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March 8, 2004

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

**Re: Docket No.: 031038-TL  
Petition of BellSouth Telecommunications, Inc. to Revise Customer  
Contact Protocol**

Dear Ms. Bayó:

Enclosed is an original and fifteen copies of BellSouth Telecommunications, Inc.'s Response to Americatel Corporation's Petition for the Initiation of Proceedings, 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,

  
E. Earl Edenfield, Jr.

cc: All Parties of Record  
Marshall M. Criser III  
R. Douglas Lackey  
Nancy B. White

DOCUMENT NUMBER-DATE

03286 MAR-8 3

FPSC-COMMISSION CLERK

**CERTIFICATE OF SERVICE**  
**Docket No. 031038-TL**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via Electronic Mail, (\*) Facsimile and First Class U.S. Mail this 8th day of March, 2004 to the following:

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E. Earl Edenfield, Jr.

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition of BellSouth ) Docket No.: 031038-TL  
Telecommunications, Inc. to Revise )  
Customer Contact Protocol )  
\_\_\_\_\_ ) Filed: March 8, 2004~~4~~

**BELLSOUTH TELECOMMUNICATIONS, INC.'S RESPONSE TO  
AMERICATEL CORPORATION'S PETITION FOR THE  
INITIATION OF PROCEEDINGS**

BellSouth Telecommunications, Inc., ("BellSouth") files this Response to the Petition for the Initiation of Proceedings ("Petition") filed by Americatel Corporation ("Americatel") on February 18, 2004, and says:

**BACKGROUND**

On November 7, 2003, BellSouth petitioned the Florida Public Service Commission ("Commission") to allow BellSouth to revise BellSouth's customer contact protocol for communicating intraLATA toll choices to new customers in order to achieve consistency in its intraLATA and interLATA procedures across the BellSouth footprint. BellSouth's request was premised upon the fact that competitive conditions in the intraLATA market had developed to the point that the Commission's mandated protocol forbidding BellSouth from recommending its intraLATA services to new customers had become outdated.

No party intervened in this docket and on December 23, 2003, the Commission Staff issues its recommendation that the existing rules<sup>1</sup> on BellSouth's marketing of intraLATA toll services be amended. Specifically, the Commission Staff recommend that BellSouth be allowed to offer BellSouth's intraLATA toll services to new customer contacts after BellSouth: (1)

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<sup>1</sup> See, Order No. PSC-96-1569-FOF-TP dated December 23, 1006 in Docket No. 960658-TP, which set forth the existing rules regarding BellSouth's marketing of intraLATA toll services. The Commission imposed similar restrictions on Sprint and Verizon (See Order No. PSC-98-0709-FOF-TP).

informed those new contacts that they have a choice of local toll providers; and, (2) offered to read the new contacts a list of all available intraLATA toll providers. The Commission Staff based its Recommendation on the fact that BellSouth had demonstrated that the objectives underlying the customer contact restrictions (*i.e.*, assuring customer awareness of their intraLATA choices and allowing the IXCs to establish themselves in the intraLATA market) have been met. The Commission Staff also noted that the Commission granted Verizon Florida, Inc. the identical relief sought by BellSouth in this proceeding.<sup>2</sup>

At the January 6, 2004 Agenda session, the Commission voted unanimously (5-0) to approve the Commission Staff's recommendation. No company appeared at the Agenda session to challenge, or otherwise question, the Commission Staff's Recommendation. On January 30, 2004, the Commission issued its PAA Order<sup>3</sup>, approving BellSouth's revised customer protocol for the same reasons as set forth in the Commission Staff's Recommendation. Absent a challenge, the PAA Order was to become effective on February 20, 2004.

#### DISCUSSION

After not having intervened or otherwise demonstrating any interest in the proceeding, Americatel, just two days prior to the PAA becoming effective, filed its Petition challenging the Commission's PAA. In its Petition, Americatel cites three factors upon which it contends the Commission based the PAA: (1) BellSouth's assertion that only 18% of new customers chose BellSouth as the preferred intraLATA carrier; (2) BellSouth is not restricted in marketing services in other jurisdictions in the same manner as in Florida; and, (3) the Commission

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<sup>2</sup> See, Order No. PSC-02-0362-PAA-TL dated March 19, 2002 in Docket No. 011497-TL.

<sup>3</sup> Notice of Proposed Agency Action Order Approving BellSouth Telecommunications, Inc. Revised Customer Contact Protocol (Order No. PSC-04-0115-PAA-TL). (hereinafter "PAA Order")

previously granted similar relief to Verizon Florida. (Petition, at ¶ 7) Apparently conceding factor number 2, Americatel argues that the Commission erred in relying on factors 1 and 3.

**A. Americatel fails to demonstrate any error by the Commission in relying on the facts in BellSouth's petition.**

Americatel suggests that BellSouth's claim that only 18% of new customers chose BellSouth as their preferred intraLATA carrier is "hollow or, at least, very confusing." (Petition, at ¶ 8) Given the misguided analogy that Americatel tries to draw between BellSouth's marketing of bundles packages (many of which were sold to *existing* customers) and the selling of intraLATA toll service to new contacts, it is certainly apparent that Americatel is confused. Further, Americatel also appears to be confused regarding the distinction between intraLATA and interLATA services. Americatel's apparent confusion, however, in no way suggests that the Commission was in any way uncertain in its analysis or otherwise erred in its conclusions.

