

ORIGINAL

McWHIRTER REEVES
ATTORNEYS AT LAW

TAMPA OFFICE:
400 NORTH TAMPA STREET, SUITE 2450
TAMPA, FLORIDA 33602
P. O. BOX 3350 TAMPA, FL 33601-3350
(813) 224-0866 (813) 221-1854 FAX

PLEASE REPLY TO:
TALLAHASSEE

TALLAHASSEE OFFICE:
117 SOUTH GADSDEN
TALLAHASSEE, FLORIDA 32301
(850) 222-2525
(850) 222-5606 FAX

January 23, 2003

VIA HAND DELIVERY

Blanca S. Bayo, Director
Division of Records and Reporting
Betty Easley Conference Center
4075 Esplanade Way
Tallahassee, Florida 32399-0870

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COMMISSION
CLERK

Re: Docket No.: 020507-TP

Dear Ms. Bayo:

On behalf of the Florida Competitive Carriers Association (FCCA), enclosed for filing and distribution are the original and 15 copies of the following:

- ▶ The Florida Competitive Carriers Association's Response to BellSouth's Motion for Continuance.

Please acknowledge receipt of the above on the extra copy of each and return the stamped copies to me. Thank you for your assistance.

Sincerely,

Vicki Gordon Kaufman

Vicki Gordon Kaufman

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McWHIRTER, REEVES, MCGLOTHLIN, DAVIDSON, DECKER, KAUFMAN & ARNOLD, P.A.

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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of Florida Competitive Carriers Association against BellSouth Telecommunications, Inc. regarding BellSouth's practice of refusing to provide FastAccess Internet Service to customers who receive voice service from a competitive voice provider, and request for expedited relief.

DOCKET NO.: 020507-TL

FILED: January 23, 2003

**THE FLORIDA COMPETITIVE CARRIERS ASSOCIATION'S
RESPONSE TO BELL SOUTH'S MOTION FOR CONTINUANCE**

The Florida Competitive Carriers Association (FCCA), pursuant to rule 28-106.204, Florida Administrative Code, files this response to BellSouth Telecommunications, Inc.'s (BellSouth) Motion for Continuance. As explained below, given the extreme importance of the issues raised in Order No. PSC-03-0084-PCO-TL (Discovery Order), the FCCA will not object to a continuance in this matter until the issues raised in the Discovery Order and the FCCA's Motion for Reconsideration of that order are resolved. The FCCA requests that the hearing be rescheduled no later than 30 days after resolution of its Motion for Reconsideration.

The FCCA initiated this complaint proceeding because BellSouth, a dominant incumbent local exchange company, refuses to provide its FastAccess service to a consumer who selects a competitive voice provider. In its Complaint, the FCCA alleges that BellSouth's practice of providing FastAccess service only to customers who use BellSouth's voice service is discriminatory and contrary to state and federal law. BellSouth's behavior in this regard is not in dispute, and the FCCA requested that the Commission order BellSouth to cease this practice, as it has done in prior dockets.

On November 15, 2002, BellSouth served the FCCA with its first massive wave of discovery. The FCCA objected to many of the requests because they were inconsistent with the purpose of this docket -- to determine whether BellSouth's conduct in refusing service to its existing customers and customers seeking FastAccess is unlawfully discriminatory and anticompetitive. The discovery BellSouth seeks is irrelevant, overbroad, burdensome and harassing, seeks information regarding matters outside the state of Florida, and seeks information not in the FCCA's possession, custody or control.

On December 17, 2002, BellSouth filed a Motion to Compel the FCCA to respond to all of its discovery. The FCCA filed a response on December 26, 2002 as well as a Motion for Protective Order to protect it from the irrelevant and burdensome discovery requests.


On January 10, 2003, the Prehearing Officer entered the Discovery Order. It requires the FCCA, and its individual members, to respond to most of BellSouth's discovery requests. Because both the scope of the discovery sought and the Discovery Order permitting it is so far beyond the bounds of what is at issue in this case, and because the Discovery Order has widespread ramifications for associational participation beyond just this docket, on January 17, 2003, the FCCA filed a Motion for Reconsideration of the Discovery Order. It is the FCCA's position that the Prehearing Officer ignored, failed to address, or overlooked several matters and made mistakes of law.

On January 22, 2003, BellSouth filed a motion to continue the hearing. The FCCA disagrees with many of the allegations made in BellSouth's Motion for Continuance, particularly its claim that the FCCA's Motion for Reconsideration has no merit.¹ The issues raised in the FCCA's Motion for Reconsideration are so important to it and so critical to the continued participation by associations before this Commission, that it will not object to the requested

¹ The FCCA incorporates by reference its Motion for Reconsideration filed on January 17, 2003.

continuance so as to permit adequate time for a complete and thorough review of its Motion for Reconsideration.

In bringing its Complaint, the FCCA was simply trying to expand the Commission's previous pro-competitive decisions to all carriers and local entry strategies. This case is important to the FCCA, but the legal issues and ramifications raised in the immediate discovery dispute cannot be overlooked as they significantly impact future proceedings. Thus, the FCCA will not object to a continuance of the hearing currently scheduled for January 30, 2003, so long as the hearing is rescheduled no later than 30 days after the resolution of the FCCA's Motion for Reconsideration.



Joseph A. McGlothlin
Vicki Gordon Kaufman
McWhirter, Reeves, McGlothlin, Davidson,
Decker, Kaufman & Arnold, PA
117 South Gadsden Street
Tallahassee, Florida 32301
(850) 222-2525 Telephone
(850) 222-5606 Telefax

Attorneys for the Florida Competitive
Carriers Association

CERTIFICATE OF SERVICE

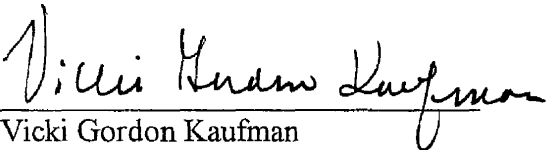
I **HEREBY CERTIFY** that a true and correct copy of the foregoing The Florida Competitive Carriers Association's Response to BellSouth's Motion for Continuance has been furnished by (*) hand delivery, (**) electronic mail, or by U.S. Mail this 23rd day of January, 2003, to the following:

(*) (**) Patricia Christensen
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399

(*) (**) Nancy White
(**) Meredith Mays
c/o Nancy Sims
BellSouth Telecommunications, Inc.
150 South Monroe Street, Suite 400
Tallahassee, Florida 32301-1556

(**) Nanette Edwards
Director-Regulatory
ITC^DeltaCom
4092 S. Memorial Parkway
Huntsville, Alabama 35802

(**) Floyd Self
Messer, Caparello & Self
215 South Monroe Street, Suite 701
Tallahassee, Florida 32302-1876


Vicki Gordon Kaufman