

Matilda Sanders

From: Michael Russ [comp102@earthlink.net]
Sent: Monday, December 11, 2006 3:42 AM
To: Filings@psc.state.fl.us
Subject: Documents for docketing
Importance: High
Attachments: petitioner, michael russ's, petition to intervene packet.pdf

ORIGINAL

CMP _____
COM _____
CTR _____
ECR _____
GCL _____
OPC _____
RCA _____
SCR _____
SGA _____
SEC 1
OTH Kim P.

Person who is filing for and on behalf of:

Michael P. Russ
745 Orange Street
Chipley, Florida 32428
(850) 638-5533
Comp102@earthlink.net

Docket No. to be filed under:
060640-TP

Title of case:
Bessie Russ,

Petitioner

vs.

Evercom Systems, Inc. d/b/a Correctional Billing Services
and Bellsouth Corporation; jointly and severally,

Respondents

Filing on behalf of:
Michael P. Russ

Document Attached:

Petition to Intervene Packet:

Notice of Filing- letting parties of record know that a Petition to Intervene is being filed

Petition to Intervene- The actual Petition that sets forth the request to Intervene

Memorandum of Law- A brief discussion about the law surrounding a Petition to Intervene

Sworn Statement of Facts- Sworn statement which supports the Petition to Intervene

Petition or Complaint- containing various allegations of violations of laws and rules

12/11/2006

DOCUMENT NUMBER-DATE

11272 DEC 11 06

FPSC-COMMISSION CLERK

ORIGINAL

Michael Russ
745 Orange Street
Chipley, Florida 32428

IN RE: DOCKET NO.: 060640-TP

December 9, 2006

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

Dear Ms. Bayó:

Please find enclosed a Notice of Filing, Petition to Intervene, Memorandum of Law, Sworn Statement of Facts, a Petition containing various allegations of violations, and Certificates of Service. Copies of these documents have been served on the parties of record via United States Certified Mail With Return Receipt Requested, the proper postage paid on each. Please docket and file these documents accordingly.

Should you have any questions or concerns I will be more than happy to discuss them with you. You may contact me at the address listed above.

Respectfully,



Michael Russ

Cc: Parties of record

Enclosure (1)

DOCUMENT NUMBER-DATE

11272 DEC 11 8

FPSC-COMMISSION CLERK

IN THE FLORIDA PUBLIC SERVICE COMMISSION
IN THE FEDERAL COMMUNICATIONS COMMISSION
ORIGINALS FILED WITH THE AFORMENTIONED

Bessie Russ,

Petitioner

vs.

Evercom Systems, Inc. d/b/a Correctional Billing Services
and Bellsouth Corporation; jointly and severally,

Respondents

IN RE: DOCKET NO.: 060640-TP

NOTICE OF INTERVENTION

YOU ARE HEREBY NOTIFIED that on December 09, 2006 a paper copy of a Petition to Intervene and supporting documents, were sent by United States Priority Mail to the Florida Public Service Commission and via first class United States Postal Mail with sufficient postage attached thereto, in the above styled docket by MICHAEL RUSS on behalf of Michael Russ.

Respectfully submitted December 9th, 2006



Michael Russ
745 Orange Street
Chipley, Florida 32428
Telephone: Purposefully omitted
Cellular Telephone/ Device: Purposefully omitted
Facsimile: Purposefully omitted
E-mail: Purposefully omitted

PETITIONER'S CERTIFICATE OF SERVICE

Petitioner, Michael Russ, hereby certifies under the pains and punishment of perjury that a true and correct copy of the foregoing and all attachments or annexations were mailed via certified mail with return receipts requested on December 9, 2006, to the parties listed below with sufficient postage attached thereto.

Bessie Russ (HAND DELIVERED)
745 Orange Street
Chipley, Florida 32428

James Moza III (CERTIFIED MAIL NO. : 71555474 410042680957)
Manuel A. Guardian
c/o Nancy H. Sims
150 South Monroe Street, Suite 400
Tallahassee, FL 32301

E. Earl Edenfield, Jr. (CERTIFIED MAIL NO. : 7155 54744 1004269 8464)
Suite 4300
675 West Peachtree Street, NE
Atlanta, Georgia 30375

ATTN: Mr. Curtis Hopfinger (CERTIFIED MAIL NO. : 71555474410042680995)
Correctional Billing Services
14651 Dallas Parkway, 6th Floor
Dallas, TX 75254-7476

Respectfully submitted December 9th, 2006



Michael Russ
745 Orange Street
Chipley, Florida 32428
Telephone: Purposefully omitted
Cellular Telephone/ Device: Purposefully omitted
Facsimile: Purposefully omitted
E-mail: Purposefully omitted

IN THE FLORIDA PUBLIC SERVICE COMMISSION
IN THE FEDERAL COMMUNICATIONS COMMISSION
ORIGINALS FILED WITH THE AFORMENTIONED

Bessie Russ,

Petitioner

vs.

