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FILE COPY

Florida Cable Telecommunications Association

Steve Wilkerson, President

August 5, 1997

VIA HAND DELIVERY

Ms. Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

RE: DOCKET NO. 960786-TL

Dear Ms. Bayo:

Enclosed for filing in the above-captioned docket are an original and fifteen copies of Florida Cable Telecommunications Association, Inc.'s ("FCTA") Prehearing Statement. Copies have been served on the parties of record pursuant to the attached certificate of service.

Also enclosed is a copy on a 3-1/2" diskette in WordPerfect format, version 6.1.

Please acknowledge receipt and filing of the above by date stamping the duplicate copy of this letter and returning the same to me.

Thank you for your assistance in processing this filing.

Yours very truly,

Laura L. Wilson

Laura L. Wilson
Vice President, Regulatory Affairs

- ACK _____
- AFA _____
- APP _____
- CAF _____
- CMU Green
- CTR _____
- ENC _____
- L 2
- S 5

Enclosures

cc: All Parties of Record
Steven E. Wilkerson

RECEIVED & FILED

FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE
07915 AUG-5 97
FPSC-RECORDS/REPORTING

DOCUMENT NUMBER-DATE

310 North Monroe Street • Tallahassee, Florida 32301 • (904) 680-7915 FAX (904) 581-9676

FPSC-RECORDS/REPORTING

07915
AUG 5 1997

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Consideration of BellSouth)
Telecommunications, Inc.'s entry into)
InterLATA services pursuant to Section)
271 of the Federal Telecommunications)
Act of 1996.)
_____)

Docket No. 960786-TP
Filed: August 5, 1997

**THE FLORIDA CABLE TELECOMMUNICATIONS ASSOCIATION, INC.'S
PREHEARING STATEMENT**

Pursuant to Order No. PSC-97-0792-PCO-TL, Florida Cable Telecommunications Association, Inc. (FCTA) files its Prehearing Statement.

- A. All known witnesses: FCTA intends to sponsor the Rebuttal Testimony of Patricia L. Pacey. Dr. Pacey will present rebuttal testimony only.
- B. All known exhibits: FCTA will present Exhibit PLP-1 (resume) and PLP-2 (FCC Order) both of which are attached to the rebuttal testimony of Dr. Patricia L. Pacey.
- C. FCTA's Statement of Basic Position:

FCTA's interest in this proceeding is to demonstrate that BellSouth has not met the terms for entry into the InterLATA market pursuant to Section 271 of the Federal Telecommunications Act of 1996. FCTA was granted intervention on behalf of the following certificated telecommunications companies owned by or affiliated with cable companies: Comcast MH Telephony of Florida, Inc., Comcast Telephony Communications of Florida, Inc., Time Warner Connect, Hyperion Telecommunications of Florida, Inc., Media One Fiber Technologies, Inc., Media One Florida Telecommunications, Inc., TWC Cable Partners, Inc., Cox Cable Pensacola, Inc., and Cox Communications, Inc. (hereinafter collectively referred to as the "Companies").

The Companies entered into a binding agreement with BellSouth on December 7, 1995 that contained terms of local interconnection, among other things. The agreement was approved pursuant to Section 364.162, Florida Statutes. The Federal Act had not yet passed. Therefore, the agreement was not approved pursuant to Section 252 of the Federal Act.

Since December 7, 1995, only one of the Companies entered into a separate negotiated resale (only) agreement with BellSouth. This agreement was executed on April 25, 1997 pursuant to the Federal Act.

The Companies' position is that any interconnection agreement used by BellSouth to satisfy Section 271 must be fully operational as to all 14 Checklist items. Section 271(d)(3)(A) (1) requires a finding by the FCC that "the Bell Operating Company . . . has fully implemented the competitive checklist." "Implemented" plainly means that each

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FPSC-RECORDS/REPORTING

Checklist item is actually being provided to a competitor in a fully operational manner. To ignore this agreement would be to disregard the plain words chosen by Congress. Moreover, it would frustrate the public policy goals behind Section 271(d)(3)(A)(1). Therefore, Section 271(c)(1)(A) may not be read to mean anything less than requiring a fully functional agreement approved pursuant to Section 252 of the Federal Act. BellSouth has not met its burden of proving these requirements are met.

Moreover, Track A [Section 271(c)(1)(A)] and Track B [Section 271(c)(1)(B)] are mutually exclusive. This position is consistent with the FCC's recent Memorandum Opinion and Order with regards to SBC Communications' petition for in-region InterLATA authority as well as the plain language of Section 271(c)(1)(B). BellSouth may not blend Track A and Track B requirements and has failed to demonstrate that the requirements of either Track is met.

