



# Public Service Commission

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## -M-E-M-O-R-A-N-D-U-M-

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RECORDS AND REPORTING

**DATE:** NOVEMBER 18, 1999

**TO:** DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

**FROM:** DIVISION OF COMMUNICATIONS (KING) *mk*  
DIVISION OF LEGAL SERVICES (CLEMONS) *DMLC PR*

**RE:** DOCKET NO. 971140-TP - MOTIONS OF AT&T COMMUNICATIONS OF THE SOUTHERN STATES, INC., AND MCI TELECOMMUNICATIONS CORPORATION AND MCI METRO ACCESS TRANSMISSION SERVICES, INC., TO COMPEL BELLSOUTH TELECOMMUNICATIONS, INC. TO COMPLY WITH ORDER PSC-96-1579-FOF-TP AND TO SET NON-RECURRING CHARGES FOR COMBINATIONS OF NETWORK ELEMENTS WITH BELLSOUTH TELECOMMUNICATIONS, INC., PURSUANT TO THEIR AGREEMENT.

**AGENDA:** 11/30/99 - REGULAR AGENDA - POST HEARING DECISION - PARTICIPATION IS LIMITED TO COMMISSIONERS AND STAFF

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\CMU\WP\971140a.RCM

### CASE BACKGROUND

On June 9, 1997, in Docket No. 960833-TP, AT&T Communications of the Southern States, Inc. (AT&T), filed a Motion to Compel Compliance of BellSouth Telecommunications, Inc. (BellSouth), with certain provisions of Order Nos. PSC-96-1579-FOF-TP, PSC-97-0298-FOF-TP, and PSC-97-0600-FOF-TP, as well as certain provisions of its interconnection agreement with BellSouth having to do with the provisioning and pricing of combinations of unbundled network elements (UNEs). On October 27, 1997, in Docket No. 960846-TP, MCI Telecommunications Corporation and MCI metro Access Transmission Services, Inc., (MCI) filed a similar Motion to Compel Compliance.

On August 28, 1997, MCIIm filed a Petition to Set Non-Recurring Charges for Combinations of Network Elements, for which this docket was opened. On March 9, 1998, an evidentiary hearing was conducted. On June 12, 1998, Order No. PSC-98-0810-FOF-TP was issued that memorialized the Commission's decisions in this docket with respect to the provisioning and pricing of network element combinations, the standard to be applied to determine whether a combination of network elements constitutes a recreation of an existing BellSouth retail service, the non-recurring charges for certain loop and port combinations, and the furnishing of switched access usage data. The parties were required to submit written agreements memorializing and implementing the Commission's decisions within thirty days of the issuance of Order No. PSC-98-0810-FOF-TP.

In October 1998 the parties stated that they were unable to reach agreement on the content of the amendments to be incorporated in their interconnection agreements. Accordingly, AT&T, MCIIm, and BellSouth each submitted individual amendments which they believed captured the Commission's decisions.

On March 2, 1999, staff met with the parties to discuss what impact, if any, the Supreme Court's decision in AT&T Corp. v. Iowa Utilities Bd., 119 525 U.S. 366, 142 L. Ed. 2d 834, 119 S. Ct. 721(1999) may have on the amendments to the interconnection agreement. At the conclusion of the March 2, 1999 meeting, staff asked the parties to once again try and reach agreement on language that could be incorporated into the existing interconnection agreements, taking into consideration the Commission's decisions as well as the Supreme Court's opinion. The parties proposed and discussed language in an effort to reach a mutual agreement as to the amendments on combinations of network elements. Unfortunately, the parties were unable to reach agreement, and once again each party submitted separate amendments to be incorporated into the agreements. Since the parties did not agree on language that incorporated the Commission's decisions into their existing interconnection agreements, the issues were again before this Commission at its August 31, 1999, Agenda Conference.

On October 11, 1999, Order No. PSC-99-1989-FOF-TP, was issued. This Order required that AT&T, BellSouth, and MCIIm incorporate the language contained in Attachments A and B (of Order PSC-99-1989-FOF-TP) into their respective interconnection agreements at issue in this docket.

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On November 15, 1999, the parties submitted their amendments as required by the October 11, 1999 Order. This recommendation addresses whether the Commission should approve the amendments.

**ISSUE 1:** Should the Commission approve the amendments to the interconnection agreements between AT&T/BellSouth and MCIIm/BellSouth?

**RECOMMENDATION:** Yes, the Commission should approve the November 15, 1999 amendments to the interconnection agreements between AT&T/BellSouth and MCIIm/BellSouth. (**KING**)

**STAFF ANALYSIS:** Order No. PSC-99-1989-FOF-TP required that AT&T, BellSouth, and MCIIm incorporate the language contained in Attachments A and B of that Order into their respective interconnection agreements at issue in this docket. On November 15, 1999, the parties filed their amendments to incorporate such language.

Staff reviewed the amendments and believes they incorporate the language contained in Attachments A and B of Order No. PSC-99-1989-FOF-TP. Accordingly, since the amendments comply with the Commission's decision in Order PSC-99-1989-FOF-TP, staff recommends that the Commission approve the amendments.

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**ISSUE 2:** Should this docket be closed?

**RECOMMENDATION:** No. This docket should remain open pending the outcome of BellSouth's appeal. **(CLEMONS)**

**STAFF ANALYSIS:** BellSouth has filed a timely Notice of Appeal of Order No. PSC-99-1989-FOF-TP. This docket should remain open and in litigation status pending the resolution of the appeal.