

**Matilda Sanders**

**ORIGINAL**

**From:** Fatool, Vicki [Vicki.Woods@bellsouth.com]  
**Sent:** Wednesday, November 01, 2006 3:20 PM  
**To:** Filings@psc.state.fl.us  
**Subject:** 060640-TP BellSouth Telecommunications, Inc.'s Motion to Strike  
**Attachments:** 060640-T.pdf

CMP \_\_\_\_\_  
 COM \_\_\_\_\_  
 CTR \_\_\_\_\_  
 ECR \_\_\_\_\_  
 GCL \_\_\_\_\_  
 OPC \_\_\_\_\_  
 RCA \_\_\_\_\_  
 SCR \_\_\_\_\_  
 SGA \_\_\_\_\_  
 SEC 1  
 OTH 1 *imp?*

A. Vickie (Fatool) Woods  
 Legal Secretary to James Meza III and Manuel Gurdian  
 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. 060640-TP: Petition to investigate, claim for damages, complaint, and

other statements against respondents Evercom Systems, Inc. d/b/a Correctional Billing Services and BellSouth Corporation, by Bessie Russ

C. BellSouth Telecommunications, Inc.  
 on behalf of Manuel A. Gurdian

D. 5 pages total (including letter, certificate of service and pleading)

E. BellSouth Telecommunications, Inc.'s Motion to Strike

.pdf version attached

<<060640-T.pdf>>

\*\*\*\*\*

The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential, proprietary, and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and delete the material from all computers. GA623

11/1/2006

DOCUMENT NUMBER-DATE

10091 NOV-1 8

FPSC-COMMISSION CLERK

Manuel A. Gurdian  
Attorney

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

ORIGINAL

November 1, 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.: 060640-TP  
Petition to investigate, claim for damages, complaint, and  
other statements against respondents Evercom Systems, Inc.  
d/b/a Correctional Billing Services and BellSouth Corporation,  
by Bessie Russ**

Dear Ms. Bayó:

Enclosed is an original and fifteen copies of BellSouth  
Telecommunications, Inc.'s Motion to Strike, which we ask that you file in the  
captioned docket.

A copy of this letter is enclosed. Please mark it to indicate that the original  
was filed and return the copy to me. 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  
E. Earl Edenfield, Jr.  
James Meza III

DOCUMENT NUMBER-DATE

10091 NOV-1 8

FPSC-COMMISSION CLERK,

**CERTIFICATE OF SERVICE**  
**Docket No. 060640-TP**

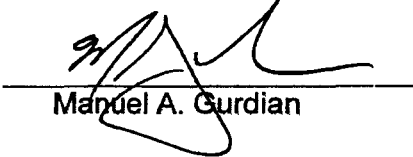
I HEREBY CERTIFY that a true and correct copy of the foregoing was served via

(\*) **Electronic Mail** and First Class U. S. Mail this 1st day of November, 2006 to the following:

Felicia West (\*)  
Staff Counsel  
Florida Public Service  
Commission  
Division of Legal Services  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850  
[fbanks@psc.state.fl.us](mailto:fbanks@psc.state.fl.us)

Bessie Russ  
745 Orange Street  
Chipley, FL 32428  
Tel. No. (850) 638-9695

Correctional Billing Services  
Mr. Curtis Hopfinger (\*)  
14651 Dallas Parkway, 6<sup>th</sup> Floor  
Dallas, TX 75254-7476  
Tel. No. (972) 277-0319  
Fax. No. (972) 277-0416  
[chopfinger@securustech.net](mailto:chopfinger@securustech.net)

  
\_\_\_\_\_  
Manuel A. Gurdian

FLORIDA PUBLIC SERVICE COMMISSION

Petition to investigate, claim for damages, )	Docket No. 060640-TP
complaint, and other statements against )	
respondents Evercom Systems, Inc. d/b/a )	
Correctional Billing Services and BellSouth )	
Corporation, by Bessie Russ )	
_____ )	November 1, 2006

**BELLSOUTH TELECOMMUNICATIONS, INC.'S MOTION TO STRIKE**

BellSouth Telecommunications, Inc. respectfully submits this Motion to Strike certain portions of Bessie Russ' ("Petitioner") "Response to Respondents BellSouth's Partial Motion to Dismiss and Answer" ("Response"), and, in support states:

1. On October 17, 2006, BellSouth filed its Partial Motion to Dismiss and Answer to Petitioner's Petition to Investigate, Claim for Damages, Complaint and Other Statements.

