
MANUEL A. GURDIAN

Attorney
BellSouth Telecommunications, Inc.
150 South Monroe Street
Room 400
Tallahassee, Florida 32301
(305) 347-5561

February 14, 2006

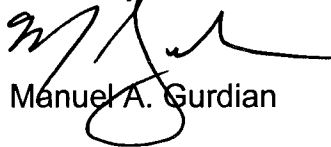
Mrs. Blanca S. Bayó
Division of the Commission Clerk and
Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

**Re: Docket No. 060049-TL: Petition of the Board of County Commissioners of
Broward County, Florida for Declaratory Statement**

Dear Ms. Bayó:

Enclosed is BellSouth Telecommunications, Inc.'s Answer to Broward County's
Petition for Declaratory Statement, which we ask that you file in the captioned docket.

Sincerely,



Manuel A. Gurdian

Enclosures

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

**CERTIFICATE OF SERVICE
DOCKET NO. 060049-TL**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via


(*) Federal Express, First Class U.S. Mail and Electronic Mail this 14th day of February,

2006 to the following:

Christiana Moore
Samatha Cibula
Staff Counsels
Florida Public Service
Commission
Division of Legal Services
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
Tel. No. (850) 413-6216
cmoore@psc.state.fl.us
scibula@psc.state.fl.us

Floyd Self (*)
Messer, Caparello & Self, P.A.
215 South Monroe Street, Ste. 701
Tallahassee, FL 32302
Tel. No. (850) 222-0720
Fax. No. (850) 224-4359
fself@lawfla.com
Counsel for Broward Cty.

Christine C. Lee, Esq. (*)
Assistant County Attorney
Office of the County Attorney
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, FL 33301
Tel. No. (954) 359-6164
Fax. No. (954) 359-1292



Manuel A. Gurdian

FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of the Board of County) Docket No. 060049-TL
Commissioners of Broward County,)
Florida for Declaratory Statement)
_____) Filed: February 14, 2006

ANSWER OF BELL SOUTH TELECOMMUNICATIONS, INC.

BellSouth Telecommunications, Inc. ("BellSouth") responds to the Petition for Declaratory Statement ("Petition") filed by Broward County, Florida ("the County") seeking a declaration regarding the applicability of BellSouth's tariff provisions to the rent and relocation obligations associated with a BellSouth equipment hut, known as the "Maxihut," located at the Fort Lauderdale-Hollywood International Airport ("Airport"), and states as follows:

1. BellSouth admits the allegations in paragraph 1 of the Petition, on information and belief.
2. The allegations in paragraph 2 of the Petition require no response from BellSouth. BellSouth affirmatively states that communications regarding BellSouth's Answer to this Petition should be directed to:

Nancy B. White
Manuel A. Gurdian
Sharon R. Liebman
c/o Nancy H. Sims
150 South Monroe Street
Suite 400
Tallahassee, Florida 32301
(305) 347-5558
nancy.white@bellsouth.com
manuel.gurdian@bellsouth.com
sharon.liebman@bellsouth.com

3. BellSouth admits that the County owns and operates the Airport, upon information and belief. BellSouth admits that some of the Airport's tenants receive service from BellSouth at multiple locations at the Airport. BellSouth is without knowledge as to whether the County has entered into numerous leases with the various entities listed in paragraph 3 or whether said entities conduct business on the grounds of the Airport and therefore BellSouth denies same. BellSouth is without knowledge as to whether there are 178 separate and direct tenants conducting business on the grounds of the Airport, and therefore BellSouth denies same. Except as specifically admitted, BellSouth denies the allegations contained in paragraph 3 of the Petition.

