



April 1, 2002

via Overnight Mail

Ms. Blanca Bayó, Director Division of the Commission Clerk & Administrative Services Florida Public Service Commission 2540 Shumard Oak Blvd. Tallahassee, FL 32399-0850

> Re: Docket No. 020119 - Petition for Expedited Review and Cancellation Of BellSouth Telecommunications, Inc.'s Key Customer Promotional Tariffs and For an Investigation Of BellSouth's Promotional Pricing And Marketing Practices by Florida Digital Network, Inc.

Dear Ms. Bayó,

Please find enclosed for filing in the above docket an original and seven (7) copies of the following: Florida Digital Network, Inc.'s Response to BellSouth's Motion for Reconsideration.

If you have any questions regarding the enclosed, please call me at 407-835-0460.

Sincerely,

Matthew Feil

Florida Digital Network

General Counsel

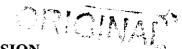
DISTRIBUTION CENTER

CAF CMP COM ECR OCAL

AUS

DISTANCE

DOCUMENT NUMBER - DATE 1083725 APR-28



BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for Expedited Review and Cancellation of BellSouth Telecommunications, Inc.'s Key Customer Promotional Tariffs and For an Investigation Of BellSouth's Promotional Pricing And Marketing Practices by Florida Digital Network, Inc

Docket No. 020119-TP

FLORIDA DIGITAL NETWORK, INC.'S RESPONSE TO BELLSOUTH'S MOTION FOR RECONSIDERATION

Pursuant to Rule 28-106-303, Florida Administrative Code, Florida Digital Network, Inc., ("FDN" or "Florida Digital") hereby files its response to BellSouth Telecommunications, Inc.'s Motion for Reconsideration of Order Initiating Expedited Discovery Procedure ("Motion for Reconsideration"), served March 25, 2002. In support hereof, FDN states as follows:

- 1. To the extent that granting BellSouth's requested relief would delay the Commission's decision to suspend or postpone the effectiveness of BellSouth's promotional tariff(s), FDN objects to BellSouth's Motion for Reconsideration. FDN acknowledges that there may be certain types of discovery requests where additional time may be warranted upon request. FDN maintains asks that any additional time granted, whether on a case-by-case basis or otherwise, not come at the expense of prolonging irreparable harm. If the irreparable harm alleged in the Petition is suspended, more time for discovery may be appropriate.
- 2. FDN fervently disputes BellSouth's apparent suggestion in ¶ 7 of the Motion for Reconsideration that FDN and Intervenors would not be prejudiced by a delay in this proceeding

DOCUMENT NUMBER-DATE
03725 APR-28
FPSC-COMMISSION CLERK

because a complaint was filed after BellSouth implemented the 2002 Key Customer tariff. By arguing this, BellSouth argues a wrong need not be promptly remedied whenever the resulting harm has already taken hold. In effect, BellSouth argues that irreparable harm must be permitted to continue once it has begun. The Commission cannot find this argument persuasive.

Irreparable and anticompetitive harm have been alleged, have occurred and continue to occur as long as BellSouth's unlawful promotions remain in place. A delay in the Commission's decision to suspend or postpone BellSouth's promotions only benefits BellSouth and prejudices the ALECs. BellSouth should not receive deference or benefit from harm it initiated.

WHEREFORE, to the extent that granting BellSouth's Motion for Reconsideration would delay the Commission's decision to suspend or postpone the effectiveness of BellSouth's promotional tariff(s) and permit the harm alleged in the Petition to continue, Florida Digital Network, Inc., asks that the Commission deny BellSouth's Motion for Reconsideration.

Respectfully submitted, this / day of 42002.

Matthew Feil

Floridà Digital Network, Inc

390 North Orange Ave.

Suite 2000

Orlando, FL 32801

407-835-0460

mfeil@floridadigital.net

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing and the referenced discovery responses were served on the following by e-mail (where an email address is identified below) and by U.S. Mail this _1_ day of April, 2002.

BellSouth Telecommunications Nancy B. White/James Meza III c/o Nancy H. Sims 150 South Monroe Street Suite 400 Tallahassee, FL 32301-1556 Phone: (850) 224-7798 Fax: (850) 222-8640 Nancy.sims@bellsouth.com

Pennington Law Firm
Karen M. Caechis
P. O. Box 10095
Tallahassee, FL 32302-2095
Karen@penningtonlawfirm.com

Time Warner Telecom of Florida, L.P. c/o Carolyn Marek
233 Bramerton Court
Franklin, TN 37069-4002
Carolyn.marek@twtelecom.com

XO Florida, Inc. Ms. Dana Shaffer 105 Molloy Street, Suite 300 Nashville, TN 37201-2315 dshaffer@xo.com

Linda H. Dodson/Felicia Banks Staff Counsel Florida Public Service Commission 2540 Shumard Oak Blvd. Tallahassee, FL 32399-0850 ldodson@psc.state.fl.us fbanks@psc.state.fl.us Rutledge Law Firm Ken Hoffman/Martin McDonnel/M. Rule P. O. Box 551 Tallahassee, FL 32302-0551 ken@reuphlaw.com

US LEC of Florida, Inc. Morrocroft III 6801 Morrison Blvd. Charlotte, NC 28211-3599

Matthew Feil