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February 14, 2006
Via Hand Delivery

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COMMISSION
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Lisa Polak Edgar, Chairman
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

Re: Docket No. 041269-TP

Dear Chairman Edgar:

I represent Covad Communications Company (Covad). Covad requests that the Commission, *sua sponte*, withdraw all portions of the staff recommendation in the above docket that were the responsibility of Doris Moss, as well as those she discussed in her emails, assign new staff to those issues, and direct such staff to prepare an independent recommendation for the Commission's de novo consideration. Only by taking this action can Covad, and the other parties to this case, receive the fair and impartial consideration to which they are entitled under state and federal law.

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Pursuant to a meeting yesterday with the Commission's General Counsel, Rick Melson, Covad learned for the first time, that a former Commission employee, Doris Moss, was the subject of an investigation by the Commission Inspector General related to her inappropriate conduct in the above docket. The Inspector General concluded that Ms. Moss, a former BellSouth employee, sent unauthorized, anonymous e-mails to the Commissioners and to BellSouth, and attempted to influence other Commission Staff to prepare a recommendation on certain issues that would favor BellSouth's position. The Inspector General found that Ms. Moss' conduct violated state and Commission rules and Commission policy. It is my understanding that Ms. Moss resigned her position with the Commission last Thursday, but has continued her inappropriate behavior in support of BellSouth's position by continuing to send emails about this docket.

It is clear from the emails Ms. Moss sent, as well as Mr. Melson's explanation of the situation at yesterday's meeting, that Ms. Moss was biased in favor of BellSouth. Mr. Melson

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stated that, in his view, there had been no impact on the parties to this docket because Ms. Moss' communications to other Commission Staff were not followed. However, Mr. Melson failed to recognize or acknowledge that Ms. Moss had primary responsibility for Issues 5, 16, 17, and 18. In addition, Ms. Moss communicated about Issue 12 (commingling), an issue as to which the Staff recommendation was *not* adopted.

Of particular importance to Covad are Issues 16 and 17 relating to line sharing. The Staff recommendation on those issues (for which Ms. Moss was responsible) was adverse to Covad and in favor of BellSouth. Covad is justifiably concerned that the adverse recommendation on Issues 16 and 17 was fueled by Ms. Moss' bias in favor of BellSouth (Ms. Moss had no need to persuade others to her view on these issues, as she had responsibility for them). The Florida Commission is the only commission in the nation to rule in the manner it did with the information it had. The only two commissions to rule in a similar manner have both granted reconsideration based on the evidence presented to the Florida Commission. Ms. Moss' bias renders her opinion, as embodied in the staff recommendation, invalid and her views should not be considered by the Commission.

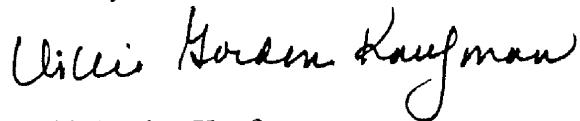
Covad was shocked to learn that apparently there is no Commission rule or policy that prohibits a former BellSouth employee from being assigned to and providing substantive, critical recommendations, upon which the Commission relies, about a matter in which BellSouth is involved. In addition, there is no rule or policy which would require the Commission to inquire as to whether such an employee is receiving retirement or other compensation from BellSouth. In this case, we know that Ms. Moss was a former BellSouth employee. It appears that the Commission does not know nor did it inquire as to whether Ms. Moss was receiving compensation from BellSouth related to her prior employment with them. In Covad's view, to ensure the impartiality and fairness of Commission proceedings, such inquiries must be performed as a routine matter. The fact that the Commission did not exercise such management oversight has resulted in a tainted recommendation that the Commission cannot rely upon and illustrates why such a policy is absolutely necessary.

It is Covad's position that to correct this clear unfairness to Covad, and the other parties, the Commission should follow the course of action described above. The burden should not be on Covad, or the parties, to attempt via reconsideration or some other means, to correct the bias of a Commission employee with responsibility for this docket.

All parties are entitled to fairness and impartiality before the Commission. This can be achieved in this case only by disregarding Ms. Moss' biased recommendation on those issues for which she had responsibility, as well as those in which she provided her unsolicited opinion, and assigning new and independent Staff to evaluate those issues and bring forth a truly independent recommendation for your consideration. We request that you immediately take such action.

Chairman Edgar
February 14, 2006
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Sincerely,



Vicki Gordon Kaufman

Cc: Governor Jeb Bush
Senator Lee Constantine
Commissioner Isilio Arriaga
Commissioner J. Terry Deason
Commissioner Matthew M. Carter II
Commissioner Katrina J. Tew
Richard D. Melson
Blanca Bayo
Patrick Wiggins
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