4. BellSouth admits that it and its predecessor, Southern Bell Telephone and Telegraph Company ("Southern Bell") provided and continue to provide telephone service to the County at the Airport. BellSouth is without knowledge as to whether it provided service to "178 business units and units of government" identified in paragraph 3 and therefore BellSouth denies same. BellSouth admits that it provides service to certain Airport tenants. BellSouth admits that billing for service is made by BellSouth directly to certain Airport tenants and payment is made by certain Airport tenants directly to BellSouth. BellSouth admits that the County is a customer of BellSouth and that the County receives service from BellSouth. BellSouth is without knowledge as to whether there are "179 BellSouth customers at the Airport receiving telephone service under its own service agreements" and therefore BellSouth denies same. BellSouth is without knowledge as to whether the County is a shared tenant

services provider at the Airport and therefore denies same. Except as specifically admitted, BellSouth denies the allegations contained in paragraph 4 of the Petition.

5. BellSouth denies that the County is in need of a declaration from the Commission. BellSouth affirmatively asserts that Part A2.3.9 and Part A5.2.2.F.1.e of BellSouth's General Subscriber Service Tariff ("GSST") are clear on their face and control the situation as posed by the County. BellSouth affirmatively asserts that Part A2.3.9 of the GSST provides that the subscriber is responsible, at his expense, for the provision of all suitable space and floor arrangements on his premises for communications facilities provided by the company in connection with services furnished to the subscriber by the company. BellSouth further affirmatively asserts that Part A5.2.2.F.1.e of the GSST provides that "[w]hen the Company is requested to move, change, rearrange or remove existing plant..., the person/company at whose request such move or change is made will be required to bear the costs incurred." Except as specifically admitted, BellSouth denies the allegations contained in paragraph 5 of the Petition.

6. BellSouth admits that on or about July 21, 1983, Southern Bell entered into a lease agreement with the County for 0.06 acres at the Airport and that the lease agreement attached to the Petition as Exhibit 1 speaks for itself. Except as specifically admitted, BellSouth denies the allegations contained in paragraph 6 of the Petition.

7. BellSouth admits that the letter dated July 15, 1983 from Southern Bell to the County attached to the Petition as Exhibit 2 speaks for itself. Except as specifically admitted, BellSouth denies the allegations contained in paragraph 7 of the Petition.

8. BellSouth admits that the lease agreement attached to the Petition as Exhibit 1 speaks for itself. Except as specifically admitted, BellSouth denies the allegations contained in paragraph 8 of the Petition.

9. BellSouth admits that the lease agreement attached to the Petition as Exhibit 1 speaks for itself. BellSouth admits that on or about January 18, 1993 it exercised a ten year option for the subject premises and that Exhibit 3 speaks for itself. Except as specifically admitted, BellSouth denies the allegations contained in paragraph 9 of the Petition.

10. BellSouth admits that in 2003 the parties engaged in discussions as to BellSouth's continued use of the property. BellSouth admits that on or about June 18, 2003, it forwarded a letter to the County which is attached as Exhibit 4 to the Petition and that Exhibit 4 speaks for itself. BellSouth admits that on or about August 19, 2003, the parties entered into the first amendment to the lease agreement and that a copy of Amendment No. 1 attached to the Petition as Exhibit 5 speaks for itself. Except as specifically admitted, BellSouth denies the allegations contained in paragraph 10 of the Petition.

11. BellSouth admits that on or about August 23, 2005, the parties entered into a second amendment to the lease agreement and that a copy of Amendment No. 2 attached to the Petition as Exhibit 6 speaks for itself. Except

as specifically admitted, BellSouth denies the allegations contained in paragraph 11 of the Petition.

12. BellSouth admits that the parties entered into a third amendment to the lease agreement and that a copy of Amendment No. 3 attached thereto as Exhibit 7 speaks for itself. Except as specifically admitted, BellSouth denies the allegations contained in paragraph 12 of the Petition.

