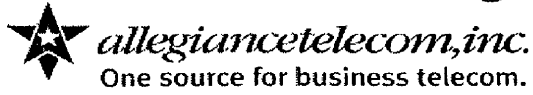


ORIGINAL



700 E. Butterfield Rd.
Suite 400
Lombard, IL 60148
630/522-5200 phone
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September 10, 2003

Hand Delivery
Mrs. Blanca S. Bayo
Director
Division of the Commission Clerk and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

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COMMISSION
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RE: Docket No. 030339-TP (Allegiance Arbitration)

Dear Ms. Bayo:

Enclosed are an original and fifteen copies of Allegiance Telecommunications, Inc.'s Direct Testimony, which we ask that you file in the captioned docket.

A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return the copy to me. Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely,

John C. Gockley

cc: All Parties of Record

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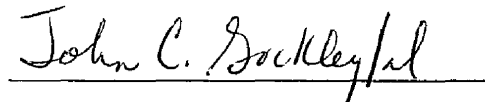
**CERTIFICATE OF SERVICE
DOCKET NO. 030339-TP**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via

Electronic Mail and Facsimile this 10th day of September 2003 to the following:

Adam Teitzman
Staff Counsel
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Commission
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BellSouth Telecommunications, Inc. (IL)
Andrew Shore/N. White/J. Meza/M. Karno
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Tel. (850) 224-7798
Fax. 222-8640
Email: nancy.sims@bellsouth.com



BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

DIRECT TESTIMONY

OF

LARRY STRICKLING

ON BEHALF OF

ALLEGIANCE TELECOMMUNICATIONS OF FLORIDA, INC

DOCKET NO. 030339-TP

SEPTEMBER 10, 2003

DOCUMENT NUMBER DATE

08574 SEP 10 3

FPSC COMMISSION CLERK

1. **Q: PLEASE STATE YOUR NAME, POSTION AND BUSINESS ADDRESS**

2. A: My name is Lawrence E. Strickling, Sr. Vice President, Industry Development for
3. Allegiance Telecommunications, Inc. ("Allegiance"). My address is 700 East
4. Butterfield Road, Lombard, Illinois 60148

5.

6. **Q: PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND
7. AND BUSINESS EXPERIENCE?**

8. A: I have been at Allegiance since June 2002. Prior to Allegiance , starting in
9. September 2000, I was Executive Vice President and General Counsel of
10. CoreExpress, an internet startup in St. Louis, MO. In 2001 and 2002, I was also on
11. the Board of Directors of Network Plus, a CLEC headquartered in Quincy,
12. Massachusetts. From 1997 until 2000, I worked at the Federal Communications
13. Commission. I held a number of positions there and was Chief of the Common
14. Carrier Bureau from 1998 - 2000. From 1987 until 1997, I worked at Ameritech in
15. Chicago, Illinois. After holding positions in the law department, including Vice
16. President and Associate General Counsel, I was Vice President-Public Policy from
17. 1993 until 1997. Prior to 1987, I was an attorney at the Chicago law firm of
18. Kirkland & Ellis. I hold a B.A. in Economics from the University of Maryland and a
19. law degree from Harvard Law School.

20.

21. **Q: WHAT ARE YOUR JOB RESPONSIBILITIES AT ALLEGIANCE ?**

22. A: My responsibilities at Allegiance include developing and executing the company's
23. state regulatory policies and managing the relationship between Allegiance and the

1. incumbent Bell telephone companies, including BellSouth. I am responsible for
2. agreements with the incumbents.

3.

4. **Q: WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

5. A: The purpose of my testimony is to address Allegiance's position on all unresolved
6. issues in this arbitration.

7. **Q: HAVE ANY OF THE ISSUES IDENTIFIED IN ALLEGIANCE'S PETITION
8. FOR ARBITRATION BEEN SUBSEQUENTLY RESOLVED BETWEEN
9. THE PARTIES?**

10. A: Yes. The parties have settled the following issues: 1, 3, 4, 5, and 6. I will submit
11. testimony in support of Allegiance's position on the remaining issues, to wit:

12. Issue No. 2. Following a request by Allegiance to convert a special access
13. to a combined loop and transport network element (EEL), when should BellSouth
14. cease billing the special access rate and begin to bill the lower UNE rate for the
15. EEL?

