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ORIGINAL

July 19, 2001

VIA OVERNIGHT MAIL

Ms. Blanca S. Bayo  
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Florida Public Service Commission  
2540 Shumard Oak Boulevard  
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SERVICE COMMISSION  
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Re: Docket No.960786-TL (BellSouth 271)

Dear Ms. Bayo:

Enclosed please find the original and fifteen copies of the Testimony of Scott A. Sarem on Behalf of Mpower Communications Corp.'s, which we ask that you file in the above-referenced 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.

Very Truly Yours,

John Kerkorian

cc: Parties of record

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**BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION**

**In re:**

**Consideration of BellSouth Telecommunications, Inc.'s  
Entry into InterLATA Services Pursuant to Section 271  
of the Federal Telecommunications Act of 1996**

)  
)  
) **Docket No. 960786-TL**  
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**TESTIMONY OF SCOTT A. SAREM  
ON BEHALF OF MPOWER COMMUNICATIONS CORP.**

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**JULY 20, 2001**

DOCUMENT NUMBER-DATE

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**Testimony of Scott A. Sarem  
On Behalf of Mpower Communications Corp.  
Florida Public Service Commission Docket No. 960786-TL**

1       **Q.     Please state your name, business address and occupation.**

2

3       A.     My name is Scott A. Sarem. I am employed by Mpower Communications Corp.  
4             as Vice President of Strategic Relations. As such, I have primary responsibility  
5             for the business and operational relationships with the Incumbent Local Exchange  
6             Carriers (ILECs) with whom Mpower does business, including BellSouth  
7             Telecommunications, Inc. (BellSouth). My business address is 5759 Fleet Street,  
8             Suite 200, Carlsbad, California, 92008.

9

10       **Q.     Please briefly outline your educational background and related experience.**

11

12       A.     I am currently Vice President of Strategic Relations for Mpower  
13             Communications, Inc. (NASDAQ: MPWR) a national facilities-based competitive local  
14             exchange carrier. I am responsible for managing the relationship between Mpower and  
15             the Incumbent local Exchange Carriers across the country. I work with the ILECs to  
16             ensure that they are complying with the mandates of the Telecommunications Act of  
17             1996 and the performance measurements adopted by the state Public Utilities  
18             Commissions. I have also been involved in lobbying the FCC on the competitive  
19             telecommunications issues. Prior to joining Mpower, I was the Vice President of  
20             Regulatory Affairs for Justice Technology (now US Telepacific Communications) where  
21             I was responsible for starting their CLEC. While at Justice, Mr. Sarem was responsible  
22             for having Justice certified as a CLEC in California, drafted its business plan, helped to

**Testimony of Scott A. Sarem  
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1 raise an initial investment, and negotiated for the purchase of Justice's local switch.  
2 Justice was ranked Number 1 in Inc. Magazine's List of 500 Fastest Growing Companies  
3 in America in 1998. I hold a Juris Doctorate from the UCLA School of Law and a BA  
4 degree in Political Science from the University of California at Riverside.

5  
6

7 **Q. What is the purpose of your testimony?**

8

9 A. The purpose of my testimony is to provide an overview of Mpower's recent  
10 operational experience with BellSouth in Florida, as well as our assessment of the  
11 propriety of granting BellSouth 271 relief in Florida.

12 **Q. Please provide a brief overview of Mpower's operations in Florida.**

13

14 A. Since March 1999, Mpower has provided voice and data services to Florida  
15 consumers by leasing unbundled network elements from Bellsouth in the form of  
16 collocation, network transport, interconnection trunks, and copper DS-0 loops.  
17 Mpower is currently collocated in 54 BellSouth Central Offices in Florida, and  
18 has installed in excess 50,000 DS-0 BellSouth loops since it began doing business  
19 in the state.

20

21 **Q. Please describe Mpower's working relationship with BellSouth.**

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1 Mpower and Bellsouth have not always worked well together. Indeed, Mpower  
2 has actively pursued legal action against BellSouth when it believed BellSouth  
3 failed to meet its obligations under the Telecommunications Act of 1996.  
4 Although Mpower has had many challenges ordering and provisioning unbundled  
5 network elements in the past with BellSouth, the companies have worked together  
6 to build Mpower's network in Florida, and to establish effective processes and  
7 procedures for installation of the unbundled local loop orders submitted by  
8 Mpower. Bellsouth is now processing and provisioning Mpower's DS-0 loop  
9 orders in a relatively trouble free and timely manner. Specifically, since January  
10 2001, Bellsouth has delivered over 90% of all DS-0 loops on time and without  
11 trouble. As a consequence of BellSouth's successful efforts in improving its  
12 provisioning performance, it is Mpower's belief that BellSouth has met its burden  
13 under the statute to provide a competitive environment for CLECs under the Act.  
14 Additionally, Mpower has completed beta testing of BellSouth's TAG/API  
15 electronic interface, and is working closely with BellSouth to ready the system for  
16 full production orders. In addition, Bellsouth has done an outstanding job of  
17 working with Mpower to remedy issues that the companies have experienced  
18 while developing TAG/API.

19 **Q. Are there any conditions to Mpower's support of BellSouth's 271**  
20 **Application?**

21 A. Yes. First, Mpower believes that a critical component of a competitive  
22 telecommunications environment is the establishment of reasonable wholesale

**Testimony of Scott A. Sarem  
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1 prices for Unbundled Network Elements. Mpower understands that this  
2 Commission has issued its order concerning UNE prices in Docket No. 990649-  
3 TP, but that BellSouth has moved for reconsideration of the Commission's order.  
4 Should this Commission grant all or part of BellSouth's motion, Mpower would  
5 of course re-examine the position taken in this Docket. Similarly appropriate  
6 performance measurements and penalties are vital to properly incent BellSouth's  
7 continued satisfactory performance. Thus, Mpower's support of BellSouth's 271  
8 Application must be conditioned on an appropriate final order from this  
9 Commission in Docket 000121-TP. Finally, Mpower's endorsement of  
10 BellSouth's 271 application is conditional upon the development and  
11 implementation of substantial anti-backsliding provisions by the Federal  
12 Communications Commission ("FCC"). Mpower urges the Commission to  
13 develop and adopt substantial anti-backsliding rules to ensure that, once  
14 BellSouth is allowed to provide inter-LATA telecommunications services, it will  
15 continue to provide the level of service it has demonstrated with Mpower, and that  
16 the failure to do so will swiftly result in the revocation of the same authority. If  
17 BellSouth violates any of the anti-backsliding measurements adopted by the  
18 Commission, as measured over a sixty-day period, it should be given thirty days  
19 to cure any violation. If it fails to correct the violation, the FCC should revoke or  
20 suspend BellSouth's section 271 authority. The anti-backsliding provisions should  
21 include a specific schedule of monetary penalties keyed to the cost and loss of the  
22 CLEC's due to the failure of the Bellsouth to perform.

**Testimony of Scott A. Sarem  
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1 Mpower reserves the right and does not waive any right to comment in this or any  
2 other proceeding regarding any terms and conditions that are or should be  
3 imposed on Bellsouth in connection with the Commission or Federal  
4 Communications Commission review of BellSouth's application for authority to  
5 provide interLATA telecommunications services, or BellSouth's performance  
6 subsequent thereto.

7 **Q. Does this conclude your testimony?**

8 A. Yes.

**CERTIFICATE OF SERVICE**

**Docket No. 960786-TL**

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

U.S. Mail this 19<sup>th</sup> day of July, 2001 to the following:

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