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July 13, 2001

Mrs. Blanca S. Bayó
Division of the Commission Clerk and
Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

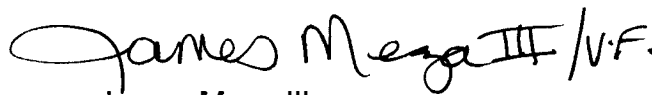
Re: **Docket No. 000731 -TP (AT&T Arbitration)**

Dear Ms. Bayó:

Enclosed is BellSouth Telecommunications, Inc.'s Motion for Reconsideration, 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,


James Meza III

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

CERTIFICATE OF SERVICE
Docket No. 000731 -TP

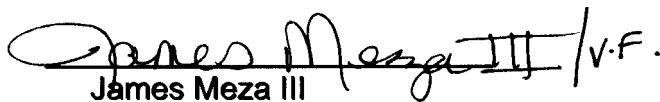
I HEREBY CERTIFY that a true and correct copy of the foregoing was served via

U.S. Mail this 13th day of July, 2001 to the following:

Lee Fordham
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James Meza III /v.f.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by AT&T Communications)
Of the Southern States, Inc. d/b/a AT&T for)
Arbitration of certain terms and conditions)
of a proposed agreement with BellSouth)
Telecommunications, Inc. pursuant to 47)
U.S.C. Section 252)

Docket No. 00073 1-TP

Filed: July 13, 2001

BELLSOUTH TELECOMMUNICATIONS, INC.'S
MOTION FOR RECONSIDERATION

BellSouth Telecommunications, Inc. (“BellSouth”) respectfully submits this Motion for Reconsideration and requests that the Florida Public Service Commission (“Commission”) modify its Order No. 001810-TP, In re: Petition by AT&T Communications of the Southern States, Inc. d/b/a AT&T for arbitration of certain terms and conditions of a proposed agreement with BellSouth Telecommunications, Inc., pursuant to 47 U.S.C. Section 252 (“Order”) issued on June 28, 2001 in one respect. The Commission should reconsider and modify its requirement that BellSouth provision access terminals to AT&T Communications of the Southern States, Inc. (“AT&T”) within five calendar days. Instead, the Commission should require the parties to negotiate a mutually acceptable provisioning time frame. Reconsideration is required because there is no record evidence to support the Commission’s mandated provisioning time frame. BellSouth does not seek reconsideration of the determination that AT&T is required to use access terminals to cross-connect its own facilities with BellSouth’s facilities or that the parties can mutually agree on a provisioning time frame.

A motion for reconsideration is appropriate if the Commission either overlooked or failed to consider certain evidence. See Diamond Cab Co. of Miami v. King, 146 So.2d 889 (Fla.

1962). The Commission must rely upon evidence that is “sufficiently relevant and material that a reasonable man would accept it as adequate to support the conclusion reached.” DeGroot v. Sheffield, 95 So.2d 912, 916 (Fla. 1st DCA 1957). See also, Agrico Chem. Co. v. State of Fla. Dept. of Environmental Reg., 365 So.2d 759, 763 (Fla. 1st DCA 1979); and Ammerman v. Fla. Board of Pharmacy, 174 So.2d 425, 426 (Fla. 3d DCA 1965). The evidence must “establish a substantial basis of fact from which the fact at issue can reasonably be inferred.” DeGroot, 95 So.2d at 916. “The public service Commission’s determinative action cannot be based upon speculation or supposition.” 1 Fla. Jur. 2d, § 174, citing Tamiami Trail Tours, Inc. v. Bevis, 299 So.2d 22, 24 (1974). “Findings wholly inadequate or not supported by the evidence will not be permitted to stand.” Caranci v. Miami Glass & Engineering Co., 99 So.2d 252, 254 (Fla. 3d DCA 1957).

Consequently, a motion for reconsideration is proper when the Commission fails to base a decision on record evidence. For instance, in In re: ITC DeltaCom Communications, Inc. d/b/a ITC DeltaCom, Docket No. 990750, BellSouth requested reconsideration of the cageless physical collocation fee of \$1,279 established by the Commission in BellSouth’s arbitration proceeding with ITC DeltaCom. In its motion, BellSouth, as it does here, argued that the ordered fee was not based on record evidence. Order No. PSC-OO-2233-FOF-TP, Nov. 22, 2000, 2000 WL 331250525 at *3. The Commission granted BellSouth’s motion, finding that “there [was] no record evidence to support the fee established.” Id. at *5. Likewise, in In re: Determination of the Cost of Basic Local Telecommunications Service, Pursuant to Section 364.025, Florida Statutes, Docket No. 980696-TP, Sprint sought reconsideration of the Commission’s decision to adopt the loop investment cap value of \$4,350 proposed by BellSouth for all carriers required to use the BCPM 3.1 cost proxy model. Order No. PSC-99-0835FOF-TP, Apr. 26, 1999, 1999 WL

734571 at *4. Sprint argued that the Commission's decision was not based on record evidence and should only apply to BellSouth. The Commission granted Sprint's motion and held that "there [was] no record evidence to support our previous conclusion that the \$4,350 cap value is appropriate for modeling the cost of basic local telecommunications service in either Sprint or GTEFL's respective territories/service areas." Id. at 5.

The case at hand is no different. In its Order, the Commission held that BellSouth "should be required to provision the 'access' terminal to AT&T within five calendar days, or in a mutually agreed upon alternative time frame." Order at 56. However, neither AT&T nor BellSouth presented any record evidence to support a requirement that BellSouth provision access terminals within a specific time frame. For example, in direct response to the question of whether there was a time period to install the access terminal, BellSouth witness Milner testified that there was no such time period and that the time necessary to install each access terminal was "situational", depending on how much work would be required:

- Q. How long does BellSouth have to – time, is there a time period that BellSouth has to complete installation of the device once it receives a firm order?
- A. No. And at the outset you can't tell how long its going to take, because that is what the site visit is for is to figure out what the serving arrangement is, what is the scope of AT&T's request, you know, is it one building out of 30, or all 30 out of 30 that are going to have to be equipped. So it is situational. How much work is required and how can you get the work scheduled. So it's a function of how much that AT&T requests be done.

(Tr. 1188). Similarly, AT&T did not set forth any evidence as to what would be an appropriate provisioning period for the installation of the access terminal. Indeed, the Order appears to

recognize this fact as it states that “. . . AT&T did not advocate a specific provisioning time frame” Order at 56.

Simply put, there is no record evidence supporting a decision by the Commission that BellSouth be required to provision an access terminal within a specified time period. To the contrary, the record evidence establishes that the time necessary to provision an access terminal is “situational” and depends on the scope of the work required. Accordingly, the Commission should reconsider and modify its Order requiring BellSouth to provision access terminals within five calendar days.

For these reasons, BellSouth respectfully requests that the Commission reconsider the portion of its Order requiring BellSouth to provision access terminals within five calendar days and, instead, allow the parties to adopt a mutually agreeable provisioning period.

Respectfully submitted this 13th day of July, 2001.

BELLSOUTH TELECOMMUNICATIONS, INC.



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