Billing of Calls from MCI Subscribers to Information Service Providers[19]

The issue was not raised in the arbitration proceeding. Consequently, the Commission will not address it now.

Branding of 611 Repair Calls[20]

we don't use 611 in Kentucky

The Commission will not require BellSouth to provide the 611 code for access to MCI's repair center. MCI claims its subscribers should have access to repair centers at parity. However, because BellSouth itself does not use the 611 code, parity is not an issue.

Routing of Directory Assistance Calls[21]

MCI requests customized routing for its directory assistance calls though it purchases BellSouth tariffed services for resale. BellSouth is not required to alter the manner in which it provides any tariffed service when it provides that service to another carrier for resale. However, when MCI buys unbundled elements to provide service, routing to MCI Directory Assistance is required.

Branding of Directory Assistance[22]

MCI is correct that the Commission held that BellSouth should brand directory assistance for MCI if it brands its own. Failure to so brand is an unreasonable restriction

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19 BellSouth List at 34.

20 BellSouth List at 35; MCI List at 42.

21 BellSouth List at 36-38; MCI List at 43-46.

22 BellSouth List at 39; MCI List at 47.

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on resale except in cases where it is technically unfeasible. Accordingly, the language proposed by MCI shall be incorporated into the parties' agreement.

Selective Routing[23]

The Commission finds that BellSouth's interpretation is in line with the Commission's Order dated January 29, 1997. If a CLEC resells BellSouth's tariffed services, selective routing is not required. Although not specifically addressed in the January 29 Order, directory assistance offered as part of the package to resellers of an ILEC's network is included as a resold service for which selective routing is not required. If a CLEC offers service through unbundled network elements, then selective routing is required, to the extent that it is technically feasible. Accordingly, BellSouth's language shall be incorporated into the parties' agreement.

Busy Line Verification in Context of Interim Number Portability[24]

This issue was not presented during the arbitration proceeding. Consequently, the Commission will not address it now.

Fraud Prevention, Lost Revenues Resulting from Hacker Fraud, Clip-On Fraud, and Other Unauthorized Entry into BellSouth's Network[25]

These issues were not raised by either party during the statutory time period. Consequently, the Commission will not consider them now.

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23 BellSouth List at 40-44; MCI List at 49-54.

24 BellSouth List at 45; MCI List at 55.

25 BellSouth List at 46-48; MCI List at 56-59.

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STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. P-140, SUB 50

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Petition of AT&T Communications of the Southern States, Inc., for Arbitration of Interconnection with BellSouth Telecommunications, Inc.	))))	ORDER RULING ON OBJECTIONS, COMMENTS, UNRESOLVED ISSUES, AND COMPOSITE AGREEMENT

BY THE COMMISSION: On December 23, 1996, the Commission entered a Recommended Arbitration Order (RAO) in this docket setting forth certain findings of fact, conclusions, and decisions with respect to the arbitration proceeding initiated by AT&T Communications of the Southern States, Inc. (AT&T) against BellSouth Telecommunications, Inc. (BellSouth). The RAO required AT&T and BellSouth to jointly prepare and file a Composite Agreement in conformity with the conclusions of said Order within 45 days. The RAO further provided that the parties to the arbitration proceeding could, within 30 days, file objections to said Order and that any other interested person not a party to this proceeding could, within 30 days, file comments concerning said Order.

On January 22, 1997, AT&T filed certain objections to the RAO. BellSouth filed its objections to the RAO on January 23, 1997. Comments regarding the AT&T/BellSouth RAO were filed on January 22, 1997, by the Attorney General, Sprint Communications Company L.P. (Sprint), Carolina Telephone and Telegraph Company, and Central Telephone Company. The Carolina Utility Customers Association, Inc. (CUCA) filed comments on January 23, 1997. On February 21, 1997, AT&T and BellSouth filed their Composite Agreement and a list of nine unresolved issues, including the positions of the parties on each issue and each party's proposed contractual language, for consideration by the Commission.

WHEREUPON, after carefully considering all of the objections, comments, and unresolved issues, the Commission concludes that the RAO should be affirmed, clarified, or amended and set forth below and that the Composite Agreement should be approved, subject to the modifications set forth below.

ISSUES RELATED TO COMMENTS/OBJECTIONS

<u>ISSUE NO. 1</u>: What services provided by BellSouth should be excluded from resale?

INITIAL COMMISSION DECISION

The Commission concluded that BellSouth is obligated to offer at resale at wholesale rates any telecommunications services it provides at retail to subscribers who

ISSUE NO. 6: Must BellSouth route calls for operator services and directory assistance services (OS/DA) directly to AT&T's platform?

INITIAL COMMISSION DECISION

The Commission declined to require BellSouth to provide customized routing at this time, saying it is not technically feasible, and encouraged the parties to continue working to develop a long-term, industry-wide solution to technical feasibility problems.