13. BellSouth admits that the hut constructed by BellSouth on the Airport property houses switching equipment and is generally referred to as a "Maxihut." BellSouth admits that its network wiring enters the Airport and some of the network wiring is routed into the Maxihut. BellSouth admits that the equipment inside the Maxihut is distributed network switching and multiplexing equipment which multiplexes digital signals into individual circuits. BellSouth admits that individual circuits (copper wire or fiber optic cable) exit the Maxihut and are routed throughout the Airport to each BellSouth customer demarcation point. BellSouth affirmatively asserts that (a) the circuits are routed on cable that BellSouth has placed within space on Airport property that the County has provided to BellSouth rent free and which cable runs to buildings at the Airport where subscribers are located and (b) the County has provided to BellSouth various "interim" equipment space locations (before customer demarcation points) on Airport property, also rent free, where BellSouth places network equipment that, like the equipment in the Maxihut, is necessary to route and provide service, before the service ultimately reaches customer demarcation points.

14. BellSouth admits that its customer demarcation points are not inside the Maxihut.¹ BellSouth admits that the demarcation point is the point at which the BellSouth network officially terminates and the customer's wiring responsibilities begin. BellSouth admits that Rule 25-4.0345(3) speaks for itself. BellSouth admits that it is solely responsible for the maintenance and upkeep of all of the wiring that enters the Maxihut, all of the wiring that exits the Maxihut, and all of the equipment inside the Maxihut. Except as specifically admitted, BellSouth denies the allegations contained in paragraph 14 of the Petition.

15. BellSouth admits that Part A2.3.9 of the GSST speaks for itself. BellSouth admits that Part A2.3.9 of the GSST has been cited as the basis for the position that BellSouth is not required to pay rent for the Maxihut space. BellSouth affirmatively asserts that Richard Melson, General Counsel for the Commission, took this position in a December 9, 2003 letter, which is attached hereto as Exhibit 1. Mr. Melson's December 9, 2003 letter responded to a November 13, 2003 letter from Barbara M. Hill, Assistant County Attorney for Broward County, to the Commission, which is attached hereto as Exhibit 2, inquiring about the issues that are the subject of the County's Petition. Mr. Melson's December 9, 2003 letter concludes that, in the absence of a lease extension or new lease, BellSouth would have no legal obligation to pay rent after the lease agreement terminated, as Part A.2.3.9 of the GSST obliges a subscriber, such as the County as sponsor of the Airport, to provide suitable space required to provide services to the subscriber. Mr. Melson's letter states

¹ As stated in paragraph 39, *infra*, BellSouth denies the allegations in Paragraph 39 of the County's Petition that BellSouth has advanced an argument that the Maxihut is or contains the "demarcation point" for telephone service to Airport customers.

that: “BellSouth is not legally obligated to pay rent for “suitable space and floor arrangements” required in connection with BellSouth’s provision of services to the Airport (or its tenants).” BellSouth affirmatively asserts that the equipment in the Maxihut serves only subscribers at the Airport. BellSouth further affirmatively asserts that the County has provided to BellSouth various telephone closets and other equipment space on Airport property rent free and that such closets and other equipment space (like the Maxihut space) house BellSouth network equipment that serves the County as well as other subscribers at the Airport. Except as specifically admitted, BellSouth denies the allegations contained in paragraph 15 of the Petition.

16. BellSouth admits that the definition of “Subscriber” in Part A1 of the GSST speaks for itself. Except as specifically admitted, BellSouth denies the allegations contained in paragraph 16 of the Petition.

17. BellSouth admits that the definition of “Customer Premises” in Part A1 of the GSST speaks for itself. Except as specifically admitted, BellSouth denies the allegations contained in paragraph 17 of the Petition.

18. BellSouth admits that the definition of “Demarcation Point” in Part A1 of the GSST speaks for itself. It is admitted that Rule 25-4.0345(1), F.A.C. speaks for itself. Except as specifically admitted, BellSouth denies the allegations contained in paragraph 18 of the Petition.

19. BellSouth admits that the definition of demarcation point in Section A1 of the GSST speaks for itself. BellSouth admits that the demarcation point is the point at which the BellSouth network officially terminates and the customer’s

wiring responsibilities begin. BellSouth admits that the demarcation point for most of BellSouth's customers at the Airport, including Broward County, is a cross connect panel in a utility closet inside the customer's location or otherwise relatively close to the customer's telephone equipment. BellSouth affirmatively asserts that Section A2.3.9 of the GSST requires the subscriber to provide suitable space and floor arrangements on its premises for communications facilities provided by BellSouth. Except as specifically admitted, BellSouth denies the allegations contained in paragraph 19 of the Petition.

