

MICHAEL P. GOGGIN
General Attorney

BellSouth Telecommunications, Inc.
150 South Monroe Street
Room 400
Tallahassee, Florida 32301
(305) 347-5561

ORIGINAL

RECORDS AND REPORTING

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November 24, 1999

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

991760-TP

Re: TeleConex, Inc. Petition for Arbitration

Dear Ms. Bayó:

Enclosed is an original and fifteen copies of BellSouth Telecommunications, Inc.'s Petition for Section 252(b) Arbitration with TeleConex, Inc., which we ask that you file 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 to the parties shown on the attached Certificate of Service.

Sincerely,

Michael P. Goggin
Michael P. Goggin (1/20)

cc: All Parties of Record
Marshall M. Criser III
R. Douglas Lackey
Nancy B. White

Mrs
RECEIVED-FPSC

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

**CERTIFICATE OF SERVICE
TeleConex Petition for Arbitration**

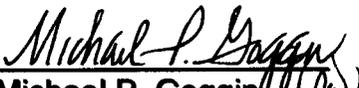
I HEREBY CERTIFY that a true and correct copy of the foregoing was served via

U.S. Mail this 24th day of November, 1999 to the following:

Staff Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Steve T. Watson
President TeleConex, Inc.
5783 Grande Lagoon Blvd.
Pensacola, FL 32507

Suzanne F. Summerlin, Esq.
1311-B Paul Russell Road
Suite 201
Tallahassee, FL 32301
Tel. No. (850) 656-2288


Michael P. Goggin (PW)

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL

In re:)
)
Petition for Arbitration of the Interconnection)
Agreement Between BellSouth Telecommunications,) Docket No. _____
Inc. and TeleConex, Inc. Pursuant to the)
Telecommunications Act of 1996.)
_____)

PETITION OF BELLSOUTH TELECOMMUNICATIONS, INC.
FOR SECTION 252(b) ARBITRATION

Pursuant to Section 252(b) of the Telecommunications Act of 1996 ("1996 Act"), BellSouth Telecommunications, Inc. ("BellSouth") files this Petition for Arbitration ("Petition") seeking resolution of certain issues arising between TeleConex, Inc. ("TeleConex") and BellSouth in the negotiation of a Resale Agreement. BellSouth states as follows:

A. STATEMENT OF FACTS

1. BellSouth is a corporation organized and existing under the laws of the State of Georgia, maintaining its principal place of business at 675 West Peachtree Street, N.E., Atlanta, Georgia 30375. BellSouth is an incumbent local exchange carrier ("ILEC") as defined by 47 U.S.C. § 251(h).

2. On information and belief, TeleConex is a corporation organized and existing under the laws of the State of Florida, maintaining its principal place of business at 5783 Grande Lagoon Boulevard, Pensacola, Florida 32507. Upon information and belief, TeleConex is certificated by the Florida Public Service Commission ("Commission") to provide Alternative Local Exchange Carrier ("CLEC") services. Additionally, upon information and belief, and

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pursuant to the aforementioned certificate, TeleConex provides resold telecommunications services to customers in the State of Florida.

3. Pursuant to the provisions of Section 251(c) the 1996 Act, BellSouth is required to offer (through negotiation or otherwise) for resale at wholesale rates any telecommunications service that it provides at retail to subscribers who are not telecommunications carriers. *See* 47 U.S.C. § 251(c)(4). The terms of the resale agreement must comply with the provisions of Section 251(b) of the 1996 Act. *See* 47 U.S.C. § 251(b)(1).

4. Under the provisions of Section 252(d) of the 1996 Act, BellSouth must make available its retail services for resale at wholesale rates that are determined by the State Commission on the basis of the retail rates charged to subscribers for the telecommunications service requested, excluding the portion thereof attributable to any marketing, billing, collection, and other costs that will be avoided by the local exchange carrier. *See* 47 U.S.C. § 252(d)(3).

5. On or about June 23, 1997, BellSouth and TeleConex entered into an agreement to govern the resale of BellSouth's retail services by TeleConex (the "BellSouth/TeleConex Resale Agreement"). The Commission approved the BellSouth/TeleConex Resale Agreement on or about October 27, 1997. The term of the BellSouth/TeleConex Resale Agreement was for two years, expiring on June 22, 1999. Pursuant to the terms of the BellSouth/TeleConex Resale Agreement, the parties have agreed to continue service pursuant to its terms until such time as a new Resale Agreement is in effect.

