

# ORIGINAL

**Timolyn Henry**

**From:** CJ Cratty [cjcratty@moylelaw.com]  
**Sent:** Friday, September 09, 2005 12:12 PM  
**To:** Filings@psc.state.fl.us  
**Cc:** Vicki Gordon Kaufman; dana.shaffer@xo.com; Adam Teitzman; Donna McNulty; Floyd Self; Gene Watkins; Jerry Hallenstein; Jonathan Canis; Ken Hoffman; Leigh Hyer; Lisa Harvey; Marshall Howard; Marva Johnson; Mary Campbell; Matthew Feil; Michael Gross; Morton Posner; Nancy White; Nanette Edwards; Paul Rebey; Peggy Rubino; Peter Dunbar; Renee Terry; Robert Culpepper; Susan Masterson; Tracy Hatch  
**Subject:** Filing in Docket No. 000121A-TP  
**Attachments:** Bayo ltr 09.09.05.pdf

Pursuant to the Commission's procedures for e-filing, XO Communications, Inc. provides the following information:

- |    |   |                         |
|----|---|-------------------------|
| A. | The attorney responsible for filing is:   | <b>CMP</b> _____        |
|    | Vicki Gordon Kaufman  | <b>COM</b> _____        |
|    | Moyle, Flanigan, Katz, Raymond & Sheehan, P.A.  | <b>CTR</b> _____        |
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| B. | The document is to be filed in Docket No. 000121A-TP.   | <b>SGA</b> _____        |
| C. | The document is filed on behalf of XO Communications, Inc..   | <b>SEC</b> <u>  1  </u> |
| D. | The document is 2 pages long.   | <b>OTH</b> _____        |
| E. | The document is entitled Letter to Blanca Bayo Protesting BellSouth's Termination of Remedy Payments to XO under SEEM Plan. |                         |
| F. | The document is being forwarded to parties of record via e-mail and US Mail.  |                         |

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**MOYLE, FLANIGAN, KATZ, RAYMOND & SHEEHAN, P.A.**  
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September 9, 2005  
**Via Electronic Mail & US Mail**

Ms. Blanca Bayo  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32301

Re: Docket No. 000121A--TP

Dear Ms. Bayo:

This letter is written on behalf of XO Communications Services, Inc. (XO) to protest the unilateral action of BellSouth Telecommunications, Inc. (BellSouth) in ceasing remedy payments to XO under the Self Effectuating Enforcement Mechanism (SEEM) plan.

BellSouth recently informed XO that it would not receive a SEEM payment for July 2005. When questioned, XO was referred to the BellSouth PMAP Website, where BellSouth states that: "In accordance with the findings of the recently completed SQM/SEEM audit in Florida, BellSouth has made changes to the PARIS code as agreed upon by the PSC Staff and CLECs."

As a preliminary matter, XO has *not* agreed to the changes BellSouth references and is therefore puzzled by this inaccurate representation. XO's first knowledge regarding this matter was when it inquired of BellSouth as to the status of the remedy payments due to XO.

Further, BellSouth has provided no back up or audit information as to these unilateral adjustments stemming from alleged overpayments. Thus, it is impossible for XO to even begin to assess the accuracy or reliability of the alleged overpayment adjustments and whether or not they are in compliance with the SEEM plan. Before BellSouth can make "adjustments" in its remedy payments, the back up information regarding such "adjustments" must be provided and verified on a state by state basis.

Finally, it appears that BellSouth has implemented an unauthorized offset mechanism across the various BellSouth states. BellSouth has offset what it claims (with no back up provided) are overpayments in one state against amounts due in another state. XO is unaware of

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any authorization for such a mechanism in the plan and requests that BellSouth be directed to cease this activity at once. *If* such overpayments are appropriately verified, any offset must be made only against future payment in the state where the verified overpayment actually occurred.

In addition, XO concurs with the comments and requests of CompSouth provided in its letter to Mr. Varner of September 8, 2005.

Sincerely,

s/ Vicki Gordon Kaufman

Vicki Gordon Kaufman  
Attorney for XO

Cc: Lisa Harvey  
Robert Culpepper  
Dana Shaffer  
Parties of record