Evorcom Systems, Inc. d/b/a Correctional Billing Services
and Bellsouth Corporation; jointly and severally,

Respondents

IN RE: DOCKET NO.: 060640-TP

PETITIONER MICHAEL RUSS'S PETITION TO INTERVENE

Michael Russ, moves the Florida Public Service Commission pursuant to Florida Administrative Code Rule 25-22.039 (similar to Florida Rules of Civil Procedure 1.230) for an order permitting him to intervene as a Petitioner in the above-styled action, based on the memorandum of law set forth attached hereto as Exhibit "A" and on the grounds set forth in the affidavit attached hereto as Exhibit "B." The proposed claim of applicant is set forth in the pleading attached hereto as Exhibit "C" which shows or states a common claim with the Petitioner in this action.

WHEREFORE, Petitioner prays the Florida Public Service Commission will issue an order granting Petitioner, Michael Russ's petition to intervene forthwith.

Respectfully submitted November 29th, 2006



Michael Russ

745 Orange Street

Chipley, Florida 32428

Telephone: Purposefully omitted

Cellular Telephone/ Device: Purposefully omitted

Facsimile: Purposefully omitted

E-mail: Purposefully omitted

PETITIONER'S CERTIFICATE OF SERVICE

Petitioner, Michael Russ, hereby certifies under the pains and punishment of perjury that a true and correct copy of the foregoing and all attachments or annexations were mailed via certified mail with return receipts requested on November 29, 2006, to the parties listed below with sufficient postage attached thereto.


Bessie Russ (HAND DELIVERED)
745 Orange Street
Chipley, Florida 32428

James Moza III (CERTIFIED MAIL NO. : 7155 5474 4100 42688 957)
Manuel A. Guardian
c/o Nancy H. Sims
150 South Monroe Street, Suite 400
Tallahassee, FL 32301

E. Earl Edenfield, Jr. (CERTIFIED MAIL NO. : 7155 5474 4100 42698 464)
Suite 4300
675 West Peachtree Street, NE
Atlanta, Georgia 30375

ATTN: Mr. Curtis Hopfinger (CERTIFIED MAIL NO. : 7155 5474 4100 42620 995)
Correctional Billing Services
14651 Dallas Parkway, 6th Floor
Dallas, TX 75254-7476

Respectfully submitted November 29th, 2006



Michael Russ
745 Orange Street
Chipley, Florida 32428
Telephone: Purposefully omitted
Cellular Telephone/ Device: Purposefully omitted
Facsimile: Purposefully omitted
E-mail: Purposefully omitted

**MEMORANDUM OF POINTS AND AUTHORITY SUPPORTING PETITIONER,
MICHAEL RUSS'S, PETITION TO INTERVENE**

TABLE OF CONTENTS

TABLE OF CITATIONS AND AUTHORITIES.....	PAGES (2- 4)
INTRODUCTION.....	PAGE (5)
ALLEGED FACTS.....	PAGE (5)
ISSUES.....	PAGE (6)
RULE.....	PAGES (6- 7)
ANALYSIS.....	PAGES (7- 10)
CONCLUSION.....	PAGE (10)
CERTIFICATE OF SERVICE.....	PAGE (11)

TABLE OF CITATIONS AND AUTHORITIES

ADMINISTRATIVE CODES AND STATE STATUTES

FLORIDA ADMINISTRATIVE CODE RULE 25- 4.113 (2006) (F.A.C. 25- 4.113).....	PAGE (5)
FLORIDA ADMINISTRATIVE CODE RULE 25- 22.032 (2006) (F.A.C. 25- 22.032).....	PAGE (5)
FLORIDA ADMINISTRATIVE CODE RULE 25- 22.039 (2006) (F.A.C. 25- 22.039).....	PAGE (5)
FLORIDA STATUTES §350.01(7) (2006) (F.S. §350.01(7)).....	PAGE (5)
FLORIDA STATUTES §350.127(2) (2006) (F.S. §350.127(2)).....	PAGE (5)
FLORIDA STATUTES §350.128 (2006) (F.S. §350.128).....	PAGE (7)
FLORIDA STATUTES §364.01(3) (2006) (F.S. §364.01(3)).....	PAGE (10)

ADMINISTRATIVE DECISIONS

<u>In re: Application of South Hutchinson Service Company,</u> 87 FPSC 10:298 (1987) (<i>Hutchinson</i>).....	PAGE (9)
<u>In re: Monsanto Company,</u> 86 FPSC 9:211 (1986) (<i>Monsanto</i>).....	PAGE (8)

COURT DECISIONS (CASE LAW)

<u>Canney v. Board of Public Instruction of Alachua County,</u> 278 So. 2d 260 (Fla. 1973) (<i>Canney</i>).....	PAGE (7)
<u>Fasig v. Florida Society of Pathologists,</u> 769 So.2d 1151 (Fla. 5th DCA 2000) (<i>Fasig</i>).....	PAGE (10)
<u>Florida Export Tobacco Co., Inc. v. Department of Revenue,</u> 510 So. 2d 936 (Fla. 1st DCA 1987) (<i>Florida Export Tobacco</i>).....	PAGE (8)
<u>General Telephone Co. of Florida v. Florida Public Service Commission,</u> 446 So. 2d 1063 (Fla. 1984) (<i>General Telephone</i>).....	PAGE (8)
<u>Gulf Coast Elec. Coop., Inc. v. Johnson,</u> 727 So.2d 259, 262 (Fla. 1999) (<i>Johnson</i>).....	PAGE (10)
<u>Morgareidge v. Howey,</u> 75 Fla. 234, 78 So. 14, 15 (Fla.1918) (<i>Morgareidge</i>).....	PAGES (6, 7)
<u>Naples Community Hospital v. Department of Health and Rehabilitative Servs.,</u> 463 So.2d 375 (Fla. 1st DCA 1985) (<i>Naples</i>).....	PAGE (9)
<u>National Wildlife Fed'n Inc. v. Glisson,</u> 531 So.2d 996 (Fla. 1st DCA 1988) (<i>Glisson</i>)	PAGE (9)
<u>Pasco County School Bd. v. Florida Public Employees Relations Commission,</u> 353 So. 2d 108 (Fla. 1st DCA 1977) (<i>Pasco</i>).....	PAGE (8)
<u>State Dept. of Administration v. Stevens,</u> 344 So. 2d 290 (Fla. 1st DCA 1977) (<i>Stevens</i>).....	PAGE (8)

