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JAMES E. "JIM" KING, JR.

PRESIDENT



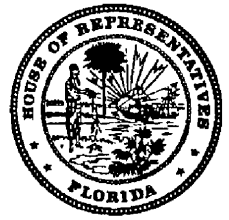
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JOHNNIE BYRD

SPEAKER



September 15, 2003

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

Re: Docket No. 030869-TL

Dear Ms. Bayo:

Enclosed for filing in the above-referenced docket are the original and 15 copies of Citizens' First Motion to Compel Production of Documents and Answers to Interrogatories from BellSouth Telecommunications, Inc. A diskette in Word format is also submitted.

Please indicate the time and date of receipt on the enclosed duplicate of this letter and return it to our office.

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COMMISSION
CLERK

RECEIVED & FILED

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Sincerely,

H F. Mann
Associate Public Counsel

HFM:bsr

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by BellSouth)
Telecommunications, Inc.,) Docket no. 030869-TL
To Reduce Its Network Access Charges)
Applicable To Intrastate Long Distance) Filed September 15, 2003
In A Revenue-Neutral Manner)

**CITIZENS' FIRST MOTION TO COMPEL PRODUCTION OF DOCUMENTS AND
ANSWERS TO INTERROGATORIES
FROM BELL SOUTH TELECOMMUNICATIONS, INC**

The Citizens of Florida (Citizens), through the Office of Public Counsel, pursuant to Rule 28-106.204, Florida Administrative Code, and Rules 1.280, 1.340, 1.350, and 1.380, Florida Rules of Civil Procedure, request the Prehearing Officer issue an order compelling BellSouth Telecommunications, Inc. ("BellSouth" or "Company") to immediately produce all documents and answer all interrogatories described in the paragraphs identified below.

1. On September 10, 2003, BellSouth served its General and Specific Objections to Citizens' First Set of Interrogatories and First Set of Production of Documents, dated September 3, 2003.

2. BellSouth lists eleven "General Objections" to Citizens' discovery, none of which identifies a single interrogatory or request for production of documents to which any or all of them may apply. As such, the Company has presented to Citizens a wonderful game of "Read the Company's Mind."

3. Citizens assert emphatically that these "General Objections" of BellSouth are wholly inapplicable to Citizens' discovery requests. The following are what the Company suggests are appropriate discovery objections made pursuant to the Florida Rules of Civil Procedure:

DOCUMENT NUMBER-DATE

08728 SEP 15 8

FPSC-COMMISSION CLERK

a) "BellSouth objects to the interrogatories and requests for production to the extent they seek to impose an obligation on BellSouth to respond on behalf of subsidiaries, affiliates, or other persons that are not parties to this case on the grounds that such interrogatories and requests for production are overly broad, unduly burdensome, oppressive, and not permitted by applicable discovery rules."

b) "BellSouth objects to the interrogatories and requests for production to the extent they are intended to apply to matters other than Florida intrastate operations subject to the jurisdiction of the Commission. BellSouth objects to such interrogatories and requests for production as being irrelevant, overly broad, unduly burdensome, and oppressive."

c) "BellSouth objects to each and every interrogatory and request for production and instruction to the extent that such request or instruction calls for information that is exempt from discovery by virtue of the attorney-client privilege, work product privilege, or other applicable privilege."

d) "BellSouth objects to each and every interrogatory and request for production insofar as the interrogatories and requests are vague, ambiguous, overly broad, imprecise, or utilizes terms that are subject to multiple interpretations but are not properly defined or explained for purposes of these interrogatories and requests for production. Any answers provided by BellSouth in response to the interrogatories and requests for production will be provided subject to, and without waiver of, the foregoing objection."

e) "BellSouth objects to each and every interrogatory and request for production insofar as it is not reasonably calculated to lead to the discovery of admissible

evidence and is not relevant to the subject matter of this action. BellSouth will attempt to note in its responses each instance where this objections applies.”

f) “BellSouth objects to providing information to the extent that such information is already in the public record before the Commission.”

g) “BellSouth objects to OPC's discovery requests, instructions and definitions, insofar as they seek to impose obligations on BellSouth that exceed the requirements of the Florida Rules of Civil Procedure of Florid Law.”

h) “BellSouth objects to each and every interrogatory and request for production, insofar as any of them are unduly burdensome, expensive, oppressive, or excessively time consuming as written.”

i) “BellSouth is a large corporation with employees located in many different locations in Florida and in other states. In the course of its business, BellSouth creates countless documents that are not subject to Commission or FCC retention of records requirements. These documents are kept in numerous locations that are frequently moved from site to site as employees change jobs or as the business is reorganized. Therefore, it is possible that not every document has been identified in response to these requests. BellSouth will conduct a search of those files that are reasonably expected to contain the required information. To the extent that the requests purport to require more, BellSouth objects on the grounds that compliance would impose an undue burden or expense.”

