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Legal Department

MARY K. KEYER
General Attorney

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

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RECORDS AND
REPORTING

December 1, 1998

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

RE: Docket No. 980703-TP

Dear Mrs. Bayo:

Enclosed are an original and 15 copies of BellSouth Telecommunications, Inc.'s Rebuttal Testimony of Jim Maziarz. 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
Mary K. Keyer

ACK _____

AFA _____

APP _____

CAF _____

CMU Cordiano

Enclosures

CTR _____

EAG _____

cc: All Parties of Record

LEG 2

A. M. Lombardo

LIN 3 to org

R. G. Beatty

OFC _____

W. J. Ellenberg (w/o enclosures)

RCH _____

SEC 1

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CERTIFICATE OF SERVICE

DOCKET NO. 980703-TP

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by U.S. Mail this 1st day of December, 1998 to the following:

Staff Counsel
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Fisher Law Firm
Glenn Richards
2001 Pennsylvania Avenue, N.W.
Washington, D.C. 20006-1851
Tel. No. (202) 659-3494
Fax. No. (202) 296-6518
Represents Telcom Plus

TCG South Florida
c/o Rutledge Law Firm
Kenneth Hoffman
P.O. Box 551
Tallahassee, FL 32302-0551
Tel. No. (850) 681-6788
Fax. No. (850) 681-6515

Telcom Plus
Ms. Julie A. Richey
5251 110th Avenue North
Clearwater, FL 33760-4816
Tel. No. (813) 572-7832
Fax. No. (800) 403-4199
Represented by Fisher Law Firm

Mary K. Keyer

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BELLSOUTH TELECOMMUNICATIONS, INC.
REBUTTAL TESTIMONY OF JIM MAZIARZ
BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NO. 980703-TP
December 1, 1998

Q. PLEASE STATE YOUR NAME AND COMPANY NAME AND ADDRESS.

A. My name is Jim Maziarz. I am employed by BellSouth Telecommunications, Inc. as Manager - Interconnection Services Pricing. My business address is 675 West Peachtree Street, Atlanta, Georgia 30375.

Q. ARE YOU THE SAME JIM MAZIARZ WHO FILED DIRECT TESTIMONY IN THIS PROCEEDING?

A. Yes.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to rebut the testimony filed in this docket by Easy Cellular's witness, Richard Pollara, regarding the contractual obligations contained in the BellSouth-Easy Cellular Resale Agreement.

1 Q. MR. POLLARA STATES ON PAGE 1 OF HIS DIRECT TESTIMONY
2 THAT ORDER NO. PSC-96-1579-FOF-TP ISSUED BY THE FLORIDA
3 PUBLIC SERVICE COMMISSION ON DECEMBER 31, 1996,
4 ESTABLISHED THAT BELLSOUTH MUST PROVIDE RESELLERS WITH
5 A WHOLESALE DISCOUNT ON NONRECURRING CHARGES, AND
6 THOSE DISCOUNTS WOULD BE 21.83% FOR BELLSOUTH'S
7 RESIDENTIAL SERVICES AND 16.81% FOR BUSINESS SERVICES. DO
8 YOU AGREE?

9

10 A. No. As I explained in my direct testimony, Order No. PSC-96-1579-FOF-TP
11 was issued as a result of local interconnection arbitration proceedings between
12 AT&T Communications of the Southern States, Inc., MCI Tele-
13 communications Corporation, MCI Metro Access Transmission Services, Inc.,
14 and BellSouth Telecommunications, Inc., and applied only to those who were
15 parties in those proceedings. The Order did not apply to all resellers as Mr.
16 Pollara claims in his testimony. As described in my direct testimony, this
17 Commission has consistently held in previous cases that decisions made in
18 arbitration proceedings are binding only upon the parties in the proceedings.

19

20 Q. MR. POLLARA STATES IN HIS TESTIIMONY THAT HE WAS
21 FAMILIAR WITH ORDER NO. PSC-96-1579-FOF-TP AND ITS
22 PROCEDURAL HISTORY. DID MR. POLLARA OR ANY
23 REPRESENTATIVE FROM EASY CELLULAR CONTACT BELLSOUTH
24 AT ANY TIME BETWEEN MARCH AND SEPTEMBER, 1997, TO

25

1 DISCUSS ORDER NO. PSC-96-1579-FOF-TP OR THE DECISIONS MADE
2 BY THE FLORIDA COMMISSION IN ORDER NO. PSC-96-1579-FOF-TP?

