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January 11, 2002

OFFICE OF THE
EXECUTIVE SECRETARY

Guy M. Hicks
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VIA HAND DELIVERY

David Waddell, Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37238

Re: *Petition of MCImetro Access Transmission Services, LLC and Brooks Fiber Communications of Tennessee, Inc. for Arbitration of Certain Terms and Conditions of Proposed Agreement with BellSouth Telecommunications, Inc. Concerning Interconnection and Resale Under the Telecommunications Act of 1996*
Docket No. 00-00309

Dear Mr. Waddell:

Enclosed are the original and thirteen copies of BellSouth's Best and Final Offers for Issues 55, 67 and 95. Copies of the enclosed are being provided to counsel for MCI.

Very truly yours,

Guy M. Hicks

GMH:ch
Enclosure

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Re: *Petition of MCImetro Access Transmission Services, LLC and Brooks Fiber Communications of Tennessee, Inc. for Arbitration of Certain Terms and Conditions of Proposed Agreement with BellSouth Telecommunications, Inc. Concerning Interconnection and Resale Under the Telecommunications Act of 1996*
Docket No. 00-00309

BELLSOUTH TELECOMMUNICATIONS, INC.'S
BEST AND FINAL OFFERS FOR ISSUES 55, 67 AND 95

BellSouth Telecommunications, Inc. ("BellSouth") submits these best and final offers to resolve Issues 55, 67 and 95 in response to the Tennessee Regulatory Authority's ("the Authority") instructions at its December 18, 2001 Directors' Conference. This filing also includes further legal analysis of Issue 67 as requested by the Directors. BellSouth respectfully requests that the Authority adopt BellSouth's proposals in preference to any proposals submitted by MCImetro Access Transmission Services, LLC and Brooks Fiber Communications of Tennessee, Inc. (collectively referred to herein as "MCIm").

Issue 55:   **Should BellSouth be required to provide a response, including a firm cost quote, within 15 days of receiving a collocation application? (Attachment 5, Section 2.1.1.3).**

At the December 18, 2001, Directors' Conference, the Authority resolved this issue requiring:

BellSouth to provide WorldCom a response including a firm cost quote within 15 calendar days of receiving a collocation application. For

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BellSouth to be subject to this requirement, however, WorldCom has to provide BellSouth with a forecast of its collocation needs <u>in a reasonable amount of time</u> before WorldCom submits its application.

Excerpt of Transcript of Directors' Conference at p. 17 (emph. added). The Authority directed the parties to submit "final best offers . . . on a time frame for the forecast." <u>Id.</u> at 18.

What constitutes a reasonable time frame for MCIm to submit a forecast in exchange for BellSouth's production of a firm cost quote within fifteen calendar days depends on whether the space preparation charges at issue are standardized. To the extent the requested collocation involves standardized space preparation charges, then the receipt of a forecast from MCIm ten (10) days in advance of the collocation application would be sufficient. But, if the space preparation charges are individual-case-basis ("ICB"), then MCIm should be required to submit its forecast twenty (20) days prior to the submission of an application.[1]

Moreover, the Authority should require MCIm to include with its forecast enough information to allow BellSouth to begin the cost analysis. In particular, BellSouth proposes that MCIm be required to complete the form attached as Exhibit A hereto when it submits a forecast of collocation needs and that the parties' Agreement include the following language in Attachment 5:

> 2.1.1.3.1   To be considered a timely and accurate forecast, MCIm must submit to BellSouth the CLEC Forecast Form, as set forth in exhibit B attached hereto, containing the following information:

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[1] Under these circumstances (i.e., where ICB pricing is involved), the cost quote BellSouth will provide will be a reasonable estimate of the expected charges. The final charges cannot, of course, be determined until the work is completed.

Central Office/Serving Wire Center CLLI, number of Caged square feet and/or Cageless bays, number of DS0, DS1, DS3 frame terminations, number of fused amps and planned application date.

Issue 67: When MCIm has a license to use BellSouth rights-of-way, and BellSouth wishes to convey the property to a third party, should BellSouth be required to convey the property subject to MCIm's license? (Attachment 6, Section 2.5).

At the December 18, 2001 Directors' Conference, the Authority directed the parties to further brief the legal issues raised by this issue and to submit best and final offers to resolve it. Transcript of Excerpt of Directors' Conference at pp. 24-25.

MCIm has proposed language that would purport to control the disposition of BellSouth's property. Specifically, MCIm's proposed language would purport to prohibit BellSouth from conveying property unless it does so subject to any licenses granted to MCIm such as for use of BellSouth's poles, ducts or conduit. MCIm's proposed language should be rejected because it would convey to MCIm an interest in real property that is inconsistent with the Tennessee law governing licenses.

Under Tennessee law, a license would not afford MCIm the type of right it seeks to obtain through its proposed language.

In Tennessee, a license does not convey a real property interest, but rather conveys only the authority to do a particular act or series of acts on another's land. *United States v. Anderson Co.*, 575 F. Supp 574 (E.D. Tenn. 1983), *aff'd* 671 F.2d 1169, 6th Cir. (applying Tennessee law and distinguishing license to use property from actual interest in real property for purposes of property taxes against

possessor). *Barksdale v. Marcum*, 7 Tenn. App. 697, 708 (Tenn. Ct. App. 1928);

Moreover, a license generally is not assignable. *Barksdale*, 7 Tenn. App. at 708.

Courts have expressed the lowly status of the license as compared to an easement,

noting

> Other courts have declined to recognize the right of a lot holder in a
> cemetery even as rising to the dignity of an easement. In Kincaid's
> Appeal, such a right is treated as something in the nature of a license -
> - a mere right of burial.

