATTHEWS
RICHARD D. MELSON
ANGELA R. MORRISON
SHANNON L. NOVEY

ERIC T. OLSEN
GARY V. PERKO
MICHAEL P. PETROVICH
DAVID L. POWELL
WILLIAM D. PRESTON
CAROLYN S. RAEPPLE
DOUGLAS S. ROBERTS
D. KENT SAFRIET
GARY P. SAMS
TIMOTHY G. SCHOENWALDER
ROBERT P. SMITH
DAN R. STENGLE
CHERYL G. STUART
W. STEVE SYKES
—
OF COUNSEL
ELIZABETH C. BOWMAN

Ms. Blanca S. Bayó
Director, Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

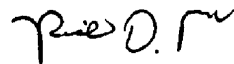
Re: BellSouth Telecommunications, Inc. Docket No. 960786-TL

Dear Ms. Bayó:

Enclosed for filing on behalf of MCI WorldCom, Inc. are the original and fifteen copies of its Motion For Reconsideration of Order No. PSC-01-1025-PCO-TL.

By copy of this letter, this document has been provided to the parties on the attached service list.

Very truly yours,



Richard D. Melson

RDM/kcg
Enclosures

132674.3

DOCUMENT NUMBER-DATE

05560 MAY-20

FPSC REC/REC/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Consideration of)	
BellSouth Telecommunications,)	Docket No. 960786-TL
Inc.'s entry into interLATA)	
services pursuant to Section 271)	Filed: May 2, 2001
of the Federal Telecommunications)	
Act of 1996.)	
_____)	

MCI WORLDCom'S MOTION FOR RECONSIDERATION
OF ORDER NO. PSC-01-1025-PCO-TL

MCI WorldCom, Inc. hereby moves for reconsideration of the Prehearing Officer's Order Regarding Issues to Be Addressed at Hearing (Order No. PSC-01-1025-PCO-TL) insofar as it would exclude consideration of the ALECs' commercial experience with BellSouth's operations support systems (OSS) supporting the provision of mass market service via the UNE platform. As grounds for this motion, MCI WorldCom states:

1. The Florida Competitive Carriers' Association (FCCA), of which MCI WorldCom is a member, proposed the following subissue for determination with respect to the provision of nondiscriminatory access to unbundled network elements (now Issue 3):

(b) Does commercial experience show that BellSouth has provided access to network elements in a nondiscriminatory manner?

2. In Order No. PSC-01-1025-PCO-TL, the Prehearing Officer excluded this subissue on the grounds that commercial experience with BellSouth's operations support systems (OSS) is being considered in the third-party OSS test being conducted for the Commission by KPMG. The Prehearing Officer ruled that under prior Commission orders, the third-party test is intended to be the exclusive means for evaluating BellSouth's compliance with the requirements of Section 271 with respect to OSS, including commercial experience. (Order at 4-5)

3. MCI WorldCom respectfully disagrees that the evaluation of commercial experience with BellSouth's OSS was intended to be, or should be, considered solely through the third-party test. This is particularly true as it relates to mass market residential service provided via the UNE platform (UNE-P).

4. First, nothing in the order establishing the third-party OSS test (Order No. PSC-99-1568-PAA-TP) or the order approving the master test plan (Order No. PSC-00-0104-PAA-TP) specifically contemplated that KPMG would evaluate the ALEC's commercial experience. The Order Regarding Issues to be Addressed at Hearing concluded that the analysis of "any differences between the access to OSS functions that BellSouth provides to itself and that which it provides to ALECs" that is

required by the order approving the master test plan "by its very nature requires an analysis of commercial data." (Order at 5)

MCI WorldCom respectfully suggests that this conclusion is incorrect. At the time the master test plan was approved, MCI WorldCom understood that KPMG's analysis of differences in the access to OSS functions that BellSouth provides to itself and the access that it provides to ALECs would be performed in the context of the test bed created by KPMG for transaction testing, and would not involve the evaluation of actual ALEC commercial experience. MCI WorldCom's understanding that the earlier orders did not contemplate evaluation of commercial data is borne out by the fact that as Item 2 at the April 16, 2001 internal affairs conference, the staff provided "a short briefing on additional procedural steps" (emphasis added) that are being incorporated into the third-party OSS test. According to Attachment 2 to the internal affairs agenda (a copy of which is attached as Exhibit A), these additional procedural steps include "a KPMG overall evaluation of commercial performance data." If KPMG evaluation of commercial performance had been included from the outset in the master test plan, there would have been no reason for the briefing earlier this month on this "additional procedural step."

