

NANCY B. WHITE
Assistant General Counsel-Florida

BellSouth Telecommunications, Inc.
150 South Monroe Street
Room 400
Tallahassee, Florida 32301
(305) 347-5558

ORIGINAL

June 22, 1998

Mrs. Blanca S. Bayó
Director, Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 971560-TL (National Directory Assistance)

Dear Ms. Bayó:

Enclosed is an original and fifteen copies of BellSouth Telecommunications, Inc.'s Motion to Dismiss AT&T Communications of the Southern States, Inc.'s Petition to Intervene and to Strike AT&T's Brief, 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 (cc)

Nancy B. White

RECEIVED & FILED

FPSC-BUREAU OF RECORDS

- ACK _____
- AFA _____
- APP _____
- CAF _____
- CMU 1
- CTR _____
- EAG _____
- LEG 1
- LIN 3
- OPC _____
- RCH _____
- SEC 1
- WAS _____
- OTH _____

Enclosures

cc: All parties of record
A. M. Lombardo
R. G. Beatty
William J. Ellenberg II

DOCUMENT NUMBER-DATE

06609 JUN 22 88

FPSC-RECORDS/REPORTING

CERTIFICATE OF SERVICE
Docket No. 971560-TL

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via
U.S. Mail this 22nd day of June, 1998 to the following:

Charlie Pellegrini, Esq.
Staff Counsel
Florida Public Service
Commission
Division of Legal Services
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
Tel. No. (850) 413-6232
Fax. No. (850) 413-6233

Tracy Hatch, Esq.
AT&T
101 North Monroe Street
Suite 700
Tallahassee, FL 32301
(850) 425-6364

Nancy B. White (cc)
Nancy B. White

FL Public Telecomm. Assoc.
Angela Green
125 S. Gadsden Street
Suite 200
Tallahassee, FL 32301-1525
Tel. No. (850) 222-5050
Fax. No. (850) 222-1355

Richard Melson
Hopping Law Firm
P.O. Box 6526
Tallahassee, FL 32314
Tel. No. (850) 222-7500
Fax. No. (850) 224-8551
Represents MCI

MCI Telecommunications
Thomas K. Bond
780 Johnson Ferry Road
Suite 700
Atlanta, GA 30342
Tel. No. (404) 267-6315
Fax. No. (404) 267-5992

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by BellSouth)
Telecommunications, Inc. for)
waiver of Rule 25-4.115, F.A.C,)
Directory Assistance, and for)
authorization to provide National)
Directory Assistance (NDA) in)
Florida)

Docket No.: 971560-TL

Filed: June 22, 1998

**BELLSOUTH TELECOMMUNICATIONS, INC.'S
MOTION TO DISMISS
AT&T COMMUNICATIONS OF THE SOUTHERN STATES, INC.'S
PETITION TO INTERVENE AND TO STRIKE AT&T'S BRIEF**

NOW COMES, BellSouth Telecommunications, Inc. ("BellSouth"), and pursuant to Rule 25-22.037(2), Florida Administrative Code, files this Motion to Dismiss the Petition to Intervene filed by AT&T Communications of the Southern States, Inc. ("AT&T") and to Strike AT&T's Brief in the above captioned docket. BellSouth respectfully requests that the Florida Public Service Commission ("Commission") grant this motion. In support thereof, BellSouth states the following:

1. On November 26, 1997, BellSouth filed a petition for waiver of Rule 25-4.115, Florida Administrative Code to enable BellSouth to provide National Directory Assistance ("NDA") service to its Florida customers. Notice of the rule waiver request was duly published in the Florida Administrative Weekly on December 19, 1997. No party submitted comments on the proposed rule waiver. On February 17, 1998, at its regular Agenda Conference, the Commission voted to grant BellSouth's petition to waive Rule 25-4.115 to enable BellSouth to provide NDA service, and issued its Proposed Agency Action Order No. PSC-98-0362-FOF-TL on March 5, 1998.

2. On March 26, 1998, MCI filed a Protest of the Commission's Proposed Agency Action Order. On April 16, 1998, the initial Issue Identification Workshop was held, with a follow-up workshop held on April 21, 1998. MCI, BellSouth, and Staff attended. As a result of these workshops, MCI, BellSouth, and Staff agreed on four (4) issues to be decided in this proceeding. Since all four issues were determined to be legal issues, the Commission directed, in Order No. PSC-98-06156-PCO-TL, issued May 4, 1998 that BellSouth and MCI submit these matters to the Commission through written legal briefs rather than through the use of live hearings. The briefs were due on June 15, 1998.

3. At no time in this proceeding has AT&T made any indication that AT&T would participate. AT&T did not submit comments on the proposed rule waiver. AT&T did not file a Protest of the Commission's Proposed Agency Action Order. AT&T did not participate in the issue identification process.

4. The first instance in which AT&T was heard in this docket was on June 15, 1998 when AT&T filed its Petition to Intervene and its Brief. AT&T should not be allowed to intervene nor should its Brief be accepted by this Commission. AT&T has acted too late.

5. Rule 25-22.039, Florida Administrative Code allows intervention if filed at least five (5) days before the final hearing. Although there is no hearing in this case, the brief due on June 15, 1998 takes the place of the final hearing. Thus, AT&T should have filed their intervention no later than June 10, 1998. Instead, AT&T delayed until essentially the day of the final hearing, i.e. June 15, 1998, which is too late under Rule 25-22.039.

6. The only other intervention rule that might be applicable is contained in Rule 25-22.029, Florida Administrative Code, which allows 21 days after the issuance of the notice of a proposed agency action in which to file a request for hearing. AT&T filed no such request.

7. As noted above, at no time in this proceeding has AT&T been heard from. BellSouth contends that AT&T's Petition to Intervene should be dismissed as out of time and consequently, that AT&T's Brief should be stricken from the record.

Wherefore, BellSouth requests that its Motion to Dismiss be granted, that AT&T's intervention be denied, and that AT&T's Brief be stricken from the record.

Respectfully submitted this 22nd day of June, 1998.

BELLSOUTH TELECOMMUNICATIONS, INC.

Robert G. Beatty (KR)

ROBERT G. BEATTY

NANCY B. WHITE

c/o Nancy Sims

150 South Monroe Street, #400

Tallahassee, Florida 32301

(305) 347-5555

William J. Ellenberg II (KR)

WILLIAM J. ELLENBERG II

875 West Peachtree Street, #4300

Atlanta, Georgia 30375

(404) 335-0711