

MEMORANDUM ORIGINAL

March 19, 2002

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COMMISSION
CLERK

TO: DIVISION OF THE COMMISSION CLERK AND ADMINISTRATIVE SERVICES

FROM: OFFICE OF THE GENERAL COUNSEL (CHRISTENSEN) *AC*

RE: DOCKET NO. 000028-TL - PETITION BY BELLSOUTH TELECOMMUNICATIONS, INC. FOR WAIVER OF RULES 25-4.107, 25-4.108, AND 25-4.113, F.A.C., WHICH REQUIRE PROVISION OF BASIC TELECOMMUNICATIONS SERVICE TO CERTAIN LOCATIONS AND PERSONS.

Attached is an original Interim Brief, which was received in the Office of the General Counsel from Anthony Parks on March 19, 2002. Please file this brief accordingly.

PAC/lw

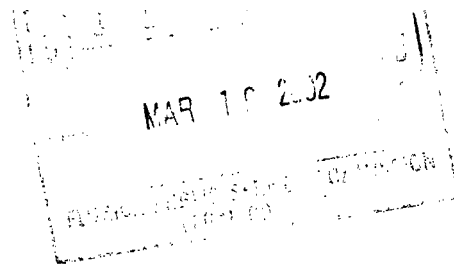
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STATE OF FLORIDA
PUBLIC SERVICE COMMISSION



IN RE:

BELL SOUTH PETITION

Docket No. 000028-TL

ANTHONY PARKS

Respondent

INTERIM BRIEF

Respondent Anthony Parks is hereby responding to the Public Service commissions hearing on Bell South's Request for waiver of the rule requiring Bell South to supply phone service to Anthony Parks or any one residing in any properties that he owns.

This is an interim brief and is not a final brief several legal issues has arisen since the hearing took place in late January. Therefore respondent is going to amend it's motion from an extension to file brief to an extension to amend brief, that will be addressed in the attached motion.

The legal issues would amount to the fact that the Public Service Commission do not have jurisdiction to make such a ruling based upon the handling of this case and the rule under which Bell South is seeking , the legal issues are as follows:

ONE

LACK OF DUE PROCESS:

PHONE SERVICE IS A NECESSITY AND A RIGHT UNDER VARIOUS STATE (Administered through the Public Service Commission) AND FEDERAL LAWS.

In order to take away a persons rights or privilege a person is entitled to due process. The Fourteenth Amendment sates that "...No one shall have their rights or privileges taken away without due process.."

This is what all laws in the United States is based on.

For example;

- A. Before a persons drivers license(which is a privilege) can be taken away they are entitled to a hearing. Of which they must be properly served and noticed.
- B. If an unwed Mother wants to give up her child for adoption, all states require that the Father has to give consent. It would therefore be required that the Father be duly served a legal summons, in the proper manner prescribed by law and be given an opportunity to defend his position.

I Anthony Parks was never given this opportunity based upon the following:

A. NEVER SERVED SUMMONS OR PETITION:

Bell South in their representation fully acknowledge that they did not serve, or attempt to serve Anthony Parks with a copy of their petition which is the subject matter of this action. Their reason is that the waiver rule does not require it.

Bell South is correct, it did not have to, which further supports Respondent Anthony Parks position that this waiver that Bell South is seeking is not intended for individuals, it is for public hearings on issues concerning the general public!

- B. The only reason that Respondent Anthony Parks knows about these procedures is that a phone call was placed to his late Mother by Melinda Watts, and subsequently after the petition request was granted on April 18, 2000 a copy was faxed to respondent by the commission. That is not service! Under all states, particularly the state of Florida if anyone is seeking any action against a person that person must be duly served by the plaintiff or in this case, **Petitioner, Bell South.**
- C. Respondent-Anthony Parks would then have the knowledge and right to defend it's position as it further is required the U.S. and Federal Law and as governed by the Fourteenth Amendment. And would therefore fall under the jurisdiction of the Public Service Commission.

D. THE FOURTEENTH AMENDMENT:

The fourteenth amendment states that No State shall make or enforce any law that takes this away. So if this waiver Rules 25-4.107, 25-4.108, and 25-4.113, F.A.C.

The Fourteenth Amendment does not apply to just courts, it says no state, which would include the State Of Florida, Public Service Commission.

Anthony Parks and his tenants are all legally born and or naturalized citizens of the United States and therefore fall under the fourteenth amendment.

All persons in the state of Florida under law are entitled to basic telecommunications services and Anthony Parks and all his tenants fall under that law.

