

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Consideration of)
BellSouth Telecommunications,) Docket No. 960786-TL
Inc.'s entry into interLATA)
services pursuant to Section 271)
of the Federal Telecommunications)
Act of 1996.)
_____)

PREHEARING STATEMENT OF FLORIDA DIGITAL NETWORK, INC.

In accordance with Order No. PSC-01-0832-PCO-TL, issued March 30, 2001, and Order No., PSC-01-1025-PCO-TL, issued April 25, 2001, Florida Digital Network, Inc., ("FDN") hereby files its Prehearing Statement in the captioned docket as follows:

A. Known Witnesses

FDN intends to call as a witness Michael P. Gallagher, its Chief Executive Officer. FDN prefiled rebuttal testimony for Mr. Gallagher. That testimony addresses Issues 1(c) and 15.

At this time, FDN does not intend to call any other witnesses, but does reserve the right to call BellSouth personnel as adverse party witnesses pending review of BellSouth's Prehearing Statement and surrebuttal testimony and pending review of discovery responses and depositions of BellSouth witnesses.

B. Known Exhibits

No exhibits were attached to the prefiled testimony of Michael P. Gallagher. FDN reserves the right to identify and introduce exhibits during cross-examination of other parties' witnesses and re-direct of its own and, to the extent permitted by Commission rules and the

Florida Rules of Civil Procedure, to identify and introduce depositions of BellSouth personnel and other parties' witnesses.

C. Statement of Basic Position

BellSouth has not fulfilled the requirements of Section 271(c)(2)(B) of the Telecommunications Act of 1996. Competition has not yet taken a meaningful and irreversible foothold in BellSouth's incumbent territory in Florida. Additionally, more than 99% of all retail and wholesale customers with xDSL service in BellSouth territory receive xDSL service from BellSouth. BellSouth refuses to provide retail xDSL service to customer receiving CLEC voice service; BellSouth refuses to provide CLECs meaningful access to UNEs so CLECs can provide xDSL service; and, significantly for this proceeding, BellSouth refuses to resell retail xDSL service in accordance with Sections 251(c)(4) and 252(d)(3) of the Telecommunications Act. Since the business and residential markets demand, and viable telecommunications business strategies hinge upon, voice and data services packaged together, BellSouth's xDSL monopoly lock-out will be substantially harmful to the future of competition in Florida, and BellSouth's refusal to resell xDSL service fails item 14 of the 271 checklist.

D - F. Statement of Issues and Positions

Below is the Commission-approved list of issues in this docket and FDN's positions on those issues. Note that unless a position is stated below, FDN agrees with the positions of the FCCA, AT&T and MCI.

ISSUE 1: Has BellSouth met the requirements of Section 271(c)(1)(A) of the Telecommunications Act of 1996?

- (a) Has BellSouth entered into one or more binding agreements approved under Section 252 with unaffiliated competing providers of telephone exchange service?

- (b) Does BellSouth currently provide access and interconnection to its network facilities for the network facilities of competing providers?
- (c) Are such competing providers providing telephone exchange service to residential and business customers either exclusively over their own telephone exchange service facilities or predominantly over their own telephone exchange service facilities?

POSITION:

BellSouth's estimates of CLEC market share are inflated and ephemeral. Competition has not taken a meaningful and irreversible foothold in BellSouth's incumbent territory in Florida. (Gallagher)

ISSUE 2.

Does BellSouth currently provide interconnection in accordance with the requirements of Sections 251(c)(2) and 252(d)(1) of the Telecommunications Act of 1996, pursuant to Section 271(c)(2)(B)(i) and applicable rules promulgated by the FCC?

- (a) Has BellSouth implemented physical collocation requests in Florida consistent with FCC rules and orders?
- (b) Does BellSouth have legally binding provisioning intervals for physical collocation?
- (c) Does BellSouth currently provide local tandem interconnection to ALECs?
- (d) Does BellSouth currently permit the use of a Percent Local Usage (PLU) factor in conjunction with trunking?
- (e) Does BellSouth currently provide ALECs with meet point billing data?
- (f) Has BellSouth satisfied other associated requirements, if any, for this item?

