

ORIGINAL

**Matilda Sanders**

**From:** Fatool, Vicki [Vicki.Fatool@BellSouth.COM]  
**Sent:** Wednesday, July 19, 2006 3:40 PM  
**To:** Filings@psc.state.fl.us  
**Subject:** 050257-TP Response to Miami-Dade County's Motion to Strike BellSouth's Supplement to Preliminary Exhibit List  
**Importance:** High  
**Attachments:** Motion\_t.pdf

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RCA \_\_\_\_\_  
SCR \_\_\_\_\_  
SGA \_\_\_\_\_  
SEC 1  
OTH Kim P

A. Vicki Fatool  
Legal Secretary to James Meza III  
BellSouth Telecommunications, Inc.  
150 South Monroe Street  
Suite 400  
Tallahassee, Florida 32301  
(305) 347-5560  
[vicki.fatool@bellsouth.com](mailto:vicki.fatool@bellsouth.com)

B. Docket No. 050257-TP

Complaint by BellSouth Telecommunications, Inc., Regarding the Operation of a Telecommunications Company by Miami-Dade County in Violation of Florida Statutes and Commission Rules

C. BellSouth Telecommunications, Inc.  
on behalf of James Meza III

D. 7 pages total (includes letter, pleading and certificate of service)

E. BellSouth Telecommunications, Inc.'s Response to Miami-Dade County's Motion to Strike BellSouth's Supplement to Preliminary Exhibit List

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DOCUMENT NUMBER-DATE

06359 JUL 19 06

FPSC-COMMISSION CLERK

ORIGINAL

Legal Department

James Meza III  
General Counsel - Florida

BellSouth Telecommunications, Inc.  
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Room 400  
Tallahassee, Florida 32301  
(305) 347-5558

July 19, 2006

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

**Re: Docket No. 050257-TL: Complaint by BellSouth  
Telecommunications, Inc., Regarding the Operation of a  
Telecommunications Company by Miami-Dade County in Violation of  
Florida Statutes and Commission Rules**

Dear Ms. Bayó:

Enclosed is BellSouth Telecommunications, Inc.'s Response to Miami-Dade County's Motion to Strike BellSouth's Supplement to Preliminary Exhibit List, which we ask that you file in the captioned docket.

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

Sincerely,



James Meza III

cc: All Parties of Record  
Jerry D. Hendrix  
E. Earl Edenfield, Jr.

DOCUMENT NUMBER-DATE

06359 JUL 19 06

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint by BellSouth Tele-	)	
Communications, Inc., Regarding	)	
The Operation of a Telecommunications	)	DOCKET NO. 050257-TL
Company by Miami-Dade County in	)	
Violation of Florida Statutes and	)	
Commission Rules	)	

**BELLSOUTH TELECOMMUNICATIONS, INC.'S RESPONSE TO  
MIAMI-DADE COUNTY'S MOTION TO STRIKE  
BELLSOUTH TELECOMMUNICATIONS INC.'S  
SUPPLEMENT TO PRELIMINARY EXHIBIT LIST**

BellSouth Telecommunications, Inc. ("BellSouth"), by and through its undersigned counsel, hereby responds to Miami-Dade County's (the "County") Motion to Strike Bellsouth Telecommunications Inc.'s Supplement To Preliminary Exhibit List, served by the County on July 17, 2006.<sup>1</sup> In support thereof, BellSouth states as follows:

1. As a preliminary matter, the County's Motion to Strike BellSouth Telecommunications Inc.'s Supplement To Preliminary Exhibit List is premature. The Procedural Order in this matter provides that "[g]ood cause shall be required for a party to add exhibit(s) to the proposed final exhibit list that were not listed on the preliminary exhibit list except for exhibits identified and produced during the discovery." Order ¶ 4 (emphasis supplied). Aside from the fact that these documents were produced during the discovery period, since final exhibit lists have not been prepared or served under the Procedural Order, the County's motion to strike the exhibits from this proceeding is

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<sup>1</sup> BellSouth has also served a Second Supplement to Preliminary Exhibit List ("Second Supplement") on July 17, 2006. To the extent the County files a similar motion to strike the Second Supplement, BellSouth requests that the Commission treat this submission as an omnibus response to both motions.

premature and has no merit. Indeed, as more fully explained below, the provision of BellSouth's supplement to the Preliminary Exhibit List was a showing of good faith towards the County, allowing the County to be on notice that BellSouth intends to utilize these documents in the proceeding and thereby provide the County with as much time as possible to address these documents in discovery should it so choose. Of course, had the County attempted to discuss this issue with BellSouth prior to filing its motion, the County would have understood that BellSouth was attempting to accommodate the County and address these issues in good faith. Since the County once again has refused to reasonably address ongoing issues with BellSouth in this proceeding, BellSouth is constrained to file this response and utilize the time of the Staff and Hearing Officer.

