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November 21, 1996

Mrs. Blanca S. Bayó
Director, Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 960786-TL
Section 271 Docket

Dear Ms. Bayó:

Enclosed is an original and fifteen copies of BellSouth Telecommunications, Inc.'s Memorandum in Opposition to Joint Motion for Order Requiring Advanced Notice of Filing, which we ask that you file in the captioned matter.

A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return the copy to me. Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely,

J. Phillip Carver

- ACK _____
- AFA _____
- APP _____
- CAF _____
- CMU Green _____
- CR _____
- EAG _____
- LEG _____
- LIN _____
- OPC _____
- RCH _____
- SEC 1 _____
- WAS _____
- OTH _____

Enclosures
/vf

cc: All parties of record
A. M. Lombardo
R. G. Beatty
William J. Ellenberg II

DOCUMENT NUMBER-DATE

12505 NOV 21 1996

FPSC-RECORDS/REPORTING

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Consideration of) Docket No. 960786-TL
BellSouth Telecommunications,)
Inc.'s entry into InterLATA)
services pursuant to Section 271)
of the Federal)
Telecommunications Act of 1996.) Filed: November 21, 1996
_____)

BELLSOUTH'S MEMORANDUM IN OPPOSITION TO JOINT
MOTION FOR ORDER REQUIRING ADVANCED NOTICE OF FILING

BellSouth Telecommunications, Inc.'s ("BellSouth" or
"Company"), hereby files, pursuant to Rule 25-22.037(b), Florida
Administrative Code, its Memorandum In Opposition to Joint Motion
for Order Requiring Advanced Notice of Filing, and states in
support thereof the following:

1. AT&T Communications of the Southern States, Inc.
("AT&T"), MCI Telecommunications Corporation ("MCI"), WorldCom,
Inc. d/b/a LDDS WorldCom ("LDDS") and their trade association,
the Florida Interexchange Carriers Association ("FIXCA"),
collectively, ("interexchange carriers") have filed a Joint
Motion seeking to revamp the procedures the Florida Public
Service Commission ("Commission") specifically established for
this proceeding. The thinly-veiled purpose of this motion is to
create procedural roadblocks to BellSouth's obtaining authority
to compete with them. Specifically, the interexchange carriers

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request that this Commission order BellSouth to submit all the evidence it intends to rely upon in this Section 271 proceeding (including prefiled testimony and exhibits) 120 days before it files its 271 application with the Federal Communications Commission ("FCC"). BellSouth will rely on the same evidence before this Commission and the FCC for obtaining Florida interLATA authority. Thus, the interexchange carriers are essentially requesting that this Commission, at a minimum, prohibit BellSouth from filing a Section 271 application with the FCC for the next four months. If granted, their motion would further force BellSouth to wait four months after the date upon which it has the basis for a factually sufficient 271 application (and can file its evidence with this Commission) before it can file with the FCC.

2. An order to this effect would contravene Section 271 and the Commission's procedural order in this case. It would also establish a long and needless procedural delay in the process whereby BellSouth will bring new competition to the long distance market. Finally, it would force this Commission and the FCC to rely on four month old information in evaluating

BellSouth's application to provide long distance service in Florida. For all these reasons, the motion should be denied.

3. The sole stated basis for the interexchange carriers' motion is that requiring BellSouth to file all the evidence it intends to rely on in this proceeding 120 days before it files a 271 application with the FCC will "aid" in resolving the issues involved here in light of the "brevity" of the time allowed for this proceeding. (Motion at 2). This position does not square with the facts or the law.

4. The interexchange carriers' request directly contravenes Section 271. Section 271 provides the avenue for BellSouth to bring the benefits of real long distance competition to Florida consumers. Before this can happen, BellSouth must comply with Section 271(d)(1) by filing an application with the FCC identifying the particular state(s) for which it seeks long distance authority. The FCC has ninety days to issue a decision (§ 271 (d)(3)). During this ninety days, the FCC must consult with the subject State Commission(s) "in order to verify ... [BellSouth's] ... compliance with the "requirements of subsection (c)" (271(d)(2)(B)).

5. The interexchange carriers' attempt to engraft onto the Act a 120 day waiting period prior to filing contravenes the specific requirements of Section 271 and Congress's intent. Section 271 places the decision as to when to file an application to obtain interLATA authority in the applicant's hands; it does not require a pre-filing notice or any other procedural prerequisite to the filing. Nevertheless, the interexchange carriers are attempting to prohibit BellSouth from filing for the next four months, and to be further constrained by the imposition of a rolling four month delay in the application process. This contravenes the time line Congress established in Section 271(d) for the expedited resolution of applications.

