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August 19, 1996

BY HAND DELIVERY

Ms. Blanca Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
Room 110, Easley Building
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

Re: Docket No. 960916-TP

Dear Ms. Bayo:

Enclosed is an original and fifteen copies of American Communication Services, Inc. and American Communication Services of Jacksonville, Inc.'s Motion to Consolidate in the above-referenced docket. Also enclosed is a 3 1/2" diskette in WordPerfect 6.1 format with the document on it.

Please indicate receipt of this document by stamping the enclosed extra copy of this letter.

Your attention to this filing is appreciated.

Sincerely,

Floyd R. Self

FRS/amb
Enclosures
cc: James Falvey, Esq.
Parties of Record

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of	)	
	)	
Petition by American Communication	)	
Services, Inc., and American Communication	)	Docket No. 960916-TP
Services of Jacksonville, Inc. for	)	Filed: August 19, 1996
Arbitration with BellSouth	)	
Telecommunications, Inc. pursuant to the	)	
Telecommunications Act of 1996	)	
	)	

MOTION FOR CONSOLIDATION

American Communication Services, Inc. and American Communication Services of Jacksonville, Inc. ("ACSI") herewith requests the Commission to consolidate the arbitration proceeding involving ACSI and BellSouth Telecommunications, Inc. ("BellSouth") with those filed by AT&T (Docket No. 960833-TP) and MCImetro (Docket No. 960846-TP) pursuant to Section 252(b) of the Telecommunications Act of 1996 ("Act") in the manner set forth below. As grounds therefor, ACSI states:

1. The procedures for negotiation, arbitration and approval of agreements relating to interconnection with the incumbent local exchange carrier are set forth in Section 252 of the Act. Pursuant to Section 252(b)(1), any party to a negotiation may, during the period from the 136th to the 160th day after the date on which the incumbent local exchange carrier receives a request for negotiation, petition a state commission to arbitrate any open issues. By petition filed August 13, 1996 ACSI requested arbitration of unresolved issues between ACSI and BellSouth. ACSI requested BellSouth to commence good faith negotiations by letter dated March 7, 1996. The Petition for Arbitration has been assigned Docket No. 960916-TP but has not yet been scheduled for hearing nor procedures.

2. On July 17, 1996, AT&T petitioned the Commission to arbitrate various unresolved issues with BellSouth regarding the price, terms and conditions of interconnection. That petition has been assigned Docket No. 960833-TP, and is currently scheduled for hearing on October 9-11, 1996. AT&T requested initiation of negotiations on March 4, 1996.

3. MCI Telecommunications Corporation, on behalf of itself and all of its affiliates, including MCImetro, requested BellSouth to commence good faith negotiations under the Act by letter dated March 26, 1996. MCImetro petitioned the Commission to arbitrate various unresolved issues with BellSouth on August 15, 1996. In contemplation of the filing, the Commission opened Docket No. 960846-TP for the petition involving MCImetro and BellSouth.

4. Anticipating that the proceedings in these two dockets would involve common questions of law, fact, and policy AT&T and MCI, on July 30, 1996 submitted a Joint Motion for Consolidation of the two petitions. By Order No. PSC-96-1039-PCO-TP, issued August 9, 1996, the Prehearing Officer approved the Joint Motion with the following guidelines:

> 1) The parties shall identify two categories of issues: those that are common to the AT&T/BellSouth petition and the MCImetro/BellSouth petition; and those that are unique to each petition.
>
> 2) All parties shall participate fully in the litigation of the issues that are common to both petitions. The Commission's decision on the common issues shall be binding on all parties.
>
> 3) Only the parties directly involved will participate in the litigation of the issues that are unique to only one of the petitions. For example, BellSouth and AT&T may participate with respect to the AT&T petition, and BellSouth and MCImetro may participate with respect to the MCImetro petition. The non-affected petitioner shall not present testimony, conduct cross-examination, or file a brief with respect to the issues that affect only the other

> petitioner. The Commission's decision on the unique issues shall be binding only on the parties who litigated the issue.

In submitting this motion ACSI would assert that consolidation would facilitate the disposition of all three petitions. Although each has unique issues and concerns, there are some issues which overlap. As a practical consideration, consolidation of the cases would not only permit simultaneous consideration of common issues but would make the most efficient use of witness time as some witnesses are or probably will be common to all three dockets. The same is true of Staff and Commission time and expense. Finally, since under section 252(i) of the Act, any arbitrated agreement must be made available to any other telecommunications carrier, it is more efficient for the Commission to arbitrate the disputed issues in a single comprehensive proceeding.

5. Moreover, Rule 25-22.035(2), Florida Administrative Code, provides that:

> If there are separate proceedings before the presiding officer which involve similar issues of law or fact, or identical parties, the matters may be consolidated if it appears that consolidation would promote the just, speedy, and inexpensive resolution of the proceedings, and would not unduly prejudice the rights of a party.

As noted, consolidation of these proceedings would be appropriate here because it would promote the efficient resolution of the common issues, would eliminate the necessity for the Commission to hear repetitive testimony and cross-examination regarding common issues, and, most importantly, would result in a single record and a single consistent decision by the Commission on common issues. In addition, given the tight federal statutory time frames that govern Section 252(d) proceedings, and the congested nature of the Commission's calendar, consolidation would assist the Commission in resolving the proceedings in a timely fashion.

6. Consolidation is also contemplated under the Act. For example Section 252(g) of the Act also expressly provides :

> (g) CONSOLIDATION OF STATE PROCEEDINGS.-- Where not inconsistent with the requirements of this Act, a State commission may, to the extent practical, consolidate proceedings under sections 214(e), 251(f), 253, and this section in order to reduce administrative burdens on telecommunications carriers, other parties to the proceedings, and the State commission in carrying out its responsibilities under this Act.
>
> (emphasis added)

7. By submitting this request for consolidation, ACSI is not seeking to "intervene" in any other docket and would specifically agree to proceed subject to the restrictions and limitations enumerated in Order No. PSC-96-1039-PCO-TP.

8. ACSI has consulted with counsel for AT&T and MCImetro and BellSouth has been advised of the intent to file this motion. MCImetro does not object to the request provided that the guidelines in Order No. PSC-96-1039-PCO-TP are incorporated.

WHEREFORE, for the reasons stated above, ACSI respectfully requests that the Commission consolidate the captioned proceeding in the manner set forth in this joint motion.

Respectfully submitted this 19th day of August, 1996.

AMERICAN COMMUNICATIONS SERVICES, INC.

By: _____

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Its Attorneys

CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of August, 1996, a copy of American Communication Services, Inc. and American Communication Services of Jacksonville, Inc.'s Motion for Consolidation has been sent by Hand Delivery (*) and/or U.S. Mail on this 19th day of August, 1996 to the following parties of record:

Donna Canzano, Esq.*
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