2. Notwithstanding the procedural posture of this matter, BellSouth states and explains herein that "good cause" does exist for the listing and use of all documents identified and produced in both its initial and second supplements to the Preliminary Exhibit List.

3. As it relates to the Initial Supplement dated July 14, 2006, the majority of the fifteen (15) documents listed thereon were just recently received by BellSouth from the Public Service Commission. By way of additional background, the County and the Greater Orlando Aviation Authority ("GOAA") listed various documents on their Preliminary Exhibit Lists that pertain to the history of Rule 25-24.580, F.A.C. (the "Airport Exemption"). Specifically, the County and GOAA produced documents referring to Dockets Nos. 860455-TL and 931033-TL. Once BellSouth received these documents and reviewed same, it became clear that the County and GOAA were not presenting a

full and complete history of the Commission's handling of the Airport Exemption. Indeed, the County and GOAA neglected to produce documents from Docket No. 891297-TS, Proposed Rules 25-24.550 through 25-24.587, F.A.C., Relating to Shared Tenant Service (STS) Providers, which contains, *inter alia*, a crucial hearing codifying the Airport Exemption.<sup>2</sup> Accordingly, BellSouth requested these documents from the Public Service Commission and received copies of same in July, 2006, after the submission of its Preliminary Exhibit List. See Exhibits 184 -193. Given that these documents are needed to ensure a fair and accurate presentation of the history of the Airport Exemption and that BellSouth just recently received these documents, good cause exists to add these documents to BellSouth's forthcoming final exhibit list.

4. The remaining five (5) items produced by BellSouth in its initial supplement are newspaper articles illuminating the substantial success of the shopping mall and stores now located within the Miami International Airport ("MIA"). Indeed, these articles document that MIA is recognized for its shopping and retail facilities and is nationally ranked for customer shopping satisfaction. See Exhibits 179 -183. Since these articles highlight the nature and extent of the shopping opportunities and businesses at MIA, this information is relevant for the Commission's decision as to whether the County's provision of telecommunications services to these clients falls within the Airport Exemption. Thus, good cause exists to allow BellSouth to utilize this information as part of its final exhibit list. In addition, the majority of these articles were

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<sup>2</sup> The County and GOAA also neglected to produce documents regarding Docket No. 910867, Proposed Amendment of Rule 25-24.580, F.A.C., Airport Exemption, in which both parties participated. BellSouth reserves its right to add these documents by way of a supplement to the preliminary exhibit list or to its proposed final exhibit list. BellSouth has already requested these documents from the Public Service Commission for this purpose.

just recently published and therefore not available to BellSouth at the time the Preliminary Exhibit List was served.

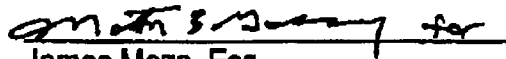
5. As to BellSouth's second supplement, see supra footnote 1, this supplement contains one composite exhibit of several emails by and between the County's predecessor STS provider, Nextira, and the Public Service Commission Staff (Mr. Rick Moses). These emails specifically document the Staff's concern in 2000 that Nextira needed certification as an STS provider and reveal Nextira's attempt to avoid the issue, much like the County did in its communications with the Commission Staff a year later in 2001 just before the County purchased the assets of Nextira and became the STS provider. These documents were also just recently produced to the County by Nextira, as part of the ongoing discovery process in BellSouth v. Miami-Dade County, CASE NO. 02-28688 CA (03). Given that the emails are directly relevant to the issues in this proceeding and that BellSouth obtained the documents after the filing of its Preliminary Exhibit List, BellSouth has good cause to include and utilize these documents in this proceeding.

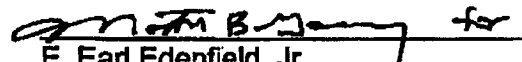
6. Alternatively, to the extent the Commission grants BellSouth's concurrently filed motion for extension of the discovery period in this matter, the Commission could deny the County's Motion to Strike as moot, given that the County would be completely able to address and respond to any documents contained within BellSouth's supplements and not suffer any prejudice in this proceeding. In other words, these documents could be properly considered as part of BellSouth's preliminary exhibit list under the Procedural Order.

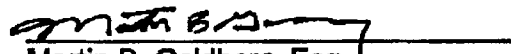
7. In conclusion and based on the foregoing, BellSouth respectfully requests that the County's motion to strike be denied or, alternatively, be deemed moot, and that the Commission grant BellSouth any other relief deemed necessary under the circumstances.

Respectfully submitted:

**BELLSOUTH TELECOMMUNICATIONS, INC.**

  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was mailed  
this 19 day of July 2006, to:

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