

**ORIGINAL**

**Matilda Sanders**

**From:** Barclay, Lynn [Lynn.Barclay@BellSouth.com]  
**Sent:** Tuesday, September 27, 2005 1:01 PM  
**To:** Filings@psc.state.fl.us  
**Cc:** Fatool, Vicki; Linda Hobbs; Nancy Sims; Holland, Robyn P; Bixler, Micheale; Slaughter, Brenda ; Mays, Meredith  
**Subject:** 041269-TL and 040601-TP BellSouth's Bayó letter regarding clarification  
**Attachments:** 041269-TL Bayo letter re clarification.pdf

- A. Lynn Barclay  
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- B. Docket No. 041269-TL: In re: Petition to Establish Generic Docket to Consider Amendments to Interconnection Agreements Resulting From Changes of Law

Docket No. 040601-TP: Petition of DIECA Communications, Inc., d/b/a Covad Communications Company, for Arbitration of Interconnection Agreement Amendment with BellSouth Telecommunications, Inc. pursuant to Section 252(b) of the Telecommunications Act of 1996

- C. BellSouth Telecommunications, Inc.  
 on behalf of Meredith Mays
- D. 10 pages total (including attachment)
- E. BellSouth's Bayó letter regarding clarification of record.

<<041269-TL Bayo letter re clarification.pdf>>

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 OTH Leach dkt

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Meredith Mays  
Senior Regulatory Counsel

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September 27, 2005

Ms. Blanca S. Bayó  
Division of the Commission Clerk and  
Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Re: Docket Nos. 041269-TL; 040601-TP

Dear Ms. Bayó:

On September 26, 2005 Covad requested official recognition of two decisions. To ensure a clear record, BellSouth requests that the Commission note that Verizon has sought a preliminary injunction in the U.S. District Court – Maine of the September 13, 2005 Maine Order. A copy of the U.S. District Court Civil Docket Sheet is attached.

In addition, BellSouth requests official recognition of the FCC's recent *Report and Order*, released September 23, 2005 in FCC dockets 02-33, 01-337, 95-20, 98-10, 04-242, 05-271. The FCC's decision is available online at <http://www.fcc.gov>. In describing how CLECs provide DSL services, the FCC explained that CLECs "provide these services using their own facilities in combination with UNEs leased from incumbent LECs pursuant to section 251(c)(3) of the Act." The FCC also explained that it "established a three-year transition after which any new customer *must be served* through a line splitting arrangement, through use of the stand-alone copper loop, or through an arrangement that a competitive LEC has negotiated with the incumbent LEC to replace line sharing." See n. 157 (emphasis supplied). The FCC made no mention of a Section 271 line sharing arrangement; stating instead that line sharing "*allowed* a competitive carrier to provide DSL service over the high-frequency portion of the same loop that the incumbent LEC uses to provide voice sharing." *Id.*, (emphasis supplied).

Finally, BellSouth requests that this Commission take official recognition of its recent vote, on August 30, 2005 in Docket No. 040130-TP. In that vote, Commissioners Bradley and Edgar found that BellSouth "is required, upon a CLEC's request, to commingle or to allow commingling of UNEs or UNE combinations with any service,

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Ms. Blanca S. Bayo  
September 27, 2005  
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network element, or other offering that it is obligated to make available. *However, this does not include services, network elements, or other offerings made available only under Section 271.*" Agenda Conf. Tr., Item No. 11, page 12. Likewise, in addressing line conditioning and routine network modification, Commissioners Bradley and Edgar found that BellSouth "should not be required to perform services that are not consistent with what they would perform for their own customers or carriers." *Id.*, p. 14.

Copies of this letter and attachments have been served to the parties shown on the attached Certificate of Service.

Sincerely,

  
Meredith Mays

Enclosures

cc: Parties of Record  
Nancy White

603628

**CERTIFICATE OF SERVICE**  
**Docket No. 041269-TP**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via Electronic Mail and U.S. Mail this 27<sup>th</sup> day of September, 2005 to the following:

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[Term: 07/20/2005]

