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May 9, 2001

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

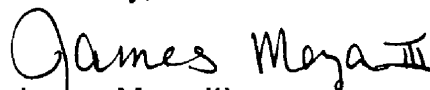
Re: Docket No. 010098-TP (Florida Digital)

Dear Ms. Bayó:

Enclosed is an original and fifteen copies of BellSouth Telecommunications, Inc.'s Motion to Strike Florida Digital Network, Inc.'s Reply Memorandum, 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
(KA)

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

DOCUMENT NUMBER-DATE

05848 MAY-98

FPSC-RECORDS/REPORTING

**CERTIFICATE OF SERVICE
DOCKET NO. 010098-TP**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via Electronic Mail and U.S. Mail this 9th day of May, 2001 to the following:

**Felicia Banks
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James Meza III (KA)

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition of Florida Digital Network,) Docket No. 010098-TP
Inc., for Arbitration of Certain Terms and)
Conditions of Proposed Interconnection and)
Resale Agreement with BellSouth)
Telecommunications, Inc. Under the)
Telecommunications Act of 1996) Filed: May 9, 2001

MOTION TO STRIKE FDN's REPLY MEMORANDUM

Florida Digital Network, Inc. ("FDN") filed a Motion to Amend Arbitration Petition on April 9, 2001, seeking to inject Issue 10 into this proceeding. On April 17, 2001, BellSouth Telecommunications, Inc. ("BellSouth") filed its opposition to this motion. On May 1, 2001, FDN filed a reply memorandum. The Florida Public Service Commission ("Commission") should strike FDN's reply memorandum because reply memorandums are not expressly authorized under the Uniform Rules of the Administrative Procedure Act and FDN has not moved the Commission for permission to file a reply.

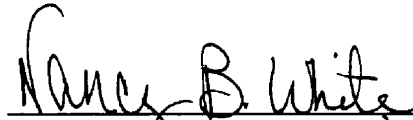
The rule applicable to motions provides that once a motion is filed, a party can file an opposition within seven days of service. Rule 28-106.204, Florida Administrative Code. The rule does not expressly authorize reply memorandums. See *In re: Complaint of Supra Telecommunications and Information Systems, Inc. against BellSouth Telecommunications, Inc. for violations of the Telecommunications Act of 1996*, Order No. PSC-00-1777-PCO-TP, Docket No. 980119-TP (Sept. 28, 2000) at 3 ("neither the Uniform Rules nor [the Commission's] rules contemplate a reply to a response to a Motion."). Because reply memorandums are not expressly authorized, a party must seek leave before filing a reply. However, the Commission generally refuses to allow parties to file reply memorandums, even when leave is sought. See *id.*; see

also, *In re: ITC—DeltaCom Communications, Inc.*, Order No. PSC-00-2233-FOF-TP, Docket No. 990750-TP, (Nov. 22, 2000) at 2; *In re: Okeechobee Generating Co., L.L.C.*, Order No. PSC-99-2438-PAA-EU, Docket No. 991462-EU, (Dec. 13, 1999) at 4-5.

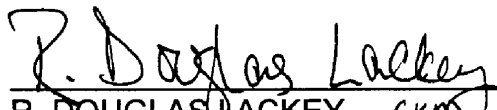
Because FDN has neither sought nor received permission to file a reply in this docket and FDN has provided no reasons whatsoever for this Commission to deviate from its general rule that reply memorandums are not permissible, BellSouth respectfully requests that the Commission strike FDN's reply memorandum.

Respectfully submitted this 9th day of May, 2001.

BELLSOUTH TELECOMMUNICATIONS, INC.



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