

E. EARL EDENFIELD, Jr.  
General Attorney

BellSouth Telecommunications, Inc.  
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March 24, 2000

ORIGINAL

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

**Re: Docket No. 992018-TP (Atlantic Arbitration)**

Dear Ms. Bayó:

Enclosed is an original and fifteen copies of the Pre-hearing Statement of BellSouth Telecommunications, Inc. We ask that you file this item in the captioned docket.

A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return the copy to me. Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely,

*E. Earl Edenfield Jr.*

E. Earl Edenfield, Jr.

*(EW)*

cc: All Parties of Record  
Marshall M. Criser III  
R. Douglas Lackey  
Nancy B. White

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BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

In re: )  
 ) Docket No. 992018  
Petition for Arbitration of a Resale Agreement )  
Between BellSouth Telecommunications, Inc. and )  
Atlantic Telecommunications Systems, Inc. )  
Pursuant to the Telecommunications Act of 1996. ) Filed: March 24, 2000  
\_\_\_\_\_ )

**PRE-HEARING STATEMENT OF  
BELLSOUTH TELECOMMUNICATIONS, INC.**

BellSouth Telecommunications, Inc. ("BellSouth"), in accordance with the provisions of the Order Establishing Procedure, (Order No. PSC-00-0391-PCO-TP) issued February 23, 2000, submits its Pre-hearing Statement.

**Witnesses**

BellSouth proposes to call the following witness to offer testimony on the issue in this docket, as enumerated in Appendix A of the Order Establishing Procedure:

<u>Witness</u>	<u>Issue</u>
1. Beth Shiroishi (Direct)	1

BellSouth reserves the right to call additional witnesses, witnesses to respond to Commission inquiries not addressed in direct or rebuttal testimony and witnesses to address issues not presently designated that may be designated by the Pre-hearing Officer at the Pre-hearing Conference to be held on April 7, 2000. BellSouth has listed the witness for whom BellSouth filed testimony, but reserves the right to supplement that list if necessary.

DOCUMENT NUMBER-DATE

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SE. RECORDS/REPORTING

## Exhibits

None

BellSouth reserves the right to file exhibits to any testimony that may be filed under the circumstances identified above. BellSouth also reserves the right to introduce exhibits for cross-examination, impeachment, or any other purpose authorized by the applicable Florida Rules of Evidence and Rules of this Commission.

### Statement of Basic Position

The issue in this docket represents a specific dispute between BellSouth and Atlantic Telecommunications Systems, Inc. ("Atlantic") as to what should be included in the Resale Agreement between the parties. The issue involves a matter not properly within the scope of the Telecommunications Act of 1996 ("1996 Act") and should, therefore, not be part of an arbitrated Resale Agreement. In the event that the Florida Public Service Commission ("Commission") determines that the issue is within the parameters of the Telecommunications Act of 1996 ("1996 Act"), BellSouth's position is the more consistent with the 1996 Act, the pertinent rulings of the FCC and the rules of this Commission. Therefore, the Commission should sustain BellSouth's position.

### BellSouth's Position on the Issues of Law and Fact

**Issue 1:** Under the Telecommunications Act of 1996, can Atlantic require BellSouth to include a provision in the Resale Agreement whereby BellSouth is precluded from offering service to consumers covered by an exclusive service arrangement with Atlantic?

**Position:** No. Neither the 1996 Act nor Florida law addresses the issue of exclusive service arrangements. Thus, this issue is clearly not appropriate for arbitration under §252 of the 1996 Act. As a matter of policy, however, the Florida Public Service Commission should not allow any

type of arrangement wherein a consumer's choice is limited. The practical effect of exclusive service arrangements is that a consumer, once committed, can be "held hostage" by the service provider, even in the face of poor service or non-competitive pricing. Clearly, exclusive service arrangements do not promote the goal of increased competition envisioned by the 1996 Act or Chapter 364, Florida Statutes.

**Stipulations**

Issue 2, as identified in Attachment A to the Order Establishing Procedure, is settled.

**Pending Motions**

None.

**Other Requirements**

None.

Respectfully submitted this 24th day of March 2000.

BELLSOUTH TELECOMMUNICATIONS, INC.

*Nancy B. White*

NANCY B. WHITE  
MICHAEL P. GOGGIN

c/o Nancy Sims  
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*R. Douglas Lackey*

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**CERTIFICATE OF SERVICE**  
**Docket No. 992018-TP (Atlantic Arbitration)**

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

Mail and this 24<sup>th</sup> day of March, 2000 on the following:

Staff Counsel  
Florida Public Service  
Commission  
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*E. Earl Edenfield, Jr.*  
E. Earl Edenfield, Jr. (EW)