

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of IDS Long Distance, Inc.)
n/k/a IDS Telcom, L.L.C., Against)
BellSouth Telecommunications, Inc., and)
Request for Emergency Relief.)
_____)

Docket No. 010740-TP
Filed: September 17, 2001

**IDS TELCOM, LLC'S MOTION TO COMPEL
BELLSOUTH TELECOMMUNICATIONS, INC.
TO PRODUCE WITNESSES FOR DEPOSITION
REGARDING WIN BACK ALLEGATIONS**

IDS Telcom, LLC ("IDS"), pursuant to Rule 28-106.204, Florida Administrative Code, requests that the Florida Public Service Commission enter an order compelling BellSouth Telecommunications, Inc. ("BellSouth") to produce two win back witnesses for deposition regarding win back allegations, and as grounds therefore, states as follows:

1. On or about August 20, 2001, during depositions of BellSouth's employees in Atlanta, Georgia, IDS' undersigned counsel specifically requested that BellSouth identify two BellSouth individuals who could be responsive in regard to the win back allegations that IDS has made in its Complaint in this proceeding. IDS indicated directly to BellSouth's counsel, James Meza, in the presence of two IDS witnesses, Becky Wellman and William Gulas, that IDS needed BellSouth to identify the names of two BellSouth employees for purposes of deposition. IDS believes it is possible that the Staff Attorney, Mary Anne Helton, who was telephonically connected to the depositions, may have heard this conversation. IDS' counsel stated that IDS desired to depose the BellSouth

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employee responsible for the managerial/policy decisions related to BellSouth's win back programs such as the Full Circle Program, and the BellSouth employee knowledgeable about the implementation/operational activities related to BellSouth's win back activities. Although this request was made specifically and directly to BellSouth's counsel, twenty-five days prior to the discovery cut-off date of September 14, 2001, BellSouth has failed to provide any names to IDS to enable IDS to issue a notice of deposition.

2. On Friday, September 14, 2001, IDS again requested BellSouth to identify two BellSouth employees as described above for the purposes of deposition at a mutually agreeable time. BellSouth flatly refused.

3. The Florida Public Service Commission has permitted discovery activities, including depositions, to continue up until the day before the hearing in various cases, in some situations cases which have taken as long as two years or more to complete. In a case such as this where the schedule has been expedited and compressed in an extreme fashion, it is even more compelling that the Commission permit essential discovery to take place past the discovery cut-off date, especially in light of the fact that such discovery was requested three and one-half weeks prior to the discovery cut-off date.

4. Due to the extensive length of the Prehearing Conference on September 10, 2001, which lasted from 9:30 AM to 5:00 PM, IDS simply forgot to bring this issue up at that time.

5. IDS will be prejudiced severely if BellSouth is not compelled to produce these witnesses for deposition. These witnesses will provide

information essential to IDS' case, especially Issues Three and Four which address IDS' allegations regarding BellSouth's anticompetitive activities.

6. IDS is willing to take these depositions by telephone. Although IDS would prefer to take these depositions on Tuesday, September 18, 2001, IDS is also willing to take these depositions during the period between the first day scheduled for the hearing, September 21, 2001, and the second day scheduled for the hearing, October 1, 2001, to accommodate BellSouth. BellSouth cannot claim that it will be prejudiced in its preparation for the hearing if these depositions are scheduled for September 24 or 25, 2001.

7. Pursuant to Rule 28-106.204(3), Florida Administrative Code, counsel for IDS has conferred with counsel for BellSouth regarding this motion. BellSouth's counsel stated that BellSouth objects to this motion.

Therefore, IDS respectfully requests that the Commission issue an order compelling BellSouth to produce two witnesses as described herein for deposition by IDS either Tuesday, September 18, 2001, or Monday or Tuesday, September 24 or 25, 2001.

Respectfully submitted, this 17th day of September, 2001.



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CERTIFICATE OF SERVICE

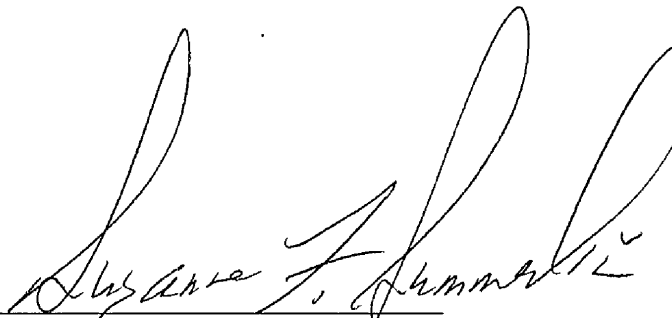
I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished to the following individuals by Hand Delivery(*), Facsimile (**), and U.S.

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