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May 17, 2000

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. 991220-TP (Global NAPs)

Dear Ms. Bayó:

Enclosed please find the original and fifteen copies of the Motion to Strike Exhibits to Rebuttal Testimony of Global NAPs Witnesses, Selwyn and Goldstein, which we ask that you file in the above-referenced matter.

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,

J. Phillip Carver
Phillip Carver
(28)

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- CAF _____
- ~~CMW~~ *Clinton* _____
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cc: All Parties of Record
Marshall M. Criser III
R. Douglas Lackey
Nancy B. White

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**CERTIFICATE OF SERVICE
Docket No. 991220-TP**

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

U.S. Mail and Hand Delivery (+) this 17th day of May, 2000 to the following:

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ORIGINAL

In the Matter of:)
Petition of GLOBAL NAPs SOUTH, INC.,)
for Arbitration of Interconnection Rates,)
Terms, and Conditions and Related Relief)
of Proposed Agreement with BellSouth under)
the Telecommunications Act of 1996)

Docket No. 991220-TP

**MOTION TO STRIKE EXHIBITS TO REBUTTAL
TESTIMONY OF GLOBAL NAPs WITNESSES, SELWYN AND GOLDSTEIN**

BellSouth Telecommunications, Inc. ("BellSouth"), pursuant to Rule 25-22.037, Florida Administrative Code, hereby submits its Motion To Strike Exhibits To Rebuttal Testimony of Global NAPs Witnesses, Selwyn and Goldstein, and states the following:

1. On May 1, 2000, Global NAPs filed Rebuttal Testimony of its witnesses, Fred Goldstein, Lee W. Selwyn, and William J. Rooney, Jr. Attached to the testimony of witnesses Selwyn and Goldstein are Direct and Rebuttal Testimony that they filed in the recent Complaint case between Global NAPs and BellSouth (Docket No. 991267-TP). The Direct and Rebuttal in that proceeding is not proper rebuttal testimony in this proceeding and should be stricken.

2. The purpose of rebuttal testimony is, as the name suggests, to rebut the testimony of other witnesses who have filed direct testimony in a proceeding. Although the rebuttal testimony of Global NAPs witnesses, Selwyn and Goldstein, is, at times, rather far ranging, it generally conforms to this purpose. Each, however, has attached to their respective testimony both direct and rebuttal testimony filed in a different docket. This tactic would be questionable if this testimony were filed as an attachment to direct testimony, i.e., the better alternative would be to simply draft appropriate testimony as

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opposed to attempting to incorporate testimony from another docket. Filing these exhibits to rebuttal testimony, however, is completely inappropriate, and should not be allowed.

3. Obviously, the direct testimony of these two witnesses in another proceeding does not rebut the testimony that Mr. Varner filed in this proceeding. In fact, the testimony in question was filed in November and December of 1999, months before Mr. Varner's direct testimony was filed on April 3, 2000 in this proceeding. A party should not be allowed to file as rebuttal testimony direct testimony of any sort. The fact that the direct testimony was previously filed in another docket does nothing to make this testimony any more appropriate as a rebuttal filing.

4. The filing of the rebuttal testimony of these witnesses from the complaint proceeding is even more egregious. A review of this testimony shows that these two witnesses purported to rebut the direct testimony of two BellSouth witnesses in the Complaint case, Beth Shiroshi and Albert Halprin, who are not appearing in this case. Thus, although the testimony is rebuttal of some sort, it is not rebuttal of the direct testimony filed by BellSouth in this case.


5. Again, filing this testimony in this docket would be questionable under any circumstances. It is especially inappropriate to file this testimony as if it were rebuttal, because this tactic effectively deprives BellSouth of the opportunity to respond to this testimony. Accordingly, Exhibits LLS-1 and LLS-2 to the rebuttal testimony of Lee L. Selwyn and the only (unlabeled) exhibit to the testimony of Fred Goldstein should be stricken because the testimony in these exhibits is not appropriate rebuttal testimony,

and because allowing Global NAPs to file this inappropriate testimony as an exhibit to rebuttal testimony would unduly prejudice BellSouth.


WHEREFORE, BellSouth requests the entry of an order striking the above-identified exhibits to the testimony of Lee L. Selwyn and Fred Goldstein.

Respectfully submitted this 17th day of May, 2000.

BELLSOUTH TELECOMMUNICATIONS, INC.



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