

Nancy B. White
General Counsel - FL

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

August 8, 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. 030301-TP

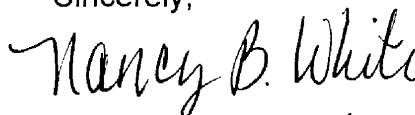
Petition by Mpower Communications, Corp. and Florida Digital Network, Inc. for expedited temporary and permanent relief against BellSouth Telecommunications, Inc. for alleged anticompetitive conduct regarding Florida Digital Network, Inc.'s proposed acquisition of assets and customer base of Mpower Communications Corp.

Dear Ms. Bayó:

Enclosed is an original and fifteen copies of Mpower Communications Corp., Florida Digital Network, Inc., d/b/a FDN Communications and BellSouth Telecommunications, Inc.'s, Joint Motion for Continuance, which we ask that you file in the captioned docket. .

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 (KA)

Enclosures

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

DOCUMENT NUMBER DATE
07314 AUG-8 8
COMMISSION CLERK

**CERTIFICATE OF SERVICE
DOCKET NO. 030301-TP**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via Electronic Mail, (*) Hand Delivery and Federal Express this 8th day of August, 2003 to the following:

Felicia Banks (*)
Staff Counsel
Florida Public Service
Commission
Division of Legal Services
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
Tel. No. (850) 413-6191
Fax. No. (850) 413-6192
fbanks@psc.state.fl.us

Matthew Feil
Florida Digital Network, Inc.
390 North Orange Avenue
Suite 2000
Orlando, FL 32801
mfeil@floridadigital.net

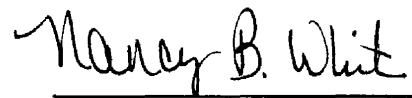
Russell I. Zuckerman, Esq.
Sr. Vice President and General Counsel
Mpower Communications Corp.
175 Sully's Trail
Suite 300
Pittsford, NY 14534
Tel. No. (582) 218-6567
rzuckerman@mpowercom.com

Richard E. Heatter, Esq.
VP Legal and Regulatory Affairs
Mpower Communications Corp.
175 Sully's Trail
Suite 300
Pittsford, NY 14534
Tel. No. (582) 218-6556
rheatter@mpowercom.com

Loretta A. Cecil, Esq.
Womble Carlyle Sandridge
& Rice, PLLC
1201 West Peachtree Street
Atlanta, GA 30309
Tel. No. (404) 888-7437
lcecil@wcsr.com
Atty. for Comcast

Virginia Tate, Esq.
Senior Attorney
AT&T
1200 Peachtree Street, NE
Suite 8100
Atlanta, GA 30309
(404) 810-4922
vtate@att.com

Lisa A. Riley
Docket Manager
1200 Peachtree Street, NE
Suite 8100
Atlanta, GA 30309
(404) 810-7812
lriley@att.com



Nancy B. White (KA)

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

Filed: August 8, 2003

JOINT MOTION FOR CONTINUANCE

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 suspend the remaining scheduled dates in this matter and continue the hearing dates as set forth herein. In support hereof, Mpower, FDN and BellSouth (collectively "Joint Movants") state as follows:

1. By Petition filed with this Commission by Mpower Communications Corp. ("Mpower") and FDN on March 27, 2003, Mpower and FDN requested specified and expedited temporary and permanent relief against BellSouth Telecommunications, Inc. ("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 issue of the temporary relief Mpower and FDN requested in the Petition. On July 8, 2003, FDN, Mpower and BellSouth filed a joint motion asking the Commission to issue an order accepting the parties' stipulation. An order approving that stipulation has not yet been issued.

3. Although no other stipulations have been reached at this time, FDN, Mpower and BellSouth are actively negotiating a permanent resolution of all issues and progress has been made. The most recent settlement discussions were held via conference call on August 7.

4. Expedited relief was requested in the Mpower-FDN Petition primarily due to the need for a solution to the parties' dispute on an interim basis. By virtue of the aforementioned stipulation on interim conditions, however, the need for expedited scheduling by the Commission has diminished substantially.

5. Because of the expedited case schedule, rebuttal testimony from FDN, Mpower and BellSouth is due on August 15, the prehearing is scheduled for September 3 and the hearing is scheduled for September 17. Further, to speed disposition of this matter, the Commission also ruled parties have only 20 days to respond to discovery requests.

6. FDN has served discovery on BellSouth, and BellSouth has filed preliminary and specific objections to a number of FDN's discovery requests. BellSouth served answers to FDN's First Set of Interrogatories on August 7, and FDN states that it will likely have to file a motion to compel answers to those interrogatories BellSouth objected to or did not fully answer. Further, on August 7, the Commission staff served its first

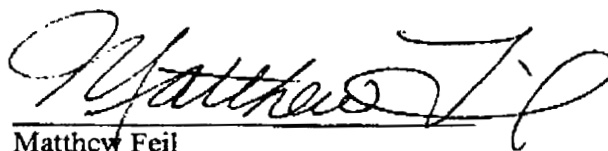
round of discovery on BellSouth, FDN and Mpower, and each of the parties will have to answer or object to this staff discovery in the condensed response time dictated by the expedited schedule. BellSouth has not yet served discovery on any other parties, but may need to do so prior to the scheduled hearing dates.

7. Because of the time crunch of the expedited schedule, Joint Movants believe the parties are left to devote available resources to litigating rather than negotiating this matter. Accordingly, since (a) the expedited schedule originally set for this case is largely obviated by the stipulation on interim conditions already filed and awaiting Commission approval, (b) the parties have been engaged in good faith negotiations, (c) the Commission has repeatedly expressed its desire for parties to negotiate rather than litigate their disputes, and (d) the Commission may need to devote resources dedicated to this matter to other pressing matters, Joint Movants request the Commission issue an order (1) suspending all scheduled activity and due dates as of the filing date of this Joint Motion, including due dates for rebuttal testimony, objections to discovery, discovery responses, prehearing statements, etc., and (2) continuing the prehearing and hearing dates in this matter for a period of up to 90 days. Joint Movants believe this relief will permit them to focus on negotiating a resolution to the dispute. Joint Movants also agree to provide Commission staff with periodic updates on the progress of their negotiations during the continuance period.

8. Joint Movants have contacted the Commission staff and Intervenors Comcast and AT&T regarding this motion and report that none object to the motion.

WHEREFORE, Joint Movants respectfully requests that the Commission suspend all due dates and continue the hearing dates in this matter for up to ninety (90) days as set forth herein.

Respectfully submitted, this 8 day of August 2003.



Matthew Feil
FDN Communications
390 North Orange Ave.
Suite 2000
Orlando, FL 32801
407-835-0460
mfeil@mail.fdn.com



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

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

Nancy B White (KB)

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: (305) 347-5558
Fax: (850) 222-8640
Email: nancy.sims@bellsouth.com
nancy.white@bellsouth.com