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Please refer to our file number: 12897-5

September 15, 2006

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

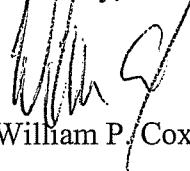
Re: **Docket No. 060476-TL: Petition To Initiate Rulemaking To Amend Rules  
25-24.630(1) and 25.24.516(1), F.A.C., by BellSouth Telecommunications,  
Inc.**

Dear Mrs. Bayó:

Enclosed are the Post-Workshop Comments of Qwest Communications Corporation  
which we ask that you file in the captioned docket.

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

Sincerely,



William P. Cox

WPC:lms

cc: Parties on attached Certificate of Service  
Mr. Richard A. Moses  
Richard C. Bellak, Esq.

SARASOTA, FLORIDA

VENICE, FLORIDA

TALLAHASSEE, FLORIDA

DENVER, COLORADO

**ABEL BAND, CHARTERED**

**BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF FLORIDA**

In re: Petition to initiate rulemaking to amend            )           Docket No. 060476-TL  
Rules 25-24.630(1) and 25-24.516(1), F.A.C.,            )  
By BellSouth Telecommunications, Inc.                    )           Filed: September 15, 2006

**POST-WORKSHOP COMMENTS OF QWEST COMMUNICATIONS CORPORATION**

Qwest Communications Corporation (hereinafter "QCC" or "Qwest"), pursuant to an informal request of Commission Staff, by and through its undersigned counsel, herewith files these Post-workshop comments with the Public Service Commission of the State of Florida (hereinafter the "Commission") in the above-referenced docket. In support of its position in this rulemaking development docket, QCC respectfully states as follows:

1. QCC is a telecommunications company that has been duly certificated by the Commission as a competitive local exchange telecommunications company ("CLEC") and an interexchange company ("IXC") in Florida. QCC provides local telephone service and IXC services in Florida, including operator services. QCC is subject to the rules and orders of the Commission, including the Commission's rules regulating operator services and operator service providers, and such rules and orders impact QCC's ability to provide local exchange telecommunications service, intrastate interexchange telecommunications service, and operator services.

2. Petitioner's principal place of business is:

Qwest Communications Corporation  
1801 California Street  
51st Floor  
Denver, CO 80202

3. All pleadings, orders, notices and other correspondence with respect to this docket should be addressed to:

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#### **Procedural History.**

4. On June 26, 2006, BellSouth Telecommunications, Inc. (“BellSouth”) filed a Petition to Initiate Rulemaking to amend Rules 25-24.630(1) and 25-24.516(1), F.A.C. (the “operator service rules”). By Order No. PSC-06-0688-PCO-TL, issued August 9, 2006, the Commission directed that a rule development workshop should be held before the Commission decides whether to amend the rules. The purpose of the workshop is “to collect information from BellSouth, other industry participants, and the public that is needed to evaluate the proposed changes.” (Order at page 2.) Pursuant to Notice of Rule Development published on August 11, 2006, an industry workshop on whether to amend provisions relating to rate and billing requirements and pay telephone caps in the operator service rules was held on September 1,

2006. Qwest Communications Corporation (“QCC”) representatives participated in the workshop via telephone. During the workshop, Commission Staff requested that all interested parties file comments regarding rate caps on three areas: 1) Inmate Services; 2) Pay Telephones; and 3) Aggregators. In response to Staff’s request, QCC submits comments in the following paragraphs.

### **Summary of QCC’s Position.**

5. **Inmate Services** – QCC acknowledges that inmate end users do not have the ability to select the carrier of their choice, but must utilize the operator service (“OS”) provider elected by the confinement facility. Because the end user does not have the ability to make any informed choices prior to using the elected OS provider, nor has the ability to gain access to their preferred carrier via 1010XXX or 1-8XX, QCC agrees that Inmate Services should be managed by the PSC in regards to rate caps.

6. **Pay Telephone and Aggregators** – QCC believes the current rate caps for 0-/+ Operator Services (OS) for Pay Telephone and Aggregate locations in the state of Florida should be removed and will combine comments for these categories. If the Commission is opposed to removing these rate caps, then QCC requests that the caps be raised to reflect the national averages, which the Commission could obtain from all interested parties responding to this matter. The QCC national average rate for an operator assisted call is \$0.90 per minute with a \$6.50 Operator Surcharge.

