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State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

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CLERK

DATE: JULY 12, 2001

TO: DIRECTOR, DIVISION OF THE COMMISSION CLERK &
ADMINISTRATIVE SERVICES (BAYÓ)

FROM: DIVISION OF LEGAL SERVICES (B. KEATING, W. KNIGHT) *WOK*
DIVISION OF COMPETITIVE SERVICES (BUYS, TRUBELHORN) *DRB* *WJL* *WJL*

RE: DOCKET NO. 991378-TL - INITIATION OF SHOW CAUSE
PROCEEDINGS AGAINST BELL SOUTH TELECOMMUNICATIONS, INC. FOR
VIOLATION OF SERVICE STANDARDS.

AGENDA: 07/24/01 - REGULAR AGENDA - FINAL ORDER

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\991378DB.RCM

CASE BACKGROUND

- BellSouth Telecommunications, Inc. (BellSouth) is required to file periodic reports with the Commission regarding quality of service.
- February 11, 1994 - Order No. PSC-94-0172-FOF-TL was issued approving stipulation between BellSouth, the Office of Public Counsel (OPC), and the Attorney General's Office.
- September 10, 1999 - Based on self reported failures of the Commission rules, staff opened this docket to require BellSouth to show cause.
- September 17, 1999 - The OPC filed a notice of intervention.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

- September 17, 1999 - BellSouth submitted its settlement offer to resolve the show cause.
- October 19, 1999 - The Commission voted to accept BellSouth's settlement proposal and close the docket upon remittance of BellSouth's voluntary contribution.
- November 9, 1999 - The Commission issued Order PSC-99-2207-PAA-TL approving BellSouth's settlement offer. (Attachment A)
- November 19, 1999 - BellSouth submitted its voluntary contribution of \$125,000 to the Commission for deposit in the State of Florida General Revenue Fund.
- November 30, 1999 - The OPC filed a petition requesting a hearing and protesting PAA Order PSC-99-2207-PAA-TL.
- December 1, 1999 - July 8, 2001 - BellSouth and the OPC conducted negotiations for a settlement in this docket.
- July 9, 2001 - BellSouth and the OPC filed a Joint Motion Seeking Commission Approval of the Stipulation and Settlement to resolve the issues in this docket. (Attachment B)

The Florida Public Service Commission is vested with jurisdiction over these matters pursuant to Sections 364.01(4), 364.03, 364.17, 364.183, Florida Statutes. Accordingly, staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission approve the Stipulation and Settlement By and Between the Office of Public Counsel and BellSouth Telecommunications, Inc. (Stipulation and Settlement) to resolve the apparent violations of service standards Rules 25-4.0185(3)(a), and 25-4.073(1)(d), Florida Administrative Code, during the years 1996 through 1999?

RECOMMENDATION: Yes. The Commission should approve the Stipulation and Settlement in its entirety. The Stipulation and Settlement should become effective on the day following the vote of the Commission approving the Stipulation and Settlement. **(Knight, Buys)**

STAFF ANALYSIS: On November 9, 1999, the Commission issued Order PSC-99-2207-PAA-TL approving a settlement offer proposed by BellSouth to resolve the apparent service standard violations cited in this docket. In its initial settlement offer dated September 17, 1999, BellSouth agreed to the following:

- Develop and review with staff a valid sampling methodology for extrapolating service restored time for reports from November 1999 and forward.
- Review and manage its dispatch strategy, force distribution, and appointment clock intervals to address installation intervals and performance in small exchanges.
- Adopt the Commission's methodology for measuring the current answer time rule effective with BellSouth's November 1999 report.
- BellSouth has eliminated the use of the automated answering device from the TDD bureau. In addition, BellSouth has completed and distributed customer education materials to reduce the number of misdirected calls by hearing customers to that number.
- Monitor its performance and manage its force to meet service expectations.

DATE: July 12, 2001

- BellSouth has added 921 employees in Florida to its Network organization. Two-thirds of these are specifically focused on improved performance in installation and repair intervals.
- BellSouth has added 842 employees in Florida to its business office operations.
- Remit a payment to the State of Florida General Revenue Fund in the amount of \$125,000. (Remitted on November 19, 1999)

Since its intervention on September 17, 1999, the OPC has conducted its own investigation into the apparent service violations. During the subsequent months, the OPC has initiated discovery, filed testimony, and participated in discussions with BellSouth in an effort to resolve the issues in this docket. On July 9, 2001, BellSouth and the OPC submitted a joint Stipulation and Settlement to the Commission for approval. In the Stipulation and Settlement, BellSouth agrees to do the following:

- Establish and incur the cost of establishing a new Service Guarantee Plan that will automatically provide payments in the form of credits to customers in the event certain service installation and repair of service interruption objectives are not met. The credits will not require the customer to request the credit. The Service Guarantee Plan will last for two years beginning on the implementation date. The implementation date will be no later than six months from the date of the Final Order issued by the Commission.
Service Installation: If BellSouth fails to install service on the date the customer and BellSouth have agreed upon, BellSouth will automatically credit \$25.00 to the customer's bill. If BellSouth offers an installation date greater than three days and the customer requests service to be installed on an earlier date, the credit will be issued if service is not installed within three days or the customer requested date, whichever is greater. Saturdays, Sundays, and holidays are included in determining if the installation date is missed and a credit would apply.

