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March 4, 2002

Mrs. Blanca S. Bayó
Division of the Commission Clerk and
Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 000028-TL (Anthony Parks Matter)

Dear Ms. Bayó:

Enclosed is an original and fifteen copies of BellSouth Telecommunications, Inc.'s Post-Hearing Brief, 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 (LH)

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

DOCUMENT NUMBER-DATE

02498 MAR-4 02

FPSC-COMMISSION CLERK

CERTIFICATE OF SERVICE
Docket No. 000028-TL

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by (*) Federal Express, and U.S. Mail this 4th day of March, 2002 to the following:

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James Meza III (LMA)

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by BellSouth)
Telecommunications, Inc., for Waiver) Docket No. 000028-TL
of Rules 25-4.107, 25-4.108, and)
25-4.113, Florida Administrative Code)
_____) Filed: March 4, 2002

POST-HEARING BRIEF OF BELL SOUTH TELECOMMUNICATIONS, INC.

BellSouth Telecommunications, Inc. ("BellSouth") submits this post-hearing brief in support of its positions on the issues submitted to the Florida Public Service Commission ("Commission") pursuant to BellSouth's Petition for Waiver of Rules 25-4.107, 25-4.108, and 25-4.113, Florida Administrative Code.

STATEMENT OF THE CASE

On January 10, 2000, BellSouth filed a Petition for Waiver of certain Commission rules to enable BellSouth to refuse to provide service to Anthony Parks and/or any property owned, leased or otherwise associated with Mr. Parks. On May 5, 2000, in Order No. PSC-00-0902-PAA-TL, the Commission issued a Preliminary Agency Action granting BellSouth's waiver, which was subsequently protested by Mr. Parks, thereby necessitating the hearing that occurred on February 4, 2002.

Mr. Parks has been associated with at least twenty-five separate accounts with BellSouth since 1992, either as the customer of record, an officer or registered agent of a corporate customer, the owner of property where service has been installed in the name of another customer, or by writing "bad" checks for accounts in the name of others. In every instance, the accounts have been disconnected for misleading or fraudulent practices and/or for nonpayment. To

date, these accounts total approximately \$22,000 in unpaid services. BellSouth has been forced to take the drastic step of asking the Commission for permission to refuse to provide service to Mr. Parks or to any property owned or associated with Mr. Parks in order to avoid the continuing manipulation of the system and the Commission rules by Mr. Parks.

GENERAL POSITION

BellSouth should be allowed to refuse to provide service to Mr. Anthony Parks, a former customer of BellSouth, and to the locations he currently owns, leases, or with which he is in any way associated. Mr. Parks has been linked to at least twenty-five separate accounts with BellSouth, both residence and business. He has used many avenues to obtain service, and, in every instance, the account has been disconnected for fraudulent practices and/or for nonpayment. Currently the accounts total \$22,750 in past due billing, which BellSouth has yet to receive. BellSouth has been more than fair in giving Mr. Parks every opportunity to establish service and to keep service. BellSouth has spent an inordinate amount of time, money, and resources on treating Mr. Parks and his related accounts. This is time, money and resources that had to be redirected from providing service to BellSouth's other customers. For these reasons, BellSouth should not be required to provide service to Mr. Parks.

ISSUES AND POSITIONS

Issue A: What is the Commission's jurisdiction in this matter?

Position: *The Commission has jurisdiction in this matter because state law and not federal law is the basis for the rules that govern the provision of telecommunications service to Mr. Parks and the requested waiver*****

The Commission has jurisdiction in this matter because Commission rules and not federal law is the basis for BellSouth's waiver request. BellSouth's waiver request applies to Rules 25-4.107, 25-4.108 and 25-4.113, Florida Administrative Code. (Tr. at 15). Generally, these rules require BellSouth to provide information and assistance "as is reasonable" to any customer in order for him to obtain service and require BellSouth to apply its initiation of service in an uniform manner and to initiate service without delay. Id. Further, Rule 25-4.113 details the conditions under which BellSouth may or may not refuse to discontinue service. Id. Importantly, these rules prohibit BellSouth from refusing to provide service to a specific property based on the account activity of a previous resident at the property or because of the payment history of another customer at the same residence. See Rule 25-4.113(4), Florida Administrative Code. Due to this rule, Mr. Parks has repeatedly been able to obtain telephone service by gaming the rule. (Tr. at 19). By changing names, addresses and using business facades, he and his "tenants" have been able to manipulate the system.

