

ORIGINAL

LAW OFFICES

McWHIRTER, REEVES, MCGLOTHLIN, DAVIDSON, RIEF & BAKAS, P.A.

LYNWOOD F. ARNOLD, JR.
JOHN W. BAKAS, JR.
C. THOMAS DAVIDSON
STEPHEN O. DECKER
LINDA E. JORGE
VICKI GORDON KAUFMAN
JOSEPH A. MCGLOTHLIN
JOHN W. McWHIRTER, JR.
RICHARD W. REEVES
FRANK J. RIEF, III
DAVID W. STEEN
PAUL A. STRASSE

100 NORTH TAMPA STREET, SUITE 2800
TAMPA, FLORIDA 33602-5126
MAILING ADDRESS: TAMPA
P.O. BOX 3350, TAMPA, FLORIDA 33601-3350

TELEPHONE (813) 224-0800
FAX (813) 221-1854
CABLE GRANDLAW

PLEASE REPLY TO:
TALLAHASSEE

TALLAHASSEE OFFICE
117 S. GADSDEN
TALLAHASSEE, FLORIDA 32301
TELEPHONE (850) 222-2525
FAX (850) 222-5606

November 10, 1997

VIA HAND DELIVERY

Ms. Blanca Bayó
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Docket No. 971399-TP - In re: Petition of BellSouth Telecommunications, Inc. to Lift Marketing Restrictions Imposed By Order No. PSC-96-1569-FOF-TP

Dear Ms. Bayó:

Enclosed are the original and 15 copies of the Florida Competitive Carriers Association's Petition to Intervene in the above docket.

I have enclosed an extra copy of the above documents for you to stamp and return to me. Please contact me if you have any questions. Thank you for your assistance.

Sincerely,

Joseph A. McGlothlin

- ACK _____
- AFA _____
- APP _____
- CAF _____
- CMU _____
- CTR _____ JAM/jg
- EAG _____ Enclosures
- LEG 1 _____
- LIN _____
- OPC _____
- RSH _____
- SEC 1 _____
- WAS _____
- OTH Oleg Don _____

DOCUMENT NUMBER-DATE

11552 NOV 10 97

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Bell South) Docket No. 971399-TP
Telecommunications, Inc. to Lift)
Marketing Restrictions Imposed)
By Order No. PSC-96-1569-FOF-TP) Filed November 10, 1997

FCCA'S PETITION TO INTERVENE

The Florida Competitive Carriers Association ("FCCA"), through its undersigned attorneys, petitions for leave to intervene in the above docket, and in support states:

1. Petitioner's complete name and address are:

Florida Competitive Carriers Association
117 South Gadsden Street
Tallahassee, Florida 32301

2. Copies of pleadings, notices, and orders should be served on:

Joseph A. McGlothlin
Vicki Gordon Kaufman
117 South Gadsden Street
Tallahassee, Florida 32301

Brian Sulmonetti, President
Florida Competitive Carriers Association
1515 South Federal Highway, Suite 400
Boca Raton, Florida 33432

DOCUMENT NUMBER-DATE

11552 NOV 10 97

FPSC-RECORDS/REPORTING

**STATEMENT OF HOW SUBSTANTIAL
INTERESTS WOULD BE AFFECTED**

3. On May 24, 1996, FCCA (then the Florida Interexchange Carriers Association), AT&T Communications of the Southern States ("AT&T") and MCI Telecommunications Corporation ("MCI"), filed a Joint Complaint against BellSouth Telecommunications, Inc. The gravamen of the complaint was that BellSouth was developing business office practices designed to unfairly exploit BellSouth's role as dominant local exchange service provider by using that role to lever BellSouth's interests in the intraLATA market, in conflict with Order No. PSC-95-0203-FOF-TP and in violation of Section 364.01(4)(g), Florida Statutes. The Joint Complainants asked the Commission to, inter alia, prohibit BellSouth from utilizing its role as provider of local exchange service and as the gateway to long distance service as opportunities to (1) cross-market local and intraLATA services and (2) actively dissuade customers who contact BellSouth for the purpose of changing intraLATA carriers.