6. In anticipation of the expiration of the BellSouth/TeleConex Resale Agreement and pursuant to the terms of that agreement, BellSouth provided to TeleConex a written request for negotiation of a new resale agreement on April 19, 1999. A copy of the letter is attached hereto as Exhibit "A". BellSouth advised TeleConex that it was providing notice, pursuant to

Section I of the Resale Agreement, and in compliance with Section 251(c)(1) of the 1996 Act, of BellSouth's request to commence good-faith negotiations toward a new agreement. BellSouth further advised TeleConex that, pursuant to the terms of the Resale Agreement, BellSouth elected to negotiate a new agreement rather than to extend the term of the parties' existing agreement. BellSouth included a copy of BellSouth's Standard Resale Agreement for TeleConex's review. Although TeleConex did not provide a written response to BellSouth's letter, the parties did begin negotiations by telephone shortly thereafter.

7. Since April 19, 1999, BellSouth and TeleConex have been negotiating a new resale agreement. However, the parties were not able to complete these negotiations. Rather than seeking arbitration when the original arbitration window closed on September 26, 1999, the parties agreed to continue negotiating and to extend the negotiation period by an additional sixty (60) days, thus making November 25, 1999, the date the arbitration window closes. A copy of the September 23, 1999, letter wherein the parties agreed to extend their negotiations and the time for arbitration is attached hereto as Exhibit "B".

8. Although TeleConex raised a number of issues and questions regarding the existing resale agreement that could affect the new agreement, TeleConex did not propose any contract language to BellSouth for discussion. In a good faith effort to bring the parties' negotiations to a resolution prior to the expiration of the arbitration window, BellSouth wrote a letter to TeleConex on November 5, 1999, providing a summary of the negotiations and suggesting a timeline for the remainder of the parties' time for negotiations. A copy of the letter is attached hereto as Exhibit "C". In this letter, BellSouth confirmed its understanding that the only unresolved contractual issue from the negotiations related to TeleConex's concerns over charges for TeleConex's access to BellSouth's operations support systems ("OSS").

B. JURISDICTION AND TIMING

9. Pursuant to Section 252(b)(1) of the 1996 Act, which allows either party to the negotiation to request arbitration, this Commission is empowered to arbitrate any and all unresolved issues regarding TeleConex's purchase, at wholesale rates, of BellSouth's retail services. BellSouth's Petition is filed with the Commission between the 135th and 160th day from the date that the negotiations were deemed to have commenced. This Commission must resolve each issue set forth in this Petition not later than nine (9) months after the date on which TeleConex received the request for negotiation from BellSouth, which, based upon the parties' agreed upon extension of time, is on or before March 19, 2000.

C. STANDARD OF REVIEW

10. The Federal Communications Commission ("FCC") established the appropriate standard for arbitration under Sections 251 and 252 of the 1996 Act in its First Report and Order, *Implementation of the Local Competition provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98 ("First and Report and Order"). Pursuant to the FCC's First Report and Order, this Commission must ensure that resolution of issues in an arbitration satisfy Section 251 of the 1996 Act, including regulations promulgated by the FCC.

D. ISSUES FOR ARBITRATION

11. Pursuant to Section 252(b)(2) of the 1996 Act, the unresolved issue between TeleConex and BellSouth is provided below in the form of a matrix of the unresolved issues as understood by BellSouth and the respective position of the parties. The sole issue in dispute concerns the appropriate rates that TeleConex should pay for access to and use of the electronic and manual interfaces to BellSouth's OSS.

ISSUE DESCRIPTION	PETITIONER'S POSITION	RESPONDENT'S POSITION	FCC RULING
<p>What are the appropriate rates to be charged by BellSouth for ALECs' access to and use of the electronic and manual interfaces to BellSouth's OSS and functions?</p>	<p>The 1996 Act and the FCC's rules allow BellSouth to recover costs associated with developing, providing, and maintaining the electronic and manual interfaces by ALECs such as TeleConex. Although this Commission has not decided the issue, eight state commissions in BellSouth's region have recognized BellSouth's right to recover such costs. BellSouth is proposing rates for electronic and manual access calculated consistent with the cost methodology previously adopted by the Commission.</p>	<p>Although TeleConex has stated that BellSouth should be allowed to recover its costs for ALECs' access to and use of BellSouth's OSS, TeleConex disagrees with the level of some of the charges and with certain instances when the OSS charges should be applied to ALECs.</p>	<p>First Report and Order, CC Docket 96-98, ¶¶ 682 and 690 (Aug. 8, 1996)</p> <p>Third Report and Order, CC Docket 96-98, ¶¶ 425-426 (Nov. 5, 1999)</p>

E. CONCLUSION

WHEREFORE, BellSouth respectfully requests that the Commission arbitrate the issue set forth in this Petition and enter an Order directing that BellSouth's position on the issue raised herein be incorporated into the Interconnection Agreement between TeleConex and BellSouth. Further, BellSouth requests such other, more general or specific relief as is just and proper under the circumstances.