Repair of service interruption: If BellSouth fails to complete a repair within 24 hours from the time [a trouble report is] received, the customer will automatically receive a credit of \$4.00, plus three times the customer's daily recurring local service charges - up to a maximum of \$35.00. In no event shall the customer receive a credit of less than \$10.00. (For example, if a trouble report is received at 3 p.m. on Monday, and the trouble is cleared at 3:01 p.m. or later on Tuesday, a credit for one day would apply. A credit for two days would apply if the repair is completed at any time during Wednesday; a credit for three days would apply if the repair is completed at any time during Thursday; and so forth.) Saturdays, Sundays, and holidays are included in calculating the days for which the credit applies.

- Establish a Community Service Fund in the form of a corporate undertaking to be used to educate customers about and promote BellSouth's Lifeline and LinkUp services.
- Contribute \$250,000 to the Community Service Fund in the first year of the settlement (calendar year 2002).
- Contribute \$150,000 to the Community Service Fund in the second year of the settlement (calendar year 2003).
- File a tariff for an income eligibility test at 125% of the Federal poverty income guidelines for Lifeline customers that will augment, rather than replace, the current eligibility guidelines based on participation in certain low income assistance programs.
- Provide monthly reports to the Commission and the Office of Public Counsel within 30 days of the end of the reporting month detailing the amount of credits related to missed objectives for installation and repair.

DATE: July 12, 2001

The OPC and BellSouth have agreed that the provisions of the Stipulation and Settlement shall supplement the actions required by the Commission's Order PSC-99-2207-PAA-TL, including payment of a \$125,000 voluntary contribution to the State of Florida General Revenue Fund. Also, based on discussions with BellSouth, staff understands that the installation objective of the Service Guarantee Plan applies to each and every time BellSouth fails to install service on the agreed upon date and there is no limit on the number of times a \$25.00 credit could be issued to the same customer.

In paragraph C on page 6 of the Stipulation and Settlement (page 24, Attachment B), BellSouth has committed to filing a tariff providing for an income eligibility test at 125% of the federal poverty income guidelines for Lifeline customers. Staff has not had adequate time to assess the impact that this standard will have, however, since it is an augmentation to the existing standards it appears that it should increase the number of eligible customers. An applicant who is eligible under the current standards should not be precluded eligibility by the filling of the tariff.

Furthermore, the stipulation states that another entity such as the Commission, OPC, non-profit organizations, or other governmental entity could implement the eligibility standard in the agreement. Staff has not contacted other entities concerning this agreement. However, Staff agrees that the OPC could be designated as the entity responsible for certifying claims of eligibility for Lifeline customers under the standard contained in the stipulation. The OPC has stated that the Commission may designate the OPC to assume the responsibility for certifying eligibility. Staff does not have information on how the OPC will implement this responsibility.

Based on the aforementioned, staff believes that the proposal is in the public interest and recommends that the Commission approve the Stipulation and Settlement in its entirety. The Stipulation and Settlement should become effective on the day following the vote of the Commission approving the Stipulation and Settlement.

DOCKET NO. 991378-TL
DATE: July 12, 2001

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If the Commission approves staff's recommendation in Issue 1, this docket should be closed upon the issuance of the Final Order. **(Knight)**

STAFF ANALYSIS: If the Commission approves staff's recommendation in Issue 1, this docket should be closed upon the issuance of the Final Order.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings against BellSouth Telecommunications, Inc. for violation of service standards.

DOCKET NO. 991378-TL
ORDER NO. PSC-99-2207-PAA-TL
ISSUED: November 9, 1999

The following Commissioners participated in the disposition of this matter:

JOE GARCIA, Chairman
J. TERRY DEASON
SUSAN F. CLARK
E. LEON JACOBS, JR.

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING OFFER OF SETTLEMENT

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

Pursuant to Rule 25-4.0185, Florida Administrative Code, BellSouth Telecommunications, Inc. (BellSouth), is required to file with the Commission quarterly reports which demonstrate its measure of its quality of service. Additionally, by Order No. PSC-94-0172-FOF-TL, issued February 11, 1994, in Docket No. 920260, we approved a stipulation between BellSouth, Office of Public Counsel (OPC), and the Attorney General's (AG's) Office, which addresses BellSouth's quality of service, among other things.

