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MEMORANDUM

February 6, 2006

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TO: DIVISION OF THE COMMISSION CLERK AND ADMINISTRATIVE SERVICES

FROM: OFFICE OF THE GENERAL COUNSEL (TEITZMAN) *AT*

RE: DOCKET NO. 041269-TP - PETITION TO ESTABLISH GENERIC DOCKET TO CONSIDER AMENDMENTS TO INTERCONNECTION AGREEMENTS RESULTING FROM CHANGES IN LAW BY BELLSOUTH TELECOMMUNICATIONS, INC.

Please place the attached documents in the above-referenced docket file.

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Attachment

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-M-E-M-O-R-A-N-D-U-M-

DATE: February 6, 2006
TO: Blanca S. Bayó, Commission Clerk and Administrative Services Director
FROM: Adam J. Teitzman, Senior Attorney, Office of the General Counsel *AT*
RE: Docket No. 041269-TP - Petition to establish generic docket to consider amendments to interconnection agreements resulting from changes in law, by BellSouth Telecommunications, Inc.

Please be advised that the attached e-mail from Ms. Anita Megna regarding the above referenced docket was received by all Commissioners on January 27, 2006. It appears this e-mail is not from a party to the docket or, to the best of staff's knowledge, from a representative to any party.

Staff has confirmed that the document attached to the e-mail has not been viewed by any Commissioner. Further, it should be noted that Commissioners Carter and Tew are not assigned to this docket.

Nevertheless, in the abundance of caution, please place this memo and a copy of the attached e-mail in the docket file in accordance with the provisions of Section 350.042, Florida Statutes.

Adam Teitzman

Subject: FW: 041269 Issue 22

Attachments: 4071887923-041269.doc

From: anita magna [mailto:amegna1222@yahoo.com]

Sent: Friday, January 27, 2006 6:17 PM

To: Commissioners & Staffs

Subject: 041269 Issue 22

There appear to be a lot of unanswered questions, a lot of points not addressed.

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041269-TP Issue 22.

1. Does this recommendation agree with prior FPSC rulings, as in Docket 040156? No.
2. Pg 148 paragraph 1, you state the FCC distinguishes between mass market and enterprise market,
 - a. has the FCC defined those terms? No. See FTTC Recon Order fn 2
 - b. Does the TRO distinguish mass market from enterprise by categories other than service type? Yes, geographic and building type. TRO 326 distinguishes enterprise market as urban and multi-unit, mid to large business. Mass market would be primarily residential, predominately single unit, except for predominately residential MDUs.
3. pg 148 paragraph 2, you state that "FTTH is not included in the enterprise market section of the TRO."
 - a. What does the acronym FTTH mean? Fiber to the home.
 - b. Would a "home" be expected to be included in a enterprise market?
 - c. Is FTTH fiber-based? Yes
 - d. How are fiber-based technologies referred to in the enterprise market section? "Fiber"
 - e. Is "fiber" discussed as a loop type for the mass market? No. See TRO para 247.
 - f. What is the difference between "fiber" and "FTTH"? There is an architectural difference.
 - g. Is unbundling granted for FTTH architecturally based? Yes. See FTTC Recon ORDER para 18.
 - h. Does the ILEC make a distinction between "fiber" and "FTTH"? Yes FTTC Recon Order para 18.
 - i. Is the architecture used to deploy FTTH different from that used to deploy "fiber" to the enterprise market? yes
4. pg 148 paragraph 4, you state that the FTTH rule applies to customers who, in the absence of fiber, would be served by low capacity loop.
 - a. In a greenfield area, or a new development is the technology placed prior to the customer requesting service? Yes.
 - b. So is a decision of how the potential customer "would be" served made prior to the customer requesting a DS1 or DS3? Yes.
5. pg 148 last sentence, you state that unbundling of DS1 and DS3 loops is required where impairment exists.
 - a. Does impairment exist on FTTH loops? No. See TRO para 273
 - b. For these new developments, are entry barriers the same for CLECs and ILECs? Yes. See TRO para 275.
 - c. Are the FTTH restrictions based on impairment? No it is based on Section 706 goals. See TRO para 236.
 - d. Do you discuss Section 706 goals in your analysis? No.
6. On page 150 you state that DS1 and DS3 loops in impaired wire centers was an exception to FTTH unbundling exemption.
 - a. Does unbundling for DS1 and DS3 impairment takes precedent over FTTH unbundling exemption?
 - b. Does impairment take precedent over Section 706? No. Section 706 takes precedence over impairment. See TRO paras 236, 274, 278, 279.

- c. Would this recommendation permit unbundling of FTTH? Yes.
- d. Does the FCC permit unbundling of FTTH? No. see TRO fn 803. paras 273-284. TRRO para 12.
- e. There is a 10-1-05 edition of the FCC rules. Do the FCC's current rules provide this exception that you are recommending? No.
- f. Is the provision of DS1 and DS3 discussed under the fiber-to-the home section of the rules? No.
 - i. Is it discussed under the hybrid loop section of the rules? Yes.
 - ii. Is there a DS1 loop section in the rule? Yes
 - iii. Does the DS1 loop section discuss FTTH? No.
 - iv. Can it be concluded that the elimination of discussion of DS1 and DS3 in the fiber-to-the-home section was intentional? Yes.
 - v. Would provision for unbundling of DS1 and DS3 in fiber-to-the-home loops, where the FCC intentionally deleted this provision in its rules, be contrary to the reading of the rule? Yes.