

1 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

2 DIRECT TESTIMONY OF

3 JOSEPH GILLAN

4 ON BEHALF OF

5 MCIMETRO ACCESS TRANSMISSION SERVICES, INC.

6 DOCKET NO. 981121-TP

7 November 25, 1998

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10 **Q. Please state your name, business address and occupation.**

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12 A. My name is Joseph Gillan. My business address is P.O. Box 541038, Orlando, Florida
13 32854. I am an economist with a consulting practice specializing in
14 telecommunications.

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16 **Q. Please briefly outline your educational background and related experience.**

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18 A. I am a graduate of the University of Wyoming where I received B.A. and M.A. degrees
19 in economics. From 1980 to 1985, I was on the staff of the Illinois Commerce
20 Commission where I had responsibility for the policy analysis of issues created by the
21 emergence of competition in regulated markets, in particular the telecommunications
22 industry. While at the Commission, I served on the staff subcommittee for the NARUC
23 Communications Committee and was appointed to the Research Advisory Council
24 overseeing NARUC's research arm, the National Regulatory Research Institute.

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1 In 1985, I left the Commission to join U.S. Switch, a venture firm organized to develop
2 interexchange access networks in partnership with independent local telephone
3 companies. At the end of 1986, I resigned my position of Vice President-
4 Marketing/Strategic Planning to begin a consulting practice. Over the past decade, I
5 have provided testimony before more than 25 state commissions, four state legislatures,
6 the Commerce Committee of the United States Senate, and the Federal/State Joint
7 Board on Separations Reform. I currently serve on the Advisory Council to New
8 Mexico State University's Center for Regulation.

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10 **Q. On whose behalf are you testifying?**

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12 A. I am testifying on behalf of MCImetro Access Transmission Services, Inc. (MCIIm).

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14 **Q. What is the purpose of your testimony?**

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16 A. The purpose of my testimony is to explain that the DS-1 loop/transport combination
17 at issue here is not a "... combination of network elements that recreates a BellSouth
18 retail service." This phrase is important because the Commission has established a
19 narrow exception to otherwise applicable network element prices when the network
20 elements are used to "recreate" a BellSouth service.

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22 In the (very short) testimony that follows, I explain that the Commission's decision in
23 this proceeding is quite simple. The Commission has already determined that a loop
24 and port combination does not recreate local service (Order PSC-98-0810-FOF-TP,
25 Combinations Order). The very same analysis is appropriate here, where MCIIm intends

1 to use a loop and transport combination interconnected to an MCIIm local switch to
2 provide local service. If a loop and port combination do not recreate basic local
3 service, then it is obvious that a loop without the port combination cannot as well.

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5 In fact, the loop/transport combination does not even *qualify* as a candidate to be a
6 "recreated service" because the combination does not satisfy the Commission's
7 threshold criteria that the combination be sufficient, in and of itself, to provide the
8 service being "recreated." As shown by the Commission in the Combinations Order,
9 even this threshold criteria can only be satisfied if the retail service is provided *entirely*
10 using network elements purchased from BellSouth. In contrast, the loop/transport
11 combination at issue here will be used with MCIIm's own local switch to provide local
12 service(s) to MCIIm's customers. The framework used by the Commission to
13 determine that the loop/port combination does not "recreate" local service applies with
14 even greater force here, and BellSouth should be ordered to provide MCIIm with the
15 requested combination at a charge equal to the sum of the rates for each individual
16 network element.

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18 **Q. Please describe the loop/transport combination and explain how it will be used**
19 **by MCIIm to provide retail service.**

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21 A. The loop/transport combination requested by MCIIm provides a DS-1 level digital
22 transmission capability from the end-user to MCIIm's switch. Because this combination
23 "extends" the customer's loop from its serving wire-center to a wire-center where
24 MCIIm's local switch is interconnected, the combination is sometimes referred to as an
25 "extended loop."

1 As is the case when an entrant provides service with unbundled loops (without
2 transport), the principle attributes of the retail service as seen by the customer are
3 provided by MCI's local switch. This switch provides the customer dial tone, custom
4 features and determines the routing of its calls. There is no material difference (from
5 the perspective of the customer) between service provided with an unbundled loop
6 alone, and the same service "extended" to the customer using a combination of the
7 unbundled loop and transport.