Robertson v. Mt. Olivet Cemetery Co., 116 Tenn. 221, 227 (1905).

In Tennessee, absent language to the contrary, licenses are generally

"revocable at the will of the licensor." *United States v. Anderson County*, 575 F.

Supp. 574, 578 (E.D. Tenn. 1983) (citing *Barksdale v. Marcum*, 7 Tenn. App. 697,

708 (Tenn. Ct. App. 1928)). Thus, for an interest in land to be conveyed without

the license, the licensor/transferor need only revoke the license at the time of

conveyance. Accordingly, contrary to MCIm's position, under Tennessee law,

BellSouth ordinarily would not be required to convey its property subject to licenses

held by MCIm.

Courts in other jurisdictions have held that the conveyance of a licensor's

interest in land may terminate a license to use that land. 25 Am. Jur. 2d

Easements and Licenses § 142 (1996) (citing *Lake Martin/Alabama Power Licensee

Ass'n v. Alabama Power Co.*, 547 So 2d 404); Jon W. Bruce and James W. Ely,

Jr., *The Law of Easements and Licenses in Land* (2001) (explaining that courts rely

on the personal nature of a license to hold that a license automatically terminates

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upon conveyance) (citing, among others, *Doyle v. Peabody*, 781 P.2d 957 (Alaska 1989) and *Ulan v. Vend-A-Coin, Inc.*, 558 P.2d 741, 744 (Ariz. Div. 2 1976).

In contrast to a license under Tennessee law, an easement in real property constitutes an actual right in real property. An easement created by agreement is not revocable at the will of the grantor, but rather exists in conformity with the granting agreement, and the owner of the easement can assign or transfer part or all of the interest. *See Buhl v. US Sprint Communication Co.*, No. 192, 1991 Tenn. App. LEXIS 95, at *7 (Tenn. Ct. App. Feb. 12, 1991) (discussing a railroad company's grant of a license to a communications company upon its easement for the purpose of installing cable lines).

Pursuant to its proposed language, MCIm seeks to vest itself with rights more consistent with those arising from an easement in property; this, even though MCIm has only obtained, and is only entitled to obtain, a license. In the 1996 Act, Congress did not grant the CLECs an interest that ran with the ILEC's property. In requiring ILECs to permit CLECs to attach to their property, Congress merely required the ILECs to grant the CLECs a right to use the property, no more. Such an obligation should not be transferred to an entity purchasing that property that is not governed by the same legal and regulatory requirements.

Rather, any obligation on the purchasing entity to allow MCIm to use its property should have an independent basis under the FCC's rules, applicable to the purchasing entity, independent of the fact that it purchased the property from BellSouth. By limiting BellSouth's right to dispose of real property and requiring

such transfers to be *subject to* MCIm's license, MCIm would be elevating its license to the same status as an easement, thereby circumventing the real property law of this state and broadening the conditions under which the legislature required CLEC access to be granted. Quite simply, MCIm seeks to aggrandize the license into an interest of greater monetary value. For these reasons, MCIm's proposed language is inconsistent with the general principles of Tennessee law distinguishing licenses and easements and should be rejected.

In an effort to resolve this issue, BellSouth proposes the following language be included in Attachment 6 of the parties' Agreement:

> 2.5 <u>No Effect on BellSouth's Right to Convey Property</u>. Nothing contained in this Attachment or in any license issued hereunder shall in any way affect the right of BellSouth to convey to any other person or entity any interest in real or personal property, including any poles, conduit or ducts to or in which MCIm has attached or placed facilities pursuant to licenses issued under this Section provided however that BellSouth shall give MCIm reasonable advance written notice of such intent to convey. If BellSouth conveys any poles, conduit or ducts to or in which MCIm has attached or placed facilities pursuant to licenses issued under this Attachment, MCIm may request that BellSouth convey such poles, conduit or ducts subject to MCIm's rights to maintain such facilities pursuant to the rates, terms and conditions of this Agreement until the original term of this Agreement expires.

ISSUE 95: **Should BellSouth be required to provide MCIm with billing records with all EMI standard fields? (Attachment 8, section 5).**

At the Directors' Conference on December 18, 2001, the Authority ruled that "BellSouth [is required] to provide WorldCom with billing records with all EMI standard fields." Excerpt of Transcript of Directors' Conference at p. 27. The

Authority also directed the parties to submit best and final offers to resolved this issue.

BellSouth has proposed to MClm language for the Interconnection Agreement that describes the usage records BellSouth provides to CLECs. BellSouth's proposed language complies with EMI guidelines in all respects and is consistent with the manner in which MClm and all other CLECs receive billing records today. BellSouth is in full agreement that usage records provided by BellSouth or any other carrier should comply with industry standards and should evolve as those standards evolve, within the time frames set by the industry. BellSouth currently provides usage data to MClm in accordance with the language BellSouth has proposed. MClm has made no allegation that BellSouth is not currently complying with EMI standards or is otherwise failing to provide sufficient usage data. On the contrary, the language MClm proposed is old and outdated and does not comply with either current EMI standards or the currently accepted course of dealing between the parties.

