

Legal Department

MARY K. KEYER
General Attorney

BellSouth Telecommunications, Inc.
150 South Monroe Street
Room 400
Tallahassee, Florida 32301
(404) 335-0729

September 14, 1998

RECEIVED - FPSC
58 SEP 14 PH 4:45
RECORDS AND REPORTING

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

RE: Docket No. 980733-TL

Dear Mrs. Bayo:

Enclosed are an original and 15 copies of BellSouth Telecommunications, Inc.'s Memorandum in Opposition to Attorney General's Motion to Compel. Please file these documents in the captioned docket.

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,

Mary K. Keyer
(encl)

Mary K. Keyer

ACK

AFA 2

APP _____

CAF _____

CMU _____

Enclosures

CTR _____

cc: All Parties of Record
A. M. Lombardo
R. G. Beatty
W. J. Ellenberg (w/o enclosures)

EAG _____

LEG 2

LIN _____

OPC _____

RECEIVED & FILED

RCH 2

REC 1

FPSC-BUREAU OF RECORDS

WAS _____

OTH _____

DOCUMENT NUMBER-DATE

10050 SEP 14 88

FPSC-RECORDS/REPORTING

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Discovery for Study on Fair & Reasonable Rates and on Relationships Among Costs and Charges Associated with Certain Telecommunications Services Provided by LECs, as Required by Chapter 98-277.

Docket No.: 980733-TL

Filed: September 14, 1998

BELLSOUTH TELECOMMUNICATIONS, INC.'S MEMORANDUM IN OPPOSITION TO ATTORNEY GENERAL'S MOTION TO COMPEL

BellSouth Telecommunications, Inc. ("BellSouth"), files pursuant to Rule 25-22.037, Florida Administrative Code, its memorandum in opposition to the Attorney General's Motion to Compel Discovery Responses from BellSouth.

BACKGROUND

The Attorney General propounded 24 requests for production of documents, not including subparts, in his Third Request for Production of Documents and asked in excess of 130 interrogatories, including subparts, in his First Set of Interrogatories. Prior to BellSouth's response to these discovery requests, the Attorney General withdrew several requests and interrogatories. BellSouth responded to all of the remaining discovery except three requests for production of documents and 5 interrogatories, not including subparts. The Attorney General has moved the Commission to compel BellSouth to respond to the following requests for production of documents and interrogatories: Requests 6, 9, and 12, and Interrogatories 1a, 3b, 5b, c, d, e, 6, 7, 9c, d, e, f, 19, 20, 21, and 23a, b, d. Request 9 relates to Interrogatory 6 as it requests

DOCUMENT NUMBER-DATE

10050 SEP 14 88

FPSC-RECORDS/REPORTING

workpapers which support BellSouth's answers to the subparts of Interrogatory 6. Likewise, Request 12 relates to Interrogatory 9 as it requests workpapers which support BellSouth's answers to the subparts of Interrogatory 9.

BellSouth, in spite of its objections, provided answers to Interrogatories 1a, 5c, d, and 23a, b, d. The Attorney General withdrew Interrogatories 5b, e, 6c, d, 9c, d, and 20. Therefore, the requests and interrogatories at issue in this Motion to Compel are Requests 6, 9, and 12, and Interrogatories 6a, b, e, f, g, h, 7, 9e, f, 19 and 21.

ARGUMENT

BellSouth joins in and adopts by reference the arguments stated in Sprint-Florida, Incorporated's Response to the Attorney General's Motion to Compel Discovery Responses from Sprint-Florida, Incorporated, as if they were fully set forth herein. BellSouth also refers the Commission to its objections raised in BellSouth's Responses and Objections to Attorney General's Third Request for Production of Documents and incorporates these objections by reference as if they were set forth fully herein.

In addition to the arguments made in Sprint-Florida's response to the Attorney General's motion to compel, BellSouth reiterates that the discovery to which the Attorney General is moving to compel responses involves information related to revenues and deregulated services, which are irrelevant to the purpose of the Commission study which is to determine fair and reasonable rates for basic residential service. Nor is the information requested relevant to the

verification of the cost data and analyses submitted by BellSouth in this docket.

The Attorney General in Requests 9 and 12 and Interrogatories 6, 7, and 9 is attempting to turn this case into a traditional rate case or earnings review, which it is not. The Attorney General has obviously misconstrued the term "charges" to mean "revenues" rather than tariffed rates or prices.

In Interrogatories 9c and 9d, the Attorney General requests information about the relationship between BellSouth and the company that publishes the directory in BellSouth's area and information as to whether BellSouth opened the selection of the directory publisher to competitive bidding. Such information is not relevant to the verification of the cost data and analyses submitted by BellSouth in compliance with Chapter 98-277, General Laws of Florida. Nor will that information provide any information related to the cost of providing residential basic local telecommunications service.

The information requested in Interrogatories 19 and 21 for additional contribution analyses go beyond those requested in the Staff's Data Requests and are beyond the scope of this proceeding.

The Commission in conducting its study of fair and reasonable rates is to consider four factors: affordability; value of service; comparable basic local telecommunications rates in other states; and the cost of providing residential basic telecommunications service in Florida. The information requested by the Attorney General will not provide any information relevant to these factors.

Lastly, BellSouth objected to Request 6 to the extent the Attorney General

asked for future responses provided in this proceeding. BellSouth is not aware of any provision in the Florida Rules of Civil Procedure or the Florida Administrative Code which allows the Attorney General to make a continuing request for future responses to requests not yet received by BellSouth. Should there be future requests served on BellSouth for which the Attorney General would like copies of BellSouth's responses, there is a procedure customarily referred to as a "me too" request by which the Attorney General can request copies of those responses. The Attorney General seeks in advance copies of documents which have not yet been requested and for which he may not have a need. If the Attorney General were allowed to make such a request, what would prevent other parties or intervenors from doing the same, thereby creating an unnecessary and undue burden on BellSouth? The Attorney General's motion to compel BellSouth to provide future responses to requests not yet made should be denied.

For the above stated reasons, the Attorney General's motion to compel BellSouth to respond to Requests 6, 9, and 12, and Interrogatories 6a, b, e, f, g, h, 7, 9e, f, 19 and 21 should be denied.

Respectfully submitted this 14th day of September, 1998.

BELLSOUTH TELECOMMUNICATIONS, INC.

Robert G. Beatty (per)

ROBERT G. BEATTY
NANCY B. WHITE
c/o Nancy H. Sims
150 So. Monroe Street, Suite 400
Tallahassee, FL 32301
(305) 347-5555

William J. Ellenberg II

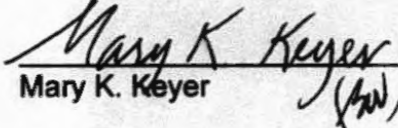
WILLIAM J. ELLENBERG II
MARY K. KEYER
Suite 4300
675 W. Peachtree St., NE
Atlanta, GA 30375
(404) 335-0711

133804

CERTIFICATE OF SERVICE
Docket No. 980733-TL

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via Hand-Delivery this 14th day of September, 1998, to the following:

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



Mary K. Keyer (sw)