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November 7, 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

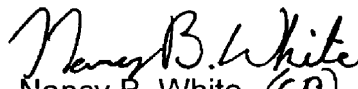
**Re: Docket No.: 031038-TL
Petition of BellSouth Telecommunications, Inc. to Revise Customer
Contact Protocol**

Dear Ms. Bayó:

Enclosed is an original and fifteen copies of BellSouth Telecommunications, Inc.'s Petition to Revise Customer Contact Protocol, which we ask that you file in the captioned *new* 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.

Sincerely,


Nancy B. White (CO)

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

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FPSC-COMMISSION CLERK

**CERTIFICATE OF SERVICE
PETITION TO REVISE CUSTOMER CONTACT PROTOCOL**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via
via First Class U.S. Mail this 7th day of November 2003 to the following:

Staff Counsel
Florida Public Service
Commission
Division of Legal Services
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850



Nancy B. White (RB)

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of BellSouth) Docket No.: _____
Telecommunications, Inc. to Revise)
Customer Contact Protocol)
_____) Filed: November 7, 2003

**BELLSOUTH TELECOMMUNICATIONS, INC.'S PETITION TO REVISE
CUSTOMER CONTACT PROTOCOL**

BellSouth Telecommunications, Inc., ("BellSouth" or "Company"), a Georgia Corporation authorized to do and doing business in the State of Florida as a local exchange company, by and through its undersigned counsel, petitions the Florida Public Service Commission ("Commission") to allow BellSouth to revise its customer contact protocol for communicating intraLATA toll choices to new customers in order to achieve consistency in its intraLATA and interLATA procedures across the BellSouth footprint. Competitive conditions in the intraLATA market confirm the need to revise the existing, Commission mandated protocol forbidding BellSouth from recommending its intraLATA services to new customers. In support thereof, BellSouth states the following:

1. Petitioner, BellSouth, is a telecommunications carrier in Florida operating as a local exchange company and an intraLATA toll carrier. Its principal Florida business offices are located at 150 West Flagler Street, Suite 1910, Miami, Florida 33130. Notices, pleadings, orders and other papers in this docket should be furnished to the following:

BellSouth Telecommunications, Inc.
Nancy B. White
c/o Nancy H. Sims
150 So. Monroe Street, Suite 400
Tallahassee, Florida 32301

2. As a result of a Joint Complaint¹ filed concerning BellSouth's tariff and business practices regarding intraLATA presubscription, this Commission issued Order No. PSC-96-1569-FOF-TP ("Initial Order") on December 23, 1996. The Initial Order held, among other things, that BellSouth was prohibited from marketing its services to existing customers calling to change intraLATA carriers and from initiating marketing of its intraLATA services to existing customers calling for reasons other than to change intraLATA carriers for a period of 18 months. (Initial Order, pgs. 7-9). Moreover, BellSouth was prohibited from marketing its intraLATA toll service to new customers unless the customer introduced the subject. (Initial Order, pg. 6).

3. The purpose of the prohibitions was to increase customer awareness regarding the availability of various intraLATA toll carriers, as well as to allow time for the major interexchange carriers to establish themselves in the intraLATA market. (Initial Order, pgs. 6, 8, and 9). BellSouth subsequently petitioned the Commission to lift the marketing restrictions imposed by Order No. PSC-96-1569-FOF-TP, and on October 28, 1998, the Commission issued Order No. PSC-98-1469-FOF-TP, granting BellSouth partial relief from the restrictions for new customers. Specifically, the Commission allowed BellSouth to use the phrase "in addition to us" in the script advising new customers of their intraLATA choices.

¹ The Joint Complaint was filed by the Florida Interexchange Carriers Association ("FIXCA"), MCI Telecommunications, Corporation ("MCI") and AT&T Communications of the Southern States, Inc. ("AT&T") on May 24, 1996.

4. The Commission imposed similar restrictions on Sprint and Verizon. See Order No. PSC-98-0709-FOF-TP.

5. In this Petition, BellSouth seeks Commission authorization to recommend its intraLATA service on new customer contracts, after informing the customer that he has a choice of local toll providers and offering to read the list. BellSouth maintains that this approach is consistent with the Commission's order implementing intraLATA presubscription (Order No. PSC-95-0203-FOF-TP) in which the Commission stated that "when new customers sign up for service they should be made aware of their options of intraLATA carriers in the same fashion as for interLATA carriers."

6. What BellSouth asks to do in this case is exactly what the Commission ordered and what it again approved in 1998 – use of the same interLATA and intraLATA new customer contact protocols. The FCC has long allowed an ILEC "to recommend its own long distance affiliate, as long as it contemporaneously states that other carriers also provide long distance service and offers to read a list of all available interexchange carriers in random order." *Application of BellSouth Corp., et al. Pursuant to Section 271 of the Communications Act of 1934, as amended, to Provide In-Region, InterLATA Services in South Carolina*, Memorandum Op. & Order, FCC 97-418, at para.237 (Dec. 24, 1997). Under this approach, BellSouth tells the customer he has many choices of toll providers, offers to read the list of providers available, and then mentions that BellSouth provides toll service. This is the approach BellSouth

follows for communicating interLATA choices to new customer (and for communicating intraLATA choices in other states). It was approved by the FCC in 1997 because it struck the correct balance between equal access obligations and the right to engage in joint marketing. *Id.*

7. The Commission's intraLATA marketing restrictions were intended to increase customer awareness and allow the interexchange carriers (IXCs) to establish a presence in the intraLATA marketplace. Competition is intense for intraLATA toll service. For example, on all new service orders initiated in August and September, 2003, 18% of residential customers did not choose BellSouth for intraLATA service.

