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August 21, 1997

Mrs. Blanca S. Bayo
Director, Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399

RE: Docket Nos. 970172, 970173 and 970281-TP

Dear Mrs. Bayo:

Enclosed are an original and fifteen copies of BellSouth Telecommunications, Inc.'s Brief of the Evidence. Please file these documents in the captioned docket.

A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return the copy to me. Copies have been served on the parties shown on the attached Certificate of Service.

Sincerely,

Nancy B. White

Nancy B. White

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Enclosures

cc: All Parties of Record
A. M. Lombardo
R. G. Beatty
W. J. Ellenberg

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FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by MCI Telecommunications Corporation for an order requiring BellSouth Telecommunications, Inc. to remove its deregulated payphone investment and associated expenses from its intrastate operations and reduce the Carrier Common Line rate element of its intrastate switched access charges by approximately $36.5 million as required by the Federal Telecommunications Act of 1996.	Docket No. 970172-TP Filed: August 21, 1997
In re: Petition by MCI Telecommunications Corporation for an order requiring GTE Florida Incorporated to remove its deregulated payphone investment and associated expenses from its intrastate operations and reduce the Carrier Common Line rate element of its intrastate switched access charges by approximately $9.6 million as required by the Federal Telecommunications Act of 1996.	Docket No. 970173-TP
In re: Establishment of intrastate implementation requirement governing federally mandated deregulation of local exchange company payphones.	Docket No. 970281-TL

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BRIEF OF THE EVIDENCE

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STATEMENT OF THE CASE

On September 20, 1996 and November 8, 1996, respectively, the Federal Communications Commission ("FCC") issued Orders 96-388 and 96-439 in CC Docket No. 96-128. In these Orders, the FCC held that Section 276(b)(1)(B) of the Telecommunications Act of 1996 ("Act") required incumbent local exchange companies to remove from their intrastate rate charges that subsidized the costs of their pay telephones. The FCC required that revised intrastate rates must be effective by April 15, 1997. The FCC further ordered the states to determine the intrastate rate elements that must be reduced in order to eliminate any intrastate pay telephone subsidy.

On February 7, 1997, MCI Telecommunications Corporation ("MCI") filed a petition requesting that the Florida Public Service Commission ("Commission") order BellSouth Telecommunications, Inc. ("BellSouth") to remove the subsidy from BellSouth's pay telephone intrastate rates by reducing BellSouth's intrastate Carrier Common Line ("CCL") charge by $36.5 million. On February 26, 1997, BellSouth filed a tariff in accordance with the FCC orders, reducing intrastate business hunting charges by $6.501 million, the amount of BellSouth's intrastate pay telephone subsidy. The effective date of BellSouth's tariff was April 1, 1997.

On March 27, 1997, the Commission issued Proposed Agency Order ("PAA") No. PSC-97-0358-FOF-TP denying MCI's petition. On April 22, 1997, MCI filed a Petition Protesting the PAA Order, requesting a hearing and requesting that the Commission suspend BellSouth's tariff pending resolution of the protest. On June 10, 1997, the Commission voted to deny the suspension request.

The formal hearing in these dockets took place on August 7, 1997. BellSouth presented the direct and rebuttal testimony of Thomas F. Lohman, Senior Director of Finance. The hearing produced a transcript of 163 pages and 5 exhibits.

This Brief of Evidence is submitted in accordance with the post-hearing procedures of Rule 25-22.056, Florida Administrative Code. A summary of BellSouth's position on each of the issues to be resolved in this docket is delineated in the following pages and marked with an asterisk.

STATEMENT OF BASIC POSITION

BellSouth submits that FCC Orders 96-388 and 96-439 require incumbent local exchange companies to remove any intrastate payphone subsidy from intrastate rates. It is this Commission's duty to approve what intrastate rate elements must be reduced to fully remove any subsidy. BellSouth has determined that the amount of intrastate payphone subsidy in BellSouth's rates is $6.501 million. BellSouth filed and this Commission approved a tariff filing reducing BellSouth's intrastate hunting rates by $6.501 million. BellSouth's tariff filing is appropriate, beneficial to end users, was properly approved by this Commission, and consistent with the requirements of the FCC orders.

STATEMENT OF POSITION ON THE ISSUES

Issue 1: What is the amount of intrastate payphone subsidy, if any, that needs to be eliminated by each local exchange company pursuant to Section 276(b)(1)(B) of the Telecommunications Act of 1996?

