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Legal Department

J. PHILLIP CARVER  
General Attorney

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BellSouth Telecommunications, Inc.  
150 South Monroe Street  
Room 400  
Tallahassee, Florida 32301  
(404) 335-0710

RECORDS AND  
REPORTING

January 18, 2000

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

RE: Docket No. 991838-TP

Dear Mrs. Bayo:

Enclosed is an original and fifteen copies of BellSouth Telecommunications, Inc.'s Objections to BlueStar's First Request for Production of Documents and First Set of Interrogatories. Please file this document 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 on the parties shown on the attached Certificate of Service.

Sincerely,



J. Phillip Carver

AFA \_\_\_\_\_  
APP \_\_\_\_\_  
CAE \_\_\_\_\_  
CEN 5 \_\_\_\_\_  
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RRR \_\_\_\_\_  
SEC 1 \_\_\_\_\_  
WAW \_\_\_\_\_  
OTH \_\_\_\_\_

Enclosures

cc: All Parties of Record  
M. M. Criser, III  
N. B. White  
R. Douglas Lackey

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FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

ORIGINAL

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 18, 2000

**BELLSOUTH TELECOMMUNICATIONS, INC.'S  
OBJECTIONS TO BLUESTAR'S FIRST REQUEST FOR PRODUCTION OF  
DOCUMENTS AND FIRST SET OF INTERROGATORIES**

BellSouth Telecommunications, Inc., ("BellSouth" or "Company"), hereby files, pursuant to Rule 25-22.034 and 25-22.035, Florida Administrative Code, and Rules 1.340 and 1.280(b), Florida Rules of Civil Procedure, hereby submits the following Objections to the First Request for Production of Documents and First Set of Interrogatories filed by BlueStar Networks, Inc. ("BlueStar").

The objections stated herein are preliminary in nature. Although a Procedural Order has not been entered in this case, BellSouth anticipates that the Order will contain the typical requirement that certain objections be made within ten days. BellSouth is filing these objections to meet that anticipated requirement. Should additional grounds for objection be discovered as BellSouth prepares its Answers to the above-referenced discovery, BellSouth reserves the right to supplement, revise, or modify its objections at the time that it serves its Answers. Moreover, should BellSouth determine that a Protective Order is necessary with respect to any of the material requested by BlueStar,

BellSouth reserves the right to file a motion with the Commission seeking such an order at the time that it serves its Answers.

### **GENERAL OBJECTIONS**

BellSouth makes the following General Objections to BlueStar's First Request for Production of Documents and First Set of Interrogatories which will be incorporated by reference into BellSouth's specific responses when its Answers are served.

1. BellSouth objects to the requests to the extent that such requests seek to impose an obligation on BellSouth to respond on behalf of subsidiaries, affiliates, or other persons that are not parties to this case on the grounds that such requests are overly broad, unduly burdensome, oppressive, and not permitted by applicable discovery rules.

2. BellSouth has interpreted BlueStar's requests to apply to BellSouth's regulated intrastate operations in Florida and will limit its Answers accordingly. To the extent that any request is intended to apply to matters other than Florida intrastate operations subject to the jurisdiction of the Commission, BellSouth objects to such request to produce as irrelevant, overly broad, unduly burdensome, and oppressive.

3. BellSouth objects to each and every request and instruction to the extent that such request or instruction calls for information which is exempt from discovery by virtue of the attorney-client privilege, work product privilege, or other applicable privilege.

4. BellSouth objects to each and every request insofar as the request is vague, ambiguous, overly broad, imprecise, or utilizes terms that are subject to multiple interpretations but are not properly defined or explained for purposes of these requests. Any Answers provided by BellSouth in response to BlueStar's request will be provided subject to, and without waiver of, the foregoing objection.

5. BellSouth objects to each and every request insofar as the request is not reasonably calculated to lead to the discovery of admissible evidence and is not relevant to the subject matter of this action. BellSouth will attempt to note each instance where this objection applies.

6. BellSouth objects to BlueStar's discovery requests, instructions and definitions, insofar as they seek to impose obligations on BellSouth that exceed the requirements of the Florida Rules of Civil Procedure or Florida Law.

7. BellSouth objects to providing information to the extent that such information is already in the public record before the Florida Public Service Commission.

8. BellSouth objects to each and every request, insofar as it is unduly burdensome, expensive, oppressive, or excessively time consuming as written.

9. BellSouth objects to each and every request to the extent that the information requested constitutes "trade secrets" which are privileged pursuant to Section 90.506, Florida Statutes. To the extent that Staff's requests proprietary confidential business information which is not subject to the "trade secrets" privilege, BellSouth will make such information available to counsel for BlueStar

pursuant to an appropriate Protective Agreement, subject to any other general or specific objections contained herein.