Rule 25-4.070(3)(a), Florida Administrative Code, relating to service interruption, states:

Restoration of interrupted service shall be scheduled to insure at least 95 percent shall be cleared within 24 hours of report in each exchange as measured on a monthly basis. For any exchange failing to meet this objective,

DOCUMENT NUMBER-DATE

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ORDER NO. PSC-99-2207-PAA-TL
DOCKET NO. 991378-TL
PAGE 2

the company shall provide an explanation with its periodic report to the Commission.

BellSouth submitted quarterly reports which indicate that from January 1998 through June 1999, BellSouth has not met the 95% performance standard for restoration of interrupted service within 24 hours of report, as required by Rule 25-4.070(3)(a), Florida Administrative Code. Additionally, our staff's evaluation of four BellSouth exchanges during August 1998 through October 1998 also demonstrates that BellSouth has not complied with the rule. Our evaluation indicates that BellSouth performed at a level of 80.9%.

Additionally, Rule 25-4.073(1)(d), Florida Administrative Code, relating to answering time, states in pertinent part:

For subscribers electing the option of transferring to a live assistant, except for business office calls, at least ninety-five (95%) percent of all calls shall be transferred by the system to a live attendant prepared to give immediate assistance within fifty-five (55) seconds after the last digit of the telephone number listed in the directory for the company's service(s) was dialed. Eighty-five (85%) percent of all such calls directed to any business office shall be transferred by the system to a live attendant within fifty-five (55) seconds after the last digit is dialed.

BellSouth submitted quarterly reports which indicate that, at least since January 1998, it has not complied with Rule 25-4.073(1)(d), Florida Administrative Code.

On September 10, 1999, we opened this docket to require BellSouth to show cause why it should not be fined for failure to meet our quality of service standards set forth in Rules 25-4.070(3)(a) and 25-4.073(1)(d), Florida Administrative Code. On September 14, 1999, our staff met with BellSouth to discuss our mutual concerns. BellSouth raised several issues regarding the quality of service standards, and as a result, Docket No. 991473-TP was opened on September 29, 1999, to initiate review and revision of the standards. We believe that working together with the industry, we can develop new or amend existing rules to ensure that all companies consistently measure and report service quality data that accurately reflects the industry's performance.

ORDER NO. PSC-99-2207-PAA-TL
DOCKET NO. 991378-TL
PAGE 3

On September 17, 1999, OPC filed a Notice of Intervention. Also on September 17, 1999, BellSouth filed its offer of settlement, which is appended as Attachment A and incorporated herein by reference.

In its settlement letter, BellSouth states that it measured and reported its performance for out of service restorations based on the time the report was closed in its computer system and not when the customer's service was actually restored. This method of reporting was agreed upon by the parties in the February 1994 stipulation agreement between BellSouth, OPC, and the AG's Office, which was approved by the Commission in Order No. PSC-94-0172-FOF-TL. BellSouth believes that this method may have understated its actual out of service restorations response time. However, based upon our own evaluation of four BellSouth exchanges, we are concerned that BellSouth's inability to meet the service standard may be due to understaffing in BellSouth's installation and repair departments. With respect to the answering time standard, BellSouth did not provide a particular reason why it has not met that service standard. Here again, we are concerned that BellSouth's failure to meet this standard is indicative of insufficient staffing within its business and repair office.

In its offer of settlement, BellSouth agrees to do the following:

- BellSouth will develop and review with staff a valid sampling methodology for extrapolating service restored time for reports from November 1999 and forward.
- BellSouth will review and manage its dispatch strategy, force distribution, and appointment clock intervals to address installation intervals and performance in small exchanges.
- BellSouth will adopt the Commission's methodology for measuring the current answer time rule effective with BellSouth's November 1999 report.
- BellSouth has eliminated the use of the automated answering device from the TDD bureau. In addition, BellSouth has

ORDER NO. PSC-99-2207-PAA-TL
DOCKET NO. 991378-TL
PAGE 4

completed and distributed customer education materials to reduce the number of misdirected calls by hearing customers to that number.

- BellSouth will monitor its performance and manage its force to meet service expectations.
- BellSouth will review and manage its dispatch strategy, force distribution, and appointment clock intervals to address installation intervals and performance in small exchanges.
- BellSouth has added 921 employees in Florida to its Network organization. Two-thirds of these are specifically focused on improved performance in installation and repair intervals.
- BellSouth has added 842 employees in Florida to its business office operations.
- BellSouth will make a settlement payment to the General Revenue Fund in the amount of \$125,000.

