

ORIGINAL

Matilda Sanders

From: Griffin, Kecia (CAO) [KGRIFFIN@miamidade.gov]
Sent: Wednesday, July 19, 2006 4:05 PM
To: Filings@psc.state.fl.us
Cc: Hope, David (CAO); Lee, Cynji (Airport); mgoldberg@lashgoldberg.com; jean.kiddoo@bingham.com; james.meza@BellSouth.com; Sharon.Liebman@bellsouth.com
Subject: (Amendment) Miami-Dade County's Motion to Strike Bellsouth Telecommunications Inc's Supplement to Preliminary Exhibit List
Attachments: MDC Motion to Strick Supplement to Preliminary Ex List.pdf

July 19, 2006

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

**Re: Complaint by BellSouth Telecommunication, Inc., Regarding the
 Operation of a Telecommunication Company by Miami-Dade County
 in Violation of Florida Statutes and Commission Rules**

(Docket No. 050257)

Dear Mrs. Bayó:

Enclosed is an original of Miami-Dade County's Motion to Strike Bellsouth Telecommunications Inc.'s Supplement to Preliminary Exhibit List. The only *correction* is to the headers on pages 2, 3 and 4.

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

cc: All Parties of Record
 David Stephen Hope

- CMP _____
- COM _____
- CTR _____
- ECR _____
- GCL _____
- OPC _____
- RCA _____
- SCR _____
- SGA _____

* SEC 1
 OTH Kevin

DOCUMENT NUMBER-DATE
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 FPSC-COMMISSION CLERK

7/19/2006

* Possible duplicate of DN 06285-06

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

Docket No. 050257

MIAMI-DADE COUNTY'S MOTION TO STRIKE BELL SOUTH TELECOMMUNICATIONS INC.'S SUPPLEMENT TO PRELIMINARY EXHIBIT LIST

Pursuant to Florida Public Service Commission Order No. PSC-06-0326-PCO-TL (the "Order"), Miami-Dade County (the "County"), by and through undersigned counsel, hereby files this Motion to Strike Supplement to Preliminary Exhibit, served by BellSouth Telecommunications, Inc. ("BellSouth") on July 14, 2006, given said Supplement to Preliminary Exhibit List (the "Supplement") violates the discovery procedures and parameters delineated by the Order. In support of its Motion the County states:

1. On May 22, 2006, BellSouth filed its Preliminary Exhibit List. The parties agreed that the discovery period would commence on June 5, 2006. Pursuant to the Order, "[t]he discovery period shall terminate forty-five (45) days from the date discovery commences." Order ¶ (2)(g). Here, the discovery period terminates on July 20, 2006.
2. Pursuant to the Order, "*[g]ood cause shall be required for a party to add exhibit(s) to the proposed final exhibit list that were not listed on the preliminary exhibit list* except for exhibits identified and produced during discovery." Order ¶ 4 (emphasis added). The Order does not allow a

party to supplement its preliminary exhibit list. *See Order passim*. The parties specifically agreed that the requisite due diligence would be applied at the front-end, and hence narrow the parameters for change between a party's preliminary and final exhibit list. The Order only allows a final exhibit list to deviate from its preliminary exhibit list based upon (i) good cause, or (ii) exhibits identified and produced during discovery. *Order ¶ 4*.

3. Here, BellSouth has violated the Order, by serving a non-allowed Supplement fifty-three (53) days after serving its Preliminary Exhibit List, and less than one (1) week before the termination of the discovery period. No good cause was proffered for the Supplement. *See BellSouth Telecommunications, Inc.'s Supplement to Preliminary Exhibit List*. None of the documents were identified and produced during discovery. *Id*. In fact, all of the Supplement documents have been in the possession of BellSouth, and the vast majority of the Supplement predates BellSouth's submission of its Preliminary Exhibit List (see Ex. Nos. 179, 182, 184, 185, 186, 187, 188, 189, 190, 191, 192, and 193). *Id*.

4. Given the Order does not allow for the Supplement, BellSouth's Supplement should be stricken. Only those documents produced during discovery should be allowed as part of BellSouth's Final Exhibit List, pursuant to the Order.

5. This motion is filed in good faith and is not dilatory

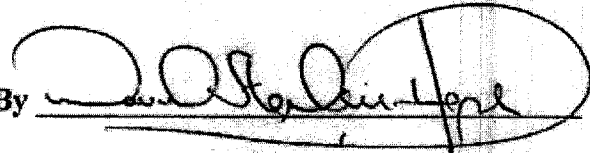
WHEREFORE, Miami-Dade County respectfully requests the Florida Public Service Commission enter its Order granting the County's Motion to Strike BellSouth Telecommunications, Inc.'s Supplement to Preliminary Exhibit List.

RESPECTFULLY SUBMITTED,

MURRAY A. GREENBERG
MIAMI-DADE COUNTY ATTORNEY

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By



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was mailed this *17th* day

of July 2006, to:

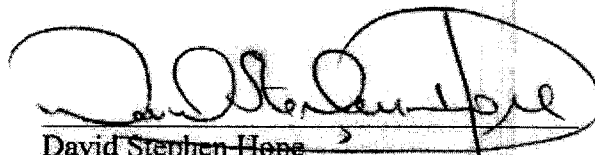
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