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Legal Department

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RECORDS AND  
REPORTING

ORIGINAL

June 5, 2000

Mrs. Blanca S. Bayó  
Director, Division of Records and Reporting  
Florida Public Service Commission  
Division of Legal Services  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

000690-TP

**Re: New Docket – BellSouth Complaint re: the Practices of  
Intermedia Communications, Inc., Phone One, Inc., NTC, Inc.  
and National Telephone of Florida**

Dear Ms. Bayo:

Enclosed is an original and fifteen copies of BellSouth Telecommunications, Inc.'s Complaint Regarding the Practices of Intermedia Communications, Inc., Phone One, Inc., NTC, Inc. and National Telephone of Florida 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,

*Lisa S. Foshee*

Lisa S. Foshee

(2)

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

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FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

06840 JUN-58

FPSC-RECORDS/REPORTING

**CERTIFICATE OF SERVICE**  
**Docket No. \_\_\_\_\_**

I HEREBY CERTIFY that a true and correct copy of BellSouth  
Telecommunications, Inc.'s Complaint Regarding the Practices of Intermedia  
Communications, Inc. , Phone One, Inc., NTC, Inc. and National Telephone of Florida  
in the Reporting of Percent Interstate Usage for Compensation for Jurisdictional Access  
Services was served via U.S. Mail this 5th day of June, 2000 to the following:

Staff Counsel  
Division of Legal Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

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Wiggins & Villacorta, P.A.  
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Lisa S. Foshee

ORIGINAL

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

Complaint of BellSouth Telecommunications, Inc. )  
Regarding the Practices of Intermedia )  
Communications, Inc.; Phone One, Inc.; NTC, Inc.; )  
National Telephone of Florida in The Reporting of )  
Percent Interstate Usage for Compensation )  
Compensation for Jurisdictional Access Services )

Docket No. 000690-TP

Filed: June 5, 2000

COMPLAINT

BellSouth Telecommunications, Inc. ("BellSouth"), through its undersigned counsel, hereby files this Complaint against Intermedia Communications, Inc. ("Intermedia"), Phone One, Inc. ("Phone One"), NTC, Inc. ("NTC"), National Telephone of Florida ("National") (collectively "the Intermedia Companies") pursuant to Rules 28-106.201 and 25-22.036(4)(b), Florida Administrative Code and Chapters 364 and 350, Florida Statutes (1999).

In support hereof BellSouth states as follows:

1. BellSouth submits that the Intermedia companies are and have been intentionally and unlawfully reporting erroneous Percent Interstate Usage ("PIU") factors to BellSouth in violation of BellSouth's Intrastate Access Tariff and the rules and regulations established by the Florida Public Service Commission. See Section E2.3.14 Jurisdictional Report Requirements. The intentional and unlawful PIUs provided by the Intermedia Companies result in the underreporting of intrastate terminating access minutes terminated to BellSouth. As a result, BellSouth has been damaged in an amount in excess of \$29.1 million dollars (and continues to be damaged) through the loss of intrastate access revenues associated with the services provided to the Intermedia Companies.

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2. BellSouth requests that the Commission take all appropriate action under the circumstances to protect BellSouth from further financial harm. Specifically, BellSouth requests that the Commission (1) find that the Intermedia Companies have intentionally and unlawfully reported PIUs and thereby have caused BellSouth financial harm; (2) order the Intermedia Companies to refrain from further intentional and unlawful reporting on a going-forward basis; and (3) order the Intermedia Companies to compensate BellSouth for amounts improperly withheld from BellSouth due to misreporting of the Intermedia Companies' PIU, including interest, as well as reimbursement of costs incurred for the collection of data used in the traffic analysis. BellSouth further states that this Complaint shall serve as notice to the Commission that BellSouth intends to discontinue service to the Intermedia Companies pursuant to BellSouth's Intrastate tariff. Finally, BellSouth requests such other relief as may be necessary and appropriate under the circumstances, including the imposition of appropriate fines on the Intermedia Companies.

3. BellSouth is an incumbent local exchange carrier certified to provide local exchange services in the state of Florida. BellSouth is a Georgia corporation with its principal place of business at 675 West Peachtree Street, N.E., Atlanta, Georgia, 30375. Among other services, BellSouth provides terminating access to interexchange carriers (IXCs) certificated by the Commission.

4. Intermedia is an IXC certificated by the Commission to provide interexchange service in the State of Florida. Intermedia subscribes to BellSouth's intrastate terminating access tariff. Its business address is 3625 Queen Palm Drive,

Tampa, Florida, 33619. Upon information and belief, Intermedia Communications, Inc. is the parent company of Phone One, NTC and National.