Finally, the Commission should adopt and apply criteria in determining compliance with Track A. Specifically, such criteria should be utilized to determine whether BellSouth is providing interconnection to a qualifying facilities-based competitor under the Federal Act, i.e. an unaffiliated, facilities-based competing provider of telephone exchange service to residential and business customers. The FCC Memorandum Opinion and Order released in the case of SBC Communications' petition for in-region InterLATA authority suggests the use of such objective criteria as:

- (1) Whether the competitor is providing exchange service to residential and business customers pursuant to an agreement approved under Section 252;
- (2) The nature and size of the presence of the competing provider;
- (3) Whether an actual competitor exists, i.e. whether the competitor has implemented the agreement and is operational versus whether the competitor has only paper commitments to provide service;
- (4) Whether the competitor is functioning in the market as opposed to merely providing services on a test or promotional basis;
- (5) Whether the competitor has an effective tariff or price list on file with the Commission by which is presently bills customers, i.e. whether billing systems are fully functional;
- (6) Whether the competitor provides and offers services to the public at large as opposed to a select group or company employees;
- (7) The scope and nature of any marketing activity.

These criteria are not intended to be all-inclusive. For example, Commission may also wish to evaluate whether and to the extent to which prices have dropped for consumers in the relevant market and whether the quality of local service is improved by the presence of a competitor. BellSouth has failed to demonstrate these criteria are met. Therefore, BellSouth should not be permitted into the in-region InterLATA market at this time.

D. - G. FCTA's Positions on the Issues:

ISSUE 1.A: Has BellSouth met the requirements of section 271(c)(1)(A) of the Telecommunications Act of 1996?

- (a) Has BellSouth entered into one or more binding agreements approved under section 252 with unaffiliated competing providers of telephone exchange service?
- (b) Is BellSouth providing access and interconnection to its network facilities for the network facilities of such competing providers?
- (c) Are such competing providers providing telephone exchange service to residential and business customers either exclusively over their own telephone exchange service facilities or predominantly over their own telephone exchange service facilities?

FCTA: No.

ISSUE 1.A.(a) Has BellSouth entered into one or more binding agreements approved under Section 252 with unaffiliated competing providers of telephone exchange service?

FCTA: Yes.

ISSUE 1.A.(b) Is BellSouth providing access and interconnection to its network facilities for the network facilities of such competing providers?

FCTA: No.

ISSUE 1.A.(c) Are such competing providers providing telephone exchange service to residential and business customers either exclusively over their own telephone exchange service facilities or predominantly over their own telephone exchange service facilities?

FCTA: No.

ISSUE 1.B: Has BellSouth met the requirements of section 271(c)(1)(B) of the Telecommunications Act of 1996?

- (a) Has an unaffiliated competing provider of telephone exchange service requested access and interconnection with BellSouth?
- (b) Has a statement of terms and conditions that BellSouth generally offers to provide access and interconnection been approved or permitted to take effect under Section 252(f)?

FCTA: No.

ISSUE 1.C: Can BellSouth meet the requirements of section 271(c)(1) through a combination of track A (Section 271(c)(1)(A)) and track B (Section 271(c)(1)(B))? If so, has BellSouth met all of the requirement of those sections?

FCTA: No, BellSouth cannot meet the requirements of Tracks A and B by combining them.

ISSUE 2: Has BellSouth provided interconnection in accordance with the requirements of sections 251(c)(2) and 252(d)(1) of the Telecommunications Act of 1996, pursuant to 271(c)(2)(B)(i) and applicable rules promulgated by the FCC?

FCTA: No.

ISSUE 3: Has BellSouth provided nondiscriminatory access to network elements in accordance with the requirements of sections 251(c)(3) and 252(d)(1) of the Telecommunications Act of 1996, pursuant to 271(c)(2)(B)(ii) and applicable rules promulgated by the FCC?

FCTA: No.

ISSUE 3.A. Has BellSouth developed performance standards and measurements? If so, are they being met?

FCTA: No.

ISSUE 4: Has BellSouth provided nondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by BellSouth at just and reasonable rates in accordance with the requirements of section 224 of the Communications Act of 1934 as amended by the Telecommunications Act of 1996, pursuant to 271(c)(2)(B)(iii) and applicable rules promulgated by the FCC?

FCTA: No.

ISSUE 5: Has BellSouth unbundled the local loop transmission between the central office and the customer's premises from local switching or other services, pursuant to section 271(c)(2)(B)(iv) and applicable rules promulgated by the FCC?

FCTA: No.

ISSUE 6: Has BellSouth unbundled local transport on the trunk side of a wireline local exchange carrier switch from switching or other services, pursuant to section 271(c)(2)(B)(v) and applicable rules promulgated by the FCC?

FCTA: No position at this time.

