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June 2, 1997

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

HAND DELIVERY

Re: Docket No. 960786-TP

Dear Ms. Bayo:

Enclosed herewith for filing in the above-referenced docket on behalf of Palmer Wireless, Inc. ("Palmer Wireless") are the original and fifteen copies of Palmer Wireless' Notice of Special Appearance, Objections and Motion for Protective Order Concerning Staff's First and Second Set of Interrogatories.

Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the same to me.

Thank you for your assistance with this filing.

Sincerely,



Kenneth A Hoffman

- ACK
- AFA
- APP
- CAF KAH/rl
- CMU *Carol*
- CTR Trib.3
- EAG
- LEG 1
- LIN 5
- OPC
- RCH
- SEC 1
- WAS
- OTH

RECEIVED & FILED


FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE
05490 JUN-25
FPSC-RECORDS/REPORTING

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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-TP
Filed: June 2, 1997

**PALMER WIRELESS, INC.'S NOTICE OF
SPECIAL APPEARANCE, OBJECTIONS AND MOTION
FOR PROTECTIVE ORDER CONCERNING STAFF'S
FIRST AND SECOND SETS OF INTERROGATORIES**

Palmer Wireless, Inc. ("Palmer Wireless"), by and through its undersigned counsel, hereby enters this Special Appearance for the purpose of contesting the Commission Staff's authority to propound its First and Second Sets of Interrogatories to Palmer Wireless, to state its objections to said interrogatories and request that a protective order be granted directing that Palmer Wireless is not required to respond to said interrogatories. In support of its objections and Motion for Protective Order, Palmer Wireless states as follows:

1. On May 15, 1997, the Commission Staff served its First Set of Interrogatories on Palmer Wireless. On May 29, 1997, the Commission Staff served its Second Set of Interrogatories on Palmer Wireless. Palmer Wireless enters this Special Appearance for the purpose of stating its objections to said interrogatories and requesting that a protective order be issued providing that Palmer Wireless is not required to respond to said interrogatories.

2. Palmer Wireless is not a party to the above-referenced docket. Moreover, the Commission's statutory jurisdiction under Chapter 364 is limited to "telecommunications companies,"

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§364.01(1) and (2), Fla. Stat. (1995). Palmer Wireless is a "commercial mobile radio service provider" as defined by Section 364.02(3), Florida Statutes (1995). As a commercial mobile radio service provider, Palmer Wireless is excluded from the definition of a "telecommunications company" regulated by the Commission under Section 364.02(12), Florida Statutes (1995), with the exception that Palmer Wireless may be subject to universal service and carrier of last resort fees assessed pursuant to the universal service and carrier of last resort provisions of Section 364.025, Florida Statutes (1995), matters not at issue in this docket.

3. Rule 25-22.034, Florida Administrative Code, provides that parties to a Commission proceeding "may obtain discovery through the means and in the manner provided in Rules 1.280 through 1.400, Florida Rules of Civil Procedure." Rule 1.340(a), Florida Rules of Civil Procedure, provides that a party to a proceeding may serve interrogatories only upon another party -- not a non-party.

4. In this case, because Palmer Wireless is not a party to this proceeding, the Commission Staff lacks authority to propound interrogatories to Palmer Wireless.

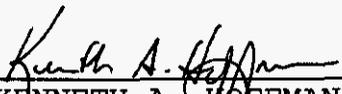
5. As purported support for its authority to propound said interrogatories on Palmer Wireless, the Commission Staff cites Section 364.183(1), Florida Statutes (1995). This statute provides, in pertinent part:

(1) The commission shall have access to all records of a telecommunications company that are reasonably necessary for the disposition of matters within the commission's jurisdiction.

(Emphasis supplied). As previously noted, Palmer Wireless is excluded from the definition of a "telecommunications company" subject to Commission jurisdiction. Accordingly, Section 364.183(1) provides no authority for the Commission Staff to propound interrogatories to Palmer Wireless in this docket.

WHEREFORE, for the foregoing reasons, Palmer Wireless objects to the Commission Staff's First and Second Sets of Interrogatories and requests the Prehearing Officer to enter a protective order providing that Palmer Wireless is not required to respond to the Commission Staff's First and Second Sets of Interrogatories in this docket.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of Palmer Wireless, Inc.'s Notice of Special Appearance, Objections and Motion for Protective Order was furnished by U. S. Mail to the following this 2nd day of June, 1997:

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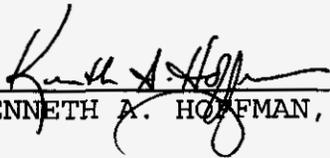
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