



Florida Cable Telecommunications Association

Steve Wilkerson, President

June 26, 1996

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FILE COPY

VIA HAND DELIVERY

Ms. Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0350

RE: DOCKET NO. 960687-TP

Dear Ms. Bayo:

Enclosed for filing in the above-referenced docket are an original and fifteen copies of Florida Cable Telecommunications Association, Inc.'s ("FCTA") Petition for Leave to Intervene. Copies have been served on the parties of record pursuant to the attached certificate of service.

Please acknowledge receipt and filing of the above by date stamping the duplicate copy of this letter and returning the same to me.

Thank you for your assistance in processing this filing.

Yours very truly,

- ACK _____
- AFA _____
- APP _____ *Laura L. Wilson*
- CAF _____
Laura L. Wilson
Vice President, Regulatory Affairs &
Regulatory Counsel
- CMU _____
- CTR _____
- EAG _____
Enclosures
- LEG _____ *Wilkerson*
Mr. Steven E. Wilkerson
All Parties of Record
- LIN _____
- OPC _____
- RCH _____
- SEC _____
- WAS _____
- OTH _____

*10 T...
6/11/96
[Signature]*

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310 North Monroe Street • Tallahassee, Florida 32301 • (904) 681-1990 FAX (904) 681-2628

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Contract Service)
Arrangements Tariff of)
BellSouth Telecommunications, Inc.)
_____)

DOCKET NO. 960687-TP

FILED: June 26, 1996

TO: Honorable Julia Johnson
Prehearing Officer

**FLORIDA CABLE TELECOMMUNICATIONS ASSOCIATION, INC.'S
PETITION FOR LEAVE TO INTERVENE**

The Florida Cable Telecommunications Association, Inc., ("FCTA") by and through undersigned counsel and pursuant to Rule 25-22.039, Florida Administrative Code, submits this Petition for Leave to Intervene as a full party to the above-captioned proceeding. In support thereof, FCTA states:

1. The FCTA is a trade association representing the cable telecommunications industry in Florida. The FCTA's business address is 310 North Monroe Street, Tallahassee, Florida 32301.

2. The name of the person authorized to receive notices, pleadings and other communications in this docket is:

Laura L. Wilson
Vice President, Regulatory Affairs &
Regulatory Counsel
310 North Monroe Street
Tallahassee, FL 32301
(904) 681-1990
(904) 681-9676 Fax
e-mail: FCTAINC@aol.com.

3. This proceeding was initiated on May 31, 1996 when Intermedia Communications of Florida, Inc. ("ICI") filed its Petition Challenging BellSouth Tariff No. T-96-300 relating to Contract Service Arrangements ("CSAs"). At issue in this proceeding is the validity of BellSouth's CSA tariff revision - whether Tariff No. T-96-300 complies with Section 364.051(6)(a), Florida Statutes (1995).

4. Section 364.051(6)(a) provides:

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Nothing contained in this section shall prevent the local exchange telecommunications company from meeting offerings by any competitive provider of the same, but functionally equivalent, non-basic services in a specific geographic market or to a specific customer by deaveraging the price of any non-basic service, packaging non-basic services together with basic services, using volume discounts and term discounts and offering individual contracts. However, the local exchange telecommunications company shall not engage in any anti-competitive act or practice, nor unreasonably discriminate among similarly situated customers. (emphasis added).

This provision contemplates a narrow standard for the LECs' use of CSAs. It is no longer sufficient for there to be a "reasonable potential" for bypass. The new law requires that there actually be a competitor who is offering the same or functionally equivalent non-basic service in the geographic market before a LEC may enter into a CSA. BellSouth's CSA tariff does not comply with this standard.

5. The interests of FCTA and its members are vitally and substantially affected by this proceeding concerning the validity of BellSouth's CSA tariff. The membership of FCTA includes cable telecommunications companies such as Time Warner, Continental, Cox, Comcast, Telecommunications, Inc. (TCI), Adelphia and Jones Intercable. FCTA's members are and wish to be facilities-based LEC competitors. Cable systems pass over 95% of homes with coaxial cable having capacity to carry up to 900 times as much information as the LECs' twisted pair. The cable industry's high capacity systems will deliver virtually every type of communications conceivable, offering facilities-based consumer choices for voice services, including local exchange services. To this end, FCTA members also have certificated ALEC business interests in Florida including: Time Warner AxS of Florida, L.P., Digital Media Partners, Hyperion Telecommunications of Florida, Inc., Teleport Communications Group, Jones Lightwave of Tampa, Inc., Telecommunications Services of Florida, Inc., Continental Florida Telecommunications, Inc., and AlterNet Data Communications Partnership.

