



ORIGINAL

16 May 2003

MAY 19 2003

Blanca Bayo  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

RE: Bell South – Florida – An illegal attempt by Bell South to use the State of Florida as its vehicle to resolve a contractual dispute

Dear Ms. Bayo:

030176 - TP

We are enclosing for your review a letter received today from Bell South.

It is Davel's contention that Bell South is attempting to use its regulated tariff as a method to obtain payments from us to which they are not entitled.

Bell South was providing services under a Master Service Agreement (the "Agreement"), for which they filed special tariffs, and they have failed to comply with the terms of that Agreement. One of the services at issue with the Agreement dispute is Directory Assistance. As a result of Davel's invocation of certain rights provided for under the Agreement, Bell South has chosen to utilize its standard "thousand pound gorilla" method of resolving a dispute; that is, they are attempting to strong arm Davel into paying additional fees by including such fees as part of Davel's monthly phone bills.

We request the Commission review our complaint because Bell South is wrongfully using the authority granted to it by the Florida Public Service Commission in an attempt to resolve a contractual dispute by means other than as is provided for in the Agreement. In addition, although Davel no longer utilizes the services of Bell South, Bell South continues to hold three hundred thousand dollars in monies previously placed on deposit with Bell South. Davel requests the Commission to issue an order to Bell South requiring them to return all deposits immediately while at the same time, informing Bell South that they cannot arbitrarily decide, because they are a regulated entity, to add unjust fees to Davel's monthly phone bill.

If you have any question concerning this complaint, please contact me at 216-875-4296 or via e/mail at [Lharvey@davelcomm.com](mailto:Lharvey@davelcomm.com).

Sincerely,

Lin Harvey  
Director – Regulatory Affairs

RECEIVED FPSC  
MAY 22 PM 12:36  
COMMISSION  
CLERK

Enclosure

SECTION 5 JUL 11 2003

DOCUMENT NUMBER-D

Cc: J. Chichester  
T. Martin  
A. Kaufman – Hahn Loeser  
Federal Communication Commission

JUL 11 2003

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REC'D  
MAY 22 2003  
FPSC

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**BellSouth Interconnection Services**

600 North 19<sup>th</sup> Street  
8<sup>th</sup> Floor  
Birmingham, Alabama 35203  
Don.Boren@BellSouth.net

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Don Boren  
(205) 321-4705  
Fax: (205) 321-4754

May 13, 2003

MAY 19 2003

John Chichester, CEO  
Davel Communications, Inc.  
1001 Lakeside Ave., 7<sup>th</sup> FL.  
North Point Tower  
Cleveland, Ohio 44114

Dear Mr. Chichester:

We are in receipt of your April 15, 2003 letter advising of your decision to breach the MSA contract with BellSouth. As previously stated, BellSouth does not agree with Davel's interpretation of the contract provisions used to base your decision. BellSouth has repeatedly explained that the two proposals you submitted **do not meet** the provisions of the MSA and as such, BellSouth is not required to respond to the proposals submitted. In light of the disagreement between the two companies as to the sufficiency of the proposals submitted, BellSouth offered to submit the issue to arbitration. Further, even though BellSouth was not under any obligation to respond to the proposals, BellSouth has repeatedly stated its willingness to negotiate with Davel to grow the MSA for both companies. Unfortunately, Davel's recent actions have led us down a path we had hoped to avoid.

The MSA is clear under section XI - Early Termination, in that Davel must provide written notice of its desire to terminate the MSA sixty days prior to the effective date of the termination. Davel did not adhere to this clause. Your actions to move substantial numbers of lines indicate Davel no longer wishes to continue the relationship with BellSouth and leaves us with no other recourse. Per the MSA contract section XI. B, BellSouth is now assessing the termination liabilities as follows:

Alabama –	\$54,285
Florida –	\$352, 275
Georgia –	\$150,150
Kentucky –	\$51,975
Louisiana –	\$93,555
Mississippi –	\$82,450
North Carolina –	\$102,260
South Carolina -	\$79,250
Tennessee -	\$184,800
<b>Total Termination Charges -</b>	<b>\$1,155,000</b>

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These termination liabilities will begin appearing on your bills in the May/June timeframe.

Regards,

Don Boren

Cc: Lin Harvey - Davel  
Suzie Lavett – BellSouth  
Mary Peed- BellSouth