State ex rel. Davis v. Rose,

97 Fla. 710, 122 So. 225 (1929) (*Rose*)..... PAGE (8)

State ex rel. De Gaetani v. Driskell,

139 Fla. 49, 190 So. 461 (1939) (*Driskell*)..... PAGE (8)

Union Cent. Life Ins. Co. v. Carlisle,

593 So.2d 505 (Fla.1992) (*Carlisle*)..... PAGES (6, 9)

INTRODUCTION

The original Petitioner, Bessie Russ, did file a Petition with the Florida Public Service Commission dated September 20, 2006. Subsequently, Respondent, Bellsouth, filed a response denying the allegations contained therein and a host of other motions. The original Petitioner also filed other motions. Now *possible intervenor*, Michael Russ seeks an order to grant intervention pursuant to Florida Administrative Code 25- 22.039 (2006). The Florida Public Service Commission has specific authority to allow intervention pursuant to Florida Statutes §350.01(7) (2006) and §350.127(2) (2006). Michael Russ shall be referred to in this document as "Russ", Bellsouth Corporation as "BSC" with respect to its telecommunications division and Correctional Billing Services as "CBS". The Florida Public Service Commission shall be referred to as "FPSC". The headings contained in this document are made and should be used solely as a guide to the reader.

ALLEGED FACTS

The original Petitioner, Bessie Russ, alleges in substance a violation of Florida Administrative Code Rule 25-22.032 (2006) (F.A.C. 25-22.032) or a failure to handle her complaint in an expedient manner as required by the aforementioned rule and Florida Administrative Code Rule 25- 4.113 (2006) (F.A.C. 25- 4.113) for discontinuing her service for no just or reasonable cause. Nor pursuant to F.A.C. 25- 4.113 did BSC have the authority to do so as Petitioner, Bessie Russ states that she was in full compliance with the law. BSC specifically denies the allegations. BSC does not specifically state why they make such a denial (whether it is due to lack of knowledge or because they feel there was no problem that was within their power to resolve). Russ alleges that BSC also violated F.A.C. 25- 4.113 and that BSC violated F.A.C. 25- 22.032 on several different occasions and more recently violated F.A.C. 25- 22.032 in the month of October 2006.

ISSUES

- I. Is it proper for the FPSC to grant Russ's Petition to intervene based on the facts of this particular case?

- II. If the FPSC does grant the petition to intervene, to what extent may the intervenor participate in the case or cause of action?

RULES

I. The Florida Supreme Court in the case of Morgareidge v. Howey, 75 Fla. 234, 78 So. 14, 15 (Fla.1918) (*Morgareidge*) adopted a rule to test whether or not the granting of a motion or in this case a petition for intervention, to intervene is possible which states "[t]he interest which will entitle a person to intervene ... must be in the matter in litigation, and of such a direct and immediate character that the intervenor will either gain or lose by the direct legal operation and effect of the judgment. In other words, the interest must be that created by a claim to the demand in suit or some part thereof, or a claim to, or lien upon, the property or some part thereof, which is the subject of litigation."

II. A court or administrative agency should determine not only whether the moving party has a proper interest but also the extent to which that party should be allowed to participate as an intervenor. In Union Cent. Life Ins. Co. v. Carlisle, 593 So.2d 505 (Fla.1992) (*Carlisle*), the court said that intervention should be limited to the extent necessary to protect the interests of all parties. The Florida Supreme Court Stated the rule to be "[f]irst, the trial court must determine that the interest asserted is appropriate to support intervention Once the trial court determines that the requisite interest exists, it must exercise its sound discretion to determine whether to permit intervention. In deciding this question the court should consider a number of factors, including the derivation of the interest, any pertinent contractual language, the size of the interest, the

potential for conflicts or new issues, and any other relevant circumstance. Second, the court must determine the parameters of the intervention.”

ANALYSIS

I. THE PROPER TEST FOR GRANTING INTERVENTION

In order for the FPSC to determine to what extent an intervenor may intervene, it must first determine whether an intervention is proper. Therefore, any discussion concerning an intervention must first begin with *Morgareidge*, which established the test for intervention by a party. Before a party can intervene, the matter must be one in litigation.