MClm has proposed almost twenty (20) pages of language regarding usage data, some of which is acceptable to BellSouth. In fact, the parties are in agreement regarding language for RAO Hosting and Intercompany Settlements (Sections 5.2.9 – 5.2.10.2.3 in MClm's language and Sections 5.4 – 5.4.19.7 in BellSouth's language). However, a great deal of the language MClm proposed is unacceptable for three primary reasons. First, MClm's proposed language is not consistent with the billing structure to which both parties have agreed for the

provision of usage data. Second, scattered throughout the language, MCIm has imposed requirements that conflict with EMI guidelines. Finally, MCIm seeks to impose on BellSouth its own "wish list" of non-standard records and reports to be provided, and it seeks to impose its own usage data requirements that industry guidelines do not impose. BellSouth cannot establish separate systems to record and deliver usage data to MCIm in a manner that is different from that set forth in EMI standards and utilized by the rest of the telecommunications industry. Further, as MCIm has retained for itself the ability to impose requirements that it alone may support, and as the language in the MCIm agreement is subject to adoption by multiple carriers, BellSouth could find itself in the position of each carrier imposing conflicting requirements for the recording and delivery of usage data, with no set of requirements complying with EMI guidelines. Such a result would be extremely costly and unduly burdensome on BellSouth.

1.   <u>Conflict with Accepted Rate Structure</u>.   MCIm has agreed to pay BellSouth for usage data in accordance with Attachment 1 of the interconnection agreement.   Attachment 1 specifies BellSouth's charges for ODUF, EODUF and ADUF files, along with CMDS charges. These files contain usage data available to MCIm for local messages and access messages. The usage data language proposed by BellSouth describes what records are included in each of these files and how the records will be provided. BellSouth's language complies in full with EMI guidelines, and the rates to which the parties have agreed correspond to that language. MCIm has not proposed a billing structure that matches the language it

proposes. Thus, it is impossible to provide billing records in the manner described by MCIm and charge MCIm in accordance with the rates and rate structure in Attachment 1 of the agreement. Further, MCIm does not clarify in its language whether its requirements for records exchange are applicable to (1) local and intraLATA toll calls exchanged solely between BellSouth and MCIm (records provided by BellSouth in the ODUF or EODUF files, as requested by MCIm); (2) calls exchanged by the parties involving a third party where both MCIm and BellSouth own and use switching to deliver the call (records provided by BellSouth in the CMDS records); or (3) calls exchanged by the parties involving a third party where only BellSouth provides switching functionality, that is, where MCIm serves its end user with BellSouth's unbundled switching (records provided by BellSouth in the ADUF records). Every EMI record is not applicable to every type of call. Obviously, access records would not be provided to MCIm for a call from a BellSouth end user in Nashville to an MCIm end user in Nashville because neither party would bill access charges in such a scenario. The agreed upon charges for the applicable EMI records will be dependent upon whether the records are ODUF, EODUF, ADUF or CMDS records. BellSouth's language clearly makes this distinction but MCIm's language does not.

2.   <u>Conflict with EMI Standards</u>. As stated above, some of MCIm's proposed language directly conflicts with EMI standards. For example, Attachment 8, Section 5.2.12.1.5, sets forth the positions where Operating Company Numbers should be populated for six (6) different record types. However, the record types

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and positions specified are in direct conflict the EMI requirements for this information. The EMI guidelines contain a field called LSPID in the records and positions listed in the MCI language for Section 5.2.12.1.5. According to EMI, this field is only to be populated on return records. While CMDS may have return records, ODUF, EODUF and ADUF do not. Please see referenced EMI record layouts found in Section 3.0 of EMI Guidelines. BellSouth should not be contractually obligated to provide records to MCIm in this manner. Attachment 8, Section 5.2.17.2, of the language proposed by MCIm states that recorded usage data will be provided in the EMI format, which is perfectly acceptable to BellSouth. However, the Section also goes further to list records that MCIm expects to receive. The first two records listed, "Header Record 20-20-01" and "Trailer Record 20-20-02," are applicable only to CMDS records. OBF has specified different records that are to be provided for calls included in the ODUF and ADUF file records. Thus, these records do not conform to EMI requirements in all cases. Please see header and trailer information in Section 7.11 of EMI Guidelines. The same section of the language proposed by MCIm requires BellSouth to provide a Miscellaneous Charge record (01-01-18) to support Special Features Star Services. The record specified, however, is not the EMI specified record for these types of services. Also, Attachment 8, Section 5.2.18.2, provides how header and trailer records will be populated in positions 13-27, specifying five (5) different numbers or codes. All of the position numbers and the data to be populated, however, do not conform to EMI guidelines. The correct position numbers and data specified by

EMI guidelines are dependent upon whether the header and trailer records are being supplied for local calls between the parties (ODUF/EODUF), access calls where both parties utilize their own switch (CMDS), or access calls where MCIm utilizes the BellSouth switch (ADUF). Please see how field position information differs for the following header and trailer record layouts located in Section 3.0 of EMI guidelines: ODUF and EODUF (header:20-24-01, trailer:20-24-02); ADUF (header: 20-24-09, trailer: 20-24-10), CMDS (header: 20-20-01, trailer: 20-20-02). Further, MCIm has proposed in Attachment 8, Section 5.2.17.3, that BellSouth should comply with the most current version of guidelines for formatting EMI records. Of course, BellSouth agrees to modify all its practices, formatting and otherwise, to comply with the most recent EMI guidelines. However, the industry sets timeframes within which such changes are to occur. BellSouth believes that the timeframes established by the industry should be followed. Formatting or other changes cannot occur immediately upon the industries adoption of those changes, but MCIm's language does not recognize such fact. These examples clearly reflect that MCIm's language is not acceptable and cannot be reconciled with MCIm's claim that it wants records to be provided in compliance with EMI standards.

