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May 30, 2000

Mrs. Blanca S. Bayó
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Florida Public Service Commission
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Re: Docket No. 990649-TP (UNE Docket)

Dear Ms. Bayó:

Enclosed is an original and fifteen copies of BellSouth Telecommunications, Inc.'s Motion for Protective Order, 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,

Michael P. Goggin
Michael P. Goggin

cc: All Parties of Record
Marshall M. Criser III
R. Douglas Lackey
Nancy B. White

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**CERTIFICATE OF SERVICE
Docket No. 990649-TP**

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

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Michael P. Goggin

(+) Signed Protective Agreement

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL

In re: Investigation into)
pricing of unbundled network)
elements)
_____)

Docket No. 990649-TP

Filed: May 30, 2000

**BELLSOUTH TELECOMMUNICATIONS, INC.'S
MOTION FOR PROTECTIVE ORDER**

BellSouth Telecommunications, Inc., ("BellSouth" or "Company"), pursuant to Rule 28-106.206, Florida Administrative Code, and Rule 1.280(c), Florida Rules of Civil Procedure, hereby files its Motion for Protective Order and states:

1. On May 25, 2000, BlueStar Networks, Inc. ("BlueStar") filed Notices of Deposition for Michael Zitzmann, James Ennis and Robert W. Green along with two Corporate Representatives to be held on May 31, 2000 at MCWhirter, Reeves, McGlothlin, et al., 117 South Gadsden Street in Tallahassee.

2. Although BellSouth does not object to producing a witness or witnesses to give testimony regarding the subjects BlueStar has identified, BellSouth hereby requests a protective order for the following reasons.

3. First, BlueStar has failed to "give reasonable notice in writing to every other party to the action," as required by Rule 1.310(b) of the Florida Rules of Civil Procedure. *Broward Indus. Plating, Inc. v. Weiby*, 394 So. 2d 1117, 1119-20 (Fla. App. 1981). BellSouth and the Commission staff were served by hand with the notices on March 25, a mere three business days prior to the date upon which BlueStar intends to depose BellSouth's witnesses. Three business days simply is not "reasonable notice" under the rule. Other parties to the action

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were served by mail. These parties, some as far away as California, likely will not have received *any* notice by May 31, the deposition date listed in the notice, much less *reasonable* notice. For this reason alone, the Commission should issue a protective order.

4. Second, given the short notice, BellSouth is not able to produce each of the named witnesses (or a corporate representative) in Tallahassee by May 31, 2000. BellSouth should be permitted a reasonable time to allow its witnesses to arrange their schedules to accommodate BlueStar's requests.

5. Third, given the complexity of the issues in this proceeding it would be inefficient to permit BlueStar to take these depositions before BellSouth files its rebuttal testimony (which is due June 15, for phase one). BlueStar's desire to depose these witnesses was triggered by its review of BellSouth's direct testimony. It seems reasonable that additional questions might occur to BlueStar after reviewing BellSouth's rebuttal testimony, which might give rise to additional requests for depositions. Moreover, there are many parties in this proceeding that may wish to depose these witnesses or others from BellSouth. It would be unfair to require BellSouth to produce these or other witnesses more than one time each. Accordingly, the Commission should issue a protective order to ensure that BellSouth's witnesses will be deposed only once each, with reasonable advance notice to all parties.

6. Fourth, it is BellSouth's understanding that BlueStar wanted to take these depositions before it filed its rebuttal testimony. There is no need to take these depositions on May 31 given that: (1) BellSouth has consented to

extending the deadline for the filing of the intervenors' rebuttal testimony; and (2) the filing of such testimony has been held in abeyance pending the Commission's resolution of several motions for a continuance.

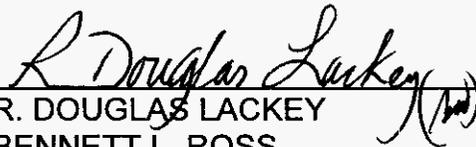
7. For the reasons stated above, BellSouth requests that the Commission issue a protective order pursuant to Rule 1.280(c), Florida Rules of Civil Procedure, canceling, without prejudice the depositions of BellSouth witnesses noticed by BlueStar for May 31, 2000, and directing: (i) that no such depositions take place prior to the date upon which BellSouth's prefiled rebuttal testimony has been filed; (ii) that no such depositions take place without reasonable notice in writing to all parties to this proceeding; and (iii) that no BellSouth witness shall be deposed in this proceeding more than once.

Respectfully submitted this 30th day of May, 2000.

BELLSOUTH TELECOMMUNICATIONS, INC.



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