

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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|-------------------------------------|-------------------------------|
| In Re: Consideration of BellSouth |) |
| Telecommunications, Inc. Entry Into |) DOCKET NO. 960786-TL |
| InterLATA Services Pursuant to |) |
| Section 271 of the Federal |) FILED: August 5, 1997 |
| Telecommunications Act of 1996 |) |

INTERMEDIA COMMUNICATIONS INC.'S
PREHEARING STATEMENT

INTERMEDIA COMMUNICATIONS INC. ("Intermedia") hereby files this prehearing statement pursuant to Rule 25-22.038(3), Florida Administrative Code, and Order Nos. PSC-0945-PCO-TL, PSC-97-0703-PCO-TL, and PSC-97-0792-PCO-TL.

A. WITNESSES: ISSUES:

| | |
|----------------|-----------|
| Julia A. Strow | All |
| J. Lans Chase | 15, 15(a) |

B. EXHIBITS:

| | |
|---------------|---------------------|
| Julia Strow | JS-1 through JS-12 |
| J. Lans Chase | JLC-1 through JLC-3 |

C. BASIC POSITION:

Section 271 of the Telecommunications Act of 1996 (the "1996 Act")

5 conditions Bell Operating Company ("BOC") entry into the in-region interLATA market upon a demonstration that the BOC's local market is open to competition. In particular, the 1 1996 Act requires that, before a BOC may be authorized to provide in-region interLATA

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- APP _____
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- SEC 1
- WAS _____
- OTH _____

services, the Federal Communications Commission ("FCC") must first find that a BOC (1) has fully implemented approved access and interconnection agreements with one or more facilities-based competing carriers providing service to both business and residential subscribers, or, in very limited circumstances, has an approved or effective Statement of Generally Available Terms and Conditions ("SGAT"); (2) provides or generally offers the 14 items under Section 272(c)(2)(B) (the "fourteen-point competitive checklist"); (3) satisfies the requirements of Section 272, including the establishment of a separate long distance subsidiary and the satisfaction of nondiscrimination conditions; and (4) has demonstrated that in-region interLATA entry would be in the public interest. The Florida Public Service Commission's (the "Commission") primary role is to advise the FCC on the first two items.

BellSouth has not satisfied the preconditions of Section 271(c)(1)(A) ("Track A") or section 271(c)(1)(B) ("Track B") of the 1996 Act. More particularly, BellSouth can qualify only for Track A consideration, not Track B, because BellSouth has received, at the very least, several requests for access and interconnection within the meaning of Section 271(c)(1)(B). Although BellSouth may seek in-region interLATA authority under Track A, BellSouth has not demonstrated that it meets the requirements of Track A because no operational facilities-based competing provider or providers of telephone exchange now serve, individually or collectively, residential and business customers in Florida.

Regardless of the "track" BellSouth elects to pursue, BellSouth has not shown that it has satisfied the requirements of the fourteen-point competitive checklist, either through fully implemented interconnection agreements with unaffiliated competing providers or through an approved or effective SGAT, in a manner that would enable its competitors to fully and meaningfully compete, at parity, with BellSouth. An essential requirement for

compliance with the fourteen-point competitive checklist is BellSouth's ability to provide nondiscriminatory access to its operations and support systems ("OSS") for both resale and access to UNEs. BellSouth has not demonstrated that competing providers of telephone exchange service have nondiscriminatory access to OSS for the provision of resale services and UNEs.

ISSUES

ISSUE 1.A: Has BellSouth met the requirements of section 271(c)(1)(A) of the Telecommunications Act of 1996?

INTERMEDIA'S POSITION: No, BellSouth has not met the requirements of Section 271(c)(1)(A), although this is the only avenue through which BellSouth may appropriately seek in-region interLATA authority. The 1996 Act requires meaningful facilities-based competition for business and residential customers. BellSouth has not demonstrated that there currently exist in Florida competing providers of telephone exchange service providing service to both residential and business customers either exclusively over their own facilities or predominantly over their own facilities in combination with resale.

ISSUE 1.A.(a): Has BellSouth entered into one or more binding agreements approved under Section 251 with unaffiliated competing providers of telephone exchange service?

