



July 7, 2003

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

via Overnight Mail

COMMISSION  
CLERK

JUL -8 PM 12:32

RECEIVED FPSC

Re: Docket No. 030301 Petition by Mpower Communications Corp. and Florida Digital Network, Inc. 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.

Dear Ms. Bayó,

Please find enclosed for filing in the above dockets an original and seven (7) copies of a Joint Motion to Accept Stipulation signed by Florida Digital Network, Inc. d/b/a FDN Communications, Mpower Communications Corp., and BellSouth Telecommunications, Inc.

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

Sincerely,

Matthew Feil  
Florida Digital Network  
General Counsel

JUL -8 AM 10:40

DISTRIBUTION CENTER

JUS  
JAF  
JMP  
JOM 3  
JTR  
JCR  
JCL  
JPC  
JMS  
JEC 1  
JTH

LOCAL

LONG DISTANCE

DOCUMENT IN FILE

390 North Orange Avenue Suite 2000 Orlando, FL 32801  
407.835 0300 Fax 407 835 0309 www.fdn.com

06013 JUL-8 8

FPSC-COMMISSION CLERK

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In Re: Petition by Mpower Communications )  
Corp. and Florida Digital Network, Inc. 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

**JOINT MOTION TO ACCEPT STIPULATION**

Pursuant to Rule 28-106.204, Florida Administrative Code, Mpower Communications Corp. ("Mpower"), Florida Digital Network, Inc., d/b/a FDN Communications ("FDN") and BellSouth Telecommunications, Inc., ("BellSouth"), by and through their undersigned counsel, hereby jointly move the Commission to issue an order approving a stipulation of said parties. In support hereof, Mpower, FDN and BellSouth (collectively "Joint Movants") state as follows:

1. By Petition filed with this Commission by Mpower and FDN on March 27, 2003, Mpower and FDN requested specified temporary and permanent relief against BellSouth relative to certain matters concerning FDN's purchase of Mpower's customer base and assets. BellSouth filed its Answer to the Mpower-FDN Petition on April 15, 2003.

2. During an Issue Identification Conference held on May 29, 2003, counsel for BellSouth mentioned the possibility of arriving at a stipulation regarding the temporary relief addressed in the Petition. Counsel for Mpower, FDN and BellSouth subsequently engaged in settlement discussions, and the parties arrived at a stipulation regarding the

DOCUMENT NUMBER DATE

06013 JUL-88

FPSC-COMMISSION CLERK

issue of the temporary relief Mpower and FDN requested in the Petition. No other stipulations have been reached at this time.

3. The stipulation the parties have reached is as follows:

**Until the Commission issues an effective order in this matter, BellSouth agrees that BellSouth will not take, on account of FDN's use of Mpower's carrier codes, rights or interests, action which will materially and adversely effect FDN's ability to serve customers, provided FDN and Mpower have executed appropriate documentation authorizing said FDN use, FDN places the orders or requests pursuant to the interconnection agreement between BST and Mpower, Mpower remains a certificated entity in the state, and FDN does not submit orders or requests using FDN's ACNA for services associated with the Mpower assets and customer base that are the subject of this proceeding.**


4. Mpower, FDN and BellSouth request that the Commission issue an order approving this stipulation. With this stipulation, the temporary relief Mpower and FDN requested in the Petition will not require a Commission ruling and may be deemed moot.

5. The Commission has the legal authority pursuant to Chapter 364, Florida Statutes, to approve and order said stipulation.

Respectfully submitted, this 1 day of July 2003.

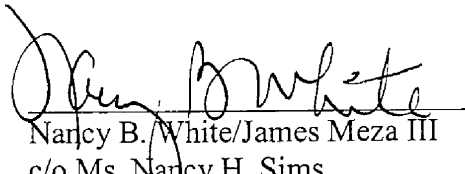


Matthew Feil  
Florida Digital Network, Inc  
390 North Orange Ave.  
Suite 2000  
Orlando, FL 32801  
407-835-0460  
[mfeil@floridadigital.net](mailto:mfeil@floridadigital.net)



Russell I. Zuckerman, Esq.  
Sr. Vice President and General Counsel  
Mpower Communications Corp.  
175 Sully's Trail  
Suite 300  
Pittsford, NY 14534  
585-218-6567  
[rzuckerman@mpowercom.com](mailto:rzuckerman@mpowercom.com)

Richard E. Heatter, Esq.  
Vice President Legal and Regulatory Affairs  
Mpower Communications Corp.  
175 Sully's Trail  
Suite 300  
Pittsford, NY 14534  
585-218-6556  
[rheatter@mpowercom.com](mailto:rheatter@mpowercom.com)



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

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was sent by e-mail and regular mail to the persons listed below, other than those marked with an (\*) who have been sent a copy via overnight mail, this 7 day of July, 2003.

BellSouth Telecommunications, Inc.  
Nancy B. White/James Meza III  
C/O Ms. Nancy H. Sims  
150 S. Monroe Street  
Suite 400  
Tallahassee, FL 32301-1556  
[nancy.sims@bellsouth.com](mailto:nancy.sims@bellsouth.com)

Comcast Phone of Florida, LLC  
1500 Market Street  
34<sup>th</sup> Floor, East Tower  
Philadelphia, PA 19102-2148

Womble Carlyle Law Firm (GA)  
Loretta A. Cecil, Esq.  
1201 West Peachtree Street  
Suite 3500  
Atlanta, GA 30309  
[lcecil@wcsr.com](mailto:lcecil@wcsr.com)

Ms. Felicia Banks  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850  
[fbanks@psc.state.fl.us](mailto:fbanks@psc.state.fl.us)

AT&T/TCG  
Lisa A. Riley/Virginia C. Tate  
1200 Peachtree Street, N.E.  
Suite 8100  
Atlanta, GA 30309

Mpower Communications Corp  
Richard Heatter/Russell I Zuckerman  
175 Sully's Trail  
Suite 300  
Pittsford, NY 14534-4558  
[rheatter@mpowercom.com](mailto:rheatter@mpowercom.com)  
[rzuckerman@mpowercom.com](mailto:rzuckerman@mpowercom.com)



Matthew Feil  
Florida Digital Network  
390 North Orange Avenue  
Suite 2000  
Orlando, FL 32801  
(407) 835-0460  
[mfeil@floridadigital.net](mailto:mfeil@floridadigital.net)