

Matilda Sanders

From: Slaughter, Brenda [Brenda.Slaughter@BellSouth.COM]
Sent: Friday, December 01, 2006 11:34 AM
To: Filings@psc.state.fl.us
Cc: Woods, Vickie; Holland, Robyn P; Shore, Andrew; Randa, Johna A
Subject: Docket 060732-TL
Attachments: 060732-TL BST Response to Lennar Complaint.pdf; 060732-TL BST Response to Lennar Homes complaint.DOC

ORIGINAL

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B. Docket No.: 060732-TL – Complaint of Lennar Homes, Inc. Against BellSouth Telecommunications, Inc. for Failure to Provide Services in Accordance with Section 364.025(1), Florida Statutes

CMP 1
 COM _____
 CTR _____
 ECR _____
 GCL 1
 OPC _____
 RCA _____
 SCR _____
 SGA _____
 SEC 1

C. BellSouth Telecommunications, Inc.
 on behalf of Andrew D. Shore

D. 8 pages total (including letter, certificate of service, and pleading) – PDF
 6 pages (pleading) – WORD in lieu of disk

E. BellSouth Telecommunications, Inc.'s Response to Complaint of Lennar Homes, Inc. Complaint

<<060732-TL BST Response to Lennar Complaint.pdf>> <<060732-TL BST Response to Lennar Homes complaint.DOC>>

OTH

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DOCUMENT NUMBER-DATE
 11057 DEC-1 06
 FPSC-COMMISSION CLERK

Andrew D. Shore
Senior Attorney

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ORIGINAL

December 1, 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

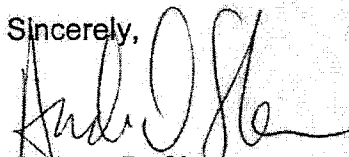
Re: Docket No.: 060732-TL
**In the Matter of: Complaint of Lennar Homes, Inc. Against
BellSouth Telecommunications, Inc. for Failure to Provide Services
In Accordance with Section 364.025(1), Florida Statutes.**

Dear Ms. Bayo:

Enclosed is BellSouth's Response to Lennar Homes, Inc.'s Complaint, which we ask that you file in the captioned docket.

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

Sincerely,



Andrew D. Shore

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

DOCUMENT NUMBER - DATE

11057 DEC-1 06

FPSC-COMMISSION CLERK


CERTIFICATE OF SERVICE
Docket No. 060732-TL

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via
Electronic Mail and U.S. Mail this 1st day of December, 2006 to the following:

Patrick Wiggins
Staff Counsel
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Commission
Division of Legal Services
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Andrew D. Shore

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of Lennar Homes, Inc.)
Against BellSouth Telecommunications, Inc.)
_____)

Docket No. 060732-TL

Filed: December 1, 2006

BELLSOUTH'S RESPONSE TO LENNAR HOMES, INC.'S COMPLAINT

BellSouth Telecommunications, Inc. ("BellSouth"), by and through its undersigned counsel and pursuant to Rule 28-106.203, Florida Administrative Code, hereby responds to the complaint filed by Lennar Homes, Inc. ("Lennar"), and states as follows:

AFFIRMATIVE DEFENSE (Lack of Standing)

The basis for Lennar's complaint is BellSouth's alleged "failure to provide service." Lennar has not requested that BellSouth provide any services to Lennar. Lennar thus lacks standing to bring its complaint.

BellSouth denies the allegations in the introduction to Lennar's complaint. BellSouth responds to the remainder of the complaint below. The vast majority of the complaint does not contain factual allegations that BellSouth can admit or deny and which require determinations by the Commission. Rather, most of the complaint contains legal arguments that are not properly part of a complaint. BellSouth will respond to the few factual allegations and save its legal arguments for its brief and/or other appropriate stage of this proceeding.

SPECIFIC ALLEGATIONS

Responding to the specific allegations in the complaint, BellSouth alleges and says that:

1. BellSouth admits the allegation in paragraph 1 on information and belief.
2. BellSouth admits the allegation in paragraph 2 on information and belief.

3. Paragraph 3 of Lennar's complaint does not set forth any allegations and, accordingly, no response is required.

4. Paragraph 4 of Lennar's complaint does not set forth any allegations and, accordingly, no response is required.

5. BellSouth admits the allegations in paragraph 5 of the complaint except for the allegation regarding service of process upon BellSouth.

JURISDICTION

6. BellSouth denies the allegations in paragraph 6 of the complaint.

FACTUAL ALLEGATIONS

7. BellSouth admits on information and belief that Lennar is building homes in a subdivision known as "Echo Lake." The allegations in paragraph 7 regarding certain legal definitions are conclusions of law to which no response is required. Except as specifically admitted, BellSouth denies the allegations in paragraph 7 of the complaint.

