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Public Service Commission

November 14, 2006

Robert A. Culpepper
Senior Regulatory Counsel
BellSouth Telecommunications, Inc.
150 South Monroe Street
Room 400
Tallahassee, FL 32301

RE: Docket No. 000121A-TP - Investigation into the establishment of operations support systems permanent performance measures for incumbent local exchange telecommunications companies. (BELLSOUTH FLORIDA TRACK)

Dear Mr. Culpepper:

On September 6, 2006, in Docket No. 000121A-TP, BellSouth filed a letter self-reporting findings of the GAAP audit of BellSouth's 2004 SEEM payments. Specifically, BellSouth stated that PricewaterhouseCoopers LLP (auditor) had determined that BellSouth may owe the Commission a fine of \$663,000 for late Tier-2 payments depending on how Section 4.4.3 of the former SEEM was interpreted.

Upon receipt of the letter staff immediately commenced an investigation of the GAAP audit findings. On October 4, 2006, BellSouth provided the Commission with more detailed information regarding the GAAP audit findings. Upon review of those materials and the former SEEM plan, staff believes BellSouth does owe a fine of \$663,000 for late remittance of Tier-2 payments.

Section 4.4.3 of the former SEEM plan set forth that "for each day after the due date that BellSouth fails to pay the Tier-2 Enforcement Mechanisms, BellSouth will pay the Commission \$1,000 per day for deposit in the State's General Revenue Fund." In its September 6, 2006, letter, BellSouth states that the intent of Section 4.4.3 of the former SEEM Plan was that a fine should apply when BellSouth intentionally fails to pay or is negligent in processing the underlying measurement data to calculate the penalties.

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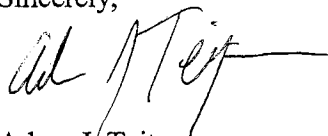
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First, Commission staff notes that there are no explicit qualifications or limitations on what shall qualify as a late Tier-2 payment under Section 4.4.3. Section 4.4.3 explicitly addresses all Tier-2 payments that are remitted after the due date and does not address intent. Furthermore, penalizing intentional and negligent failures to pay are not the only purposes of Section 4.4.3. Section 4.4.3 of the former SEEM Plan also served as an incentive to BellSouth to put in place the necessary safeguards to ensure that it is in full compliance with all Tier-2 Enforcement Mechanisms.

Accordingly, staff believes, pursuant to Section 4.4.3 of the former SEEM Plan, that BellSouth currently owes the Florida Public Service Commission \$663,000 in penalties for Tier-2 payments made after the due date.

Please respond to this letter in ten days notifying staff if BellSouth intends to dispute staff's finding.

Sincerely,

A handwritten signature in black ink, appearing to read "Ad Teitz", with a long horizontal flourish extending to the right.

Adam J. Teitzman
Staff Counsel

AJT:js