

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

September 7, 2001

IN RE:)	
)	
PETITION FOR ARBITRATION OF THE)	DOCKET NO.
INTERCONNECTION AGREEMENT BETWEEN)	99-00948
BELLSOUTH TELECOMMUNICATIONS, INC.)	
AND INTERMEDIA COMMUNICATIONS, INC.)	
PURSUANT TO SECTION 252(b) OF THE)	
TELECOMMUNICATIONS ACT OF 1996)	

FINAL ORDER OF ARBITRATION AWARD

This matter came before the Tennessee Regulatory Authority ("Authority"), acting as Arbitrators, immediately following the July 10, 2001 Authority Conference to resolve Issue 48 relating to performance measurements and enforcement mechanisms.

I. FACTUAL AND PROCEDURAL HISTORY

BellSouth Telecommunications, Inc. ("BellSouth") filed a petition for arbitration of an interconnection agreement between it and Intermedia Communications, Inc. ("Intermedia") on December 7, 1999 pursuant to Section 252 of the Telecommunications Act of 1996. The Petition contained ten (10) issues with additional sub-issues. Intermedia responded on January 3, 2000 and listed forty-eight (48) issues for arbitration. The Directors appointed a Pre-Hearing Officer at the January 25, 1999 Authority Conference.

The Pre-Hearing Officer held a conference on March 2, 2000 and issued the *Report and Recommendation of Pre-Hearing Officer* ("Report") on March 6, 2000. The Pre-Hearing Officer

concluded that BellSouth timely filed the Petition. In addition, the Pre-Hearing Officer noted that the parties agreed to: 1) waive the statutory period indefinitely for resolution of the issues; 2) participate in substantive mediation; and 3) file an updated joint matrix. The Pre-Hearing Officer concluded the Report by recommending that the Directors accept the Petition, appoint arbitrators, appoint a pre-arbitration officer, and direct the parties to go forward with mediation.

At the March 14, 2000 Authority Conference, the Pre-Hearing Officer summarized the Report, and the Directors determined there were no objections to the Report. Thereafter, the Directors voted unanimously to accept the Report. The parties participated in mediation on April 19, 2000 and a telephonic status conference on June 2, 2000. The Arbitrators conducted a hearing in this matter on September 19 and 20, 2000. As a result of these three events, the parties resolved all issues except issues 2(a), 3, 6(a), 6(b), 7, 10, 12, 13(a), 18(c), 25, 26, 29, 30(a), 30(b), 39(a) – (d), and 48. The Arbitrators deliberated the merits of all outstanding issues, except Issue 48, immediately following the regularly scheduled Authority Conference on February 6, 2001 and issued the *Interim Order of Arbitration Award*, incorporated herein by reference, memorializing those decisions on June 25, 2001.

II. ISSUE 48 – SHOULD THE PARTIES ADOPT THE PERFORMANCE MEASURES, STANDARDS, AND PENALTIES IMPOSED BY THE TEXAS PUBLIC UTILITY COMMISSION ON SOUTHWESTERN BELL TELEPHONE?

In its filings, Intermedia proposes that the Arbitrators adopt the performance measurements (“Texas Measurements”) and enforcement mechanisms adopted by the Texas Public Utility Commission.¹ In the alternative, Intermedia requests that the Arbitrators adopt the performance measurements adopted by the Arbitrators in the arbitration between BellSouth and ITC^DeltaCom

¹ J. Carl Jackson, Jr., Pre-Filed Direct Testimony, pp. 74-79 & Exhibit 8 (July 18, 2000).

Communications, Inc., Docket No. 99-00430. In opposition, BellSouth supports the adoption of the latest version of its Service Quality Measurements, the "May 2000 SQMs."² As to enforcement mechanisms, BellSouth proposed adoption of a complaint process, but also submitted its Voluntary Self-Effectuating Enforcement Mechanisms ("VSEEMIII") for consideration.³ BellSouth contends, however, that, if the Arbitrators adopt enforcement mechanisms, the mechanisms should not be effective until the Federal Communications Commission approves BellSouth's Section 271 application for Tennessee.⁴

In the arbitration between BellSouth and ITC^DeltaCom Communications, Inc., the Arbitrators compared BellSouth's proposed Service Quality Measurements⁵ with the Texas Measurements. Thereafter, the Arbitrators adopted BellSouth's Service Quality Measurements, but added certain Texas Measurements.⁶ Consistent with this conclusion, the Arbitrators compared BellSouth's May 2000 SQMs with the Texas Measurements. Thereafter, the Arbitrators unanimously voted to adopt BellSouth's May 2000 SQMs along with the following nineteen (19) Texas Measurements:

1. Percent Firm Order Confirmation Returned Within Specified Time (Texas Measurement No. 5)
2. Percent of Accurate and Complete Formatted Mechanized Bills (Texas Measurement No. 15)
3. Billing Completeness (Texas Measurement No. 17)
4. Unbillable Usage (Texas Measurement No. 20)
5. Average Response Time for Loop Make-Up Information (Texas Measurement No. 57)
6. Percentage of LNP Only Due Dates within Industry Guidelines (Texas Measurement No. 91)

² Cynthia K. Cox, Pre-Filed Direct Testimony, Exhibit 5 (July 18, 2000).

