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Matilda Sanders

From: Fatool, Vicki [Vicki.Fatool@BellSouth.COM]
Sent: Wednesday, May 04, 2005 12:21 PM
To: Filings@psc.state.fl.us
Subject: 031132-TP Joint Motion Seeking Commission Approval of the Stipulation
Importance: High
Attachments: 031132-T.pdf

- A. Vicki Fatool
 Legal Secretary to Nancy B. White
 BellSouth Telecommunications, Inc.
 150 South Monroe Street
 Suite 400
 Tallahassee, Florida 32301
 (305) 347-5560
vicki.fatool@bellsouth.com

- B. Docket No.: 031132-TP - Petition of Florida Digital Network, Inc. d/b/a FDN
 Communications for Suspension of or For a Stay of the Effective Date of BellSouth
 Telecommunications, Inc.'s 2004 Key Customer Promotional Tariff Filing December 17,
 2003

- C. BellSouth Telecommunications, Inc.
 on behalf of Nancy B. White

- D. 8 pages total (including letter, certificate of service and pleading and Attachment "A")

- E. Joint Motion Seeking Commission Approval of the Stipulation
 .pdf

CMP <<031132-T.pdf>>

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Legal Department

NANCY B. WHITE
Attorney
BellSouth Telecommunications, Inc.
150 South Monroe Street
Room 400
Tallahassee, Florida 32301
(305) 347-5561

May 4, 2005

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

**Re: Docket No.: 031132-TP
Petition of Florida Digital Network, Inc. d/b/a FDN Communications
for Suspension of or For a Stay of the Effective Date of BellSouth
Telecommunications, Inc.'s 2004 Key Customer Promotional Tariff
Filing December 17, 2003**

Dear Ms. Bayó:

Enclosed is BellSouth Telecommunications, Inc.'s and Florida Digital Network, Inc.'s Joint Motion Seeking Commission Approval of the Stipulation, which we ask that you file in the captioned docket.

Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely,


Nancy B. White

Enclosures

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

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**CERTIFICATE OF SERVICE
Docket No. 031132-TP**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via
Electronic Mail and First Class U. S. Mail this 4th day of May, 2005 to the following:

Felicia Banks
Staff Counsel
Florida Public Service
Commission
Division of Legal Services
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
(850) 413-6212
fbanks@psc.state.fl.us

Matthew Feil
FDN Communications
2301 Lucien Way, Suite 200
Maitland, FL 32751
Tel. No. (407) 835-0460
mfeil@mail.fdn.com


Nancy B. White

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Florida Digital Network, Inc. d/b/a) Docket No. 031132-TP
FDN Communications for Suspension of or For a Stay)
of the Effective Date of BellSouth)
Telecommunications, Inc.'s 2004 Key Customer)
Promotional Tariff Filing of December 17, 2003) Filed: May 4, 2005

**Joint Motion Seeking Commission
Approval of the Stipulation**

COMES NOW, Florida Digital Network, Inc. d/b/a FDN Communications ("FDN") and BellSouth Telecommunications, Inc. ("BellSouth") (hereinafter referred to as the "Parties"), pursuant to Rule 25-22.037, Florida Administrative Code, and hereby files this Joint Motion to have the Florida Public Service Commission (the "Commission") approve the Stipulation between the Parties and to take all the action specified therein. In support of this Joint Motion, the Parties show the following:

1. Presently pending before the Commission is Docket No. 031132-TP styled "Petition of FDN for a Stay of the Effective Date of BellSouth's 2004 Key Customer Promotional Tariff Filing of December 7, 2003."

2. The Parties believe that it is in the best interest of their customers to amicably resolve the issues in this proceeding without the expenditure of further time, money, and other resources in litigating this issue before the Commission and the courts.

3. The Parties have negotiated a settlement of these issues. That settlement is set forth in the Stipulation executed by the Parties. A copy of the Stipulation and Agreement is attached hereto as Attachment "A"

DOCUMENT NUMBER-DATE

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4. Because the Stipulation is in the best interest of the customers of the Parties, the Parties request that the Commission expeditiously accept and approve the Stipulation and Agreement as filed and close Docket No. 031132-TP.

WHEREFORE, the Parties respectfully request that the Commission grant the relief sought in this Joint Motion.

Respectfully submitted this 4th day of May, 2005.

BELLSOUTH TELECOMMUNICATIONS, INC.