4. Following an evidentiary hearing, the Commission issued Order No. PSC-96-1569-FOF-TP. Subsequently, the Commission denied BellSouth's Motion for Reconsideration and affirmed its decision in Order No. PSC-97-0518-FOF-TP. No party appealed these orders.

5. In Order Nos. PSC-96-1569-FOF-TP and PSC-97-0518-FOF-TP, the Commission adjudicated certain allegations of the Joint Complaint by prohibiting BellSouth from attempting to change the minds of BellSouth customers who have been won by the marketing efforts of BellSouth's intraLATA competitors and who

contact BellSouth for the explicit purpose of changing intraLATA carriers. The Commission also prohibited BellSouth from marketing its intraLATA service to customers who call regarding any aspect of local exchange service unless the customer first introduces the subject of intraLATA service. The Commission imposed these restrictions on BellSouth for a period of 18 months.

6. In its petition that initiated this docket, BellSouth asks the Commission to lift the restrictions prior to the expiration of the prescribed 18 month period. Inasmuch as the restrictions were imposed to provide FCCA with relief from unfair and anticompetitive behavior, and were intended to provide FCCA's members with an opportunity to develop a presence in the intraLATA market sufficient to cope with the advantages enjoyed by BellSouth as a consequence of the many contacts with customers generated by its LEC role, removing those restrictions prematurely would affect FCCA's substantial interests by altering the outcome of its litigated complaint proceeding, by truncating the remedy afforded to FCCA and the other complainants, and by exposing FCCA's members to renewed unfair and anti-competitive practices.


STATEMENT OF KNOWN DISPUTED FACTS

7. FCCA's position is that BellSouth's petition is an improper attempt to file a second, impermissible and unauthorized Motion for Reconsideration that should be summarily rejected. (See Joint Motion to Dismiss, which is being filed this date.) In the event that the Commission does not dismiss the petition, FCCA disputes that any factual (or legal) basis exists to support rescinding any aspect of

Order Nos. PSC-96-1569-FOF-TP and PSC-97-0518-FOF-TP prior to the expiration of the period prescribed by the Commission in those orders. Specifically, FCCA disputes the assertion that the restrictions are no longer needed to achieve the Commission's objectives. FCCA further disputes the assertion that BellSouth is being unfairly disadvantaged by the provisions of Order Nos. PSC-96-1569-FOF-TP and PSC-97-0518-FOF-TP. If the Commission entertains BellSouth's petition, FCCA reserves the right to advocate restrictions longer than those imposed by the Commission in Order No. PSC-96-1569-FOF-TP.

8. In the event the Commission denies FCCA's Motion to Dismiss and proceeds to consider BellSouth's petition, FCCA requests the Commission to conduct an evidentiary hearing pursuant to Section 120.57, Florida Statutes.

WHEREFORE, FCCA requests the Commission to authorize FCCA to intervene as a full party.



Joseph A. McGlothlin
Vicki Gordon Kaufman
McWhirter, Reeves, McGlothlin,
Davidson, Rief & Bakas
117 South Gadsden Street
Tallahassee, Florida 32301
(904) 222-2525

Attorneys for
Florida Competitive Carriers Association

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of FCCA'S Petition to intervene has been furnished by United States mail or hand delivery(*) this 10th day of November, 1997, to the following:

Martha Carter Brown*
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Boulevard, Room 390-M
Tallahassee, Florida 32399-0850

Nancy B. White
c/o Nancy H. Sims
150 South Monroe Street, Suite 400
Tallahassee, Florida 32301

Nancy B. White
BellSouth Telecommunications, Inc.
Museum Tower Building, Suite 1910
Miami, Florida 33130

Thomas K. Bond
MCI Telecommunications Corporation
780 Johnson Ferry Road
Suite 700
Atlanta, Georgia 30346

Richard D. Meison
Hopping Green Sams & Smith, P.A.
123 South Calhoun Street
Tallahassee, Florida 32301

Marsha Rule
AT&T Communications
101 North Monroe Street, Suite 700
Tallahassee, Florida 32301



Joseph A. McGlothlin