INTERMEDIA'S POSITION: Yes, BellSouth has entered into one or more binding agreements approved under Section 251 with unaffiliated competing providers of telephone exchange service in Florida.

ISSUE 1.A (b): Is BellSouth providing access and interconnection to its network facilities for the network facilities of such competing providers?

INTERMEDIA'S POSITION: BellSouth is providing some level of access and interconnection to its network facilities for the network facilities of such competing providers, but the level of access and interconnection being provided is not sufficient to satisfy the requirements of the 1996 Act.

ISSUE 1.A.(c): Are such competing providers providing telephone exchange service to residential and business customers either exclusively over their own telephone exchange service facilities or predominantly over their own telephone exchange service facilities?

INTERMEDIA'S POSITION: No competing provider or providers of telephone exchange service are now providing such service to residential and business customers either exclusively over their own telephone exchange service facilities or predominantly over their own telephone exchange service facilities. While the 1996 Act does not require a qualifying facilities-based provider to serve both residential and business customers, if BellSouth is relying on a single provider to justify its petition for interLATA relief, that provider would have to be competing with BellSouth and serving both business and residential customers. Similarly, the service or services being provided by the competing provider must be, among other things, significant and geographically dispersed.

ISSUE 1.B: Has BellSouth met the requirements of section 271(c)(1)(B) of the Telecommunications Act of 1996?

INTERMEDIA'S POSITION: No, BellSouth has not met the requirements of Section 271(c)(1)(B) because several competing providers of telephone exchange service to residential and business customers have, at least three months prior to the date on which BellSouth may seek in-region inter LATA authority, requested the access and interconnection described in Section 271(c)(1)(A). Similarly, the Commission has not certified that any of the qualifying providers has delayed the negotiation or implementation process.

ISSUE 1.B.(a): Has an unaffiliated competing provider of telephone exchange service requested access and interconnection with BellSouth?

INTERMEDIA'S POSITION: Yes, several unaffiliated competing providers of telephone exchange service, including Intermedia, have requested access and interconnection with Bellsouth.

ISSUE 1.B.(b): Has a statement of terms and conditions that BellSouth generally offers to provide access and interconnection been approved or permitted to take effect under Section 252(f)?

INTERMEDIA'S POSITION: No, BellSouth's SGAT has not been approved or permitted to take effect under Section 252(f).

ISSUE 1.C: Can BellSouth meet the requirements of section 271(c)(1) through a combination of both "track A" (Section 271(c)(1)(A)) and "track B" (Section 271(c)(1)(B))? If so, has BellSouth met all of the requirements of the section?

INTERMEDIA'S POSITION: No, BellSouth cannot meet the requirements of section 271(c)(1) through a combination of both Track A and Track B. Congress envisioned two ways of authorizing BOC entry into the in-region interLATA market: (1) facilities-based competition via interconnection (i.e., Track A), or, (2) in the absence of qualifying requests, via an SGAT (i.e., Track B). These two tracks are mutually exclusive both under the plain meaning of the statute and as a practical matter. If these two tracks are not mutually exclusive, a BOC has no incentive to implement a negotiated or arbitrated interconnection agreement because it can unilaterally set terms and conditions more favorable to it under an SGAT.

ISSUE 2: Has BellSouth provided interconnection in accordance with the requirements of Section 251(c)(2) and 252(d)(1) of the Telecommunications Act of 1996, pursuant to 271(c)(2)(B)(i) and applicable rules promulgated by the FCC?

INTERMEDIA'S POSITION: BellSouth has provided some level of interconnection to Intermedia, although to date some aspects of the BellSouth-Intermedia interconnection agreement remain unimplemented.

ISSUE 3: Has BellSouth provided nondiscriminatory access to network elements in accordance with the requirements of sections 251(c)(3) and 252(d)(1) of the Telecommunications Act of 1996, pursuant to 271(c)(2)(B)(ii) and applicable rules promulgated by the FCC?

