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February 18, 1997

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

RE: Docket No. 961150-TP

Dear Mrs. Bayo:

Enclosed are an original and fifteen copies of BellSouth Telecommunications, Inc.'s Motion for Reconsideration of Order No. PSC-97-0122-FOF-TP. Please file these documents in the captioned docket.

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 on the parties shown on the attached

Certificate of Service.

Sincerely,

Nancy B. White
(PW)

Nancy B. White

- ACK _____
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- APP _____
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- LEG 2
- LIN 5 Enclosures
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cc: All Parties of Record
A. M. Lombardo
R. G. Beatty
W. J. Ellenberg

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Sprint)
Communications Company)
L.P. for Arbitration of)
Interconnection with BellSouth) Docket No.: 961150-TP
Telecommunications, Inc.)
Under the Telecommunications) Filed: February 18, 1997
Act of 1996)
_____)

BellSouth Telecommunications, Inc.'s
Motion for Reconsideration

BellSouth Telecommunications, Inc. ("BellSouth"), files pursuant to Rule 25-22.060, Florida Administrative Code, its Motion for Reconsideration of Order No. PSC-97-0122-FOF-TP ("Order"), issued on February 3, 1997, by the Florida Public Service Commission ("Commission") in the above referenced dockets. Reconsideration is required because the Commission overlooked or failed to consider evidence affecting the outcome of this proceeding or misapplied the law as it pertains to this case. In support of its Motion for Reconsideration, BellSouth states the following:

I. Procedural Background

On February 8, 1996, the Telecommunications Act of 1996 (the "Act") became law. The Act required interconnection negotiations between incumbent local exchange carriers and new entrants. If

negotiations were unsuccessful, the parties were entitled to seek arbitration of the unresolved issues from the appropriate state commission. 47 U.S.C. § 252(b)(1). This arbitration arose after BellSouth and Sprint Communications Company, L. P. ("Sprint") were unable to reach agreement on all issues despite good faith negotiations.

On February 3, 1996, the Commission issued its Order, holding, among other things, that BellSouth would be required to provide Sprint access to customer records. The Commission, in reaching a decision on these issues, either overlooked or failed to consider certain evidence or law applicable to these dockets. See Diamond Cab Co. of Miami vs. King, 146 So. 2d 889 (Fla. 1962). The Commission's findings often rely on speculation and conjecture. The Commission's decision simply lacks the requisite foundation of competent and substantial evidence.

With regard to the evidence, the Commission must rely upon evidence that is "sufficiently relevant and material that a reasonable man would accept it as adequate to support the conclusion reached." DeGroot v. Sheffield, 95 So. 2d 912, 916 (Fla. 1st DCA 1957) See also Agrico Chem. Co. v. State of Fla. Dep't of Environmental Reg., 365 So. 2d 759, 763, (Fla. 1st DCA 1979); Ammerman v. Fla. Board of Pharmacy, 174 So. 2d 425, 426

(Fla. 3d DCA 1965). The evidence must "establish a substantial basis of fact from which the fact at issue can reasonably be inferred." DeGroot, 95 So. 2d at 916. The Commission should reject evidence that is devoid of elements giving it probative value. Atlantic Coast Line R.R. Co. v. King, 135 So. 2d 201, 202 (1961). "The public service commission's determinative action cannot be based upon speculation or supposition." 1 Fla. Jur. 2d, § 174, citing Tamiami Trail Tours, Inc. v. Bevis, 299 So. 2d 22, 24 (1974). In this case, the Commission's decision is doubly arbitrary because it ignores competent evidence that contradicts the Commission's underlying assumptions in many instances. "Findings wholly inadequate or not supported by the evidence will not be permitted to stand." Caranci v. Miami Glass & Engineering Co., 99 So. 2d 252, 254 (Fla. 3d DCA 1957). 380 So. 2d 1028, 1031 (Fla. 1980).

The section below examines the ground for reconsideration.

II. Access to Customer Records

In its Order, the Commission held that BellSouth should provide Sprint access to customer service records under a blanket letter of authorization and that BellSouth should develop a real-

time operational interface to deliver customer service records to alternative local exchange companies. (Order, pp. 6-10)

While BellSouth is not opposed to providing appropriate electronic customer service record information to Sprint as long as customer privacy can be protected, BellSouth seeks reconsideration of the Commission's requirement that BellSouth provide unrestricted, direct, on-line access to the full customer records before protections against "roaming" are implemented. All of BellSouth's customer records, as well as resellers' records, are contained in the same database, and there is no current means of electronically restricting access to individual records in the database. Without knowing in advance which individual customer's record Sprint would want to view, and more importantly, which customer had given his or her consent, there is no way to restrict Sprint to viewing just that customer's record. If allowed unrestricted access, then Sprint would be free to look at all customer's records, which would jeopardize the privacy of customers' data.

The FCC recognized the potential for violation of customer privacy in its August 8, 1996 order, and found that the FCC and the states have the authority to protect the confidentiality of proprietary information. BellSouth has investigated and

continues to search for ways to provide access to individual records while still securing other records in the database that are confidential and/or not needed for provisioning of local telephone service.

As a solution, until such time as protections can be implemented, and until BellSouth and Sprint can solve the problem of direct, on-line access, BellSouth has proposed a number of alternatives. For customers who are unable to locate their bills, BellSouth has proposed a three-way call to the BellSouth service center, or a faxed copy of the record, both of which can be accomplished with the verbal authorization of the customer. Also, BellSouth has implemented a "switch as is" process, which means that the customer's existing service can be switched without the customer's having to specify which services they currently are taking.

The Commission's ruling on the access to customer records issue, if not altered, has the potential to take the slamming or unauthorized PIC change problem the Commission has observed in the interexchange world to even greater heights. The problem is not solved by a blanket letter of authorization, which essentially is a new entrant's global promise not to take an unauthorized look around while it happens to be in the database.

This is not a new idea. Letters of authorization currently are used in the interexchange world to say that interexchange carriers will not submit unauthorized PIC changes. Even with these letters of authorization, slamming is still a problem in the interexchange world and this Commission should be hesitant to put faith in blanket letters of authorization for local service.

While Sprint tended to frame this issue as being between Sprint and BellSouth, BellSouth believes this is about the customer's need for privacy, and the customer's need for convenience. Therefore, BellSouth respectfully requests a finding that recognizes customer privacy demands and does not allow a blanket letter of authorization to obtain total access to all customer records. BellSouth is willing to provide the necessary information after customer permission has been granted. Only in this way can the customer's privacy be insured. Alternatively, if a blanket letter of authorization is allowed, this Commission should implement detailed rules governing slamming and unauthorized records access, providing for serious consequences for violators so as to minimize the possibilities of slamming or unauthorized records access before they occur.

III. Conclusion

BellSouth requests that its Motion for Reconsideration be granted and that the Commission adopt BellSouth's position on the issue discussed herein.

Respectfully submitted this 18th day of February, 1997.

BELLSOUTH TELECOMMUNICATIONS, INC.

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CERTIFICATE OF SERVICE
DOCKET NO. 961150-TP

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by Federal Express this 18th day of February, 1997 to the following:

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