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June 11, 2001

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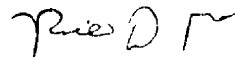
Re: Docket No. 990649-TP

Dear Ms. Bayó:

Enclosed for filing in the above docket on behalf of MCI WorldCom, Inc., AT&T Communications of the Southern States, Inc., DIECA Communications, Inc. d/b/a Covad Communications Company and Z-Tel Communications, Inc. are the original and fifteen copies of their Motion for Reconsideration and Clarification.

By copy of this letter, this document is being furnished to the parties on the attached service list.

Very truly yours,



Richard D. Melson

RDM/mee
Enclosure
cc: Certificate of Service

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FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into pricing of)
unbundled network elements)
_____)

Docket No. 990649-TP

Filed: June 11, 2001

MOTION FOR RECONSIDERATION AND CLARIFICATION

MCI WorldCom Communications, Inc. (WorldCom), AT&T Communications of the Southern States, Inc. (AT&T), DIECA Communications, Inc. d/b/a/ Covad Communications Company (Covad), and Z-Tel Communications, Inc. (Z-Tel) (collectively, Movants), pursuant to Rule 25-22.060, Florida Administrative Code, hereby move the Commission to reconsider and clarify certain decisions in its final order in the BellSouth phase of this docket, Order No. PSC-01-1181-FOF-TP (Order). In support of this motion, Movants state:

I. Use of Three Cost Models Violates FCC TELRIC Rules

In its cost study filing, BellSouth submitted three distinct loop cost scenarios: (1) the BST 2000 Scenario used to determine the cost of stand-alone loops; (2) the Combo Scenario used to determine the cost of voice grade loops combined with a switch port; and (3) the Copper Only Scenario used to derive the cost of copper-based xDSL loops. The Commission found that, in principle, the use of a single unified network design is the most appropriate for setting UNE rates. (Order, page 154) However, the Commission stated that the use of a single unified network design "is not attainable based on this record." (Order, page 154) Therefore the Commission concluded that BellSouth's use of

three distinct scenarios "is reasonable for purposes of this proceeding" and set UNE loop rates based on that three-scenario approach. (Order, page 155)

In permitting BellSouth to use the three-scenario approach, the Commission overlooked or failed to consider that the use of a single, unified network design is not only the most appropriate in principle, but in fact is required by FCC Rule 51.505(b).¹ The Commission should therefore reconsider its decision to set UNE rates based on three different scenarios and, on reconsideration, should set all loop rates based on the Combo Scenario. While this scenario is not perfect, it is the most appropriate single scenario that BellSouth offered.

FCC Rule 51.505(b) states:

- (b) Total element long-run incremental cost. The total element long-run incremental cost of an element is the forward-looking cost over the long run of the total quantity of the facilities and functions that are directly attributable to, or reasonably identifiable as incremental to, such element, *calculated taking as a given the incumbent LEC's provision of other elements.*

- (1) Efficient network configuration. The total element long-run incremental cost of an element should be measured based on the use of the most efficient telecommunications technology currently available and *the lowest cost network configuration,*

¹ The Commission properly concluded that its decision on appropriate UNE rates "is bound by the FCC rules as they currently stand" (Order, page 26) and that UNE rates must be set using the forward-looking cost standards authorized by Section 252(d)(1) of the 1996 Telecommunications Act, the FCC's rules and orders implementing that section of the Act, and the court decisions that affect those rules and orders. (Order, page 34)

given the existing location of the incumbent LEC's wire centers.

(Emphasis added.)

Under this rule, UNE rates must be set based on "the lowest cost network configuration," not on several different network configurations. That single network configuration must take into account "the incumbent LEC's provision of other elements." That is, the single network must be designed taking into account the demand for all elements, not just the element for which costs are determined. This is necessary in order to capture the economies of scale and scope that the LEC achieves as the result of offering its whole panoply of elements and services.

BellSouth's use of the three-scenario approach violates Rule 51.505(b) in two separate but related ways.

Multiple Engineering Assumptions. First, BellSouth used different engineering assumptions for the entire network based on the type of UNE being costed. For loop/port combinations, BellSouth assumed an engineering design in the Combo Scenario based on the use of integrated digital loop carrier (IDLC) technology. For stand-alone loops, BellSouth assumed an engineering design in the BST 2000 Scenario based on the use of older, universal digital loop carrier (UDLC) technology. And for xDSL loops, BellSouth assumed an engineering design in the Copper Only Scenario based on the use of all copper loops. This violates the requirement in Rule 51.505(b) to use "the" lowest cost network configuration. The lowest cost network configuration for serving demand that includes stand-alone loops, loop/port combinations, and xDSL loops would be a single

network that includes the appropriate mix of IDLC, UDLC and all copper loops. Yet despite the fact that the FCC's rules require the use of a single, most efficient network, BellSouth failed to provide cost studies that comply with those rules.