5. Second, no carrier has launched competitive local

service in Florida on a mass market basis utilizing the UNE platform (UNE-P). Accordingly, KPMG will have no significant Florida-specific commercial data regarding OSS support of UNE-P to evaluate as part of the recent additions to its test procedures.

6. Third, as reported in a recent article from *Atlanta Tech* (a copy of which is attached as Exhibit B), MCI WorldCom is planning a mass market launch of competitive local residential service utilizing UNE-P in Georgia in mid-May. Because BellSouth claims that its OSS are uniform throughout the nine-state region, MCI WorldCom's commercial experience with the capability of BellSouth's OSS to support this mass market competitive entry will provide valuable evidence to the Commission that will not be available through the KPMG test. Without this commercial experience, the Commission will not be able to judge the impact on Florida consumers in a real world environment. If for any reason BellSouth's regionwide systems fail to perform up to par in Georgia, Florida consumers could be put at risk in a future Florida launch.

7. Fourth, the FCC has repeatedly stated that actual commercial experience is the best evidence of the operational readiness of OSS (Michigan 271 Order ¶ 138; Louisiana 271 Second

Order, ¶86; New York 271 Order ¶89; Texas 271 Order ¶98; Kansas/Oklahoma Order ¶105) and is the most probative evidence that the OSS is nondiscriminatory. (Texas 271 Order ¶102)¹ The need to examine commercial data is underscored by the New York experience, in which significant problems were encountered with ILEC's OSS despite the fact that such systems had performed adequately in a test environment. By allowing MCI WorldCom to present evidence regarding its Georgia UNE-P launch, the Commission will have valuable commercial experience available to supplement what it learns from the third-party test effort.

8. Fifth, because of the weight the FCC places on commercial experience, MCI WorldCom intends to present its Georgia UNE-P experience to the FCC when BellSouth files its Florida 271 application with that body. MCI WorldCom also expects that BellSouth will present such data to the FCC, at least if it believes the commercial results are favorable to it.

¹ In fact, in a pleading filed in the North Carolina Utilities Commission's 271 docket on April 19, 2001, BellSouth itself argued that "the FCC has stated explicitly that the 'most probative evidence that OSS functions are operationally ready is actual commercial usage,' not third party testing." Accordingly, BellSouth argued that the North Carolina Commission did not need further third party testing, but instead should rely on commercial usage data that BellSouth intends to file in that proceeding. (BellSouth's Reply to SECCA's Response in Opposition to BellSouth's Proposed Schedule, filed April 19, 2001 in Docket No. P-55, Sub 1022)

By excluding that data from this proceeding, the Commission will deny itself the opportunity to assess and evaluate the same information that the FCC will be considering with regard to BellSouth's 271 application. Given the likelihood that the FCC will consider this data, MCI WorldCom is at a loss to understand why BellSouth so adamantly opposes giving this Commission the opportunity to examine that data in an evidentiary hearing process.

WHEREFORE, MCI WorldCom respectfully requests that the full Commission reconsider the Prehearing Officer's "Order Regarding Issues to be Addressed at Hearing" and include either the subissue requested by FCCA regarding commercial experience or, at a minimum, a more limited form of that issue which permits the introduction of evidence regarding commercial experience with BellSouth's OSS in a mass market UNE-P environment.

RESPECTFULLY SUBMITTED this 2nd day of May, 2001.

HOPPING GREEN SAMS & SMITH, P.A.

By: 

Richard D. Melson
P.O. Box 6526
Tallahassee, FL 32314
(850) 425-2313

and

DONNA CANZANO MCNULTY
MCI WorldCom, Inc.
325 John Knox Road
The Atrium, Suite 105
Tallahassee, FL 32303

Attorneys for MCI WorldCom, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was furnished by hand delivery (*) or by U.S. Mail to the following parties this 2nd day of May, 2001.

