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February 10, 2000
VIA Hand Delivery

Blanca S. Bayo, Director
Division of Records and Reporting
Betty Easley Conference Center
4075 Esplanade Way
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RECORDS AND REPORTING

Re: Docket No.991838-TP

Dear Ms. Bayo:

Enclosed for filing and distribution are the original and 15 copies of BlueStar Network, Inc.'s to File Supplemental Rebuttal Testimony.

Please acknowledge receipt of the above on the extra copies enclosed herein and return them to me. Thank you for your assistance.

Yours truly,

Vicki Gordon Kaufman

Vicki Gordon Kaufman

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MCWHIRTER, REEVES, MCGLOTHLIN, DAVIDSON, DECKER, KAUFMAN, ARNOLD & STEEN, P.A.

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FPSC-RECORDS/REPORTING

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: February 10, 2000

**BLUESTAR NETWORKS, INC.'S MOTION
TO FILE SUPPLEMENTAL REBUTTAL TESTIMONY**

BlueStar Networks, Inc. (BlueStar), pursuant to rule 28-106.204, Florida Administrative Code, files this motion seeking leave to file supplemental rebuttal testimony after receipt of BellSouth Telecommunications, Inc.'s (BellSouth) cost studies. As grounds therefor, BlueStar states:

1. On December 7, 1999, BlueStar filed a petition for arbitration concerning issues as to which it had been unable to reach agreement with BellSouth. Several of these issues concerned the appropriate TELRIC-based rates for certain elements.¹

2. On January 5, 2000, BlueStar served its First Request for Production of Documents on BellSouth. Request Nos. 7 and 8 seek cost studies related to the element at issue in this case. Request No. 7 sought cost studies related to retail ADSL service. Request No. 8 sought cost studies related to "unbundled cooper loops" (UCLs). In addition to seeking hard copies of the cost studies, BlueStar explicitly sought "all computerized models involved in preparing the costs with data intact."

3. BellSouth objected to these requests on January 18, 2000 claiming the information was irrelevant and proprietary. BellSouth responded to BlueStar's production request on January 28,

¹See, Order No. PSC-99-00-0141-PCO-TP, Appendix A, Issues 10 and 11.

2000, again objecting to producing the documents. BlueStar filed a motion to compel on January 20, 2000.² BellSouth responded on January 27, essentially withdrawing its objection to Request No. 7.

4. On February 2, BlueStar representatives traveled to Atlanta to review the BellSouth cost studies (including the ADSL cost study, the UCL cost study and the NTW cost study) as well as other documents. They identified those documents which they wanted copies of, including pertinent cost study information and BellSouth indicated they would be copied and provided to BlueStar. BlueStar also repeatedly inquired about electronic copies of the information but no electronic information has been provided. Further, the cost studies have yet to be provided.

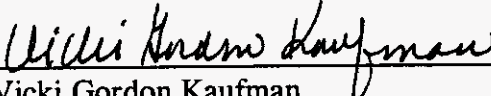
5. BlueStar's rebuttal testimony is due on February 14, 2000. At the time of filing of this motion (over one week since BlueStar reviewed the documents in Atlanta and identified those it wanted copied), BlueStar has still not received copies of any of the documents from BellSouth. Therefore, it obviously, has not been able to provide the documents to its expert witness for review and formulation of his testimony. Inquiry to BellSouth as to when the documents will be provided has led to various responses, depending upon whom is asked. Current predictions from BellSouth indicate that the documents will arrive on February 11, *three* days before rebuttal testimony is due!

6. Clearly, three days is woefully inadequate for BlueStar and its expert witness to review and digest these cost studies and then write rebuttal testimony. BellSouth's failure to provide these documents in a timely manner is extremely prejudicial to BlueStar's preparation in this docket and necessitates this request for permission to file supplemental testimony on the cost issues.

² The motion has not yet been ruled upon.

WHEREFORE, BlueStar requests that the Prehearing Officer:

- a. allow BlueStar to file supplemental rebuttal testimony 5 days after receipt of BellSouth's cost studies;
- b. require BellSouth to provide the cost studies in electronic format.



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Attorneys for BlueStar Networks, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of BlueStar Networks, Inc.'s foregoing Motion to File Supplemental Rebuttal Testimony has been furnished by (*) hand delivery this 10th day of February, 2000, to the following:

(*) Donna Clemons
Florida Public Service Commission
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(*) Phil Carver (also served by fax)
(*) Michael Goggin (also served by fax)
c/o Nancy Sims
BellSouth Telecommunications, Inc.
150 South Monroe Street, #400
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Vicki Gordon Kaufman