3

4 A. No. In fact, it was not until February, 1998, that Easy Cellular contacted
5 BellSouth to discuss wholesale discount rates different than those in its March
6 3, 1997, Resale Agreement and the wholesale discounting of nonrecurring
7 charges.

8

9 Q. DOES THE MARCH 3, 1997, RESALE AGREEMENT BETWEEN THE
10 PARTIES ADDRESS COMMISSION ORDERS ENTERED BY THE
11 COMMISSION AFTER THE EFFECTIVE DATE OF THE RESALE
12 AGREEMENT?

13

14 A. Yes. Section XVI.C. states, "In the event that after the effective date of this
15 Agreement the FCC or the Commission enters an order (a "Resale Order")
16 requiring BellSouth to provide within the state of Florida any of the
17 arrangements covered by this agreement upon Other Terms, then upon such
18 Resale Order becoming final and not subject to further administrative or
19 judicial review, BellSouth shall be deemed to have offered such arrangements
20 to Reseller upon such Other Terms, in their entirety, which Reseller may only
21 accept in their entirety, as provided in Section XVI.E."

22

23 Q. DOES THIS PROVISION ESTABLISH THAT EASY CELLULAR IS
24 AUTOMATICALLY ENTITLED TO RECEIVE THE ARRANGEMENTS
25 COVERED IN COMMISSION ORDER NO. PSC-96-1579-FOF-TP?

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A. No. First, the provision specifies that the Order must be final and not subject to further administrative review. Order No. PSC-96-1579-FOF-TP is not yet final, but is still under appeal by AT&T, a party to the Order. Secondly, the provision provides that once the Order is final, BellSouth is deemed to have offered the arrangements in the Order to Easy Cellular, who can only accept them in their entirety. Easy Cellular did not indicate its desire to accept or request the provisions in the Commission's Order until February 1998. At that time, the parties negotiated and entered into a new resale agreement that provided for the discounting of nonrecurring charges and different discount rates for residential and business resold telecommunication services.

Q. MR. POLLARA CLAIMS THAT NONRECURRING CHARGES SHOULD HAVE BEEN ELIGIBLE FOR WHOLESale DISCOUNTING UNDER THE TERMS OF EASY CELLULAR'S MARCH 3, 1997, RESALE AGREEMENT. DO YOU AGREE?

A. No. As negotiated and agreed to between the parties, Section III.A. of the Agreement provides that the Reseller may resell the tariffed local exchange and toll telecommunications services of BellSouth subject to the terms and conditions specifically set forth in the agreement. As stated in my direct testimony, at the time the Agreement was negotiated by the parties, nonrecurring charges were not considered by BellSouth to be telecommunications services, and BellSouth's actions during that time demonstrated this position. It is important to note that prior to the internal

1 BellSouth billing error in September 1997 that granted a discount on
2 nonrecurring charges to all resellers, Easy Cellular never claimed it should
3 have been receiving a discount on nonrecurring charges in the March to
4 September 1997 timeframe. This is further evidence that the parties did not
5 intend for nonrecurring charges to receive wholesale discounting in the March
6 3, 1997, Resale Agreement.

7

8 Q. WHAT WAS THE RESULT OF THE INTERNAL BELLSOUTH BILLING
9 ERROR?

10

11 A. BellSouth's billing error gave all resellers a 21.83% and 16.81% wholesale
12 discount on recurring and nonrecurring charges for residential and business
13 resold telecommunications services respectively.

14

15 Q. WHAT IS THE RELEVANT TIMEFRAME FOR THE DISPUTED
16 NONRECURRING CHARGES?

17

18 A. Although Mr. Pollara stated several times in his testimony that the timeframe
19 for the disputed nonrecurring charges was from March through September
20 1997, it was actually from March 1997 to September 1997, when the billing
21 error occurred.

22

23 Q. WHAT AMOUNT DID BELLSOUTH CHARGE EASY CELLULAR FOR
24 NONRECURRING CHARGES FROM MARCH TO SEPTEMBER 1997?

25

1 A. I have reviewed Easy Cellular's billing records, and BellSouth charged Easy
2 Cellular \$181,741.38 from March 1997 to September 1997 for nonrecurring
3 charges. A summary of Easy Cellular's nonrecurring charges are illustrated in
4 Exhibit JM-1.

5

6 Q. DOES THIS AMOUNT INCLUDE ANY WHOLESAL DISCOUNTING?

7

8 A. No. Nonrecurring charges were not eligible for discounting, therefore, this
9 amount does not include discounting.

10

11 Q. IF BELLSOUTH WOULD HAVE APPLIED DISCOUNTING TO EASY
12 CELLULAR'S NONRECURRING CHARGES, WHAT WOULD HAVE
13 BEEN THE DISCOUNT RATE APPLIED TO EASY CELLULAR'S
14 NONRECURRING CHARGES?

