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June 11, 2001

Mrs. Blanca S. Bayó  
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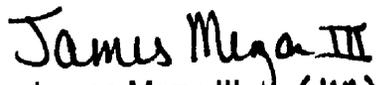
**Re: 960786-TL (Section 271)**

Dear Ms. Bayó:

Enclosed is an original and fifteen copies of BellSouth Telecommunications, Inc.'s, Opposition to IDS Telecom, L.L.C.'s Petition to Intervene, 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 by Federal Express as shown on the attached Certificate of Service.

Sincerely,

  
James Meza III (KA)

Enclosures

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

DOCUMENT NUMBER-DATE

07244 JUN 11 2001

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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  
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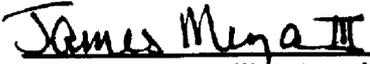
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James Meza III (LA)

**(+) Signed Protective Agreement**

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Consideration of BellSouth )  
Telecommunications, Inc.'s entry into ) Docket No. 960786-TL  
interLATA services pursuant to Section )  
271 of the Federal Telecommunications )  
Act of 1996. )  
\_\_\_\_\_ ) Filed: June 11, 2001

**BELLSOUTH TELECOMMUNICATIONS, INC.'S  
OPPOSITION TO IDS TELECOM, L.L.C.'S PETITION TO INTERVENE**

BellSouth Telecommunications, Inc. ("BellSouth") submits this Opposition to IDS Telecom, L.L.C.'s ("IDS") Petition to Intervene. The Florida Public Service Commission ("Commission") should deny IDS' Petition to the extent IDS seeks to present evidence on issues that the Prehearing Officer previously held would not be included in this proceeding. In support of this Opposition, BellSouth states the following:

1. On March 28, 2001, a Status Conference was conducted with all the parties to discuss the schedule of this proceeding. On March 30, 2001, the Commission issued Order No. PSC-01-0832-PCO-TL, which set forth the schedule.

2. On April 24, 2001, an Issues Identification Conference was conducted between the Prehearing Officer and all the parties "to discuss which issues need to be identified for resolution in this proceeding and to hear argument on any disputed issues." Order No. PSC-01-1025-PCO-TL. After considering the arguments presented at the conference, on April 25, 2001, the Prehearing Officer issued Order No. PSC-01-1205-PCO-TL (the "Order"), which

set forth the issues to be addressed in this proceeding. The Prehearing Officer issued the Order pursuant to Rule 28-106.211, Florida Administrative Code, which provides that “the presiding officer before whom a case is pending may issue any orders necessary to effectuate discovery, prevent delay, and promote the just, speedy, and inexpensive determination of all aspects of the case.” Order at 2.

3. In the Order, the Prehearing Officer determined that certain issues raised by various Alternative Local Exchange Companies (“ALECs”) should not be addressed in the hearing. Order at 4. These issues specifically dealt with whether commercial experience and commercial data established that “BellSouth has provided access to network elements in a nondiscriminatory manner” and that “BellSouth has provided telecommunications services for resale in a nondiscriminatory manner.” Order at 3.

4. In reaching his conclusion, the Prehearing Officer focused on previous Orders in this proceeding -- Order No. PSC-00-1568-PAA-TP and Order PSC-00-0104-PAA-TP -- and found that the presentation of evidence relating to commercial data and commercial experience was not necessary because these issues were currently being addressed “within the third-party OSS testing portion of this proceeding.” Order at 5.

5. On May 2, 2001, MCI WorldCom, Inc. (“MCI”), the Florida Competitive Carriers Association (“FCCA”), and AT&T Communications of the Southern States, Inc. (“AT&T”) moved for reconsideration of the Order before the full Commission. These ALECs specifically asked that the Commission

reconsider the Order and find that they be allowed to use commercial data and experience to establish whether BellSouth has fulfilled its 271 obligations. The full Commission denied their motions at the May 22, 2001 Agenda Conference.

6. IDS has filed a Petition to Intervene in this proceeding “for the sole purpose of presenting direct testimony and commercial data and other documentary evidence regarding its business experience with BellSouth’s provision of Operational Support Systems (“OSS”) and unbundled network elements.” Petition at 2. As stated above, other ALECS attempted to include this information as issues but were rejected by the Prehearing Officer. They again tried to have this information included in this proceeding through motions for reconsideration but were rejected by the full Commission. Now, two months after the scheduling conference and one month after the Issue Identification Conference, IDS wants to intervene in this proceeding solely to introduce the exact type of evidence that the Commission has already determined is not to be included in this proceeding. IDS should not be allowed to present evidence that the Order expressly prohibits.

7. Indeed, IDS could have intervened in this proceeding like other ALECS earlier this year and participated in the Status Conference and the Issues Identification Conference. It did not and instead has attempted to circumvent the clear wording of the Order through its Petition to Intervene.

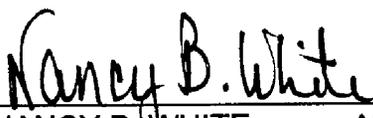
8. Moreover, IDS’s blackmail-like statement that it will appeal the Order as unpromulgated and invalid rules to the Division of Administrative Hearings if it is not allowed to present testimony and evidence relating to

commercial experience and data is nothing more than a veiled threat that should not concern the Commission. There is no question that the procedural order in question, limited solely to this 271 proceeding and which simply identifies the issues to be addressed in the hearing, is not a rule because it is not an agency statement of general applicability that prescribes law or policy or describes the procedure or practice of the Commission. *Imperial Indust., Inc. v. Florida Compensation Rating Bureau*, 387 So. 2d 1030, 1033-34 (Fla. 1<sup>st</sup> DCA 1980).

9. Finally, if IDS wishes to intervene without the condition that it be allowed to present evidence of commercial data and experience and therefore participate on the same terms and conditions as the other parties to this proceeding, BellSouth does not object to IDS's Petition to Intervene.

Respectfully submitted this 11th day of June, 2001.

BELLSOUTH TELECOMMUNICATIONS, INC.

  
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