



Florida Cable Telecommunications Association

Steve Wilkerson, President

VIA HAND DELIVERY

August 6, 1998

Ms. Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

RE: Docket No. 980696-TP

Dear Ms. Bayo:

Enclosed for filing in the above referenced docket are the original and 15 copies of Florida Cable Telecommunications Association's Motion for Order Compelling BellSouth Responses to Discovery.

Copies of the Motion have been served on the parties of record pursuant to the attached certificates of service. Please acknowledge receipt of filing of the above by stamping the duplicate copy of this letter and returning the same to me.

Thank you for your assistance in process this filing. Please contact me with any questions.

- ACK 4
AFA 2
APP
CAF
CMU
CTR
EAG LLG/mj
LEG cc: All Parties of Record
LIN 5 Steven E. Wilkerson
OPC
RCH
SEC 1
WAS

Yours very truly,

Laura L. Gallagher
Vice President, Regulatory Affairs &
Regulatory Counsel

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FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE
08381 AUG-6 98
FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Determination of the Cost of Providing)
Basic Local Telecommunications Service,)
Pursuant to Section 364.025, Florida)
Statutes)

Docket No. 980696-TP

Filed: August 6, 1998

FCTA's MOTION FOR ORDER COMPELLING
BELLSOUTH RESPONSES TO DISCOVERY

The Florida Cable Telecommunications Association, Inc. (FCTA), by and through undersigned counsel, moves for an order compelling BellSouth Telecommunications, Inc. (BellSouth) to respond to FCTA's First Set of Interrogatories Numbers 4 and 5. In support thereof, FCTA states:

1. On July 16, 1998, FCTA propounded its First Set of Interrogatories on BellSouth. Also on that date, FCTA served its Second Request for Production of Documents upon BellSouth.
2. On July 21, 1998 BellSouth timely served its objections to FCTA's Interrogatory Numbers 4 and 5.
3. FCTA's Interrogatory Numbers 4 and 5 are as follows:
 4. Please provide an explanation of BellSouth's accounting treatment for the rental of infrastructure (including but not limited to poles, trenches, conduit, etc.) to third parties and affiliates. If the rental fees are classified to an operating revenue account, identify the Part 32 account used to record the rental fees and the rental revenue realized during the years 1995, 1996, and 1997.
 5. Please provide a detailed explanation of the methodology used to develop the rental fees charged by BellSouth to third parties and affiliates for the use of its infrastructure (including but not limited to poles, conduit, etc.).

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4. In objecting to Interrogatory Number 4, BellSouth states that the interrogatory is not relevant to the issues in this matter. Specifically, BellSouth states that "historical rental fees are not relevant to a forward-looking cost study as required by Paragraph 4(b), section 1 of Chapter 93-277, Laws of Florida."
5. Contrary to BellSouth's objections, FCTA's Interrogatory Number 4 is entirely relevant to the issues in this proceeding. Issue Number 2 asks:

For purposes of determining the cost of basic local telecommunications service appropriate for establishing a permanent universal service mechanism, what is the appropriate cost proxy model to determine the total forward looking cost of providing basic local telecommunications service pursuant to section 384.025(4)(b)?

6. BellSouth's August 3, 1998 prefiled direct testimony advocates the use of the Benchmark Cost Proxy Model Version 3.1 (BCPM 3.1). Interrogatory Number 4 is directed at BellSouth's accounting treatment with respect to the sharing of infrastructure with third parties and affiliates. When BellSouth leases its infrastructure, such as a pole or conduit, to a third party, the Company may account for the transaction by classifying the rental fee received as a credit to a miscellaneous revenue account. The capital costs (e.g. depreciation, property taxes, return on investment, etc.) and the recurring expenses for repair and maintenance associated with the leased infrastructure, however, will continue to reside in the Company's expense accounts. To the extent that the BCPM Version 3.1 relies upon annual cost factors to develop estimates of forward-looking expenses, those cost factors will be overstated because the Company's operating expenses will not be reduced for the amount of rental income received through the leasing of its infrastructure to third parties and affiliates.
7. Accordingly, FCTA's Interrogatory Number 4 is appropriately aimed at eliciting the

information necessary to test the merits of BellSouth's position on Issue Number 2. The question goes right to the heart to the development of cost factors providing the basic local telecommunications services at issue (Issue Number 1) in this proceeding.

