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April 17, 1998

BY HAND DELIVERY

Ms. Blanca Bayo, Director
Division of Records and Reporting
Room 110, Easley Building
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

Re: Docket Nos. 971478-TP, 980184-TP, 980495-TP and 980499-TP

Dear Ms. Bayo:

Enclosed for filing on behalf of WorldCom, Inc. are an original and fifteen copies of the Direct Testimony of Gary Ball in the above-referenced dockets.

Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the same to me.

Thank you for your assistance with this filing.

Sincerely,


Floyd R. Self

FRS/amb
Enclosures

cc: Mr. Brian Sulmonetti
Parties of Record

DOCUMENT NUMBER-DATE
04405, APR 17 1998
FPSO-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of WorldCom Technologies,)
Inc. Against BellSouth Telecommunications, Inc.)
for Breach of Terms of Florida Partial)
Interconnection Agreement under Sections 251) Docket No. 971478-TP
and 252 of the Telecommunications Act of 1996,)
and Request for Relief.)
_____)
In re: Complaint of Teleport Communications)
Group Inc./TCG South Florida Against BellSouth)
Telecommunications, Inc. For Breach of Terms)
of Interconnection Agreement under Section 252) Docket No. 980184-TP
of the Telecommunications Act of 1996, and)
Request for Relief.)
_____)
In re: Complaint of Intermedia Communications)
Inc. Against BellSouth Telecommunications, Inc.)
For Breach of Terms of Florida Partial)
Interconnection Agreement under Sections 251 and) Docket No. 980495-TP
252 of the Telecommunications Act of 1996,)
and Request for Relief.)
_____)
In re: Complaint by MCI Metro Access)
Transmission Services, Inc. Against BellSouth)
Telecommunications, Inc. For Breach of Approved) Docket No. 980499-TP
Interconnection Agreement by Failure to Pay)
Compensation for Certain Local Traffic.)
_____)

**DIRECT TESTIMONY OF GARY BALL
ON BEHALF OF
WORLD COM TECHNOLOGIES, INC.**

April 17, 1998

1 **Q. PLEASE STATE YOUR NAME, TITLE, AND BUSINESS ADDRESS.**

2 **A.** My name is Gary J. Ball. I am the Vice President for Regulatory Policy
3 Development of WorldCom, Inc. ("WorldCom"). My business address is 33
4 Whitehall Street, 15th Floor, New York, New York 10004.

5 **Q. PLEASE DESCRIBE YOUR CURRENT RESPONSIBILITIES FOR**
6 **WORLDCOM.**

7 **A.** I am responsible for the development of WorldCom's positions on regulatory
8 matters, and serve as WorldCom's representative with various members of
9 the telecommunications industry. I am also responsible for overseeing
10 resolution of disputes dealing with reciprocal compensation for traffic
11 terminated to Internet Service Providers ("ISPs").

12 **Q. PLEASE DESCRIBE YOUR PREVIOUS PROFESSIONAL**
13 **EXPERIENCE AND EDUCATIONAL BACKGROUND.**

14 **A.** I graduated from the University of Michigan in 1986 with a Bachelor of
15 Science degree in Electrical Engineering. After three years as a Radar
16 Systems Engineer, I enrolled in the University of North Carolina Business
17 School, from which I obtained a Masters of Business Administration in
18 1991. For the past seven years, I have worked in the telephone industry.
19 From June 1991 through February 1993, I worked for Rochester Telephone
20 Corporation, a local exchange carrier, beginning as a Network Planning
21 Analyst, responsible for financial and technical analysis of new services and
22 upgrades to its local exchange network. In February 1992, I was promoted

1 to Senior Regulatory Analyst, responsible for developing state tariff filings
2 and general regulatory support for dedicated and switched services. From
3 February 1993 through August 1994, I worked for Teleport Communications
4 Group, Inc., a competitive access provider, as Manager of Regulatory Affairs.
5 I was responsible for developing and implementing regulatory policies on
6 both state and federal levels, developing and filing all Company tariffs,
7 ensuring regulatory compliance with state and federal rules, and providing
8 support for business, marketing, and network plans. I joined MFS
9 Communications Company, Inc. ("MFS") in August 1994 as Director of
10 Regulatory Affairs for the Eastern Region. In December of 1996, I was
11 promoted to Assistant Vice President for Industry Relations responsible for
12 oversight of WorldCom's interconnection negotiations and agreements. I
13 recently was promoted to Vice President for Regulatory Policy Development.

