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June 13, 2003

VIA FEDERAL EXPRESS

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

Re: Petition by MPower Communications, Corp. and Florida Digital Network for Expedited Temporary and Permanent Relief Against BellSouth Telecommunications, Inc. For Alleged Anticompetitive Conduct Regarding Florida Digital Network, Inc.'s Proposed Acquisition of Assets and Customer Base of MPower Communications, Corp.  
Docket No. 030301-TP

Dear Mrs. Bayo:

Please find enclosed for filing in your office the original and fifteen (15) copies of Comcast Phone of Florida, LLC's Response to Staff's List of Tentative Issues in the above reference docket.

Please stamp two (2) copies of the Petition in the usual manner and return to us via the enclosed envelope.

If you have any questions, please do not hesitate to contact me at 404-888-7437.

Sincerely yours,

Loretta A. Cecil

Enc.

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

Petition by Mpower Communications Corp. )  
and Florida Digital Network, Inc. for ) Docket No. 030301-TP  
expedited temporary and permanent relief )  
against BellSouth Telecommunications, Inc. )  
for alleged anticompetitive conduct regarding ) Filed: June 13, 2003  
Florida Digital Network Inc.'s proposed )  
acquisition of assets and customer base of )  
Mpower Communications Corp. )

**COMCAST'S RESPONSE TO STAFF'S LIST OF TENTATIVE ISSUES**

Comes now, Comcast Phone of Florida, LCC ("Comcast") and files its Response to Staff's List of Tentative Issues. Comcast opposes Staff's omission of the issue(s) proposed by Comcast on May 21, 2003. Comcast urges the Florida Public Service Commission ("Commission") to include the following issue:

1. Will the outcome of this proceeding only apply to the specifics of the Florida Digital Network Inc.'s ("FDN")/Mpower Communications Corp. ("Mpower") transaction or will it have a broad application and apply to all issues concerning the use of multiple codes? If the answer to this issue is that the decision rendered will have broad application, then Comcast reserves the right to raise additional issues.

In its Complaint, FDN asserts that it is in the process of trying to acquire the assets and customer base of Mpower in Florida and Georgia. FDN states that BellSouth is requiring that FDN use only FDN's Access Customer Name Abbreviation ("ACNA") code for the customer base it acquires from Mpower. Further, BellSouth intends to charge \$35-40 per

UNE loop and impose other onerous conditions for the coding changes on the UNE's that are being transferred from Mpower to FDN.

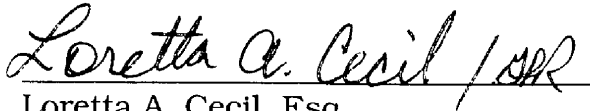
Comcast filed its Petition to Intervene in this docket because of the potential impact the outcome of this docket may have on similar issues concerning the use of company codes. BellSouth opposed this intervention on May 7, 2003. As stated in Comcast's response to BellSouth's opposition, Comcast has a dispute with BellSouth that also involves ACNA codes and related ordering and provisioning issues, which the parties are currently trying to resolve on an amicable basis. Comcast is concerned that BellSouth is attempting to establish broad general policy and "industry standards" out of an acquiring carrier's use of another carrier's codes in the narrow factual context in this proceeding.

Comcast's concerns regarding the same were confirmed by BellSouth's counsel during the issues identification conference held on May 29, 2003. During this conference, BellSouth's counsel unequivocally stated that under certain circumstances BellSouth would argue in a subsequent complaint proceeding brought by Comcast that the Commission's Order in this proceeding adversely impacts Comcast's complaint. In response to this statement, Comcast's counsel argued that either Comcast's proposed issue set forth above be included in the issues to be considered in this proceeding or, in the alternative, the Commission affirmatively confirm that under no circumstances will the Commission's Order in this proceeding have any adverse impact upon Comcast. As the

Commission has not made any such affirmative statement to date, Comcast's issue set forth above should be included in the list of issues to be decided in this proceeding.

Moreover, because the hearing officer has not yet ruled on Comcast's Petition to Intervene, Comcast must proceed as if it were a party to this docket. Accordingly, because Comcast's interests could be affected, it is appropriate to include Comcast's proposed issue of whether the outcome of this proceeding will have broad application to all issues concerning use of multiple codes and allow Comcast the right to raise additional issues if there is broad application.

Respectfully submitted this 13<sup>th</sup> day of June, 2003.

Handwritten signature of Loretta A. Cecil in cursive script, followed by a horizontal line.

Loretta A. Cecil, Esq.

Attorney for Comcast Phone of  
Florida, LLC.

Womble Carlyle Sandridge & Rice PLLC  
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(404) 888-7437

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copy of the foregoing Comcast Phone of Florida, LLC's Response to Staff's List of Tentative Issues was served upon the parties of record by electronic mail.

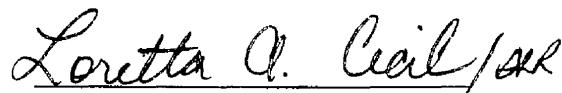
This the 13th day of June, 2003.

Wayne Knight, Staff Counsel Florida Public Service Commission 2540 Shumard Oak Boulevard Tallahassee, FL 32399-0850	Virginia Tate, Esq. AT&T 1200 Peachtree Street, NE Atlanta, GA 30309
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BellSouth Telecommunications, Inc. Ms. Nancy B. White c/o Ms. Nancy H. Sims 150 South Monroe Street, Suite 400 Tallahassee, FL 32301-1556 Phone: (850) 224-7798 Fax: (850) 222-8640 Email: <a href="mailto:nancy.sims@bellsouth.com">nancy.sims@bellsouth.com</a>	Lisa Riley AT&T 1200 Peachtree Street, NE Atlanta, GA 30309
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Loretta A. Cecil, Esq.