8. BellSouth's contention that FCTA's Interrogatory Number 4 should not be answered because only forward looking cost information is relevant under the new law is disingenuous. It contradicts portions of BellSouth's own testimony in this proceeding. FCTA just received BellSouth's lengthy testimony and has not had time for thorough analysis. However, it is clear from the Company's August 3, 1998 filing that it relies heavily upon historical investment and expense information to develop an estimate of the cost to provide universal service. BellSouth relies upon historical patterns of structure sharing as well as labor installation and travel time in the development of the estimate of forward looking investment. The Company also considers the historical relationship between general support assets and central office equipment and outside plant in developing the forward looking level of investment. BellSouth uses embedded expense information from 1997 as the base to determine the level of forward looking operating expenses. Clearly, the use of embedded investment and expense information is an integral part in the development of the Company's forward looking cost estimate to provide universal service.
9. BellSouth must not be permitted to forestall discovery by alleging that historical data is irrelevant on the one hand while advancing its own case via use of historical data on the other hand. BellSouth's objections to Interrogatory Number 4 are meritless and should be overruled.
10. Similar to its objection to Interrogatory Number 4, BellSouth objects to Interrogatory Number 5 on the basis that the interrogatory is not relevant to the issues raised in this matter. BellSouth states that "the methodology used to develop the rental fees charged

by BellSouth to third parties and affiliates for the use of its infrastructure is not relevant to a forward looking cost study as required by Paragraph 4(b), section 1 of Chapter 93-277, Laws of Florida."

11. Despite BellSouth's contention, the methodology used to develop rental fees for use of BellSouth infrastructure is indeed relevant to the issues in this docket. The data is relevant to Issue Number 2 which asks:

For purposes of determining the cost of basic local telecommunications service appropriate for establishing a permanent universal service mechanism, what is the appropriate cost proxy model to determine the total forward looking cost of providing basic local telecommunications service pursuant to section 364.025(4)(b)?

12. BellSouth's August 3, 1998 prefiled direct testimony advocates the use of the BCPM 3.1. Through Interrogatory Number 5, FCTA is attempting to elicit information concerning BellSouth's methodology used to develop rental fees with respect to the sharing of infrastructure with third parties and affiliates. When BellSouth leases its infrastructure, such as a pole or conduit, to a third party, the Company may account for the transaction by classifying the rental fee received as a credit to a miscellaneous revenue account. The capital costs (e.g. depreciation, property taxes, return on investment, etc.) and the recurring expenses for repair and maintenance associated with the leased infrastructure, however, will continue to reside in the Company's expense accounts. To the extent that the BCPM Version 3.1 relies upon annual cost factors to develop estimates of forward-looking expenses, those cost factors will be overstated because the Company's operating expenses will not be reduced for the amount of rental income received through the leasing of its infrastructure to third parties and affiliates. To the extent that BellSouth's expenses are overstated, the cost factor used in BCPM 3.1 and advocated by BellSouth will be overstated.

13. BellSouth's contention that FCTA's Interrogatory Number 5 should not be answered because only forward looking cost information is relevant under the new law is disingenuous. It contradicts portions of BellSouth's own testimony in this proceeding. Again, FCTA has not had opportunity for thorough analysis of BellSouth's lengthy testimony. However, it is clear from the Company's August 3, 1998 filing that it relies heavily upon historical investment and expense information to develop an estimate of the cost to provide universal service. BellSouth relies upon historical patterns of structure sharing as well as labor installation and travel time in the development of the estimate of forward looking investment. The Company also considers the historical relationship between general support assets and central office equipment and outside plant in developing the forward looking level of investment. BellSouth uses embedded expense information from 1997 as the base to determine the level of forward looking operating expenses. Clearly, the use of embedded investment and expense information is an integral part in the development of the Company's forward looking cost estimate to provide universal service.
14. Again, BellSouth must not be permitted to forestall discovery by alleging that historical data is irrelevant on the one hand while advancing its own case via use of historical data on the other hand. FCTA's Interrogatory Number 5 is appropriately aimed at eliciting the information necessary to test the merits of BellSouth's position on Issue Number 2. BellSouth's objections to Interrogatory Number 5 are meritless and should be overruled.

CONCLUSION

15. As a result of BellSouth's meritless objections to the above-described interrogatories, FCTA has been unnecessarily delayed in obtaining necessary information for rebuttal testimony and the upcoming hearing and may be prevented from properly preparing for

said hearing.

WHEREFORE, FCTA respectfully requests that BellSouth's objections be overruled and that BellSouth be ordered to fully respond to the above-described discovery requests.

Respectfully submitted this 6th day of August, 1998.



