



BOULT ■ CUMMINGS
CONNERS ■ BERRY^{PLC}

REC'D TN
REGULATORY AUTH.

Henry Walker
(615) 252-2363
Fax: (615) 252-6363
Email: hwalker@boultcummings.com

01 NOV 16 PM 2 51

November 16, 2001

OFFICE OF THE
EXECUTIVE SECRETARY

David Waddell, Esq.
Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

Re: Complaint of BellSouth Telecommunications, Inc. Regarding the
Practices of Global Crossing Telecommunications, Inc. in the Reporting of
Percent Interstate Usage for Compensation for Jurisdictional Access
Services
Docket No. 01-00913

Dear David:

Please accept for filing the original and thirteen copies of the Joint Appeal of The Hearing Officer's Order Denying Joint Motion to Set Aside Procedural Schedule filed on behalf of Global Crossing Telecommunications, Inc. and BellSouth Telecommunications, Inc. in the above-captioned proceeding. The parties request that this matter be placed on the TRA' conference agenda for November 20, 2001.

Very truly yours,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By:

Henry Walker

HW/nl

Attachment

c: Guy Hicks, Counsel for BellSouth Telecommunications, Inc.

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

Re: Complaint of BellSouth)
Telecommunications, Inc. Regarding the) Docket No. 01-00913
Practices of Global Crossing)
Telecommunications, Inc. in the Reporting of)
Percent Interstate Usage for Compensation)
for Jurisdictional Access Services.)

**JOINT APPEAL OF HEARING OFFICER'S ORDER
DENYING JOINT MOTION TO SET ASIDE PROCEDURAL SCHEDULE**

Global Crossing Telecommunications, Inc. ("Global Crossing") and BellSouth Telecommunications, Inc. ("BellSouth") jointly ask that the Tennessee Regulatory Authority reverse the November 15, 2001, Order of the Hearing Officer. (Copy attached.) In that Order, the Hearing Officer denied the parties' request that he set aside the proposed procedural schedule issued on November 8, 2001, and that he convene a pre-hearing conference for the purpose of arriving at a revised schedule. In their request, both parties noted that this case will involve extensive discovery and that the parties would need "substantially more time" to respond to that discovery than the time allowed in the Hearing Officer's proposed schedule. The parties added that they "do not wish to delay the expeditious handling" of this matter but that, given the facts and circumstances of this case, it is not "necessary, prudent or even possible" to meet the deadlines proposed by the Hearing Officer.

Although no one opposed the Joint Motion, the Hearing Officer denied the Motion because, he wrote, the "mandate to resolve this case within sixty (60) days is a central condition of the Hearing Officer's commission to hear this case." Order at 2. The Hearing Officer referred to the transcript of the TRA's public meeting on October 23, 2001, in which the Directors stated

that the Hearing Officer should "attempt to resolve these matters within 60 days from the filing of the complaints." Tr. at. 23. The Hearing Officer explained that the condensed procedural schedule was necessary in order to "effectuate that mandate" from the Authority and therefore the schedules could not be changed. The Order indicates that the Hearing Officer believed that he did not have the power to grant the Joint Motion even if he believed the Motion to be well taken and that only the Authority has the power to may give the parties the relief they seek.

For that reason, the parties now ask that the Directors consider and grant the Joint Motion.

In support of the Motion, the parties reiterate the reasons set forth in the initial Motion:

a. Both sides have already issued substantial discovery requests. Since the case involves the accuracy of call tracking methods and raises questions about the jurisdiction of calls over a period of seven years, the parties may well need to issue additional discovery requests and possibly take depositions in order to develop a complete evidentiary record. Because of the complex nature of this case, it is not practical or fair to try to reach a decision on the merits within sixty days.

b. Global Crossing has filed a lengthy motion to dismiss or, in the alternative, to stay these proceedings pending the outcome of other related cases. Global Crossing respectfully suggests that the Authority should rule on the motion before the parties begin lengthy and expensive discovery proceedings.

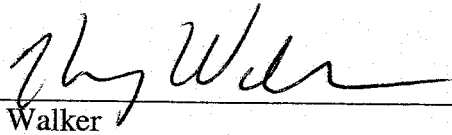
For both sides, this case will involve the coordination of out-of-state witnesses and attorneys during the discovery phase of the proceeding and at the hearing itself. Such coordination, especially during the coming holiday season, will require advance notice, planning, and reasonable flexibility. For this reason, as well as for the other reasons explained above, the

parties request that the TRA set aside the proposed schedule and allow the Hearing Officer to convene a pre-hearing conference so the parties and the Hearing Officer, working together, may arrive at a revised schedule that completes this case in a reasonable but realistic time period.

