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May 14, 2003

VIA FEDERAL EXPRESS

Mrs. Blanca S. Bayo  
Director, Division of the Commission Clerk  
and Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399

RECEIVED - FPSC  
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Re: Petition by MPower Communications, Corp. and Florida Digital Network for Expedited Temporary and Permanent Relief Against BellSouth Telecommunications, Inc. For Alleged Anticompetitive Conduct Regarding Florida Digital Network, Inc.'s Proposed Acquisition of Assets and Customer Base of MPower Communications, Corp., Docket No. 030301-TP

Dear Mrs. Bayo:

Please find enclosed for filing in your office the original and fifteen (15) copies of Response to BellSouth's Opposition to AT&T of the Southern States, LLC, TCG South Florida, Inc. ("AT&T") and Comcast Phone of Florida, LLC ("Comcast") Petitions to Intervention in the above reference docket on behalf of Comcast Phone of Florida, LLC.

Please stamp two (2) copies of the Response in the usual manner and return to us via the enclosed envelope.

If you have any questions, please do not hesitate to contact me at 404-888-7437.

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Enc.

Sincerely yours,

Loretta A. Cecil

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FPSC-BUREAU OF RECORDS

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition by MPower Communications, )  
Corp. and Florida Digital Network for )  
Expedited Temporary and Permanent Relief )  
Against BellSouth Telecommunications, Inc.)  
For Alleged Anticompetitive Conduct )  
Regarding Florida Digital Network, Inc.'s )  
Proposed Acquisition of Assets and )  
Customer Base of MPower )  
Communications, Corp. )  
\_\_\_\_\_ )

**Docket No. 030301-TP**

**Filed: May 14, 2003**

**COMCAST PHONE OF FLORIDA, LLC RESPONSE TO BELL SOUTH'S  
OPPOSITION TO PETITION TO INTERVENE**

COMES NOW Comcast Phone of Florida, LLC ("Comcast") and hereby files this Response to BellSouth Telecommunications, Inc.'s ("BellSouth") Opposition to Comcast's Petition to Intervene in the above-referenced docket filed by BellSouth on May 7, 2003.

1. In its Opposition, BellSouth alleges that Comcast has failed to establish how its substantial interests will be affected by this proceeding.<sup>1</sup> However, given BellSouth's knowledge of a current dispute among Comcast, AT&T Corp., and BellSouth regarding various ordering and provisioning issues, importantly BellSouth did not allege that Comcast's interests *would not* be affected by this proceeding. Moreover, rather than affirmatively asserting that Comcast would not be so affected, in its April 15, 2003 Answer BellSouth *implied just the opposite*. In this respect, rather than

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arguing facts specific to MPower's and BellSouth's ordering and provisioning capabilities, BellSouth asserted that (1) various "industry standards" and (2) a "Telecordia White Paper" regarding carrier codes prohibit Florida Digital Network, Inc. ("FDN") from using MPower's Communications Corp.'s ("MPower") Access Customer Name Abbreviation ("ACNA") after FDN acquires MPower's assets in Florida and Georgia.<sup>2</sup> Accordingly, BellSouth's main defense against MPower's allegations are "industry standards" and an "industry white paper"<sup>3</sup> regarding an acquiring carrier's use of another carrier's codes once assets are transferred, and not specific facts regarding MPower's and BellSouth's ordering and provisioning capabilities. Arguably, any determinations by the Commission regarding any such "industry standards" will affect the *entire industry*, and not just MPower and FDN.

2. BellSouth's attempt to sweep "industry standards" into this proceeding is significant because a dispute currently exists among Comcast, AT&T Corp., and BellSouth which involves BellSouth's obligations to process various Comcast and AT&T Corp. orders in Florida and Georgia (and related ACNA's) after Comcast's November 18, 2002, acquisition of cable assets previously owned by AT&T Corp.<sup>4</sup> As the Commission is aware,

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<sup>1</sup> BellSouth Opposition at ¶7; Page 3.

<sup>2</sup> BellSouth Answer at ¶ 9, Page 3; ¶13, Page 4.

<sup>3</sup> Comcast collectively will refer collectively to such "industry standards" and all applicable "industry white papers" as "industry standards" in the remainder of this Reply.

<sup>4</sup> BellSouth legitimately cannot plead ignorance of this dispute with Comcast and AT&T Corp. Similar to the allegations raised by MPower in its Complaint, Comcast and AT&T Corp. also have had numerous discussions regarding various "post acquisition" ordering

prior to Comcast's acquisition of AT&T Corp.'s cable assets, AT&T Corp. offered various telephony services in Florida through AT&T Broadband Phone of Florida, LLC.<sup>5</sup> Thus, out of an abundance of caution, Comcast filed its Petition to Intervene in this proceeding after having reviewed BellSouth's "industry standards" defense to MPower's ordering and provisioning dispute.

3. Although Comcast, AT&T Corp., and BellSouth are continuing to discuss informally resolution of their ordering and provisioning dispute, these efforts will be negatively impacted to the extent BellSouth attempts to persuade the Commission to issue an Order in this proceeding which has "industry wide" impact, yet is based on specific facts which apply only to MPower's ordering and provisioning dispute.

4. Clearly, Comcast believes the most expeditious resolution of this proceeding is for the Commission to resolve MPower's ordering and provisioning dispute based on the specific facts which exist between MPower and BellSouth without issuing an Order which has "industry wide" impact in the process. This is particularly appropriate given that Comcast and AT&T Corp. are attempting to amicably resolve their ordering and provisioning dispute with BellSouth without Commission involvement. Moreover, if the framework under which this proceeding is handled is that

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and provisioning issues; have exchanged much correspondence regarding the same; and even have asked BellSouth for executive assistance to resolve this dispute.

no “industry wide” impact will be established, there would be no need for the Commission to grant Comcast’s Petition to Intervene in this proceeding. In this respect, Comcast agrees to withdraw voluntarily its Petition to Intervene upon the Commission issuing an Order that this proceeding will have no “industry wide” or other precedential impact upon Comcast.

WHEREFORE, Comcast requests that (1) as a result of BellSouth’s “industry standards” defense to the specific facts and ordering and provisioning dispute alleged by MPower (while an ordering and provisioning dispute also currently exists among Comcast, AT&T Corp. and BellSouth), the Commission grant Comcast’s Petition to Intervene and that Comcast be afforded full party status in this proceeding; or (2) in the alternative, the Commission issue an Order that this proceeding will have no “industry wide” or other precedential impact upon Comcast.

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<sup>5</sup> For the Commission’s information, transfer of AT&T Broadband Phone of Florida, LLC from AT&T Corp. to Comcast Corporation was approved by the Commission in Docket Number 020258-TI.

Respectfully submitted, this the 14th day of May, 2003.

By: Loretta A. Cecil by H

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Attorney for Comcast Phone of Florida, LLC

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copy of the foregoing Reply of Comcast Phone of Florida, LLC was served upon the parties of record by electronic mail and first-class, postage paid U. S. Mail.

This the 14th day of May, 2003.

Wayne Knight, Staff Counsel  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

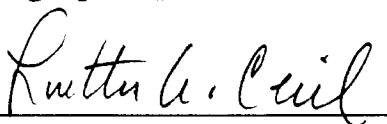
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Loretta A. Cecil, Esq.