

VOTE SHEET

November 21, 2006

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. (Deferred from October 24, 2006 conference; revised recommendation filed.)

**Issue 1:** Should the Commission accept the Petitioners' untimely filed Protest of Proposed Agency Action Order PSC-06-0685-PAA-TL?

**Recommendation:** No. The Commission should deny the Petitioners' Protest on the basis that it is untimely, because the doctrine of equitable tolling does not apply. Moreover, the Protest does not substantially comply with Rule 28-106.201(2)(b), Florida Administrative Code. Therefore, staff recommends that this matter not be set for an administrative hearing and that Proposed Agency Action Order PSC-06-0685-PAA-TL be made final and effective.

**APPROVED**

COMMISSIONERS ASSIGNED: All Commissioners

COMMISSIONERS' SIGNATURES

MAJORITY

DISSENTING

*Katrina J. I...*  
*T. J. S...*  
*John E. G...*  
*J. Terry D...*  
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REMARKS/DISSENTING COMMENTS:

DOCUMENT NUMBER-DATE

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**Issue 2:** Should this docket be closed?

**Recommendation:** Yes. If the Commission approves staff's recommendation in Issue 1, there is no further action for the Commission to take. Therefore, this docket may be closed. Furthermore, Proposed Agency Action Order No. PSC-06-0685-PAA-TL should be made final and effective. If the Commission denies staff's recommendation in Issue 1, then this matter should be set for an administrative hearing.

**APPROVED**