³ *Id.*

⁴ See 47 U.S.C. § 271 (Supp. 2000).

⁵ The Service Quality Measurements in the arbitration between BellSouth and ITC^DeltaCom Communications, Inc. were an earlier version than the May 2000 SQMs.

⁶ See *In re: Petition for Arbitration of ITC^DeltaCom Communications, Inc. With BellSouth Telecommunications, Inc. Pursuant to the Telecommunications Act of 1996*, Docket No. 99-00430, *Interim Order of Arbitration Award*, pp. 15-16 (Aug. 11, 2000), *Order on Reconsideration and Denying Joint Motion*, pp. 6-7, June 26, 2001.

7. Percentage of Time the Old Service Provider Releases the Subscription Prior to the Expiration of the Second 9 Hour (T2) Timer (Texas Measurement No. 92)
8. Percentage of Customer Account Restructured Prior to LNP Due Date (Texas Measurement No. 93)
9. Percentage Premature Disconnects for LNP Orders (Texas Measurement No. 96)
10. Average Days Required to Process a Request (Texas Measurement No. 106)
11. Percentage of Updates Completed into the DA Database within 72 hours for Facility Based CLECs (Texas Measurement No. 110)
12. Average Update Interval for DA Database for Facility Based CLECs (Texas Measurement No. 111)
13. Percentage DA Database Accuracy for Manual Updates (Texas Measurement No. 112)
14. Add Percentage of Missed Mechanized INP Conversions (Texas Measurement No. 116)
15. Percent NXXs loaded and tested prior to the LERG effective date (Texas Measurement No. 117)
16. Average Delay Days for NXX Loading and Testing (Texas Measurement No. 118)
17. Mean Time to Repair (Texas Measurement No. 119)
18. Percentage of Requests Processed 30 Days 60 Days (Texas Measurement No. 120)
19. Percentage of Quotes Provided for Authorized BFRs/Special Requests Within 60 Days X (10, 30, 90) Days (Texas Measurement No. 121)

The Arbitrators also informed the parties that upon completion of Docket No. 01-00193, *In re: Generic Docket on Performance Measurements*, the parties may amend their interconnection agreement to comply with the decision rendered therein.

Additionally, the Arbitrators unanimously voted to adopt BellSouth's VSEEMIII, including the "Liquidated Damages for Tier 1 Measures" and "Voluntary Payments for Tier 2 Measures." The Arbitrators determined that the VSEEMIII is effective upon entry of this Order and is not contingent upon Section 271 approval. Lastly, the Arbitrators ordered the parties to file an interconnection agreement within thirty (30) days of the deliberations.

III. ORDERED

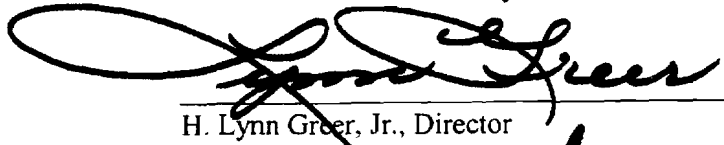
The foregoing *Final Order of Arbitration Award* reflects the resolution of Issue 48. Additionally, this Order incorporates, as if fully set out herein, the *Interim Order of Arbitration Award* filed on June 25, 2001. BellSouth Telecommunications, Inc. and Intermedia

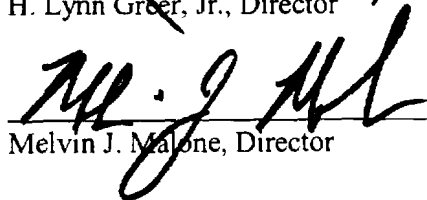
Communications, Inc. shall file their interconnection agreement by no later than August 9, 2001.

All resolutions contained herein comply with the provisions of the Telecommunications Act of 1996 and are supported by the record in this proceeding.

TENNESSEE REGULATORY AUTHORITY,
BY ITS DIRECTORS ACTING AS ARBITRATORS


Sara Kyle, Chairman


H. Lynn Greer, Jr., Director


Melvin J. Malone, Director

ATTEST:


K. David Waddell, Executive Secretary