6. Moreover, the interexchange carriers simply ignore the procedures that this Commission has put into place in this docket to insure the full development the issues upon which the Commission will base its recommendation to the FCC. Shortly after this Commission opened this docket in June of this year, it issued an Initial Order Establishing Procedure (Order No. PSC-96-0945-PCO-TL, dated July 19, 1996). This Order provided for expedited discovery to commence immediately (i.e., prior to the filing by BellSouth of its petition) on the eighteen issues that

were preliminary identified in the Order. The Order also provided for regular status conferences, as well as the prefiled testimony and the filing of prehearing statements that are routinely a part of proceedings before this Commission.

7. The interexchange carriers contention that "brevity" somehow compels the requested procedure is belied by the events that have transpired over the past several months. FIXCA alone has propounded over sixty interrogatories as well as requests for the production of documents. Not only has this discovery been voluminous, its breadth has, at times, been truly staggering. Further, even more discovery continues to be available to the interexchange carriers.

8. The interexchange carriers will, of course, have the opportunity to examine prefiled testimony and detailed prehearing statements prior to the hearing on this matter, just as they would in any proceeding. Further, any claim by these carriers that the necessarily expedited nature of a 271 proceeding disadvantages them is demonstrably specious for a specific reason in this case. The individual interexchange carriers have fully participated in detailed arbitration hearings in which they were afforded full discovery rights concerning local interconnection.

Many of the issues covered in these arbitrations will be central to this 271 proceeding. It would be ridiculous for, to give one example, AT&T to claim that they have insufficient information concerning agreements that might satisfy 271(c) when they have recently engaged with BellSouth in the arbitration of an exhaustive list of issues that they deemed necessary to an interconnection agreement. Thus, the interexchange carriers have had every opportunity to be well prepared for this proceeding. In sum, neither this proceeding, nor the parties -- who have actively participated in discovery in this proceeding and all phases of the various arbitration proceedings -- is constrained by "brevity".

9. In addition, requiring BellSouth to submit all the evidence it will rely on 120 days before filing its 271 application will effectively result in BellSouth's application being 120 days out of date when it is considered by this Commission and the FCC. Given the rapidly evolving state of local competition, the practical inability of this Commission to consider the most current information (which would be the unavoidable result of this restriction) is more than significant. This attempt by the interexchange carriers to hinder BellSouth's

application and force reliance on stale evidence will not aid the Commission or the FCC in reaching the right result. Instead, this ploy, if successful, will drastically increase the prospect of this Commission's arriving at a wrong result based on "old" information. Neither consumers, nor anyone else, would benefit from this result, except, of course, the interexchange carriers who have as their only goal to bar BellSouth from entry into the interLATA market for as long as possible.

10. The interexchange carriers' argument that, because two states have sought to impose a prefiling requirement the Florida Commission's can do the same without a detrimental effect on BellSouth is plainly wrong. Section 271 envisions state-specific applications and the granting of interLATA operating authority on a state-by-state basis. Thus, each state's rules must stand on their own, as must each BellSouth application for interLATA authority. Put differently, to obtain interLATA authority in, for example, South Carolina, BellSouth must demonstrate that the requirements of 271 have been met in South Carolina. This determination entails an essentially distinct and separate factual inquiry from the Florida-specific inquiry in our proceedings. The interexchange carriers argument that delays in

the South Carolina proceeding somehow justify delays in the separate, independent Florida proceeding is not just wrong, it is so obviously wrong that it borders on the disingenuous.

11. Further, of all the states considering the issue of intraLATA entry, the interexchange carriers has been able to point to only two that have ruled as they request the Commission to rule here. Whatever the appropriateness of the actions of these two Commissions, each state Commission must decide whether it is appropriate to set procedures for handling the process of making a recommendation to the FCC as to the status of local competition within the state. The Florida Commission has taken the approach of allowing full discovery prior to a filing combined with an expedited prehearing schedule after the filing. Obviously, BellSouth believes that this is the better approach. More to the point, it is the approach that has been ordered by this Commission, and, until now, no party has argued for a deviation from this procedure. The interexchange carriers, however, now take the position that this Commission should ignore the fact that it has already granted the parties considerable pre-hearing rights in this matter and engraft onto this proceeding additional procedural hurdles that would have the

effect of delaying for no good reason the filing of the 271 application by BellSouth for at least four months.

12. Although they argue that they are "Florida's competitive providers of telecommunications service," (Motion at 2), the interexchange carriers share a common fear of new entry into "their" market and a common goal of trying to obstruct BellSouth's future entry. This motion is one attempt by this group to obstruct and delay future interLATA competition and the benefits it will bring to Florida consumers, but not to them. Their motion is contrary to the law and facts and is simply an attempt to handicap competition, frustrate Congress's intent in enacting 271 and obstruct this proceeding while ignoring and the procedural rules this Commission has established for this proceeding.

WHEREFORE, for the reasons set forth above, BellSouth respectfully requests the entry of an Order denying the joint motion in its entirety.

BELLSOUTH TELECOMMUNICATIONS, INC.

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CERTIFICATE OF SERVICE
DOCKET NO. 960786-TL

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by Federal Express this 21st day of November, 1996 to the following:

* Hand-delivered

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