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October 14, 2003

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Mrs. Blanca S. Bayo
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Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

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RE: Docket No. 030339-TP (Allegiance Arbitration)

Dear Ms. Bayo:

Enclosed are an original and fifteen copies of Allegiance Telecommunications, Inc.'s Rebuttal Testimony, 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 the copy to me. Copies have been served to the parties shown on the attached Certificate of Service.

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Sincerely,

John C. Gockley

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**CERTIFICATE OF SERVICE
DOCKET NO. 030339-TP**

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

Electronic Mail and Facsimile this 14th day of October 2003 to the following:

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John C Gockley

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

REBUTTAL TESTIMONY

OF

LARRY STRICKLING

ON BEHALF OF

ALLEGIANCE TELECOM OF FLORIDA, INC

DOCKET NO. 030339-TP

OCTOBER 15, 2003

DOCUMENT NUMBER DATE

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1 **Q Please state your name, position and Business Address**

2

3 **A** My name is Lawrence E. Strickling and I am Sr Vice President, Industry
4 Development for Allegiance Telecommunication Inc , the parent company of
5 Allegiance Telecom of Florida, Inc ("Allegiance") My address is 700 E.
6 Butterfield Road, Lombard, Illinois 60148

7 **Q Are you the same Lawrence E. Strickling who offered direct testimony on behalf of**
8 **Allegiance in this matter?**

9

10 **A** Yes I am

11 **Q What is the purpose of this rebuttal testimony?**

12

13 **A** The purpose of this rebuttal testimony is to respond to certain arguments made by
14 BellSouth witness Kathy K Blake in her direct testimony

15

16

17 **Issue 2: Rates and charges for Conversion of Customers from Special Access to Extended**
18 **Enhanced Loops (EELs)**

19 **Following a request by Allegiance to convert a special access arrangement to a**
20 **combined loop and transport network element (EEL), when should BellSouth cease**
21 **billing the special access rate and begin to bill the lower UNE rate for the EEL?**

22

23

1 **Q Ms. Blake contends that although the Triennial Review Order ("TRO") impacts the**
2 **issue of when BellSouth should begin billing the lower UNE rate for special access**
3 **circuits converted to EEL's it should be ignored in this proceeding. (Blake, direct**
4 **testimony, p.p. 2, 3) Do you agree with her conclusion?**

5
6 **A** Not at all. The TRO became effective on October 2, 2003. As to this issue it has not
7 been stayed. It is, therefore, the law. Ms. Blake contends that the parties can invoke the
8 change of law provision and amend the Agreement at a later date. The purpose of the
9 change of law provision is to the effectuate changes to the Agreement made necessary by
10 changes in the law that occur after the effective date of the Agreement not changes that
11 occur before. In this case there is no effective agreement yet and there won't be for some
12 months to come. Allegiance shouldn't be put to the burden of having to wait months for
13 its interconnection agreement to become effective and then have to wait months more to
14 negotiate an amendment to incorporate a change known to the parties well before the
15 underlying agreement becomes effective. BellSouth's position is nothing more than a
16 dilatory tactic designed to further delay the relief that Allegiance is patently entitled to as
17 a matter of law. It underscores the very point that Allegiance has been making all along
18 that BellSouth should not be permitted to hide behind processes and guidelines for a
19 "phantom" conversion and delay billing the lower UNE rate for EELs. There is no
20 facility conversion occurring here. The circuit remains physically in the same place
21 doing the same thing both before and after the so called "conversion". The only
22 difference is the rate to be paid which is lower under the UNE rate structure. As I said in
23 my direct testimony, the FCC recognized that this conversion is largely a billing function

1 which is why they ordered it be performed expeditiously. BellSouth should not be
2 permitted to bury its head in the sand and ignore this obligation in this proceeding
3
4

