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RECORDS AND
REPORTING

May 25, 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. 991534-TP (Intermedia Arbitration)

Dear Ms. Bayó:

Enclosed is an original and fifteen copies of BellSouth Telecommunications, Inc.'s Response to Intermedia Communications, Inc.'s Motion for Leave to File Surrebuttal Testimony, 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,

E. Earl Edenfield, Jr.
E. Earl Edenfield, Jr. (aw)

APP	_____	cc: All Parties of Record
CAF	_____	
CMP	<u>2</u>	Marshall M. Criser III
COM	<u>2</u>	R. Douglas Lackey
CTR	_____	Nancy B. White
ECR	_____	
LEG	<u>2</u>	
OPC	_____	
PAI	_____	
RGO	_____	
SEC	<u>1</u>	
SER	_____	
OTH	_____	

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[Signature]
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DOCUMENT NUMBER-DATE

06507 MAY 25 8

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re:)	
)	
Request for Arbitration Concerning Complaint of)	Docket No. 991534-TP
Intermedia Communications, Inc. against BellSouth)	
Telecommunications, Inc. for breach of terms of)	
Interconnection Agreement under Sections 251 and)	
252 of the Telecommunications Act of 1996, and)	
Request for relief.)	Filed: May 25, 2000
)	

RESPONSE OF BELLSOUTH TELECOMMUNICATIONS, INC. TO INTERMEDIA COMMUNICATIONS INC.'S MOTION FOR LEAVE TO FILE SURREBUTTAL TESTIMONY

On May 18, 2000, Intermedia Communications, Inc. ("Intermedia") filed a Motion for Leave to File Surrebuttal Testimony ("Motion"). Intermedia took the liberty of attaching to the Motion a copy of the surrebuttal testimony Intermedia seeks to file. For the reasons set forth below, BellSouth Telecommunications, Inc. ("BellSouth") respectfully requests that the Florida Public Service Commission deny Intermedia's Motion and strike the surrebuttal testimony of Edward L. Thomas attached to the Motion.

As the basis for its Motion, Intermedia alleges that it would be "materially unfair" not to let Intermedia respond to the rebuttal testimony of Keith Milner, simply because "Mr. Milner did not produce direct testimony." Motion, ¶3. Intermedia also makes a nebulous allegation that surrebuttal testimony is necessary "to avoid an incomplete and therefore distorted record." *Id.*, ¶4. Intermedia fails to consider, however, the fact that the sole reason BellSouth filed the rebuttal testimony of Mr. Milner was to ensure that the Commission had a complete and undistorted record.

DOCUMENT NUMBER-DATE

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Intermedia correctly points out that the Order Establishing Procedure (Order No. PSC-00-0193-PCO-TP) does not provide for surrebuttal testimony. *Id.*, ¶15. Thus, to be entitled to file surrebuttal testimony, Intermedia must demonstrate that Mr. Milner raised an issue in his rebuttal testimony not raised by Intermedia in direct testimony. Not only does Intermedia fail to demonstrate that any new issue was raised in Mr. Milner's rebuttal testimony, Intermedia does not even make such an allegation in the Motion. In fact, in discussing the purpose of the surrebuttal testimony, Mr. Thomas simply states the purpose "is to address the rebuttal testimony of W. Keith Milner, which seeks inappropriately to discredit my direct testimony with several misleading and inaccurate statements." Mr. Thomas does not even insinuate that he is attempting to rebut any new issues raised by Mr. Milner. Instead, Mr. Thomas seeks to rehabilitate those portions of his direct testimony that were eviscerated by Mr. Milner.


It is clear from the surrebuttal testimony that Intermedia does not respond to any new issue, but only seeks to have "the last word" and introduce exhibits that could have been part of either the direct or rebuttal testimony. For instance, there are a number of places in the surrebuttal testimony where Intermedia makes specific references to Mr. Milner "disagreeing with" or "taking issue with" the direct testimony of Mr. Thomas. (See, page 2, line 8; page 6, line 6; page 7, line-3; page 7, line 14; page 8, line 4) Therefore, BellSouth respectfully suggests that the Commission should deny Intermedia's Motion and strike the surrebuttal testimony and exhibits Intermedia has attempted to insert into the record.

Respectfully submitted this 25th day of May 2000.

BELLSOUTH TELECOMMUNICATIONS, INC.



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213954

CERTIFICATE OF SERVICE
Docket No. 991534-TP

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

U.S. Mail this 25th day of May, 2000 to the following:

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E. Earl Edenfield, Jr. (PW)

(+) Signed Protective Agreement