3.   MCIm's Imposition of Its Own Standards. Even more problematic than conflicts with EMI standards is MCIm's desire to impose unilateral requirements upon BellSouth that are not required by EMI standards. Some of MCIm's language is wholly unrelated to EMI guidelines and has not been sufficiently explained to BellSouth. Further, MCIm's proposed language is replete with MCIm's own

requirements, which are not part of EMI standards and over which MCIm has complete control. There are numerous instances of such provisions throughout MCIm's proposed language. Some examples are as follows:

(a) Attachment 8, Section 5.1.6.3, which is buried within language describing how Bellsouth must implement software changes relating to usage data, states that MCIm may request changes to the "control structure" and BellSouth **must** comply with requested changes. Section 5.1.6.2, however states that control changes requested by BellSouth will be negotiated. Not only is the language blatantly one-sided, the MCIm language does not describe what "control structures" are. Control structures are certainly not described or contained in EMI guidelines. BellSouth believes that any software changes should be governed by requirements established by the industry. BellSouth cannot wait on MCIm's acceptance to implement changes to EMI standard practices.

(b) Attachment 8, Section 5.2.1, states that in addition to OBF industry standards, BellSouth will comply with "additional standards outlined in this Section 5" in recording and transmitting usage data. Thus, MCIm is attempting to impose on BellSouth standards devised by MCIm that are not contained in or supported by OBF either through the EMI guidelines or otherwise.

(c) Attachment 8, Section 5.2.5, states that BellSouth will send MCIm a separate file summarizing all of MCIm's usage sensitive messages in BellSouth's suspense files or unbilled files. This is not an EMI requirement. Only error records are not sent to MCIm in the normal course of business, and in many instances it is impossible for BellSouth to know that the record is MCIm's. BellSouth corrects any errors in records in the error files and sends the corrected records to appropriate carrier. Thus, BellSouth cannot compile and summarize error records related only to MCIm (as opposed to error records of BellSouth or other carriers). As this is not a practice recognized or required by the EMI guidelines, MCIm should not be entitled to impose this requirement on BellSouth.

(d) Attachment 8, Section 5.2.8, provides MCIm with an additional audit right for these records. BellSouth and MCIm have agreed to detailed language regarding billing audits and usage audits for call transport and termination. MCIm seeks to obtain yet another audit right without clear definition as to why the audit would be necessary, how often an audit could be requested, and what parameters would be set. As billing and usage audits have been covered elsewhere in the agreement, and as EMI standards provide no audit rights or requirements, this language is inappropriate.

(e) Attachment 8, Section 5.2.11.2, states that BellSouth will only provide rated EMI records when MCIm grants its consent for BellSouth to send the same and proceeds to list 3 categories of records that MCIm wants to receive as rated records. However, EMI guidelines specify that all "incollect" records, which are records generated by one carrier but billed by another carrier, must be transmitted as rated. Otherwise, the billing carrier would not know what to bill. The categories of records MCIm has required to be rated do not include all incollect records that must be rated per EMI standards. Further, EMI is silent as to whether other records are sent as rated or unrated. EMI provides for either rated messages (01-XX-XX) or unrated messages (10-XX-XX), but does not specify which type should be used for which type of service. Please see 01-XX-XX and 10-XX-XX EMI record layouts in guideline document. BellSouth has the capability of sending all records, other than incollect records, as either rated or unrated, as specified by MCIm, but does not have the ability to allow MCIm to select some rated and some unrated messages. This obligation is not set forth in EMI standards, nor are BellSouth's systems capable of the same.

(f) Attachment 8, Section 5.2.19.5, states that BellSouth will segregate and organize usage data in a manner mutually agreed upon between the parties. However, EMI guidelines specify how data should be

segregated and organized. Please see sections 1-9 (Especially Section 6-Exchange Standards) for guidelines on how EMI data should be segregated and organized. BellSouth cannot agree with MCIm to deviate from EMI guidelines and fears that pursuant to this language, a carrier could refuse BellSouth's method of segregating and organizing the data, despite compliance with EMI standards.

The foregoing merely represents examples of the problematic language MCIm has proposed. Numerous other terms and conditions MCIm seeks to impose are equally insufficient. For these reasons, BellSouth proposes that the TRA adopt the following language in the Agreement:

Section 5.   Customer Usage Data

5.1   Provision of Customer Usage Data

BellSouth shall provide to MCIm billing records in accordance with EMI standards, as established by the Ordering and Billing Forum (OBF). As such EMI standards or other OBF guidelines are modified, the parties agree to implement such new or modified standards within the time frames specified by OBF. BellSouth will provide all usage and billing records as specified by EMI guidelines in the Optional Daily Usage File, the Access Daily Usage File, and the Centralized Message Distribution System File as set forth below.

5.2   Optional Daily Usage File

5.2.1   Upon written request from MCIm, BellSouth will provide the Optional Daily Usage File (ODUF) service to MCIm pursuant to the terms and conditions set forth in this section.

5.2.2   MCIm shall furnish all relevant information required by BellSouth for the provision of the ODUF.

5.2.3   The Optional Daily Usage Feed will contain billable messages that were carried over the BellSouth Network and processed in the BellSouth Billing System, but billed to a MCIm customer.

5.2.4   Charges for delivery of the ODUF will appear on MCIm's' monthly bills. The charges are as set forth in Exhibit A to this Attachment.

5.2.5   The Optional Daily Usage Feed will contain both rated and unrated messages. All messages will be in the standard Alliance for Telecommunications Industry Solutions (ATIS) EMI record format.