Beth Keating
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

Nancy White *
c/o Nancy Sims
BellSouth Telecommunications
150 S. Monroe Street, Suite 400
Tallahassee, FL 32301

John R. Marks, III
Knowles, Marks & Randolph
215 S. Monroe Street
Tallahassee, FL 32301

Floyd R. Self
Messer, Caparello & Self
P.O. Box 1876
Tallahassee, FL 32302-1876

Vicki Kaufman
McWhirter, Reeves, McGlothlin
Davidson, Rief & Bakas, P.A.
117 S. Gadsden Street
Tallahassee, FL 32301

Patrick K. Wiggins
Charles Pellegrini
Katz, Kutter Law Firm
12th Floor
106 E. College Ave.
Tallahassee, FL 32301

Scott Sapperstein
Intermedia Communications, Inc.
One Intermedia Way (MC FLT-HQ3)
Tampa, FL 33647

Marsha E. Rule / Rhonda Merritt
AT&T
101 N. Monroe St., Ste. 700
Tallahassee, FL 32301

Susan Masterson
P.O. Box 2214
Tallahassee, FL 32316

Peter M. Dunbar
Karen Camechis
Pennington, Culpepper, Moore
Wilkinson, Dunbar & Dunlap
Post Office Box 10095
Tallahassee, FL 32302

James C. Falvey
American Communications Services
Suite 100
131 National Business Parkway
Annapolis Junction, MD 20701

Marilyn H. Ash
Associate Legal Counsel
MGC Communications, Inc.
3301 N. Buffalo Drive
Las Vegas, NV 89129

Rodney L. Joyce
Shook, Hardy & Bacon, L.L.P.
600 14th Street, N.W. Suite 800
Washington, DC 20005-2004

Matthew Feil
Florida Digital Network, Inc.
390 North Orange Ave.
Suite 2000
Orlando, FL 32801

Michael Sloan
Swindler Berlin Shereff Friedmann
3000 K Street, NW
Suite 300
Washington, DC 20007

Nanette Edwards
Director of Regulatory Advocacy
ITC^Delta Com
4092 S. Memorial Parkway
Huntsville, AL 35802

Kenneth Ruth
CWA
2180 West State Road 434
Longwood, FL 32779


Michael Gross/Charles Dudley
Florida Cable Telecommunications
Assoc., Inc.
246 E. 6th Avenue, Suite 100
Tallahassee, FL 32303

Donna McNulty
MCI WorldCom, Inc.
325 John Knox Road, Suite 105
Tallahassee, FL 32303

Brian Sulmonetti
MCI WorldCom, Inc.
Concourse Corporate Center Six
Six Concourse Parkway
Suite 3200
Atlanta, GA 30328

Network Access Solutions Corp.
100 Carpenter Drive, Suite 206
Sterling, VA 20164

Carolyn Marek
Time Warner Telecom
233 Bramerton Court
Freanklin, TN 37069



Attorney

State of Florida

**Public Service Commission****-M-E-M-O-R-A-N-D-U-M-**

DATE: April 10, 2001
TO: William D. Talbott, Executive Director
FROM: Division of Regulatory Oversight (Harvey) *ScJ*
Division of Competitive Services (Simmons) *SAS*
Division of Legal Services (B. Keating) *BK*
RE: Florida Third-Party Testing of BellSouth's Operational Support Systems (OSS)

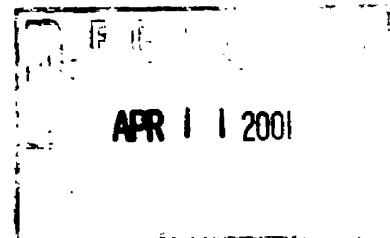
CRITICAL INFORMATION: Please place on the April 16, 2001, Internal Affairs

During the April 16, 2001 Internal Affairs, staff would like to provide a short briefing on additional procedural steps that are being incorporated into the third-party OSS test. The additional procedural steps include a KPMG overall evaluation of commercial performance data, a workshop which allows parties to ask questions regarding OSS test results, and a formal comment period on the KPMG OSS test report. The information provided through these steps will be used in the development of staff's recommendation on the third-party test report, which is a comprehensive evaluation of BellSouth's OSS.

