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RECORDS AND REPORTING

Nancy H. Sims
Director - Regulatory Relations

January 11, 1999

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

980000B

RE: Access by Telecommunications Companies to Customers
In MultiTenant Environments

Dear Mrs. Bayó:

Enclosed are Comments of BellSouth Telecommunications, Inc. to Staff's
December, 1998 Draft Report on Access by Telecommunications Companies to
MultiTenant Environments.

A copy of this letter is enclosed. Please mark it to indicate that the original was
filed and returned the copy to me.

Sincerely,
Nancy Sims
(N)

Nancy Sims

- ACK _____
- AFA _____
- APP _____
- CAF _____
- CMU 1
- CTR _____
- EAG _____
- LEG Bedell
- LIN _____
- OPC _____
- RCH Hopper Daniels/Cutler
- SEC 1
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FPSC-RECORDS/REPORTING

COMMENTS OF BELL SOUTH TELECOMMUNICATIONS, INC.
ON STAFF RECOMMENDATIONS - MTE ACCESS

Following are BellSouth's comments regarding Staff's Recommendations:

ISSUE 1: DEFINITION OF MULTITENANT ENVIRONMENT

BellSouth concurs with Staff's recommendations.

ISSUE 2: DEFINITION OF MTE TELECOMMUNICATIONS SERVICES

BellSouth concurs with Staff's recommendations.

ISSUE 3: DEFINITION OF DEMARCATION POINT

BellSouth concurs with Staff's recommendations.

ISSUE 4: CONDITIONS FOR PHYSICAL ACCESS

BellSouth concurs with Staff's recommendations.

ISSUE 5: COMPENSATION

BellSouth concurs with Staff's "no statutory change" recommendation, however, please refer to BellSouth's Explanatory Note Regarding Compensation below.

ISSUE 6: JURISDICTION

BellSouth concurs with Staff's recommendations.

BellSouth's Explanatory Note Regarding Compensation (Issue 5)

Relative to an MTE property, there are three distinct categories of compensation, and it is not precisely clear to BellSouth how each of these are impacted by the Staff's recommendation on Issue 5:

1. Compensation for the use of transmission facilities (e.g., cable, wire, multiplexers, etc. as currently applied via the existing STS rule.)
2. Compensation for support structures (e.g., conduits, manholes, risers, electrical power, equipment spaces, and other "fixtures".)
3. Compensation for access; i.e., simply a fee that property owners may levy which is not linked to any value-added service or facility provided by the owner. Such fees are often referred to as "gatekeeper fees".

Regarding category 1 above, compensation for transmission facilities, Staff refers to the existing STS rule which requires a carrier to compensate the owner or STS provider for transmission facilities that the carrier uses to reach the end user; such compensation not to exceed the cost that the carrier would have incurred had it placed its own facilities. This rule is reasonable assuming, however, that the carrier has the option of declining the use of the STS's or other

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third party's transmission facilities. Regardless of whether, considered in isolation, any proposed monetary compensation is deemed "reasonable" by the carrier and/or PSC, the carrier may still have other legitimate technical, operational and customer-driven reasons for not wishing to utilize a third party's facilities. A clear and simple example of such a situation is when the STS/third party's facilities are copper and the carrier utilizes fiber either out of technical or customer demand-driven necessity. Another example could be the unwillingness or inability of the third party to provide adequate cable pair separation to accommodate high speed data channels; or perhaps the third party's installation, repair or emergency restoral intervals would not allow the carrier to meet its regulated service indices. In addition to these situations there are many other examples which make it easy to conclude that the STS compensation rule is only reasonable as long as carriers can choose, but are not obligated, to use a third party's transmission facilities. To meet customers' and this Commission's service requirements, BellSouth must be permitted to retain sole authority to specify and deploy its technology of choice. If a carrier declines to utilize third party facilities then it must have the option to:

- a) place its own facilities, or if not permitted,
- b) demarc at a point which does not require use of third party facilities, or
- c) decline to serve the MTE property.

Regarding category 2, compensation for support structures BellSouth's existing tariffs (see GSST Sections A2 and A5) clearly place responsibility for the provision and cost of structure on subscribers and/or property owners. Any change in regulations that would force BellSouth to pay for some or all of the cost of support structures would necessarily have to be accompanied by a statutory or PSC Rule modification that would allow BellSouth to:

- a) demarc its services at the Minimum Point Of Entry (MPOE) of the property, or at BellSouth's option,
- b) decline to serve the subject MTE property.

If the above-listed options were not given to BellSouth and other regulated ILECs, then property owners could demand unrealistic amounts for access to these support structures without any practical remedy for BellSouth and other incumbent carriers. ALECs currently have the option to simply "walk away" if they perceive that the amounts being sought by a particular property owner are excessive (and well they should), but it is not that easy for the ILECs since they remain, effectively, Carriers Of Last Resort.

The Commission, however, proposes that it could monitor and arbitrate the "reasonableness" of negotiations between carriers and owners. BellSouth believes strongly that, although theoretically possible, from a practical standpoint

it is not feasible for the Commission to do so. Determining whether an owner's proposed compensation for structures is "reasonable" would require an in-depth analysis of the exact physical configuration of the installed structures and the billing invoices submitted to the owner by various subcontractors who performed the structure work. Furthermore, if the owner's own personnel performed the structure work, the Commission would be thrust into a position of having to determine if the costs imputed by the owner were, in fact, "reasonable". Given the thousands and thousands of MTE properties which are built each year in Florida, BellSouth believes it would be cumbersome and inordinately time-consuming for the Commission to perform such analyses. Nor does the complicated nature of structure installation and maintenance lend itself to a "cookie cutter" formula which assigns pre-determined cost figures; i.e., \$X for a 4" conduit, etc. There are far too many variables. Nor is feasible to use the STS rule guidelines for structure since that would require BellSouth to determine the cost it would incur if BellSouth, itself, installs the structure. BellSouth has no expedient way of knowing if structure costs are "reasonable" in buildings that itself does not own or occupy. Such analysis would lead to long protracted negotiations and service delays to end users. (Worse yet, if faced with the threat of missed service order commitments, it is not unlikely that ILEC field personnel would simply accept any charges imposed by owners rather than go through a long process of contesting such demands.)

The above discussion leads to the conclusion that any carrier which is obligated by rules to compensate owners for structures must have the option to refuse to serve the property, or at a minimum, demarc at MPOE. This market-oriented approach to structure compensation negotiations is the only feasible way to deal with this issue. In this regard, BellSouth reiterates its recorded position that when operating as a COLR, without the option to refuse to serve or demarc at MPOE, then its existing tariffs regarding access and structure provisioning must remain intact.

Regarding category 3 above, "access fees", although not specifically stated, all apparent indications are that Staff does not endorse, nor would allow, non-value-added fees which owners may attempt to impose on carriers; e.g., 15% of gross revenues, and other arbitrary amounts.) It would appear that if the Commission allowed non value-added "access fees" to be imposed on carriers, the result would be a chilling effect on competition since many CLECs may simply refuse to pay and choose not to offer their services in such cases. Furthermore, relative to ILEC-provided services in such circumstances, an ultimate increase in price to end users would result since existing tariffs provide that extraordinary costs be borne by the subscriber. Thus, unless otherwise clarified, BellSouth will assume that "access" fees are not permitted.

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