Here, the matter is in a litigation format with rules that resemble that of a court. In fact, an administrative trial judge may preside over the matter at hand and when a decision is made, the dissatisfied party may appeal the decision to the Florida Supreme Court according to Florida Statutes §350.128 (F.S. §350.128). The right of review is given to the First District Court of Appeal (although such other rulings do not bind either Petitioner as they are located in the Second District court of Appeal's jurisdiction, such opinions may be given great weight) and it appears that by the language of the statute that any decision made by the First District Court of Appeals will be binding on all the parties based on the language of the statute. The Florida Supreme Court may review the decision of the First District Court of Appeal, but the first right of review belongs to the First District Court of Appeals when such review pertains to “review[ing] any other action of the commission.” The Florida Supreme Court may “any action of the commission relating to rates or service of utilities providing electric, gas, or telephone service” and neither court may review the decision until a petition for review is filed and granted by the respective court. This statute imports that the FPSC is equivalent to a trial court. Furthermore, the FPSC may conduct or investigate facts, ascertain the existence of facts, hear evidence and make factual findings, and render decisions based on the application of legal rules to the ascertained facts see Canney v. Board of Public Instruction of Alachua County, 278 So. 2d 260 (Fla. 1973) (*Canney*). In essence, administrative agencies or tribunals may have and exercise powers and functions that are

quasi-judicial or judicial in nature as has been stated in a plethora of cases General Telephone Co. of Florida v. Florida Public Service Commission, 446 So. 2d 1063 (Fla. 1984) (*General Telephone*); Florida Export Tobacco Co., Inc. v. Department of Revenue, 510 So. 2d 936 (Fla. Dist. Ct. App. 1st Dist. 1987) (*Florida Export Tobacco*); Pasco County School Bd. v. Florida Public Employees Relations Commission, 353 So. 2d 108 (Fla. Dist. Ct. App. 1st Dist. 1977) (*Pasco*). Although, this is not a "judicial" proceeding it must be accompanied with certain formalities and safeguards typical of the judicial process as was held in State Dept. of Administration v. Stevens, 344 So. 2d 290 (Fla. Dist. Ct. App. 1st Dist. 1977) (*Stevens*).

Finally, the conferring of quasi-judicial powers and duties upon administrative agencies is not unconstitutional as an encroachment upon the judicial branch of government. Especially where such powers and duties relate to matters that are peculiarly affected with public interest or are subject to regulation under the police powers or where provision is made for appeal from decisions of such agencies to the courts as was held in *Stevens*. The constitutional right to a jury trial also does not constitute a bar to the vesting of adjudicating powers in administrative agencies see State ex rel. De Gaetani v. Driskell, 139 Fla. 49, 190 So. 461 (1939) (*Driskell*); State ex rel. Davis v. Rose, 97 Fla. 710, 122 So. 225 (1929) (*Rose*).

Based on the current proceedings of the FPSC such a motion is proper, as it appears that the parties are in "litigation" and this prong should not bar this petition to intervene.

The second prong to the test involves the intervenor's interest. The intervenors' interest must be of such a character that not to allow the intervenor to intervene will cause a gain or loss and be of an immediate character. While the test does not specifically state what facts will create this interest in is certain that potential adverse legal precedent does not constitute "substantial interest" needed for intervention. Furthermore, economic damage alone does not constitute "substantial interest". In re: Monsanto Company, 86 FPSC 9:211 (1986) (*Monsanto*).

Here, Russ alleges in his petition that he has suffered the same damages (not quantitatively, but quality wise). Russ alleges, the same violations have occurred and he resides in the same household where the original Petitioner's violations occurred. Russ is also the son of the current Petitioner, transacts business with BSC and attempted to transact business with CBS, but was unable to do so. CBS told Russ that BSC had placed a block on the phone to prevent him from doing business with them. As such, Russ shares the same or similar derivative of interest, no potential of any new claims and there are no potential

conflicts for with new claims. Nor would granting the petition to intervene place an undue or unjust burden on either Respondent. Russ stands to lose a great deal if this petition to intervene is not granted as Russ's relationship has become "rocky" at best based on the lack or inability to communicate with such relative because of Respondents. A familial relationship cannot be measured in dollars and cents. The damage done by Respondents may not have an adequate remedy at law, but there may be one in equity. Russ need not establish an interest in every aspect of the pending case or matter. On the contrary, the court may allow a litigant to participate in the resolution of a particular issue even though the case may present other issues of no interest to that litigant as was stated and held in the cases of National Wildlife Fed'n Inc. v. Glisson, 531 So.2d 996 (Fla. 1st DCA 1988) (*Glisson*); Naples Community Hospital v. Department of Health and Rehabilitative Servs., 463 So.2d 375 (Fla. 1st DCA 1985) (*Naples*).

Finally, an intervenor need not request specific relief in petition, but must make allegations sufficient to show that petitioner has a substantial interest in outcome of proceedings. The FPSC granted such intervention In re: Application of South Hutchinson Service Company, 87 FPSC 10:298 (1987) (*Hutchinson*).

Based on these facts, there is no reason why petitioner should not be allowed to intervene, furthermore, an intervenor must accept the pleadings as he finds them and may not raise new issues. An intervenor is limited to arguing existing issues as they apply to him as a party as was stated in *Glisson*.

II. THE EXTENT TO WHICH AN INTERVENOR MAY PARTICIPATE

A court or administrative agency should determine not only whether the moving party has a proper interest but also the extent to which that party should be allowed to participate as an intervenor. In *Carlisle*, the court said or basically held that an intervention should be limited to the extent necessary to protect the interests of all parties. While it is not completely clear what limits if any should be placed it is certain that it is in the discretion of the court or administrative agency to set the parameters or limits of the intervenor.