j) “BellSouth objects to each and every interrogatory and request for production to the extent that the information requested constitutes "trade secrets" pursuant to Section 90.506, Florida Statutes. To the extent that OPC request proprietary confidential

business information, BellSouth will make such information available in accordance with a protective Order, subject to any other general or specific objections contained herein.”

k) “BellSouth objects to each and every interrogatory and request for production to the extent that the information requested is beyond the scope of discovery permitted in this proceeding as set forth in Section 364.164, subsections (3) and (4), Florida Statutes, or seeks documents that are beyond the scope of those issues the Legislature has determined are to be considered by the Commission in this proceeding, or seeks documents that are beyond the matters contained in BellSouth's testimony and exhibits addressing these same issues.”

4. The Prehearing Officer, Commissioner Bradley, in his Order Establishing Procedure, No. PSC-03—0994-PCO-TL, instructed the parties regarding discovery, that “Any objection to . . . discovery requests shall be made within five business day of service of the discovery request.”

5. Citizens do not believe that that instruction envisioned a listing of any and all objections available to a party in the event that some specific discovery request was made of that party to which one or more of those available objections could be claimed and argued.

6. Not one of the eleven General Objections made by BellSouth identifies a single interrogatory or request for production of a document to which it might apply. If these objections were actually applicable to Citizens’ discovery, Citizens would be faced with the impossible task of responding directly to eleven “General” objections, all of which address nothing in particular. Accordingly, these objections are wholly inappropriate and irrelevant to Citizens’ discovery requests.

7. After listing the above eleven "General Objections" to any and all of Citizens' discovery as each of the objections may or may not apply, BellSouth identifies some specific objections to particular discovery requests, as required by the Florida Rules of Civil Procedure. These discovery requests, the Company's objections, and Citizens' response to the objections follow below.

8. Interrogatory No. 1: Provide Cingular's intrastate access rates and associated terms and conditions for each wireless carrier and interexchange carrier with which Cingular interconnects within the state of Florida.

BELLSOUTH OBJECTION: BellSouth objects to Interrogatory No. 1 on the grounds that it is not relevant to the subject matter of this docket and is not reasonably calculated to lead to the discovery of admissible evidence.

CITIZENS' RESPONSE: BellSouth's witnesses have repeatedly referenced wireline competition in this docket. (See Gordon page 24, L-19 through page 26 L-8). The Citizens have a right to test those issues raised by BellSouth concerning wireless competition in the Florida market. This case is about the access line charges that BellSouth imposes on interexchange carriers and the Citizens seek relevant information relating to the access charges that BellSouth's subsidiary charges when it interconnects with other wireless carriers in Florida. Citizens are willing to accept price information for originating, terminating and transport minutes that apply between Cingular, Nextel, U.S. Cellular, ALLTEL, AT&T and BellSouth Long Distance. Accordingly, BellSouth should be ordered to provide a fully responsive answer to this interrogatory.

9. Interrogatory No. 4: Explain how BellSouth calculates the costs of SS7 in its costing of basic local exchange residential service as shown in DDC-1.

BELLSOUTH OBJECTION: BellSouth objects to Interrogatory No. 4 on the grounds that it is not relevant to the subject matter of this docket and is not reasonably calculated to lead to the discovery of admissible evidence.

CITIZENS' RESPONSE: Citizens assert that Interrogatory No. 4 is relevant to the testimony that BellSouth has introduced in this docket. Citizens have a right to review the assumptions used by Witness Caldwell in DDC-1 in calculating specific cost assumptions included in Ms. Caldwell's costing of basic local exchange residential service. Without SS7 signaling, the telephone network cannot operate. Citizen's request for BellSouth to explain how it has calculated the SS7 signaling expense in its cost study is not only relevant, but absolutely essential in order to understand the underlying assumptions that were used by BellSouth in its study. The Commission should order BellSouth to fully answer this interrogatory.

10. **Interrogatory No. 5:** Explain how BellSouth calculates the SS7 signaling costs required for vertical services.

BELLSOUTH OBJECTION: BellSouth objects to Interrogatory No. 5 on the grounds that it is not relevant to the subject matter of this docket and is not reasonably calculated to lead to the discovery of admissible evidence.