5.2.6   Messages that error in the billing system of MCIm will be the responsibility of MCIm. If, however, MCIm should encounter significant volumes of errored messages that prevent processing by MCIm within its systems, BellSouth will work with MCIm to determine the source of the errors and the appropriate resolution.

5.2.7   The following specifications shall apply to the Optional Daily Usage Feed.

5.2.7.1   Usage To Be Transmitted

5.2.7.1.1   The following messages recorded by BellSouth will be transmitted to MCIm:

- Message recording for per use/per activation type services (examples: Three -Way Calling, Verify, Interrupt, Call Return, etc.)

- Measured billable Local

- Directory Assistance messages

- IntraLATA Toll

- WATS and 800 Service

- N11

- Information Service Provider Messages

- Operator Services Messages

- Operator Services Message Attempted Calls (Network Element only)

- Credit/Cancel Records

- Usage for Voice Mail Message Service

5.2.7.1.2   Rated Incollects (originated in BellSouth and from other companies) can also be on ODUF.   Rated Incollects will be intermingled with BellSouth recorded rated and unrated usage. Rated Incollects will not be packed separately.

5.2.7.1.3   BellSouth will perform duplicate record checks on records processed to ODUF. Any duplicate messages detected will be deleted and not sent to MCIm.

5.2.7.1.4   In the event that MCIm detects a duplicate on ODUF they receive from BellSouth, MCIm will drop the duplicate message (MCIm will not return the duplicate to BellSouth).

5.2.7.2   Physical File Characteristics

5.2.7.2.1   ODUF will be distributed to MCIm via an agreed medium with CONNECT:Direct being the preferred transport method.   The Daily Usage Feed will be a variable block format (2476) with an LRECL of 2472. The data on the Daily Usage Feed will be in a non-compacted EMI format (175 byte format plus modules). It will be created on a daily basis (Monday through Friday except holidays). Details such as dataset name and delivery schedule will be addressed during negotiations of the distribution medium. There will be a maximum of one dataset per workday per OCN.

5.2.7.2.2   Data circuits (private line or dial-up) may be required between BellSouth and MCIm for the purpose of data transmission. Where a dedicated line is required, MCIm will be responsible for ordering the circuit, overseeing its installation and coordinating the installation with BellSouth. MCIm will also be responsible for any charges associated with this line. Equipment required on the BellSouth end to attach the line to the mainframe computer and to transmit successfully ongoing will be negotiated on a case by case basis. Where a dial-up facility is required, dial circuits will be installed in the BellSouth data center by BellSouth and the associated charges assessed to MCIm. Additionally, all message toll charges associated with the use of the dial circuit by MCIm will be the responsibility of MCIm. Associated equipment on the BellSouth end, including a modem, will be negotiated on a case by case basis between the Parties. All equipment, including

modems and software, that is required on MCIm's end for the purpose of data transmission will be the responsibility of MCIm.

5.2.7.3   Packing Specifications

5.2.7.3.1   A pack will contain a minimum of one message record or a maximum of 99,999 message records plus a pack header record and a pack trailer record. One transmission can contain a maximum of 99 packs and a minimum of one pack.

5.2.7.3.2   The OCN, From RAO, and Invoice Number will control the invoice sequencing. The From RAO will be used to identify to MCIm which BellSouth RAO that is sending the message. BellSouth and MCIm will use the invoice sequencing to control data exchange. BellSouth will be notified of sequence failures identified by MCIm and resend the data as appropriate.

The data will be packed using ATIS EMI records.

5.2.7.4   Pack Rejection

5.2.7.4.1   MCIm will notify BellSouth within one business day of rejected packs (via the mutually agreed medium). Packs could be rejected because of pack sequencing discrepancies or a critical edit failure on the Pack Header or Pack Trailer records (i.e. out-of-balance condition on grand totals, invalid data populated). Standard ATIS EMI Error Codes will be used. MCIm will not be required to return the actual rejected data to BellSouth. Rejected packs will be corrected and retransmitted to MCIm by BellSouth.

5.2.7.5   Control Data

5.2.7.5.1   MCIm will send one confirmation record per pack that is received from BellSouth. This confirmation record will indicate MCIm received the pack and the acceptance or rejection of the pack. Pack Status Code(s) will be populated using standard ATIS EMI error codes for packs that were rejected by MCIm for reasons stated in the above section.

5.2.7.6   Testing

5.2.7.6.1   Upon request from MCIm, BellSouth shall send test files to MCIm for ODUF. The Parties agree to review and discuss the file's content and/or format. For testing of usage results,

BellSouth shall request that MCIm set up a production (LIVE) file. The live test may consist of MCIm's employees making test calls for the types of services MCIm requests on ODUF. These test calls are logged by MCIm, and the logs are provided to BellSouth. These logs will be used to verify the files. Testing will be completed within 30 calendar days from the date on which the initial test file was sent.

5.3   Access Daily Usage File

5.3.1   Upon written request from MCIm, BellSouth will provide the Access Daily Usage File (ADUF) service to MCIm pursuant to the terms and conditions set forth in this section.

5.3.2   MCIm shall furnish all relevant information required by BellSouth for the provision of ADUF.

5.3.3   ADUF will contain access messages associated with a port that MCIm has purchased from BellSouth

5.3.4   Charges for delivery of ADUF will appear on MCIm's monthly bills. The charges are as set forth in Exhibit A to this Attachment. All messages will be in the standard ATIS EMI record format.

5.3.5   Messages that error in the billing system of MCIm will be the responsibility of MCIm. If, however, MCIm should encounter significant volumes of errored messages that prevent processing by MCIm within its systems, BellSouth will work with MCIm to determine the source of the errors and the appropriate resolution.