5. Phone One is an IXC certificated by the Commission to provide interexchange service in the State of Florida. Phone One subscribes to BellSouth's intrastate terminating access tariff. Its business address is 3625 Queen Palm Drive, Tampa, Florida, 33619. Upon information and belief, Phone One is a subsidiary of Intermedia Communications, Inc.

6. NTC is an IXC certificated by the Commission to provide interexchange service in the State of Florida. NTC subscribes to BellSouth's intrastate terminating access tariff. Its business address is 3625 Queen Palm Drive, Tampa, Florida, 33619. Upon information and belief, NTC is a subsidiary of Intermedia Communications, Inc.

7. National is an IXC certificated by the Commission to provide interexchange service in the State of Florida. National subscribes to BellSouth's intrastate terminating access tariff. Its business address is 3625 Queen Palm Drive, Tampa, Florida, 33619. Upon information and belief, National is a subsidiary of Intermedia Communications, Inc.

8. BellSouth and the Intermedia Companies use the PIU reporting method to determine the jurisdictional nature of the traffic being exchanged by the parties and the resulting appropriate billing rates for such traffic. BellSouth uses the PIU to bill the Intermedia Companies either for interstate terminating access minutes or intrastate terminating minutes depending on the PIU. The PIU factors provided by the Intermedia Companies to BellSouth are as follows: Phone One, 74.6%; NTC 100%; National, 100%. This means that according to the Intermedia Companies, the cited percentage of

terminating access minutes sent by these companies to BellSouth are interstate minutes. . In Florida, the intrastate access rate is higher than the interstate access rate; thus, it costs the Intermedia Companies less in switched access charges to terminate interstate minutes than it does to terminate intrastate minutes.

9. From April, 1998, through April, 1999, Phone One sent a comparable amount of interstate and intrastate terminating traffic to BellSouth. In April, 1999, however, the terminating intrastate minutes declined dramatically (from approximately 7,000,000 to 3,000,000 minutes per month), while the terminating interstate minutes increased abruptly (from 4,000,000 to almost 10,000,000 minutes per month). This dramatic change in traffic patterns, including the increase in interstate minutes, caused BellSouth to look more closely at the nature of the traffic being terminated for Phone One and the other Intermedia Companies.

10. To investigate the migration in traffic, BellSouth initiated an analysis of the actual calls of the Intermedia Companies for the period March 1, 2000 through March 20, 2000. The purpose of the analysis was to test the validity of the Intermedia Companies' reported PIU. The analysis was conducted in one of two ways because the calls from the Intermedia Companies fall into two categories – those for which the Intermedia Companies report Calling Party Number (“CPN”) and those for which no CPN is provided.

11. For the percentage of calls for which the Intermedia Companies correctly reported the CPN, BellSouth determined the jurisdiction of each such call based on an analysis of the calling number and the called number. Because the CPN reflects the

origination point of the call, and BellSouth's network records the termination point of the call, the jurisdictional nature of the call is clear.

12. For the percentage of calls for which the Intermedia Companies erroneously failed to report the CPN (Phone One, 58.6%; NTC, 45.6%; and National, 51%), BellSouth utilized the Agilent Business Intelligence System to determine the jurisdiction of the calls. The system is a highly intelligent tool designed to utilize the time of the calls in question to match the origination point to the termination point to determine the jurisdiction of the calls. Once the system determines the jurisdiction of the calls, it generates a PIU. In the case of Phone One, which reported a 74.6% PIU, the Agilent System calculated a PIU of 33.3%. In the case of NTC, which reported a PIU of 100%, the system calculated a PIU of 21.5%; in the case of National, which reported a PIU of 100%, the system calculated a PIU of 39.8%. As the numbers reflect, each of the Intermedia Companies greatly misrepresented its PIU to BellSouth.

13. BellSouth recently conducted an updated study of the Intermedia Companies' traffic using the Agilent Business Intelligent System. Specifically, BellSouth studied traffic from the Intermedia Companies for the period May 17 to May 23. The study included additional trunk groups not included in the March study. The May study revealed that the amount of interstate traffic terminated from the Intermedia Companies is even less than believed in March. The actual PIUs for the Intermedia Companies should be as follows: Phone One, 20.46%; NTC, 10.22%; and National, 9.95%. The May study further confirmed that the Intermedia Companies are misrepresenting their PIUs to BellSouth.

