

Matilda Sanders

From: Martin B. Goldberg [mgoldberg@lashgoldberg.com]
Sent: Monday, July 03, 2006 2:21 PM
To: Filings@psc.state.fl.us
Cc: David Hope, Esq.; Adam Teitzman; dstarcher@broadandcassel.com; Meza, James; Denburg, Dorian; Liebman, Sharon ; Cynji Lee; Lawrence Lambert; Kecia Griffin
Subject: BST's Notice of Filing Concerning Miami-Dade County's Assertion of the Florida Trade Secret Privilege

Attachments: Document.pdf



Document.pdf
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July 3, 2006

Mrs. Blanca S. Bayo
Director, Division of the Commission Clerk and Administrative Services Florida Public Service
Commission 2540 Shumard Oak Boulevard

Re: Complaint by BellSouth Telecommunications, Inc. Regarding
Operation of a Telecommunication Company by Miami-Dade County
Docket No: 050257 *-TL*

Dear Mrs. Bayo:

Please find attached BellSouth's Notice of Filing Concerning Miami-Dade County's Assertion of the Florida Trade Secret Privilege.

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

Cc: All Parties of Record

Martin B. Goldberg
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05900 JUL-3 06

FPSC-COMMISSION CLERK

In re: Complaint by BellSouth Tele-)
Communications, Inc., Regarding)
The Operation of a Telecommunications)
Company by Miami-Dade County in)
Violation of Florida Statutes and)
Commission Rules)

DOCKET NO. 050257-TL

BELLSOUTH TELECOMMUNICATIONS, INC.'S NOTICE OF FILING CONCERNING COUNTY'S ASSERTION OF FLORIDA'S TRADE SECRET PRIVILEGE

BellSouth Telecommunications, Inc. ("BellSouth") hereby submits its Notice Concerning Miami-Dade County's Assertion of the Florida Trade Secret Privilege within its Response to BST's First Request for Production of Documents.

1. On June 27, 2006, Miami-Dade County ("County") filed its Responses to BellSouth's First Request for Production of Documents. Therein, the County asserted Florida's Trade Secret Privilege pursuant to Section 812.081, Fla. Stat. (2002), in support of its contention that the County need not disclose a list of its current customers for telecommunications services.

2. BellSouth disagrees and contests the applicability of the trade secret privilege and has written the County in an attempt to resolve the matter without the intervention of the Hearing Officer or Commission Staff. A copy of BellSouth's correspondence in this regard is attached hereto as Exhibit A.

3. Accordingly, BellSouth will attempt in good faith to resolve the matter with the County. Should these efforts fail, BellSouth reserves all of its rights to bring this discovery dispute before the Hearing Officer for resolution as contemplated by the Scheduling Order in this matter.

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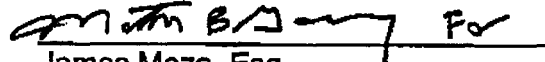
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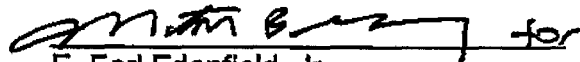
FPSC - COMMISSION CLERK

Respectfully submitted:

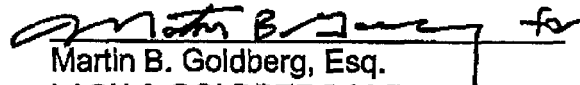
BELLSOUTH TELECOMMUNICATIONS, INC.

 for

James Meza, Esq.
Sharon R. Liebman, Esq.
c/o Nancy H. Sims
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Tallahassee, Florida 32301
(305) 347-5558

 for

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 for

Martin B. Goldberg, Esq.
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100 Southeast Second Street
Miami, Florida 33131
(305) 347-4040

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was mailed

this 3 day of July 2006, to:

Adam Teitzman, Esq.
Staff Counsel
Florida Public Service Commission
Division of Legal Services
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Jean L. Kiddo, Esq.
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Murray A. Greenberg
Miami-Dade County Attorney
David Stephen Hope, Esq.
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SENDER'S E-MAIL: MGOLDBERG@lashgoldberg.com
REPLY TO MIAMI OFFICE

Via Telefax & U.S. Mail

July 3, 2006

David Stephen Hope, Esq.
County Attorney's Office
P.O. Box 592075
Miami, FL 33159-2075

**Re: In re: Complaint of BellSouth Telecommunications, Inc.
Against Miami-Dade County for Alleged Operation of a
Telecommunications Company in Violation of Florida
Statutes and Commission Rules.
Docket No: 050257-TL**

Dear David:

This letter responds to your most recent pleading entitled, Miami-Dade County's Responses to BellSouth Telecommunications, Inc.'s First Request for Production dated June 27, 2006. Therein, in response to BellSouth's request for a copy of the County's current customer list, the County objected to such production and claimed, "the County's current list of customers constitutes a trade secret." See Response No. 3 (emphasis in original).

In order to avoid a dispute on this issue, and in an attempt to resolve the matter without the intervention of the Public Service Commission staff and the Hearing Officer, I write to raise the following points concerning your objection and ask that the County respectfully reconsider its position.

First, as you know, the County has previously provided the names of its customers to the Public Service Commission upon its request. At those times, the County did not raise or claim a privilege to prevent such cooperation and disclosure.

Second, in the State Action the County previously attempted to withhold the names of its customers and filed a Motion for Protective Order asserting the trade secret privilege. BellSouth contested the applicability of the privilege and, after a hearing on this issue, the Court ruled that the privilege did not apply as a matter of law. On January 31, 2006, the Court denied the County's Motion for Protective Order and ordered the County to disclose the names of its customers to BellSouth.

Third, one central question to be addressed by the PSC in this proceeding is the applicability of the airport exemption rule to the current offering of telecommunications services

David Stephen Hope, Esq.
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by the County at the Miami International Airport and other county-owned airports. The text of the airport exemption rule and its history make clearly relevant the type, nature and function of the entities to which the County is offering and providing telecommunications services. In light of the foregoing, by claiming trade secret privilege to withhold the current customer list, the County is intentionally attempting to undermine the Commission's right to fully and competently evaluate the nature and scope of the County's telecommunications systems.

Finally, since you previously argued to the State Court that the disclosure of your customer names to BellSouth would place the County at a competitive disadvantage for business at the airports, please know that BellSouth is amenable to entering into a confidentiality agreement that would limit the use of such information to this proceeding. BellSouth would agree to keep the information in an "attorney-eyes only" capacity so as to not provide any such information to the business portion of the company. Of course, we are willing to provide you with this protection as our only goal is to obtain this information for the Public Service Commission's use and evaluation concerning the issues raised in this proceeding.

Given the foregoing, we respectfully request that the County reconsider its position. Such reconsideration would save the Commission Staff and the Hearing Officer considerable time and effort. Please let us know your position by Wednesday, July 12, 2006, and we look forward to your anticipated cooperation with us and the Commission. Of course, in all other respects BST reserves all of its rights concerning this matter, including the right to bring this issue before the Hearing Officer as a discovery dispute pursuant to the Scheduling Order. Thank you.

Very truly yours,

LASH & GOLDBERG LLP



Martin B. Goldberg

cc: James Meza, Esq.
Dorian Denburg, Esq.
Sharon Liebman, Esq.

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