2. On October 17, 2006, BellSouth filed its Response in Opposition to Petitioner's Sworn Motion for Order Granting Access to Emails.

3. On October 20, 2006, Petitioner filed her Response to BellSouth's Partial Motion to Dismiss and Answer.

4. To the extent Petitioner's Response responds to BellSouth's Motion to Dismiss, the instant Motion to Strike does not encompass same. However, portions of Petitioner's Response constitute an unauthorized reply to BellSouth's Answer and its Response in Opposition to Petitioner's Sworn Motion for Order Granting Access to Emails. Specifically, the allegations contained in paragraphs 11 and 17 of Petitioner's Response are improper.

5. The rules provide that once a motion is filed, a party can file an opposition within seven days of service. Rule 28-106.204, Florida Administrative Code. The rule

DOCUMENT NUMBER-DATE

10091 NOV-18

FPSC-COMMISSION CLERK

does not expressly authorize reply memorandums. See *In re: Complaint of Supra Telecommunications and Information Systems, Inc. against BellSouth Telecommunications, Inc. for violations of the Telecommunications Act of 1996*, Order No. PSC-00-1777-PCO-TP, Docket No. 980119-TP (Sept. 28, 2000) at 3 (“neither the Uniform Rules nor [the Commission’s] rules contemplate a reply to a response to a Motion.”); *In re: Petition for approval to revise customer contact protocol by BellSouth Telecommunications, Inc.*, Order No. PSC-04-0636-FOF-TL, Docket No. 031038-TL (July 1, 2004) at 4 (“the Uniform Rules of the Administrative Procedure Act do not expressly authorize replies.”); *In re: Investigation into the establishment of operations support systems permanent performance measures for incumbent local exchange telecommunications companies*, Order No. PSC-04-0511-PAA-TP, Docket No. 000121A-TP (May 19, 2004) at 2 (“we do not have rules which allow for a Reply to a Response”); and *In re: Implementation of requirements arising from Federal Communications Commission’s triennial UNE review: Local Circuit Switching for Mass Market Customers*, PSC-04-0343-FOF-TP, Docket No. 030851-TP (April 2, 2004) at 2 (“our rules do not contemplate any pleadings filed in reply to a response to a motion”).

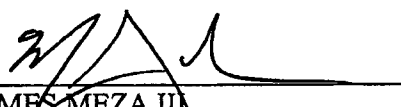
6. Because reply memoranda are not expressly authorized, a party must seek leave before filing a reply. However, the Commission generally refuses to allow parties to file reply memoranda, even when leave is sought. See *id.*; see also, *In re: ITC—DeltaCom Communications, Inc.*, Order No. PSC-00-2233-FOF-TP, Docket No. 990750-TP, (Nov. 22, 2000) at 2; *In re: Okeechobee Generating Co., L.L.C.*, Order No. PSC-99-2438-PAA-EU, Docket No. 991462-EU, (Dec. 13, 1999) at 4-5.

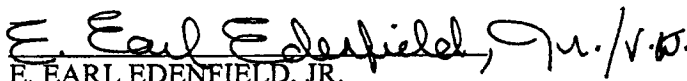
7. Petitioner has neither sought nor received permission to file a reply to BellSouth's Answer or its Response in Opposition to Petitioner's Sworn Motion for Order Granting Access to Emails. Petitioner has provided no reason whatsoever for this Commission to deviate from its general rule that reply memoranda are not permissible and no such justification exists here.

WHEREFORE, based upon the foregoing, BellSouth respectfully requests that the Commission enter an Order striking paragraphs 11 through 17 of Petitioner's "Response to Respondents BellSouth's Partial Motion to Dismiss and Answer."

Respectfully submitted this 1st day of November, 2006.

BELLSOUTH TELECOMMUNICATIONS, INC.

  
\_\_\_\_\_  
JAMES MEZA III  
MANUEL A. GURDIAN  
c/o Nancy H. Sims  
150 So. Monroe Street, Suite 400  
Tallahassee, FL 32301  
(305) 347-5558

  
\_\_\_\_\_  
E. EARL EDENFIELD, JR.  
Suite 4300  
675 W. Peachtree St., NE  
Atlanta, GA 30375  
(404) 335-0763