5.3.6   Usage To Be Transmitted

5.3.6.1 The following messages recorded by BellSouth will be transmitted to MCIm:

5.3.6.1.1 Recorded originating and terminating interstate and intrastate access records associated with a port.

5.3.6.1.2 Recorded terminating access records for undetermined jurisdiction access records associated with a port.

5.3.6.2   When MCIm purchases Network Element ports from BellSouth and calls are made using these ports, BellSouth will handle the calls as follows:

5.3.6.2.1   Originating from Network Element and carried by Interexchange Carrier:

5.3.6.2.1.1 BellSouth will bill network element to CLEC and send access record to the CLEC via ADUF.

5.3.6.2.2   Originating from network element and carried by BellSouth (MCIm is BellSouth's toll customer).

5.3.6.2.3   Terminating on network element and carried by Interexchange Carrier:

5.3.6.2.3.1 BellSouth will bill network element to MCIm and send access record to MCIm.

5.3.6.2.4   Terminating on network element and carried by BellSouth:

5.2.6.2.4.1 BellSouth will bill network element to MCIm and send access record to MCIm.

55.3.6.3   BellSouth will perform duplicate record checks on records processed to ADUF. Any duplicate messages detected will be dropped and not sent to MCIm.

5.3.6.4   In the event that MCIm detects a duplicate on ADUF they receive from BellSouth, MCIm will drop the duplicate message (MCIm will not return the duplicate to BellSouth.)

5.3.7   <u>Physical File Characteristics</u>

5.3.7.1   ADUF will be distributed to MCIm via an agreed medium with CONNECT:Direct being the preferred transport method. The Daily Usage Feed will be a fixed block format (2476) with an LRECL of 2472. The data on the Daily Usage Feed will be in a non-compacted EMI format (210 byte format plus modules). It will be created on a daily basis (Monday through Friday except holidays). Details such as dataset name and delivery schedule will be addressed during negotiations of the distribution medium. There will be a maximum of one dataset per workday per OCN.

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5.3.7.2   Data circuits (private line or dial-up) may be required between BellSouth and MCIm for the purpose of data transmission. Where a dedicated line is required, MCIm will be responsible for ordering the circuit, overseeing its installation and coordinating the installation with BellSouth. MCIm will also be responsible for any charges associated with this line. Equipment required on the BellSouth end to attach the line to the mainframe computer and to transmit successfully ongoing will be negotiated on a case by case basis. Where a dial-up facility is required, dial circuits will be installed in the BellSouth data center by BellSouth and the associated charges assessed to MCIm. Additionally, all message toll charges associated with the use of the dial circuit by MCIm will be the responsibility of MCIm. Associated equipment on the BellSouth end, including a modem, will be negotiated on a case by case basis between the Parties. All equipment, including modems and software, that is required on MCIm's end for the purpose of data transmission will be the responsibility of MCIm.

5.3.8   Packing Specifications

5.3.8.1   A pack will contain a minimum of one message record or a maximum of 99,999 message records plus a pack header record and a pack trailer record.   One transmission can contain a maximum of 99 packs and a minimum of one pack.

5.3.8.2   The OCN, From RAO, and Invoice Number will control the invoice sequencing. The From RAO will be used to identify to MCIm which BellSouth RAO is sending the message. BellSouth and MCIm will use the invoice sequencing to control data exchange.   BellSouth will be notified of sequence failures identified by MCIm and resend the data as appropriate.

The data will be packed using ATIS EMI records.

5.3.9   Pack Rejection

5.3.9.1   MCIm will notify BellSouth within one business day of rejected packs (via the mutually agreed medium).   Packs could be rejected because of pack sequencing discrepancies or a critical edit failure on the Pack Header or Pack Trailer records (i.e. out-of-balance condition on grand totals, invalid data populated). Standard ATIS EMI Error Codes will be used. MCIm will not be required to return the actual rejected data to BellSouth.

Rejected packs will be corrected and retransmitted to MCIm by BellSouth.

5.3.10   Control Data

5.3.10.1   MCIm will send one confirmation record per pack that is received from BellSouth. This confirmation record will indicate MCIm received the pack and the acceptance or rejection of the pack. Pack Status Code(s) will be populated using standard ATIS EMI error codes for packs that were rejected by MCIm for reasons stated in the above section.

5.3.11   Testing

5.3.11.1   Upon request from MCIm, BellSouth shall send a test file of generic data to MCIm via Connect:Direct or Text File via E-Mail. The Parties agree to review and discuss the test file's content and/or format.

5.4   RAO Hosting

5.4.1   If MCIm requests that BellSouth act as the Regional Accounting Office ("RAO") host, then BellSouth will provide, as the RAO host, Calling Card and Third Number Settlement System (CATS) and Non-Intercompany Settlement System (NICS) services provided to MCIm by BellSouth will be in accordance with the methods and practices regularly adopted and applied by BellSouth to its own operations during the term of this Agreement, including such revisions as may be made from time to time by BellSouth.

5.4.2   MCIm shall furnish all relevant information required by BellSouth for the provision of RAO Hosting, CATS and NICS.

5.4.3   Applicable compensation amounts will be billed by BellSouth to MCIm on a monthly basis in arrears. Amounts due from one Party to the other (excluding adjustments) are payable within thirty (30) days of receipt of the billing statement.