8. This information proves, beyond any doubt, that the objectives underlying the customer contact restrictions – assuring customer awareness of their intraLATA choices and allowing the IXCs to establish themselves in the intraLATA market – have been fully met. Maintaining such restrictions in a vigorously competitive market can only harm consumers, as they compromise BellSouth's ability to provide useful information about rate plans and the like that could benefit customers. The Commission itself has recognized that the restriction "precludes [the ILEC] from explaining fully its products and services." *Petition of BellSouth Telecomm., Inc. to Lift Marketing Restrictions*, Order No. PSC-98-1469-FOF-TP (Oct. 28, 1998).

9. The customer contact restriction puts BellSouth at a competitive disadvantage vis a vis the IXCs – especially the large IXCs, like AT&T and MCI – which

can freely market their services in any manner they choose. These companies are already well known to customers as long-distance toll providers, so then can easily leverage off this familiarity to sell their local toll services.

10. In addition, because the FCC and other states allow BellSouth to recommend its toll services, BellSouth must bear administrative costs of maintaining a special protocol for Florida. The calls of Florida residential consumers to BellSouth are answered by service representatives located in any of the nine states in which BellSouth operates. Currently, these representatives must be trained to use a script for new Florida customers for intraLATA service that is different from that used for interLATA service and different than that used for intraLATA service in states other than Florida. Standardization of its customer contact protocols will help BellSouth operate more efficiently.

11. BellSouth does not believe the Commission would dispute the competitive vigor of the intraLATA market. However, the Commission in the past has pointed to the asserted lack of competition in the *local* market to justify maintaining the communication protocols it adopted years ago. The Commission's apparent concern is that the ILEC might use its "gatekeeper" position to unduly influence customers' choice of intraLATA carriers. Continued reliance on this rationale is unjustified for several reasons.

12. First, BellSouth's proposed customer contact revisions are plainly reasonable and will not improperly influence customers. BellSouth will not recommend

its own intraLATA service until after telling the customer he has a choice of providers and offering to read the list of available carriers. The customer will thus have a meaningful opportunity to consider a carrier other than BellSouth.

13. Second, the danger of undue influence is, in any event, no longer a valid concern. The potential to unduly influence a customer is a function of his level of awareness. As the Commission recognized in 1998, "as awareness grows, customers will become more informed and thereby seek the necessary information to enable them to make informed decisions." (Order No. PSC-98-1469-FOF-TP, at 8). Five years later, it is clear that customers are sophisticated enough to gather the information they need to make informed decisions. With the growth in competition in all sectors of the telecommunications market (particularly the intraLATA market) and the ever-present telecommunications advertising, customers are well aware of their options. They do not need special protections against dissemination of truthful information that may well save them money or meet other needs.

14. Third, local competition in all forms has increased. The use of wireless technologies has exploded. Cellphone subscribers represent 49% of the total United States population. See FCC Annual Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Radio Services, Eighth Report, FCC 03-150, Released July 14, 2003. Cellular companies are often also large IXCs, like AT&T and Sprint. The Commission can be sure that these companies market all of their toll

services, both intra- and interLATA, when customers contact them to sign up for cellular service.

15. Curbing BellSouth's intraLATA marketing will do nothing to promote competition in the local exchange market. It makes no sense to use wire line local competition, rather than intraLATA competition, as the touchstone for deciding whether to eliminate the intraLATA contact restriction. If the Commission follows this misguided theory, BellSouth's intraLATA market share could drop to 0% tomorrow and the Commission would still refuse to lift the restriction.

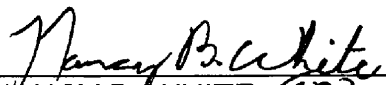
16. In ruling on this Petition, BellSouth urges the Commission to consider facts, rather than hypothetical possibilities. The facts show that the intraLATA market is competitive and that BellSouth has no special advantage in that market. Indeed, BellSouth is at a disadvantage relative to its large and well-established competitors, which are subject to no marketing constraints. The wholly speculative and – based on experience, unlikely – possibility that BellSouth might abuse its position as an ILEC is not sufficient reason to maintain the customer contact restriction at issue.

17. Finally, BellSouth is seeking the identical relief granted by this Commission to Verizon by Order No. PSC-02-0362-PAA-TL, issued on March 19, 2002. In that Order, the Commission found that “our goals behind the customer contact protocols ... had been met” (Order at p. 8). The Commission recognized that cell phones had become a viable competition and that granting relief to Verizon leveled the

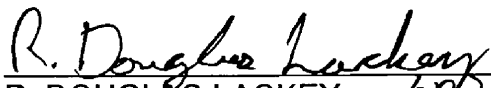
playing field and allows Verizon's "voice to be heard in the marketplace." (Order at p. 10).

WHEREFORE, BellSouth respectfully asks the Commission to allow BellSouth to revise its customer contact protocol for communicating intraLATA toll choices to view customers.

Respectfully submitted this 7th day of November, 2003.



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