Since its intervention on September 17, 1999, OPC initiated its own investigation into this matter, and conducted meetings with representatives of BellSouth. OPC has not indicated agreement with the settlement offer as proposed by BellSouth, nor has OPC indicated agreement with our decision to accept the offer. However, we believe that BellSouth's settlement offer demonstrates its commitment to resolve our concerns of understaffing and its commitment to provide quality service in Florida. In addition, we believe that the \$125,000 voluntary contribution represents an equitable settlement for failing to achieve the service standards.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the offer of settlement by BellSouth Telecommunications, Inc., which is

ORDER NO. PSC-99-2207-PAA-TL
DOCKET NO. 991378-TL
PAGE 5

appended hereto as Attachment A and incorporated herein by reference, is hereby approved. It is further

ORDERED that BellSouth Telecommunications, Inc. shall remit the \$125,000 voluntary contribution to the Commission within ten business days from the issuance date of this Order and shall identify the docket number and company name. This voluntary contribution shall be forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund, pursuant to Section 364.285(1), Florida Statutes. It is further

ORDERED that if BellSouth Telecommunications, Inc. fails to pay in accordance with the terms of the offer of settlement, the company's certificate shall be canceled administratively, and this docket shall be closed. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this docket shall remain open pending remittance of the \$125,000 voluntary contribution. Upon remittance, this docket shall be closed administratively.

By ORDER of the Florida Public Service Commission this 9th day of November, 1999.

BLANCA S. BAYÓ, Director
Division of Records and Reporting



Kay Flynn, Chief
Bureau of Records

(S E A L)

DMC

ORDER NO. PSC-99-2207-PAA-TL
DOCKET NO. 991378-TL
PAGE 6

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on November 30, 1999.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

ATTACH

ORDER NO. 991378-TL
DOCKET NO. 991378-TL
PAGE 7



BellSouth Telecommunications, Inc. 850 224-7798
Suite 400 Fax 850 224-5073
150 South Monroe Street
Tallahassee, Florida 32301-1556

Marshall M. Criser III
Regulatory Vice President

September 17, 1999

Mr. Walter D'Haeseleer, Director
Division of Communications
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

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Dear Mr. D'Haeseleer:

Service standards and Commission rules have been an ongoing dialogue between BellSouth and the Florida Public Service Commission. BellSouth has worked closely with the Staff and communicated reporting issues that we have been dealing with for some time.

As you know, in the early 1990's, BellSouth initiated changes to how we gathered data for several commission service reports. The intent of these changes was to create an audit trail by eliminating any manual intervention. The unintended consequence of these changes was to significantly underreport the quality of our service. We had initially hoped to address these issues in Docket No. 950778TL, which was a response to our request for rulemaking. Unfortunately, due to the press of other issues and the rapid pace of changes in our industry, this docket was closed in May of this year, with the expectation that a new docket would be opened in order to recognize and review issues surrounding current rules and to consider issues related to changes in our industry. It is our understanding that this rulemaking docket will be opened in October. The Commission, however, has also opened Docket No. 991378 as the procedural vehicle to address BellSouth Telecommunications service standards performance.

BellSouth believes that our internal and external measurements, including customer complaints and independent service quality recognition, indicate that we provide quality customer service. However, previous inquiries from Staff and our own review of our measurement and reporting for the FPSC's service performance rules have identified issues which we intend to address. We also believe that the best interests of our customers are served by moving forward with rulemaking to identify and incorporate the service priorities for the future of our industry. To that end, we offer the following discussion and corrective action to resolve and close Docket No. 991378:

-TL

A

DOCKET NO. 991378-TL
PAGE 8

Mr. Walter D'Haeseleer
September 17, 1999
Page 2

Based on the previously referenced changes, BellSouth has measured and reported our performance for Out of Service (OOS) and Service Affecting (SA) trouble reports on the basis of the time when the report is closed, referred to as Final Status Time (FST). In comparison to reporting when the service is restored (when the trouble is cleared), referred to as Cleared and Customer Advised (CCA), the FST also includes activities such as restoring the work area to its original condition, reloading equipment, and the processing time between the field technician and the dispatch center. In order to reconcile our procedure with the Commission's current rule, BellSouth will develop and review with Staff a valid sampling methodology for extrapolating service restored time for reports from November 1999 forward. We will continue to measure FST time and will make customer rebates on the basis of that measurement. We would rather err on the side of the customer on this issue.

BellSouth is also attentive to ensuring that our force compliments our service requirements in Florida as a whole, as well as within the individual exchanges within the state. As committed to in April, 1998, we have reinstated the practice of prioritizing Out of Service reports. We have also added 921 employees to our Network organization. Fully two-thirds of these are specifically focused on improved performance in installation and repair intervals. The remaining forces are focused on improving infrastructure. As we address the reporting issue, BellSouth will review and manage its dispatch strategy, force distribution, and appointment clock intervals to address installation intervals and performance in small exchanges.