ISSUE 7: Has BellSouth provided unbundled local switching from transport, local loop transmission, or other services, pursuant to section 271(c)(2)(B)(vi) and applicable rules promulgated by the FCC?

FCTA: No position at this time.

ISSUE 8: Has BellSouth provided nondiscriminatory access to the following, pursuant to section 271(c)(2)(B)(vii) and applicable rules promulgated by the FCC?

- (a) 911 and E911 services;
- (b) directory assistance services to allow the other telecommunications carrier's customers to obtain telephone numbers; and
- (c) operator call completion services?

FCTA: No.

ISSUE 9: Has BellSouth provided white pages directory listings for customers of other telecommunications carrier's telephone exchange service, pursuant to section 271(c)(2)(B)(viii) and applicable rules promulgated by the FCC?

FCTA: No position at this time.

ISSUE 10: Has BellSouth provided nondiscriminatory access to telephone numbers for assignment to the other telecommunications carrier's telephone exchange service customers, pursuant to section 271(c)(2)(B)(ix) and applicable rules promulgated by the FCC?

FCTA: No position at this time.

ISSUE 11: Has BellSouth provided nondiscriminatory access to databases and associated signaling necessary for call routing and completion, pursuant to section 271(c)(2)(B)(x) and applicable rules promulgated by the FCC?

FCTA: No position at this time.

ISSUE 12: Has BellSouth provided number portability, pursuant to section 271(c)(2)(B)(xi) and applicable rules promulgated by the FCC?

FCTA: No.

ISSUE 13: Has BellSouth provided nondiscriminatory access to such services or information as are necessary to allow the requesting carrier to implement local dialing parity in accordance with the requirements of section 251(b)(3) of the Telecommunications Act of 1996, pursuant to section 271(c)(2)(B)(xii) and applicable rules promulgated by the FCC?

FCTA: No position at this time.

ISSUE 14: Has BellSouth provided reciprocal compensation arrangements in accordance with the requirements of section 252(d)(2) of the Telecommunications Act of 1996, pursuant to section 271(c)(B)(xiii) and applicable rules promulgated by the FCC?

FCTA: No position at this time.

ISSUE 15: Has BellSouth provided telecommunications services available for resale in accordance with the requirements of sections 251(c)(4) and 252(d)(3) of the Telecommunications Act of 1996, pursuant to section 271(c)(2)(B)(xiv) and applicable rules promulgated by the FCC?

(a) Has BellSouth developed performance standards and measurements? If so, are they being met?

FCTA: No position at this time.

ISSUE 16: By what date does BellSouth propose to provide interLATA toll dialing parity throughout Florida pursuant to section 271(e)(2)(A) of the Telecommunications Act of 1996?

FCTA: No position at this time.

ISSUE 17: If the answer to issues 2-15 is "yes", have those requirements been met in a single agreement or through a combination of agreements?

FCTA: Not applicable.

ISSUE 18: Should this docket be closed?

FCTA: No position at this time.

H. Stipulation

FCTA is not aware of any issues that have been stipulated at this time.

I. Pending Motions:

FCTA has no pending motions at this time.

Respectfully submitted,



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Charles F. Dudley
Florida Cable Telecommunications Association
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(904) 681-9676 fax

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Florida Cable Telecommunications Association's Prehearing Statement has been furnished by U.S. Mail to the following parties of record, this 5th day of August, 1997:

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Laura L. Wilson

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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Checklist item is actually being provided to a competitor in a fully operational manner. To ignore this agreement would be to disregard the plain words chosen by Congress. Moreover, it would frustrate the public policy goals behind Section 271(d)(3)(A)(1). Therefore, Section 271(c)(1)(A) may not be read to mean anything less than requiring a fully functional agreement approved pursuant to Section 252 of the Federal Act. BellSouth has not met its burden of proving these requirements are met.

Moreover, Track A [Section 271(c)(1)(A)] and Track B [Section 271(c)(1)(B)] are mutually exclusive. This position is consistent with the FCC's recent Memorandum Opinion and Order with regards to SBC Communications' petition for in-region InterLATA authority as well as the plain language of Section 271(c)(1)(B). BellSouth may not blend Track A and Track B requirements and has failed to demonstrate that the requirements of either Track is met.