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Date	#	Proceeding Text
04/01/2005	1	COMPLAINT against PUBLIC UTILITIES COMMISSION OF MAINE, STEPHEN L DIAMOND, SHARON M REISHUS, JOHN DOE , filed by VERIZON NEW ENGLAND INC. (Service of Process Deadline 8/1/2005)(bfa, ) (Entered: 04/04/2005)
04/04/2005	--	Filing Fee Received from VERIZON NEW ENGLAND INC: Amount Paid: \$250. Receipt Number: 205000692. Method of Payment: credit card. Purpose of Payment: civil filing fee. Date Paid: 4/4/2005 re 1 Complaint. (bfa, ) (Entered: 04/04/2005)
04/04/2005	2	Summons Issued as to PUBLIC UTILITIES COMMISSION OF MAINE, STEPHEN L DIAMOND, SHARON M REISHUS, JOHN DOE. Counsel shall print the embossed summons and effect service in the manner in accordance with Fed.R.Civ.P.4. Note-If you are using Version 6 of Adobe Acrobat, be sure the PRINT WHAT field is set to DOCUMENTS AND COMMENTS (Click File, then Print to check this setting). (Attachments: # 1 Diamond summons# 2 Reishus summons# 3 Doe summons)(bfa, ) (Entered: 04/04/2005)
04/04/2005	3	CORPORATE DISCLOSURE STATEMENT by VERIZON NEW ENGLAND INC. (PORADA, MARK) (Entered: 04/04/2005)
04/07/2005	4	SUMMONS Returned Executed PUBLIC UTILITIES COMMISSION OF MAINE served on 4/6/2005. (PORADA, MARK) (Entered: 04/07/2005)
04/07/2005	5	SUMMONS Returned Executed STEPHEN L DIAMOND served on 4/6/2005. (PORADA, MARK) (Entered: 04/07/2005)
04/07/2005	6	SUMMONS Returned Executed SHARON M REISHUS served on 4/6/2005. (PORADA, MARK) (Entered: 04/07/2005)
04/07/2005	7	SUMMONS Returned Executed JOHN DOE served on 4/6/2005. (PORADA, MARK) (Entered: 04/07/2005)
04/07/2005	--	Set Answer Deadline Defendants were served on April 6, 2005: Answer due by 4/26/2005.(mjl, ) (Entered: 04/08/2005)
04/25/2005	8	ANSWER to Complaint by PUBLIC UTILITIES COMMISSION OF MAINE, STEPHEN L DIAMOND, SHARON M REISHUS, JOHN DOE.(BRAGDON, TRINA) (Entered: 04/25/2005)
04/26/2005	9	SCHEDULING ORDER: Discovery due by 9/27/2005. Motions due by 10/4/2005. Ready for Trial on 1/10/2006. By Judge MARGARET J. KRAVCHUK. (CWP, ) (Entered: 04/26/2005)
05/20/2005	10	MOTION to Intervene by BIDDEFORD INTERNET CORPORATION D/B/A GREAT WORKS INTERNET, CORNERSTONE COMMUNICATIONS, LLC, SKOWHEGAN ONLINE, INC. WITH INCORPORATED MEMO.Responses due by 6/10/2005. (SAMP, FREDERICK) (Entered: 05/20/2005)

06/10/2005 11 RESPONSE in Opposition re 10 MOTION to Intervene of Biddeford Internet Corporation d/b/a Great Works Internet, Skowhegan Online, Inc., and Cornerstone Communications, LLC, filed by VERIZON NEW ENGLAND INC.Reply due by 6/21/2005. (Attachments: # 1 Exhibit A)(PORADA, MARK) (Entered: 06/10/2005)

06/21/2005 12 REPLY to Response to Motion re 10 MOTION to Intervene filed by BIDDEFORD INTERNET CORPORATION D/B/A GREAT WORKS INTERNET, CORNERSTONE COMMUNICATIONS, LLC, SKOWHEGAN ONLINE INC. (SAMP, FREDERICK) (Entered: 06/21/2005)

06/21/2005 13 ANSWER to Complaint by BIDDEFORD INTERNET CORPORATION D/B/A GREAT WORKS INTERNET, CORNERSTONE COMMUNICATIONS, LLC, SKOWHEGAN ONLINE INC.(SAMP, FREDERICK) (Entered: 06/21/2005)

07/08/2005 14 MOTION to Stay by VERIZON NEW ENGLAND INC WITH INCORPORATED MEMO.Responses due by 7/29/2005. (Attachments: # 1 Exhibit A - Hearing Examiner's Report)(PORADA, MARK) (Entered: 07/08/2005)

07/11/2005 15 FILED IN ERRO: MOTION for Leave to Participate as Amicus Curiae Plus by COMPTTEL/ALTS With Incorporated Memorandum.Responses due by 8/1/2005. (WEBBER, REBECCA) Modified on 7/12/2005 (ckb, ) to indicate filing was made in error because it is missing a typed signature. (Entered: 07/11/2005)

07/12/2005 16 MOTION for Leave to Participate as Amicus Curiae Plus by COMPTTEL/ALTS With Incorporated Memorandum.Responses due by 8/2/2005. (WEBBER, REBECCA) (Entered: 07/12/2005)

07/12/2005 -- NOTICE of Docket Entry Modification regarding 15 MOTION for Leave to Participate as Amicus Curiae Plus: This filing has been edited by the Clerk's Office to indicate it was filed in error because it lacked Attorney Webber's typed signature. Attorney Webber refiled this motion on July 12, 2005. See pleading number 16 which is the new Motion for Leave to Participate as Amicus Curiae Plus. (ckb, ) (Entered: 07/12/2005)

