

ORIGINAL

Legal Department

Nancy B. White
General Counsel - Florida

BellSouth Telecommunications, Inc.
150 South Monroe Street
Room 400
Tallahassee, Florida 32301
(305) 347-5558

RECEIVED-FPSC
03 JAN -3 PM 4:40
COMMISSION
CLERK

January 3, 2003

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

Re: **Docket No. 021252-TP**
**Petition of Florida Digital Network, Inc. for Expedited Review and
Cancellation or Suspension of BellSouth Telecommunications, Inc.'s Key
Customer Tariff Filing of December 16, 2002**

Dear Ms. Bayó:

Enclosed is an original and fifteen copies of BellSouth Telecommunications, Inc.'s Answer to Petition of Florida Digital Network, Inc. for Expedited Review and Cancellation/Suspension of BellSouth Telecommunications, Inc.'s Key Customer Tariff, which we ask that you file in the captioned dockets.

If the Commission denies BellSouth's request to dismiss FDN's Petition, then BellSouth would request that this matter be heard with Docket Nos. 020119-TP and 020578-TP, presently scheduled for hearing on February 19-20, 2003.

A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return a copy to me. Copies have been served to the parties shown on the attached certificate of service.

Sincerely,

Nancy B. White
Nancy B. White (KA)

Enclosures

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

- AUS _____
- CAF _____
- CMP _____
- COM _____
- CTR _____
- ECR _____
- GCL _____
- OPC _____
- MMS _____
- SEC 1
- OTH _____

RECEIVED & FILED

RDM
FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

00081 JAN-3 021196

FPSC-COMMISSION CLERK


**CERTIFICATE OF SERVICE
Docket No. 021252-TP**

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

Electronic Mail and First Class U.S. Mail this 3rd day of January, 2003 to the following:

Felicia Banks
Staff Counsel
Florida Public Service
Commission
Division of Legal Services
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
fbanks@psc.state.fl.us

Matthew Feil
Florida Digital Network
390 North Orange Avenue
Suite 2000
Orlando, FL 32801
Tel. No. (407) 835-0460
Fax. No. (407) 835-0309
mfeil@floridadigital.net



Nancy B. White (KA)

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Florida Digital Network,)	Docket No. 021252-TP
Inc. for Expedited Review and Cancellation)	
or Suspension of BellSouth)	
Telecommunications, Inc.'s Key Customer)	
Tariff Filing of December 16, 2002)	
<hr/>		Filed: January 3, 2003

**BELLSOUTH TELECOMMUNICATIONS, INC.'S
ANSWER TO PETITION OF FLORIDA DIGITAL NETWORK, INC.
FOR EXPEDITED REVIEW AND CANCELLATION/SUSPENSION OF
BELLSOUTH'S KEY CUSTOMER TARIFF**

BellSouth Telecommunications, Inc. ("BellSouth"), respectfully submits its Answer to the Petition of Florida Digital Network, Inc. ("FDN") for Expedited Review and Cancellation/Suspension of BellSouth Telecommunications, Inc.'s Key Customer Tariff (December, 2002 Petition). As explained below, the Florida Public Service Commission ("Commission") should summarily deny FDN's requests and deny all claims for relief set forth in FDN's Petition.

BellSouth respectfully responds to each of the allegations set forth in FDN's Petition as follows:

1. BellSouth admits that FDN is an Alternate Local Exchange Company ("ALEC") certificated by the Commission. BellSouth admits that FDN purchases certain services from BellSouth in the State of Florida. BellSouth denies the remaining allegation set forth in Paragraph 1 of the December, 2002 Petition.

2. BellSouth admits the allegations set forth in Paragraph 2 of the December, 2002 Petition.

DOCUMENT NUMBER-DATE
00081 JAN-3 8
001198
FPSC-COMMISSION CLERK

3. BellSouth admits the allegations set forth in Paragraph 3 of the December, 2002 Petition.

4. BellSouth admits the allegations set forth in the first sentence of Paragraph 4 of the December, 2002 Petition. BellSouth further admits that it provides local exchange and other services in the State of Florida; that it is certificated to provide these services in the State of Florida, and that it is a "Bell Operating Company" and an "incumbent Local Exchange Company ("ILEC") under the terms of the Telecommunications Act of 1996.