COMMENTS/OBJECTIONS

AT&T: AT&T repeated its arguments that the Act, generally, and the FCC Order, specifically, require customized routing absent a showing by BellSouth that it is not technically feasible. Pointing out that BellSouth admits that its switches are capable of performing this function through the use of line class codes (LCCs), although capacity may be limited, AT&T contended BellSouth has not met its burden of proving that customized routing is not technically feasible. AT&T also cited rulings by the Tennessee, Georgia, and Florida Commissions finding customized routing to be technically feasible through the use of LCCs. AT&T further stated that, if the recommended decision on customized routing is adopted, North Carolina consumers will be among the only consumers in BellSouth's territory who will not be able to dial "O" and reach their CLP's operators.

SPRINT: Sprint also argued that the Commission erred in declining to require customized routing and cited Section 251(c)(2) of the Act, which imposes on the incumbent LEC the duty to provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the local exchange carrier's network for the transmission and routing of telephone exchange service and exchange access, at any technically feasible point within the carrier's network.

CUCA: CUCA argued that providing customized routing through the use of LCCs and advanced intelligent network (AIN) is technically feasible, according to the record, and therefore the Commission violated Sections 251(c)(2) and 251(c)(3) of the Act and the FCC's implementing regulations by failing to order customized routing.

DISCUSSION

The Commission was aware when it issued the RAO that customized routing can be provided through the use of LCCs. The Commission questioned, however, whether this is technically feasible "in any practical sense" because of capacity constraints and lack of uniformity among switches even if they are upgraded. Recognizing that this is not the long-term solution toward which the industry is working, the Commission declined to order the use of LCCs as an interim solution. The Commission was also aware that Bell Atlantic

has agreed to provide customized routing through the use of AIN Despite AT&T's suggestion that we may have applied a narrower definition of technical feasibility than Congress intended, the Commission continues to believe that it would be unreasonable to require customized routing until a long-term, industry-wide solution is developed

CONCLUSIONS

Based on the foregoing, and the entire evidence of record, the Commission concludes that its original decision on this issue should be affirmed.

ISSUE NO. 7: Must BellSouth brand services sold or information provided to customers on behalf of AT&T?

INITIAL COMMISSION DECISION

The Commission concluded that BellSouth should not be required to unbrand services provided to its customers but should be required to rebrand resold OS/DA when customized routing is available. The Commission further concluded that BellSouth should not be required to unbrand or rebrand its uniforms or vehicles and that its employees should not be required to use branded materials provided by AT&T, but should be allowed to use generic "leave behind" cards.

COMMENTS/OBJECTIONS

ATTORNEY GENERAL: The Attorney General objected to the Commission's failure to require unbranding of OS/DA until customized routing is in place. The Attorney General argued that permitting BellSouth to brand OS/DA as its own, even if it is providing the service to a competing provider, has the potential to confuse the customers of another carrier Those customers will call directory assistance or the operator expecting to deal with their own local service provider and instead will get a message that they have connected with a competitor, BellSouth.

SPRINT: Sprint argued that the Commission erred in declining to require BellSouth to unbrand services provided to customers. Sprint cited Section 251(c)(4)(B) of the Act, which prohibits BellSouth from imposing unreasonable or discriminatory conditions or limitations on resale; Section 51.513 of the FCC's rules, which provides that where operator, call completion, or directory assistance service is part of the service or service package an ILEC offers for resale, failure by an ILEC to comply with reseller unbranding or rebranding requests shall constitute a restriction on resale; and Section 251(c)(2)(D), which imposes on BellSouth a duty to provide for the facilities and equipment of any requesting telecommunications carrier, interconnection with the local exchange carrier's network on rates, terms, and conditions that are just, reasonable, and nondiscriminatory.

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STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. P-141, SUB 29

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Petition of MCI Telecommunications Corporation	)	ORDER RULING ON
For Arbitration of Interconnection with BellSouth	)	OBJECTIONS, COMMENTS,
Telecommunications, Inc.	)	UNRESOLVED ISSUES, AND
	)	COMPOSITE AGREEMENT

BY THE COMMISSION: On December 23, 1996, the Commission entered a Recommended Arbitration Order (RAO) in this docket setting forth certain findings of fact, conclusions, and decisions with respect to the arbitration proceeding initiated by MCI Telecommunications, Inc. (MCI) against BellSouth Telecommunications, Inc. (BellSouth). The RAO required MCI and BellSouth to jointly prepare and file a Composite Agreement in conformity with the conclusions of said Order within 45 days. The RAO further provided that the parties to the arbitration proceeding could, within 30 days, file objections to said Order and that any other interested person not a party to this proceeding could, within 30 days, file comments concerning said Order.