### **Specifics of QCC’s position.**

7. Unlike the Inmate Services end users, all Pay Telephone and Aggregate end users have the ability to make informed choices. According to the PSC requirements, all calls are

branded upon answer and again after the user accepts billing information and before the call is connected. Per the PSC requirements, all end users have the ability to receive rate and service information upon request, prior to determining whether to utilize the OS provider.

As in all public service offerings today, the consumer may obtain the cost prior to determining their agreement or disagreement to purchase a service. OS services for Pay Telephones and Aggregate locations should be treated similarly. The utilization of a Pay Telephone and Aggregate-elected OS service provider is not a necessity for a consumer to complete a call, as consumers have multiple options available to them such as calling cards, cellular service, direct dialed calls, etc. Consumers also have the ability to gain access to the carrier of their choice via dial around access of 1010XXX or 1-8XX to complete an OS call. Thus consumers that complete a call with an OS provider will have made an informed choice to do so.

**Rationale for QCC's Position.**

8. Telephone connectivity is important to virtually all consumers. Regulators, recognizing this established state and federal Universal Service Funds ("USFs") fund credits on local phone installation and monthly dial tone charges in the State of Florida for economically disadvantaged phone subscribers so they can obtain and utilize local dial tone.

As important at times, is the ability for consumers to make pay telephone calls, especially while traveling or otherwise away from home. Pay Telephone owners and service providers recognize this need and strive to bring Florida consumers convenient and easily accessible pay telephone service in a wide variety of locations while facing a number of competitive threats.

This competitive landscape presents challenges to payphone owners and service providers when combined with caps on rates for these services.

Removing the rate caps on OS calls, a premium service, would allow the payphone owner to negotiate competitively appropriate OS rates and corresponding commission payments with their chosen OS provider which would support the ongoing costs of deployment and maintenance of payphones. This in turn, is likely to stem the decline of public pay phones, that many consumers count on for their communication needs. The national average of QCC's OS services today is \$0.90 per minute and \$6.50 operator surcharge. Qwest does not believe that rate caps are a necessary part of those consumer protection options. Although formal rate restrictions may have been necessary at one time, the presence of so many competitive alternatives, in terms of services as well as competitors in the marketplace, makes them unnecessary for aggregator and non-aggregator situations. Qwest urges the Commission to remove rate caps on Pay Telephone and Aggregator operator services providers in Florida, and not for Inmate Services as discussed above in Paragraph 5 on page 3 of these Comments.

If the Commission ultimately concludes that rate caps are needed, then QCC proposes that the rates be set at \$0.90 per minute with a \$6.50 operator surcharge. A higher rate cap is necessary as a result of the competitive marketplace, the high OS operational overhead, the low 20% completion rate of OS calls, and the resulting low margins left for OS providers to negotiate with individual payphone owners.

The majority of calls completed on a payphone are sent paid (coin deposited in unit). On average, only 1 (one) OS call is completed per month per pay telephone. Although this volume is minimal, it indeed plays a major role in the payphone owner's overall business strategy, as every dollar counts and every call matters in this diminishing market.

OS providers also have numerous costs in building and supporting a call center with live operators that stand by waiting to assist a consumer. The average OS call completion ratio is 20%. This situation means that an OS provider will need to provide their services 5 (five) times before recognizing any revenue. Qwest understands that alternative OS providers that advertise 8XX and \*xx type dialing are not subject to the rate caps in the rules, whereas pay telephone and aggregator OS providers are. Like any business, revenues need to cover costs. If revenues are minimal due to extremely low rate caps, OS providers subject to the rate cap are left with only a small margin to negotiate commissions with premises owners while competing with alternative service providers who likely have much larger margins to negotiate with. This scenario sets up an uneven competitive environment between providers subject to caps and providers not subject to caps; both of which compete for the same OS premise business.

There are already protections in place for consumers. In Section 226 of the Telecommunications Act of 1996, Congress outlined multiple regulatory requirements governing operator service providers and aggregators. 47 U.S.C. §226. Many State public utility commissions have also adopted these requirements in an effort to ensure that consumers receive sufficient information to make an educated decision on whether or not they will use a particular carrier's service. The Commission has adopted some of them in its rules (*see*, Rules 25-24.630(2) through (7), F.A.C. Perhaps the Commission can consider whether the present state of the AOS industry warrants the amendment of Rule 25-24.630 specifically to adopt more of these provisions to protect Florida consumers further. In general, the Act requires an operator services provider to:

- Identify itself, audibly and distinctly, to the consumer at the beginning of each telephone call and before the consumer incurs any charge for the call.