Demand Projections Ignore Economies of Scale and Scope. Second, BellSouth's use of three different scenarios also violates the requirement in Rule 51.505(b) to calculate costs for UNEs taking into account as a given the "incumbent LEC's provision of other elements." The purpose of this requirement is to ensure that UNE cost studies take into account the efficiencies that the incumbent LEC achieves from deploying a network to meet all demand for all elements, thereby achieving economies of scale and scope.

In order to properly reflect the requirements of this rule, BellSouth must model a single network which takes into account the expected demand for loop/port combinations, stand-alone loops, and xDSL loops. That forecast must include demand both for UNE loops and for loops to meet BellSouth's own retail demand. The mix of IDLC, UDLC and copper loops in the resulting single network thus would be optimized to meet the demand for the various types of facilities, and that network would include the efficiencies resulting from economies of scale and scope.

Instead, BellSouth elected to model three separate networks, assuming alternatively that every customer location would require service via IDLC loops (Combo), that every customer location would require service via UDLC loops (BST 2000), and that every customer location would require service via copper loops (Copper

Only). That assumption is clearly flawed. Some percentage of customer locations will require IDLC, some percentage will require UDLC, and some percentage will require Copper. Only by projecting actual demand for each type of facility will the resulting network include the appropriate economies of scale and scope.

Summary. BellSouth's three-scenario approach violates the FCC Rules which the Commission correctly concluded must govern its pricing decisions in this proceeding. BellSouth's failure to file a compliant cost study should not be an excuse for setting rates using a methodology (the three-scenario approach) that clearly conflicts with those rules. This is particularly true since the Commission approved the parties' December 7, 1999 stipulation in this docket which required BellSouth's cost study submission to comport with the TELRIC cost standard in FCC Rules 51.501 to 51.511. [See Order On Procedural Stipulation, Order No. PSC-99-2467-PCO-TP, Attachment A at paragraph 3(d)]

In this situation, BellSouth's failure to provide a suitable "unified network" cost study should not be the basis to penalize the ALEC's through the use of an improper "three network" approach. Unless and until BellSouth files an appropriate cost study using a single unified network design which meets the demand for all UNEs and services on an integrated basis, the Commission should set UNE rates based on the most appropriate of the three network designs which BellSouth did submit -- the Combo Scenario. The Commission should therefore reconsider its decision to set rates based on

three different cost studies, and should set new UNE loop rates derived solely from the Combo Scenario.

II. Clarification of Relationship Between Costing for UNEs and USF Purposes

In this proceeding, BellSouth determined the installed cost of various types of facilities by the application of loading factors. WorldCom and AT&T opposed the use of loading factors, and instead advocated the use of the fully-loaded inputs developed for use in the Commission's earlier Universal Service Funding (USF) proceeding.

While the Commission accepted WorldCom/AT&T's position that it is more appropriate to develop "bottoms-up" installed costs than to make use of liner loading factors which distort costs between rural and urban areas (see, e.g., Order, pages 194, 284), the Commission rejected the WorldCom/AT&T proposal to use inputs from the USF docket (see, e.g., Order, pages 193, 223, 306). Instead, the Commission set UNE rates based on admittedly flawed loading factors and directed BellSouth to refile cost studies in 120 days that explicitly model all cable engineering and installation placements and associated structures. (Order, page 306)

Movants do not seek reconsideration of the Commission's decision to require BellSouth to refile its loop cost study using a bottoms-up study approach. Movants are concerned, however, that the Commission's decision not to use inputs from the USF docket could be interpreted as a finding that different cost study methodologies are

appropriate for USF and UNE costing purposes.² For example, at page 223 of the Order, the Commission stated "we agree with BellSouth that the inputs ordered in our Universal Service Proceeding were for a different purpose and are not appropriate here."

Movants therefore request that the Commission clarify its Order by adding an explicit statement that:

While we reject the use in this docket of inputs from our Universal Service Proceeding (Docket No. 980686-TP), we do not intend to imply that it is appropriate to use different network designs or underlying cost information for UNE costing and USF purposes. To the extent that company-specific data and network design information is developed for UNE costing purposes, such data would be appropriate for use in future USF proceedings.

III. Shared Cost Allocation

In using the BellSouth loop cost model (BSTLM) to calculate costs for specific UNEs, it is necessary to allocate shared investments (such as digital loop carrier common equipment and fiber feeder cable) to individual services. Since shared investments by definition do not vary with the amount of any single service, any method of allocation is inherently arbitrary.