14 **Q. PLEASE DESCRIBE THE OPERATIONS OF WORLDCOM, INC.**
15 **AND ITS SUBSIDIARIES.**

16 **A.** WorldCom, Inc. is a diversified telecommunications company with
17 operations throughout the world. WorldCom, Inc. and its subsidiaries,
18 including MFS, provide a full range of telecommunication services, including
19 local, intrastate, interstate and international services. WorldCom, Inc. is
20 currently the fourth largest long distance carrier in the United States and is
21 one of the largest competitive local exchange carriers. We currently operate
22 in Florida under the name WorldCom Technologies, Inc.

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PURPOSE AND SCOPE

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS CASE?

A. I am responding to the issues identified in the Issues Identification Hearing. In addressing these issues, I will focus on the Partial Interconnection Agreement by and between WorldCom and BellSouth, dated August 26, 1996, and approved by this Commission in Order No. PSC-96-1508-FOF-TP.

STAFF ISSUE 1:

Q. IS THE FLORIDA PARTIAL INTERCONNECTION AGREEMENT BETWEEN WORLDCOM TECHNOLOGIES, INC./MFS COMMUNICATIONS COMPANY, INC., AND BELL SOUTH TELECOMMUNICATIONS, INC., AMBIGUOUS WITH RESPECT TO THE TREATMENT OF ISP TRAFFIC AS LOCAL TRAFFIC FOR PURPOSES OF RECIPROCAL COMPENSATION?

A. No, the Partial Interconnection Agreement (the "Agreement") is clear and unambiguous on its face, as is apparent from the following provisions:
Section 1.40 of the Agreement defines "Local Traffic" as:

calls between two or more Telephone Exchange service users where both Telephone Exchange Services bear NPA-NXX designations associated with the same local calling area of the incumbent LEC or other authorized area (e.g., Extended Area Service Zones in adjacent local calling areas). Local Traffic includes traffic types that have been traditionally referred to as "local calling" and as "extended area service (EAS.)" All other traffic that originates and terminates between end users within the LATA is toll traffic. In no event shall the Local Traffic area for

1 purposes of local call termination billing between the
2 parties be decreased.

3 Section 1.58 defines "Reciprocal Compensation" as follows:

4 is As Described in the Act, and refers to the payment
5 arrangements that recover costs incurred for the
6 transport and termination of Telecommunications
7 originating on one Party's network and terminating on
8 the other Party's network.

9 The Reciprocal Compensation provision in Section 5.8.1 of the Agreement
10 states:

11 Reciprocal Compensation applies for transport and
12 termination of Local Traffic (including EAS and
13 EAS-like traffic) billable by BST or MFS which a
14 Telephone Exchange Service Customer originates on
15 BST's or MFS' network for termination on the other
16 Party's network.

17 Section 5.8.2 of the Agreement states:

18 The Parties shall compensate each other for such
19 transport and termination of Local Traffic (local call
20 termination) at a single identical, reciprocal, and equal
21 rate provided in Exhibit 7.0.

22 Thus, from the language of the Agreement itself, it is clear that the parties
23 owe each other reciprocal compensation for all "Local Traffic" terminated on
24 the other's network.

25 **Q. CAN YOU BE MORE SPECIFIC?**

26 **A.** Yes, the calls to ISPs in dispute are calls from one NPA-NXX to another
27 within the same local calling area. The calls in dispute are not toll traffic.

1 Moreover, the calls are billable and are billed as local calls by BellSouth and
2 WorldCom originating on one party's network and terminating on the other.

3 **Q. WHEN DOES A CALL TERMINATE?**

4 **A.** A call placed over the public switched telecommunications network
5 ("PSTN") is considered to be "terminated" when it is delivered to the
6 telephone exchange service bearing the called telephone number. Nothing
7 in the Agreement or applicable law or regulations create a distinction
8 pertaining to calls placed to telephone exchange service end users which
9 happen to be ISPs. All calls that terminate within a local calling area,
10 regardless of the identity of the end user, are local calls under Section 1.40
11 of the Agreement, and reciprocal compensation is due for such calls. This
12 includes telephone exchange service calls placed by BellSouth's customers
13 to WorldCom's ISP customers.

14 **Q. ARE THERE OTHER PROVISIONS OF THE AGREEMENT THAT**
15 **SUPPORT THE VIEW THAT THE CALLS ARE LOCAL CALLS?**

16 **A.** Yes, There is no exception in the definitions of "Local Traffic" or
17 "Reciprocal Compensation" for calls which happen to terminate at an ISP
18 and, plainly, the parties knew how to create exceptions when they wanted to.
19 For example, Section 5.8.3 of the Agreement states as follows:

20 The Reciprocal Compensation arrangements set forth
21 in this Agreement are not applicable to Switched
22 Exchange Access Service. All Switched Exchange
23 Access Service and all IntraLATA Toll Traffic shall

1 continue to be governed by the terms and conditions
2 of the applicable federal and state tariffs.

