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08-30-96
THE COPY

August 30, 1996

Ms. Blanca S. Bayó
Director, Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Betty Easley Conference Center, Rm. 110
Tallahassee, Florida 32399-0850

Re: **Docket No. 960786-TL -**
Section 271 InterLATA Services

Dear Mrs. Bayó:

Enclosed please find an original and fifteen copies of BellSouth Telecommunications, Inc.'s Response in Opposition to FIXCA's Motion to Compel, 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 yours,

J. Phillip Carver (AW)
J. Phillip Carver

Enclosures

cc: All Parties of Record
R. G. Beatty
A. M. Lombardo
R. Douglas Lackey

- ACK _____
- AFA _____
- APP _____
- CAF _____
- GMU Green _____
- CTR _____
- EAG _____
- LEG 1 _____
- LIN 5 _____
- OPC _____
- ROH _____
- SEC 1 _____
- WAS _____
- OTI _____

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DOCUMENT NUMBER-DATE
09240 AUG 30 96
FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Consideration of)
BellSouth Telecommunications,)
Inc.'s entry into interLATA)
services pursuant to Section 271)
of the Federal)
Telecommunications Act of 1996.)

Docket No. 960786-TL

Filed: August 30, 1996

**BELLSOUTH TELECOMMUNICATIONS, INC.'S
RESPONSE IN OPPOSITION TO FIXCA'S MOTION TO COMPEL**

BELLSOUTH TELECOMMUNICATIONS, INC., ("BellSouth" or "Company") hereby files, pursuant to Rule 25-22.037(b), Florida Administrative Code, its Response in Opposition to FIXCA's Motion to Compel (First and Second Sets of Interrogatories; First Request to Produce) and states as grounds in support thereof, the following:

1. Two problems recur throughout the discovery to which FIXCA now attempts to compel better answers. One, FIXCA is attempting to determine BellSouth's position in a proceeding that has not truly begun, i.e., BellSouth has not filed a Petition seeking relief pursuant to Section 271. Consequently, BellSouth has no position yet on many of the issues about which FIXCA has inquired. Inexplicably, FIXCA does not appear to think "We don't know" is a suitable answer. Therefore, in many instances FIXCA has moved to compel BellSouth to provide information that simply does not exist. Second, FIXCA has engaged in a continuing practice of asking questions that differ substantially from what it apparently wishes to ask, then complaining when BellSouth responds to the actual questions propounded to it.

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2. More specifically, BellSouth responds to the various portions of FIXCA's Motion to Compel as follows:

3. Interrogatory Nos. 1, 2, 3, 5 and 14 and Request to Produce No 4: As stated by FIXCA in its Motion to Compel, Interrogatory No. 1 states the question upon which the other above-referenced interrogatories are based. In this interrogatory, FIXCA requests that BellSouth state whether it intends to assert that it has met the requirements of Section 271 (c)(1)(A), and, if so, to identify the agreement on which BellSouth intends to rely. BellSouth's straightforward answer was that "as of today, the Commission has not approved an agreement which BellSouth believes meets all the requirements of Section 271(c)(1)(a)." On page 3 of its Motion to Compel, FIXCA tortures the language of this simple response to extract several possible alternative interpretations of what this response might mean. FIXCA then contends that it needs clarification. In point of fact, the response is much simpler than FIXCA would have one to believe. The response simply means that, as of today, BellSouth has not made the determination that any agreement, approved or otherwise, meets the requirements of 271. Therefore, BellSouth cannot say upon what it intends to rely at some future date.

4. Interrogatory No. 4: This interrogatory presents a classic example of FIXCA asking a question, then complaining because BellSouth answered that question rather than some different, unrelated question. FIXCA asked BellSouth to describe any operational measures that have been "taken specifically to

implement the competitive check list of section 271(c)(2)(b)". BellSouth responded by saying that it has not taken any measures specifically to meet these requirements, and that any operational measures that have been taken are designed to meet the requests of "specific parties identified during negotiations." FIXCA now claims that what it really wanted was a detailed listing of every operational measure that BellSouth has taken as a result of any agreement that has been negotiated or which is in the process of being negotiated. If FIXCA had asked this question to begin with, BellSouth would have objected. In effect, FIXCA's "new" interrogatory seeks every operational measure that BellSouth has taken to implement every one of the agreements with interconnectors in Florida, every partial agreement with interconnectors, and, presumably, everything to which BellSouth has agreed in negotiations that are ongoing but not completed. This request is overbroad, burdensome and does not seek relevant information. Nevertheless, the fact remains that this is not what FIXCA asked, and BellSouth has responded adequately and completely to the question FIXCA did ask.

5. Interrogatory Items 6, 7 and 8: In these interrogatories FIXCA requests that BellSouth provide information summarized on a LATA by LATA basis. BellSouth does not keep the information in this form. Therefore, BellSouth provided to FIXCA the information it sought on an exchange by exchange basis for the entire state of Florida. In other words, BellSouth provided a substantial quantity of information that was more detailed than FIXCA requested and

which went far beyond the original question. FIXCA now apparently complains because BellSouth has not taken the information and performed the task of summarizing it LATA by LATA before providing it to FIXCA. Again, BellSouth does not maintain the information on this basis, and the information has been provided fully to FIXCA. If FIXCA wants this information to be summarized by LATA, it now has at its disposal everything it needs to do this.

6. Interrogatory 34(b): FIXCA has requested information broken down on a competitor by competitor basis. BellSouth does not currently have the information in this form. A software program is being developed that would allow the information to be derived in this manner, but it has not yet been completed. BellSouth submits that this supports its response that this information is "not readily available", and it should not be compelled to supply an analysis of requests that it has not yet done.

7. Interrogatory No. 15 and 16: To the extent interconnectors have made requests that BellSouth has been able to satisfy, these requests are embodied in the various interconnection agreements. FIXCA now requests that BellSouth provide it a detailed description of every request that has ever been made by anyone under any circumstances with which BellSouth could not comply for technical reasons. This simply is not possible. As FIXCA well knows, negotiations are an ongoing process in which parties' positions change constantly. FIXCA is apparently asking that BellSouth go back through every negotiation with every party

(many of whom are FIXCA members or affiliated with members of FIXCA) and detail everything that any party has requested that they did not get from BellSouth. This request is not just incredibly overbroad and burdensome, it is impossible. Records are simply not kept in negotiations in a detailed fashion that would allow BellSouth to state every request of every party at every point throughout all of the negotiations. Once again, FIXCA's original interrogatory has been adequately answered. FIXCA now attempts to convert this interrogatory into a request for more detailed information that simply cannot be provided.

8. Interrogatory 17 and 18: FIXCA contends that BellSouth's responses are "cryptic and conclusory". To the contrary, BellSouth has responded completely to this interrogatory by saying that it will deal with its long distance affiliate in precisely the same way that it deals with IXCs (again, many of whom are members of FIXCA). FIXCA and its members are well aware of the manner in which BellSouth deals with IXCs. Apparently, FIXCA is now requesting that BellSouth "clarify" its response by listing absolutely every business office practice for ordering and provisioning that is generally applicable to IXCs. In other words, once again, FIXCA has converted its original interrogatory into a demand that BellSouth engage in a burdensome and unnecessary exercise.

For the reasons set forth above, BellSouth respectfully requests the entry of an order denying FIXCA's Motion to Compel in its entirety.

Respectfully submitted this 30th day of August, 1996.

BELLSOUTH TELECOMMUNICATIONS, INC.

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CERTIFICATE OF SERVICE
DOCKET NO. 960786-TP

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by Federal Express this 30th day of August, 1996 to the following parties:

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