- Permit the consumer to terminate the telephone call at no charge before the call is connected.
- Disclose immediately to the consumer, upon request and at no charge to the consumer, a quote of its rates or charges for the call.
- Ensure, by contract or tariff, that each aggregator for which such provider of operator services is in compliance with the requirements of subsection (c) and, if applicable, subsection (e)(1).
- Withhold payment (on a location-by-location basis) of any compensation, including commission, to aggregators if such provider reasonably believes that the aggregator is blocking access to the consumers' carrier of choice.
- Not bill for unanswered telephone calls in areas where equal access is available and not knowingly bill for unanswered telephone calls where equal access is not available.
- Not engage in call splashing except in certain limited circumstances.
- Not bill for a call that does not reflect the location of the origination of the call.

QCC complies with these consumer protections, here in Florida and in other states. In addition, there are numerous alternatives to using Alternate Operator Services (AOS) and all of them are available to consumers in Florida. Consumers are using wireless phones, calling cards (including pre-paid cards), dial-around platforms (10-10-xxx), 1+service, and internet applications such as VOIP and email, instead of using the payphones of landlords and business owners or phones in hotel and hospital rooms, which are traditionally serviced by AOS providers. The number of users bypassing these providers' services will only grow as technology advancements with Wi-Max, Wi-Fi, and VOIP continue. The market for paying a high price for AOS services is undoubtedly on the decline.

A continual decline in public payphones would have negative effects on Florida consumers who depend on public payphones for casual calls, as well as in times of emergency situations, such as those previously experienced, where public payphones played a major role in consumer communications when many alternatives failed.



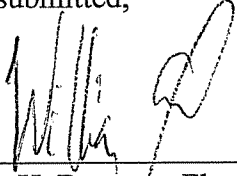
Removing OS rate caps would not only allow the PSC to aid Florida's local payphone business owners but would also aid in ensuring that valued public payphones maintain a healthy existence within the state of Florida and continue to provide a valuable resource to many of its residents and those traveling through the state. A decision to remove the rate caps should also allow for additional efficiencies within the PSC staff whereby current resources devoted to aspects related to rate caps can be utilized in other PSC areas of responsibility. If the Commission ultimately concludes that rate caps are needed, then QCC proposes that the rates be set at \$0.90 per minute with a \$6.50 operator surcharge or at a similar Florida industry-wide average based on data gathered by the Commission. Finally, as in all competitive markets, OS providers will be guided by consumer usage in determining the appropriate cost for their services. Ultimately, the safeguards proposed by Qwest can be used by the Commission to ensure that AOS providers operate in a manner that protects the public interest.

**WHEREFORE**, Qwest Communications Corporation requests that the Commission initiate a formal rulemaking proceeding to amend the operator service rules to removing the Operator Service rate caps for pay telephone providers and aggregators, while continuing to manage Operator Service of inmates of confinement facilities through reasonable rate caps..

**DATED** this 15th day of September 2006.

Respectfully submitted,

By: \_\_\_\_\_



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Attorneys for Qwest Communications Corporation

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of **POST-WORKSHOP COMMENTS OF QWEST COMMUNICATIONS CORPORATION** was served by U.S. Mail, postage prepaid, or by electronic transmission if email addresses were available, this 15th day of September 2006 to the following:

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Manuel A. Gurdian, Esq.  
c/o Ms. Nancy H. Sims  
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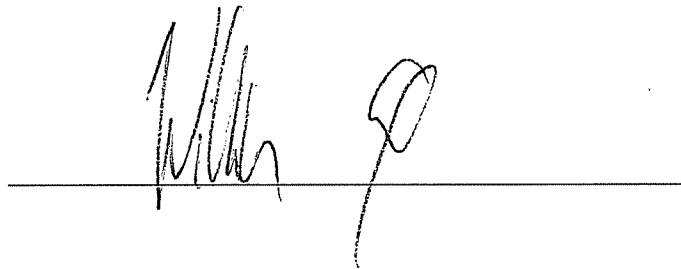
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A horizontal line with a handwritten signature and a flourish above it. The signature is written in dark ink and appears to be 'M. Meza'. To the right of the signature is a large, stylized flourish that loops back down towards the line.