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General Counsel - Florida

BellSouth Telecommunications, Inc.  
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October 12, 1999

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

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RECORDS AND REPORTING

Re: Docket No. 991391-TP (Pilgrim Arbitration)

Dear Ms. Bayó:

Yesterday, BellSouth Telecommunications, Inc. filed its Answer and Motion to Dismiss to Pilgrim Telephone, Inc.'s Petition. An error was detected on page 4 of BellSouth's answer. In that regard, BellSouth is enclosing an original and fifteen copies of a corrected page 4, which we ask that you file in the captioned docket. This page should replace page 4 in BellSouth's original answer.

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 to the parties shown on the attached Certificate of Service.

- AFA \_\_\_\_\_
- APP \_\_\_\_\_
- CAF \_\_\_\_\_
- CMU Favors
- CTP \_\_\_\_\_
- EAG \_\_\_\_\_
- LEG 1
- MAS 2
- OPC \_\_\_\_\_
- PAI \_\_\_\_\_
- SEC 1
- WAV \_\_\_\_\_
- OTH \_\_\_\_\_

cc: All Parties of Record  
Marshall M. Criser III  
R. Douglas Lackey

Sincerely,

*Nancy B. White* (KR)  
Nancy B. White

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**CERTIFICATE OF SERVICE**  
**Docket No. 991391-TP**

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

U.S. Mail this 12th day of October, 1999 to the following:

Diana Caldwell  
Staff Counsel  
Division of Legal Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

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Atty. for Pilgrim

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(606) 231-3700  
Atty. for Pilgrim

Pilgrim Telephone, Inc.  
One Kendall Square  
Suite 450  
Cambridge, MA 02139  
Represented by Wyatt Law Firm

Nancy B. White  
Nancy B. White (12)

set forth above, an ILEC's duties under Section 251 are owed only to telecommunications carriers. Pilgrim, because it is not certificated, is not a telecommunications carrier under the 1996 Act. Thus, BellSouth has no Section 251 duties with respect to Pilgrim, and Pilgrim is not entitled to utilize arbitration to enforce such non-existent obligations.

The Georgia Public Service Commission has recognized that an entity that is not certified does not constitute a telecommunications carrier and thus is not entitled to arbitration under Section 252 of the Act. Specifically, the Commission held that "[t]he Commission's jurisdiction to conduct compulsory arbitration under Section 252(b) relates to enforcing the incumbent LEC's Section 251(c) duties and obligations, which again are owed to telecommunications carriers." (*Order Dismissing Arbitration*, Docket No. 7270-U, 5/19/97, at 4) (copy attached hereto as Exhibit "1"). The Commission recognized that if an uncertificated entity was permitted to arbitrate, "then the Commission could be forced to entertain compulsory arbitration cases litigated by companies *that may never obtain certificates to provide any telecommunications services in Georgia.*" (*Id.*) (Emphasis added.) The Commission concluded that "its jurisdiction to conduct a Section 252(b) arbitration does not extend to a petitioner that is not a telecommunications carrier." (*Id.* at 5.)<sup>6</sup>

The North Carolina Utilities Commission ("NCUC") recently reached the same result when it dismissed an arbitration petition filed by Pilgrim in North

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<sup>6</sup> Low Tech Designs, Inc., the CLEC in question, appealed the GPSC's decision to the FCC, arguing that the FCC should preempt the arbitration because the state commission "had failed to act." The FCC denied Low Tech's appeal, concluding that, in fact, the state commission had acted by dismissing the arbitration. (*See Petition for Commission Assumption of Jurisdiction of*