20. BellSouth admits that Section A2.3.9 of the GSST requires the subscriber to provide suitable space and floor arrangements on its premises for communications facilities provided by BellSouth. BellSouth admits that the County provides to BellSouth telephone closets on Airport property rent free and that the County agrees that relocation of the closets would be at the expense of the subscriber but denies that these closets, alone, fulfill the obligation to provide "suitable space and floor arrangements" and affirmatively states that the closets (and other equipment space on Airport property provided by the County to BellSouth rent free), like the Maxihut space, house BellSouth network equipment that serves the County as well as other subscribers at the Airport. BellSouth admits that a number of the subscribers at the Airport provide telephone closets inside the subscriber's location. BellSouth admits that telephone closets inside the subscriber's location are recognized as a type of space that is necessary for the placement of a telephone panel capable of receiving the incoming circuit. BellSouth affirmatively asserts that (a) while the telephone closets inside the

subscriber's location would, in most cases, be the location for the demarcation point for BellSouth's services, such closets are only one equipment space location that BellSouth requires for communications facilities to provide services to the subscriber, so they are not the only type of space necessary for BellSouth's communications facilities provided in connection with a subscriber's service and (b) the telephone closets throughout the Airport, provided by the County to BellSouth rent free and relocation of which the County acknowledges in paragraph 20 of its Petition would be at the subscriber's expense, like the Maxihut space, house network equipment that serves the County as well as other subscribers at the Airport and do not necessarily house demarcation points for BellSouth services, as would the telephone closets inside the subscriber's location. Thus, BellSouth affirmatively asserts that the County incorrectly seeks to distinguish, for purposes of the issues that are the subject of its Petition, the Maxihut space from the telephone closets throughout the Airport (provided by the County to BellSouth rent free and relocation of which the County acknowledges in paragraph 20 of its Petition would be at the subscriber's expense) that, like the Maxihut space, house network equipment that serves the County as well as other subscribers at the Airport. BellSouth admits that the referenced telephone closets are provided rent free to BellSouth and that relocation of them would be at the subscriber's expense. Except as specifically admitted, BellSouth denies the allegations contained in paragraph 20 of the Petition.

21. BellSouth affirmatively asserts that the Maxihut does not far exceed "suitable space and floor arrangements on the premises for communication

facilities provided by the Company in connection with services furnished to the subscriber.” BellSouth admits that it uses the Maxihut to provide service to individual subscribers, including the County and other subscribers at the Airport. BellSouth admits that the County is a subscriber at the Airport. BellSouth admits that a number of the Airport’s tenants are subscribers to BellSouth’s services at the Airport. BellSouth admits that the tenants at the Airport receive telephone service from BellSouth. BellSouth is without knowledge as to whether the lessees at the Airport receive telephone service from the County and therefore BellSouth denies same. Except as specifically admitted, BellSouth denies the allegations contained in paragraph 21 of the Petition.

22. BellSouth admits that the definitions of “subscriber” and “customer premises” contained in the GSST speak for themselves. Except as specifically admitted, BellSouth denies the allegations contained in paragraph 22 of the Petition.

23. BellSouth admits that it provides telephone service to the County and County tenants at the Airport. BellSouth admits that the definition for shared tenant services contained in the GSST speaks for itself. BellSouth admits that the County’s tenants at the Airport receive local telephone service from BellSouth. BellSouth is without knowledge as to whether the County is a shared tenant services provider at the Airport and therefore denies same. Except as specifically admitted, BellSouth denies the allegations contained in paragraph 23 of the Petition.