ISSUE 3:

Does BellSouth currently provide nondiscriminatory access to all required network elements, with the exception of OSS which will be handled in the third party OSS test, in accordance with Sections 251(c)(3) and 252(d)(1) of the Telecommunications Act of 1996, pursuant to Section 271(c)(2)(B)(ii) and applicable rules promulgated by the FCC?

- (a) Does BellSouth currently provide all required unbundled network elements at TELRIC-based prices?
- (b) Has BellSouth satisfied other associated requirements, if any, for this item?

ISSUE 4: In Order PSC-97-1459-FOF-TL, issued November 19, 1997, the Commission found that BellSouth met the requirements of Section 224 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, pursuant to Section 271(c)(2)(B)(iii). Does BellSouth currently provide nondiscriminatory access to the poles, ducts, and conduits, and rights-of-way owned or controlled by BellSouth at just and reasonable rates in accordance with the requirements of Section 224 of the Communications Act of 1934 as amended by the Telecommunications Act of 1996, pursuant to Section 271(c)(2)(B)(iii) and applicable rules promulgated by the FCC?

ISSUE 5: In Order PSC-97-1459-FOF-TL, issued November 19, 1997, the Commission found that BellSouth met the requirements of Section 271(c)(2)(B)(iv) of the Telecommunications Act of 1996. Does BellSouth currently provide unbundled local loop transmission between the central office and the customer's premises from local switching or other services, pursuant to Section 271(c)(2)(B)(iv) and applicable rules and orders promulgated by the FCC?

- (a) Does BellSouth currently provide all currently required forms of unbundled loops?
- (b) Has BellSouth satisfied other associated requirements, if any, for this item?

ISSUE 6: Does BellSouth currently provide unbundled local transport on the trunk side of a wireline local exchange carrier switch from switching or other services, pursuant to Section 271(c)(2)(B)(v) and applicable rules promulgated by the FCC?

- (a) Does BellSouth currently provide billing for usage-sensitive UNEs?
- (b) Has BellSouth satisfied all other associated requirements, if any, for this item?

ISSUE 7: Does BellSouth currently provide unbundled local switching from transport, local loop transmission, or other services, pursuant to Section 271(c)(2)(B)(vi) and applicable rules promulgated by the FCC?

- (a) Does BellSouth bill for unbundled local switching on a usage-sensitive basis?
- (b) Does BellSouth currently provide unbundled local switching on both the line-side and the trunk-side of the switch?
- (c) Has BellSouth satisfied other associated requirements, if any, for this item?

ISSUE 8: Does BellSouth currently provide nondiscriminatory access to the following, pursuant to Section 271(c)(2)(B)(vii) and applicable rules promulgated by the FCC:

- (i) 911 and E911 services;
 - (ii) directory assistance services to allow other telecommunications carrier's customers to obtain telephone numbers; and
 - (iii) operator call completion services?
- (a) Does BellSouth currently provide ALECs access to all information contained in BellSouth's directory listing database?
 - (b) Does BellSouth currently provide selective routing in Florida?
 - (c) Has BellSouth satisfied other associated requirements, if any, for this item?

ISSUE 9: In Order PSC-97-1459-FOF-TL, issued November 19, 1997, the Commission found that BellSouth met the requirements of Section 271(c)(2)(B)(viii) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996. Does BellSouth currently provide white pages directory listings for customers of other telecommunications carrier's telephone exchange service, pursuant to Section 271(c)(2)(B)(viii) and applicable rules promulgated by the FCC?