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9 **Q. Has this use of unbundled network elements previously been endorsed by**
10 **BellSouth?**

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12 A. Yes. According to BellSouth (as summarized by the Commission in Order 96-1579-
13 FOF-TP, Arbitration Order, page 36):

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15 BellSouth states that unbundled network elements should only be
16 combined with AT&T's or MCI's own capabilities to create a unique
17 service.

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19 This is precisely the use to which the loop/transport network element combination will
20 be put — MCI will combine these network elements with its own local switch to
21 create a unique service in exactly the same way that an unbundled loop (by itself) would
22 be combined with the MCI switch.

23

24 **Q. Does the MCI/BellSouth contract address how network element combinations**
25 **should be priced?**

1 A. Yes. As explained in the testimony of Mr. Martinez, the Commission has already
2 determined that the rate charged for a network element combination (such as the loop
3 and transport combination) should be the sum of the prices for the individual network
4 elements, unless the network elements "recreate" a BellSouth retail service.
5 Consequently, the single issue that needs to be resolved in this proceeding is whether
6 MCI is "recreating" a BellSouth service when it uses an "extended loop"
7 configuration with its own local switch to provide the customer local exchange service.

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9 **Q. Has the Commission determined what it means to "recreate" a retail service?**

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11 A. Although the Commission has not determined *all* of the criteria that must be satisfied
12 before a combination of network elements would "recreate" a retail service, it has
13 adopted a framework which establishes the *minimum* conditions that must be met. In
14 Order PSC-98-0810-FOF-TP (pages 56-58), the Commission determined that a
15 loop/port combination does not recreate BellSouth's retail service because the retail
16 service provided to the end-user requires a number of additional functions/network
17 elements:

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19 Our discussion on access to services is important in determining which
20 network elements are necessary to provide basic local service [i.e., the
21 service offered by the entrant]. When an ALEC purchases a loop and
22 port combination, those are the only elements it receives. Not only are
23 operator services, DA, 911 and signaling system databases separate
24 network elements, but the trunks to access each of them are also
25 separate elements.

1 A loop and switch port serving an end user will not provide a capability
2 to reach all other end users in the local calling area.

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6 The functions of OSSs are pre-ordering, ordering, provisioning,
7 maintenance and repair, and billing. OSSs are essential to providing
8 basic local service. Without OSSs, an ALEC cannot provide billing
9 statements to its customers. We find, therefore, that OSS functions are
10 also a necessary network element in the provision of basic local service.

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14 If AT&T or MCI orders only a loop and port combination from
15 BellSouth, then to recreate basic local service, we find that they may
16 have to pay either transport or additional switching charges, or both,
17 when a call terminates to a BellSouth customer.

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21 Therefore, we further conclude that a loop and local switching element
22 combination are insufficient to provision or recreate basic local service.

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24 Obviously, if the loop and local switching network elements are insufficient to recreate
25 basic local service, then the loop without the local switching network element (i.e., the

1 issue here) is even more deficient.

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3 I also note that even if the loop/transport combination encompassed all the *network*
4 *functions* necessary to provide the retail service, this *would not* be sufficient in itself to
5 conclude that BellSouth's retail service had been recreated. The Commission
6 recognized, but did not rule on, the additional arguments by AT&T/MCI that a
7 "service" is more than its network functions:

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9 Based on the evidence in the record, and having concluded that a loop
10 and local switching element are insufficient by themselves to recreate a
11 BellSouth retail service, we also conclude that it is appropriate for us
12 to leave it to the parties to negotiate what precisely does constitute the
13 recreation of a BellSouth retail service. We note, without endorsement,
14 the argument of AT&T and MCI that combinations of network
15 elements alone serving an end-user will not constitute the recreation of
16 a BellSouth retail service and that it is necessary to put into the
17 equation management competency and skills, quality of service,
18 customer support, and marketing.

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22 We choose, however, to impose no restrictions on these negotiations
23 apart from our conclusion that something more than a loop and local
24 switching element is necessary.

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1 The clear conclusion here, however, is that the combination requested by MCI is not
2 sufficient to "recreate" local service and, as a result, BellSouth is obligated to charge
3 MCI for the combination at the sum of the rates for each element individually.

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5 **Q. Does this conclude your direct testimony?**

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7 **A. Yes.**

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