Having phone service is right (or privilege) and also falls under this amendment and law

E. PRIOR DEALINGS ON THIS ISSUE:

Just as an example, Respondent is also in the printing and publishing business. Their became and dispute between the Respondents company and the State of Connecticut purchasing department of respondents company refusal to complete certain printing contracts without the guarantee of being paid, based upon that the, then commission attempted to delete respondent company from the states bidding list (which was determined to be a right), based upon his authority as a commissioner.

Respondent company filed a complaint with the State Senate and although the commissioner contended that he had been doing this for the past 15 years, (simply because no one else complained), it was pointed out that until a mechanism of appeal rights and proper mechanisms can be set up (such as proper service, ect.) there was no authority to disqualify ones from the state bidding list.

The legislator had to write new laws in order to implement this. Based upon that Respondent (while not undergoing any specific problem at that point) requested the State of Rhode Island to do the same, which they did, since Respondents company did business in that state as well.

CONCLUSION OF ONE

The waiver of rule that Bell South is seeking is meant for general changes that concern the general public.

For example it Bell South wanted to Build a new building and the 1927 law stated that it must be with a 24 feet overhang, however since 1927, buildings are built better and stronger and do not require a 24 feet overhang, therefore that requirement should be waived, so Bell South is only required to publish notice in a local paper, and if anyone reading this add wants to voice an opinion then they have the right to show up at the noted hearing and do so, however going against an individual is another matter and that is why the Fourteenth Amendment is there also various other state and Federal Laws

Respondent Anthony Parks only knew about what Bell South was trying to do, after the fact , and without proper notice, this in legal terms is called Ex-Parte". And this would be clearly Illegal. The call made by Melinda Watts and they copy that Ms. Watts Faxed over to respondent after Bell South had been granted their initial right to this waiver on April 18, 2000 was after the fact.

TWO

PETITIONER BELL SOUTH CONTENTION THAT SERVICE BE DENIED TO RESPONDENT ANTHONY PARKS IS BECAUSE OF THE FOLLOWING:

A. Bell South is contending that service be denied to Anthony Parks and his tenants because of bad faith due:

Bell South brought in several references of checks that they claimed were not honored however failed to provided copies of several of these checks. None of these checks have any reference to any accounts between Anthony Parks and Bell South.

THREE

PETITIONER BELL SOUTH HAS ACTED IN BAD FAITH BY INTERRUPTING SERVICE TO PETITIONERS TENANTS WITHOUT PROPER NOTICE:

A. At the hearing petitioner Bell South contend that they denied service to Nicholas Aversa, phone number 561-361-0023 because they received a check on behalf of Nicholas Aversa that they claim they called that Bank and the Bank Stated the funds were not available at that time, and solely on that basis they chose to interrupt service without any notice to Mr. Aversa . Bell South did not make any representation that they called Anthony Parks or Mr. Aversa for an explanation, because if they did they would of discovered that a deposit was made the night before that check was written which would not of registered until midnight of the following day since it was after 2:00 P.M. instead, Bell South sought too interrupt service. Bell South also does not know what provision Respondent has with that Bank in terms of overdraft protection, which is not disclosed to an inquirer.

Under Florida Banking Law, when a Check is presented to a bank for payment where the funds are not , available at that moment , the bank has the option to pay the check and charge an overdraft fee, or pay the check and wait until funds become available then debit the account. *In either way Bell South would of compensated in the meantime, however they took it upon themselves not to even deposit the check that was bad faith on the part of Bell South!*

FOUR

BELL SOUTHS ONLY LEGAL CONNECTION THAT ANTHONY PARKS HAS ANYTHING TO DO WITH THESE CORPORATION IS THE FACT THAT ANTHONY PARKS IS A REGISTERED AGENT OF THAT COPERATION:

The fact that Anthony Parks is a registered agent, has no bearing on the responsibility to Bell South for a Phone Bill or any other utility for that matter. Anthony Parks has offered to be a registered agent for many corporations in the State Of Florida as a business the same as CT. Corporation Systems oR Capitol Connection in Tallahassee which are registered agent to over 26,000 corporations within the state of Florida, Capitol Connection and CT Corporation has had many thousands of corporations go under and or fail to pay their utility bills, yet Petitioner do not see a petition against them asking for a waiver to provide them or their clients permanent service.

Being a registered agent is simply that, being a registered agent. A registered agent is only for the purposes of receiving service of process in case that entity is sued so that someone in that state can accept service of process, nothing more, nothing less!

For The Commission to grant this petition would be clearly discriminatory since others in the same position or greater have not done the same!

Being

FIVE

THE CORPORATE VAIL IS GOVERNED BY LAW:

A corporation is governed by law, the individuals officers are exempt personally. Anthony Parks not even being an officer of these corporations but only a registered a agent is exempt. Therefore these references concerning these corporations do not have any bearing on Anthony Parks.