3 For these purposes, Switched Exchange Access Service is defined in section

4 1.62 of the Agreement as:

5 mean[ing] the following types of Exchange Access
6 Services: Feature Group A, Feature Group B, Feature
7 Group D, 800/888 access, and 900 access and their
8 successors or similar Switched Exchange Access
9 services.

10 The calls at issue do not fit into any of the categories of "Switched Exchange
11 Access Service" defined above and, consequently are not excluded from the
12 reciprocal compensation provisions of the Agreement.

13 **Q. IF THE PARTIAL INTERCONNECTION AGREEMENT IS DEEMED**
14 **TO BE AMBIGUOUS ON THE ISSUE OF THE TREATMENT OF ISP**
15 **TRAFFIC AS LOCAL TRAFFIC FOR PURPOSES OF RECIPROCAL**
16 **COMPENSATION, THEN HOW SHOULD THE COMMISSION**
17 **RESOLVE THE AMBIGUITY?**

18 **A.** As I have testified, WorldCom believes that the Agreement is entirely clear
19 and unambiguous on this question. However, should the Commission find
20 an ambiguity, then WorldCom submits that the ambiguity can be resolved by
21 examining, in addition to the language of the Agreement: (1) the express
22 language of the Telecommunications Act of 1996, (2) relevant rulings,
23 decisions and orders of this Commission, (3) relevant rulings, decisions and
24 orders of the FCC interpreting the Act, (4) rulings, decisions and orders from

1 other, similarly situated state regulatory agencies, and (5) the custom and
2 usage in the industry.

3 **Q. DESCRIBE CALL ORIGINATION AND CALL TERMINATION**
4 **WITHIN THE PSTN?**

5 **A.** As I previously testified, call origination within the PSTN occurs when a
6 caller dials, or causes to be dialed, a working PSTN telephone number. Call
7 termination within the PSTN occurs when a connection is established
8 between the caller and the telephone exchange service to which the dialed
9 telephone number is assigned, and answer supervision is returned.

10 **Q. DOES "CALL TERMINATION" IN THIS CONTEXT MEAN THE**
11 **CALL ENDS?**

12 **A.** Certainly not. It merely means that the call has been received by the
13 telephone exchange service to which the call was addressed (by means of the
14 called telephone number), that a call record has been generated, and answer
15 supervision has been returned. The call ends when one party to the call
16 disconnects by hanging up.

17 **Q. UNDER WHAT TARIFF DO ISPs SERVED BY WORLDCOM**
18 **OBTAIN SERVICE?**

19 **A.** WorldCom's local exchange services tariff.

20 **Q. UNDER WHAT TARIFF DO ISPs SERVED BY BELLSOUTH**
21 **OBTAIN SERVICE FROM BELLSOUTH?**

22 **A.** BellSouth's local exchange services tariff.

1 **Q. IS THAT THE SAME TARIFF FROM WHICH OTHER BUSINESSES**
2 **OBTAIN LOCAL EXCHANGE SERVICE FROM BELLSOUTH?**

3 **A. Yes.**

4 **Q. IS THAT THE CASE WITH WORLDCOM AS WELL?**

5 **A. Yes.**

6 **Q. HOW DOES BELLSOUTH RATE AND BILL A CALL FROM A**
7 **BELLSOUTH LOCAL EXCHANGE END USER TO AN ISP SERVED**
8 **BY BELLSOUTH IN THE SAME LOCAL EXCHANGE AREA?**

9 **A. For example, when an BellSouth telephone exchange service customer places**
10 a call to an ISP within the caller's local calling area, BellSouth rates and bills
11 such customer for a local call pursuant to the terms of BellSouth's local tariff.

12 **Q. WHAT RATES DOES BELLSOUTH CHARGE TO ISPs THAT IT**
13 **SERVES?**

14 **A. BellSouth sells services to ISPs out of BellSouth's local exchange services**
15 tariff, pursuant to those rates, terms and conditions.

16 **Q. HOW DOES BELLSOUTH TREAT THIS TRAFFIC FOR**
17 **SEPARATIONS AND REPORTING PURPOSES?**

18 **A. In its required filings with the FCC, BellSouth treats the calling traffic**
19 originating on BellSouth's network and terminating at an ISP within the
20 originating caller's local calling area, whether the ISP is on BellSouth's or on
21 an ALEC's network, as a local call for the purposes of jurisdictional
22 separations and ARMIS reports. BellSouth treats the revenues associated

1 with the calling traffic as local for the purposes of separations and ARMIS
2 reporting.