07/19/2005 17 RESPONSE to Motion re 14 MOTION to Stay filed by PUBLIC UTILITIES COMMISSION OF MAINE, STEPHEN L DIAMOND, SHARON M REISHUS, JOHN DOE.Reply due by 8/1/2005. (BRAGDON, TRINA) (Entered: 07/19/2005)

07/19/2005 18 RESPONSE to Motion re 10 MOTION to Intervene, 16 MOTION for Leave to Participate as Amicus Curiae Plus filed by PUBLIC UTILITIES COMMISSION OF MAINE, STEPHEN L DIAMOND, SHARON M REISHUS, JOHN DOE.Reply due by 8/1/2005. (BRAGDON, TRINA) (Entered: 07/19/2005)

07/20/2005 19 ORDER granting without objection 14 Motion to Stay. Verizon has 20 days from the issuance of the MPUC's Order to file a motion to amend its complaint. If that order has not issued by July 28, 2005, the parties shall contact the court regarding scheduling. At this point in time the motion to amend is due 20 days after July 25, 2005. Within 10 days of the date of filing the motion to amend the complaint the parties shall confer and following that conference counsel for Verizon shall contact my chambers to schedule a case management conference regarding a modified scheduling order. Prior to that conference, and no later than 21 days after filing the motion to amend,the parties shall submit a written proposed modified scheduling order, noting therein any points of disagreement. By Judge MARGARET J. KRAVCHUK. (KRAVCHUK, MARGARET) (Entered: 07/20/2005)

07/20/2005 20 ORDER denying 10 Motion to Intervene By Judge GEORGE Z. SINGAL. (ckb, ) (Entered: 07/20/2005)

07/26/2005 21 Minute Entry for proceedings held before Judge MARGARET J. KRAVCHUK : Telephone Conference held. Report to follow. (CWP, ) (Entered: 07/26/2005)

07/26/2005 22 REPORT OF CONFERENCE OF COUNSEL AND ORDER Specific Document Deadline (1) due by 9/6/2005. By Judge MARGARET J. KRAVCHUK. (CWP, ) (Entered: 07/26/2005)

09/02/2005 23 NOTICE/CORRESPONDENCE Re: July 26, 2005 Scheduling Order by PUBLIC UTILITIES COMMISSION OF MAINE, STEPHEN L DIAMOND, SHARON M REISHUS, JOHN DOE (BRAGDON, TRINA) (Entered: 09/02/2005)

09/02/2005 24 NOTICE of Appearance by ANDREW S. HAGLER on behalf of all defendants (HAGLER, ANDREW) (Entered: 09/02/2005)

09/07/2005 25 PROCEDURAL ORDER. By Judge MARGARET J. KRAVCHUK. (CWP, ) (Entered: 09/07/2005)

09/15/2005 26 NOTICE/CORRESPONDENCE Re: Release of Order by PUBLIC UTILITIES COMMISSION OF MAINE, STEPHEN L DIAMOND, SHARON M REISHUS, JOHN DOE (BRAGDON, TRINA) (Entered: 09/15/2005)

- 09/16/2005 -- Set Deadlines as to 16 MOTION for Leave to Participate as Amicus Curiae Plus- Pursuant To Judge Kravchuk's Order dated 8/26/05 (Pleading No. 22): Responses due by 10/4/2005.(mjlt, ) (Entered: 09/16/2005)
- 09/22/2005 27 MOTION to Amend 1 Complaint by VERIZON NEW ENGLAND INC WITH INCORPORATED MEMO.Responses due by 10/13/2005. (Attachments: # 1 Exhibit A: Proposed First Amended Complaint)(PORADA, MARK) (Entered: 09/22/2005)
- 09/22/2005 28 MOTION for Preliminary Injunction by VERIZON NEW ENGLAND INC WITH INCORPORATED MEMO.Responses due by 10/13/2005. (PORADA, MARK) (Entered: 09/22/2005)
- 09/22/2005 29 AFFIDAVIT of Robert D. Meehan re 28 MOTION for Preliminary Injunction filed by VERIZON NEW ENGLAND INC. (Attachments: # 1 Exhibit A: PUC September 3, 2004 Order# 2 Exhibit B: PUC March 27, 2005 Order# 3 Exhibit C: PUC September 13, 2005 Order (part 1)# 4 Exhibit C: PUC September 13, 2005 Order (part 2)# 5 Exhibit C: PUC September 13, 2005 Order (part 3)# 6 Exhibit D: CLEC Letter)(PORADA, MARK) (Entered: 09/22/2005)