15

16 A. The discount applied depends on the class of service ordered. I will assume
17 based on Mr. Pollara's testimony that all of Easy Cellular's customers are
18 residential customers. Therefore, according to Easy Cellular's March 3, 1997,
19 Resale Agreement, should the Commission find nonrecurring charges were
20 subject to discounting, which BellSouth denies, the appropriate discount rate
21 for Easy Cellular's nonrecurring charges would have been the 18% discount for
22 residential resold services.

23

24

25

1 Q. WHAT WOULD HAVE BEEN THE DISCOUNT AMOUNT IF EASY
2 CELLULAR'S NONRECURRING CHARGES WOULD HAVE RECEIVED
3 A DISCOUNT FROM MARCH TO SEPTEMBER 1997?

4
5 A. Using the residential discount rate in Easy Cellular's Agreement of 18%, the
6 discount amount Easy Cellular would have received for nonrecurring charges
7 from March to September 1997 is \$32,713.45. My calculations are illustrated
8 in Exhibit JM-2.

9
10 Q. WITH REGARD TO RECURRING CHARGES, MR. POLLARA STATES IN
11 HIS TESTIMONY THAT THE TIMEFRAME FOR THE DISPUTED
12 RECURRING CHARGES IS FROM MARCH THROUGH NOVEMBER
13 1997. DO YOU AGREE?

14
15 A. No. The disputed timeframe as I explained earlier is from March 1997 to
16 September 1997. Easy Cellular received the higher discount rates on recurring
17 charges after September 1997, due to BellSouth's billing error.

18
19 Q. WHAT AMOUNT DID BELLSOUTH CHARGE EASY CELLULAR FOR
20 RECURRING CHARGES FROM MARCH 1997 TO SEPTEMBER 1997?

21
22 A. BellSouth billing records indicate the total amount of recurring charges
23 incurred by Easy Cellular from March to September 1997 was \$176,408.22.
24 This amount includes discounting of 18% and 12% for residential and business
25

1 resold services respectively. I have reviewed and summarized these records.
2 A copy of my summary is attached in Exhibit JM-3.

3

4 Q. EASY CELLULAR CLAIMS THE APPROPRIATE WHOLESAL
5 DISCOUNT RATES FOR THESE RECURRING CHARGES SHOULD
6 HAVE BEEN 21.83% AND 16.81% FOR RESIDENTIAL AND BUSINESS
7 RESOLD SERVICES, REPECTIVELY. IF THESE DISCOUNT RATES
8 HAD BEEN APPLIED TO EASY CELLULAR'S RECURRING CHARGES
9 FROM MARCH TO SEPTEMBER 1997, WHAT IS THE DIFFERENCE IN
10 THE DISCOUNT AMOUNT EASY CELLULAR WOULD HAVE
11 RECEIVED FOR RECURRING CHARGES?

12

13 A. For the purposes of my answer, I will assume based on Mr. Pollara's testimony
14 that all of Easy Cellular's customers are residential end-users. The total
15 amount of recurring charges billed to Easy Cellular from March to September
16 1997, has already been established at \$176,408.22. See Exhibit JM-3. This
17 amount included the 18% discount Easy Cellular received under its Resale
18 Agreement. The total amount of recurring charges accrued by Easy Cellular
19 from March to September 1997 without any discount is \$215,131.98 (the
20 amount billed \$176,408.22 divided by .82). See Exhibit JM-4 for my
21 calculations. If the discount, to which Easy Cellular claims it was entitled,
22 were applied to the total recurring charges incurred from March to September
23 1997, Easy Cellular would have received \$46,963.31 in discounted charges as
24 opposed to \$38,723.76 which it received under its Resale Agreement. The
25 difference in the amount of discount Easy Cellular claims it should have

1 received on recurring charges from March to September 1997 (\$46,963.31) and
2 the amount it received (\$38,723.76) is \$8,239.55. My calculations are
3 illustrated in Exhibit JM-4.

4

5 Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?