5. BellSouth admits that Docket Nos. 020119-TP and 020578-TP are pending at the Commission. BellSouth further admits that these dockets concern issues surrounding certain BellSouth Key Customer programs. BellSouth denies the remaining allegations of Paragraph 5 of the December, 2002 Petition.

6. BellSouth admits that, on December 13, 2002, BellSouth filed a tariff extending the 2002 Key Customer Program from January 1, 2003 to July 1, 2003. BellSouth denies the remaining allegations set forth in Paragraph 6 of the December, 2002 Petition.

7. BellSouth denies the allegations set forth in Paragraph 7 of the December, 2002 Petition.

8. BellSouth denies the allegations set forth in Paragraph 8 of the December, 2002 Petition. BellSouth incorporates herein by reference all of BellSouth's pleadings, prefiled testimony and exhibits in Docket Nos. 020119-TP and 020578-TP.

9. BellSouth submits that the prefiled testimony of Mr. Ruscilli filed in Docket Nos. 020119-TP and 020578-TP speaks for itself, as does BellSouth's Response to FDN's Petition in Docket No. 020119-TP. BellSouth denies the remaining allegations of Paragraph 9 of the December, 2002 Petition.

10. BellSouth submits that the MCI-BS interconnection agreement speaks for itself. Moreover, the MCI-BS Interconnection Agreement does not contain any specifics as to the nature of the notice or how the notice is to be conveyed. BellSouth denies the remaining allegations of Paragraph 10 of the December, 2002 Petition.

11. BellSouth submits that notice was posted on BellSouth's interconnection website, however, due to a technical problem, notice was posted in such a manner that it could not be viewed by ALECs in Florida. Moreover, actual notice was provided to the ALECs when BellSouth filed the tariff concerning the extension of the existing Key Customer Program with the Commission on December 13, 2002. BellSouth denies the remaining allegations of Paragraph 11 of the December, 2002 Petition.

12. BellSouth denies the allegations of Paragraph 12 of the December, 2002 Petition.

13. BellSouth denies the allegations of Paragraph 13 of the December, 2002 Petition. The 2003 Key Customer Tariff is merely a continuation of the existing 2002 Key Customer Tariff. Moreover, actual notice of the 2003 Key Customer Tariff was provided to the ALECs.

14. BellSouth denies the allegations set forth in Paragraph 14 of the December, 2002 Petition.

15. BellSouth denies the allegations set forth in Paragraph 15 of the December, 2002 Petition.

16. BellSouth denies the allegations set forth in Paragraph 16 of the December, 2002 Petition.

17. BellSouth denies that FDN is entitled to any of the relief requested in the WHEREFORE clause or in any other portion of FDN's December, 2002 Petition.

18. Any allegations not expressly admitted herein is denied.

19. BellSouth's 2002 Key Customer Promotion (January filing) was discussed by the parties and the Commission at the agenda held on June 18, 2002. Commissioner Deason made a motion that, among other things, did not prohibit BellSouth from filing a like tariff, while Docket No. 020119-TP was going to hearing. See June 18, 2002 Agenda Transcript at p. 126. That Motion was adopted.

20. BellSouth's extension of the original 2002 Key Customer promotion (the June filing) was discussed by the parties and the Commission at the agenda held on August 20, 2002. BellSouth made a commitment that any new Key Customer Tariff filings made would be similar to those filed before and not contain dissimilar requirements or discounts. Once, again the Commission declined to cancel or suspend BellSouth's tariff. See Order No. PSC-02-1237-FOF-TP.

21. At the prehearing conference held on December 16, 2002, FCCA's Motion for Continuance was argued. In granting a continuance of the hearing, the prehearing officer, Commissioner Baez, noted that "all bets are off" with regard to any commitment BellSouth had made. Transcript, p. 9.

22. BellSouth did not file a new or dissimilar tariff; BellSouth simply filed an extension of the end date of the existing Key Customer Tariff.

23. While there was an unfortunate mishap in the posting of the notice on BellSouth's website, there is no requirement that the notice be given to ALECs in any specific manner. Moreover, FDN, as well as all of the ALECs, received actual notice of the extension when BellSouth filed the tariff with the Commission. In light, however, of the mishap, BellSouth committed to implement the promotion in the following manner:

1. BellSouth will not provide service to its retail customers under the extension of the Key Customer Tariff in 2003 until January 30, 2003 which is 45 days after notice provided to ALECs via the tariff filing on December 16, 2002. (The existing Key Customer Tariff expires on December 31, 2002.)
2. The tariff filing will remain on file and be allowed to go into effect on December 31, 2002.
3. BellSouth understands that allowing the tariff to remain on file will allow the ALECs to begin reselling this tariff service on January 1, 2003, which is 30 days in advance of when BellSouth can provide service under the tariff to its retail customers.