Equally misguided is Americatel's recitation of the history of DSL services in Florida from which Americatel comes to the unsupportable conclusion that BellSouth is engaged in anti-competitive conduct that somehow relates to the intraLATA services customer protocol. (Petition, at ¶ 11) Clearly, Americatel has no real basis for its argument that the Commission erred in issuing the PAA based upon the facts in BellSouth's petition. Thus, the Commission should reject Americatel's arguments.

**B. Americatel fails to distinguish the relief granted by the Commission to Verizon from the relief granted to BellSouth.**

Americatel suggests that Verizon Florida (formerly GTE) is not subject to the same restrictions on the provision of *inter*LATA services as is BellSouth. BellSouth agrees; however, this argument is completely irrelevant and inapplicable to the issue of *intra*LATA services. Even a modicum of research would have revealed to Americatel that Verizon Florida was subject to

the exact intraLATA toll customer protocol as BellSouth. As noted by the Commission in the very PAA Order that Americatel now challenges:

On May 22, 1998, in Docket No. 970526-TP, this Commission issued Order No. PSC-98-0710-FOF-TP which reaffirmed its prior ruling on customer contact protocols and found that the other ILECs would be required to use the same neutral customer contact protocols as BellSouth.

PAA Order, at 2. Clearly, Verizon Florida and BellSouth have been treated identically by the Commission in establishing customer contact protocols for intraLATA services. Americatel's attempt to distinguish the two companies by using an interLATA analysis is inapposite to this issue and should be summarily rejected by the Commission.

Finally, Americatel argues that the Federal Communications Commission's ("FCC") §272 Audit somehow negates the Commission's PAA Order. There is nothing in the audit report referenced by Americatel that is in conflict with any finding by this Commission. Indeed, the §272 Audit consisted of procedures related to the provision of interLATA services and is the subject of an open proceeding currently before the FCC. Again, there is nothing in the §272 Audit that should stop the PAA Order from taking effect and the Commission should reject Americatel's argument.

#### RESPONSES TO SPECIFIC ALLEGATIONS IN THE PETITION

Below, BellSouth responds to the specifically numbered paragraphs and allegations in Americatel's Petition:

1. Paragraph 1 of the Petition requires no response from BellSouth.
2. BellSouth lacks information sufficient to form a belief as to the allegations in Paragraph 2 of the Petition. Those allegations are therefore denied.
3. Paragraph 3 of the Petition requires no response from BellSouth.
4. BellSouth denies the allegations in Paragraph 4 of the Petition.

5. BellSouth lacks information sufficient to form a belief as to the allegations in Paragraph 5 of the Petition. Those allegations are therefore denied.
6. The Commission's PAA Order speaks for itself and requires no response from BellSouth. BellSouth denies any remaining allegations in Paragraph 6 of the Petition.
7. The Commission's PAA Order speaks for itself and requires no response from BellSouth. BellSouth denies any remaining allegations in Paragraph 7 of the Petition.
8. BellSouth admits that it has enjoyed a measure of success selling service bundles to customers (most of whom were existing customers) throughout the BellSouth region. BellSouth's 2002 SEC Report speaks for itself and requires no response from BellSouth. BellSouth's 2003 Fourth Quarter Earnings Report speaks for itself and requires no response from BellSouth. BellSouth denies that any of these allegations are in any way relevant to customer contact protocols for intraLATA services. BellSouth denies any remaining allegations in Paragraph 8 of the Petition.
9. BellSouth denies the allegations in Paragraph 9 of the Petition.
10. The 1992 Horizontal Merger Guidelines speaks form itself and requires no response from BellSouth. BellSouth denies that a market share analysis is in any way relevant to customer contact protocols for intraLATA services. BellSouth denies any remaining allegations in Paragraph 10 of the Petition.
11. The referenced Commission Orders and BellSouth pleadings speak for themselves and require no response from BellSouth. BellSouth denies any remaining allegations in Paragraph 11 of the Petition.

12. BellSouth admits that the Commission should require identical customer contact protocols for intraLATA services for both Verizon Florida and BellSouth. BellSouth denies any remaining allegations in Paragraph 12 of the Petition.
13. The cited provisions of the Telecommunications Act of 1996 speak for themselves and require no response from BellSouth. BellSouth denies that interstate regulation is in any way relevant to customer contact protocols for intraLATA services. BellSouth denies any remaining allegations in Paragraph 13 of the Petition.
14. The cited provision of the Telecommunications Act of 1996 and the inferred references to the FCC's rules, 47 C.F.R. §§ 209, 211, and 213, speak for themselves and require no response from BellSouth. BellSouth denies any remaining allegations in Paragraph 14 of the Petition.
15. The referenced Public Notice and Audit Report, along with BellSouth's Response, speak for themselves and require no response from BellSouth. BellSouth is without knowledge as to whether the Audit Report has been received by the Commission. BellSouth denies that the §272 Audit Report is in any way relevant to customer contact protocols for intraLATA services. BellSouth denies any remaining allegations in Paragraph 15 of the Petition.
16. The referenced Audit Report speaks for itself and requires no response from BellSouth. Again, BellSouth denies that the §272 Audit Report is in any way relevant to customer contact protocols for intraLATA services. BellSouth denies any remaining allegations in Paragraph 16 of the Petition.
17. BellSouth denies the allegations in Paragraph 17 of the Petition.
18. Any allegation in the Petition not expressly admitted herein is hereby denied.



WHEREFORE, BellSouth respectfully asks the Commission to deny Americatel's  
Petition and to allow the PAA Order to take immediate effect.

Respectfully submitted this 8th day of March 2004.

*Nancy B White (RH)*

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