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October 22, 2002

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

via Overnight Mail

Re: Docket No. 020119 - Petition for Expedited Review and Cancellation Of
BellSouth Telecommunications, Inc.'s Key Customer Promotional Tariffs and For an
Investigation Of BellSouth's Promotional Pricing And Marketing Practices by Florida
Digital Network, Inc.

Re: Docket No. 020578 -- Petition for Expedited Review and Cancellation Of
BellSouth Telecommunications, Inc.'s Key Customer Promotional Tariffs by the Florida
Competitive Carrier's Association

Dear Ms. Bayó,

Please find enclosed for filing by Florida Digital Network, Inc. ("FDN") in the above dockets an
original and seven (7) copies of the following: (1) FDN's Prefiled Direct Testimony and Exhibits
of Michael P. Gallagher, (2) FDN's Notice of Serving Responses to Staff's Fourth Set of
Interrogatories and Second Set of Requests for Production of Documents, and (3) FDN's Motion
to Compel and Motion for Leave to File Additional Testimony. Also enclosed is a diskette
containing the Prefiled Direct Testimony and Motion.

Please note that the above two dockets were consolidated for purposes of hearing pursuant to
Order No. PSC-92-1295-PCO-TP, issued September 23, 2002. As necessary, please advise how
your office wishes to administer filings for these dockets so as to avoid any unnecessary
redundancy. Specifically, if you require additional copies of the above materials to file in both
dockets, please contact me.

If you have any questions regarding this letter or the one attached, please call me at 407-835-
0460.

- AUS
CAF
CMP
COM
CTR
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MMS
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OTH

Original Sincerely,

Handwritten signature of Matthew Feil

Matthew Feil
Florida Digital Network
General Counsel

11544-02 thru 11546-02

02 OCT 23 AM 11:15

LOCAL

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for Expedited Review }
and Cancellation of BellSouth }
Telecommunications, Inc.'s Key Customer }
Promotional Tariffs and For an }
Investigation Of BellSouth's Promotional }
Pricing And Marketing Practices by }
Florida Digital Network, Inc. }
_____ }

Docket No. 020119-TP

In Re: Petition for Expedited Review }
and Cancellation of BellSouth }
Telecommunications, Inc.'s Key Customer }
Promotional Tariffs by the Florida }
Competitive Carrier's Association }
_____ }

Docket No. 020578-TP

**FLORIDA DIGITAL NETWORK, INC.'S MOTION TO COMPEL AND MOTION FOR
LEAVE TO FILE ADDITIONAL TESTIMONY**

Pursuant to Rule 28-106.206, Florida Administrative Code, Florida Digital Network, Inc., ("FDN" or "Florida Digital") by and through its undersigned counsel hereby moves the Prehearing Officer in this matter to compel BellSouth Telecommunications, Inc. ("BellSouth") to provide answers to the FDN discovery requests identified herein and to permit FDN leave to file supplemental testimony to the extent FDN deems necessary to address BellSouth's answers. In support hereof, FDN states as follows:

1. On September 13, FDN served by email and U.S. mail FDN's First Set of Interrogatories and First Set of Document Requests on BellSouth (hereinafter "FDN Discovery").

DOCUMENT NUMBER DATE

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FPSC-COMMISSION CLERK

2. In accordance with the obligations assumed by the parties at the Issue Identification Conference and as required by Order No. PC-02-1295-PCO-TP, issued September 23, 2002 (the “Prehearing Order”), objections to discovery requests are due within 10 days of service and responses are due within 20 days. Thus, objections to the FDN Discovery were due September 23, 2002, and responses were due on October 3, 2002.

3. On September 23, 2002, BellSouth made form-based “General Objections” to the FDN Discovery (including an objection to FDN’s definition of the term “winback”) and specific objections to Interrogatories Nos. 1, 17, 29, and Document Request 2.

4. BellSouth did serve certain responses to the FDN Discovery on October 4, 2002. However, as of the date of this writing, BellSouth has not provided answers to Interrogatories Nos. 6, 7, 8, 9, 10, 22, and 23. In response to those interrogatories, BellSouth states, “BellSouth is still in the process of responding to this Interrogatory and will make a supplemental filing setting forth its responses in the near future.”

5. BellSouth’s form-based General Objections cannot relieve BellSouth of the obligation to provide answers to Interrogatories Nos. 6, 7, 8, 9, 10, 22, and 23. Discovery in cases involving BellSouth could come to a standstill were the Commission to hold otherwise, since BellSouth files General Objections to ALL discovery. Moreover, BellSouth acknowledges a duty to answer Interrogatories Nos. 6, 7, 8, 9, 10, 22, and 23. BellSouth simply has not provided answers, and answers are now more than 18 days past due.

6. BellSouth’s counsel did not notify FDN’s counsel prior to serving non-answers to Interrogatories Nos. 6, 7, 8, 9, 10, 22, and 23, nor has BellSouth’s counsel informed FDN’s counsel as to when answers would be provided.

7. At this time FDN's concern is with obtaining complete answers to Interrogatories Nos. 6, 7, 8, 9, 10, 22, and 23. Answers to Interrogatories Nos. 6, 7, 8, 9, 10, 22, and 23 may very well prove critical to FDN's proving its case. For now, FDN reserves its right to compel answers to and request remedies for any of other discovery requests served on BellSouth were the answers BellSouth did provide were not responsive.

8. FDN asks the Prehearing Officer to order BellSouth to answer Interrogatories Nos. 6, 7, 8, 9, 10, 22, and 23 within 5 days of an order.

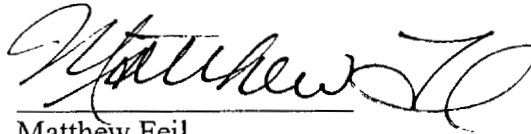
9. At this time, FDN believes a suitable remedy for BellSouth's failure to timely file answers is for FDN to be granted leave to address the past due answers as FDN may deem necessary through supplemental testimony, served no sooner than 15 days from when BellSouth serves the answers (the answers are more than 15 days late already), or, since the due date for rebuttal rapidly approaches, for FDN to be granted any necessary latitude to address the past due answers in its rebuttal. FDN reserves its rights to seek additional remedies if the answers are not timely served after an order or are non-responsive.

WHEREFORE and in consideration of the above, Florida Digital Network, Inc. respectfully requests the Commission to do the following:

(a) compel BellSouth to immediately answer FDN Interrogatories Nos. 6, 7, 8, 9, 10, 22, and 23, and

(b) permit FDN to address the past due answers in either supplemental testimony due no sooner than 15 days from when the answers are served or in FDN's rebuttal testimony, if any.

Respectfully submitted, this 22nd day of Oct. 2002.

A handwritten signature in cursive script, appearing to read "Matthew Feil". The signature is written in black ink and is positioned above a horizontal line.

Matthew Feil
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was sent by e-mail and regular mail to the persons listed below, other than those marked with an (*) who have been sent a copy via overnight mail, this 22nd day of October, 2002.

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A handwritten signature in black ink that reads "Matthew Feil". The signature is written in a cursive style with a large, stylized initial "M".

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