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September 13, 1996

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

Re: Docket No. 920260-TP

Dear Mrs. Bayó:

Enclosed is an original and fifteen copies of BellSouth Telecommunications, Inc.'s Response and Opposition to Intermedia Communications, Inc.'s Motion for Leave to File Amended Direct Testimony, which we ask that you file in the captioned matter.

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,

*Nancy B. White*  
(32)

Nancy B. White

ACK   
AFA 1  
APP  
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CML *Norton*  
CTR  
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LEG 1  
LIN 5  
OFC  
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Enclosures

cc: All Parties of Record  
A. M. Lombardo  
R. G. Beatty  
William Ellenberg

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FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Comprehensive Review of the Revenue Requirements and Rate Stabilization Plan of Southern Bell Telephone and Telegraph Company )  
Docket No. 920260 )  
Filed: September 13, 1996 )

**BELLSOUTH'S RESPONSE AND OPPOSITION TO INTERMEDIA COMMUNICATIONS, INC.'S MOTION FOR LEAVE TO FILE AMENDED DIRECT TESTIMONY**

BellSouth Telecommunications Inc. ("BellSouth"), pursuant to Rules 25-22.034 and 25-22.035, Florida Administrative Code, hereby submits the following response and opposition to Intermedia Communications, Inc.'s ("ICI") Motion for Leave to File Amended Direct Testimony.

1. On July 26, 1996, the Prehearing Officer issued Order No. PSC-96-0965-PCO-TL setting forth the procedure in this docket. The Procedure Order specifically states that to deviate for the prefiled direct testimony of the intervenors was August 14, 1996. Prefiled rebuttal testimony was due to be filed August 28, 1996, but that date was changed to September 16, 1996. The Procedure Order states that "failure of a party to timely prefile exhibits and testimony in accordance with the foregoing requirements may bar admission of such exhibits and testimony." (Order, p. 3).

2. ICI intervened in this docket and duly filed the direct testimony of Mr. Thomas Allen on August 14, 1996. On September 12, 1996, just four days prior to the filing date for rebuttal testimony, BellSouth received the instant motion and attached amended direct testimony. In its motion, ICI claims that the amended direct testimony is merely "reorganized", "edited", "clarified", and makes no "substantive charges to the positions

taken in its precursor” that no party will be prejudiced by the filing. This is absolutely incorrect.

3. BellSouth’s initial review of the Mr. Allen’s new testimony reveals that Mr. Allen has changed the fundamental purpose of his testimony. The August 14, 1996 testimony addresses the BellSouth proposal in its entirety and evaluates the joint proposal filed by some of the parties in this docket. More egregious, in his September testimony, Mr. Allen completely reverses his position on these separate components of the BellSouth proposal from that taken by Mr. Allen in his August testimony.

4. Mr. Allen’s amended direct testimony is not only reformatted, it contains new, as well as contradictory testimony when compared to the August version. This Commission should reject it out of hand. The filing is in clear violation of the provisions of the Procedural Orders. Moreover, the Motion for Leave contains incorrect statements. ICI should not be allowed to flaunt the Orders of the Prehearing Officer and profit as well.

5. In addition, Mr. Allen’s amended filing also prejudices BellSouth in its timing. Almost a month has passed since the filing of Mr. Allen’s original testimony. If it was absolutely necessary that it be amended, that should have been accomplished quite some time ago. Instead, ICI filed this testimony just barely prior to the due date for the following of rebuttal testimony. BellSouth will not have a sufficient opportunity to review all of the new positions taken by Mr. Allen and respond accordingly in the testimony due on September 16, 1996. Indeed, BellSouth should not even be placed in such an untenable position. Granting ICI’s Motion would be patently unfair not only to BellSouth but to the other parties in this docket. Moreover, it would set a very bad precedent indeed for other dockets.

6. In the alternative and in the event that this Commission grants the instant motion of ICI, which BellSouth strongly opposes, BellSouth requests that BellSouth be given additional time in which to respond via supplemental rebuttal testimony. BellSouth would limit such testimony to responding to Mr. Allen's amended direct testimony. If ICI's motion is granted, it would only be fair to grant BellSouth's request.

WHEREFORE, for the reasons stated above, BellSouth respectfully requests the Commission deny ICI's Motion for Leave and bar admission of Mr. Allen's amended direct testimony. In the alternative, and in the event the Commission grants ICI's motion, which BellSouth strongly opposes, BellSouth requests the Commission grant BellSouth additional time for responding to Mr. Allen's amended direct testimony.

Respectfully submitted this 13th day of September, 1996

BELLSOUTH TELECOMMUNICATIONS, INC.

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CERTIFICATE OF SERVICE  
DOCKET NO. 960757-TP

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by Federal Express this 13th day of September to the following:

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