24. BellSouth admits that if a subscriber fails to make “suitable space and floor arrangements” for the demarcation point, the subscriber is not entitled to receive telephone service, but affirmatively asserts that the obligation to provide suitable space and floor arrangements applies to space for any communications facilities provided by BellSouth in connection with services furnished by BellSouth, not just to space for the demarcation point. BellSouth denies that because the Maxihut serves multiple unaffiliated customers, it is BellSouth’s duty to make the necessary arrangements for the placement of such network equipment at its expense. BellSouth affirmatively asserts that the County is one such customer served by the network equipment in the Maxihut and that the County provides telephone closets and other equipment space on Airport property to BellSouth rent free, that, like the Maxihut space, house BellSouth network equipment (and not necessarily demarcation points) that serve the County as well as other subscribers at the Airport. BellSouth affirmatively asserts that it is the County’s obligation to make space available for the placement of BellSouth’s equipment pursuant to the provisions of Part A2.3.9 of the GSST. Except as specifically admitted, BellSouth denies the allegations contained in paragraph 24 of the Petition.

25. BellSouth admits that on or about October 17, 2005, BellSouth provided Beth Keating, of the Commission’s General Counsel’s Office, a letter setting forth its position on the issues raised in this Petition. BellSouth’s letter to Beth Keating is attached hereto as Exhibit 3. BellSouth affirmatively asserts that its letter to Ms. Keating was sent in response to a letter sent from Floyd Self to

Mr. Richard Melson on or about September 7, 2005, which is attached hereto as Exhibit 4. The goal of Mr. Self's letter was to seek a change in the conclusions Mr. Melson reached in his December 9, 2003 letter (see Exhibit 1 attached hereto). BellSouth further affirmatively asserts that by a November 16, 2005 letter, a copy of which is attached hereto as Exhibit 5, Mr. Melson replied to Mr. Self's September 7, 2005 letter. BellSouth admits that it relies on Part A5.2.2.F.1.e of the GSST as a basis for the position that the County is obligated to pay for the relocation of the Maxihut at the Airport at the County's request and that said tariff speaks for itself. BellSouth affirmatively asserts that Mr. Melson took this position in a December 9, 2003 letter, which is attached hereto as Exhibit 1. Mr. Melson's December 9, 2003 letter opines that Part A5.2.2.F.1.e of the GSST supports the conclusion that where the County (as a sponsor of the Airport) requests relocation, the County must bear that cost of that relocation. While Mr. Melson's November 16, 2005 letter suggests that a party file a petition with the Commission for a formal Commission response on the issues that are the subject of the County's Petition, Mr. Melson states, as he did in his December 9, 2003 letter (see Exhibit 1), that he leans toward the conclusion that the Maxihut space must be provided rent free and that the County must bear the cost of relocation of the Maxihut at the County's request. Except as specifically admitted, BellSouth denies the allegations contained in paragraph 25 of the Petition.

26. BellSouth affirmatively asserts that Part A5.2.2.F.1.e of the GSST is applicable to the situation in this case. BellSouth admits that Part A5.2.2 of the

GSST speaks for itself. BellSouth affirmatively asserts that the County, a customer served by the equipment in the Maxihut, has requested a change in the location of the Maxihut, constituting a request for change or rearrangement of existing plant under Part A5.2.2.F.1.e of the GSST. Except as specifically admitted, BellSouth denies the allegations contained in paragraph 26 of the Petition.

27. BellSouth admits that the parties entered into a lease agreement for a specific term. BellSouth admits that the lease agreement speaks for itself. Except as specifically admitted, BellSouth denies the allegations contained in paragraph 27 of the Petition.

28. BellSouth admits that it has refused to pay to move the Maxihut and its associated network cables and equipment. BellSouth is without knowledge as to the remainder of the allegations contained in paragraph 28 and therefore denies same.

29. BellSouth admits that the lease agreement between the parties speaks for itself. Except as specifically admitted, BellSouth denies the allegations contained in paragraph 29 of the Petition.

30. BellSouth denies the allegations contained in paragraph 30 of the Petition.

31. BellSouth is without knowledge as to the allegations contained in paragraph 31 and therefore denies same. BellSouth affirmatively asserts that the County is providing telephone closets and other equipment space on Airport property to BellSouth rent free.