Further, pursuant to Rule 28-104.002, Florida Administrative Code, the Commission has the authority to determine a party's request for a waiver of otherwise applicable Commission rules.

ISSUE 1: In the event that BellSouth is granted a waiver of Rules 25-4.107, 25-4.108, and 25-4.113, Florida Administrative Code, as set forth in its petition, will the purpose of the underlying statutes be achieved by other means?

Position: *Yes. If BellSouth's waiver request is granted, Mr. Parks and those persons residing at property he owns or leases will still be able to obtain telecommunications service from numerous ALECs and wireless carriers.*****

At the outset, it must be noted that BellSouth has never previously requested a waiver of these rules. This is a very unique situation that BellSouth takes very seriously. (Tr. at 20). BellSouth did not consider this waiver request lightly and it is not BellSouth's intent to use waiver requests in the future in general for this purpose. (Tr. at 20-21). Further, the purpose of this waiver request is not to harass Mr. Parks or his tenants. (Tr. at 59). As stated by witness Sims, BellSouth routinely provides service to individuals who reside at properties where a previous customer had a delinquent account. Id.

If BellSouth's waiver request is granted, the purpose of Rules 25-4.107, 25-4.108, and 25-4.113, Florida Administrative Code will be achieved by other means. First, Mr. Parks and the properties he owns, leases or otherwise is associated with are all located in South Florida. See NHS/PKS-1. Mr. Parks and those residing at the properties at issue can obtain service from several ALECs operating in the 561, 954, and 305 area codes. (Tr. at 21). In addition, there are several wireless carriers offering very reasonable flat and measured rate calling

plans in this area. (Tr. at 22). Moreover, Mr. Parks presented no evidence that neither he nor any of his other tenants have ever been prohibited from receiving telecommunications service, even though BellSouth has not knowingly provided service to either Mr. Parks or any of his properties since 1999. See NHS/PKS-1. In fact, as evidenced by the several pleadings Mr. Parks has filed in this proceeding, Mr. Parks currently has a voice line as well as a fax line.

Second, the purpose of the underlying rules is, in part, to promote the public health, safety and welfare by ensuring that basic local telecommunications services are available to all consumers. (Tr. at 21); see also, Order No. PSC-00-0902-PAA-TL (May 5, 2000) at 6. BellSouth's waiver will not undermine that purpose and in fact will promote it. The rules in question entitle BellSouth to receive rates and set terms for those services. Continuing to provide service to Mr. Parks and the associated properties could result in a negative impact on BellSouth's other ratepayers, in terms of time and expense. (Tr. at 21).

Accordingly, there is no question that, the purpose of the underlying rules will be achieved if BellSouth's waiver request is granted. Mr. Parks has presented no evidence to the contrary.

Issue 2: Does the application of Rules 25-4.107, 25-4.108, and 25-4.113, Florida Administrative Code, as set forth in BellSouth's petition, create a substantial hardship for BellSouth or violate principles of fairness?

Position: **Yes. Mr. Parks has cost BellSouth as well as the Commission Staff a great deal of time and money. He has taken time away from BellSouth service representatives and Staff personnel that could have been used to handle valid customer concerns and needs.**

Mr. Parks has been linked to at least twenty-five separate accounts with BellSouth, both residence and business, since 1992. (Tr. at 16). He has used many avenues to obtain service, and in every instance, the accounts have been terminated for nonpayment and/or fraudulent practices or incorrect billing information. (Tr. at 17).

For instance, he has written several "bad" checks to prevent disconnection or to establish accounts, by stopping payment of the checks, by writing checks on closed accounts, or by writing checks despite not having sufficient funds to cover the check. See NHS/PKS-1. Mr. Park's actions are not limited to accounts established in his own name. Rather, they include accounts for invalid corporate entities for which Mr. Parks was an officer or registered agent and for persons who reside at properties owned, leased, or otherwise associated with Mr. Parks¹, including but not limited to the following accounts: (1)

account, see NHS/PKS-1 at 16; (2) account, see NHS/PKS-1 at 18; (3) account, see NHS/PKS-1 at 19; (4) account, see NHS/PKS-1 at 23; and (5) account, see NHS/PKS-1 at 24; see also, (Tr. 60-64). In each of these

accounts, Mr. Parks wrote a "bad" check to either prevent disconnection or to establish service.

