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November 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 No. 991267-TP (Global NAPS Complaint)

Dear Ms. Bayó:

Enclosed is an original and fifteen copies of BellSouth Telecommunications, Inc.'s Response to ITC^DeltaCom's Petition to Intervene, which we ask that you file 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 to the parties shown on the attached Certificate of Service.

Sincerely,

*Michael P. Goggin*  
Michael P. Goggin

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

AFA	_____
APP	_____
CAF	_____
GMU	_____
CTR	_____
EAG	_____
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SEC	1 _____
WAW	_____
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DOCUMENT NUMBER-DATE  
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: )  
 ) Docket No. 991267-TP  
Complaint of Global NAPs, Inc., against )  
BellSouth Telecommunications, Inc. for )  
Enforcement of Section VI(B) of its )  
Interconnection Agreement with BellSouth )  
Telecommunications, Inc. and Request for Relief ) Filed: November 22, 1999  
\_\_\_\_\_ )

**BELLSOUTH TELECOMMUNICATIONS, INC.'S RESPONSE TO  
ITC^DELTA COM'S PETITION TO INTERVENE**

BellSouth Telecommunications, Inc. ("BellSouth") hereby responds to the Petition of ITC^DeltaCom Communications, Inc. ("DeltaCom") to Intervene (the "Petition"). The Petition is unwarranted and should be denied.<sup>1</sup> The Petition is predicated upon DeltaCom's mistaken belief that "the interconnection agreement ITC^DeltaCom negotiated with BellSouth Telecommunications, Inc. [is] the subject of [this] complaint proceeding." Petition at 1. It is not. Although Global NAPs chose to adopt language from an agreement between BellSouth and DeltaCom to be incorporated into its agreement with BellSouth, the *only* agreement that *this* proceeding concerns is the agreement between BellSouth and Global NAPs.

In its Complaint, Global NAPs alleges, wrongly, that BellSouth has breached its agreement with Global NAPs. Global NAPs does not ask this Commission to construe or enforce any agreement between BellSouth and

<sup>1</sup> It is not clear, in view of the 1999 amendments to the Commission's rules, how a petition to intervene should be treated. BellSouth believes that, although under the old rules a petition was a means for the initiating proceedings, DeltaCom's petition is analogous to a motion to intervene under Florida's Rules of Civil Procedure. Accordingly, BellSouth has filed a brief in response. BellSouth reserves the right to respond to, and deny, if appropriate, any factual allegations made in DeltaCom's Petition in the event that the Commission does not agree that it should be treated as a motion.

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DeltaCom, nor would Global NAPs have standing to do so. Similarly, DeltaCom does not have standing to barge into this proceeding, which concerns the contractual relationship between BellSouth and Global NAPs.

DeltaCom also is mistaken in asserting that “BellSouth raised the issue of ITC^DeltaCom’s intent during the negotiations of its interconnection agreement with BellSouth in response to Global Nap’s[sic] complaint.” Petition at 2.

DeltaCom does not cite any part of BellSouth’s pleadings in this matter to support this assertion, nor can it. BellSouth has not raised any issue as to DeltaCom’s intent at the time its agreement with BellSouth was formed.

DeltaCom’s intent is wholly irrelevant in this case. To the extent that the intent of the parties to the agreement in this case—the agreement between *Global NAPs* and BellSouth—were relevant at all, only the intent of BellSouth and Global NAPs would be relevant. DeltaCom is not a party to the agreement that underlies this dispute, and therefore does not have any interest, much less a substantial interest, in this proceeding and it should not be permitted to make itself a party to this proceeding.

For these reasons, DeltaCom’s Petition to Intervene should be denied.

Respectfully submitted this 22nd day of November, 1999.

BELLSOUTH TELECOMMUNICATIONS, INC.

*Nancy B. White*

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**CERTIFICATE OF SERVICE  
Docket No. 991267-TP**

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

U.S. Mail this 22nd day of November, 1999 to the following:

Beth Keating  
Staff Counsel  
Florida Public Service  
Commission  
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