Further, as reflected in our letter to Staff dated September 15, 1999, BellSouth has reviewed the methodologies being employed for recording and reporting answer time performance. From that review, we have identified that we are using two separate methodologies to measure our performance between our Consumer and our Business organizations. In an effort to ensure that we do not overstate our performance, both methodologies have evolved to a system that underreports our performance. Further, neither is consistent with the Commission's method of measurement. To resolve this conflict and ensure consistent data between our reports and the Commission's evaluations, BellSouth will adopt the Commission's methodology for measuring the current answer time rule effective with our November 1999 report. In addition, BellSouth has added 842 employees to its business office operations. Again, as we address the reporting issues, we will monitor our performance and manage our force to meet service expectations.

ATTACHM

PAGE 9

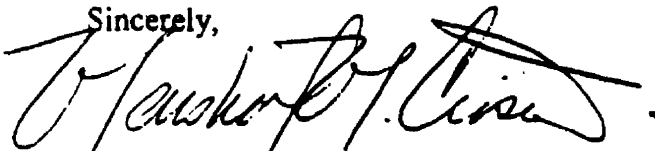
Mr. Walter D'Haeseleer
September 17, 1999
Page 3

As identified in our response to the Commission's most recent service evaluation, BellSouth has also addressed the issue of answer time in our TDD Bureau. We eliminated the automated answering device from the TDD bureau. We have also completed and distributed customer education materials to reduce the number of misdirected calls by hearing customers to that number. In recognition of the Commission's continued attention to this issue, BellSouth has reemphasized in its TDD bureau procedures that an automated answering system is not compatible with the bureau's mission.

We believe we are providing superior service to our customers, as evidenced by the steady decline in Public Service Commission complaints, the lack of service complaints raised at public hearings, independent surveys of customer opinions about our service, and numerous other internal measures we use to monitor customer service. For example, in 1994, our performance in PSC infractions per 1000 access lines was .094. Today it is .0085.

While we believe that our measuring and reporting procedures have underreported our performance, we also recognize our responsibility to provide accurate reporting to the Commission, as well as good service to our customers. As previously communicated to the Commission, we are earnest in our desire to satisfactorily address the Commission's concerns and to participate in a rulemaking procedure which will allow the Commission to identify the service priorities and measurements which reflect the current and future nature of our industry. In order to resolve service performance issues and proceed with a rulemaking proceeding, BellSouth offers to make a settlement payment of \$125,000. We will also implement the corrective action identified in this letter.

Sincerely,



Marshall M. Criser III
Regulatory Vice-President

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause) Docket No. 991378-TL
proceedings against BellSouth)
Telecommunications, Inc., for)
violation of service standards.)
_____) Filed: July 9, 2001

**Joint Motion Seeking Commission
Approval of the Stipulation**

COMES NOW, The Office of Public Counsel (the "OPC") and BellSouth Telecommunications, Inc. ("BellSouth"), pursuant to Rule 25-22.037, Florida Administrative Code, and hereby files this Joint Motion to have the Florida Public Service Commission (the "FPSC") approve the Stipulation and Settlement between the Office of Public Counsel and BellSouth Telecommunications, Inc. (the "Stipulation and Settlement") and to take all the action specified therein. In support of this Joint Motion, the OPC and BellSouth show the following:

1. Presently pending before the FPSC is the above captioned docket.
2. The OPC and BellSouth believe that it is in the best interest of the customers of BellSouth and the Citizens of Florida to amicably resolve the issue of this docket without the expenditure of further time, money, and other resources in litigating this issue before the Commission and the courts.
3. The OPC and BellSouth have negotiated a settlement of these issues. That settlement is set forth in the Stipulation and Settlement executed by the OPC

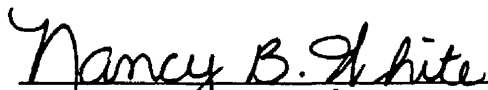
and BellSouth. A copy of the Stipulation and Settlement is attached hereto as Attachment "A"

4. Because the Stipulation and Settlement is in the best interest of BellSouth's customers, the OPC and BellSouth request that the FPSC expeditiously accept and approve the Stipulation and Settlement as filed and close Docket No. 991378-TL upon the implementation of the Stipulation and Settlement.

WHEREFORE, the OPC and BellSouth respectfully request that the FPSC grant the relief sought in this Joint Motion.

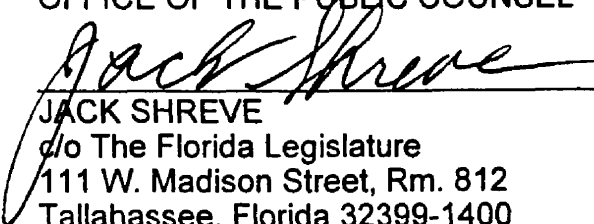
Respectfully submitted 9th day of July, 2001.

