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August 21, 2001

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

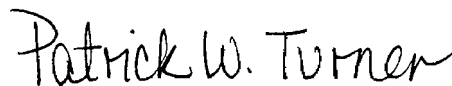
Re: Docket No. 010740-TP (IDS Telcom)

Dear Ms. Bayó:

Enclosed is an original and fifteen copies of BellSouth's Motion to Defer Issues to Generic Docket Established to Investigate the Existence of Anticompetitive Behavior by BellSouth, 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,



Patrick W. Turner (KA)

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

DOCUMENT NUMBER-DATE
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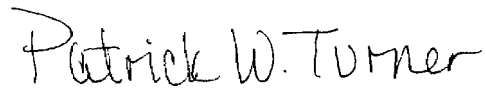
CERTIFICATE OF SERVICE
Docket No. 010740-TP

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via Hand Delivery (*); Electronic mail and Federal Express this 21st day of August, 2001 to the following:

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Patrick W. Turner (KA)

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of IDS Long Distance, Inc.) Docket No.: 010740-TP
n/k/a IDS Telecom, L.L.C., Against)
BellSouth Telecommunications, Inc., and)
Request for Emergency Relief) Filed: August 21, 2001
_____)

**BELLSOUTH'S MOTION TO DEFER ISSUES TO GENERIC DOCKET
ESTABLISHED TO INVESTIGATE THE EXISTENCE OF
ANTICOMPETITIVE BEHAVIOR BY BELLSOUTH**

BellSouth Telecommunications, Inc. ("BellSouth"), pursuant to Rule 28-106.204 of the Florida Administrative Code, respectfully requests that Commission issue an Order deferring issue numbers 3 and 4, which ask whether BellSouth has engaged in anticompetitive conduct, and the portion of issue number 5 that addresses the appropriate remedies, if any, for such alleged behavior, to the generic docket the Commission established to investigate alleged anticompetitive behavior by BellSouth (Docket No. 011077-TL). In support of this motion, BellSouth shows the Commission that:

1. On May 11, 2001, IDS Long Distance, Inc. n/k/a IDS Telecom, L.L.C. ("IDS") filed a complaint against BellSouth alleging that BellSouth has breached its interconnection agreement with IDS and engaged in anticompetitive activities. In its complaint, IDS alleges that BellSouth's use of its "Full Circle" and other promotions designed to win back customers to BellSouth and the alleged sharing of IDS' customer proprietary network information ("CPNI") between BellSouth's retail and wholesale division in order to facilitate its win back efforts are anticompetitive activities designed to stifle competition in BellSouth's local

telecommunications markets. IDS requests that the Commission, among other relief, establish a proceeding to investigate and sanction BellSouth's alleged "anticompetitive activities that had harmed IDS and IDS' customers as well as other ALECs and their customers." Complaint ¶¶ 84(f).

2. On July 18, 2001, the Commission issued its Order Establishing Procedure in this docket, Order No. PSC-01-1501-PCO-TP. The list of issues in this proceeding are set forth in Appendix A to the Procedural Order. Issues Nos. 3 and 4 address whether BellSouth has engaged in the anticompetitive conduct alleged by IDS; Issue No. 5 deal with what remedies, if any, are appropriate in the event IDS proves its allegations. The hearing in this docket is scheduled for September 21, and October 1, 2001.

3. In response to IDS' Complaint as well as concerns raised by other ALECs, on August 10, 2001, the Commission established Docket No. 011077-TL to investigate the alleged anticompetitive conduct of BellSouth.

4. The issues in this proceeding addressing BellSouth's alleged anticompetitive conduct and the appropriate remedies, if any, for such alleged conduct (Issues Nos. 3 and 4, and a portion of Issue no. 5) should be deferred to Docket No. 011077-TL. The crux of IDS' allegation that BellSouth has engaged in anticompetitive conduct is that BellSouth's "Full Circle" and other win back promotions are anticompetitive. (See Complaint ¶¶ 60-75). BellSouth's promotion and win back efforts do not target only IDS' customers. Rather, they are geared to all customers who left BellSouth to receive service from any ALEC and who meet the eligibility requirements set forth in BellSouth's tariffs filed with

the Commission. Indeed, IDS specifically alleged that BellSouth's win back promotions affect ALECs generally by complaining, for example, that the harm caused by these promotions "is far wider than simply harm to IDS – its destroys any chance for the development of competition of the local exchange services market." Complaint ¶ 74; *see also* ¶¶ 72- 74 (alleging harm to all ALECs from these promotions).

IDS' claim that BellSouth shares its CPNI between its retail and wholesale divisions is likewise not limited to an assertion that BellSouth does so with respect to customers IDS wins from BellSouth only. As with its other allegations of anticompetitive conduct, IDS claims that this is a general practice in BellSouth that harms all ALECs. Complaint ¶¶ 78-79.

5. In the generic proceeding investigating alleged anticompetitive conduct by BellSouth that the Commission initiated at IDS' request, the Commission will consider any evidence that IDS and other ALECs can put forward to attempt to demonstrate that BellSouth behaves in an anticompetitive manner. That is the same showing that IDS will attempt to make in this complaint proceeding. It would be inefficient for the parties and for the Commission to devote scarce resources to addressing these issues both in this proceeding and also in the generic proceeding investigating BellSouth's alleged anticompetitive conduct. It is common practice before the Commission to defer issues that impact multiple ALECs from two-party proceedings to generic proceedings where doing so will allow the Commission to eliminate these types of inefficiencies and the potential for inconsistent results, and so that it can

decide significant issues on the most complete record possible. For example, multiple issues were recently deferred from arbitrations to the Commission's generic ISP docket for the same reasons it makes sense to defer the alleged anticompetitive conduct issues from this proceeding to the generic proceeding the Commission initiated to investigate such conduct. IDS admits that its allegations of anticompetitive conduct affect the ALEC community generally, and those allegations were at least part of the impetus for the Commission to establish its generic docket to address these issues.

6. For the reasons set forth above, the Commission should defer the issues in this proceeding that deal with Bellsouth's alleged anticompetitive behavior to the generic proceeding the Commission established for the purpose of investigating the existence of such conduct. BellSouth agrees that the issues related to whether BellSouth breached its interconnection agreement with IDS should remain in this docket.

7. Pursuant to Rule 28-106.204 of the Florida Administrative Code, counsel for BellSouth conferred with counsel for IDS with respect to this Motion, and IDS' counsel stated that IDS objects to deferring any issues from this docket to the Commission's generic docket investigating anticompetitive conduct by BellSouth.

Respectfully submitted this 21st day of August, 2001.

BELLSOUTH TELECOMMUNICATIONS, INC.

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