Here, the interest of Respondents appears to be to protect what they allege is proprietary information, the methods used when doing business with customers and other business dealings, which a competitor might use to his or her advantage to undermine Respondents. Petitioner, Bessie Russ and Russ are interested in having the ability to communicate freely

within the confines of the law and the ability to engage in lawful transactions with whomever they choose. Russ's interest are not necessarily adverse to any of the current parties involved and in fact are similar to those expressed in Florida Statute §364.01(3) (2006) (F.S. §364.01(3)) and as such there is no reason to place limits on his intervention. Russ should be treated as the current Petitioner, Bessie Russ and allowed to participate in all parts and matters of this proceeding.

Finally, an order denying a motion to intervene is a final adjudication of the right to participate in the case. Hence, an aggrieved litigant may appeal an order denying a motion to intervene as a final order, even though the case remains pending between the parties see Fasig v. Florida Society of Pathologists, 769 So.2d 1151 (Fla. 5th DCA 2000) (*Fasig*). "Commission orders come to this Court clothed with the statutory presumption that they have been made within the [FPSC's] jurisdiction and powers, and that they are reasonable and just and such as ought to have been made." Gulf Coast Elec. Coop., Inc. v. Johnson, 727 So.2d 259, 262 (Fla.1999) (*Johnson*).

CONCLUSION

Based on the foregoing and the attached there is no just or reasonable cause why Russ's motion to intervene should not be granted as he has met all of the necessary requirements, is barred from raising any new issues, has a substantial interest in this matter, and it will not cause any undue hardship or prejudice to any of the parties interest.

Respectfully submitted November 29th, 2006



Michael Russ
745 Orange Street
Chipley, Florida 32428
Telephone: Purposefully omitted
Cellular Telephone/ Device: Purposefully omitted
Facsimile: Purposefully omitted
E-mail: Purposefully omitted

PETITIONER'S CERTIFICATE OF SERVICE

Petitioner, Michael Russ, hereby certifies under the pains and punishment of perjury that a true and correct copy of the foregoing and all attachments or annexations were mailed via certified mail with return receipts requested on November 29, 2006, to the parties listed below with sufficient postage attached thereto.

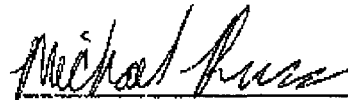
Bessie Russ (HAND DELIVERED)
745 Orange Street
Chipley, Florida 32428

James Meza III (CERTIFIED MAIL NO. : 7155 5474 4100 42680957)
Manuel A. Guardian
c/o Nancy H. Sims
150 South Monroe Street, Suite 400
Tallahassee, FL 32301

E. Earl Edenfield, Jr. (CERTIFIED MAIL NO. : 7155 5474 4100 42698464)
Suite 4300
675 West Peachtree Street, NE
Atlanta, Georgia 30375

ATTN: Mr. Curtis Hopfinger (CERTIFIED MAIL NO. : 7155 5474 4100 42680995)
Correctional Billing Services
14651 Dallas Parkway, 6th Floor
Dallas, TX 75254-7476

Respectfully submitted November 29th, 2006



Michael Russ
745 Orange Street
Chipley, Florida 32428
Telephone: Purposefully omitted
Cellular Telephone/ Device: Purposefully omitted
Facsimile: Purposefully omitted
E-mail: Purposefully omitted

IN THE FLORIDA PUBLIC SERVICE COMMISSION
IN THE FEDERAL COMMUNICATIONS COMMISSION
ORIGINALS FILED WITH THE AFORMENTIONED

Bessie Russ,

Petitioner

vs.

Evercom Systems, Inc. d/b/a Correctional Billing Services
and Bellsouth Corporation; jointly and severally,

Respondents

**PETITIONER MICHAEL RUSS'S SWORN AFFADAVIT OF
ALLEGED FACTS SUPPORTING PETITION TO INTERVENE**

COMES now Petitioner, Michael Russ, who avers and alleges under oath of perjury the following:

1. Michael Russ, (Petitioner) is an African male, of age twenty- five, who resides in the State of Florida, County of Washington, City of Chipley, and the physical address 745 Orange Street. Petitioner is and has been a resident at such address at all times material and relevant hereto.
2. Petitioner has been and is a customer of Respondent Bellsouth Telecommunications a division, subsidiary, substantially owned, substantially affiliated with or substantially apart of the Bellsouth Corporation (BSC) at all times material and relevant hereto.
3. On or about the month of October 2006, Petitioner did attempt to subscribe to a service offered or provided by Correctional Billing Service (CBS). CBS is

a division, subsidiary, substantially owned, substantially affiliated with or substantially apart of Evercom Systems, Incorporated.

4. Petitioner did make contact with CBS in October 2006. Petitioner was told by CBS that the service was activated. This service would allow him to speak to an individual who was incarcerated. BSC does not offer such service to this particular institution as CBS has the exclusive contract with the institution.

5. After receiving a communication from such individual that they were unable to make phone calls to Petitioner; Petitioner did call CBS to inquire as to the status of the service.

