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July 20, 2005

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

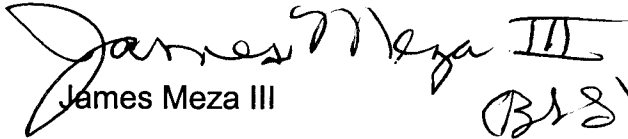
**Re: FL Docket 000475-TP - Complaint Against Thrifty Call, Inc.  
Regarding Practices in Reporting PIU for Compensation  
For Jurisdictional Access Services**

Dear Mrs. Bayó:

Enclosed is BellSouth Telecommunications, Inc.'s Motion to Lift Stay and to Establish Procedural Schedule, which we ask that you file in the above-referenced matter.

Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely,

  
James Meza III  
(BLS)

cc: All Parties of Record  
Jerry D. Hendrix  
R. Douglas Lackey  
Nancy B. White

**CERTIFICATE OF SERVICE**  
**Docket No. 000475-TP**

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

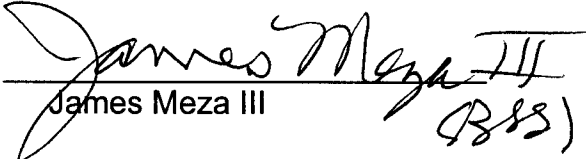
U. S. Mail this 20th day of July, 2005 to the following:

Tim Vaccaro  
Staff Counsel  
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Tallahassee, Florida 32399-0850

Thrifty Call, Inc.  
Gary L. Mann, President  
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James Meza III  
(BSS)

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Complaint by BellSouth	)	
Telecommunications, Inc. against	)	Docket No. 0000475-TP
Thrifty Call, Inc. regarding practices	)	
In the reporting of percent interstate	)	
Usage for compensation for	)	Filed: July 20, 2005
Jurisdictional access services	)	

**MOTION TO LIFT STAY AND TO  
ESTABLISH PROCEDURAL SCHEDULE**

BellSouth Telecommunications, Inc. ("BellSouth") requests that the Florida Public Service Commission ("Commission") lift the stay currently suspending the above-captioned litigation and establish a procedural schedule for the resolution of the litigation. In support of this request, BellSouth states the following:

1. On April 21, 2000, BellSouth filed a Complaint against Thrifty Call, Inc. ("Thrifty Call") to recover unpaid intrastate access charges that resulted when Thrifty Call reported erroneous and unlawful Percent Interstate Usage ("PIU") factors to BellSouth.

2. On August 20, 2001, Thrifty Call filed a Motion to Stay or in the Alternative to Bifurcate the Proceedings. In support of the Motion to Stay, Thrifty Call requested that the instant proceeding be stayed until the Federal Communications Commission ("FCC") resolved its Petition for Declaratory Ruling, wherein it requested, *inter alia*, that the FCC declare that the entry/exit surrogate ("EES") method sanctioned Thrifty Call's reported PIU factor to BellSouth. The Commission granted the Motion to Stay in Order No. PSC-01-2309-PCO-TP, issued on November 21, 2001, because it found that "[t]he answer to this question goes directly to the crux of the matter before this Commission." Order No. PSC-01-2309-PCO-TP at 6. Consequently, the Commission held that it was

“appropriate and in the interest of judicial economy [ ] to stay this proceeding until the FCC issues a ruling on question number four of the Petition for Declaratory Ruling submitted by Thrifty Call.” *Id.* at 7.<sup>1</sup>

3. The FCC issued its Declaratory Ruling on November 10, 2004 (DA 04-3576), wherein it rejected Thrifty Call’s arguments. See Declaratory Ruling at ¶¶ 1, 15, attached hereto as Exhibit A. The FCC’s description of Thrifty Call’s arguments (as well as the admissions of Thrifty Call) in the Declaratory Ruling is instructional:

In its petition for declaratory ruling, Thrifty Call argues that BellSouth’s federal tariff requires the use of EES methodology in jurisdictionally separating Feature Group D services. Thrifty Call further argues that, pursuant to EES methodology, the jurisdictional nature of a call is determined by where the call enters Thrifty Call’s network, not by the call’s origination and destination points. . . . Thrifty Call contends that it routed nearly all of its wholesale traffic bound for BellSouth customers in North Carolina and Florida through its switch in Atlanta, Georgia. Thrifty Call states that, in applying the EES methodology, it classified these calls as interstate because the calls entered its network at its switch in Georgia, a different state than the state in which the called party was situated.

Declaratory Ruling at ¶ 12 (footnotes omitted).

4. In rejecting this argument, the FCC stated the following:

Although we agree with Thrifty Call that the EES methodology was the correct methodology to use in determining the jurisdiction of its traffic under BellSouth’s federal tariff, we disagree with Thrifty Call’s application of the method. . . . Under Thrifty Call’s interpretation, each call would be broken into two separate calls: one from the originating customer in North Carolina or Florida to Thrifty Call’s switch in Georgia, and then a second call from Thrifty Call’s Georgia switch to the called party in North Carolina or Florida. ***Thrifty Call’s interpretation of these terms is incorrect and inconsistent with both Commission and***

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<sup>1</sup> Question number four raised in Thrifty Call’s Petition for Declaratory Ruling related to the EES methodology question. See Order No. PSC-01-2309-PCO-TP at 2.

***court precedent holding that the points where the call originates and terminates are more significant than the intermediate facilities used to complete such communications.*** Thus, a call is intrastate if it originates and terminates in the same state. Courts have also found that interstate communications extends from the inception of a call to its completion, regardless of any intermediate points of switching or exchanges between carriers. ***The fact that the calls at issue were routed through a switch in Georgia is immaterial to the jurisdiction of a call. Thrifty Call should have reported all calls where both the calling party and the called party were located in the same state as intrastate calls and should have reported all calls where the calling party was located in one state and the called party was located in another state as interstate calls.***

*Id.* at ¶ 15 (emphasis added) (footnotes omitted).

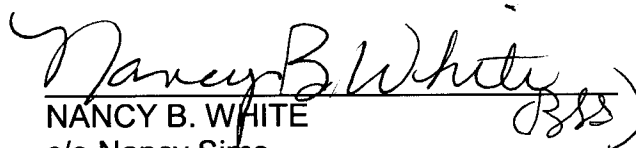
5. Accordingly, there can be no question that the FCC has found that Thrifty Call's over-reporting of its interstate PIU based on an erroneous application of the EES methodology was incorrect and that Thrifty Call should have reported calls that originated and terminated in Florida to BellSouth as intrastate.

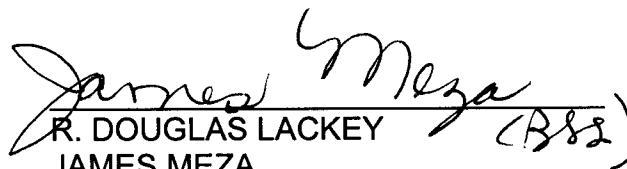
6. In light of the FCC's decision, there is no longer any need to stay the proceeding as the FCC has spoken by rejecting Thrifty Call's arguments. Accordingly, BellSouth requests that the Commission lift the stay currently affecting the instant proceeding.

7. Additionally, BellSouth requests that the Commission establish a procedural schedule providing for additional limited discovery (if necessary), the filing of supplemental testimony, timeframes for filings motions for summary dispositions, and a hearing date. This matter has been pending since 2000, and it is now time to proceed with its resolution.

**WHEREFORE**, BellSouth requests that the Commission lift the stay and establish a procedural schedule.

Respectfully submitted this 20<sup>th</sup> day of July, 2005

  
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