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May 23, 2001

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. 001810-TP (TCG/Teleport Arbitration)**

Dear Ms. Bayó:

Enclosed is an original and fifteen copies of BellSouth Telecommunications, Inc.'s Prehearing Statement, which we ask that you file 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 to the parties shown on the attached Certificate of Service.

Sincerely,

  
James Meza III (KA)

cc: All Parties of Record  
Marshall M. Criser III  
R. Douglas Lackey  
Nancy B. White

DOCUMENT NUMBER-DATE

06512 MAY 23 01

FPSC-RECORDS/REPORTING

**CERTIFICATE OF SERVICE**  
**Docket No. 001810-TP**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via

Federal Express this 23rd day of May, 2001 to the following:

Patricia Christensen  
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Represents TCG

  
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**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Complaint of TCG South Florida and ) Docket No. 001810-TP  
Teleport Communications Group for )  
Enforcement of Interconnection Agreement )  
with BellSouth Telecommunications, Inc. )  
\_\_\_\_\_ ) Filed: May 23, 2001

**PREHEARING STATEMENT OF BELL SOUTH TELECOMMUNICATIONS, INC.**

BellSouth Telecommunications, Inc. ("BellSouth"), in compliance with the Order Establishing Procedure (Order No. PSC-01-0833-PC0-TP) issued on March 30, 2001, hereby submits its Prehearing Statement for Docket No. 001810-TP.

**A. Witnesses**

BellSouth proposes to call the following witness to offer testimony on the issues in this docket:

<b><u>Witness</u></b>	<b><u>Issue(s)</u></b>
Beth Shiroishi (Direct and Rebuttal)	1, 2, 3, 4(a), 4(b), 5(a), and 5(b)
Clyde Green (Direct)	4(a)

BellSouth reserves the right to call additional witnesses, witnesses to respond to Commission inquiries not addressed in direct testimony and witnesses to address issues not presently designated that may be designated by the Prehearing Officer at the prehearing conference to be held on May 30, 2001. BellSouth has listed the

witnesses for whom BellSouth believes testimony will be filed, but reserves the right to supplement that list if necessary.

**B. Exhibits**

Beth Shirioshi

ERAS-1 (Comments of AT&T Corp.)

ERAS-2 (Access Service Tariff E3 -  
Carrier Common Line Access)

ERAS-3 (Access Service Tariff E6 -  
BellSouth SWA Service)

ERAS-4 (Access Service Tariff E6 -  
BellSouth SWA Access Service)

BellSouth reserves the right to file exhibits to any testimony that may be filed under the circumstances identified in Section "A" above. BellSouth also reserves the right to introduce exhibits for cross-examination, impeachment, or any other purpose authorized by the applicable Florida Rules of Evidence and Rules of this Commission.

**C. Statement of Basic Position**

BellSouth did not breach the Second Teleport Communications Group ("TCG") Agreement by refusing to pay TCG reciprocal compensation for traffic bound to Internet Service Providers ("ISPs") for three primary reasons. First, ISP-bound traffic is, and

always has been, interstate traffic. Second, the parties did not agree to pay reciprocal compensation for ISP-bound traffic in the Second TCG Agreement. Third, this Commission's Order in Order No. PSC-98-1216-TP has no bearing on the issues in this proceeding because it only applied to the First TCG Agreement.

Additionally, BellSouth has also not breached the Second TCG by failing to pay TCG switched access charges for telephone exchange service because BellSouth has paid TCG all switched access charges owed.

#### **D. BellSouth's Position on the Issues**

##### **Issue 1: What is the Commission's jurisdiction in this matter?**

Position: The Commission has jurisdiction in this matter because state commissions have the authority to hear disputes concerning the enforcement of agreements they approve pursuant to Sections 251 and 252 of the Telecommunications Act of 1996 (the "Act"). See, Iowa Util. Bd. v. FCC, 120 F. 3d 753, 804 (8th Cir. 1997). The FCC, however, in its Order on Remand and Report and Order (FCC Order No. 01-131, released April 27 2001) ("Remand Order") confirmed that ISP traffic is interstate traffic and within the exclusive jurisdiction of the FCC. Therefore, any interpretation and

decision by this Commission must be consistent with the FCC's findings and analysis in the Remand Order.

**Issue 2: Under the Second BellSouth/TCG Agreement, are the parties required to compensate each other for delivery of traffic to ISPs?**

Position: No. Under the terms of the Second TCG Agreement, the parties were only required to pay reciprocal compensation for local traffic. As recently made clear by the FCC in the Remand Order, traffic to ISPs is interstate and not local. Additionally, the parties did not agree to include ISP-bound traffic in the definition of "Local Traffic" under the Second TCG Agreement.

**Issue 3: What is the effect, if any, of Order No. PSC-98-1216-FOF-TP, issued September 15, 1998, in Docket No 980184-TP, (TCG Order), interpreting the First BellSouth/TCG Agreement requiring BellSouth to pay TCG for transport and termination of calls to ISPs, on the interpretation and application of the Second BellSouth/TCG Agreement?**

Position: Order No. PSC-98-1216-FOF-TP has no effect whatsoever on the interpretation and application of the Second TCG Agreement because that Order interpreted only the First TCG Agreement, which is not at issue in this docket.

**Issue 4(a): Has BellSouth breached the Second BellSouth/TCG Agreement by failing to pay TCG reciprocal compensation for transport and termination of Local Traffic as defined in the Second BellSouth/TCG Agreement for calls originated by BellSouth's end-user customer and transported and terminated by TCG to ISPs?**

Position: For the reasons previously stated, BellSouth did not breach the Second TCG Agreement by failing to pay reciprocal compensation for the calls originated by BellSouth's end-user and transported and terminated by TCG. BellSouth has paid TCG reciprocal compensation for the transport and termination of "Local Traffic," which does not include ISP-bound traffic.

**Issue 4(b): If so, what rates under the Second BellSouth/TCG Agreement should apply for the purposes of reciprocal compensation?**

Position: If the Commission finds that BellSouth has breached the TCG Agreement by failing to pay reciprocal compensation for ISP-bound traffic, the rate of compensation under the Agreement that BellSouth should pay TCG is the "Direct End Office Interconnection" rate of \$.002 per minute of use.

**Issue 5(a): Has BellSouth breached the Second BellSouth/TCG Agreement by failing to pay TCG switched access charges for telephone exchange service provided by TCG to BellSouth?**

Position: BellSouth has not breached the Second TCG Agreement by failing to pay switched access charges because BellSouth has paid all switched access charges owed.

**Issue 5(b): If so, what rates under the Second BellSouth/TCG Agreement should apply for purposes of originating and terminating switched access charges for intraLATA toll traffic?**

Position: As stated above, BellSouth has not breached the Second TCG Agreement. If the Commission, however, does find a breach, the rate for switched access charges under the agreement is the rate that BellSouth is currently paying, \$.02643 per minute of use.

**E. Stipulations**

None.

**F. Pending Motions**

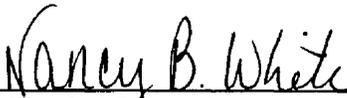
TCG's Motion for Continuance and Rescheduling of Controlling Dates for Prehearing Statements, Prehearing Conference and Final Hearing is the only pending motion.

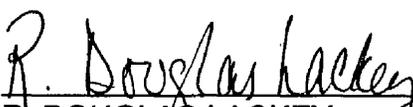
**G. Other Requirements**

None.

Respectfully submitted this 23rd day of May, 2001.

BELLSOUTH TELECOMMUNICATIONS, INC.

  
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