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January 22, 2003

VIA HAND DELIVERY

Blanca S. Bayo, Director
Division of Records and Reporting
Betty Easley Conference Center
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Tallahassee, Florida 32399-0870

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Re: Docket No.: 020507-TP

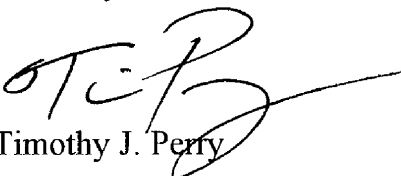
Dear Ms. Bayo:

On behalf of the Florida Competitive Carriers Association (FCCA), enclosed for filing and distribution are the original and 15 copies of the following:

- ▶ The Florida Competitive Carriers Association's Motion to Compel BellSouth Telecommunications, Inc. to Respond to the Florida Competitive Carriers Association's Second Request for Production of Documents (No. 9).

Please acknowledge receipt of the above on the extra copy of each and return the stamped copies to me. Thank you for your assistance.

Sincerely,


Timothy J. Perry

AUS	_____
CAF	_____ <u>TJP</u> _____/bae
CMP	_____
COM	_____ <u>5</u> _____/enclosure
CTR	_____
ECR	_____
GCL	_____
OPC	_____
MMS	_____
SEC	_____ <u>1</u> _____
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of the Florida
Competitive Carriers Association
Against BellSouth Telecommunications, Inc.
and Request for Expedited Relief

Docket No. 020507-TP

Filed: January 22, 2003

**THE FLORIDA COMPETITIVE CARRIERS ASSOCIATION'S
MOTION TO COMPEL BELLSOUTH TELECOMMUNICATIONS, INC. TO
RESPOND TO THE FLORIDA COMPETITIVE CARRIERS ASSOCIATION'S
SECOND REQUEST FOR PRODUCTION OF DOCUMENTS (NO. 9)**

The Florida Competitive Carriers Association (FCCA), pursuant to rule 28-106.204, Florida Administrative Code, files its Motion to Compel BellSouth Telecommunications, Inc. (BellSouth) to respond to the FCCA's Second Request for Production of Documents (No. 9). In support thereof, the FCCA states:

**I.
Introduction**

1. On January 3, 2003, the FCCA served its Second Request for Production of Documents (No. 9) on BellSouth. On January 13, 2002, BellSouth filed objections to the FCCA's Second Request for Production of Documents. Specifically, BellSouth objected to responding to Request for Production No. 9. BellSouth's objections should be overruled and this Motion to Compel should be granted.

**II.
Argument**

2. The FCCA's Request for Production No. 9 states:

Provide all testimony filed by BellSouth in the "recent arbitration in Kentucky" Mr. Milner discusses in his rebuttal testimony.

BellSouth objects to the FCCA's request on the grounds that it is "neither relevant nor seeks information reasonably calculated to lead to the discovery of admissible evidence." The FCCA is entitled to this entirely relevant discovery as it directly relates to matters discussed in Mr. Milner's prefiled rebuttal testimony at pages 8 – 11 and exhibits WKM-2 and WKM-3. In his rebuttal testimony, Mr. Milner discusses a recent arbitration between BellSouth and an ALEC in Kentucky, and the "business case" developed by the Kentucky ALEC in that case. Mr. Milner's rebuttal testimony provides no further information about this matter. The FCCA's Request No. 9 seeks the testimony filed in BellSouth's Kentucky arbitration. While Mr. Milner and BellSouth rely on information from the Kentucky proceeding, they have patently refused to provide it to the FCCA so that the FCCA may evaluate the context and circumstances of the Kentucky case. The FCCA must have access to the Kentucky information in BellSouth's possession, including the issues in the Kentucky arbitration, to, among other things, prepare its cross-examination of Mr. Milner. Without the Kentucky information, the FCCA's case will be substantially prejudiced.

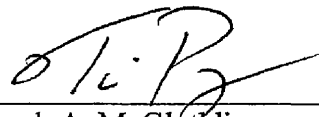
4. BellSouth also objects to the FCCA's Request No. 9 on the grounds that "it seeks information that *may* be publicly available."¹ At Mr. Milner's deposition on January 17th, BellSouth provided the FCCA with the docket number of the Kentucky proceeding and the names of the witnesses in that proceeding. And in fact, Mr. Milner actually had some of the testimony before him and referred to it in the deposition.² However, unlike this Commission, the Kentucky Public Service Commission ("Kentucky Commission") does not have a system in place that would allow the FCCA to access these materials quickly via the internet. Thus, if BellSouth does not provide the information, the FCCA must acquire it from the Kentucky Commission. This would require the FCCA to first request the information from the Kentucky

¹ Italics supplied.

² See Deposition of W. Keith Milner in Docket No. 020507-TL, January 17, 2003 (Tr. at 68-69).

Commission, wait while the Commission has the information photocopied, and further wait for the information to arrive from Kentucky by regular mail. There is no guarantee that the FCCA would receive the information from Kentucky prior to the hearing. However, BellSouth has the information readily available and could definitely provide it to the FCCA. Therefore, the Commission should require BellSouth to respond to Request No. 9 by the January 23rd discovery due date.

WHEREFORE, the FCCA requests that the Commission enter an order compelling BellSouth to fully respond to the FCCA's Second Request for Production of Documents (No. 9) by January 23, 2003.



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CERTIFICATE OF SERVICE

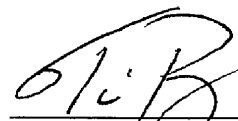
I HEREBY CERTIFY that a true and correct copy of the foregoing The Florida Competitive Carriers Association's Motion to Compel BellSouth Telecommunications, Inc. to Respond to the Florida Competitive Carriers Association's Second Request for Production of Documents (No. 9) has been furnished by (*) hand delivery, (**) electronic mail or by U. S. Mail this 22nd day of January 2003, to the following:

(*)(**)Patty Christensen
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Tallahassee, Florida 32399

(*)(**)Nancy White
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