6. CBS informed Petitioner that the service was activated, but BSC had blocked the use of such service.

7. BSC was notified by Petitioner of this, but to the best of Petitioner's knowledge, BSC took no corrective action in regards to this matter, nor did Petitioner receive any further communication from BSC.

8. Petitioner has no knowledge of how or why the use of such service was blocked by BSC.

9. BSC and CBS have failed to explain, rationalize, justify or reasonably excuse the termination or blocking of such services. Petitioner did not have an outstanding balance with CBS (Petitioner also should not have an outstanding balance with BSC which will be addressed in a separate complaint) as this was Petitioner's first and only time utilizing CBS services.

10. Petitioner has not or did not request, demand or otherwise perform any act or omission which would, did or gave Respondents the impression, impliedly or explicitly that such service should be blocked, disconnected or otherwise interfered with.

11. Petitioner did or has not violated or refused to comply with any Public Service Commission Rule or Regulation, state law, court order, common law, federal regulation, rule or law.

Respectfully submitted December 4th, 2006



Michael Russ
745 Orange Street
Chipley, Florida 32428
Resident Telephone: Purposefully omitted
Cellular Telephone/ Device: Purposefully omitted
Facsimile: Purposefully omitted
E-mail: Purposefully omitted

SWORN AFFIDAVIT

STATE OF FLORIDA

COUNTY OF Washington

I, Michael Russ, declare to the officer taking my acknowledgment of this instrument, that I signed this instrument without coercion, duress, of my own volition and that the above averments or allegations are true and correct to the best of my ability. Furthermore, I do so under the pains and punishment of perjury.

Dated this 7 day of December, 2006

Michael Russ

Michael Russ
745 Orange Street
Chipley, Florida 32428

Acknowledged and subscribed before me by the petitioner, Michael Russ who is personally known to me or who has produced FL DL as identification, and sworn to and subscribed before me, in my presence as the officer administering said oath, all on this 7 day of December 20 06.

Ashley Roberts
Signature of Notary Public

LINDA HALEY COOK
CLERK OF CIRCUIT COURT
WASHINGTON COUNTY
AR DEPUTY CLERK
EXPIRES WITH TERM

x Ashley Roberts

Print, type, or stamp commissioned name and affix official seal

PETITIONER'S CERTIFICATE OF SERVICE

Petitioner, Michael Russ, hereby certifies under the pains and punishment of perjury that a true and correct copy of the foregoing and all attachments or annexations were mailed via certified mail with return receipts requested on November 29, 2006, to the parties listed below with sufficient postage attached thereto.

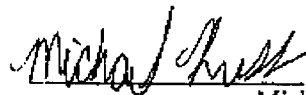
Bessie Russ (HAND DELIVERED)
745 Orange Street
Chipley, Florida 32428

James Meza III (CERTIFIED MAIL NO. : 71555474410042680957)
Manuel A. Guardian
c/o Nancy H. Sims
150 South Monroe Street, Suite 400
Tallahassee, FL 32301

E. Earl Edenfield, Jr. (CERTIFIED MAIL NO. : 71555474410042698464)
Suite 4300
675 West Peachtree Street, NE
Atlanta, Georgia 30375

ATTN: Mr. Curtis Hopfinger (CERTIFIED MAIL NO. : 71555474410042680995)
Correctional Billing Services
14651 Dallas Parkway, 6th Floor
Dallas, TX 75254-7476

Respectfully submitted December 4th, 2006



Michael Russ

745 Orange Street

Chipley, Florida 32428

Resident Telephone: Purposefully omitted

Cellular Telephone/ Device: Purposefully omitted

Facsimile: Purposefully omitted

E-mail: Purposefully omitted

IN THE FLORIDA PUBLIC SERVICE COMMISSION
IN THE FEDERAL COMMUNICATIONS COMMISSION
ORIGINALS FILED WITH THE AFORMENTIONED

Bessie Russ,

Petitioner

vs.

Evercom Systems, Inc. d/b/a Correctional Billing Services
and Bellsouth Corporation; jointly and severally,

Respondents

IN RE: DOCKET NO.: 060640-TP

**PETITIONER, MICHAEL RUSS'S, PETITION
FOR SANCTIONS AGAINST RESPONDENTS**

COMES NOW, Michael Russ, Petitioner, who avers and alleges:

JURISDICTION, VENUE AND GENERAL AVERMENTS

1. Petitioner, Michael Russ (Petitioner) is an African male, of age twenty-five, who resides in the State of Florida, County of Washington, City of Chipley, and the physical address 745 Orange Street. Petitioner is and has been a resident at such address at all times material and relevant hereto and is a citizen of the state of Florida. The Florida Public Service Commission (PSC) has jurisdiction pursuant to F.S. §364.01(2006) and is considered to be a "long-arm" of the legislative branch according to F.S. §350.001(2006). Venue is proper as the incidents giving rise to the petition occurred or were noticed in this state, majorities of the relevant witnesses are located in this state, and the PSC appears to have only one office located in Tallahassee, Florida. Furthermore, both Respondents have a "physical presence" in this state.