32. BellSouth admits that the Airport Improvement Act (49 U.S.C. §47107, et. seq.) and the FAA's Notice of Policies and Procedures Concerning the Use of Airport Revenue, 64 Fed. Reg. 7696 et. seq. (Feb. 16, 1999) speak for themselves. Except as specifically admitted, BellSouth denies the allegations contained in paragraph 32 of the Petition. BellSouth affirmatively asserts that the County is providing telephone closets and other equipment space on Airport property to BellSouth rent free.

33. BellSouth denies the allegations contained in paragraph 33 of the Petition.

34. BellSouth admits that Section 120.565(1), Florida Statutes speaks for itself. BellSouth admits that *BellSouth Telecommunications, Inc. v. Jacobs*, 834 So.2d 855, 859 (Fla. 2002) speaks for itself. BellSouth admits that Section 364.01(2), Florida Statutes speaks for itself. Except as specifically admitted, BellSouth denies the allegations contained in paragraph 34 of the Petition.

35. BellSouth denies the allegations contained in paragraph 35 of the Petition.

36. BellSouth admits that the provisions of its tariffs have been approved by the Commission and have the full force and effect of law. BellSouth admits that the Parts A1, A2.3.9, A5.2.2, A5.2.2.A.1, and A5.2.2.F.1.e of the GSST speak for themselves.

37. BellSouth denies the allegations contained in paragraph 37 of the Petition.

38. BellSouth admits that Amendment No. 1 to the original lease speaks for itself. BellSouth affirmatively asserts that it has not argued that its Maxihut facility is a customer demarcation point. Except as specifically admitted, BellSouth denies the allegations contained in paragraph 38 of the Petition.

39. BellSouth denies that it has advanced the argument that the switching facility is a “demarcation point” for its telephone service to the County or the Airport’s tenants. BellSouth affirmatively asserts that Part A2.3.9 of the GSST requires the subscriber to provide suitable space and floor arrangements on its premises for communications facilities provided by BellSouth. BellSouth affirmatively asserts that Part A2.3.9 refers to space arrangements for BellSouth’s communications facilities in connection with services furnished to the subscriber; it does not refer to, and is not limited to, space for BellSouth’s demarcation point for such services. Except as specifically admitted, BellSouth denies the allegations contained in paragraph 39 of the Petition.

40. BellSouth denies the allegations contained in paragraph 40 of the Petition.

41. BellSouth denies the allegations contained in paragraph 41 of the Petition and affirmatively states that the County is not entitled to any relief whatsoever.

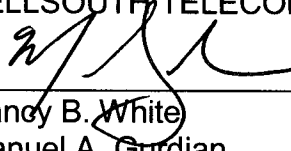
BellSouth denies each and every allegation in the Petition not expressly admitted herein, and demands strict proof thereof.

WHEREFORE, BellSouth respectfully requests that the Commission enter an Order:

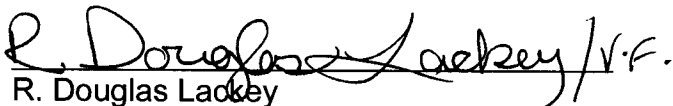
1. Declaring that (a) the County is responsible for any relocation costs incurred by BellSouth to relocate the Maxihut and its associated network cables and equipment at the County's request and (b) BellSouth is not required to pay rent for the use of the Maxihut space on Airport property;
2. Denying all of the relief sought in the County's Petition; and
3. Granting such further relief as the Commission deems fair and equitable.

Respectfully submitted this 14th day of February, 2006.

BELLSOUTH TELECOMMUNICATIONS, INC.



Nancy B. White
Manuel A. Gurdian
Sharon R. Liebman
c/o Nancy H. Sims
150 South Monroe Street, Suite 400
Tallahassee, Florida 32301
(305) 347-5558



R. Douglas Ladkey
BellSouth Center – Suite 4300
675 West Peachtree Street, N.E.
Atlanta, Georgia 30375
(404) 335-0747

621260