Finally, the Commission should adopt and apply criteria in determining compliance with Track A. Specifically, such criteria should be utilized to determine whether BellSouth is providing interconnection to a qualifying facilities-based competitor under the Federal Act, i.e. an unaffiliated, facilities-based competing provider of telephone exchange service to residential and business customers. The FCC Memorandum Opinion and Order released in the case of SBC Communications' petition for in-region InterLATA authority suggests the use of such objective criteria as:

- (1) Whether the competitor is providing exchange service to residential and business customers pursuant to an agreement approved under Section 252;
- (2) The nature and size of the presence of the competing provider;
- (3) Whether an actual competitor exists, i.e. whether the competitor has implemented the agreement and is operational versus whether the competitor has only paper commitments to provide service;
- (4) Whether the competitor is functioning in the market as opposed to merely providing services on a test or promotional basis;
- (5) Whether the competitor has an effective tariff or price list on file with the Commission by which is presently bills customers, i.e. whether billing systems are fully functional;
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These criteria are not intended to be all-inclusive. For example, Commission may also wish to evaluate whether and to the extent to which prices have dropped for consumers in the relevant market and whether the quality of local service is improved by the presence of a competitor. BellSouth has failed to demonstrate these criteria are met. Therefore, BellSouth should not be permitted into the in-region InterLATA market at this time.

D. - G. FCTA's Positions on the Issues:

ISSUE 1.A: Has BellSouth met the requirements of section 271(c)(1)(A) of the Telecommunications Act of 1996?

- (a) Has BellSouth entered into one or more binding agreements approved under section 252 with unaffiliated competing providers of telephone exchange service?
- (b) Is BellSouth providing access and interconnection to its network facilities for the network facilities of such competing providers?
- (c) Are such competing providers providing telephone exchange service to residential and business customers either exclusively over their own telephone exchange service facilities or predominantly over their own telephone exchange service facilities?

FCTA: No.

ISSUE 1.A.(a) Has BellSouth entered into one or more binding agreements approved under Section 252 with unaffiliated competing providers of telephone exchange service?

FCTA: Yes.

ISSUE 1.A.(b) Is BellSouth providing access and interconnection to its network facilities for the network facilities of such competing providers?

FCTA: No.

ISSUE 1.A.(c) Are such competing providers providing telephone exchange service to residential and business customers either exclusively over their own telephone exchange service facilities or predominantly over their own telephone exchange service facilities?

FCTA: No.

ISSUE 1.B: Has BellSouth met the requirements of section 271(c)(1)(B) of the Telecommunications Act of 1996?

- (a) Has an unaffiliated competing provider of telephone exchange service requested access and interconnection with BellSouth?
- (b) Has a statement of terms and conditions that BellSouth generally offers to provide access and interconnection been approved or permitted to take effect under Section 252(f)?

FCTA: No.

ISSUE 1.C: Can BellSouth meet the requirements of section 271(c)(1) through a combination of track A (Section 271(c)(1)(A)) and track B (Section 271(c)(1)(B)? If so, has BellSouth met all of the requirement of those sections?

FCTA: No, BellSouth cannot meet the requirements of Tracks A and B by combining them.

ISSUE 2: Has BellSouth provided interconnection in accordance with the requirements of sections 251(c)(2) and 252(d)(1) of the Telecommunications Act of 1996, pursuant to 271(c)(2)(B)(I) and applicable rules promulgated by the FCC?

FCTA: No.

ISSUE 3: Has BellSouth provided nondiscriminatory access to network elements in accordance with the requirements of sections 251(c)(3) and 252(d)(1) of the Telecommunications Act of 1996, pursuant to 271(c)(2)(B)(ii) and applicable rules promulgated by the FCC?

FCTA: No.

ISSUE 3.A: Has BellSouth developed performance standards and measurements? If so, are they being met?

FCTA: No.

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FCTA: No.

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FCTA: No.

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FCTA: No.

ISSUE 13: Has BellSouth provided nondiscriminatory access to such services or information as are necessary to allow the requesting carrier to implement local dialing parity in accordance with the requirements of section 251(b)(3) of the Telecommunications Act of 1996, pursuant to section 271(c)(2)(B)(xii) and applicable rules promulgated by the FCC?

FCTA: No position at this time.

ISSUE 14: Has BellSouth provided reciprocal compensation arrangements in accordance with the requirements of section 252(d)(2) of the Telecommunications Act of 1996, pursuant to section 271(c)(B)(xiii) and applicable rules promulgated by the FCC?

FCTA: No position at this time.

ISSUE 15: Has BellSouth provided telecommunications services available for resale in accordance with the requirements of sections 251(c)(4) and 252(d)(3) of the Telecommunications Act of 1996, pursuant to section 271(c)(2)(B)(xiv) and applicable rules promulgated by the FCC?

(a) Has BellSouth developed performance standards and measurements? If so, are they being met?

FCTA: No position at this time.

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FCTA: No position at this time.

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FCTA: Not applicable.

ISSUE 18: Should this docket be closed?

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H. Stipulation

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I. Pending Motions:

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Respectfully submitted,



Laura L. Wilson
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310 North Monroe Street
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Florida Cable Telecommunications Association's Prehearing Statement has been furnished by U.S. Mail to the following parties of record, this 5th day of August, 1997:

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