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ORIGINAL

**From:** Rhonda Dulgar [rhonda@landersandparsons.com]  
**Sent:** Monday, August 29, 2005 2:51 PM  
**To:** Filings@psc.state.fl.us  
**Subject:** Electronic Filing - Docket 041269-TP  
**Attachments:** Cox.Obj.to.Bellsouth.ReqforAdm.aug29.doc

Electronic Filing

a. Person responsible for this electronic filing:

Robert Scheffel Wright  
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b. Docket No. 041269-TP

In re: Petition to Establish Generic Docket to Consider Amendments to Interconnection Agreements Resulting From Changes of Law.

c. Document being filed on behalf of Cox Florida Telcom, L.P.

d. There are a total of 5 pages.

e. The document attached for electronic filing is Cox Florida Telcom, L.P.'s Objections to BellSouth Telecommunications, Inc.'s First Request for Admission (No. 1).

(see attached file: Cox.Obj.to.Bellsouth.ReqforAdm.aug29.doc)

Thank you for your attention and assistance in this matter.

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8/29/2005

# ORIGINAL

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition to Establish )  
Generic Docket to Consider ) Docket No. 041269-TP  
Amendments to Interconnection )  
Agreements Resulting From ) Filed: August 29, 2005  
Changes of Law )  
\_\_\_\_\_ )

### COX FLORIDA TELCOM, L.P.'S OBJECTIONS TO BELL SOUTH TELECOMMUNICATIONS, INC.'S FIRST REQUEST FOR ADMISSION (NO. 1)

Cox Florida Telcom, L.P. ("Cox"), pursuant to Rule 28.106-206, Florida Administrative Code, and Rules 1.280 and 1.370, Florida Rules of Civil Procedure, files the following General Objections to BellSouth Telecommunications, Inc.'s (BellSouth) First Request for Admission (No. 1) to Cox.<sup>1</sup> BellSouth's discovery is outside the scope of permissible discovery in this case. Cox is not a party to this case and thus has no legal obligation under the Florida Rules of Civil Procedure to respond to BellSouth's discovery. Cox reserves its right to all other appropriate objections and by filing these objections in no way intends to become a party to this case.

#### GENERAL OBJECTIONS

1. Cox objects to BellSouth's request for admission. This discovery vehicle is inappropriate and outside the scope of the Florida Rules of Civil Procedure and the Model Rules governing administrative practice because Cox is not a party to this case.

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<sup>1</sup> BellSouth's Request for Admission was served on Cox via U.S. Mail only, under cover of a letter dated August 8, 2005, received by Cox on August 11, 2005.

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2. In administrative proceedings, the Model Rules provide that: "parties may obtain discovery through the means and in the manner provided in Rules 1.280 through 1.400, Florida Rules of Civil Procedure."<sup>2</sup>

3. Rule 1.370, Florida Rules of Civil Procedure, provides that a "party may serve upon any other party a written request for the admission of the truth of any matters. . . ."<sup>3</sup>

4. The discovery rules cited above permit one party to serve discovery upon another party to a case. The Commission Staff recognized this when, on December 4, 2003, it withdrew interrogatories and requests for production which it had served on the Florida Cable Telecommunications Association, Inc. (FCTA). In its memo withdrawing the discovery, Staff stated:

FCTA is not an official party of record in Docket No. 030851-TP, and therefore is not required to respond to discovery requests pursuant to Rule 28-106.206, Florida Administrative Code, and Rule(s) 1.340 and 1.350, Florida Rules of Civil Procedure. Accordingly, the staff of the Florida Public Service Commission withdraws its First Set of Interrogatories and First Request for Production of Documents served on FCTA in Docket 030851-TP on November 25, 2003.

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<sup>2</sup> The Florida Administrative Procedure Acts provides that discovery shall be conducted in administrative proceedings "in the manner provided in the Florida Rules of Civil Procedure." Section 120.569(2)(f), Florida Statutes.

<sup>3</sup> Emphasis added.

5. Cox is not a party to this docket. Therefore, BellSouth's discovery requests to Cox are inappropriate and outside the bounds of permissible discovery pursuant to the Florida Rules of Civil Procedure.

LANDERS & PARSONS

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Objections to BellSouth's Request for Admission was served via Electronic Mail and First Class United States Mail this 29th day of August, 2005, to the following:

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Nancy White c/o Nancy Sims BellSouth Telecommunications, Inc. 150 S. Monroe Street, Suite 400 Tallahassee, FL 32301-1556	Wanda Montano/Terry Romine US LEC Corp. 6801 Morrison Blvd. Charlotte, NC 28211
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