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January 12, 2000

VIA HAND DELIVERY

Blanca S. Bayo, Director
Division of Records and Reporting
Betty Easley Conference Center
4075 Esplanade Way
Tallahassee, Florida 32399-0870

Re: Docket No.: 991838-TP

Dear Ms. Bayo:

On behalf of BlueStar Networks, Inc., enclosed for filing and distribution are the original and 15 copies of the following:

- ▶ BlueStar Networks, Inc's Motion for Expedited Discovery Response Times

Please acknowledge receipt of the above on the extra copy of each and return the stamped copies to me in the envelope provided. Thank you for your assistance.

Yours truly,

Vicki Gordon Kaufman
Vicki Gordon Kaufman

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MCWHIRTER, REEVES, MCGLOTHLIN, DAVIDSON, DECKER, KAUFMAN, ARNOLD & STEIN

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re:

Petition for Arbitration of BlueStar
Networks, Inc. with BellSouth
Telecommunications, Inc. Pursuant to the
Telecommunications Act of 1996

Docket No. 991838-TP

Filed: January 12, 2000

**BLUESTAR NETWORKS, INC.'S MOTION
FOR EXPEDITED DISCOVERY RESPONSE TIMES**

BlueStar Networks, Inc. (BlueStar), pursuant to rule 28-106.206, Florida Administrative Code, files this request for entry of an order requiring responses to the discovery delineated below by January 18 and to all other discovery requests filed by BlueStar within twenty (20) days from service. As grounds therefor, BlueStar states:

1. On December 7, 1999, BlueStar filed a Petition for Arbitration of an Interconnection Agreement with BellSouth Telecommunications, Inc. (BellSouth). On December 29, 1999, BlueStar sent counsel for BellSouth a draft of the discovery requests it intended to file along with a proposal for streamlining the discovery process. BellSouth responded on January 5. BlueStar formally served its First Set of Interrogatories and First Set of Requests for Production on January 5, 2000. The Order Establishing Procedure is scheduled to be issued on January 13, 2000. BlueStar's direct testimony is due on January 25. The hearing is set for March 2-3, 2000.

2. BlueStar seeks to arbitrate fifteen (15) issues. Two of the issues which BlueStar must arbitrate involve the appropriate recurring and nonrecurring rates for certain items. Critical to BlueStar's case and the filing of its direct testimony is access to BellSouth's cost studies. These cost studies were requested both in the draft discovery sent to BellSouth and in the formal discovery requests. Further, BlueStar has indicated to BellSouth that it is willing to sign a protective agreement to gain access to the studies. BellSouth promised BlueStar a region-wide agreement in its January 5 letter, but has yet to provide it or any other protective agreement. The cost studies, as well as

information on many of the issues to be arbitrated and for which BlueStar seeks discovery, are solely within the possession of BellSouth. These materials are critical to the preparation of BlueStar's case and BlueStar is extremely prejudiced in its case preparation without them.

3. An issue identification meeting was held on January 11. At that time, BlueStar requested that BellSouth expeditiously provide certain cost studies (a subset of Production Request Nos. 7, 8) so that BlueStar could prepare its direct testimony, due in less than two weeks. BlueStar suggested that BellSouth provide the cost studies it had already filed at the FCC and/or at this Commission--cost studies which are in existence and simply need to be made available to BlueStar--necessitating no work on BellSouth's part. BellSouth refused to provide the studies.

4. In addition to the cost studies described above, BlueStar also needs quick access to the information requested in the following requests in order to prepare its direct testimony¹:

Production Request Nos. 12, 18, 21

Interrogatory Nos. 7, 10, 17, 23.

5. Due to the complexity of the issues and the very short preparation time before the filing of BlueStar's direct testimony, BlueStar requests that BellSouth be required to provide the cost studies described above, as well as the other items listed above, by January 18 (20 days from when BellSouth received the informal draft of the discovery).

6. Further, BlueStar requests that the time allowed for all other discovery responses be expedited. The normal time allotted for response is 30 days. Rule 1.350, Florida Rules of Civil Procedure. However, BlueStar requests that the Prehearing Officer require BellSouth to respond to discovery in twenty (20) days, including discovery which has already been served. According to the Telecommunications Act of 1996, the circumstances here are appropriate for an expedited time frame, thus it is both appropriate and reasonable for BellSouth to respond to discovery requests in less than

¹BlueStar delineates this list in an effort to ease BellSouth's concern over the "volume" of BlueStar's requests.

30 days.

7. These shortened time frames should not prejudice BellSouth as it is familiar with the issues in this case and has access to the items requested. Conversely, if BlueStar does not have access to the requested items, it will be severely prejudiced.


8. Pursuant to Rule 28-106.204, Florida Administrative Code, BlueStar has attempted to confer with counsel for BellSouth regarding this request but was unable to reach him.

WHEREFORE, BlueStar requests that:

A. BellSouth be required to produce the cost studies and other items listed above by January 18, 2000;

B. BellSouth be required to respond to all other discovery (including that which is outstanding) within 20 days of service; and

C. The Prehearing Officer enter an expedited ruling on this motion..



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Attorneys for BlueStar Networks, Inc.

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a true and correct copy of the foregoing BlueStar Networks, Inc.s' Motion for Expedited Discovery Response Time has been furnished by (*) hand delivery or U.S. Mail this 12th day of January, 2000 to the following:

(*) Donna Clemons
Staff Attorney
Florida Public Service Commission
2540 Shumard Oak Boulevard
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(*) Nancy White
Phil Carver (also by fax)
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