On January 22, 1997, MCI filed certain objections to the RAO. BellSouth filed its objections to the RAO on January 23, 1997. Comments regarding the MCI/BellSouth RAO were filed on January 22, 1997, by the Attorney General, Sprint Communications Company L.P. (Sprint), Carolina Telephone and Telegraph Company (Carolina), and Central Telephone Company (Central). The Carolina Utility Customers Association, Inc. (CUCA) filed comments on January 23, 1997. On February 7, 1997, MCI and BellSouth filed their Composite Agreement and a Joint List of Unresolved Issues for consideration by the Commission.

WHEREUPON, after carefully considering the objections, comments, and joint list of unresolved issues, the Commission concludes that the RAO should be affirmed, clarified, or amended as set forth below and that the Composite Agreement should be approved, subject to the modifications set forth below.

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ISSUE NO. 4: Must BellSouth route calls for operator services and directory assistance services (OS/DA) directly to MCI's platform?

INITIAL COMMISSION DECISION

The Commission declined to require BellSouth to provide customized routing at this time, saying it is not technically feasible, and encouraged the parties to continue working to develop a long-term, industry-wide solution to technical feasibility problems

COMMENTS/OBJECTIONS

MCI: MCI pointed out that Finding of Fact No. 5 of the RAO fails to meet the requirements of Section 251 of TA96. Further, the FCC Interconnection Order requires customized routing in each BellSouth switch unless BellSouth establishes by clear and convincing evidence that customized routing is not technically feasible. MCI stated that at least 30% of BellSouth's switches are fully capable of providing customized routing. MCI also cited rulings by the Tennessee, Georgia, and Florida Commissions finding customized routing to be technically feasible through the use of line class codes (LCCs). MCI urged the Commission to consider the logic employed by these three state commissions and the FCC. Customized routing is technically feasible and is necessary to ensure that MCI and BellSouth compete on an equal playing field.

SPRINT: Sprint also argued that the Commission erred in declining to require customized routing and cited Section 251(c)(2) of the Act, which imposes on the incumbent LEC the duty to provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the local exchange carrier's network for the transmission and routing of telephone exchange service and exchange access at any technically feasible point with the carrier's network.

CUCA: CUCA argued that providing customized routing through the use of LCCs and the advanced intelligent network (AIN) is technically feasible, according to the record, and therefore the Commission violated Sections 251(c)(2) and 251(c)(3) of the Act and the FCC's implementing regulations, by failing to order customized routing.

DISCUSSION

The Commission was aware when it issued the RAO that customized routing can be provided through the use of LCCs. The Commission questioned, however, whether this is technically feasible "in any practical sense" because of capacity constraints and lack of uniformity among switches even if they are upgraded. Recognizing that this is not the long-term solution the industry is working on, however, the Commission declined to order the use of LCCs as an interim solution. The Commission was also aware that Bell Atlantic has agreed to provide customized routing through the use of AIN. The Commission

continues to believe it would be unreasonable to require customized routing until a long-term, industry-wide solution is developed.

CONCLUSIONS

Based upon the foregoing and the entire evidence of record, the Commission concludes that its original decision on this issue should be affirmed.

ISSUE NO. 5: Must BellSouth brand services sold or information provided to customers on behalf of MCI?

INITIAL COMMISSION DECISION

The Commission concluded that BellSouth should not be required to unbrand services provided to its customers but should be required to rebrand resold OS/DA when customized routing is available. The Commission further concluded that BellSouth should not be required to unbrand or rebrand its uniforms or vehicles and that its employees should not be required to use branded materials provided by MCI but should be allowed to use generic "leave-behind" cards.

COMMENTS/OBJECTIONS

MCI: MCI objected to the failure to require BellSouth to brand services or information. Citing Paragraph 971 of the Interconnection Order ("failure by an incumbent LEC to comply with reseller branding requests presumptively constitutes unreasonable discrimination of resale"), MCI argued that BellSouth has not rebutted the presumption that it lacks the capability to brand MCI's services. MCI also objected to the generic "leave-behind" cards.

ATTORNEY GENERAL: The Attorney General objected to the Commission's failure to require unbranding of OS/DA until customized routing is in place. The Attorney General argued that permitting BellSouth to brand OS/DA as its own, even if it is providing the service to a competing provider, has the potential to confuse the customers of another carrier. Those customers will call directory assistance or the operator expecting to deal with their own local service provider and instead will get a message that they have connected with a competitor, BellSouth.

SPRINT: Sprint argued that the Commission erred in declining to require BellSouth to unbrand services provided to customers. Sprint cited Section 251(c)(4)(B) of the Act, which prohibits BellSouth from imposing unreasonable or discriminatory conditions or limitations on resale; Section 51.513 of the FCC Rules, which provides that where operator, call completion, or directory assistance service is part of the service or service package an ILEC offers for resale, failure by an ILEC to comply with reseller unbranding

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