10. BellSouth is a large corporation with employees located in many different locations in Florida and in other states. In the course of its business, BellSouth creates countless documents that are not subject to Florida Public Service Commission or FCC retention of records requirements. These documents are kept in numerous locations that are frequently moved from site to site as employees change jobs or as the business is reorganized. Therefore, it is possible that not every document has been provided in response to these discovery requests. Rather, these responses provide all of the information obtained by BellSouth after a reasonable and diligent search conducted in connection with this discovery request. BellSouth conducted a search of those files that are reasonably expected to contain the requested information. To the extent that the discovery request purports to require more, BellSouth objects on the grounds that compliance would impose an undue burden or expense.

11. On January 10, 2000, an Issue Identification Conference was held, at which time BlueStar withdrew from this arbitration three of the sixteen issues set forth in its Petition. Some of the discovery that has been propounded upon BellSouth by BlueStar appears to relate to these three issues, yet BlueStar has failed to withdraw this discovery at any time subsequent to the Conference. Accordingly, BellSouth objects generally to responding to any discovery requests that relate to issues that have been withdrawn from this arbitration.

12. In several instances, BlueStar has incorporated into its interrogatories the demand that the interrogatory be answered, in whole or in part, by producing documents. It is not proper to propound interrogatories with the demand that they be answered by the production of documents rather than by providing a written answer. To the extent BlueStar has done so within its interrogatories, BellSouth objects to producing the requested documents.

### **SPECIFIC OBJECTIONS TO INTERROGATORIES**

13. BlueStar has propounded a number of interrogatories that seek a variety of information concerning BellSouth's retail services. These interrogatories (Nos. 1, 2, 3, 5, 9, 11, 16, 18, 21 and 23) seek information relating to various matters, such as marketing, the BellSouth personnel knowledgeable of BellSouth's retail services, equipment used in the provision of retail services, and engineering guidelines that apply specifically to BellSouth's retail services. BellSouth's retail services are not at issue in this arbitration. Accordingly, BlueStar's request for this information is improper because the information is not relevant, and is not calculated to lead to the discovery of admissible, relevant evidence. Moreover, this information is proprietary since its disclosure would harm the competitive interests of BellSouth. Standing alone, of course, the proprietary nature of information is not sufficient to justify withholding it from discovery. In an instance such as this one, however, in which BlueStar (a competitor of BellSouth) has chosen to demand for reasons known only to itself irrelevant information that is also of extreme competitive sensitivity, the proprietary nature of the information should be considered. In other words,

these are not requests that are irrelevant, but harmless. These requests are for information that has no relevance to the issues in this case, and the request for this information is especially improper given that the information BlueStar demands has value to BlueStar as a competitor and the information is normally treated as confidential by BellSouth.

14. BlueStar has propounded a number of interrogatories that appear to require the production of documents rather than or in addition to an answer to the interrogatories. BellSouth objects to each and every one of these. These include Interrogatories No. 6, 14, 16, and 20.

15. BellSouth objects to Interrogatory No. 11 for the additional reason that is overbroad and burdensome. This Interrogatory seeks information that relates to virtually every BellSouth cost study. In order to respond to this interrogatory, it would be necessary for BellSouth to review every cost study of any service that utilizes the local loop (including retail services). This would entail a search and analysis of almost every service that BellSouth has ever produced, including, but not limited to, all special access services, all private line services, ESSX, PBX, multiserve, 1FR, 1FB, and a multitude of other services that utilize the retail loops.

16. BellSouth objects to Interrogatory No. 15 because, although BellSouth has not yet conducted a full search, this Interrogatory appears to call for such a broad range of information that providing a responsive answer would be burdensome. BellSouth will file a more definitive response and/or objection to this Interrogatory after a search has been conducted.

17. BellSouth objects to Interrogatory No. 17 because, although BellSouth has not yet conducted a full search, this Interrogatory appears to call for such a broad range of information that providing a response would be burdensome. BellSouth will file a more definitive response and/or objection to this Interrogatory after a search has been conducted.

18. BellSouth objects specifically to Interrogatory No. 22, which requests that BellSouth list the name of every party to every contract that BellSouth has ever executed that contains procedures for alternative dispute resolution. To the extent this Interrogatory means what it states literally, it would require BellSouth to review every contract that it has ever signed for any purpose whatsoever. Such a request is grossly overbroad. If, giving BlueStar the benefit of the doubt, it is asking BellSouth to produce all interconnection agreements that have dispute resolution clauses, this request is, nevertheless, overbroad and burdensome. Even this more limited request would require BellSouth to review hundreds of interconnection agreements, all of which are on file with the Florida Public Service Commission. For this reason, BlueStar could conduct a search, if indeed there is any reason to do so, just as well itself. Finally, at the Issue ID Conference held January 10, 2000, BlueStar reconstituted its request for alternative dispute resolution to reference a particular procedure before the Commission. Given this, most of the information requested is no longer of any relevance.