Respectfully submitted this 24th day of November, 1999.

Nancy B. White

NANCY B. WHITE
MICHAEL P. GOGGIN *(for)*
Museum Tower
150 West Flagler Street
Suite 1910

Miami, Florida 33130

R. Douglas Lackey

R. DOUGLAS LACKEY *(for)*
THOMAS B. ALEXANDER
General Attorneys
Suite 4300, BellSouth Center
675 West Peachtree Street, N.E.
Atlanta, GA 30375
(404) 335-0750

COUNSEL FOR BELLSOUTH
TELECOMMUNICATIONS, INC.

187047

BellSouth Interconnection Services

675 West Peachtree Street, NE
Room 34S91
Atlanta, Georgia 30375

David W. Hitt
(404) 927-7518
Fax: (404) 529-7839

Sent via FedEx

EXHIBIT A

April 19, 1999

Mr. Steve T. Watson
President
Teleconex, Inc.
5783 Grande Lagoon Blvd
Pensacola, FL 32507

Re: Request that Teleconex, Inc. engage in negotiations with BellSouth Telecommunications, Inc. pursuant to Section 251(c)(1) of the Telecommunications Act of 1996

Dear Mr. Watson:

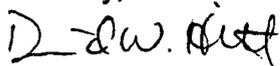
On June 23, 1997, BellSouth Telecommunications, Inc. ("BellSouth") and Teleconex, Inc. ("Teleconex") entered into an agreement for the provision of Resale in the state(s) of Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee (the "Agreement"). The expiration date for that Agreement is June 22, 1999. Please be advised that this correspondence serves as notification that BellSouth chooses to negotiate a new Agreement rather than to extend the term of Teleconex's existing Agreement.

As such, pursuant to Section I of the Agreement and in compliance with Section 251(c)(1) of the Communications Act of 1934, as amended ("Act"), BellSouth is hereby requesting that Teleconex commence good-faith negotiations with BellSouth to enter into a new Agreement.

In an effort to move the negotiation process along, a copy of the BellSouth Standard Resale Agreement is herein provided for your review. Additionally, I have been made aware of your interest to negotiate a delayed payment of non-recurring charges (NRCs) into your agreement, which we will certainly review. Once you have had an opportunity to review what is already contained in the proposed agreement, please contact me with questions. If need be, we will begin scheduling meetings between the companies to address issues raised during your review.

BellSouth looks forward to working with Teleconex in reaching a mutually agreeable Resale Agreement. Should you have questions regarding this, please do not hesitate to call me.

Sincerely,



David W. Hitt
Manager-Interconnection Services

cc: Mr. Jerry Hendrix
Ms. Parkey D. Jordan


BellSouth Interconnection Services

675 West Peachtree Street, NE
 Room 34591
 Atlanta Georgia 30375

David W. Hitt
 (404) 927-7518
 Fax: (404) 529-7839

EXHIBIT B

Via Email

September 23, 1999

Mr. Chris Watson
 Teleconex, Inc.
 5783 Grande Lagoon Blvd
 Pensacola, FL 32507

Re: Negotiations between BellSouth Telecommunications, Inc. and Teleconex, Inc.

Dear Chris:

In accordance with the discussions between the Parties, this letter memorializes that the Parties have agreed to extend the negotiations' window. Please sign below to indicate your concurrence that the official window for negotiations is deemed to have been extended to October 31, 1999. As such, the arbitration window will be from October 31, 1999, to November 25, 1999, at which date the sixty-day extension of negotiations will conclude.

Please return this document to me by facsimile. Call if you have any questions.

Sincerely,

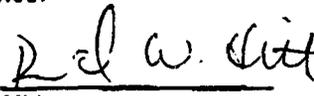
David W. Hitt
 Manager-Interconnection Services

Concurrence:

Signature: Name: STEVE T. WATSONTitle: PRESIDENT

Teleconex, Inc.

Concurrence:

Signature: 

David W. Hitt

Manager

BellSouth Telecommunications
 - Interconnection Services