**Position: The amount of intrastate payphone subsidy of BellSouth's rates is $6.501 million.

BellSouth determined that the amount of intrastate payphone subsidy present in its rates is $6,501,000. A computation of this amount was filed with the Commission on February 26, 1997. (Tr. p.23). BellSouth computed this amount by first identifying revenues, expenses, and investment associated with its Florida intrastate payphone operations. The achieved rate of return for these operations was then calculated and determined to be below 11.25%, the current FCC authorized rate of return. (Tr. pp. 23-24 and 47-48). The revenues required to raise the rate of return to 11.25% was the $6,501,000 subsidy provided by other intrastate services. (Tr. p.24).

No party put forth a witness to dispute this amount. No party performed a Florida and BellSouth specific subsidy study. (Tr. p. 43.). Under cross-examination of Thomas F. Lohman by AT&T, Mr. Lohman stated that it was not appropriate to include future revenue streams in determining what a subsidy was at a given point in time. (Tr. p.46). The subsidy concerns what was occurring in 1995, i.e., what subsidy was built into BellSouth's regulated intrastate payphone operations at that particular point in time. (Tr. p.61). Essentially, the FCC's Orders require the elimination of the subsidy that was embedded in current rates, not on what may or may not happen in the future with BellSouth's intrastate payphone operations. (Tr. p.62).

Although the Commission Staff did not put forth a witness to dispute BellSouth's subsidy amount, nor did the Staff submit a revised subsidy study, the Staff indicated in the Prehearing Order that BellSouth's subsidy amount was $7,502,000. Under cross-examination, Mr. Lohman testified that the line expense component of the study was calculated by a specific cost study identifying the cost of SmartLine Service. (Tr. p.66). He further testified that this was an incremental study that was grown to an embedded basis. (Tr. p. 67). The remaining expense components, in the subsidy study were taken from the 1995 ARMIS Report. ARMIS provides an average state loop cost, not a loop specifically used for payphones, as the SmartLine study does. The ARMIS data for payphone costs, other than the access line, is appropriate to use, however, because the cost is specifically related to the payphone operations, such as commissions, coin collection, set maintenance, etc. (Tr. p. 69). (Tr. pp. 73-75). Therefore, it is more appropriate and accurate to use a specific cost study for the access line expense and to use ARMIS, which contains specific components for the payphone expense, than to use ARMIS for both the payphone expense and the set and access line expense. (Tr. p.74). If ARMIS was used for both expense components approximately $1 million would be added to BellSouth's subsidy amount. It would not, however, be as accurate as BellSouth's methodology. (Tr. p.77).

Issue 2: If an intrastate payphone subsidy is identified in Issue 1, do the FCC's Payphone Reclassification Orders require the Florida Public Service Commission to specify which rate element(s) should be reduced to eliminate such subsidy?

Position: The FCC's Orders state that the subsidy must be removed from intrastate rates. This Commission has authority under the Orders to determine what elements should be reduced in order to eliminate the subsidy. The Commission has exercised that authority by reducing BellSouth's hunting charges.

Essentially, no party disputes that this Commission has the authority under the FCC's Orders to determine what elements should be reduced in order to eliminate the subsidy. (Tr. pp. 110-111 and 149). What the parties dispute is whether the Commission did that. MCI's witness testified that the Commission had not met the requirements to specify what rate element should be reduced due to BellSouth's payphone subsidy. (Tr. pp. 149-150). This claim was made even though the Commission issued an order in which it allowed BellSouth's tariff reducing hunting to go into effect in order to eliminate the subsidy, specifically rejecting other tariff elements recommended by the Staff. (Tr. p. 150). MCI cites paragraph 183 of FCC Order 96-388 as requiring states to act, but Paragraph 183 deals with the interstate jurisdiction. (Tr. pp. 150-151). The bottom line is that this Commission chose to allow BellSouth to choose the element that should be reduced to eliminate the subsidy. BellSouth chose hunting charges for the reduction and the Commission not only accepted this decision, it refused to suspend the tariff upon request by MCI. There is nothing in the Act or the FCC's orders that require this Commission to do any more. Even MCI acknowledges that the FCC orders do not specify how the subsidy should be removed. (Tr. p.58). The Commission itself recognized that one way to accomplish the intent of the FCC's orders was to accept BellSouth's tariff. (Tr. pp. 26-27).

<u>**Issue 3:**</u> If an intrastate payphone subsidy is identified in Issue 1, what is the appropriate rate element(s) to be reduced to eliminate each subsidy?