LSH/bjm

Attachment

cc: Dan Hoppe
Walter D'Haeseleer
Bill Lowe
Beth Salak
Beth Keating
Sally Simmons

*EXHIBIT A*

WorldCom ready to challenge BellSouth

By Michael E. Kanell
mkanell@ajc.com

WorldCom is poised to announce plans to take on BellSouth in the local consumer market in metro Atlanta.

The second-largest long-distance company plans to offer residential local service here this spring, the Mississippi-based giant's first assault on the BellSouth franchise in its nine-state region.

The move will resurrect the once-proud MCI brand and give BellSouth a tough rival on its home turf — at the same time WorldCom's entry provides fodder for an argument by BellSouth that it be permitted into long-distance.

To win permission to offer long-distance, BellSouth is required by the 1996 Telecom Act to prove its markets are open and its competitors treated as well as its own units. Phil Jacobs, BellSouth president for Georgia, quickly made exactly that case — that WorldCom wouldn't be leaping into the market if it didn't think BellSouth was ready for it.

"It is just further evidence that our markets are open to competition and our systems are performing," he said. "What is lacking is the level playing field that will allow us all to compete on an equal basis."

BellSouth now cannot offer packages of local and long-distance. WorldCom can.

In fact, WorldCom will trot out four offerings, two for local service alone and two that include long-distance, said Sally McMahon, WorldCom vice president.

A number of competitors — often led by AT&T — have long insisted that BellSouth's handling of competitors needs vast improvement before regulators open the door to long-distance. For example, they say orders for their customers are handled more slowly.

WorldCom has often been among the critics. McMahon said the decision to offer local service should not be read as an endorsement of BellSouth's ability to handle rivals. "We are not looking for problems. We are looking for it to work. But there's nothing like live interaction to show whether things do work."

WorldCom is planning to split the company between two tracking stocks. The MCI brand, which had slowly dissolved after WorldCom bought MCI, will become the face of its consumer business. Georgia will be the sixth state in which the company competes for local consumers.

McMahon declined to say how much WorldCom

● PLEASE SEE WorldCom, E16

AJC.COM — EVERY SECTION EVERY DAY

EXHIBIT B

WorldCom: Plans local service in metro area

● Continued from E1

will charge for the service, except to say it will be competitive. WorldCom is also saying nothing about its plans for a high-speed option to compete with digital subscriber lines from BellSouth and cable modems from AT&T and other cabled operators.

"Right now, if we can offer combined local and long-distance, it really meets the needs of consumers," McMahon said.

It may also meet the needs of WorldCom, which like AT&T has been struggling with a shrinking market for long-distance.

In contrast, for BellSouth, local service is the heart of the business, accounting last year for \$18 billion of its \$28 billion in annual revenue.

Supporters of the Telecom Act predicted it would spark furious competition among virtually all carriers in all markets. Since then, growth and profits in the already-competitive long-distance market have slid. But local service is still dominated by the same companies — or their post-merger successors.

In its nine-state region, BellSouth has faced its most determined competition in the market for business customers, where rivals have won about 38 percent of the market in BellSouth's Georgia territory. By contrast, 17 percent is held by competitors in the consumer market, where BellSouth has long confronted only token opposition.

AT&T offered local service for a time, then withdrew. MPower Communications — the former

MGC — started off in the residential market, then shifted its focus to business. Most recently, Birch Telecom has entered the market.

AT&T's purchase of MediaOne did reshape the landscape somewhat, since the giant company is now offering local phone service over its upgraded cable lines.

But if WorldCom follows through on its promise, it would be the first deep-pocketed rival to enter long-distance using the same network as BellSouth.

WorldCom told state regulators Tuesday of its plans. The company intends to file formal notice this month and expects to receive approval within 30 days after that, McMahon said.

However, the company said it will not launch a full-scale marketing effort at once, instead planning to "ramp up" bit by bit.