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June 27, 1997

Mrs. Blanca S. Bayo
Director, Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399

RE: Docket No. 960786-TL

Dear Mrs. Bayo:

Enclosed is an original and fifteen copies of BellSouth's Response in Opposition to the Florida Competitive Carriers Association's Motion to Compel, 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 on the parties shown on the attached Certificate of Service.

Sincerely,

J. Phillip Carver

J. Phillip Carver

(kr)

Enclosures

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

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CERTIFICATE OF SERVICE
DOCKET NO. 960786-TL

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J. Phillip Carver (KR)
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Consideration of BellSouth)
Telecommunications, Inc. entry) Docket No. 960786-TL
into InterLATA services pursuant)
to Section 271 of the Federal) Filed: June 27, 1997
Telecommunications Act of 1996)

**BELLSOUTH'S RESPONSE IN OPPOSITION TO THE FLORIDA
COMPETITIVE CARRIERS ASSOCIATION'S MOTION TO COMPEL**

BellSouth Telecommunications, Inc. ("BellSouth") hereby files pursuant to Rule .25-22.037, Florida Administrative Code, its Response In Opposition To Florida Competitive Carriers Association's Motion To Compel and states the following:

The Florida Competitive Carriers Association (FCCA) has filed a Motion to Compel, dated June 20, 1997, in which it contends that BellSouth's answer to FCCA's Interrogatory 3 is "evasive and non-responsive." (Motion at 1). As far as BellSouth can tell, FCCA has not even looked at BellSouth's answer, and has no factual grounds for its allegation that the response is improper. To the contrary, BellSouth's answer to Interrogatory 3 is fully responsive and provides the information FCCA says it is seeking in the form that FCCA says it wants.

FCCA states that its Interrogatory 3 "called on BellSouth to provide the particulars as to any checklist items it is providing, in sufficient technical, geographical, qualitative and quantitative detail to enable FCCA to gauge the sufficiency of the status of each checklist item." (Motion at 4). FCCA also states that it is entitled to receive in response "a narrative description by a knowledgeable [BellSouth] employee sufficient to communicate the factual basis for the contention that one or more checklist items is

presently being met.” Motion at 4.¹ The “checklist” is, of course, the “Competitive Checklist” set out in Section 271(c)(2)(B) of the Telecommunications Act of 1996. The Competitive Checklist requires Bell Companies to open their local exchanges by interconnecting, unbundling network elements and discounting retail services for competitors to resell before they can enter their in-region long distance markets. Many of these obligations involve very technical details of network operation. One example of the breadth and depth of the Competitive Checklist obligations is that the FCC First Report and Order addressing the legal requirements of many of the same obligations runs over 600 pages. Obviously then, FCCA’s Interrogatory 3 is extremely broad and any response dealing with the technical issues could be expected to run to many, many pages.

In fact, BellSouth has prepared a narrative answer to FCCA’s Interrogatory 3 that fills 87 binders. This narrative was originally prepared for filing in Georgia. In specific response to FCCA’s interrogatory, the filing was modified to include Florida specific information where appropriate and this narrative response is, as set forth in BellSouth’s answer to interrogatory 3, presently available for review. In its answer, BellSouth stated that what was being made available for review was, in fact, the “requested detailed analysis.” Nevertheless, FCCA now asserts, apparently without having taken the trouble

¹ Interrogatory 3 states in its entirety: “With respect to each criterion of Section 271(c)(2)(B)(i)-(xiv) identified in the response to Interrogatory 2 above, describe in detail with respect to each agreement through which BellSouth contends it has satisfied the criterion, the arrangement, services, facilities, or means of access that BellSouth is presently and actually providing and that are related to BellSouth’s claim that it has satisfied the criterion. Include in the description all quantitative, qualitative, technical, and geographical data and all pricing information necessary to full describe the present ability of BellSouth to provide each service, arrangement, or access (in terms of maximum capacity or quantities, or in terms of time needed for response); the specific facilities being used to provide the service; the extent to which the services, arrangements, and/or access are presently being provided; and the terms on which they are being provided.”

to examine the response contained in the binders, that the above-described reference to the “requested detailed analysis” is a reference to underlying documents rather than to the “narrative response” that FCCA would prefer. (Motion at 4). BellSouth’s answer was clear that it was not referring FCCA to the underlying documents, as is BellSouth’s right in the circumstances,² but, instead, was providing a “detailed analysis” that answered the interrogatory. In other words, the “detailed analysis” contained in these binders is the “narrative response” that FCCA is seeking, as even a cursory look would have shown. The only explanation for FCCA asserting otherwise is that it has not made any effort to inquire into the matter.³

The information in the binders provides a description of the factual basis for BellSouth’s meeting its Competitive Checklist obligations. There are currently 87 binders organized by checklist item, running to thousands of pages.⁴ An index of the binders is set out in Attachment A. The binder or binders addressing each checklist item are divided into seven sections (technical service description; live activity; testing; ordering procedures; provisioning procedures; maintenance procedures; and other). Each

² Under the Florida Rules of Civil Procedure an answer to an interrogatory may refer to documents. Rule 1.340(c) Florida Rules of Civil Procedure. This is especially true where the interrogatory is as broad in scope as FCCA’s Interrogatory 3. See, e.g., Department of Professional Regulation v. Florida Psychological Practitioners Assn., 483 So.2d 817 (Fla 1st DCA 1986) (Contrary to FCCA’s rendition of the rule from the case (Motion at p. 5), it stands equally for the proposition that the production of responsive documents in lieu of a narrative response is appropriate when the scope of the request is extremely broad).