**<u>Position:</u> The business hunting charge is the appropriate element to be reduced to eliminate BellSouth's payphone subsidy.

BellSouth filed its tariff to reduce Business Hunting Charges to eliminate BellSouth's payphone subsidy because it is a reduction that directly benefits the end user and is in response to repeated customer requests. (Tr. pp. 25-26). Even the witness for MCI and AT&T admitted that BellSouth's choice of business hunting was not objectionable per se, just that they preferred the reduction be made on switched access charges. (Tr. pp. 102 and 160).

AT&T and MCI testified that it was more appropriate to reduce switched access charges. (Id.). AT&T listed various reasons in support of their position, First, AT&T testified that access charges are priced significantly above cost. (Tr. p. 101). Yet, AT&T admitted that BellSouth has rate elements other than Switched Access that are priced above cost. (Tr. pp. 118-119). MCI's witness also agreed with this conclusion. (Tr. 157). Therefore, this reasoning applies equally to BellSouth's choice. (Tr. p. 34). AT&T next argued that the markup on switched access was high, but admitted this could be true for hunting as well. (Id.). AT&T then argued that the incremental cost of the carrier common line charge was such that the element was providing a subsidy. Again, this is equally true of hunting. Next, AT&T argued that switched access was priced high to keep other rates low. Once again, the same is true of hunting. (Id. and Tr. pp. 49 and 66).

The last reason given by AT&T in support of its position that switched access is more appropriate is that BellSouth has elected price cap regulation and this docket may be the last chance to move access charges to cost. (Tr. pp. 101-102). First, AT&T is essentially asking this Commission to punish BellSouth for electing price regulation. Secondly, the interexchange carriers have been the recipient of over $183 million in switched access charge reductions out of a possible $224 million in required rate reductions by BellSouth over the last three years. (Tr. pp. 64 and 109). That equals 81% of the required rate reductions being used to reduce switched access charges. (Tr. p. 64). Yet, AT&T and MCI continue to cry "More, more.."

There is no valid reason put forth by AT&T and MCI evidencing the need to use this rate reduction to further reduce BellSouth's switched access charges. As stated earlier, BellSouth believes hunting is the appropriate rate element to be reduced because it benefits end user customers directly. (Tr. pp. 25-26). Other than a general assurance that any access charge reduction made by BellSouth had been flowed through by AT&T and MCI, neither AT&T nor MCI were able to identify what group of services and/or what group of customers had benefited. (Tr. pp. 105-108, 110, and 115-156). Nor could AT&T or MCI identify what services or end user customers would benefit if this Commission chose to eliminate BellSouth's subsidy by reducing switched access charges. (Id.)

Another oft-stated reason for reducing switched access charges in this docket was the claim that the revenues from switched access and toll and operator services were somehow revenue streams that supported the intrastate payphone subsidy. Yet this Commission recognized that there is no way to tell from where the subsidy came. (Tr. p. 32). Even AT&T and MCI admitted there is no way to trace a particular rate element providing subsidy to another rate element. (Tr. pp. 116-117 and 152.)

During cross-examination of BellSouth's witness by the FPTA, the FPTA appeared to propose that the rate reduction should be related to a benefit to the pay telephone companies. (Tr. pp. 122-123). No witness, however, was put forth, by the FPTA to support this proposal. Mr. Lohman testified the rates being charged to independent payphone providers must pass the FCC's new services test, i.e., the rates must cover cost and can provide a reasonable contribution. (Tr. pp. 55-56). Mr. Lohman did state that if BellSouth's rates are above this test, then BellSouth would have to reduce the rates. (Tr. p. 58). However, no evidence was presented to indicate that this was the case.

Issue 4: If necessary, by what date should revised intrastate tariffs that eliminate any identified intrastate payphone subsidy be filed?

**Position: This issue has been stipulated.

Issue 5: Is April 15, 1997, the appropriate effective date for revised intrastate tariffs that eliminates any identified intrastate payphone subsidy?

**Position: This issue has been stipulated.

Issue 6: Should these dockets be closed?

**Position: This issue has been withdrawn.

CONCLUSION

For the reasons set forth herein, the decision previously made by this Commission eliminating BellSouth's intrastate payphone subsidy via a reduction in business hunting charges should be sustained. Accordingly, BellSouth requests this Commission to reject the claims of AT&T, MCI and the FPTA.

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CERTIFICATE OF SERVICE
DOCKET NO. 970281-TL , 970172-TP and 970173-TP

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