2. Petitioner has been and is a customer ((850) 638-5533) of Respondent Bellsouth Telecommunications (BSC) a division, subsidiary, substantially owned, substantially affiliated with or substantially apart of the Bellsouth Corporation (BC) at all times material and relevant hereto. BSC is now, and at all times mentioned in this complaint was and is a corporation organized as a foreign profit company, authorized by any jurisdiction other than Florida, to transact business in this State. BSC is organized and existing under the laws of the state of Georgia with its principal office and place of business located at 675 West Peachtree Street, Northeast, Suite 4500; City of Atlanta and state of Georgia and zip code of 30375. BSC list the mailing address as 1155 Peachtree Street, Northeast, Suite 1800; city of Atlanta, state of Georgia and zip code 30309- 3610. Furthermore, BSC or BC has a physical presence located in the city of Panama City, County of Bay and State of Florida, transacts a substantial amount of business in this state, and has a registered agent in Tallahassee, Florida available for service of process. BSC is engaged in the business of furnishing various communications services to Floridian's by transmitting electrical impulses by wire, pursuant to law.

3. Respondent Correctional Billing Services (CBS). CBS is a division, subsidiary, substantially owned, substantially affiliated with, or substantially apart of Evercom Systems, Incorporated (ESI) at all times material and relevant hereto. CBS has stated on their website that it is a division of ESI. ESI is now, and at all times mentioned in this complaint was and is a corporation organized as a foreign profit company, authorized by any jurisdiction other than Florida, to transact business in this State. ESI is organized and existing under the laws of the state of Texas with its principal office and place of business located at 14651 Dallas Parkway; Suite 600, city of Dallas, State of Georgia and zip code 75254. ESI list its mailing address as the same as its principal office and place of business. Furthermore, ESI transacts a substantial amount of business in this state,

with Escambia County and has a registered agent in Tallahassee, Florida available for service of process. ESI is engaged in the business of furnishing various communications services to Floridian's by transmitting electrical impulses by wire, pursuant to law.

4. Petitioner having fully complied with all of the conditions entitling it to the furnishing of telecommunication services, duly requested CBS in the month of October and year 2006, to install and furnish such service in conveying the electrical impulses necessary to produce sound from the Escambia County Correctional Institution to the receiving set at his residence as they currently hold the exclusive contract to provide such service.
5. Petitioner was told by CBS that the service was activated. This service would allow him to speak to an individual who was incarcerated at the Escambia County Correctional Institution. BSC does not offer such service to this particular institution as CBS has the exclusive contract with the institution.
6. After receiving a communication from such individual that they were unable to make phone calls to Petitioner, Petitioner did call CBS to inquire as to the status of the service.
7. CBS informed Petitioner that the service was activated, but BSC had blocked the use of such service.
8. BSC was notified by Petitioner of this, but to the best of Petitioner's knowledge, BSC took no corrective action in regards to this matter, nor did Petitioner receive any further communication from BSC.
9. Petitioner has no knowledge of how or why the use of such service was

blocked by BSC.

10. BSC and CBS have failed to explain, rationalize, justify, or reasonably excuse the termination or blocking of such services. Petitioner did not have an outstanding balance with CBS (Petitioner also should not have an outstanding balance with BSC which will be addressed in a separate complaint) as this was Petitioner's first and only time utilizing CBS services.
11. Petitioner has not or did not request, demand or otherwise perform any act or omission that would, did, or gave Respondents the impression, impliedly or explicitly, that such service should be blocked, disconnected, or otherwise interfered with.
12. Petitioner did or has not violated or refused to comply with any Public Service Commission Rule or Regulation, state law, court order, common law, federal regulation, rule or law.
13. Respondents CBS have failed and refused, and continues to fail and refuse, to honor this request or BSC has blocked, disconnected or otherwise interfered with this service.
14. Petitioner has suffered harm and damages by the failure and refusal to furnish the above-described service or the blocking, disconnecting, or otherwise interference with this service.
15. Petitioner's harm and damages are the actual and proximate cause of the willful and wrongfully acts or omissions by the Respondents.

COUNT I: VIOLATION OF FLORIDA ADMINISTRATIVE CODE RULE

§25.4113(2006)

16. Petitioner re- alleges averments 1- 15 as if fully set forth herein.
17. Under the provisions of Florida Administrative Code Rule §25.4113 (2006), Respondents are obligated to provide reasonable notice of the intent to discontinue service and a reasonable time to comply with any rule or remedy any deficiency, but failed to do so.
18. Under the aforesaid provisions, such service maybe disconnected by Respondents without reasonable notice in extreme cases and other exceptions provided therein.
19. Petitioner has fully complied with all of the conditions entitling it to the furnishing of telecommunication services and has not violated or refused to comply with any Public Service Commission Rule or Regulation, state law, court order, common law, federal regulation, rule or law.
20. Respondents acts or omissions were willful and wrongful and have occurred since the month of October year 2006 and as of the date of this complaint, to the best of Petitioner's knowledge, have not ceased.
21. Pursuant to Florida Statutes §364.285(2006) a monetary penalty maybe assessed for each offense and each day that such refusal or violation continues constitutes a separate offense after a finding by the PSC that a violation has occurred.
22. Respondents acts or omissions were willful and wrongful and are the actual and proximate cause of Petitioner's harm and damages suffered.