³ However, at least two of FCCA’s members have copied the entire set of the binders that were a part of the Georgia Section 271 proceeding. BellSouth recently filed the binders there as part of its demonstration that it has met the Competitive Checklist.

⁴ In many instances, the narrative in one volume includes information that is also in another volume. The response was organized in this manner so that complete information about each checklist item would appear in the appropriate volume.

section details information relevant to how BellSouth is meeting the checklist requirement at issue. The binders were prepared by a large team of product managers, project managers and others within BellSouth who have day-to-day responsibility for the products and services which are available to alternative local exchange carriers on either an unbundled or resale basis. Underlying the work of this team was substantially more than 80,000 pages of information. The information the team gathered was distilled into a consistent format fully describing the products and services BellSouth makes available to meet its obligations.

FCCA's Motion to Compel is, therefore, baseless and its failure to look at the answer it asserts to be non-responsive is indefensible.⁵ FCCA propounded an extremely broad interrogatory and BellSouth has set out a broad, carefully organized response that provides the narrative statement FCCA asserts it wants.

Further, FCCA's motion contains in passing, references to two issues that are simply not pertinent: burdensomeness and proprietary information. As to the first, BellSouth's answer to the interrogatories stated that, given the voluminous nature of the responsive narrative, BellSouth would make it available for review at its offices rather than copying it and sending the entire narrative to the office of FCCA's counsel. BellSouth made this statement, in an abundance of caution, because FCCA's routine practice has been to demand that documents be copied and provided to it in Tallahassee. BellSouth assumed that FCCA would likely treat this voluminous narrative in the same

⁵ Further, as is FCCA's habit, it filed its Motion to Compel without contacting BellSouth first, a routine practice for most parties that, in this case, could likely have remedied FCCA's confusion about the nature of BellSouth's response.

manner. Thus, BellSouth simply stated that, in order to avoid an unnecessary burden, it would make the binders available for review rather than copying them and delivering them by mail.

In its Motion, FCCA makes the cryptic statement that “BellSouth states that it would be burdensome to require it to provide voluminous documents in Tallahassee, as though that was what FCCA requested in the interrogatory.” (Motion at 5). Although FCCA’s position is less than clear, it appears to be saying that it has not requested that the 87 volume narrative be sent to it. If this is the case, then it is difficult to understand why FCCA devoted a page of its Motion to argue about whether its request is burdensome, but this is hardly the most mystifying aspect of FCCA’s Motion.

Also, FCCA offers, on page 4 of its Motion, what would appear to be passing opposition to BellSouth’s statement that the subject narrative contains proprietary information. Building on its fundamental misapprehension of BellSouth’s response, FCCA claims that BellSouth could prepare a narrative that is not proprietary. Again, given the fact that FCCA has neglected to review the narrative that has been prepared, this statement has no support. Moreover, the fact is that BellSouth has prepared a narrative and it does contain proprietary information. BellSouth has not, however, declined to produce the proprietary information, it only seeks the appropriate protection.

Finally, FCCA’s demand is, in effect, that BellSouth be forced to scrap the extensive narrative that has been made available, and substitute for it a shorter or differently organized narrative (without, of course, any reason to believe that FCCA would find that narrative any more satisfactory). Even more problematic, however, is the

unique remedy that FCCA has proposed in its Motion to Compel. FCCA contends that for each additional day it has to wait for the “new” narrative, that is, FCCA states that it should get a day-for-day extension of the time in which it is required to file testimony. As set forth above, BellSouth has answered FCCA’s interrogatory fully and completely, and FCCA is not entitled to any relief.

Moreover, even if there were some basis for relief, postponement of the deadline for filing testimony by FCCA is a wholly inappropriate remedy. First of all, FCCA (and its members) have argued at previous pre-hearing conferences that they should be allowed to delay the filing of their direct testimony as long as possible after BellSouth’s direct testimony is filed (which would, at the same time, minimize the time that BellSouth has to file rebuttal testimony to the direct testimony of FCCA, AT&T, etc.). This request was rejected, and the instant “plea for relief” is nothing more than another attempt to obtain this inappropriate and unfair procedural advantage.

Further, well over a hundred interrogatories and/or requests to produce have been propounded upon BellSouth in this case to date, most of which have come from FCCA, and BellSouth has provided answers. Also, the instant dispute, properly viewed, does not stem from any failure by BellSouth to produce responsive information. Instead, FCCA would appear to argue that it should receive a shorter narrative answer than the one BellSouth has made available, and that, to date, it has declined to review. Against this background, for FCCA to contend that it has suffered such prejudice that it is entitled to file its testimony belatedly is simply absurd.