3 **Q. ARE THERE ANY REGULATIONS OR TARIFFS APPLICABLE TO**
4 **BELLSOUTH THAT PROVIDE FOR THE SERVICES BEING**
5 **TREATED AS ANYTHING BUT LOCAL?**

6 **A.** No.

7 **Q. HAS THIS COMMISSION CONSIDERED THE QUESTION OF THE**
8 **NATURE OF CALLS TO ISPS?**

9 **A.** Yes.

10 **Q. WHAT DID THE COMMISSION FIND?**

11 **A.** The Commission found that end user access to an ISP is by local service.

12 **Q. WHAT WAS THE CONTEXT OF THE COMMISSION'S RULING?**

13 **A.** In Order No. 21815, issued September 5, 1989 in Docket No. 880423-TP this
14 Commission completed an investigation into access to the local network for
15 providing information services. The finding that end user access to the ISP
16 is by local service was reached after hearing testimony and argument from a
17 variety of parties, including BellSouth (then Southern Bell). In fact, in
18 reaching its conclusion that access is local, the Commission relied in part on
19 testimony from BellSouth's witnesses. In its order, the Commission cited
20 BellSouth testimony that "calls to a VAN (value added network) which use
21 the local exchange lines for access are considered local even though
22 communications take place with data bases or terminals in other states" and

1 “such calls should continue to be viewed as local exchange traffic.” (Order
2 No. 21815, p. 24 (emphasis added).) Further, the Commission in rejecting
3 an argument regarding the definition of intrastate access advanced by United
4 Telephone (now Sprint) again quoted the BellSouth witness who testified that
5 connections to the local exchange network for the
6 purpose of providing an information service should be
7 treated like any other local exchange service.

8 (Order 21815, p. 25.)

9 **Q. DID THE COMMISSION MAKE ANY OTHER FINDINGS**
10 **RELEVANT TO THE PRESENT DISPUTE?**

11 **A.** Yes. Based on the testimony in the docket, the Commission’s 1989 order
12 further defined intrastate access as

13 switched or dedicated connectivity which originates
14 from within the state to an information service
15 provider’s point of presence (ISP’s POP) within the
16 same state.

17 (Order No. 21815, p. 25.) This definition is virtually identical to the one
18 urged by BellSouth in that case. Although two other local carriers sought to
19 have this definition clarified on reconsideration, BellSouth did not and the
20 Commission declined to revise its definition on reconsideration. (Order No.
21 23183, issued July 13, 1990.) Thus, with the support of testimony from
22 BellSouth, this Commission has a longstanding order predating the
23 WorldCom-BellSouth Agreement wherein local dialed access to ISPs has
24 been determined to be local calling.

1 **Q. HOW DOES THE FCC VIEW SUCH CALLS?**

2 **A.** The FCC treats traffic to ISPs as local traffic. The FCC has repeatedly
3 affirmed the rights of ISPs to employ local exchange services, under
4 *intrastate* tariffs, to connect to the public switched telecommunications
5 network. The mere fact that an ISP may enable a caller to access the Internet
6 does not alter the legal status of the connection between the customer and the
7 ISP as being a local call. The local call to the Telephone Exchange Service
8 of an ISP is a separate and distinguishable transmission from any subsequent
9 Internet connection enabled by the ISP.

10 The FCC's recent *Report and Order on Universal Service and First*
11 *Report and Order on Access Charge Reform* affirm this fact. In the
12 *Universal Service Order*, the FCC determined that Internet access consists of
13 severable components: the connection to the Internet service provider via
14 voice grade access to the public switched network, and the information
15 service subsequently provided by the ISP. In other words, the first com-
16 ponent is a simple local exchange telephone call. Such a call is eligible for
17 reciprocal compensation under the Agreement. In addition, while all
18 providers of interstate telecommunications services must contribute to the
19 Universal Service Fund, the FCC explicitly excludes ISPs from the
20 obligation.

21 In the *Access Charge Reform Order*, the FCC declined to allow LECs
22 to assess interstate access charges on ISPs. Indeed, the FCC unambiguously

1 characterized the connection from the end user to the ISP as local traffic: "To
2 maximize the number of subscribers that can reach them *through a local call*,
3 most ISPs have deployed points of presence."

4 In the FCC's *Non-Accounting Safeguards Order*, the Commission
5 determined that the local call placed to an Information Service Provider was
6 separate from the subsequent information service provided. The severability
7 of these components was key to the Commission's conclusion that if each
8 was provided, purchased, or priced separately, the combined transmissions
9 did not constitute a single interLATA transmission. There can be no doubt
10 that at this time the FCC does not consider the local exchange call to an ISP
11 to be an interstate or international communication.