INTERMEDIA'S POSITION: No, BellSouth has not provided Intermedia with access to unbundled network elements ("UNEs") (e.g., unbundled frame relay loops and

unbundled subloops) at any technically feasible point consistent with the requirements of the 1996 Act. Similarly, because nondiscriminatory access to BellSouth's OSS is not completely available to Intermedia and other competing providers of telephone exchange services at parity with BellSouth, BellSouth is not providing nondiscriminatory access to network elements consistent with the 1996 Act.

ISSUE 3(a): Has BellSouth developed performance standards and measurements? If so, are they being met?

INTERMEDIA'S POSITION: BellSouth has not developed performance standards and measures applicable specifically to Intermedia. Such performance standards necessarily should focus on both traditional voice services and advanced data services provided by BellSouth.

ISSUE 4: Has BellSouth provided nondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by BellSouth at just and reasonable rates in accordance with the requirements of section 224 of the Communications of 1934 as amended by the Telecommunications Act of 1996, pursuant to 271(c)(2)(B)(iii) and applicable rules promulgated by the FCC?

INTERMEDIA'S POSITION: Although the BellSouth-Intermedia interconnection agreement provides for nondiscriminatory access to poles, ducts, and conduits, Intermedia has very limited experience, if any, within this matter.

ISSUE 5: Has BellSouth unbundled the loop transmission between the central office and the customer's premises from local switching or other services pursuant to section 271(c)(2)(B)(iv) and applicable rules promulgated by the FCC?

INTERMEDIA'S POSITION: BellSouth has not provided Intermedia with access to requested UNEs and, as a result, BellSouth has not provided Intermedia with unbundled loop transmission. In particular, BellSouth has not provided Intermedia with unbundled digitally conditioned loops and unbundled subloops in conformity with Section 271(c)(2)(B)(iv) of the 1996 Act.

ISSUE 6: Has BellSouth unbundled the local transport on the trunk side of a wireline local exchange carrier switch from switching or other services, pursuant to section 271(c)(2)(B)(v) and applicable rules promulgated by the FCC?

INTERMEDIA'S POSITION: BellSouth has not provided Intermedia with access to requested UNEs and, as a result, BellSouth has not provided Intermedia with unbundled local transport in a usable manner consistent with Section 271(c)(2)(B)(v).

ISSUE 7: Has BellSouth provided unbundled local switching from transport, local loop transmission, or other services, pursuant to section 271(c)(2)(B)(vi) and applicable rules promulgated by the FCC?

INTERMEDIA'S POSITION: BellSouth has not provided Intermedia with access to UNEs and, as a result, BellSouth has not provided Intermedia with local switching unbundled from transport, local loop transmission, or other services consistent with Section 271(c)(2)(B)(vi).

ISSUE 8: Has BellSouth provided nondiscriminatory access to the following pursuant to section 271(c)(2)(B)(vii) and applicable rules promulgated by the FCC:

- (a): 911 and E911 services;
- (b): directory assistance services to allow the other telecommunications carrier's customers to obtain telephone numbers; and
- (c): operator call completion services?

INTERMEDIA'S POSITION: BellSouth has provided Intermedia with access to 911/E911, directory assistance services, and operator call completion services, but only to the extent limited local exchange service is being provided by Intermedia over Intermedia's local exchange facilities. To the extent that intermedia has requested such access in association with requested UNEs, BellSouth has not provided nondiscriminatory access to such services. Intermedia does not know whether BellSouth will be able to provide access to such services in connection with requested UNEs.

ISSUE 9: Has BellSouth provided white pages directory listings for customers of other telecommunications carrier's telephone exchange service, pursuant to section 271(c)(2)(B)(viii) and applicable rules promulgated by the FCC?

INTERMEDIA'S POSITION: BellSouth has provided very limited white pages directory listings for Intermedia's customers. Intermedia does not know, however, if BellSouth will be able to provide such listings in connection with unbundled network elements, which BellSouth has not yet been able to provide.

ISSUE 10: Has BellSouth provided nondiscriminatory access to telephone numbers for assignment to the other telecommunications carrier's telephone exchange service customers, pursuant to section 271(c)(2)(B)(ix) and applicable rules promulgated by the FCC?

INTERMEDIA'S POSITION: Yes, BellSouth has provided nondiscriminatory access to telephone numbers to Intermedia.