BELLSOUTH TELECOMMUNICATIONS, INC.



NANCY B. WHITE (22)
c/o Nancy Sims
150 South Monroe Street, Suite 400
Tallahassee, Florida 32301
(305) 347-5558

OFFICE OF THE PUBLIC COUNSEL



JACK SHREVE
c/o The Florida Legislature
111 W. Madison Street, Rm. 812
Tallahassee, Florida 32399-1400
(850) 488-9330

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DATE: July 12, 2001

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause
proceedings against BellSouth
Telecommunications,
Incorporated for violations of
service standards /

Docket No. 991378-TL

Filed: July 9, 2001

**STIPULATION AND SETTLEMENT BY AND BETWEEN
THE OFFICE OF PUBLIC COUNSEL AND
BELLSOUTH TELECOMMUNICATIONS, INC.**

Pursuant to Section 120.57(4), Florida Statutes (1999), BellSouth Telecommunications, Incorporated (BellSouth or the Company) and the Office of the Public Counsel (OPC or Citizens) (hereinafter the Parties) have entered into this Stipulation and Settlement to effect an informal disposition and complete and binding resolution of any and all matters and issues which might be addressed by the Florida Public Service Commission (FPSC or Commission) in this docket regarding the company's service during the years 1996 through 1999. This Stipulation and Settlement avoids the time, expense and uncertainty associated with adversarial litigation in keeping with the Florida Public Service Commission's long-standing policy and practice of encouraging parties in contested proceedings to settle issues whenever possible. Accordingly, without prejudice to any Party's position in any other proceeding before the Florida Public Service Commission or any other venue, present or future, the Parties stipulate and agree as follows:

ATTACHMENT "A"

1. BACKGROUND & INTRODUCTION

This Docket was initiated on September 10, 1999 pursuant to a memorandum dated September 10, 1999 issued by the Florida Public Service Commission. The OPC intervened on September 17, 1999. At its October 19, 1999, Agenda Conference, the Commission voted to accept BellSouth's offer of settlement and to close the docket upon remittance of a voluntary contribution of \$125,000 to the General Revenue Fund. That payment was made by BellSouth to the Florida Public Service Commission on November 18, 1999. A Proposed Agency Action Order No. PSC-99-2207-PAA-TL was issued November 9, 1999. On November 30, 1999, OPC filed a timely protest of the Order, and the matter was set for hearing. On May 17, 2000, an issue identification conference was held. At that time the Parties agreed with the FPSC staff (Staff) to establish a list of issues. On May 23, 2000, the Commission established the procedural schedule through the release of Order No. PSC-00-1027-PCO-TL. The OPC has served three Requests for Production of Documents and three sets of Interrogatories on BellSouth. BellSouth has made its responses to the discovery available to the OPC for inspection. The Commission Staff served one set of Interrogatories on BellSouth and BellSouth responded.

Since the initiation of the Docket, the Parties have engaged in discussions for the purposes of resolving this matter. To this end, the Parties have reached the following Stipulation and Settlement in full resolution of the issues before the Commission. Furthermore, the Parties agree that the period to which this Stipulation and Settlement applies, for any violation of the aforesaid rules, will include the period from 1996 up to and including 1999. The provisions of this agreement shall supplement the actions required by the Commission's Proposed Agency Action order no. PSC-99-2207-PAA-TL, including payment of a \$125,000 voluntary contribution to the General Revenue Fund.

As a resolution of this docket the Parties agree that BellSouth will incur the cost of and establish a new Service Guarantee Plan that will automatically provide payments in the form of credits to customers in the event certain service objectives are not met, and will require the payment of monies to a Community Service Fund. The Service Guarantee Plan will not require customers whose service is not installed or repaired within the objectives set out below to request that a credit be placed on the bill. Any credits called for in the plan will be applied automatically. The Stipulation and Settlement generally, and the Service Guarantee Plan, specifically, are not intended to eliminate the FPSC's statutory authority to establish, monitor compliance with and/or enforce service quality standards, nor does this agreement waive any of the FPSC's existing rules governing service quality. It represents a compromise of the Parties between possible assessment and payment of penalties and/or fines and a desire to insure that customers receive direct and immediate tangible relief when service does not meet the Service Guarantee Objectives agreed upon herein.