SIX

RESPONDENT ANTHONY PARKS HAS NO RESPONSIBILITY:

Wherein a tenant is an individual Anthony Parks has no responsibility as a Landlord. Under Florida Law a Landlord has no responsibility for a tenants utility bills, therefore it would be illegal for the commission to take an adverse action against Anthony Parks by allowing Bell South not to supply Anthony Parks, personally with phone service.

SEVEN

BELL SOUTH DID NOT HAVE A PROBLEM WITH ALL OF ANTHONY PARKS TENANTS:

During the hearing in January of 2002, Anthony Parks questioned Bells South Witness Pat Shields and another Witness in respects to other tenants that have or currently rent from Anthony Parks.

Several Names were mentioned, Joan Schaar, Donald Gett, Andrew Kallen, ect, ect.

The Bell South Representative stated that she did know those names, and rightfully

so, these are individuals that have either rented in the past or who currently rent and have not had a problem with Bell South, therefore Bell South does not even know of their existence.

EIGHT

BELL SOUTH WITNESS LIED WHEN STATED THAT ALL OF ANTHONY PARKS CURRENT TENANTS HAVE RESELLER TYPE ACCOUNTS:

None of Anthony Parks tenants have third party accounts with resellers, either Bell South was in error when that statement was made, because of lack of knowledge or willfully lied. which brings us to the next issue?

NINE

BELL SOUTH WANTS THE WAIVER TO INCLUDE NOT ONLY ANTHONY PARKS BUT TO ANY PROPERTY THAT HE OWNS OR TENANTS THAT OCCUPY THOSE PROPERTIES:

Petitioner Anthony Parks owns other properties under various holdings that Bell South more than likely does not know about?

What would happen if the such a waiver was granted, would that give Bell South the right to disconnect all the individuals or corporations that rent in his facilities?

Also, do they not have rights to due process, hearings individually and as corporations and to be served notice and to have representations as well?

To the best of Petitioners knowledge no notice has been served on these individuals either?

What would happen in this case? and how would the commission or Bell South legally enforce such a provision?

RESPONDENT-ANTHONY PARKS NOT BEING ALLOWED TO TESTIFY ON IT'S OWN BEHALF OR TO DEFEND IT'S POSITION.

To further add to the fact that the commission does not have jurisdiction to address this petition from Bell South is the fact that at the Hearing Petitioner was not allowed to testify.

The Waiver of rule under which this was conducted, again does not have any mechanisms set up to address this petition having applications to go against individuals.

There is no where under the law of this country or the land that give the right to a court agency or otherwise the right to deny a person to give testimony on it's behalf to defend itself. Further the order or rule that the commission is referring too that states that a witness must give acknowledgement before hand if they want to be heard, applies to public hearings, it does not apply to a respondent.

There is a difference between a respondent and a witness. In this case Anthony Parks is a respondent not a witness so this rule does not apply to a respondent.

In a court trial if you do not disclose your witness, those witnesses may be barred from testifying, however the defendant can not in anyway be prevented from testifying himself. They right to testify is also governed by the constitution.

The Commission was in error when they denied Respondent Anthony Parks the right to testify in it's behalf at the hearing that was held in this matter, and under separate cover is going to file a motion of this matter.

FINAL CONCLUSION

In order for Bell South to be granted their petition, they would have to overcome the obstacle they would have to overcome many obstacles:

A. Jurisdiction:

Based upon what respondent has documented and the raised, this commission does not have the jurisdiction to consider this matter until the proper mechanism have

been implemented.

- B. Bell South has not acted in good faith by not cashing checks that were properly tendered, simply because they did not think they were good.
- C. No connection has been made to these outstanding ten year old bills that Bell South has issues with other than the fact that Respondent is a landlord and or registered agent.
- D. Commission can not enforce this waiver of rule against individuals or corporation that were not notified or served with the petition, since those individuals are actively Bell South Customers.
- E. This process violates the 14th amendment, respondents civil rights and respondents rights of due process.
- F. Bell South has not demonstrated that Anthony Parks personally has acted in bad faith against Bell South.
- G. To grant Bell South this petition would be discriminatory since Bell South has not gone against CT. Corporation Systems in Plantation Florida and Capitol Connection in Tallahassee, Florida that are registered agents for over 26, 000 corporations of which several thousands have owed money to Bell South.

Based upon all the above Bell South's Petition should be denied in it's entirety.

Anthony Parks



P.O. Box 812283
Boca Raton, FL 33481

561-338-5937

3/17/02

CC: James Mezza

CC: Attached

Amendment XIV

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2. Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a state, or the members of the legislature thereof, is denied to any of the male inhabitants of such state, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such state.

Section 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any state, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

Section 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any state shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

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