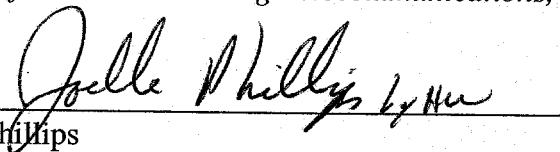
Respectfully submitted,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By: _____



Henry Walker
414 Union Street, Suite 1600
P.O. Box 198062
Nashville, Tennessee 37219
(615) 252-2363
Counsel for Global Crossing Telecommunications, Inc.




Joelle Phillips
BellSouth Telecommunications, Inc.
333 Commerce St., Suite 2101
Nashville, TN 37201-3300
Counsel for BellSouth Telecommunications, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been forwarded via fax or hand delivery and U.S. mail to the following on this the 16th day of November, 2001.

Guy Hicks, Esq.
BellSouth Telecommunications, Inc.
333 Commerce St., Suite 2101
Nashville, TN 37201-3300



Henry Walker

BEFORE THE TENNESSEE REGULATORY AUTHORITY

AT NASHVILLE, TENNESSEE

November 15, 2001

IN RE:

COMPLAINT OF BELL SOUTH
TELECOMMUNICATIONS, INC. REGARDING
THE PRACTICES OF GLOBAL CROSSING
TELECOMMUNICATIONS, INC. IN THE
REPORTING OF PERCENT INTERSTATE
USAGE FOR COMPENSATION FOR
JURISDICTIONAL ACCESS SERVICES

DOCKET NO.
01-00913

ORDER DENYING *JOINT MOTION TO SET ASIDE PROCEDURAL SCHEDULE*

The Parties' Filings

BellSouth Telecommunications, Inc. ("BellSouth") filed its *Complaint* against Global Crossing Telecommunications, Inc. ("Global Crossing") with the Tennessee Regulatory Authority (the "Authority") on October 19, 2001. At the regularly scheduled Authority Conference held on October 23, 2001, the Directors of the Authority ordered that Global Crossing's response to BellSouth's *Complaint* should be filed no later than November 2, 2001, that the General Counsel or his designee be appointed as Hearing Officer on the merits, and that this matter "be resolved within 60 days."¹ On November 8, 2001, the Hearing Officer issued an *Order Establishing Procedural Schedule*, which states that a Hearing in this matter shall be held on December 11, 2001, in keeping with the mandate of the Authority.

On November 9, 2001, the parties filed a *Joint Motion to Set Aside Procedural Schedule*

¹ Transcript of Authority Conference, October 23, 2001, p. 25.

and Convene Pre-Hearing Conference, in which the parties request that the Hearing Officer set aside the November 8, 2001 procedural schedule and convene a pre-hearing conference for the purpose of arriving at a revised schedule. As grounds for this request, the parties state that "this complaint involves matters going back to 1994 and that the discovery necessary to develop a complete evidentiary record will likely require substantially more time than the proposed schedule allows."² The parties further state: "Global Crossing also anticipates the filing next week of pre-hearing motions which, if granted, could result in the dismissal of the complaint or the suspension of these complaint proceedings pending the outcome of other, related litigation."³ The parties add, finally, that "[w]hile the parties do not wish to delay the expeditious handling of this complaint, they do not believe that it is necessary, prudent or even possible to meet the procedural schedule proposed by the Hearing Officer."⁴

In addition, on November 13, 2001, Global Crossing filed a *Motion for Extension of Time*, in which Global Crossing requests a two-day extension of the time for filing discovery and a list of issues established in the Hearing Officer's *Order* of November 8, 2001. Global Crossing states that counsel for BellSouth does not oppose Global Crossing's request as long as BellSouth receives an additional two days to respond to discovery. Global Crossing notes that at the time it filed its *Motion* the Hearing Officer had not notified the parties whether their *Joint Motion* had been granted.

Discussion

The mandate to resolve this case within sixty (60) days is a central condition of the Hearing Officer's commission to hear this case, as issued by the Authority's Directors at the October 23, 2001 Authority Conference. The procedural schedule established in the Hearing

² *Joint Motion to Set Aside Procedural Schedule and Convene Pre-Hearing Conference*, Docket No. 01-00913, November 9, 2001, p. 1.

³ *Id.*

⁴ *Id.*

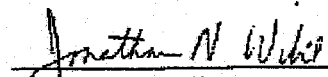
Officer's *Order* of November 8, 2001 is designed to effectuate that mandate. The parties' *Joint Motion* appears irreconcilable with the Authority's mandate, and therefore must be denied.

IT IS THEREFORE ORDERED THAT:

1. The parties' *Joint Motion to Set Aside Procedural Schedule and Convene Pre-Hearing Conference* is denied.
2. The *Motion for Extension of Time*, filed by Global Crossing, is granted, consistent with the restrictions on extensions of time set forth in the Hearing Officer's *Order* of November 8, 2001.
3. Global Crossing shall have until November 15, 2001 to file its lists of issues and discovery requests.

ATTEST:


K. David Waddell, Executive Secretary


Jonathan N. Wike, Hearing Officer