16. Issue No. 7. When should payment for services be due?

17. Issue No 8. When is it appropriate to demand a security deposit, in what amount,
18. and under what conditions should the security deposit be released?

19. Issue No. 9. How far may BellSouth back bill for all services?

20.

21. **Q: WHAT IS ALLEGIANCES POSITION WITH RESPECT TO WHEN
22. BELL SOUTH SHOULD BEGIN BILLING THE LOWER UNE RATE FOR
23. CONVERTED EELS?**

24. A: The FCC requires BellSouth to permit CLECs to convert existing special access

1. arrangements that they have with BellSouth . These arrangements include facilities
2. which consist of a combined loop and transport network element - known as an EEL.
3. The unbundled network element rate for the combination is lower than the special
4. access rate. This issue is purely a billing issue because the circuit is already in place
5. there is no physical rearrangement occurring as a consequence of such "conversion".
6. The circuit remains exactly the way it was when it was billed at the special access
7. rate. The only thing that needs to occur is for BellSouth to reflect the change in its
8. billing system. Notwithstanding the fact that no facility conversion is
9. occurring, BellSouth may take months to reflect the change in its billing system and
10. to begin to bill the lower rate. BellSouth provides no retroactive credit for the delay
11. in billing the lower rate and their proposed interconnection agreement in this
12. proceeding makes no commitment whatsoever as to when the "conversion" will be
13. completed and when Allegiance will receive the benefit of the lower rate. The FCC
14. has provided guidance on this point in its recently released Triennial Review Order:
15. "We conclude that conversions [EELs] should be preformed in an expeditious
16. manner in order to minimize the risk of incorrect payments. We expect carriers to
17. establish any necessary time frames to perform conversions in their interconnection
18. agreements or other contracts...[W]e recognize, however, that converting
19. between wholesale services and UNEs (or UNE combinations) is largely a billing
20. function." (FCC03-36, pc-588)
21. The only proposal in this proceeding meeting the FCC requirement that time frame
22. for EEL conversions be addressed in interconnection agreements is Allegiance's
23. proposal that lower rate apply immediately following a request for such conversion.
24. Since the change is merely a billing change BellSouth can and should make such
25. change upon Allegiance's request. This also comports with the FCC's stated view
26. that these conversions should be performed in an expeditious manner.

1. It should therefore be adopted in this arbitration.

2.

3. **Q: WHAT IS ALLEGIANCE, POSITION ON THE PAYMENT DUE DATE?**

4. **A:** BellSouth's bills come with a pre-ordained due date. The due date for a bill is

5. always the same every month. The problem is that the due date - because of its

6. intractability- bears no relationship to the date that the bill is actually received by

7. Allegiance. This is not a simple bill which would allow Allegiance to audit the bill

8. quickly. Indeed, BellSouth's bills are complex. Each month Allegiance receives

9. from BellSouth bills covering approximately 20,000 circuits and containing almost

10. 80,000 data elements - known as USOCs. Because these bills may contain errors

11. and reflect charges that are not appropriate, all of the bills and all of the billing

12. elements need to be thoroughly reviewed before payment can be authorized.

13. Sometimes the bills are received sufficiently close to the bill date to allow adequate

14. time for a thorough review and sometimes they are not . Within the last 3 months

15. Allegiance has received bills from BellSouth with as little as 5 days for review

16. before the due date.

17. Under BellSouth's proposal a bill literally received the day before the due date is still

18. due on the due date because the due date is fixed for all time - no exceptions.