8. BellSouth admits on information and belief that Lennar is marketing and developing the Copper Creek and Madeira Isles subdivisions. The allegations in paragraph 8 regarding certain legal definitions are conclusions of law to which no response is required. Except as specifically admitted, BellSouth denies the allegations in paragraph 8 of the complaint.

9. BellSouth is without sufficient information to form a belief regarding the allegations in paragraph 9 of the complaint and, accordingly, denies them.

10. BellSouth admits that Lennar representatives discussed with BellSouth representatives the installation of BellSouth facilities to provide services at the Echo

Lake development. Except as specifically admitted, BellSouth denies the allegations in paragraph 10 of the complaint.

11. BellSouth admits that Ms. Ball from BellSouth sent a letter to Lennar's Mr. Earle.

12. BellSouth admits that paragraph 12 of the complaint quotes a portion of the letter attached as Exhibit 1 to the complaint and adds emphasis to certain words that are not underlined in the original letter. BellSouth denies that the letter contains a "troubling request."

13. BellSouth admits that paragraph 13 of the complaint quotes a portion of the letter attached as Exhibit 1 to the complaint and adds emphasis to certain words that are not underlined in the original letter.

14. BellSouth admits that the allegations in paragraph 14 describe statements in the letter attached as Exhibit 1 to the complaint.

15. BellSouth admits that Ms. Ball requested that Lennar sign the letter attached as Exhibit 1 to the complaint and return it to BellSouth by October 3, 2006.

16. BellSouth admits that it has sent similar letters to other developers in Florida. BellSouth further states that developers have signed such letter agreements with BellSouth.

LEGAL ARGUMENTS

17. Paragraph 17 of the complaint quotes a portion of Florida statute. No response is required.

18. Paragraph 18 of the complaint quotes a portion of Florida statute. No response is required.

19. BellSouth admits that Senate Bill 142 included additions to Section 364.025, Florida Statutes, including the four carrier of last resort exceptions set forth in paragraph 19. To the extent the allegations in paragraph 19 purport to allege conclusions of law, no response is required.

20. Paragraph 20 of the complaint contains conclusion of law to which no response is required. BellSouth admits, however, that the allegations accurately quote a portion of the cited statute.

21. Paragraph 21 alleges legal definitions and, accordingly, no response is required. BellSouth admits, however, that Lennar accurately quotes a portion of the cited statute.

22. The allegations in paragraph 22 purport to state conclusion of law and, accordingly, no response is required.

23. BellSouth admits that it has not filed a waiver petition regarding the Echo Lake development. The remaining allegations in paragraph 23 purport to state conclusions of law and, accordingly, no response is required.

24. BellSouth denies the allegations in paragraph 24 and in the footnote to paragraph 24. To the extent the allegations in paragraph 24 purport to state conclusions of law, no response is required.

25. The allegations in paragraph 25 contain conclusion of law and legal argument and, accordingly, no response is required.

26. BellSouth admits that Exhibit 4 to the complaint is a small portion of the legislative history of Senate Bill 142. The remaining allegations in paragraph 26 are legal argument and/or conjecture and do not require a response. Except as specifically admitted, BellSouth denies the allegations in paragraph 26 of the complaint.

27. The allegations in paragraph 27 are legal argument and/or conjecture and do not require a response.

28. The allegations in paragraph 28 are legal argument and/or conjecture and do not require a response.

29. The allegations in paragraph 29 are legal argument and/or conjecture and do not require a response.

30. BellSouth denies that it is attempting to use the new portion of the carrier of last resort statute in any improper way. BellSouth further states that it has not acted illegally or improperly with regard to the 360 Condominiums, which Lennar, after attempting to smear BellSouth, concedes has nothing to do with its complaint.

31. BellSouth denies the allegations in paragraph 31 of the complaint.

32. BellSouth denies that it has denied service to any end user in Echo Lake. The remaining allegations in this paragraph are legal argument and no response is required.

33. BellSouth denies the allegations in paragraph 33 of the complaint.

34. BellSouth does not have sufficient information to admit or deny the allegations in paragraph 34 of the complaint and, accordingly, denies the allegations.

35. BellSouth denies the allegations in paragraph 35 of the complaint.

CONCLUSION

Lennar is not entitled to any of the relief requested. Indeed, it does not even have standing to pursue its claims.

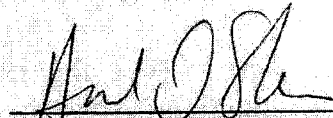
WHEREFORE, BellSouth respectfully requests that the Commission enter an Order denying Lennar the relief it seeks and dismissing Lennar's complaint, and granting BellSouth such other relief as the Commission deems just and proper.

Respectfully submitted this 1st day of December, 2006.

BELLSOUTH TELECOMMUNICATIONS, INC.



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