

**ORIGINAL**

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**From:** Barclay, Lynn [Lynn.Barclay@BellSouth.com]  
**Sent:** Wednesday, July 27, 2005 2:19 PM  
**To:** Filings@psc.state.fl.us  
**Cc:** Fatool, Vicki; Linda Hobbs; Nancy Sims; Holland, Robyn P; Bixler, Micheale; Slaughter, Brenda ; Mays, Meredith  
**Subject:** RE: 041269-TL BellSouth's letter requesting Commission take notice of additional decisions  
**Attachments:** BellSouth's ltr re add'l decisions.pdf

- A. Lynn Barclay  
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- B. Docket No. 041269-TL: In re: Petition to Establish Generic Docket to Consider Amendments to Interconnection Agreements Resulting From Changes of Law
- C. BellSouth Telecommunications, Inc.  
 on behalf of Meredith Mays
- D. 5 pages total
- E. BellSouth's Bayó letter requesting that the Commission take notice of additional decisions that support its Motion for Summary Final Order.

<<BellSouth's ltr re add'l decisions.pdf>>

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July 27, 2005

Ms. 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 Nos. 041269-TL**

Dear Ms. Bayó:

BellSouth requests that the Commission take notice of additional decisions that support BellSouth Telecommunications, Inc.'s Motion for Summary Final Order filed in the above-listed docket. To the extent necessary, this letter serves as BellSouth's Motion for Official Recognition, pursuant to Florida Statutes, Section 120.569(2)(i). BellSouth will provide copies of these decisions upon request.

On July 14, 2005, the Massachusetts Department of Telecommunications and Industry entered its *Arbitration Order* in Docket No. D.T.E. 04-33. The *Arbitration Order* included a number of issues that are similar to those established by this Commission; including, but not limited to, Section 271 and line sharing. Specifically, the Massachusetts Commission held that "our authority to review and approve interconnection agreements under § 252 does not include the authority to mandate that Verizon include § 271 network elements in any of its § 252 interconnection agreements." See p. 251. Also, the Massachusetts Commission ordered that the "FCC's line sharing rules, which by their terms were effective on October 2, 2003 and sunset on October 2, 2006, are codified at 47 C.F.R. §51.319(a)(1)(i). Parties are directed to include the line sharing rules verbatim in the Agreement." See p. 185.

The Kansas Corporation Commission entered its *Order No. 15: Commission Order on Phase II UNE Issues* addressing a prior recommendation of an arbitrator<sup>1</sup> in Docket Nos. 05-BTKT-365-ARB et al., 2005 Kan. PUC LEXIS 867 on July 18, 2005. In

<sup>1</sup> The arbitrator's determinations can be found at 2005 Kan. PUC LEXIS 696.

Ms. Blanca S. Bayo  
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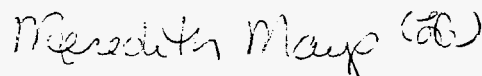
relevant part, the Kansas Commission held that "the FCC has preemptive jurisdiction over 271 matters." See *Order* pp. 7 – 8.

Also on July 18, 2005, the Idaho Public Utilities Commission entered an order in an arbitration proceeding between Covad and Qwest in Case No. CVD-T-05-1; Order No. 29825; 2005 *Ida. PUC LEXIS* 139. The Idaho Commission concluded "that the Commission does not have the authority under Section 251 or Section 271 of the Act to order the Section 271 unbundling obligations as part of an interconnection agreement."

On July 20, 2005, the Tennessee Regulatory Authority ("TRA") issued its written order in Docket No. 04-00186.<sup>2</sup> The TRA ordered BellSouth to provide line sharing pursuant to "47 U.S.C. § 251(c)(3) as outlined in the FCC's TRO and 47 C.F.R. § 51.319." Order, p. 7. The TRA recognized that BellSouth's Petition for Declaratory Ruling and Preemption of State Action was pending before the FCC, which could "provide clarification regarding state authority . . . for 271 elements."

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

Sincerely,



Meredith Mays

cc: Parties of Record  
Nancy White  
Jerry D. Hendrix  
R. Douglas Lackey

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<sup>2</sup> BellSouth referred to the TRA's decision at n. 67 of its Motion with the notation that a written order had not yet been issued.

**CERTIFICATE OF SERVICE  
Docket No. 041269-TP**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via  
Electronic Mail and FedEx this 27<sup>th</sup> day of July, 2005 to the following:

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