14. By conference call on March 22, 2000, and letters dated March 24, 2000, April 10, 2000, and April 14, 2000, to Intermedia, BellSouth requested information to refute BellSouth's contention that the Intermedia Companies were intentionally misreporting their PIUs. On virtually every occasion that BellSouth spoke with Intermedia on behalf of the Intermedia Companies, BellSouth offered to meet face-to-face with Intermedia and present to Intermedia BellSouth's findings. Intermedia consistently declined BellSouth's offer. On May 19, 2000, Intermedia finally responded to BellSouth's April 14, 2000 letter, and denied any liability, but failed to provide any documentation to refute BellSouth's data. Moreover, Intermedia has failed to correct the PIUs of the Intermedia Companies, or improve the delivery of the CPN for the traffic in question. Given Intermedia's stated position that the Intermedia Companies are not misreporting traffic, and Intermedia's consistent refusal to remedy, or even recognize, the problem, BellSouth had no choice but to pursue this action before the Commission.

15. As outlined above, BellSouth has compelling documentation demonstrating that the Intermedia Companies are reporting terminating PIUs that are grossly overstated as a result of reporting as jurisdictionally interstate the intrastate traffic terminated by the Intermedia Companies to BellSouth. BellSouth requests that the Commission find that the Intermedia Companies are intentionally and unlawfully misreporting traffic, and that BellSouth has been financially damaged by such intentional and unlawful misreporting.

16. In order to protect BellSouth from further financial damage, BellSouth requests that the Commission order that the Intermedia Companies cease from further intentional and unlawful misreporting of traffic and accept this Complaint as notice that



BellSouth intends to terminate service to the Intermedia Companies pursuant to BellSouth's tariff.

17. In addition to the direct financial harm to BellSouth, the actions of the Intermedia Companies allow the Intermedia Companies and Intermedia to gain an unfair advantage in the competitive long distance marketplace. To the extent that the Intermedia Companies are paying BellSouth the interstate rate level for terminating intrastate calls, the Intermedia Companies and Intermedia effectively are receiving an unlawful discount for services for which similarly situated (terminating access) customers pay the higher intrastate rates. BellSouth is involuntarily providing the discount by relying in good faith on the Intermedia Companies' incorrect PIU factor reports.

18. The Commission has the authority to conduct a limited proceeding regarding any matter within its jurisdiction. *See* Section 364.058, Florida Statutes. This would include matters of unlawful reporting of PIU factors and underpayment of revenues due under applicable tariffs subject to the Commission's jurisdiction. The Commission is authorized to review any contract for the joint provision of intrastate service if that joint provision of service is detrimental to the public interest and authorized to adjudicate disputes thereunder. *See* Section 364.07(2), Florida Statutes. The Commission also is authorized to assess a penalty of \$25,000 per day for willful violations of Commission orders, rules or Chapter 364. Finally, the Commission has the authority to seek injunctive relief in court if necessary to compel compliance with the provisions of Chapter 364 or Commission Rules. Together, these provisions of Chapter 364 provide ample authority to adjudicate this matter and order all appropriate relief.

19. A review of the evidence in support of this Complaint will demonstrate that the Intermedia Companies have intentionally distorted the PIU factors in order to avoid paying BellSouth the full amount of the tariffed intrastate access charges. The Intermedia Companies and Intermedia have benefited at the expense of BellSouth.

20. BellSouth has requested information from Intermedia to try to resolve this matter. Such information has not been forthcoming. The resulting direct damages to BellSouth (in the form of lost revenues) are significant and will continue to grow until such time as the Intermedia Companies and Intermedia are prevented from engaging in such further intentional and unlawful misreporting and factor changes are implemented.

WHEREFORE, for the above stated reasons, BellSouth respectfully requests that the Commission do the following:

1. Find that the Intermedia Companies have intentionally and unlawfully reported traffic as interstate rather than intrastate and that BellSouth has been financially harmed as a direct result of such intentional and unlawful reporting;
2. Order the Intermedia Companies and Intermedia immediately to pay BellSouth the amounts owed by the Intermedia Companies for the termination of intrastate minutes in accordance with the correct PIU for each period in question, including interest, as well as reimbursement of costs incurred in the collection of traffic data used in the analysis;
3. Order or seek all such other relief as may be necessary under the circumstances, including the imposition of appropriate fines on the

Intermedia Companies and Intermedia and injunctive relief in the appropriate Circuit Court, and such further relief as may be necessary or appropriate.

Respectfully submitted, this 5th day of June, 2000.

BELLSOUTH TELECOMMUNICATIONS, INC.

  
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