See Exhibit A, a letter from Nancy Sims filing this commitment with the Commission.

WHEREFORE, BellSouth respectfully requests that the Commission deny all relief requested in FDN's Petition and dismiss the Petition with prejudice.

Respectfully submitted this 3rd day of January, 2003.

BELLSOUTH TELECOMMUNICATIONS, INC.

Nancy B. White

NANCY B. WHITE

JAMES MEZA III

c/o Nancy Sims

150 South Monroe Street, #400

Tallahassee, Florida 32301

(305) 347-5558

R. Douglas Lackey

R. DOUGLAS LACKEY

MEREDITH E. MAYS

675 West Peachtree Street, #4300

Atlanta, Georgia 30375

(404) 335-0750

474812



BellSouth Telecommunications, Inc. 904 222-1201
Suite 400 Fax 904 222-8640
150 South Monroe Street
Tallahassee, Florida 32301

Nancy H. Sims
Director - Regulatory Relations

December 23, 2002

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

**Re: Docket No. 021252-TP (FDN Petition Concerning BellSouth
12/16/02 Key Customer Tariff filing)**

Dear Mrs. Bayó:

Attached is an original and fifteen copies of a letter that BellSouth Telecommunications, Inc. sent to Mr. Walter D'Haeseleer concerning the December 16, 2002, Key Customer tariff filing that is the subject of Florida Digital Network's Petition in Docket No. 021252-TP. This letter is to request that the attached correspondence be placed in the docket file for Docket No. 021252-TP.

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.

Yours truly,


Nancy H. Sims

Attachment

Copy to: All Parties of Record
Marshall M. Criser III
R. Douglas Lackey
Nancy B. White
Felicia Banks

Exhibit A

CERTIFICATE OF SERVICE
Docket No. 021252-TP

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

Electronic Mail and First Class U.S. Mail this 23rd day of December, 2002 to the

following:

Felicia Banks
Staff Counsel
Florida Public Service
Commission
Division of Legal Services
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Matthew Feil
Florida Digital Network
390 North Orange Avenue
Suite 2000
Orlando, FL 32801
Tel. No. (407) 835-0460
Fax. No. (407) 835-0309
mfeil@floridadigital.net

Nancy H. Sims

Nancy H. Sims (KA)



BellSouth Telecommunications, Inc. 904 222-1201
Suite 400 Fax 904 222-8640
150 South Monroe Street
Tallahassee, Florida 32301

Nancy H. Sims
Director - Regulatory Relations

December 23, 2002

Walter D'Haeseleer, Director
Competitive Markets and Enforcement
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Subject: Extension of BellSouth Key Customer Promotional Tariff

Dear Mr. D'Haeseleer:

This will set forth BellSouth's position regarding the implementation of the extension on the Key Customer tariff for 2003 in response to concerns raised by FDN and the Commission Staff. While BellSouth representatives did attempt to provide the ALEC notice in Florida on the web as required by various interconnection agreements; due to a technical glitch, that notice was posted in such a manner that it could not be viewed by ALECs in Florida. However, ALECs were given actual notice when BellSouth filed the tariff covering the extension of the existing Key Customer promotion with the Florida Public Service Commission on December 16, 2002. In order to address any concerns about the notice, BellSouth will implement the promotion as follows:

1. BellSouth agrees that it will not provide service to its retail customers under the extension of the Key Customer Tariff in 2003 until January 30, 2003, which is 45 days after notice provided to ALECs via the tariff filing on December 16, 2002. (The existing Key Customer Tariff expires on December 31, 2002.)
2. The tariff filing will remain on file and be allowed to go into effect on December 31, 2002.
3. BellSouth understands that allowing the tariff to remain on file will allow the ALECs to begin reselling this tariff service on January 1, 2003, which is 30 days in advance of when BellSouth can provide service under the tariff to its retail customers.

If you have any questions about this action, please let me know.

Yours truly,


Nancy H. Sims

Copy to: Matthew Feil - FDN
Sally Simmons
Felicia Banks