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RECORDS AND
REPORTING

March 22, 1999

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

Re: Docket Nos. 980947-TL, 980948-TL, 981011-TL and 981012-TL

Dear Ms. Bayó:

Enclosed are an original and 15 copies of BellSouth Telecommunications, Inc.'s Response In Opposition to Motion to Shorten Time for Response to Discovery of Intermedia Communications, Inc. Please file this document 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.

Sincerely,

J. Phillip Carver (re)

J. Phillip Carver

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OPC _____
RCH _____
SEC 1
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OTH Place in 980946 only

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cc: All parties of record
M. M. Criser, III
N. B. White
William J. Ellenberg II (w/o enclosures)

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for waiver of) Docket No. 980947-TL
 physical collocation requirements)
 set forth in the Telecommunications)
 Act of 1996 and the FCC's First)
 Report and Order, for the Boca)
 Teeca Central Office, by BellSouth)
 Telecommunications, Inc.)
 _____)

In re: Petition for waiver of) Docket No. 980948-TL
 physical collocation requirements)
 set forth in the Telecommunications)
 Act of 1996 and the FCC's First)
 Report and Order, for the Miami)
 Palmetto Central office, by)
 BellSouth Telecommunications, Inc.)
 _____)

In re: Petition for waiver of) Docket No. 981011-TL
 physical collocation requirements)
 set forth in the Telecommunications)
 Act of 1996 and the FCC's First)
 Report and Order, for the West Palm)
 Beach Gardens Central Office, by)
 BellSouth Telecommunications, Inc.)
 _____)

In re: Petition for waiver of) Docket No. 981012-TL
 physical collocation requirements)
 set forth in the Telecommunications)
 Act of 1996 and the FCC's First)
 Report and Order, for the North)
 Dade Golden Glades Central Office,) Filed: March 22, 1999
 By BellSouth Telecommunications,)
 Inc.)
 _____)

BELLSOUTH'S RESPONSE IN OPPOSITION TO MOTION TO
 SHORTEN TIME FOR REPONSE TO DISCOVERY OF
INTERMEDIA COMMUNICATIONS, INC.

BellSouth Telecommunications, Inc. ("BellSouth") hereby files, pursuant to Rule 25-22.037, Florida Administrative Code, its Response In Opposition to the Motion To Shorten Time For Response to Discovery of Intermedia Communications, Inc. ("Intermedia") and states the following:

1. This docket commenced on July 27, 1998 with the filing by BellSouth of the first two Petitions for Waiver that are under consideration in this docket. The date upon which discovery shall be concluded is June 2, 1999, as set in the Order Establishing Procedure and Consolidating Dockets For Hearing. The hearing is to take place June 9 through 11, 1999.

2. On March 12, 1999, Intermedia served discovery upon BellSouth by hand-delivery in (the above-captioned) four of the six consolidated dockets. In each of these four dockets, Intermedia has served identical discovery that consist of a production request, numerous interrogatories, and multiple requests for admissions. Three days later, Intermedia filed a Motion requesting that the Commission shorten BellSouth's time to answer this discovery from 30 to 20 days. Intermedia's Motion fails to show good cause for the granting of the Motion. Further, if granted, the Motion would prejudice BellSouth by unnecessarily requiring it to sustain the burden of responding to voluminous discovery requests in an extremely short time frame. For this reason, the Motion should be denied.

3. Each of the four sets of discovery propounded by Intermedia include what, at first blush, appear to be 20 interrogatories. The majority of the interrogatories, however, contain multiple subparts. Including these subparts,

each of the four sets of interrogatories contain 49 individual questions. Thus, the discovery that Intermedia would have BellSouth answer in twenty days includes a total of 196 interrogatories, in addition to four separate sets of requests for admission and four requests for the production of documents.

4. Under any circumstances, answering 196 interrogatories would require a substantial amount of time and effort. To do so in 20 days would unquestionably impose upon BellSouth an extremely heavy burden. BellSouth submits that to place this burden upon it is unreasonable in the absence of some truly compelling justification. Intermedia, however, has offered no justification whatsoever.

5. The nominal reason for Intermedia's Motion is that it must have BellSouth's responses to discovery in order to consider them in the filing of direct testimony. Intermedia's Motion fails to explain, however, the reason that it has elected to wait until twenty-three days before its direct testimony is due to file this discovery. As set forth above, the first of the now consolidated collocation dockets was opened more than seven months ago. During this seven-month period, an extremely large volume of discovery has been propounded by Staff and various parties, including Intermedia. Intermedia certainly could have filed the instant discovery at any point after its intervention in the various cases as well. Despite this obvious fact, Intermedia has done nothing to justify, or even explain, its failure to file the discovery earlier. If, in fact, there is no legitimate explanation (and Intermedia has offered none), then poor planning on the part of Intermedia provides no basis to shift to BellSouth unnecessarily the heavy

burden of responding to voluminous discovery in four consolidated dockets in 20 days. Intermedia admits that, in its words, “no fault lies with BellSouth” in this situation. BellSouth submits that, this being the case, BellSouth should not have to undergo the burden of responding to voluminous discovery in a truncated time frame simply to accommodate Intermedia.

6. Intermedia also contends that if its Motion is not granted, then this may “create a need to request leave of the Commission to file supplemental direct testimony.” (Motion, pp. 2-3). Then again, it may not, which is precisely the point. Even if this Commission is inclined to give Intermedia some relief from its own actions and decisions, the first option should not be to force BellSouth to shoulder the consequences of Intermedia’s actions. Instead, the better procedure would be for Intermedia to file its testimony based on the information that it has at hand. If it obtains some information from BellSouth in this discovery that it believes justifies the filing of supplemental testimony, it can file a motion to do so at that time. It would, of course, be Intermedia’s burden to show good cause for the filing of this supplemental testimony, and this would presumably entail a showing that the requested relief would not prejudice any party.

7. This alternative is definitely preferable to what Intermedia proposes: that it be allowed--without justifying in any way the timetable upon which it has chosen to file its discovery--to force BellSouth to respond to 196 interrogatories, four sets of production requests, and four sets of admissions in 20 days. Again, a burden of this magnitude should be placed on a party responding to discovery only in extreme circumstances and upon a showing of compelling necessity.

Intermedia has made no showing of necessity whatsoever. Moreover, even if there is some reason to allow Intermedia a remedy in this situation, it would be more appropriate that Intermedia file a motion to supplement its testimony later, if necessary, as opposed to simply placing upon BellSouth an unnecessarily heavy burden now.

WHEREFORE, BellSouth respectfully requests the entry of an Order denying Intermedia's Motion to Shorten Time for Response To Discovery.

Respectfully submitted this 22nd day of March, 1999.

BELLSOUTH TELECOMMUNICATIONS, INC.

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CERTIFICATE OF SERVICE

**Docket Nos. 980946-TL, 980947-TL, 980948-TL, 981011-TL, 981012-TL
and 981250-TL**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via

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