2. THE SERVICE GUARANTEE PLAN

The Parties hereby create a Service Guarantee Plan that establishes service objectives, credits for failure to meet those objectives, and contains terms and definitional language for application of the Service Guarantee Plan. One of the objectives is designed to result in direct and automatic credits to customers if installation commitments are not met. This includes, where facilities are available, installation of residential basic local service (primary and additional) and single line business. The second objective is for repair of primary residential and single line business out-of-service conditions. BellSouth also commits to establish and to contribute to a Community Service Fund that

will educate customers about and promote BellSouth's Lifeline and LinkUp services. In addition, BellSouth commits to tariff an income eligibility test for Lifeline services.

A. Service Guarantee Commitments and Credits

(1) Repair - Out of Service (Service Interruption):

BellSouth agrees to make the applicable automatic credits on the bills of each primary residential and single line business local customer for whom BellSouth fails to meet the service objective. This automatic credit would apply to primary residential and single line business local customers experiencing an out-of-service condition irrespective of whether the trouble is caused by a network, Customer Provided Equipment, or inside wire condition. Where the Company fails to complete a repair within 24 hours from the time received (the service objective), the Company will increase the current service rebate such that the customer will receive a credit of \$4.00 plus three times the customer's daily recurring local service charges, up to a maximum of \$35.00. In no event, however, shall the customer receive a credit of less than \$10.00. Saturdays, Sundays and holidays are included in calculating service credits. Periods of time associated with and covered by the force majeure clause in Section (2)(D)(1) of the Stipulation and Settlement shall be excluded from this calculation.

An out-of-service condition for purposes of this Service Guarantee Plan occurs when a subscriber's service is interrupted (1) other than by a negligent or willful act of the subscriber, and (2) where the customer is able to continue to take service (e.g. not where the service location has been destroyed by fire, flood, wind, etc.).

(2) Service Installation:

Where central office or outside plant facilities are readily available, if BellSouth fails to install a customer's primary or additional residential local or single line business service on the date which the customer and the Company have agreed, BellSouth will give the customer an automatic bill credit of \$25. The commitment due date for installation shall be agreed upon by the Company and the customer. Where the Company is offering a commitment date greater than three days and the customer requests an earlier date, the commitment credit will be based on the customer requested date or on three days, whichever is greater.

Saturdays, Sundays and holidays are included for determining the applicable credits. Periods of time associated with and covered by the force majeure clause in Section (2)(D)(1) of the Stipulation and Settlement shall be excluded from this calculation. BellSouth will be subject to FPSC Rule 24-066 (3) and (5), Florida Administrative Code where central office or outside plant facilities are not readily available.

B. Establishment of a Community Service Fund and Disposition of the Funding

BellSouth shall establish a Community Service Fund in the form of a corporate undertaking. For the first year of this settlement (calendar year 2002), BellSouth will make a contribution to the Community Service Fund in the amount of \$250,000 to be used to educate customers about and promote BellSouth's Lifeline and LinkUp services. For the second year of this settlement (calendar year 2003), BellSouth's contribution will be \$150,000. The annual contribution will be made in January of each year this agreement is in effect. In the event the Parties disagree as to the method of disposing of the contribution amounts, the Parties shall submit such disagreement to the Florida Public Service

Commission for resolution.

C. Filing of an Income Eligibility Tariff for Lifeline

BellSouth commits that it will file a tariff providing for an income eligibility test at 125% of the federal poverty income guidelines for Lifeline customers. This test for eligibility will augment, rather than replace, the current eligibility guidelines based on participation in certain low income assistance programs. This tariff filing is conditioned on a governmental or non-profit entity assuming responsibility for certifying eligibility. The Florida Public Service Commission may designate itself as the entity responsible for certifying claims of eligibility, or, if it prefers, may designate another entity, such as the Office of Public Counsel.

D. Other Provisions of the Service Guarantee Plan

(1) Force Majeure

In the event of an emergency due to major events such as hurricanes, work stoppages, or acts of third parties outside BellSouth's control, when it is reasonable to expect that the Company will be unable to meet its installation and repair commitments, BellSouth may declare a service emergency. In declaring a service emergency, the Company shall define the geographic area, on a minimum of an exchange basis, where the emergency exists, may make indefinite commitments for installation and repair services within the affected areas, shall initiate public service announcements to inform customers, and shall notify the Commission at the time of implementation and termination of the service emergency period. In such cases, the Company shall be relieved of its obligations to provide credits for failure to meet the objectives for installation and repair service.

Where BellSouth is relieved of meeting the objectives, it will revert to making refunds or adjustments for customers affected by a service emergency, pursuant to Rule 25-

4.110(6), Florida Administrative Code, for out-of-service conditions as defined by Rule 25-4.070(1)(b), Florida Administrative Code.

(2) Commission's Continuing Jurisdiction

The intent of the Parties is that the Commission shall have the right to enforce the provisions of this Service Guarantee Plan including, but not limited to, verification that the credits are made consistent with the Service Guarantee Plan. Furthermore, it is not the intent of the Parties to deprive the Commission of its authority to resolve customer complaints and monitor and ensure that service is adequate and reasonable. The Parties contemplate that the Commission will retain its ability to monitor service through auditing and reviewing filed reports.