5.4.4   MCIm must have its own unique RAO code. Requests for establishment of RAO status where BellSouth is the selected Centralized Message Distribution System (CMDS) interfacing host, require written notification from MCIm to the BellSouth RAO Hosting coordinator at least eight (8) weeks prior to the

proposed effective date. The proposed effective date will be mutually agreed upon between the Parties with consideration given to time necessary for the completion of required Telcordia (formerly BellCore) functions. BellSouth will request the assignment of an RAO code from its connecting contractor, currently Telcordia (formerly BellCore), on behalf of MCIm and will coordinate all associated conversion activities.

5.4.5   BellSouth will receive messages from MCIm that are to be processed by BellSouth, another LEC or CLEC in the BellSouth region or a LEC outside the BellSouth region.

5.4.6   BellSouth will perform invoice sequence checking, standard EMI format editing, and balancing of message data with the EMI trailer record counts on all data received from MCIm.

5.4.7   All data received from MCIm that is to be processed or billed by another LEC or CLEC within the BellSouth region will be distributed to that LEC or CLEC in accordance with the Agreement(s) which may be in effect between BellSouth and the involved LEC or CLEC.

5.4.8   All data received from MCIm that is to be placed on the CMDS network for distribution outside the BellSouth region will be handled in accordance with the agreement(s) which may be in effect between BellSouth and its connecting contractor (currently Telcordia (formerly BellCore)).

5.4.9   BellSouth will receive messages from the CMDS network that are destined to be processed by MCIm and will forward them to MCIm on a daily basis.

5.4.10   Transmission of message data between BellSouth and MCIm will be via CONNECT:Direct.

5.4.11   All messages and related data exchanged between BellSouth and MCIm will be formatted in accordance with accepted industry standards for EMI formatted records and packed between appropriate EMI header and trailer records, also in accordance with accepted industry standards.

5.4.12   MCIm will ensure that the recorded message detail necessary to recreate files provided to BellSouth will be maintained for back-

up purposes for a period of three (3) calendar months beyond the related message dates.

5.4.13   Should it become necessary for MCIm to send data to BellSouth more than sixty (60) days past the message date(s), MCIm will notify BellSouth in advance of the transmission of the data. If there will be impacts outside the BellSouth region, BellSouth will work with its connecting contractor and MCIm to notify all affected Parties.

5.4.14   In the event that data to be exchanged between the two Parties should become lost or destroyed, both Parties will work together to determine the source of the problem. Once the cause of the problem has been jointly determined and the responsible Party (BellSouth or MCIm) identified and agreed to, the company responsible for creating the data (BellSouth or MCIm) will make every effort to have the affected data restored and retransmitted. If the data cannot be retrieved, the responsible Party will be liable to the other Party for any resulting lost revenue. Lost revenue may be a combination of revenues that could not be billed to the end users and associated access revenues. Both Parties will work together to estimate the revenue amount based upon historical data through in accordance with section 5.2.10 of this Attachment. The resulting estimated revenue loss will be paid by the responsible Party to the other Party within three (3) calendar months of the date of problem resolution, or as mutually agreed upon by the Parties.

5.4.15   Should an error be detected by the EMI format edits performed by BellSouth on data received from MCIm, the entire pack containing the affected data will not be processed by BellSouth. BellSouth will notify MCIm of the error condition. MCIm will correct the error(s) and will resend the entire pack to BellSouth for processing. In the event that an out-of-sequence condition occurs on subsequent packs, MCIm will resend these packs to BellSouth after the pack containing the error has been successfully reprocessed by BellSouth.

5.4.16   In association with message distribution service, BellSouth will provide MCIm with associated intercompany settlements reports (CATS and NICS) as appropriate.

5.4.17   In no case shall either Party be liable to the other for any direct or consequential damages incurred as a result of the obligations set out in this Agreement.

5.4.18   RAO Compensation

5.4.18.1   Rates for message distribution service provided by BellSouth for MCIm are as set forth in Attachment 1 of this Agreement.

5.4.18.2   Rates for data transmission associated with message distribution service are as set forth in Attachment 1 of this Agreement.

5.4.18.4   Each Party will be responsible for all equipment, including modems and software, that is required on their side of the data circuit.

5.18.3   Data circuits (private line or dial-up) will be required between BellSouth and MCIm for the purpose of data transmission. Where a dedicated line is required, MCIm will be responsible for ordering the circuit, overseeing its installation and coordinating the installation with BellSouth. MCIm will also be responsible for any charges associated with this line. Equipment required on the BellSouth end to attach the line to the mainframe computer and to transmit successfully ongoing will be negotiated on a case by case basis. Where a dial-up facility is required, dial circuits will be installed in the BellSouth data center by BellSouth and the associated charges assessed to MCIm. Additionally, all message toll charges associated with the use of the dial circuit by MCIm will be the responsibility of MCIm. Associated equipment on the BellSouth end, including a modem, will be negotiated on a case by case basis between the Parties.

5.4.19   Intercompany Settlements Messages

5.4.19.1   This Section addresses the settlement of revenues associated with traffic originated from or billed by MCIm as a facilities based provider of local exchange telecommunications services outside the BellSouth region. Only traffic that originates in one Bell operating territory and bills in another Bell operating territory is included. Traffic that originates and bills within the

same Bell operating territory will be settled on a local basis between MCIm and the involved company(ies), unless that company is participating in NICS.

5.4.19.2   Both traffic that originates outside the BellSouth region by MCIm and is billed within the BellSouth region, and traffic that originates within the BellSouth region and is billed outside the BellSouth region by MCIm, is covered by this Agreement (CATS). Also covered is traffic that either is originated by or billed by MCIm, involves a company other than MCIm, qualifies for inclusion in the CATS settlement, and is not originated or billed within the BellSouth region (NICS).

