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April 23, 2001

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. 010345-TP (Structural Separation of BellSouth)

Dear Ms. Bayó:

Enclosed is an original and fifteen copies of BellSouth Telecommunications, Inc.'s Opposition to AT&T Communications of the Southern States, Inc.'s Motion for Extension of Time, 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,


James Meza III
(LA)

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

DOCUMENT NUMBER-DATE
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CERTIFICATE OF SERVICE
Docket No. 010345-TP

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

(*) Federal Express and U.S. Mail this 23rd day of April, 2001 to the following:

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Beth Keating (*)
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Petition of AT&T Communications of) Docket No. 010345-TP
the Southern States, Inc., TCG South)
Florida, and MediaOne Florida)
Telecommunications, Inc. for)
Structural Separation of BellSouth)
Telecommunications, Inc.) Filed: April 23, 2001

**BELLSOUTH'S OPPOSITION TO AT&T'S
MOTION FOR EXTENSION OF TIME**

BellSouth Telecommunications, Inc. ("BellSouth") opposes AT&T Communications of the Southern States, Inc.'s, TCG South Florida's, and MediaOne Telecommunications, Inc.'s (collectively "AT&T") request for a thirty (30) day extension because: (1) it is untimely and fails to comply with Fla. R. Civ. P. 1.090(b)(2); (2) AT&T should not need thirty (30) additional days to research applicable law to defend its Petition; and (3) AT&T waited until the last minute to retain new counsel and to seek an extension.

1. AT&T's Motion is untimely, and in violation of Rule 28-106.204(5) Florida Administrative Code, which provides, "[m]otions for extension of time *shall be filed prior* to the expiration of the deadline sought to be extended and shall state good cause for the request." (Emphasis added). As demonstrated in the chronology in paragraph 2 below, AT&T filed its Motion *subsequent* to the expiration of the deadline that it seeks to extend, which violates the requirements of Rule 28-106.204(5).

2. On March 21, 2001, AT&T served its twenty-eight page Petition for Structural Separation ("Petition") on BellSouth. On April 10, 2001, BellSouth filed

its Motion to Dismiss AT&T's Petition. BellSouth served its Motion to Dismiss on counsel for AT&T, Marsha Rule, on that same date via overnight courier. As evidenced by the attached Federal Express Receipt, counsel for AT&T received the Motion to Dismiss on April 11, 2001.¹ Accordingly, contrary to AT&T's statement that its response to the Motion to Dismiss is due April 23, 2001, (AT&T Motion at 2), under Rules 28-106.103 and 28-106.204, Florida Administrative Code, AT&T had eight days or until April 18, 2001 to file a response or an extension of time. In violation of Rule 28.106.204, AT&T did not file its motion for an extension of time until April 19, 2001. Therefore, AT&T's motion is untimely and thus should be denied.

3. AT&T seeks a thirty day extension of time to respond to the Motion to Dismiss. This extension would give AT&T forty days in which to respond to the Motion to Dismiss. Given the fact that BellSouth only had twenty days to file a response to AT&T's twenty-eight page Petition, AT&T's request is unreasonable, especially in light of the fact that AT&T, as the petitioner, is required to have a good faith basis under Florida law for asserting its claim or be responsible for the opposing party's costs. See § 51.105, Florida Statutes (awarding attorney's fees to prevailing party of lawsuit when losing party knew or should have known claim was not supported by application of then-existing law). Thus, assuming that AT&T had a good faith basis for bringing its Petition, which is questionable in light of AT&T's statement that a "preparation of response will

¹ See, Federal Express Shipping Receipt, attached hereto as Exhibit A.

require a comprehensive review of state and federal statutes and decisions,” it should not need that much time to defend its Petition. (AT&T Motion at 2).

4. Further, the fact that AT&T retained new counsel on April 18, 2001 is of no significance. AT&T managed to file the Petition without retaining new counsel and waited seven days after receiving the Motion to Dismiss to retain new counsel. (AT&T Motion at 2). AT&T should not be allowed to hide behind the retention of new counsel to obtain thirty additional days to defend its Petition, especially given the fact that AT&T filed the Petition that is the subject of the Motion to Dismiss and waited until the last moment to retain new counsel.

5. AT&T contacted counsel for BellSouth on April 19, 2001, one day after its response was due, to determine if BellSouth would object to AT&T seeking an extension. In an attempt to be reasonable, BellSouth agreed to a fourteen (14) day extension of time, which would give AT&T approximately the same amount of time that BellSouth had to file a response to its Petition. AT&T rejected this offer and filed the instant motion. AT&T should not be given more time than BellSouth to respond to a challenge to AT&T's own Petition.