In this situation, BellSouth advocated allocating shared investments in loop plant based on DS0 equivalents (i.e. the number of voice channel equivalents represented by a particular service.) Under this "per-DS0" methodology, a 2-wire facility used to provide

² The FCC has recognized the need for consistency in the methodology used to determine costs for UNE pricing and USF purposes, and has encouraged the states to use the same cost methodology to the extent possible. *In the Matter of Federal-State Joint Board on Universal Service*, Report and Order, CC Docket No. 96-45, FCC 97-157 (rel. May 8, 1997) at ¶ 206, 251.

high-capacity T-1 service -- which carries 24 voice channel equivalents -- is allocated 24 times as much shared cost as a 2-wire voice grade loop. WorldCom and AT&T advocated allocating shared investments based on the number of copper pair equivalents used to provide the service. This "per-pair" methodology means that a copper pair equivalent used to provide voice service bears the same allocation of shared costs as the same facility used to provide T-1 service. Such an allocation avoids the anti-competitive impact of placing high levels of shared costs on high-capacity services whose demand is fairly inelastic.

The Commission determined to adopt BellSouth's "per-DS0" allocation methodology, concluding that there may be an "indirect causal relationship" between DS0s and fiber cable and concluding that "[o]f the two factors, competitive impact or causal linkage, we believe that where possible, cost causal connections should get the nod when designing cost models." (Order, page 157) In reaching this conclusion, the Commission overlooked the fact that, by definition, items which are truly shared costs have no causal linkage to any single service and the Commission failed to consider that both the FCC's orders and the Florida Statutes require pro-competitive allocations where possible.

In Paragraph 696 of its First Report and Order, *In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98 (rel. August 8, 1996), the FCC stated:

We conclude that forward-looking common costs shall be allocated among elements and services in a reasonable

manner, *consistent with the pro-competitive goals of the 1996 Act*. . . .[A]n allocation methodology that relies exclusively on allocating common costs in inverse proportion to the sensitivity of demand for various network elements and services [i.e. Ramsey pricing] may not be used.

(Emphasis added.)

Although it does not specifically address cost allocation methodologies, Section 364.01(4), Florida Statutes, similarly evidences the Florida Legislature's intention that, where possible, the Commission should resolve issues in a manner that promotes competition.

When applied to the allocation of shared costs which by definition are not causally related to a single service or facility, these pro-competitive requirements of the FCC's rule and Chapter 364 require the Commission to "give the nod" to allocating those costs in a way that minimizes any adverse impact on competition. Movants therefore request that the Commission reconsider its decision on the allocation of shared costs. On reconsideration, the Commission should require that shared costs be allocated on a per-pair basis and should reset all affected rates based on this corrected allocation methodology.

IV. Drop Routing

In determining what modeling assumption should be used regarding the routing of drops, the Commission rejected the WorldCom/AT&T position that drops should be routed at an angle from lot corners in favor of BellSouth's methodology which uses longer, rectilinear drops. (Order, page 158) The Commission stated that:

Other than a claim by the AT&T/WorldCom witnesses, there is no evidence to determine why a distribution terminal *must be placed in the corner of a lot*. . . . Absent any clear understanding of why a distribution terminal *should be in a lot corner*, we find that BellSouth's approach, which employs angled routing but implicitly assumes that some terminals are not in lot corners, is reasonable.

(Emphasis added.)

In reaching this conclusion, the Commission overlooked or failed to consider that FCC Rule 51.505(b)(1) requires the use of "the lowest cost network configuration" and that angular drop placement necessarily produces shorter drop distances than a rectilinear method, and thereby produces the lowest cost configuration. The question is not, as the Commission appeared to frame it, whether there is a technical reason that terminals must be placed at lot corners; the question is whether it is most efficient to place them at such corners. If so, then such placement is required by Rule 51.505(b)(1).

Movants therefore request that the Commission reconsider its decision to permit the use of rectilinear drop routing and, on reconsideration, direct that BellSouth modify the BSTLM to require drop routing to be modeled from the corner of lots. All affected rates should then be reset based on this corrected drop length assumption.

WHEREFORE, WorldCom, AT&T, Covad and Z-Tel move that the Commission reconsider and clarify its Order as set forth in the body of this motion and reset UNE rates based on the modeling and input changes made as a result of the reconsideration.

RESPECTFULLY SUBMITTED this 11th day of June, 2001.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was furnished to the following parties by U.S. Mail, hand delivery (*) or facsimile (**) this 11th day of June, 2001.

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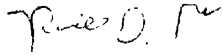
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