Additionally, Mr. Parks has used erroneous credit information in setting up business accounts, including providing BellSouth with the name of businesses that are not recognized by the Florida Secretary of State and by using the name

of a legitimate corporation without permission. See NHS/PKS-1; (Tr. at 17). In every instance, by the time BellSouth becomes aware of the improper billing or credit information or receives a “bad” check, the customer has incurred substantial charges on the account, forcing BellSouth to close the account without any compensation.

Further, in at least eight situations, Mr. Parks has submitted official appeals to the Commission Staff regarding billing for himself, his corporations, and his alleged “tenants.” See NHS/PKS-1. In each instance, Staff has found the appeal to be without merit. Id.

Mr. Parks has cost BellSouth and the Commission a great deal of time and money. (Tr. at 18). He has taken away from BellSouth service representatives and Commission Staff time that could have been used more efficiently and effectively to handle valid customer concerns and needs. Id. As stated by witnesses Sims and Shields:

There is no way to accurately determine the number of hours that have been involved in repeatedly dealing with Mr. Parks in repeatedly having to handle calls into the business office to establish service, to investigate credit, employment and corporate information, to send out denial notices, to process checks with insufficient funds, to process checks that have had payment stopped, to disconnect service, to reconnect service, to answer Commission inquiries and participate in informal conferences with the Commission Appeals Staff.

(Tr. at 18). While incurring the costs in dealing with Mr. Parks, BellSouth is also unable to recover valid, legitimate charges that were incurred by Mr. Parks or by

¹ In addition to not refuting his relationship with the alleged “tenants”, Mr. Parks at the hearing presented suspect affidavits establishing, without question, his association with accounts

customers associated with Mr. Parks. Of the twenty-five accounts at issue, not a single one has a zero balance. (Tr. at 59). Clearly, continuing to provide service to Mr. Parks and/or to the properties he owns, leases, or is otherwise associated with, will subject BellSouth to an undue burden or hardship.

Issue 3: Should BellSouth be granted a waiver of Rules 25-4.107, 25-4.108, and 25-4.113, Florida Administrative Code, as set forth in its petition?

Position: *Yes. BellSouth has met the standard for obtaining a waiver of the applicable Rules.*****

Mr. Parks has been linked to at least twenty-five separate accounts with BellSouth. He has used many avenues to obtain service, and, in every instance his account has been disconnected for fraudulent practices and/or for nonpayment. The past due billings on these accounts totals \$22,750.

The underlying purpose of the applicable rules will be fulfilled if BellSouth's waiver request is granted because Mr. Parks and any persons residing at properties owned, leased, or otherwise associated with Mr. Parks can obtain service from several ALECs or wireless carriers. Further, to require BellSouth to continue to provide service to Mr. Parks and to properties owned, leased, or associated with Mr. Parks will subject BellSouth to an undue burden and violate principles of fairness. BellSouth should not be forced to provide service to a person who has repeatedly gamed the system and Commission rules, while at the same time failing to pay over \$22,000 in past due balances.

Importantly, Mr. Parks has presented no evidence to refute any of BellSouth's claims. In fact, the only evidence presented by Mr. Parks at the

established in the name of others but at properties owed or associated with Mr. Parks.

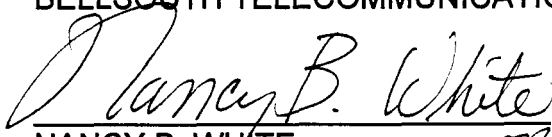
hearing, although suspect in nature, was affidavits that establish without question Mr. Parks' association with accounts established in the name of others at properties owned or leased by Mr. Parks. Accordingly, the Commission should grant BellSouth's waiver request.

CONCLUSION

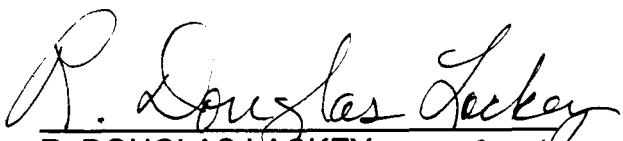
For the foregoing reasons, BellSouth respectfully requests that the Commission grant its Petition for Waiver of Rules 25-4.107, 25-4.108, and 25-4.113, Florida Administrative Code.

Respectfully submitted this 4th day of March, 2002.

BELLSOUTH TELECOMMUNICATIONS, INC.


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