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April 17, 2001

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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. 000121-TP (OSS)

Dear Ms. Bayó:

Enclosed is an original and 15 copies of BellSouth's Response in Opposition to Motion of IDS Telcom to Accept Supplemental Direct Testimony, which we ask that you file in the captioned 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
J. Phillip Carver (KA)

Enclosures

cc: All parties of record
Marshall M. Criser, III
Nancy B. White
R. Douglas Lackey

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**CERTIFICATE OF SERVICE
Docket No. 000121-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 April, 2001 to the following:

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into the)	Docket No. 000121-TP
Establishment of Operations Support)	
Systems Permanent Performance)	
Measures for Incumbent Local Exchange)	
Telecommunications Companies)	Filed: April 17, 2001
_____)		

**BELLSOUTH'S RESPONSE IN OPPOSITION TO MOTION
OF IDS TELCOM TO ACCEPT SUPPLEMENTAL DIRECT TESTIMONY**

BellSouth Telecommunications, Inc. ("BellSouth") hereby files, pursuant to Rule 25-22.037(2)(b), Fla. Admin. Code, its Response in Opposition to the Motion to Accept Supplemental Direct Testimony filed by IDS, and states the following:

1. Direct testimony was due to be filed in this proceeding on March 1, 2001. Rebuttal Testimony was due March 21, 2001. IDS filed on April 11, 2001 its proposed supplement to the Direct Testimony of Keith Kramer (which is, in effect, an entirely new set of testimony) almost six weeks after the date on which Direct Testimony was due. When testimony is filed late, in violation of a Commission's Procedural Order, the testimony should only be accepted for filing upon a showing that (1) the neglect to timely file the testimony is excusable, and (2) that the late filing will not prejudice any party. IDS has failed to satisfy either of these requirements, and its Motion should be denied.

2. IDS' proposed testimony is an example (and, in fact, a rather egregious one) of an unfortunate practice in which ALECs sometimes engage. In the context of a generic proceeding, ALECs sometimes file testimony that does not relate to the issues identified for resolution in the docket, but that are more in the nature of a complaint about services they have received from BellSouth. If an ALEC has a legitimate complaint, however, then it always has the option of

filing a formal complaint against BellSouth to seek the resolution of any dispute. Raising complaints in the context of a Complaint proceeding allows BellSouth the time and opportunity to investigate the facts and file a response, so that the Commission has all of the facts before it that are necessary to make a decision. Likewise, the filing of a complaint in this manner allows the Commission to consider all the facts and actually reach a resolution as to whether there is a viable basis for the ALEC complaint or not. In contrast, filing what amounts to a complaint in a generic proceeding, where it does not belong, virtually guarantees that BellSouth will not have the opportunity to fully respond and the Commission will not have an opportunity to consider and rule upon the ALECs alleged grievance. This practice is unfortunate not only because it becomes impossible to resolve the matter one way or the other, but also because, in the absence of a resolution, complaints that are spurious or ill-founded, essentially go into the docket unchallenged.

3. This is precisely the type of testimony that IDS is attempting to file in this case. Specifically, Mr. Kramer's original testimony, filed March 1, 2001, was less than three pages long and included on two substantive questions and answers. IDS is now seeking to "supplement" this testimony by adding fifteen pages of spurious allegations against BellSouth. If IDS truly has a legitimate complaint about BellSouth, then it is free to pursue this by filing a formal complaint before the Commission to pursue a resolution of whatever problems its claims exist. Instead of doing this, IDS is attempting to file essentially irrelevant testimony in this proceeding in a way that deprives BellSouth of an opportunity to respond. For this reason, even if the testimony had been filed timely, it should be stricken as irrelevant. However, IDS' attempt to interject this testimony is even more inappropriate since, by filing the testimony six

weeks after the due date for direct testimony, and three weeks after the date for rebuttal, IDS has extinguished any possibility that BellSouth will be able to respond to its claims.

4. IDS' attempt to late-file essentially irrelevant testimony is even more problematic in light of the fact that it has offered absolutely no justification for the extreme lateness of its filing. In its Motion, IDS states that some of the information in the testimony relates to events that allegedly took place after the filing date of March 1, 2001. A review of the supplemental testimony, however, reveals that pages 4 through 10 of the testimony is composed almost entirely of allegations as to past events, some of which allegedly occurred in 1999, and most of which allegedly occurred in 2000.

5. The only other ostensible justification that IDS offers for its late filing is that it had not reviewed the Staff Strawman Proposal at the time it filed its original testimony. IDS fails completely, however, to even offer any justification for its failure to do so. Further, even if there were some justification for IDS to be slightly late in filing its testimony (and IDS raises none), there can be no justification for IDS' extreme late filing in this case. Although the testimony that IDS wishes to file is only fifteen pages long, it has delayed this filing until six weeks after the direct testimony date, and three weeks after the date for rebuttal. There is no excuse for testimony to be filed this late, and IDS fails to even offer an explanation for this extreme tardiness.

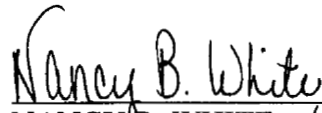
6. Further, as set forth above, IDS has filed this essentially irrelevant testimony so late that it is impossible for BellSouth to investigate the allegations and to file rebuttal testimony in the eight days that remain before the hearing begins. IDS offers no explanation for delaying the filing of testimony until well after the time for rebuttal testimony, and only shortly before the

hearing. Thus, not only is the late filing of the IDS testimony prejudicial to BellSouth, it would appear to be calculated to create precisely that prejudice.

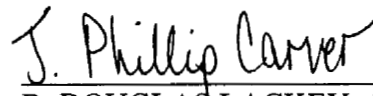
7. For the reasons set forth above, the irrelevant supplemental testimony could be raised in a complaint proceeding, but does not belong in the generic proceeding of this type. If it had been timely filed, it should be stricken as irrelevant. Given the extremely late attempt of IDS to file this testimony more than six weeks after it is due, there is no justification for including this irrelevant testimony in this docket. For this reason, IDS' Motion must be denied.

WHEREFORE, BellSouth respectfully requests the entry of an Order denying IDS' motion to file testimony six weeks after the deadline for doing so.

Respectfully submitted this 17th day of April, 2000.



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