## SPECIFIC OBJECTIONS TO PRODUCTION REQUESTS

19. BellSouth objects to Production Request No. 1 because it is overly broad and burdensome. In this request, BlueStar calls literally for the production of every document that relates to any BellSouth response to any interrogatory. To give one example of the burdensome nature of this request, as BellSouth stated previously, Interrogatory No. 11 calls for BellSouth to provide information from virtually every BellSouth cost study. Apparently, BlueStar now demands that BellSouth produce the studies themselves. This of course represents only one of the twenty-three interrogatories that form the basis of BlueStar's overbroad production request. Accordingly, BellSouth objects.

20. BellSouth objects to Request to Produce No. 5, 6, 7, 8, 12, 17 and 20 because these requests call for the production of documents that are not relevant and that are proprietary. As in its interrogatories, BlueStar has requested the production of a wide range of proprietary documents that relate solely to BellSouth's retail offerings, and which have no relevance to the proceeding. Accordingly, BellSouth objects to these requests for the reasons explained previously.

21. BellSouth objects to Request to Produce No. 15 because it calls for the production of documents that are not relevant, and because the request is overbroad and burdensome. Apparently, BlueStar is requesting that BellSouth produce contracts of any sort that contain procedures for alternative dispute resolution. To the extent these contracts are anything other than interconnection agreements, they are irrelevant. To the extent BlueStar is requesting

interconnection agreements specifically, these agreements are on file with the Florida Public Service Commission. To the extent BlueStar is requesting documents that relate to other states, BellSouth objects for the reasons set forth previously. BellSouth also objects because BlueStar's previously referenced change to the issue to be arbitrated renders this request irrelevant.

22. BellSouth objects to Request to Produce Nos. 20 and 21 because they are both overbroad and the information requested is irrelevant. BlueStar has raised the issue in its Petition of whether it can have expedited repair service, i.e., some sort of premium offering that would make repair service available to it more quickly than to other customers. Here, however, BlueStar has requested information, for both retail and wholesale customers, under the normal repair standards that BlueStar has rejected. Thus, the requested documents have no relevance to the matters at issue. Further, BellSouth anticipates that the responsive documents would be so voluminous that this request is also unduly burdensome.

23. BellSouth objects to Request to Produce No. 22, which calls for the production of BellSouth's contracts with its 20 largest customers and 20 largest suppliers. This is perhaps the most egregious example in BlueStar's discovery of a demand for documents that have absolutely no relevance to this proceeding, a demand for material that is proprietary, and a demand that appears to be propounded simply for harassment purposes. Accordingly, BellSouth objects to this irrelevant request for proprietary information for the reasons set forth previously.

24. BellSouth objects to Product Request No. 23 which does not call for the production of documents at all, but instead attempts to require BellSouth to set forth an exhaustive list of every individual that participates in any manner in the collection of documents to be produced. This list would not be admissible, it is not calculated to lead to the discovery of admissible evidence, and has apparently been requested solely for the purpose of harassing BellSouth's employees. Moreover, it is not a request for production, but rather a demand that a document be created regarding the production of documents. As such, it is improper to include this within a production request.

Respectfully submitted this 18th day of January, 2000.

BELLSOUTH TELECOMMUNICATIONS, INC.

*Nancy B. White*

NANCY B. WHITE  
MICHAEL P. GOGGIN

c/o Nancy Sims  
150 South Monroe Street, #400  
Tallahassee, Florida 32301  
(305) 347-5555

*R. Douglas Lackey*

R. DOUGLAS LACKEY  
J. PHILLIP CARVER  
675 West Peachtree Street, #4300  
Atlanta, Georgia 30375  
(404) 335-0710

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**CERTIFICATE OF SERVICE  
DOCKET NO. 991838-TP**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via facsimile(\*) and U.S. Mail this 18th day of January, 2000 to the following:

Donna Clemons  
Staff Counsel  
Division of Legal Services  
Florida Public Service Comm.  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Bluestar Networks, Inc.  
131 2nd Avenue North  
Suite 500  
Nashville, Tennessee 37201  
Tel. No. (615) 255-2100  
Fax. No. (615) 255-2102

Henry C. Campen (\*)  
John A. Doyle  
Parker, Poe, Adams & Berstein, LLP  
First Union Capitol Center  
150 Fayetteville Street Mall  
Suite 1400  
Raleigh, N.C. 27602  
Tel. No. (919) 828-0564  
Fax. No. (919) 834-4564

John A. Doyle, Jr.  
Parker, Poe, Adams & Berstein, LLP  
First Union Capitol Center  
150 Fayetteville Street Mall  
Suite 1400  
Raleigh, North Carolina 27602

Vicki Gordon Kaufman  
McWhirter, Reeves, McGlothlin,  
Davidson, Decker, Kaufman,  
Arnold & Steen, P.A.  
117 South Gadsden Street  
Tallahassee, FL 32301  
Tel. No. (850) 222-2525  
Fax. No. (850) 222-5606

  
J. Phillip Carver

Norton Cutler  
V.P. Regulatory & General Counsel  
BlueStar Networks, Inc.  
L & C Tower, 24th Floor  
401 Church Street  
Nashville, Tennessee 37219