5 **Issue 7: Payment Due Date**

6 **When should payment for service be due?**
7
8

9 **Q Ms. Blake contends that BellSouth "invoices" Allegiance every 30 days. (Blake,**
10 **direct testimony, p.7) Is this true?**
11

12 **A** If by this statement Ms Blake contends that BellSouth "sends" an invoice every 30 days
13 she is wrong. Bell South may (or may not) pull all of the data necessary to make an
14 invoice every 30 days but it takes them sometime to aggregate all of the data and to make
15 the invoice available so that it can be reviewed for accuracy and paid

16 **Q Ms. Blake argues that Allegiance could avoid delays in bill printing and receipt by**
17 **requesting electronic bills. (Blake, direct testimony, p.7) Is this correct?**
18

19 **A** Allegiance already receives all of its bills electronically, but there is still a delay in
20 BellSouth transmitting the bills electronically that cuts into the time that Allegiance has
21 to review the bills and make payment

1 **Q Ms. Blake says in her direct testimony that if circumstances warrant it BellSouth**
2 **would not unreasonably refuse a request for an extension of the due date. (Blake,**
3 **direct testimony, p.8) Isn't this sufficient to address Allegiance's concern?**

4
5 **A** I don't understand why, if BellSouth acknowledges that delays in transmitting bills may
6 provide grounds for an extension to the due date, they refuse to address it in the
7 Interconnection Agreement. This is the document that specifies the rights and obligations
8 of both parties and right now it says that bills are due on the due date, regardless whether
9 the bill was received with thirty days to review before it is due or only one day.
10 BellSouth's hard line stance seems to be at odds with Ms. Blake's conciliatory statement
11 that circumstances may warrant (presumably a delay in issuing a bill would constitute
12 such a circumstance) an extension.

13 **Q Ms. Blake also contends that payment on a fixed due date, regardless of the date a**
14 **bill was received, is an industry standard. (Blake, direct testimony, p.8) Do you**
15 **agree?**

16
17 **A** No. Allegiance has interconnection agreements in New York, Minnesota, Washington,
18 Maryland, Massachusetts, California, Missouri and Texas which all provide that bills be
19 received at least twenty days prior to the due date. In my direct testimony I indicated that
20 Allegiance would accept a provision requiring that bills be received no less than twenty
21 days prior to the due date which is nothing more than what BellSouth has committed to
22 provide to ITC DeltaCom in Docket #030137-TP. In fact, in light of what BellSouth has
23 committed to provide ITC DeltaCom, I don't know how they can possibly contend that

1 payment by the due date, regardless of how long it takes them to issue a bill, is a
2 company standard let alone an industry standard
3
4
5

6 **Issue # 8: Deposits**

7 **When is it appropriate to demand a security deposit, in what amount, and under**
8 **what conditions should the security deposit be released?**
9
10

11 **Q Ms. Blake contends that because it takes at least two months to disconnect a non-**
12 **paying carrier they should be able to demand a two month security deposit to avoid**
13 **the risk of providing free service. (Blake, direct testimony, p.11) Do you agree with**
14 **this logic?**
15

16 **A** No. Ms. Blake proceeds from the false premise that a security deposit is the only means
17 at BellSouth's disposal to command payment ("BellSouth can only protect itself from the
18 risks of non-payment by obtaining some type of security to guarantee payment for
19 Services" Blake, direct testimony, p 10) This is not true BellSouth, as the monopoly
20 provider of most of the wholesale services that CLEC's receive can refuse to take new
21 orders in the event of non-payment, effectively precluding a CLEC from acquiring new
22 customers They can also impose late payment charges at 18% per annum to encourage
23 payment Furthermore, they can bill in advance. In fact, approximately 75% of all of

1 BellSouth's billings to Allegiance are for services billed in advance further decreasing the
2 need for such a high security deposit Finally, demanding a two month's security deposit
3 seems to go beyond what is contemplated by the Commission for local exchange service
4 under its rules Chapter 25-4 109(2) of the Rules of the Florida Public Service
5 Commission provides, in pertinent part, that:

6 "The amount of the initial required deposit shall not exceed an amount equal to
7 the charges for one month's local exchange services . "

8
9 For all of the foregoing reasons the Commission should adopt Allegiance's security
10 deposit proposal articulated in my direct testimony

11
12 **Q Is any other provision of the Commission rules relevant to the security deposit**
13 **issue?**

14
15 **A** Yes Allegiance maintains that any deposit should be returned once it has established
16 good credit through the timely payment of all bills over a twelve month period This is
17 not good enough for BellSouth who insist on timely payment of all bills over a twelve
18 month period and passage of a credit screen to be performed and evaluated by
19 BellSouth I have already described my concerns over the subjective nature of
20 BellSouth's credit screens in my direct testimony Identification of the credit systems that
21 BellSouth uses as described in Ms. Blake's direct testimony does nothing to ameliorate
22 the fact that BellSouth and BellSouth alone decides the passing score . Most importantly,
23 though, prompt payment, should be the decisive factor in returning a security deposit
24 Apparently the Commission agrees with Allegiance on this point. Concerning how a

1 customer establishes credit Chapter 25-4 109 (1)(a) of the Commission's rules provides,
2 in pertinent part, that.

3 "[E]ach LEC may require an applicant for service to satisfactorily establish credit,
4 but such establishment of credit shall not relieve the customer from complying with the
5 company's rules for prompt payment of bills. Credit will be deemed so established if

6 (a) The applicant for service has been a customer of any LEC within the
7 last two years and during the last twelve (12) consecutive months of
8 service did not have more than one occasion in which a bill was paid
9 after becoming delinquent and has never had service disconnected for
10 non-payment "

11 Thus, in the eyes of the Commission, a pattern of prompt payment established over a
12 twelve month period is tantamount to good credit. So should it be for determining when
13 to return a security deposit under the parties interconnection agreement
14

15
16
17 **Issue 9: Back Billing**

18 **How far may BellSouth back bill for all services?**

19
20 **Q Ms. Blake contends that the exceptions BellSouth seeks to the twelve month back**
21 **billing limitation for under billing resulting from third party data is consistent with**
22 **Chapter 25-9.110(10) of the Rules of the Florida Public Service Commission (Blake**
23 **direct testimony, p.12) Do you agree?**

24
25 **A** The Rule seems to make some sort of differentiation between undercharges resulting
26 from a company mistake and those that are under billed for some other reason.
27 Allegiance's lawyers will deal with the legal aspects of this rule in more detail in the
28 briefing portion of this proceeding, but it seems to me that if BellSouth knows that their

1 billing is dependent on third party data and if they don't take reasonable measures to
2 verify the submitted data within the one year limitation than the mistake is theirs. Under
3 BellSouth's proposal they are completely immunized - apparently for all time - as long as
4 some third party data was used in the preparation of the bill.

5 I also want to reiterate the concern I raised in my direct testimony that the specific back
6 billing provision advocated by BellSouth is not, by its terms, limited to just the two
7 exceptions discussed in Ms. Blake's direct testimony. If it was BellSouth's intent to limit
8 the exceptions to the specific items mentioned in Ms. Blake's testimony (exceptions that
9 Allegiance still opposes) then "include" in the proposed contract provision should be
10 changed to "are" in which case the paragraph would provide, in pertinent part, as
11 follows.

12 "However, both Parties recognize that situations exist that would necessitate
13 billing beyond the one year limit as permitted by law. These exceptions include
14 are: 1) Charges connected with jointly provided services where by meet point
15 billing guidelines require either Party to rely on records provided by a third Party,
16 and 2) Charges incorrectly billed due to error in or omission of customer provided
17 data such as PLU or PIU factors or other ordering data."

18
19
20 **Q Does this conclude your testimony?**

21
22 **A Yes it does**