

ORIGINAL

Matilda Sanders

From: Fatool, Vicki [Vicki.Fatool@BellSouth.COM]
Sent: Friday, October 14, 2005 12:15 PM
To: Filings@psc.state.fl.us
Subject: 050194-TL BST's Objections and Motion for Protective Order in Response to Karla Kay Hightshoe's First Request for Production
Attachments: 050194-T.pdf; 050194-T.pdf

- A. Vicki Fatool
 Legal Secretary to Nancy B. White and Manuel Gurdian
 BellSouth Telecommunications, Inc.
 150 South Monroe Street
 Suite 400
 Tallahassee, Florida 32301
 (305) 347-5560
vicki.fatool@bellsouth.com
- B. Docket No. 050194-TL: Complaint by Florida BellSouth customers who paid fees to BellSouth Telecommunications, Inc. related to Miami-Dade County Ordinance Section 21-44 ("Manhole Ordinance") and request that Florida Public Service Commission order BellSouth to comply with Section A.2.4.6 of General Subscriber Service Tariff and refund all fees collected in violation thereof.
- C. BellSouth Telecommunications, Inc.
 on behalf of Nancy B. White, Sharon Liebman and Manuel Gurdian
- D. 5 pages total (including letter, certificate of service and pleading)
- E. BellSouth Telecommunications, Inc.'s Objections and Motion for Protective Order in Response to Karla Kay Hightshoe's First Request for Production
 .pdf version attached

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FPSC-COMMISSION CLEAR

MANUEL A. GURDIAN
Attorney

BellSouth Telecommunications, Inc.
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(305) 347-5561

October 14, 2005

Mrs. Blanca S. Bayó
Director, Commission Clerk and
Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 050194-TL: Complaint by Florida BellSouth customers who paid fees to BellSouth Telecommunications, Inc. related to Miami-Dade County Ordinance Section 21-44 ("Manhole Ordinance") and request that Florida Public Service Commission order BellSouth to comply with Section A.2.4.6 of General Subscriber Service Tariff and refund all fees collected in violation thereof.

Dear Ms. Bayó:

Enclosed is BellSouth Telecommunications, Inc.'s Objections and Motion for Protective Order in Response to Karla Kay Hightshoe's First Request for Production, which we ask that you file in the captioned docket.

Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely,



Manuel A. Gurdian

cc: All Parties of Record
Jerry D. Hendrix
R. Douglas Lackey
Nancy B. White

DOCUMENT NUMBER 050194-TL

09909 OCT 14 05

FPSC-COMMISSION

CERTIFICATE OF SERVICE
Docket No. 050194-TL

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via Electronic Mail, (*) and First Class U. S. Mail this 14th day of October, 2005 to the following:

Lee Fordham (*)
Kira Scott (*)
Staff Counsels
Florida Public Service
Commission
Division of Legal Services
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Manuel A. Gardian

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint by Florida BellSouth)	Docket No. 050194-TL
customers who paid fees to BellSouth)	
Telecommunications, Inc. related to Miami-)	
Dade County Ordinance Section 21-44)	
("Manhole Ordinance") and request that)	
Florida Public Service Commission order)	
BellSouth to comply with Section A.2.4.6 of)	
General Subscriber Service Tariff and refund)	
all fees collected in violation thereof.)	
<hr/>		Filed: October 14, 2005

**BELLSOUTH TELECOMMUNICATIONS, INC.'S OBJECTIONS
AND MOTION FOR PROTECTIVE ORDER IN REPOSE TO KARLA KAY
HIGHTSHOE'S FIRST REQUEST FOR PRODUCTION**

BellSouth Telecommunications, Inc. ("BellSouth"), pursuant to Rules 28-106.204 and 28.106.303, Florida Administrative Code, hereby files its objections to Karla Kay Hightshoe's ("Hightshoe"), an individual on behalf of herself and all others similarly situated, First Request for Production ("Request"), dated September 12, 2005, and further moves the Florida Public Service Commission ("Commission") to issue an order protecting BellSouth from the Request. In summary, Hightshoe appears through its Request to be seeking information with regard to the fee billed to Miami-Dade County customers to recover BellSouth's costs to comply with Miami-Dade County Ordinance §21-44, "Manholes; safety requirements; penalty." However, the Commission on July 25, 2005, in Order No. PSC-05-0762-PCO-TL, stayed the proceedings, holding that the "matter shall be held in abeyance while our staff investigates the history of Section A.2.4.6 of BellSouth Telecommunications, Inc.'s General Subscriber Service Tariff and related matters."

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In further support of its objections and motion for protective order, BellSouth states as follows:

1. On or about July 25, 2005, the Commission entered Order No. PSC-05-0762-PCO-TL ("Order") holding the instant matter in abeyance until the Commission Staff ("Staff") concluded its investigation of Section A.2.4.6 of BellSouth's *General Subscriber Service Tariff's* ("Tariff") history and related matters. Per the Order, upon conclusion of the investigation, Staff is required to bring the results of its investigation to a future Agenda Conference and a determination was to be made by the Commission at that time as to the most efficient way to proceed.

2. Staff is currently investigating the matter and has served two sets of discovery requests upon BellSouth.

3. On or about September 12, 2005, Hightshoe served her First Request for Production upon BellSouth.

4. Hightshoe's Request is clearly outside the scope of the Order permitting Staff to "investigate" the history of the Tariff and holding the matter in abeyance.

5. Moreover, BellSouth further objects to Request Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 13 and 14 on the basis that the requests are overbroad in time and scope, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence.

6. The Request is harassing, resource-wasting and inappropriate as this matter has been held in abeyance by the Commission.


7. Accordingly, as Hightshoe's Request is clearly outside the scope of activities permitted by the Order, the Commission should issue an order sustaining BellSouth's objections to the Request and otherwise protecting BellSouth from Hightshoe's inappropriate discovery effort.

8. Additionally, while BellSouth fully believes that the Commission can and should issue its order granting the instant Motion, if the Commission were inclined to deny BellSouth's Motion, then BellSouth requests a hearing or oral argument, at which BellSouth will appear for the purpose of defending itself and its interests against Hightshoe's inappropriate discovery request.


9. BellSouth has conferred with Hightshoe's counsel and Hightshoe refuses to withdraw her Request and objects to the Motion.

Respectfully submitted this 14th day of October, 2005.

BELLSOUTH TELECOMMUNICATIONS, INC.



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