6

7 A. Yes.

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BellSouth Telecommunications, Inc
 FPSC Docket 980703-TP
 Exhibit JM-1

Easy Cellular, Inc. Billing Summary		
Q Account	Month	Nonrecurring Charges
256-Q92-4239	No Billing Until 10-22-97	
305-Q92-4239	March	0
	April	0
	May	\$ 50.00
	June	\$ 3,156.67
	July	\$ 9,750.62
	August	\$ 13,682.51
	Account Total	\$ 26,639.80
904-Q92-4239	March	0
	April	\$ 1,899.06
	May	\$ 26,046.24
	June	\$ 34,132.53
	July	\$ 24,490.48
	August	\$ 23,581.71
	Account Total	\$110,150.02
954-Q92-4239	March	0
	April	\$ 50.00
	May	\$ 60.00
	June	\$ 6,046.02
	July	\$ 18,120.62
	August	\$ 20,674.92
	Account Total	\$ 44,951.56
	Total	\$181,741.38

Bellsouth Telecommunications, Inc.
FPSC Docket 980703-TP
Exhibit JM-2

IF BELLSOUTH WOULD HAVE APPLIED DISCOUNTING TO EASY CELLULAR'S NONRECURRING CHARGES, WHAT WOULD HAVE BEEN THE DISCOUNTED AMOUNT APPLIED TO EASY CELLULAR'S NONRECURRING CHARGES FROM MARCH TO SEPTEMBER 1997?

- Total nonrecurring charges billed to Easy Cellular from March to September 1997:

\$181,741.38

- Applicable discount rate per Easy Cellular's Agreement, assuming all of Easy Cellular's customers are residential end-users:

18%

- Discount amount Easy Cellular would have received had the 18% discount been applied to nonrecurring charges between March and September 1997:

\$181,741.38
x 18 %
\$ 32,713.45

BellSouth Telecommunications Inc.
 FPSC Docket 980703-TP
 EXHIBIT JM-3

Easy Cellular, Inc. Billing Summary		
Q Account	Month	Recurring Charges
256-Q92-4239	No Billing Until 10-22-97	
305-Q92-4239	March	0
	April	0
	May	\$ 49.99
	June	\$ 1,550.17
	July	\$ 6,149.02
	August	\$ 12,053.11
	Account Total	\$ 19,802.29
904-Q92-4239	March	0
	April	\$ 883.27
	May	\$ 15,358.01
	June	\$ 29,058.64
	July	\$ 34,811.74
	August	\$ 42,933.43
	Account Total	\$ 123,045.09
954-Q92-4239	March	0
	April	\$ 15.62
	May	\$ 60.55
	June	\$ 2,657.06
	July	\$ 11,473.03
	August	\$ 19,354.58
	Account Total	\$ 33,560.84
	Total	\$ 176,408.22

BellSouth Telecommunications, Inc.
 FPSC Docket 980703-TP
 Exhibit JM-4

IF THE 21.83% WHOLESALE DISCOUNT RATE WOULD HAVE BEEN APPLIED TO EASY CELLULAR'S RECURRING CHARGES, WHAT WOULD HAVE BEEN THE DIFFERENCE IN THE DISCOUNT AMOUNTS BETWEEN WHAT EASY CELLULAR FEELS THEY WERE ENTITLED TO AND THE AMOUNT THAT WAS ACTUALLY APPLIED TO ITS RECURRING CHARGES FROM MARCH TO SEPTEMBER 1997?

- Calculate Easy Cellular's recurring charges if no discount had been applied, assuming all of Easy Cellular's customers are residential end-users:
 - Amount actually charged to Easy Cellular from March to September 1997 for recurring charges: **\$176,408.22**
 - Residential discount applicable to March 3, 1997 agreement: **18%**. Therefore, \$176,408.22 is 82% of the recurring charges not discounted.
 - Recurring charges without discount applied:

$$\text{\$176,408.22} / .82 = \text{\$215,131.98}$$

- Calculate Easy Cellular's recurring charges if 21.83% discount would have been applied to Easy Cellular's recurring charges from March to September 1997.

$$\begin{array}{r} \text{\$215,131.98} \\ \times \text{ 21.83\%} \\ \hline \text{\$ 46,963.31} \end{array}$$

- Calculate Easy Cellular's recurring charges discount amount with an 18% rate, which was actually applied to Easy Cellular's recurring charges from March to September 1997.

$$\begin{array}{r} \text{\$215,131.98} \\ \times \text{ 18\%} \\ \hline \text{\$ 38,723.76} \end{array}$$

- Difference between the discounted amount Easy Cellular feels they were entitled to and the amount that was actually applied to its recurring charges from March to September 1997.

$$\begin{array}{r} \text{\$46,963.31} \\ - \text{\$38,723.76} \\ \hline \text{\$ 8,239.55} \end{array}$$