

ORIGINAL

Matilda Sanders

From: Allison Smith [ASmith@aws-law.com]
Sent: Friday, September 01, 2006 11:49 AM
To: Filings@psc.state.fl.us
Subject: Motion to Consider Petition of Protest Timely Filed - Docket No. 050194-TL
Attachments: BellSouth_Motion to Consider Timely Filed.pdf

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint by Florida BellSouth customers who paid fees to BellSouth Telecommunications, Inc. related to Miami-Dade County Ordinance Section 21-44 ("Manhole Ordinance") and request that Florida Public Service Commission order BellSouth to comply with Section A.2.4.6 of General Subscriber Service Tariff and refund all fees collected in violation thereof.

DOCKET No. 050194-TL

Filed: September 1, 2006

MOTION TO CONSIDER PETITION OF PROTEST TIMELY FILED

NOW COMES Petitioners, by and through undersigned counsel, and files this Motion to Consider Petition of Protest Timely Filed, and in support thereof states as follows:

1. On August 8, 2006, Proposed Agency Action Order No. PSC-06-0685-PAA-TL ("PAA") was issued in this docket.
2. Pursuant to Public Service Commission Rule, the PAA was to become final if no protest was filed within twenty-one days.
3. On August 29, 2006, approximately five minutes before 4:00 Central Standard Time, time zone in which Petitioners' counsel operates, Petitioners' counsel e-filed via email Petitioners' Protest to Proposed Agency Action. Petitioners' counsel was immediately advised with a response that such filing was after regular business hours and would be filed the next day; the response indicated the time to be four minutes after the hour.
4. Given that Petitioners had every intent to oppose and protest the PAA and that the Petition was filed on the twenty-first day and within three to four minutes of the deadline and that the untimely filing was not because of purposeful neglect or

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delay but due to the logistical impossibility of synchronizing clocks across the state with those of the Public Service Commission, Petitioners ask that the Commission view the Petition as timely filed.

Wherefore, Petitioners respectfully request that the Public Service Commission view the Petition of Protest to Proposed Agency Action as timely filed.

Submitted:

/s/Joshua A. Jones
Justin G. Witkin, Esa.—FL 0109584
Joshua A. Jones, Esq.—FL 0847291
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this Petition of Protest to Proposed Agency Action has been furnished via email to:

Florida Public Service Commission
2540 Shumard Oak Bouelavard
Tallahassee, Florida 32399-0850

and certified U.S. Mail to the following:

BellSouth Telecommunications, Inc.
J.Meza/E.Edenfield/M.Gurdian/S.Liebman
c/o Ms. Nancy H. Sims
150 South Monroe Street, Suite 400
Tallahassee, FL 32301-1556

/s/Joshua A. Jones

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