Laura L. Gallagher
Vice President-Regulatory Affairs
Florida Cable Telecommunications Association
310 N. Monroe Street
Tallahassee, FL 32301
Tel: 850/681-1990
Fax: 850/681-9676

Attorney for FCTA

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion for Order Compelling BellSouth Responses to Discovery has been furnished hand delivery (*) and U.S. Mail this 6th day of August, 1998, to the following:

Monica Barone, Esquire
Sprint
3100 Cumberland Circle
Atlanta, GA 30339

Thomas Bond
MCI
780 Johnson Ferry Rd
Suite 700
Atlanta, GA 30342

Lynne Brewer
Northeast Florida Telephone Company
P.O. Box 485
MacClenny, FL

Steven Brown
Intermedia Communications, Inc.
3625 Queen Palm Drive
Tampa, FL 33619-1309

Kimberly Caswell, Esquire
GTE Florida, Inc.
106 E. College Avenue
Tallahassee, FL 32301

Kimberly Caswell, Esquire
GTE Florida Incorporated
201 N. Franklin St., 16th Floor
Tampa, FL 33602

William Cox
Staff Counsel
FPSC
2540 Shumard Oak Blvd
Tallahassee, FL 32399-0850

Peter Dunbar
Barbara Auger
Pennington, Moore, Wilkinson, & Dunbar
P.O. Box 10095
Tallahassee, FL 32302

Mark Ellmer
GTC Inc.
P.O. Box 220
Port St. Joe, FL 32457

David Erwin, Esquire
Attorney at Law
127 Riversink Road
Crawfordville, FL 32327

Harriet Eudy
ALLTEL Florida
P.O. Box 550
Live Oak, FL 32060

James Falvey, Esq.
e.spire Communications, Inc.
133 National Business Pkwy, Suite 200
Annapolis Junction, MD 20701

John Fons, Esquire
Ausley & MacMullen
227 S. Calhoun St.
Tallahassee, FL 32301

Kelly Goodnight
Frontier Communications
180 S. Clinton Avenue
Rochester, NY 14646

Stan Greer
BellSouth Telecommunications, Inc.
150 S. Monroe Street, Suite 400
Tallahassee, FL 32301-1556

Michael Gross
Asst. Attorney General
Office of the Attorney General
PL-01 The Capitol
Tallahassee, FL 32399-1050

John Guthrie
Susan Masterton
418 Senate Office Bldg
Tallahassee, FL 32399

Lynn Hall
Vista-United Telecommunications
P.O. Box 10180
Lake Buena Vista, FL 32830

Tracy Hatch
AT&T
101 N. Monroe Street
Suite 700
Tallahassee, FL 32301

Kenneth Hoffman, Esq.
John Ellis, Esq.
Rutledge, Ecenia, Underwood, Purnell,
& Hoffman
P.O. Box 551
Tallahassee, FL 32301

Norman Horton, Esquire
Messer, Caparello & Self, P.A.
P.O. Box 1876
Tallahassee, FL 32302

Paul Kouroupas
Michael McRae
Teleport Communications Group, Inc.
2 Lafayette Centre
1133 21st Street, NW, Suite 400
Washington, DC 20036

Carol Marek
Vice President of Regulatory Affairs
Southeast Region
Time Warner Communications
P.O. Box 210706
Nashville, TN 37221

Tom McCabe
TDS Telecom
P.O. Box 189
Quincy, FL 32353-0189

Joe McGlothlin
McWhirter, Reeves, McGlothlin, Davidson,
Rief & Bnkas, P.A.
117 S. Gadsden St.
Tallahassee, FL 32301

Richard Melson, Esquire
Hopping, Green, Sams & Smith, P.A.
P.O. Box 6526
Tallahassee, FL 32314

Charlie Murphy
Booter Imhof
428 House Office Bldg
Tallahassee, FL 32399-1300

Robert Post
ITS Telecommunications Systems, Inc.
P.O. Box 277
Indiantown, FL 34956

Charles Rehwinkel
Sprint-Florida, Inc.
1313 Blair Stone Road, MC FLTH00107
Tallahassee, FL 32301

Floyd Self, Esquire
Messer, Caparello & Self, P.A.
215 S. Monroe Street, Suite 701
Tallahassee, FL 32301-1876

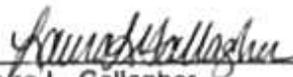
Jack Shreve, Esquire
Charles Beck, Esquire
Office of Public Counsel
c/o The Florida Legislature
111 W. Madison Street, Rm 812
Tallahassee, FL 32399-1400

Brian Sulmonetti
WorldCom, Inc.
1515 S. Federal Highway
Suite 400
Boca Raton, FL 33432

Jeff Wahlen, Esquire
Ausley & McMullen
227 S. Calhoun St.
Tallahassee, FL 32301

*Nancy White
Robert Beatty
c/o Nancy Sims
BellSouth Telecommunications, Inc.
150 S. Monroe Street, Suite 400
Tallahassee, FL 32301

Patrick Wiggins
Donna Canzano
Wiggins & Villacorta
P.O. Drawer 1657
Tallahassee, FL 32302



Laura L. Gallagher