

ORIGINAL

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Sent: Wednesday, September 06, 2006 10:19 AM
To: Filings@psc.state.fl.us
Cc: Fatool, Vicki; Randa, Johna A; Nancy Sims; Holland, Robyn P; Bixler, Micheale; Slaughter, Brenda ; Culpepper, Robert
Subject: 00121A-TP BellSouth's Bayo letter re GAAP Audit of 2004 SEEM Payments
Attachments: SEEM Audit of 2004.pdf

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- B. Docket No. 000121A-TP: In re: Investigation into the establishment of operations support systems permanent incumbent local exchange telecommunications companies
- C. BellSouth Telecommunications, Inc.
 on behalf of Robert Culpepper
- D. 5 pages total
- E. BellSouth Telecommunications, Inc. GAAP Audit of 2004 Seem Payments.

<<SEEM Audit of 2004.pdf>>

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9/6/2006

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September 6, 2006

Mrs. Blanca S. Bayó
Director, Division of the Commission Clerk and
Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: **Docket No. 000121A-TP**: GAAP Audit of 2004 SEEM Payments
**In Re: Investigation into the establishment of operations support
systems permanent incumbent local exchange Telecommunications
companies**

Dear Ms. Bayó:

As required by a prior version of the Florida Self Effectuating Enforcement Mechanism ("SEEM") Administration Plan (version 2.7), PricewaterhouseCoopers LLP ("PwC") has completed an audit, consistent with Generally Accepted Accounting Principles ("GAAP"), of SEEM payments made by BellSouth Telecommunications, Inc. ("BellSouth") for 2004. PwC identified no major issues with the processes for calculating or making payments of any of the enforcement mechanisms associated with BellSouth's performance and concluded that BellSouth accurately disbursed SEEM payments to CLECs (Tier-1). As explained below, however, PwC determined that, on several occasions, BellSouth was late in paying a portion of the Tier-2 SEEM payments.

For the months in question, BellSouth made the following Tier-2 penalty payments:

- \$164,000 on July 15, 2004;
- \$212,700 on August 14, 2004;
- \$12,100 on October 15, 2004;
- \$10,650 on November 14, 2004; and
- \$27,250 on February 14, 2005.

After each month's penalty payments are made, BellSouth continues to review the transactions to ensure that no errors have been made, and such review is performed for internal quality control and is unrelated to the PwC audit. As a result of these internal reviews, for the months in question, BellSouth determined that some manual transactions had not been included in the production cycle that generated the Tier-2 payment amounts. Thus, BellSouth determined that additional Tier-2 penalty amounts

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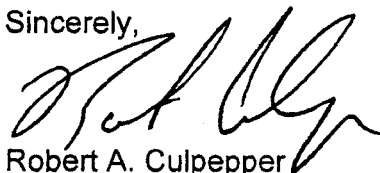
were owed for these five months and, after re-running the data, BellSouth made such additional Tier-2 payments. Specifically, BellSouth made additional Tier-2 payments in the following amounts:

- \$1,450 on August 11, 2004 (27 days late);
- \$1,000 on September 13, 2004 (30 days late);
- \$166,650 on October 28, 2004 (13 days late);
- \$250 on January 12, 2005 (89 days late);
- \$500 on January 12, 2005 (59 days late); and
- \$2,100 on March 14, 2005 (28 days late).

Because BellSouth made these additional Tier-2 payments late, PwC found that one of two things should occur. PwC determined that BellSouth either owes no fine for the late payments or BellSouth owes a fine of \$663,000. That is, PwC interpreted Section 4.4.3 of the former SEEM Plan to possibly mean that when a partial payment is made, a fine of \$1,000 per day accrues until the full payment is made. BellSouth disagrees with this possible interpretation. BellSouth's understanding of the intent of Section 4.4.3 of the former SEEM Plan is that a fine would apply when BellSouth intentionally fails to make a required Tier-2 payment or when BellSouth is negligent in processing the underlying measurement data to calculate the penalties. Indeed, PwC specifically noted that the SEEM Plan *did not address what/if any late fees are to be paid by BellSouth in the event SEEM payments are paid late because of data being rerun due to BellSouth's quality assurance processes.*

Clearly, given that BellSouth made Tier-2 penalty payments totaling \$426,700 for the five months in question, BellSouth was not attempting to avoid making its Tier-2 penalty payments. To suggest that BellSouth owes a fine of \$663,000 because it made additional payments totaling \$171,950 within a few months – and, in some instances a few days - of when such payments should have been made represents a strained and grossly inequitable interpretation of the former SEEM Plan. BellSouth believes that PwC's option wherein BellSouth owes no fine for the Tier-2 penalty payments that were made late correctly reflects the intent of Section 4.4.3 of the former SEEM Plan, and BellSouth proposes to follow this option. Again, PwC did not identify any major issues or systemic problems with BellSouth's processes for calculating or paying SEEM penalties. Please do not hesitate to contact me if you have any questions.

Sincerely,



Robert A. Culpepper

cc: All parties of record
Jerry D. Hendrix
Lisa Harvey

CERTIFICATE OF SERVICE
Docket No. 000121A-TP

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

Electronic Mail and U.S. Mail this 6th day of September, 2006 to the following:

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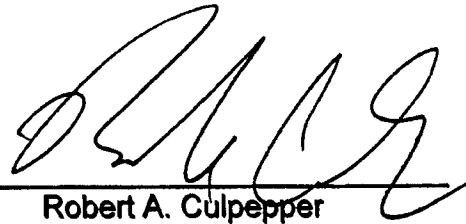
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**(+) Signed Protective
Agreement**

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