6. One of the primary goals of FCTA is the establishment of fair terms of telecommunications competition. That is why FCTA supported the passage of the revised Chapter 364, Florida Statutes (1995), and has participated as a full party of record in the Commission's proceedings implementing universal service (950696-TP), number portability (950737-TP, 960100-TP), interconnection (950985-TP), unbundling (950984-TP) and STS service (950155-TP) provisions of the revised statute. FCTA is also named by statute to the Florida Distance Learning Network Board of Directors and has been actively involved in establishing a fair competitive bid process under Part II, Chapter 364 concerning the provision of advanced telecommunications services to eligible facilities.

7. FCTA's participation in this proceeding is consistent with its goal of achieving full and fair competition for telecommunications services. The new statutory standard for use of CSAs is significant in light of the express legislative finding that competition is in the public interest and intent to foster competition. BellSouth's use of individual contracts (which are usually 3-5 years in duration with steep penalties for early termination) in instances where there are no actual competitors, enables Bell to lock down contracts in advance of competitive ALEC entry into a particular geographic market. The Legislature intended to give the LEC flexibility to respond to a competitor's offering. It did not intend to allow the LEC to depart from its tariff to preempt a competitor by use of a long term contract. BellSouth's tariff enables such preemptive strikes on local exchange competition in contravention of the legislative intent.

8. This preemptive strike also specifically enables BellSouth to enter into long term contracts for basic and non-basic services with schools, libraries and rural health care providers in advance of the legislatively mandated competitive bid process of Part II, Chapter 364, Florida Statutes (1995). The Florida Distance Learning Network ("FDLN") Board of Directors is currently conducting a needs assessment and establishing the terms of the competitive bid process.

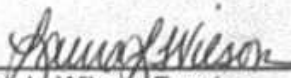
BellSouth's CSA Tariff enables BellSouth to lock down long term contracts with qualifying facilities well in advance of the FDLN bid process scheduled for July 1, 1997. BellSouth's Tariff eviscerates the statutorily mandated FDLN bid process and contravenes the legislative intent for qualified schools, libraries and hospitals to have the latest technology at the best price through a competitive bid process.

9. The preemptive strike on eligible schools, libraries, and hospitals substantially impacts FCTA's members. Any "entity" may respond to bid requests under Part II. That includes cable companies and certificated telecommunications companies. There will be little to compete for next July 1, 1997 if the LECs continue to enter into CSAs now, in the absence of a competitor, and without a "fresh-look" policy written into the CSA contracts allowing eligible facilities to re-evaluate their long term contracts (without substantial penalty) once the FDLN competitive bid process begins. BellSouth's CSA tariff policy unfairly locks other entities out of the competitive bid process. This is not what the Legislature intended. Eligible schools, libraries and hospitals are entitled to fully avail themselves of the benefits of competition and the FDLN competitive bid process.

10. FCTA's participation will aid the Commission's understanding of the issues presented in this docket and will efficiently present the industry members' positions.

WHEREFORE, for the foregoing reasons, FCTA requests the Commission grant its Petition for Intervention and afford FCTA status as a party of record in this proceeding.

RESPECTFULLY SUBMITTED this 26th day of June, 1996.



Laura L. Wilson, Esquire
Florida Cable Telecommunications Association, Inc.
310 N. Monroe Street
Tallahassee, FL 32301
(904) 681-1990

CERTIFICATE OF SERVICE
DOCKET NO. 960687-TP

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by

Hand Delivery(*) and/or U.S. Mail on this 26th day of June, 1996 to the following parties of record:

Donna Canzano*
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Robert G. Beatty
J. Phillip Carver
c/o Nancy H. Sims
BellSouth Telecommunications, Inc.
150 S. Monroe St., Suite 400
Tallahassee, FL 32301

Julian O'Pry
Division of Communications
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

By: _____

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