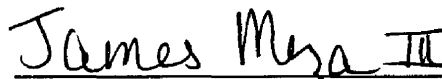
6. Finally, assuming arguendo that AT&T's motion was timely, Rule 28.106.204 requires the party seeking the extension state good cause for the request, which AT&T has not done. Indeed, the fact that (1) AT&T did not even attempt to seek an extension or retain new counsel until on or after the date a response was due; and (2) AT&T allegedly needs a thirty (30) day extension to “conduct a comprehensive review of state and federal statutes decisions on a

number of issues" (AT&T Motion at 2) to defend its own pleading, is evidence that AT&T does not believe in the merits of its Petition.

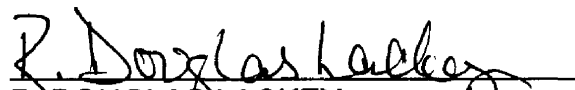
WHEREFORE, for the foregoing reasons, BellSouth respectfully requests that the Commission deny AT&T's Motion for Extension of Time. If the Commission finds that AT&T's Motion was timely filed and comports with the requirements of Rule 28-106.204(5) Florida Administrative Code, the Commission only give AT&T a fourteen (14) day extension of time from the original due date of April 18, 2001 in which to respond to BellSouth's Motion to Dismiss.

Respectfully submitted this 23rd day of April, 2001.

BELLSOUTH TELECOMMUNICATIONS, INC.



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EXHIBIT A



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Tracking Number: 790021252281 Date: Apr 10 2001

From: VICKIE FATOOL BELLSOUTH TELECOMMUNICATIONS 150 WEST FLAGLER STREET SUITE 1910 MIAMI FL 33130 US (305)347-5560	To: Marsha Rule AT&T Communications 101 North Monroe Street Suite 700 Tallahassee FL 32301 US (850)425-6365	Service: Priority Overnight Packaging: FedEx Envelope Handling: give to scheduled courier at my location Weight: 1LBS Shipper Account Number: 124206235 Bill Shipment To: 33133588 Bill Duty/Tax/Fees: 0 Express Reference: L0F00000 Declared Value: 0 Status: N/A
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Airbill Number : 790021252281

- **Delivered To : Receipt/Frnt desk**
- **Delivery Location : TALLAHASSEE FL**
- **Delivery Date : 04/11/2001**
- **Delivery Time : 10:23**
- **Signed For By : C.DREW**
- **Status Exception :**
- **Scan Activity :**
 - **Delivered TALLAHASSEE FL 04/11/2001 10:23**
 - **Placed on Van TALLAHASSEE FL 04/11/2001 08:24**
 - **Arrived at FedEx Destination Location TALLAHASSEE FL 04/11/2001 07:13**
 - **Left FedEx Ramp TALLAHASSEE FL 04/11/2001 05:55**
 - **Arrived at FedEx Ramp TALLAHASSEE FL 04/11/2001 05:55**
 - **Left FedEx Sort Facility MEMPHIS TN 04/11/2001 04:10**
 - **Left FedEx Sort Facility MEMPHIS TN 04/11/2001 00:47**
 - **Left FedEx Sort Facility MEMPHIS TN 04/10/2001 23:40**
 - **Left FedEx Ramp FORT LAUDERDALE FL 04/11/2001 01:43**
 - **Arrived at FedEx Ramp FORT LAUDERDALE FL 04/10/2001 22:13**
 - **Left FedEx Origin Location MIAMI FL 04/10/2001 21:23**
 - **Picked up MIAMI FL 04/10/2001 18:16**

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Tracking Number: 791524237898 Date: Apr 10 2001

From: VICKIE FATOOL BELLSOUTH TELECOMMUNICATIONS 150 WEST FLAGLER STREET SUITE 1910 MIAMI FL 33130 US (305)347-5560	To: Rhonda P. Merritt AT&T Communications 101 North Monroe Street Suite 700 Tallahassee FL 32301 US (850)425-6342	Service: Priority Overnight Packaging: FedEx Envelope Handling: give to scheduled courier at my location Weight: 1LBS Shipper Account Number: 124206235 Bill Shipment To: 33133588 Bill Duty/Tax/Fees: 0 Express Reference: LOF00000 Declared Value: 0 Status: N/A
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