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Public Service Commission

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COMMISSION CLERK

DATE: January 30, 2004
TO: ALL COMMISSIONERS
FROM: OFFICE OF THE GENERAL COUNSEL (SUSAC, KEATING)
RE: ITEM NO. 5 - FEBRUARY 3, 2004 AGENDA - DOCKET NO. 030851-TP

REQUESTED ACTION: Consideration of BellSouth's Motion for Extension of Time within the context of Item 5

After the recommendation for Item 5 had been filed, it was discovered that although all parties, including Commission staff, had been served with a copy of BellSouth's Response to AARP's Motion, the Response was apparently never recorded as filed with the Commission.

Staff recommends that the Commission take up the Motion for Extension of Time filed by BellSouth within the context of addressing Item 5 on the February 3 Agenda. Staff does not have any notice concerns, because the Notice for the upcoming Agenda Conference already reflects that the Commission will take up AARP's Motion for Reconsideration and related responses.

Staff will be prepared to make an oral recommendation on the Motion for Extension of Time at the Agenda Conference. Preliminarily, staff notes that the case law is clear that it is not appropriate to grant an extension of time for filing a motion for reconsideration. This prohibition does not, however, apply to filing a response to a motion for reconsideration.

BACKGROUND:

On December 15, 2003, AARP (formerly known as American Association of Retired Persons) filed its petition to intervene in Docket No. 030851-TP. Shortly thereafter, Sprint

1 BellSouth also apparently believes that it did, in fact, make the filing with the Commission, asserting that it followed its usual filing procedures and that all of the other documents that it filed that day were properly recorded.

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Communications Limited Partnership and Sprint-Florida, Incorporated (collectively, "Sprint"), BellSouth Telecommunications, Inc. ("BellSouth"), and Verizon Florida, Inc. ("Verizon") each filed a separate response in opposition to AARP's petition on December 23, 2003. On January 2, 2004, Order No. PSC-04-0008-PCO-TP was issued denying AARP's petition to intervene for lack of standing. The Prehearing Officer found AARP does not have standing to intervene in this docket. Specifically, AARP's alleged "injury in fact" is speculative and too remote to establish standing under the Agrico test, and that the interests asserted by AARP are not the type of interest this proceeding is designed to protect.

On January 12, 2004, AARP filed its Motion for Reconsideration of Order No. PSC-04-0008-PCO-TP. On January 13, 2004, AARP filed a corrected copy of its January 12, 2004, motion. On January 16, 2004, BellSouth served its response in opposition to AARP's motion for reconsideration. Thereafter, on January 22, 2004, staff filed its recommendation addressing AARP's Motion for Reconsideration. The recommendation is currently Item 5 on the February 3 Agenda.

If you have any questions, please do not hesitate to contact Jeremy Susac or Beth Keating.

cc: Dr. Mary A. Bane, Executive Director
Rick Melson, General Counsel
All Commissioners' Aides
Docket File
All Parties of Record (via e-mail)

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