COUNT II: VIOLATION OF FLORIDA ADMINISTRATIVE CODE RULE
§25.4113(2006) AND FLORIDA STATUTES §364.03 (2006)

23. Petitioner re- alleges averments 1- 22 as if fully set forth herein.
24. Respondents failed to give five-business day's written notice of the termination of services as required by the aforementioned code or statute and did not do so under any exceptions provided in the code.
25. Such a failure does constitute a separate and distinct violation from Count I as that count substantially referred to the termination of the service by Respondents and this count refers to the failure to give notice of the adverse disconnection.
26. Petitioner has fully complied with all of the conditions entitling it to the furnishing of telecommunication services and has not violated or refused to comply with any Public Service Commission Rule or Regulation, state law, court order, common law, federal regulation, rule or law.
27. Respondents acts or omissions were willful and wrongful and have occurred since the month of October year 2006 and as of the date of this complaint, to the best of Petitioner's knowledge, have not ceased.
28. Pursuant to Florida Statutes §364.285(2006) a monetary penalty maybe assessed for each offense and each day that such refusal or violation continues constitutes a separate offense after a finding by the PSC that a violation has occurred.
29. Respondents acts or omissions were willful and wrongful and are the actual and proximate cause of Petitioner's harm and damages suffered.

COUNT III: VIOLATION OF FLORIDA ADMINISTRATIVE CODE RULE

§25.4113(2006) FLORIDA STATUTES §364.03 (2006)

30. Petitioner re- alleges averments 1- 29 as if fully set forth herein.
31. Under the aforementioned Florida Statute or code, Respondents are obligated to furnish the above-mentioned service and to render it to any person and perform in a prompt, expeditious, and efficient manner, but nevertheless willfully and wrongfully refused, omitted or otherwise failed to do so. Specifically, Respondents did so in that:
 - a. they failed to establish or allow the establishing of service;
 - b. they stopped the use, enjoyment, and/ or the availability of such service;
 - c. BSC when called about the willful and wrongful termination of such service did attempt to persuade Petitioner to utilize their service, as "it appeared that you [Petitioner] receive or make a great deal of collect calls." BSC refused to discuss how, why, or when Petitioner could get the service re- established. These calls were not collect calls, but calls received from the Escambia County Correctional Institute; and
 - d. did not promptly, expeditiously, and efficiently address this issue with this Petitioner as Petitioner requested in October 2006 and have not done so as of the date of the filing of this petition.
32. In so doing, Respondents have stifled, robbed, or otherwise taken away, Petitioner to contract freely and exercise his right to freely engage or enter in to a lawful contract for a lawful purpose. Such behavior is unreasonable and is contrary to what a civilized society will tolerate.
33. The aforementioned acts or omissions were willful and wrongful at the time they were committed and are the actual and proximate cause of Petitioner's harm and damages suffered.

WHEREFORE, Petitioner prays that the PSC impose a fine that it believes to be just, fair and reasonable on Respondents; pursuant to Florida Statutes §364.285(2006) which reads in relevant part "(1) The commission shall have the power to impose upon any entity subject to its jurisdiction under this chapter which is found to have refused to comply with or to have willfully violated any lawful rule or order of the commission or any provision of this chapter a penalty for each offense of not more than \$25,000, which penalty shall be fixed, imposed, and collected by the commission; or the commission may, for any such violation, amend, suspend, or revoke any certificate issued by it. Each day that such refusal or violation continues constitutes a separate offense. Each penalty shall be a lien upon the real and personal property of the entity, enforceable by the commission as a statutory lien under chapter 85. Collected penalties shall be deposited in the General Revenue Fund unallocated.

(2) The commission may, at its discretion, institute in any court of competent jurisdiction a proceeding for injunctive relief to compel compliance with this chapter or any commission rule or to compel the accounting and refund of any moneys collected in violation of this chapter or commission rule." Furthermore, Petitioner prays that the PSC grant any other relief that the PSC shall deem just and equitable.

Respectfully submitted December 9th, 2006



Michael Russ
745 Orange Street
Chipley, Florida 32428
Telephone: Purposefully omitted
Cellular Telephone/ Device: Purposefully omitted
Facsimile: Purposefully omitted
E-mail: Purposefully omitted

PETITIONER'S CERTIFICATE OF SERVICE

Petitioner, Michael Russ, hereby certifies under the pains and punishment of perjury that a true and correct copy of the foregoing and all attachments or annexations were mailed via certified mail with return receipts requested on December 9, 2006, to the parties listed below with sufficient postage attached thereto.

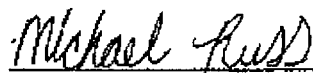
Bessie Russ (HAND DELIVERED)
745 Orange Street
Chipley, Florida 32428

James Meza III (CERTIFIED MAIL NO. : 715554744100426209857)
Manuel A. Guardian
c/o Nancy H. Sims
150 South Monroe Street, Suite 400
Tallahassee, FL 32301

E. Earl Edenfield, Jr. (CERTIFIED MAIL NO. : 71555474410042698464)
Suite 4300
675 West Peachtree Street, NE
Atlanta, Georgia 30375

ATTN: Mr. Curtis Hopfinger (CERTIFIED MAIL NO. : 71555474410042680985)
Correctional Billing Services
14651 Dallas Parkway, 6th Floor
Dallas, TX 75254-7476

Respectfully submitted December 9th, 2006



Michael Russ
745 Orange Street
Chipley, Florida 32428
Telephone: Purposefully omitted
Cellular Telephone/ Device: Purposefully omitted
Facsimile: Purposefully omitted
E-mail: Purposefully omitted