CITIZENS' RESPONSE: See the preceding response to Interrogatory 4. The cost of SS7 signaling is relevant to the testimony of Witness Caldwell. Citizens have the right to determine whether BellSouth has uniformly administered the calculation of SS7 signaling expense that it includes in its cost study of basic residential service and its optional services that are equally dependent upon the SS7 signaling capabilities for proper operation. The Commission should order BellSouth to fully answer this interrogatory.

11. Interrogatory No. 6: Explain how BellSouth calculates the SS7 signaling costs required by CLECs in its UNE pricing.

BELLSOUTH OBJECTION: BellSouth objects to Interrogatory No. 6 on the grounds that it is not relevant to the subject matter of this docket and is not reasonably calculated to lead to the discovery of admissible evidence.

CITIZENS' RESPONSE: See the preceding responses to Interrogatories 4 and 5. BellSouth provides SS7 signaling capabilities for use by its retail residential and business customers and for use by wholesale customers through UNE tariffs that are filed in Florida. The Citizens are entitled to know whether the company has properly calculated the cost of SS7 in its residential cost study and whether its calculations are consistent among the products and services which the company offers. OPC has reason to believe that the residential customer cost study reflects the total cost of SS7 signaling expense for all uses that the company may require and that the competitive services provided by the company do not convey contributions to the signaling and other common costs as required by law. Accordingly, the Commission should order BellSouth to fully answer this interrogatory.

12. Interrogatory No. 7: In the development of cost support for its various services, does BellSouth spread the cost of SS7 signaling among the various services that require SS7 signaling capabilities, and if so, how is this done?

BELLSOUTH OBJECTION: BellSouth objects to Interrogatory No. 7 on the grounds that it is not relevant to the subject matter of this docket and is not reasonably calculated to lead to the discovery of admissible evidence.

CITIZENS' RESPONSE: See OPC RESPONSES to Interrogatories No. 4, 5, 6 and 7. The Commission should order BellSouth to fully answer this interrogatory.

13. Production of Documents No. 1: Provide Cingular's intrastate access rates and associated terms and conditions for each wireless carrier and interexchange carrier with which Cingular interconnects in the state of Florida.

BELLSOUTH OBJECTION: BellSouth objects to Request for Production No. 1 on the grounds that it is not relevant to the subject matter of this docket and is not reasonably calculated to lead to the discovery of admissible evidence.

CITIZENS' RESPONSE: See Citizens' response to BellSouth's objection to Citizens' Interrogatory No. 1. The Commission should order the Company to comply fully with this production request.

14. Production of Documents No. 13: Referring to the testimony of witness Caldwell, starting at page 6, line 8, please provide copies of all regulatory decisions received by BellSouth in its operating territory since January 1, 2001 where regulatory agencies did not agree with the recommendations of witness Caldwell regarding BellSouth TSLIRIC, SBTLM and SST cost study programs.

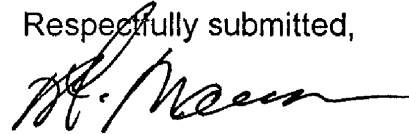
BELLSOUTH OBJECTION: BellSouth objects to Request for Production No. 13 on the grounds that this information is available to OPC in the Commission's public records.

CITIZENS' RESPONSE: Witness Caldwell has testified extensively throughout BellSouth operating territories for several years, regarding the specific costs that are at issue in this Docket. The interests of the Florida Public Service Commission and of the Citizens will be severely damaged if we are unable to determine where other regulatory agencies have not accepted witness Caldwell's assumptions, methodologies and results in the calculation of costs that are an essential ingredient of Bellsouth's case. The information requested in this docket is well known to the witness and the accumulation of this data is overly burdensome if

either the Commission or the Citizens are required to go to every single regulatory jurisdiction where witness Caldwell has testified in order to assess the competence of her testimony in those dockets. Absent this information, the Commission, if it accepts her calculations, would do so blindly. The Commission should order the Company to comply fully with this production request.

WHEREFORE, the Citizens request the Prehearing Officer to issue an order compelling BellSouth Telecommunications, Inc. to immediately produce all documents and answer all interrogatories identified in the paragraphs below.

Respectfully submitted,



H F. Mann
Associate Public Counsel
Fla. Bar No. 763225

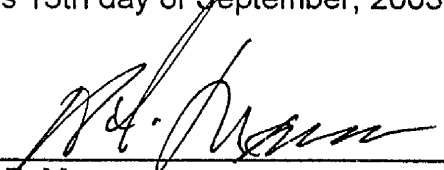
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street
Room 812
Tallahassee, FL 32399-1400

Attorney for the Citizens
of the State of Florida

DOCKET NO. 030869-TL

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished by U.S. Mail or hand delivery to the following parties on this 15th day of September, 2003.



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