12 **Q. HAVE OTHER STATE REGULATORY AGENCIES CONSIDERED**
13 **THE TREATMENT TO BE GIVEN TO SUCH CALLS?**

14 **A.** Yes, to date the position argued by BellSouth here has been soundly and
15 repeatedly rejected by at least fifteen other state regulatory agencies. These
16 decisions generally have come in two distinct contexts: First, in situations
17 where commissions were asked to arbitrate the terms of interconnection
18 agreements and, second, in actions brought by ALEC's to enforce the terms
19 of approved agreements. In both contexts the results have been the same:
20 commission after commission has ruled that traffic terminated to an ISP was
21 local in nature and was subject to the reciprocal compensation provisions of
22 the Act.

1 Thus, when other Regional Bell Operating Companies, in the course
2 of arbitrations with CLECs, asserted similar arguments that traffic terminated
3 to enhanced service providers should be exempted from reciprocal
4 compensation arrangements under interconnection agreements, regulatory
5 agencies in Arizona, Colorado, Minnesota, Oregon, Washington and West
6 Virginia all declined to treat traffic to enhanced service providers, including
7 ISPs, any differently than other local traffic. These cases show the
8 Commission that six state commissions, in exercising their duty to arbitrate
9 and review interconnection agreements under the standards and terms
10 enunciated in the Act, with the authority in their states equivalent to the
11 Commission's powers in Florida, have decided that nothing in the Act
12 provides for disparate treatment of traffic delivered to ISP customers.

13 Other state commissions faced with virtually the same arguments as
14 BellSouth makes here have reached similar conclusions in the context of
15 petitions to enforce or modify the terms of previously approved
16 interconnection agreements. For example, the New York Public Service
17 Commission ordered New York Telephone to continue to pay reciprocal
18 compensation for local exchange traffic delivered to ISPs served by MFS
19 Intelenet of New York, Inc. The Maryland Public Service Commission also
20 ruled that local exchange traffic to ISPs is eligible for reciprocal
21 compensation, as did the Connecticut Department of Public Utility Control,

1 the Public Utility Commission of Texas, the Corporation Commission of the
2 State of Oklahoma, and the Michigan Public Service Commission.

3 The Virginia State Corporation Commission also reached the same
4 conclusion, recognizing that there is a distinct difference between the local
5 call at issue which terminates at the ISP and the service that the ISP, itself,
6 provides. Just recently the North Carolina Utilities Commission ruled on a
7 petition filed by US LEC to enforce its interconnection agreement with
8 BellSouth that involved virtually the same circumstances to those presented
9 here and considered virtually the same arguments BellSouth has asserted in
10 this case. The North Carolina Commission interpreted the interconnection
11 agreement at issue and directed BellSouth to pay reciprocal compensation for
12 local calls to ISPs, finding, as WorldCom argues here, that there is no
13 exception from reciprocal compensation under the interconnection agreement
14 for local traffic to an end user who happens to be an ISP.

15 These decisions, reaching from one end of the country to the other,
16 should be considered by the Commission as persuasive evidence that
17 BellSouth's position is totally without merit. Indeed, the Illinois Commerce
18 Commission, in the latest of these decisions, noted how rare it was for there
19 to be such unanimity among the state commissions.

20 **Q. WHAT ACTION SHOULD THE COMMISSION TAKE?**

21 **A.** The Commission should enter an order: (1) enforcing the Interconnection
22 Agreement as written, (2) directing the release of escrowed funds to

1 WorldCom, and (3) directing the parties, WorldCom and BellSouth, to
2 compensate each other for transport and termination of **all** local traffic,
3 including local traffic that terminates at end-users who happen to be ISPs,
4 whether previously billed and unpaid or to be incurred and invoiced in the
5 future.

6 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

7 **A.** Yes.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Direct Testimony of Gary Ball on behalf of WorldCom, Inc. in Docket Nos. 971478-TP, 980184-TP, 980495-TP and 980499-TP has been furnished by Hand Delivery (*) and/or U.S. Mail to the following parties of record this 17th day of April, 1998:

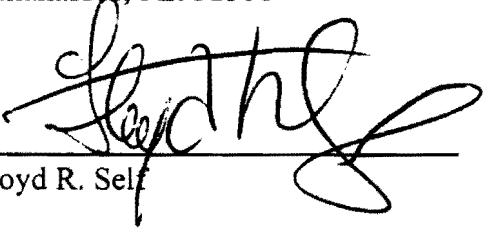
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