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TALLAHASSEE, FLORIDA 32301
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January 5, 1999

VIA HAND DELIVERY

Blanca S. Bayo, Director
Florida Public Service Commission
Division of Records and Reporting
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0870

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REPORTING
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RECEIVED 9:00

Re: Docket No. 981052-TP

Dear Ms. Bayo:

Enclosed for filing and distribution are the original and fifteen copies of the Telephone Company of Central Florida, Inc.'s Motion to Compel BellSouth Telecommunications, Inc. to Produce Witnesses for Deposition and Hearing in the above docket.

Please acknowledge receipt of the above on the extra copy enclosed herein and return it to me. Thank you for your assistance.

Sincerely,

Vicki Gordon Kaufman

CK _____ Vicki Gordon Kaufman

FA _____

PP _____ VGK/pw
Encls.

AF _____
MU *Savanna*

TR _____

EAG _____

LEG 2

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SEC 1

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DOCUMENT NUMBER-DATE

00127 JAN-5 99

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Telephone Company of)
Central Florida, Inc. for resolution of)
items under dispute in resale agreement)
with BellSouth Telecommunications, Inc.)
_____)

Docket No. 981052-TP

Filed: January 5, 1999

**THE TELEPHONE COMPANY OF CENTRAL FLORIDA, INC.'S
MOTION TO COMPEL BELL SOUTH TELECOMMUNICATIONS, INC.
TO PRODUCE WITNESSES FOR DEPOSITION AND HEARING**

The Telephone Company of Central Florida, Inc. (TCCF), pursuant to rules 25-22.035 and 25-22.037, Florida Administrative Code, and rules 1.280 and 1.380, Florida Rules of Civil Procedure, hereby moves this Commission for an order compelling BellSouth Telecommunications, Inc. (BellSouth) to make certain witnesses available for deposition. As grounds therefor, TCCF states:

1. On January 4, 1999, counsel for TCCF advised counsel for BellSouth by letter (Attachment A) that TCCF wanted to take the depositions of certain BellSouth employees with knowledge of the matters at issue in this case. These witnesses are not scheduled to appear as witnesses for BellSouth in its case in chief, but have been listed by TCCF as adverse witnesses in its case in chief. See TCCF Prehearing Statement, filed December 21, 1998.

2. During a telephone conversation on January 5, 1999 to discuss scheduling of the depositions, BellSouth refused to make available Mr. Joe Baker and Mr. Mike Wilburn. BellSouth's reason for refusing to produce Mr. Baker and Mr. Wilburn for deposition is that BellSouth does not "understand" the need for TCCF to take these depositions because BellSouth believes that any questions appropriate for Mr. Baker and Mr. Wilburn can be answered by other BellSouth witnesses. BellSouth stated that its listed witnesses should be deposed first to see if

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TCCF's questions can be answered by them. Understandably, BellSouth's efforts to manage TCCF's right to discovery was rejected.

3. The position taken by BellSouth is clearly contrary to the black letter rules of discovery. Rule 1.280(b)(1), Florida Rules of Civil Procedure, provides that a party may obtain discovery of any matter that is not privileged that is relevant to the subject matter of the litigation. As this Commission is well aware, the rules of discovery are broad and are to be liberally interpreted. Florida favors complete disclosure in discovery matters. *ACandS, Inc. v. Askew*, 597 So.2d 895 (Fla. 1st DCA 1992).

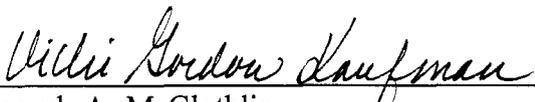
4. BellSouth cannot direct or control the discovery of TCCF nor can it require TCCF to ask certain questions of certain witnesses and not of others. It is undisputed that both Mr. Baker and Mr. Wilburn have been involved with the matters at issue in this docket and both of them have had direct contact with TCCF regarding the disputed issues. TCCF is entitled to depose them and to call them as witnesses at hearing.¹

5. Pursuant to the Procedural Order in this case, the discovery deadline is January 15. BellSouth will not make Mr. Baker and Mr. Wilburn available without order of this Commission. Therefore, TCCF has agreed to take their depositions by telephone on January 18 (or sometime prior to the hearing depending on their availability) if the Commission grants this motion.

WHEREFORE, TCCF moves this Commission for an order requiring BellSouth to produce Mr. Baker and Mr. Wilburn for deposition on January 18 (or some other mutually

¹ Because BellSouth would not agree to produce Mr. Baker and Mr. Wilburn, subpoenas both for their depositions and for their appearance at hearing have been issued.

agreeable time prior to hearing) and at the hearing in this matter on January 22.



Joseph A. McGlothlin

Vicki Gordon Kaufman

McWhirter, Reeves, McGlothlin,

Davidson, Decker, Kaufman,

Arnold & Steen, P.A.

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Attorneys for the Telephone Company
of Central Florida

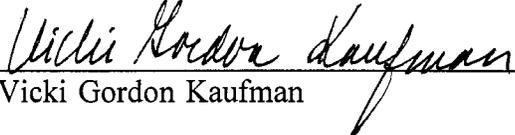
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the **Telephone Company of Central Florida, Inc.'s** foregoing **Motion to Compel** has been furnished by United States Mail, Hand Delivery (*) or fax (**) this **5th** day of **January, 1999**, to the following:

June McKinney*
Florida Public Service Commission
Division of Legal Services
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0870

Mary K. Keyer**
BellSouth Telecommunications, Inc.
675 West Peachtree Street, N.E.
Suite 4300
Atlanta, Georgia 30375

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



Vicki Gordon Kaufman

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January 4, 1999

VIA FAX

Mary K. Keyer
General Attorney
BellSouth Telecommunications, Inc.
675 West Peachtree Street, N.E.
Suite 4300
Atlanta, Georgia 30375

Re: TCCF Arbitration

Dear Mary:

TCCF would like to depose the following BellSouth personnel regarding the above matter:

Susan Arrington
Jerry Hendrix
Marcus Cathey
Ronald Pate
Mike Wilburn
Joe Baker

Since the discovery cut-off in this case is January 15, please call me as soon as possible so we can work out an agreeable schedule.

Sincerely,

Vicki

Vicki Gordon Kaufman

VGK/pw

cc: Andrea K. Welch

ATTACHMENT A