The Parties contemplate that this Stipulation and Settlement will resolve all issues defined in Order No. PSC-00-1027-PCO-TL for the period from January 1, 1996 through December 31, 1999. BellSouth will provide monthly reports to the Commission and the Office of the Public Counsel within 30 days of the end of the reporting month detailing the amount of credits related to missed objectives for installation and repair.

(3) Term of Service Guarantee Plan

The term of the Service Guarantee Plan is for a period of two years beginning on the implementation date. Each party will work in good faith to address and correct any unanticipated difficulties in a manner consistent with the intent of the Service Guarantee Plan.

(4) General Terms

(a) Implementation Date: BellSouth will implement this Service Guarantee Plan no later than six months from the date of a final Commission order approving the Stipulation and Settlement.

(b) Credits: Credits to customers will be made automatically and will not require the customer to request them.

(5) Definitions

(a) Basic Local Service: As defined in Section 364.02 (2), Florida Statutes (1999).

(b) Day: The twenty-four hour period beginning and ending at midnight. (For example, if a trouble report is received at 3 p.m. on Monday, and the trouble is cleared at 3:01 p.m. or later on Tuesday, a credit for one day would apply. A credit for two days would apply if the repair is completed at any time during the period 12:01 a.m. through 11:59 p.m. on Wednesday; a credit for three days would apply if the repair is completed at any time during the period 12:01 a.m. through and 11:59 p.m. on Thursday; and so forth.)

(c) Service Guarantee Objective: The standard(s) agreed to within this agreement.

(d) Community Service Contribution: Contribution made by the Company to the Community Service Fund on an annual basis.

(e) Community Service Fund: The fund (i.e. corporate undertaking) established pursuant to Section 2(B) and/or the fund (i.e. corporate undertaking) created by the annual contribution from the Company.

3. MISCELLANEOUS MATTERS

This Stipulation and Settlement will become effective on the day following the vote of the Florida Public Service Commission approving this Stipulation and Settlement. The Florida Public Service Commission's decision will be reflected in a final order.

No Party to this Stipulation and Settlement will request, support or seek to impose a change in the application of any provision hereof. Furthermore, subject to the approvals of the Florida Public Service Commission set forth herein, all Parties hereto waive any right to request further administrative or judicial proceedings in regards to the establishment or implementation of this Stipulation and Settlement. This waiver of the

right to further administrative or judicial proceedings shall include (but not be limited to): a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code; a motion for reconsideration of the decision in this matter in the form prescribed by Rule 25-22.060, Florida Administrative Code; or a notice of appeal to initiate judicial review by the Florida Supreme Court pursuant to Rule 9.110, Florida Rules of Appellate Procedure, in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

This Stipulation and Settlement is contingent upon the Florida Public Service Commission's acceptance of the provisions herein, which acceptance shall include explicit recognition by the Florida Public Service Commission that all such matters are resolved by this Stipulation and Settlement.

This Stipulation and Settlement is also contingent upon approval in its entirety by the Florida Public Service Commission. This Stipulation and Settlement will resolve all matters in this docket pursuant to and in accordance with Section 120.57(4), Florida Statutes (1999). This docket will be closed effective on the date the Florida Public Service Commission order approving this Stipulation and Settlement is final. If this Stipulation and Settlement is not accepted and approved without modification by an order not subject to further proceedings or judicial review, then this Stipulation and Settlement shall be considered null and void and of no further force or effect.

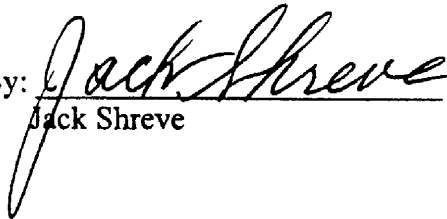
In the event that the FPSC does not accept this document in its entirety pursuant to its terms, this document shall not be admissible in any hearing on the matters established by this docket, or in any other docket or forum. Moreover, no Party to this Stipulation and Settlement waives any position on any issue that it could have otherwise asserted in this or any other docket as if this document had never been developed and written.

This Stipulation and Settlement dated this 9th day of July, 2001 may be executed in counterpart originals and a facsimile of an original signature shall be deemed an original.

The Parties evidence their acceptance and agreement with the provisions of this Stipulation and Settlement by their signatures:

Office of Public Counsel
111 W. Madison Street, Room 812
Tallahassee, Florida 32399-1400

BellSouth Telecommunications, Inc.
150 South Monroe St., Suite 400
Tallahassee, Florida 32301

By: 
Jack Shreve

By: 
Joseph P. Lacher (22)

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