- ISSUE 10: In Order PSC-97-1459-FOF-TL, issued November 19, 1997, the Commission found that BellSouth met the requirements of Section 271(c)(2)(B)(ix) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996. Does BellSouth currently provide nondiscriminatory access to telephone numbers for assignment to the other telecommunications carrier's telephone exchange service customers, pursuant to Section 271(c)(2)(B)(ix) and applicable rules promulgated by the FCC?
- ISSUE 11: In Order PSC-97-1459-FOF-TL, issued November 19, 1997, the Commission found that BellSouth met the requirements of Section 271(c)(2)(B)(x) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996. Does BellSouth currently provide nondiscriminatory access to databases and associated signaling necessary for call routing and completion, pursuant to Section 271(c)(2)(B)(x) and applicable rules promulgated by the FCC?
- ISSUE 12: In Order PSC-97-1459-FOF-TL, issued November 19, 1997, the Commission found that BellSouth met the requirements of Section 271(c)(2)(B)(xi) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996. Does BellSouth currently provide number portability, pursuant to Section 271(c)(2)(B)(xi) and applicable rules promulgated by the FCC?
- ISSUE 13: In Order PSC-97-1459-FOF-TL, issued November 19, 1997, the Commission found that BellSouth met the requirements of Section 271(c)(2)(B)(xii) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996. Does BellSouth currently provide nondiscriminatory access to such services or information as are necessary to allow the requesting carrier to implement local dialing parity in accordance with the requirements of Section 271(c)(2)(B)(xii) and applicable rules promulgated by the FCC?
- ISSUE 14: In Order PSC-97-1459-FOF-TL, issued November 19, 1997, the Commission found that BellSouth met the requirements of Section 271(c)(2)(B)(xiii) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996. Does BellSouth currently provide reciprocal compensation arrangements in accordance with the requirements of Section 252(d)(2) of the Telecommunications Act of 1996, pursuant to Section 271(c)(2)(B)(xiii) and applicable rules promulgated by the FCC?
- ISSUE 15: Does BellSouth currently provide telecommunications services available for resale in accordance with the requirements of

Sections 251(c)(4) and 252(d)(3) of the Telecommunications Act of 1996, pursuant to Section 271(c)(2)(B)(xiv) and applicable rules promulgated by the FCC?

POSITION: No. BellSouth does not resell xDSL service to CLECs, and BellSouth's refusal to do so has a significantly deleterious effect on competition in Florida. (Gallagher)

ISSUE 16: By what date does BellSouth propose to provide intraLATA toll dialing parity throughout Florida pursuant to Section 271(e)(2)(A) of the Telecommunications Act of 1996?

ISSUE 17: If the answers to issues 2 through 15 are "yes," have those requirements been met in a single agreement or through a combination of agreements?

ISSUE 18: Should this docket be closed?

G. Stipulated Issues

None at this time.

H. Pending Motions

On the same date as this Prehearing Statement was served, FDN served a motion to strike portions of BellSouth witness Cox prefiled surrebuttal testimony and prefiled Exhibit CKC-10.

I. Pending Confidentiality Issues

At this time, FDN is not aware of any pending confidentiality issues relative to its filings in this matter.

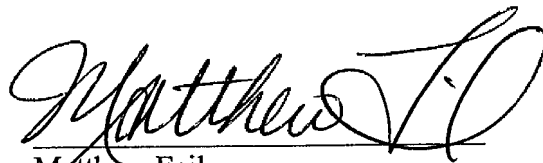
J. Order Establishing Procedure Requirements

To FDN's knowledge, at the time of serving this Prehearing Statement, there are no requirements of the Order Establishing Procedure that cannot be complied with.

K. Decisions or Pending Decisions

At this time, FDN is not aware of any decisions or pending agency or court decisions that may preempt or otherwise impact the Commission's ability to resolve any of the above issues other than as already stated in FDN's prefiled testimony.

RESPECTFULLY SUBMITTED, this 6 day of September 2001.

A handwritten signature in black ink, appearing to read "Matthew Feil", written in a cursive style.

Matthew Feil
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**CERTIFICATE OF SERVICE
DOCKET NO 960786-TL**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by Overnight delivery (if marked *) or by U.S. mail this 6 day of Sept, 2001 to the following:

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