5.4.19.3   Once MCIm is operating within the BellSouth territory, revenues associated with calls originated and billed within the BellSouth region will be settled via Telcordia (formerly BellCore)'s, its successor or assign, NICS system.

5.4.19.4   BellSouth will receive the monthly NICS reports from Telcordia (formerly BellCore), its successor or assign, on behalf of MCIm. BellSouth will distribute copies of these reports to MCIm on a monthly basis.

5.4.19.5   BellSouth will receive the monthly Calling Card and Third Number Settlement System (CATS) reports from Telcordia (formerly BellCore), its successor or assign, on behalf of MCIm. BellSouth will distribute copies of these reports to MCIm on a monthly basis.

5.4.19.6   BellSouth will collect the revenue earned by MCIm from the Bell operating company in whose territory the messages are billed (CATS), less a per message billing and collection fee as set forth in Attachment 1 of this Agreement, on behalf of MCIm. BellSouth will remit the revenue billed by MCIm to the Bell operating company in whose territory the messages originated, less a per message billing and collection fee as set forth in Attachment 1 of this Agreement, on behalf on MCIm. These two amounts will be netted together by BellSouth and the resulting charge or credit issued to MCIm via a monthly Carrier Access Billing System (CABS) miscellaneous bill.

5.4.19.7   BellSouth will collect the revenue earned by MCIm within the BellSouth territory from another CLEC also within the BellSouth

territory (NICS) where the messages are billed, less a per message billing and collection fee as set forth in Attachment 1 of this Agreement, on behalf of MCIm. BellSouth will remit the revenue billed by MCIm within the BellSouth region to the CLEC also within the BellSouth region, where the messages originated, less a per message billing and collection fee as set forth in Attachment 1 of this Agreement. These two amounts will be netted together by BellSouth and the resulting charge or credit issued to MCIm via a monthly Carrier Access Billing System (CABS) miscellaneous bill.

5.4.19.8   BellSouth and MCIm agree that monthly netted amounts of less than fifty dollars ($50.00) will not be settled.

5.5   Lost Data

5.5.1.   Loss of Recorded Usage Data - In the event MCIm Recorded Usage Data is determined to have been lost, damaged or destroyed as a result of an error or omission by BellSouth in its performance of the recording function , upon MCIm's request, BellSouth shall attempt to recover the Recorded Usage Data at no charge to MCIm. In the event the data cannot be recovered by BellSouth, BellSouth and MCIm shall mutually agree upon a credit amount based upon an estimate of the affected messages and associated revenue, reduced by a mutually agreed upon estimate of associated Recording Service charges, based upon the method described below. This method shall be applied on a consistent basis, subject to modifications agreed to by BellSouth and MCIm. This estimate shall be used to adjust amounts MCIm owes BellSouth for services BellSouth provides in conjunction with the provision of Recorded Usage Data, and BellSouth's liability for lost, damaged or destroyed Recorded Usage Data shall be limited to the application of the credit described in this section.

5.5.2.   The lost revenue per day will be based upon the daily average of revenues for the corresponding days of the week (e.g. four Mondays) in the most recent month for which MCIm supplied data to BellSouth before the day of loss, except:

5.5.2.1.   If the loss occurs on a weekday which is a holiday (except Mother's Day or Christmas), BellSouth will use the daily average of revenues from the four Sundays of the most recent month

for which MCIm supplied data to BellSouth before the day of loss;

5.5.2.2.   If the loss occurs on Mother's Day or Christmas, BellSouth will use the daily average of revenue from that day in the preceding year (if available from the data supplied by MCIm to BellSouth before the day of loss); and

5.5.2.3.   If the loss occurs on a day not a holiday but one (or more) of the days lost is a holiday, BellSouth will use additional corresponding days from the next most recent month for which MCIm supplied data to BellSouth before the day of loss.

Respectfully submitted,

BELLSOUTH TELECOMMUNICATIONS, INC.

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STATE	Remote Site/City	CAGED Sq. Ft.	CAGELESS # Bays		FRAME TERMNATIONS	CLEC Provided BDFB— Amps Load	BST Provided BDFB— Amps Load	Heat Dissipation BTU/Hour	Entrance Facilities # sheaths & # fibers	Proposed Application Date	NOTES
			Standard Bays*	Non-Standard Bays**							

*Standard bays are defined as racks, bays or cabinets, including equipment and cable, with measurements equal to or less than the following:
Width - 26", Depth - 25". The standard height for all collocated equipment bays in BellSouth is 7' 0".
** Any forecast for non-standard cageless bays must include an attachment describing the quantity and width and depth measurements.

THREE-MONTH CLEC FORECAST

CLEC NAME _____   DATE _____

Notes: Forecast information will be used for no other purpose than collocation planning.
Forecast with application dates greater than 3 months from the date of submission will not guarantee the reservation of space in the office requested
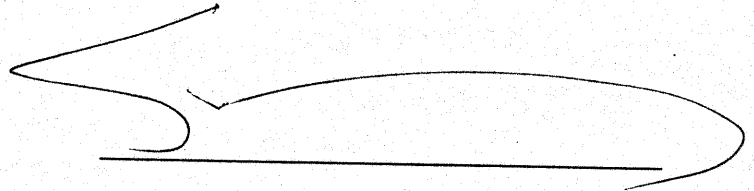
Version 3Q01 10/15/01

CERTIFICATE OF SERVICE

        I hereby certify that on January 11, 2002, a copy of the foregoing document was served on the parties of record, via the method indicated:

[ ] Hand
[X] Mail
[ ] Facsimile
[ ] Overnight

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