19. Exacerbating this problem is the fact that late payment can result in the imposition of

20. late payment charges or the posting of substantial security deposits. BellSouth

21. will say in this proceeding - as they have said elsewhere - that they would never

22. consider a bill late under these circumstance and that they will "work with" CLECs

23. in the event that bills are received late. However, Allegiance shouldn't have to rely

1. on the goodwill of BellSouth to do the right thing and forgive late payment when
2. BellSouth is the cause of the late payment. Instead Allegiance should be able to refer
3. to its contract with BellSouth ---the agreement fixing the rights and obligations of
4. both parties--- and know exactly how long it has to review and then pay its bill.
5. Allegiance suggests that 30 days from receipt of the bill is a commercially reasonable
6. period of time for a customer to review a vendor bill and make payment.
7. However, in the spirit of compromise, Allegiance has been willing to accept a
8. requirement that BellSouth provide bills no later than twenty days before the due
9. date. In fact, BellSouth has already committed to ITCDeltaCom in an
10. interconnection agreement currently being arbitrated before this commission on other
11. grounds in Docket #030137-TP that it will provide bills no less that twenty days
12. prior to the due date. Specifically, Section 1.4 of Attachment 7 of the BellSouth
13. proposed contract with ITCDeltaCom provides as follows:
14. "All bills must be received by the other party no later than ten (10) calendar days
15. from Bill Date and at least twenty (20) calendar days prior to the payment due
16. date, whichever is earlier"
17. Allegiance has made it known to BellSouth that it would accept this provision in
18. settlement of this issue, but BellSouth has rejected the offer choosing instead to
19. waste the finite resources of both Allegiance and this Commission in arbitration
20. on this point.

21.

22. **Q: WHAT IS ALLEGIANCE'S POSITION CONCERNING SECURITY**
23. **DEPOSITS?**

24. A: There are two issues present in the parties dispute over security deposits; the

1. maximum amount of security deposit that can be required by BellSouth and the
2. triggers to be employed for return of the security deposit.

3. With respect to the first issue, BellSouth proposes that security deposits be capped at
4. two months estimated billings while Allegiance proposed one month with a proviso
5. that the security deposit could be increased to two months if the majority of billings
6. from BellSouth were for services billed in arrears. As this Commission knows,
7. CLECs and other startup companies are fighting for every capital dollar to invest in
8. their business and security deposits take away from their ability to compete.

9. Accordingly, any security deposit should be at the minimum level necessary to
10. provide adequate assurance of payment. Every dollar "invested" in a security deposit
11. is one less dollar that a CLEC has to operate its business and compete successfully
12. against other CLECs and the financially well-heeled ILECs, including BellSouth. If
13. Allegiance were required to post two months security deposit by all of the ILECs in
14. the states in which it operates it would tie up in excess of \$50 M in capital.

15. The FCC expressed concern over the effect that excessive security deposits
16. would have on CLEC operations less than a year ago when confronted with a request
17. by BellSouth and other ILECs to increase security deposit amounts for access
18. services:

19. "We do not believe that broadly crafted measures applicable to all customers such
20. as additional deposits, are necessary to strike the balance between the interests of
21. incumbent LECs and their customers. In balancing the incumbent LECs desire for
22. additional protection against the potential burden on customer's of additional
23. protections such as accelerated and advanced payment would be more likely to
24. satisfy statutory standards". (See, In The Matter Of Verizon Petition For Emergency
25. Declaratory Ruling And Other Relief, WC Docket No. 02-202, Policy Statement,
26. Released December 23, 2002. "Policy Statement")

1. The Allegiance proposal is more in line with the guidance provided by the FCC in
2. its Policy Statement than the BellSouth proposal. The Allegiance proposal
3. recognizes that there is a difference in risk for services billed in advance than for
4. services billed in arrears. For services billed in advance BellSouth is at a lower risk
5. for non- payment because BellSouth has not provided any of the services to which
6. the non-payment relates as of the bill due date. Advanced payment was one of the
7. suggestions by the FCC as a more palatable protection device than the imposition of
8. onerous security deposits and so it is appropriate to recognize the benefits that Bell
9. South receives from advance payments by decreasing--- not increasing the amount of
10. the security deposit.

