

GREENBERG  
ATTORNEYS AT LAW  
TRAURIG

ORIGINAL

December 15, 2000

RECEIVED - FPSC  
00 DEC 15 PM 2:24  
RECORDS AND  
REPORTING

Blanca S. Bayo, Director  
Division of Records and Reporting  
Public Service Commission  
4750 Esplanade Way, Room 110  
Tallahassee, FL 32399

Re: Docket No. 001436-TP

Dear Ms. Bayo:

Enclosed is an original and fifteen (15) copies of The Coalition's Petition on Proposed Agency Action in the above dockets. We have also enclosed a copy of the document on diskette, prepared in Microsoft Word 7.0 on a Windows 95 operating system. The diskette is a "2HD" density and 1.44 MB.

Please acknowledge the receipt of the above on the extra copy enclosed herein and return it to me. Thank you in advance for your assistance.

Sincerely yours,

*Hope Keating*

M. Hope Keating

APP \_\_\_\_\_  
CAF \_\_\_\_\_  
CMP 5 Enclosures  
COM 5 SMF/skl  
CTR \_\_\_\_\_  
ECR \_\_\_\_\_  
LEG Enright  
OPC \_\_\_\_\_  
PAI \_\_\_\_\_  
RBO \_\_\_\_\_  
SEC \_\_\_\_\_  
SER \_\_\_\_\_  
OTH \_\_\_\_\_

127454

RECEIVED & FILED  
*Mur*  
FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

2000-031 DEC 15 8

GREENBERG TRAURIG, P.A.  
101 EAST COLLEGE AVENUE POST OFFICE DRAWER 1838 TALLAHASSEE, FLORIDA 32302  
850-222-6891 FAX 850-681-0207 www.gtlaw.com

MIAMI NEW YORK WASHINGTON, D.C. ATLANTA PHILADELPHIA TYSONS CORNER CHICAGO BOSTON PHOENIX WILMINGTON LOS ANGELES DENVER  
SAO PAULO FORT LAUDERDALE BOCA RATON WEST PALM BEACH ORLANDO TALLAHASSEE

FPSC-RECORDS/REPORTING

**Before the  
PUBLIC SERVICE COMMISSION  
of the  
STATE OF FLORIDA**

In the Matter of

PETITION FOR ARBITRATION  
OF PILGRIM TELEPHONE, INC.  
PURSUANT TO SECTION 252(b) OF THE  
COMMUNICATIONS ACT OF 1934,  
AS AMENDED BY THE  
TELECOMMUNICATIONS ACT OF 1996

DOCKET NO. 001436-TP

**MOTION TO ACCEPT LATE-FILED PLEADING**

Pilgrim Telephone, Inc. ("Pilgrim"), through counsel, submits the following Motion to Accept a Late-Filed Pleading in the above-captioned proceeding.

BellSouth Telecommunications, Inc. ("BellSouth") filed on October 16, 2000, a motion to dismiss an arbitration petition filed by Pilgrim on September 20, 2000. Pilgrim filed an opposition to BellSouth's motion to dismiss on November 3, 2000.

Pilgrim's review of the Commission's procedural rules prior to the filing of our opposition revealed that the pertinent provisions of Chapter 25-22 of the Commission's Rules governing the due dates for oppositions and other pleadings had been repealed. Following this discovery, Pilgrim made inquiries with staff of the Commission during the week immediately following Pilgrim's receipt of BellSouth's motion, regarding the applicable due date for any pleadings

DOCUMENT NUMBER-DATE

16031 DEC 15 8

FPSC-RECORDS/REPORTING

responding to the BellSouth motion. At the time Pilgrim made its opposition filing Pilgrim was of the mistaken understanding that parties were given 20 days to file oppositions to motions such as the one filed by BellSouth.

It has subsequently come to Pilgrim's attention, however, that, under the Florida Uniform Rules of Administrative Procedure applicable to this proceeding, the due date is calculated as seven days from the date of the filing of the BellSouth motion, with an additional five days for mailing.<sup>1</sup> Under this calculation, Pilgrim's opposition was due on October 30.<sup>2</sup> Pilgrim's filing was thus four days late under the applicable rule.

Pilgrim believes that a grant of its motion to accept the late-filed pleading is warranted in order to ensure a complete record upon which the Commission can evaluate the merits of BellSouth's motion to dismiss and reach a decision regarding whether to grant or deny BellSouth's motion. In addition, BellSouth was not harmed in any manner by the four-day delay in the filing of Pilgrim's opposition. Pursuant to Rule 28-106 204, F A C., Pilgrim has notified BellSouth regarding Pilgrim's intention to file this motion, and BellSouth has indicated that it does not have any objection to Pilgrim's motion

---

<sup>1</sup> The five-day period is added because BellSouth served its motion on Pilgrim via U.S. mail. *See* Rule 28-106 103, F.A.C.

<sup>2</sup> Counting 12 days from the date of the BellSouth filing gives a due date of October 28. But, as October 28 was a Saturday, the opposition filing was due on the following Monday, October 30. *See* Rule 28-106.103, F.A.C.

WHEREFORE, Pilgrim respectfully requests that the Commission grant Pilgrim's motion to accept its late-filed pleading.

This 15th day of December, 2000.

Respectfully submitted,

M. Hope Keating  
Greenberg Traurig, LLP  
101 East College Avenue  
Post Office Drawer 1838  
Tallahassee, Florida 32302  
(850) 425-8534

Walter Steimel, Jr.  
John Cimko  
Nancy E. Boocker  
Greenberg Traurig, LLP  
800 Connecticut Avenue, N.W.  
Suite 500  
Washington, D.C. 20006  
(202) 452-4893

By: *M. Hope Keating*  
Counsel for Pilgrim Telephone, Inc.

CERTIFICATE OF SERVICE

Docket No. 001436-TP

I hereby certify that a copy of the foregoing was served upon the following, as indicated, this fifteenth day of December, 2000.

Wayne Knight  
Florida Public Service Commission  
Division of Legal Services  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850  
**VIA HAND DELIVERY**

R. Douglas Lackey  
A. Langley Kitchings  
Patrick Turner  
BellSouth Telecommunications, Inc.  
Suite 4300  
675 W Peachtree Street  
Atlanta, Georgia 30375  
**VIA U.S. MAIL**

Sally Simmons  
Florida Public Service Commission  
Division of Legal Services  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850  
**VIA HAND DELIVERY**

Nancy B. White  
Michael P. Goggin  
BellSouth Telecommunications, Inc.  
Suite 1910  
150 West Flagler Street  
Miami, Florida 33130  
**VIA U.S. MAIL**

By: *Aene Kerling*  
Counsel for Pilgrim Telephone, Inc.