NANCY B. WHITE

c/o Nancy H. Sims
150 So. Monroe Street, Suite 400
Tallahassee, FL 32301
(305) 347-5558


R. DOUGLAS LACKEY

Suite 4300
675 W. Peachtree St., NE
Atlanta, GA 30375
(404) 335-0747

FDN COMMUNICATIONS



Matthew Feil
FDN Communications
2301 Lucien Way, Suite 200
Maitland, FL 32751
Tel. No. (407) 835-0460

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Florida Digital Network, Inc. d/b/a) Docket No. 031132-TP
FDN Communications for Suspension of or For a Stay)
of the Effective Date of BellSouth)
Telecommunications, Inc.'s 2004 Key Customer)
Promotional Tariff Filing of December 17, 2003) Dated: May 3, 2005

Joint Stipulation of BST and FDN Communications

Pursuant to Section 120.57(4), Florida Statutes, BellSouth Telecommunications, Inc. ("BellSouth") and Florida Digital Network, Inc. d/b/a FDN Communications ("FDN") (hereinafter the "Parties") have entered into this Stipulation to effect an informal disposition and complete and binding resolution of any and all matters in the above captioned matter. Without prejudice to any Party's position in any other proceeding, the Parties stipulate and agree as follows:

1. This docket was initiated on December 30, 2003 by a petition filed by FDN for a stay of the effective date of BellSouth's 2004 Key Customer Promotional Tariff Filing. Since the initiation of the docket, the Parties have engaged in Commission ordered mediation and discussions for the purposes of resolving this matter.
2. To this end, the Parties have reached the following Stipulation in full resolution of this docket:

- A. BellSouth has implemented Customer Billing Relationship ("CBR") view-only capability in BellSouth's customer interfacing centers. CBR allows the assigned representatives to ascertain the effective date, expiration dates, and amount of any early termination charges for any BellSouth end user's term agreements.
- B. BellSouth end users may request the effective date, expiration date and early termination charges of the end user's term agreements either by calling their local BellSouth business office or submitting a request via the BellSouth Small Business website.
- C. BellSouth's end user or, where applicable, FDN, requesting on behalf of the BellSouth end user customers will receive, within 48 hours, either a call back, an email reply or fax reply with the information requested, depending on the method(s) specified for the return of the information.
- D. FDN may participate in a 3-way call with BellSouth and the BellSouth end user, however the customer must initiate the request and should lead the conversation.
- E. FDN may send an email or fax to BellSouth requesting the effective date, expiration date, and early termination charges on the BellSouth end user's behalf pursuant to a customer specific letter of authorization or agency. The customer's letter of authorization or agency must be attached to the written FDN request. FDN's customer specific request must designate the email address or fax number to which the BellSouth response will be sent. Within ten (10) days of this Joint Stipulation, BellSouth will provide FDN with appropriate email addresses and fax numbers for FDN's transmission of such requests. Any subsequent revisions to the transmission information will be promptly provided to FDN.
- F. In the event BellSouth does not provide the requested information to the BellSouth end user or to FDN, as the case may be, within 48 hours, then the BellSouth end user, or FDN acting on the customer's behalf, may escalate the request using BellSouth's published procedures for such escalations. Within ten (10) days of this Joint Stipulation, BellSouth will provide FDN with the appropriate escalation information. FDN will be promptly notified of any subsequent changes to the escalation information. If an escalation does not result in prompt

resolution, the dispute may be brought to the Commission.

3. Notwithstanding anything herein to the contrary, the Parties do not waive any of their rights to argue whether the effective dates, expiration dates, or termination charges contained within an end users term agreement(s) should be contained within the Customer Service Record. Further, the Parties do not, by this Joint Stipulation, waive their rights to assert any claims or defenses in any subsequent proceeding not involving the BellSouth promotional tariff filing which was the subject of this proceeding, except that any subsequent claim or defense involving the processes which are the subject of Section 2 of this Joint Stipulation (other than enforcement of same) are waived.

This Stipulation dated this 3rd day of May, 2005 may be executed in counterpart originals and a facsimile of an original signature shall be deemed an original.

The Parties evidence this acceptance and agreement with the provisions of
this Stipulation by their signature:

BELLSOUTH TELECOMMUNICATIONS, INC.



NANCY B. WHITE
c/o Nancy H. Sims
150 So. Monroe Street, Suite 400
Tallahassee, FL 32301
(305) 347-5558

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