11. In the world of debtor/creditor relationships BellSouth enjoys an exalted position.
12. It can impose late payment charges on delinquent amounts, it can refuse to accept
13. new orders and it can take steps to terminate the interconnection agreement and cease
14. all operations with a CLEC. Insofar as BellSouth is the monopoly provider for most
15. of the wholesale services that Allegiance and other CLECs use to provide service to
16. its customers, the power of this club to command payment should not be
17. understated. In light of the foregoing, the Commission should adopt Allegiance's
18. recommendation for the security deposit maximum.

19. With respect to the second security deposit issue, the triggers to be used for return of
20. any security deposit, the parties have a fundamental disagreement.

21. Allegiance proposed that security deposits be returned upon a demonstration of good
22. payment history evidenced by prompt payment over a twelve month period while
23. BellSouth proposes, in addition to Allegiance having a twelve month prompt

3. payment history, that Allegiance pass a credit check in which BellSouth, and
4. BellSouth alone, determines whether Allegiance is a credit risk. BellSouth's proposal
5. presents an opportunity for mischief and anti-competitive conduct. Allegiance is
6. uncomfortable with the subjective nature of BellSouth's credit analysis proposal.
7. BellSouth proposes to look at such things as "number of years in business,
8. management history, liens, suits and judgements, payment history with third parties
9. and payment history with BellSouth...". (Sec 1.8.1 of Attachment 7) They will also
10. examine "debt ratings, debt performance, net worth, cash flow... profitability and
11. financial statements " (Sec 1.8.1 of Attachment 7). Their proposal, however, neglects
12. to mention how they will look at these indicia of financial health; whether some items
13. are more important than others: whether they are to be equally weighted or whether
14. any are dispositive of the out come. In fact, the only check on the unbridled use of the
15. date to reach an arbitrary conclusion is the commitment that the analysis will be done
16. in "a commercially reasonable manner". This point was addressed by the FCC in its
17. recent Policy Statement on security deposits;
18. "Broad, subjective triggers that permit the incumbent LEC considerable discretion
19. in making demands, such as a decrease in 'credit worthiness' or 'commercial
20. worthiness' falling below an 'acceptable level', are particularly susceptible to
21. discriminatory application." (Policy Statement par.21)
22. The only true objective standard is whether a CLEC is paying its bills and paying
23. them on time - and that is all that should matter to BellSouth. A history of prompt
24. payment established over a twelve month period is the best indicia available for
25. determining the propensity of a company to pay its bill and should be adopted here.
26. **Q: WHAT IS ALLEGIANCE TELECOM'S POSITION REGARDING**
27. **LIMITATIONS ON BACK BILLING?**

1. A: Allegiance Telecom has proposed a one year limitation on all back billing. One
2. year is a sufficiently long enough period of time to gather all of the inputs
3. necessary to issue an accurate and complete bill. It is in fact twice as long as
4. Allegiance has negotiated with some other ILECs. A limitation is appropriate in
5. order to provide certainty and finality in billing relationships and allow companies to
6. close their books with the assurance that revenues and expenses are properly
7. captured. At a time when well-published bookkeeping irregularities have caused
8. investors to lose confidence in the financial record keeping of corporations an
9. appropriate and firm back billing limitation is all the more important.
10. By contrast, the BellSouth's proposal provides no finality whatsoever. They are
11. amenable to a 12 month limitation, but with exceptions so broad as to effectively
12. swallow the rule They ask that they be able to back bill for an indeterminate period
13. of time in cases where charges are dependent on records provided by third parties or
14. where charges are billed inaccurately due to error or omission of customer
15. provided data. The language that they submitted is vague enough to suggest that
16. there may be more as yet unidentified exceptions. If BellSouth is concerned about
17. third party input then they should demand that their vendors provide timely and
18. appropriate documentation. If they are concerned about customer provided data they
19. have an entire year to seek verification and assuage their concerns. There should be
20. no exceptions. Exceptions will provide a disincentive to issue accurate, complete
21. and timely bills and, by definition, cannot provide the finality that back billing
22. limitations are intended to provide.