ISSUE 11: Has BellSouth provided nondiscriminatory access to databases and associated signaling necessary for call routing and completion, pursuant to section 271(c)(2)(B)(x) and applicable rules promulgated by the FCC?

INTERMEDIA'S POSITION: No, BellSouth has not provided Intermedia with nondiscriminatory access to databases and associated signaling necessary for call routing and completion in conjunction with requested UNEs.

ISSUE 12: Has BellSouth provided number portability, pursuant to section 271(c)(2)(B)(xi) and applicable rules promulgated by the FCC?

INTERMEDIA'S POSITION: Yes, BellSouth has provided interim number portability to Intermedia principally through Remote Call Forwarding and Direct Inward Dialing, which complies with the 1996 Act until such time as a permanent number portability solution is required.

ISSUE 13: Has BellSouth provided nondiscriminatory access to such services or information as are necessary to allow the requesting carrier to implement local dialing parity in

accordance with the requirements of section 251(b)(3) of the Telecommunications Act of 1996, pursuant to section 271(c)(2)(B)(xii) and applicable rules promulgated by the FCC?

INTERMEDIA'S POSITION: BellSouth is providing Intermedia with dialing parity on a very limited scale (i.e., within the limited scope of local exchange services that Intermedia can provide today principally through its own facilities).

ISSUE 14: Has BellSouth provided reciprocal compensation arrangements in accordance with the requirements of section 252(d)(2) of the Telecommunications Act of 1996, pursuant to section 271(c)(2)(B)(xiii) and applicable rules promulgated by the FCC?

INTERMEDIA'S POSITION: To the extent the BellSouth-Intermedia interconnection agreement calls for reciprocal rates, BellSouth has provided Intermedia with reasonable reciprocal compensation arrangements.

ISSUE 15: Has BellSouth provided telecommunications services available for resale in accordance with the requirements of sections 251(c)(4) and 252(d)(3) of the Telecommunications Act of 1996, pursuant to section 271(c)(2)(B)(xiv) and applicable rules promulgated by the FCC?

INTERMEDIA'S POSITION: Theoretically BellSouth has made its retail services available to Intermedia for resale purposes, however, for practical purposes BellSouth has not made its services available for resale, because nondiscriminatory access to BellSouth's OSS is not available to Intermedia.

ISSUE 15(a): Has BellSouth developed performance standards and measurements. If so, are they being met?

INTERMEDIA'S POSITION: BellSouth has not developed performance standards and measurements applicable specifically to Intermedia. Such performance standards necessarily should focus on both traditional voice services and advanced data services provided by BellSouth.

ISSUE 16: By what date does BellSouth propose to provide interLATA toll dialing parity throughout Florida pursuant to section 271(e)(2)(A) of the Telecommunications Act of 1996?

INTERMEDIA'S POSITION: BellSouth is the proper party to respond to this issue.

ISSUE 17: If the answer to issues 2-15 is "yes," have those requirements been met in a single agreement or through a combination of agreements?

INTERMEDIA'S POSITION: Intermedia incorporates its responses to issues 2-15 as though more fully set forth herein.

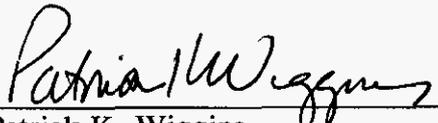
ISSUE 18: Should this docket be closed?

INTERMEDIA'S POSITION: Yes, this docket should be closed until such time as BellSouth is able to satisfy the requirements of the 1996 Act for in-region interLATA entry.

- E. QUESTIONS OF LAW:** None.
- F. POLICY QUESTIONS:** None.
- G. STIPULATED ISSUES:** None.
- H. PENDING MOTIONS OR OTHER MATTERS:** BellSouth's Notice of Intent to Request Confidential Classification.
- I. REQUIREMENTS THAT CANNOT BE COMPLIED WITH:**
None.

Respectfully submitted this 5th day of August, 1997.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by hand delivery* and/or Federal Express** this 5th day of August, 1997, to the following:

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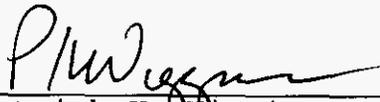
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