WHEREFORE, for the foregoing reasons, BellSouth requests that the Commission deny FCCA's Motion to Compel in its entirety.

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ATTACHMENT A

Binders Responding to FCCA Interrogatory 3

Checklist Item I - Interconnection

- 1-1 Local Interconnection
- 1-2 Switched Local Channel Interconnection

Checklist Item II - Access to Unbundled Network Elements

- 2-1 Physical Collocation
- 2-2 Virtual Collocation
- 2-3 Dark Fiber

Checklist Item III - Access to Poles, Ducts, Conduits, and Rights of Way

- 3-1 Poles, Ducts and Conduits/Rights of Way

Checklist Item IV - Local Loop Transmission Unbundled From Local Switching

- 4-1 Loop Concentration inside the Central Office (CO)
- 4-2 Sub-Loop Unbundled Elements
- 4-3 Network Interface Device

Checklist Item V - Local Transport From The Trunk Side Unbundled From Switching Or Other Services

- 5-1 Unbundled Interoffice Transport-Dedicated
- 5-2 Unbundled Interoffice Transport-Shared

Checklist Item VI - Local Switching Unbundled From Transport, Local Loop Transmission or Other Services

- 6-1 Unbundled Local Switching

Checklist Item VII - Nondiscriminatory Access to (I) 911/E911 Emergency Network, (II) Directory Assistance Services and (III) Operator Call Completion Services

- 7-1 Operator Call Processing
- 7-2 Directory Assistance Access Service
- 7-3 Directory Assistance Completion (DACC)
- 7-4 Intercept Access
- 7-5 Directory Assistance Database Service (DADS)
- 7-6 Direct Access to Directory Assistance Service (DADAS)
- 7-7 911/E911 (database update)

Checklist Item VIII - White Pages Directory Listings for CLEC Customers

- 8-1 White Page Listings

Checklist Item IX - Nondiscriminatory Access to Telephone Numbers for CLEC Customers

9-1 Code Administration

Checklist Item X - Nondiscriminatory Access to Signaling and Signaling Databases

- 10-1 Access to databases (800)
- 10-2 Access to databases (LIDB)
- 10-3 Open AIN
- 10-4 CCS7 Signaling Transport Service
- 10-5 Customized Call Routing

Checklist Item XI - Interim Service Provider Number Portability

11-1 Interim Number Portability

[**Checklist Items XII** - (Dialing Parity) and **XIII** (Reciprocal Compensation) are not addressed by specific binders but are implemented through access and interconnection and rates that provide dialing parity and reciprocal compensation.]

Checklist Item XIV - BellSouth Retail Services Available for Resale

- 14-1 Accupulse
- 14-2 Area Plus
- 14-3 Basic Rate ISDN
- 14-4 Primary Rate ISDN
- 14-5 Call Waiting
- 14-6 Call Waiting Deluxe
- 14-7 Caller ID Deluxe
- 14-8 Caller ID Enhanced
- 14-9 Centrex/ESSX
- 14-10 Custom Calling - 3-Way Calling
- 14-11 Custom Calling - Call Forwarding Variable
- 14-12 Custom Calling - Remote Access to CF
- 14-13 Custom Calling - Speed Calling 8 & 30
- 14-14 DID
- 14-15 E911/SALI
- 14-16 Enhanced Caller ID Deluxe
- 14-17 Flat Rate PBX Trunks
- 14-18 Flat Rate Residence
- 14-19 Flat Rate/Basic Local Exchange
- 14-20 FlexServ
- 14-21 Frame Relay and CDS
- 14-22 Georgia Community Calling
- 14-23 Hunting
- 14-24 Independent Payphone Provider
- 14-25 Integrated Packages
- 14-26 LightGate
- 14-27 Measured Rate Business
- 14-28 Measured Rate Residence
- 14-29 MegaLink
- 14-30 MegaLink ISDN

- 14-31 MemoryCall Service
- 14-32 Message Telephone Service (MTS)
- 14-33 Message/Measured Rate PBX Trunks
- 14-34 MultiServ/MultiServ Plus
- 14-35 Native Mode LAN Interconnection
- 14-36 Off Premise Extensions (OPX)
- 14-37 Optional Calling Plan (OCP)
- 14-38 Remote Call Forwarding (RCF)
- 14-39 RingMaster I and II
- 14-40 SMARTPath
- 14-41 SMARTRing
- 14-42 Synchronet
- 14-43 Touchstar - Call Block
- 14-44 Touchstar - Call Return
- 14-45 Touchstar - Call Selector
- 14-46 Touchstar - Call Tracing
- 14-47 Touchstar - Preferred Call Forwarding
- 14-48 Touchstar - Repeat Dialing
- 14-49 Touchtone - Residence and Business
- 14-50 Visual Director