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215 SOUTH MONROE STREET, SUITE 701  
POST OFFICE BOX 1876  
TALLAHASSEE, FLORIDA 32302-1876  
TELEPHONE: (850) 222-0720  
TELECOPIERS: (850) 224-4359; (850) 425-1942

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RECORDS AND  
REPORTING

December 1, 1998

**BY HAND DELIVERY**

Ms. Blanca Bayo, Director  
Division of Records and Reporting  
Room 110, Easley Building  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, Florida 32399-0850

Re: Docket No. 980703-TP

Dear Ms. Bayo:

Enclosed for filing in the above captioned docket on behalf of Easy Cellular, Inc. are an original and fifteen copies of the Rebuttal Testimony of Richard Pollara.

Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the same to me.

Thank you for your assistance with this filing.

ACK \_\_\_\_\_

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Sincerely,



Norman H. Horton, Jr.

DOCUMENT NUMBER-DATE

13451 DEC-1 98

FPSC-RECORDS/REPORTING

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Complaint of Easy Cellular, Inc. )  
d/b/a Telcom Plus against BellSouth )  
Telecommunications, Inc. for alleged )  
violations of the Telecommunications )  
Act of 1996 and Chapter 364 of the )  
Florida Statutes )  
\_\_\_\_\_ )

Docket No. 980703-TP  
Filed: December 1, 1998

**REBUTTAL TESTIMONY OF**

**RICHARD POLLARA**

**ON BEHALF OF**

**EASY CELLULAR, INC.**

1 **Q. PLEASE STATE YOUR NAME, TITLE, AND BUSINESS ADDRESS.**

2 A. My name is Richard Pollara.

3 **Q. PLEASE DESCRIBE THE PURPOSE OF YOUR TESTIMONY.**

4 A. The purpose of my testimony is to respond to the Direct Testimony of Jim Maziarz,  
5 a Manager in Interconnection Services Pricing for BellSouth Telecommunications,  
6 Inc. ("BellSouth"), and to clarify the position of Easy Cellular with respect to its  
7 claims and the counterclaim of BellSouth.

8 **Q. DO YOU AGREE WITH BELLSOUTH THAT BECAUSE NONRECURRING**  
9 **CHARGES WERE NOT ADDRESSED IN THE MARCH 3, 1997 RESALE**  
10 **AGREEMENT (THE "RESALE AGREEMENT"), THEY WERE NOT**  
11 **SUBJECT TO WHOLESALE DISCOUNTING?**

12 A. No. Nonrecurring charges were addressed by the Florida Public Service Commission  
13 in Order No. PSC-96-1579-FOF-TP (the "December 31 Order"), wherein the  
14 Commission established that BellSouth must apply the wholesale discounts to  
15 nonrecurring charges.

16 **Q. BELLSOUTH STATES THAT, AT THE TIME THE RESALE AGREEMENT**  
17 **WAS ENTERED INTO WITH EASY CELLULAR, BELLSOUTH DID NOT**  
18 **CONSIDER, AND THEREFORE, DID NOT TREAT NONRECURRING**  
19 **CHARGES AS TELECOMMUNICATIONS SERVICES. WAS IT**  
20 **APPROPRIATE FOR BELLSOUTH TO TAKE THIS POSITION?**

21 A. No. When BellSouth and Easy Cellular entered into the Resale Agreement, the  
22 Commission had already issued the December 31 Order, which confirmed that

1 nonrecurring charges were telecommunications services and subject to the wholesale  
2 discounts.

3 **Q. DO YOU AGREE WITH BELLSOUTH'S STATEMENT THAT THE**  
4 **PARTIES NEVER AGREED TO DISCOUNT RATES FOR**  
5 **NONRECURRING CHARGES?**

6 A. No.

7 **Q. BELLSOUTH CONTENDS THAT, BASED ON THE TERMS OF THE**  
8 **RESALE AGREEMENT, NONRECURRING CHARGES FROM MARCH**  
9 **UNTIL SEPTEMBER 1997, WERE NOT SUBJECT TO WHOLESALE**  
10 **DISCOUNTS. DO YOU AGREE?**

11 A. No. The Resale Agreement does not contain any specific references to nonrecurring  
12 charges. Moreover, the Resale Agreement states that resellers shall be able to  
13 purchase *telecommunications services*, which includes recurring and nonrecurring  
14 services, from BellSouth for resale at a discount rate off of the retail rate. Resale  
15 Agreement, Section I.C. The Resale Agreement also lists the services that were not  
16 available for resale from BellSouth. None of the services at issue in this proceeding  
17 (*i.e.*, connection and calling screening/restriction services), were on the list of  
18 services not available for resale. Resale Agreement, Section III.A.

19 **Q. IF THE COMMISSION WERE TO FIND THAT NONRECURRING**  
20 **CHARGES WERE SUBJECT TO THE WHOLESALE DISCOUNTS FROM**  
21 **MARCH UNTIL SEPTEMBER, WHAT WHOLESALE DISCOUNTS**  
22 **SHOULD BE APPLIED?**

1 A. Should the Commission determine that nonrecurring charges were subject to the  
2 wholesale discounts from March until September 1997, the applicable discount rates  
3 should be those established in the Commission's December 31 Order. Those rates  
4 are 21.83% for residential and 16.81% for business telecommunications services.

5 **Q. BELLSOUTH CONTENDS THAT THE DECEMBER 31 ORDER, WHICH**  
6 **WAS ISSUED AS A RESULT OF LOCAL INTERCONNECTION**  
7 **ARBITRATION PROCEEDINGS BETWEEN AT&T, MCI, AND**  
8 **BELLSOUTH, APPLIED ONLY TO THOSE WHO WERE PARTIES TO**  
9 **THOSE PROCEEDINGS. DO YOU AGREE?**

10 A. No. Contrary to BellSouth's contention, its obligation did not end with the parties  
11 that were the subject of the arbitration proceedings in which such discounts were  
12 established. Pursuant to the Telecommunications Act of 1996 (the "Act"), the  
13 Commission was obligated to set wholesale discount rates for resold services. The  
14 Florida Public Service Commission chose to do so through the arbitration  
15 proceedings which resulted in the December 31 Order. Accordingly, once the  
16 Commission established the discount rates, BellSouth had a duty to make such  
17 discounts available to all resellers of BellSouth's services, on a reasonable and  
18 nondiscriminatory basis. To find otherwise, would not be consistent with the  
19 purposes and intent of the Act.

20 **Q. WHAT ACTION DOES EASY CELLULAR BELIEVE THE COMMISSION**  
21 **SHOULD TAKE ON ITS COMPLAINT?**

22 A. The Commission should affirm Easy Cellular's position that BellSouth had an

1 obligation to apply the wholesale discount rate to Easy Cellular's nonrecurring  
2 charges from March until September 1997 and to provide Easy Cellular with the  
3 residential wholesale discount of 21.83% from March until November 1997.  
4 Furthermore, the Commission should order BellSouth to credit Easy Cellular the  
5 amount that it has been overcharged, plus all late fees.

6 **Q. WHAT IS THE POSITION OF EASY CELLULAR WITH RESPECT TO**  
7 **THE BELL SOUTH COUNTERCLAIM?**

8 A. There are outstanding disputes between the companies that make it difficult for Easy  
9 Cellular to determine, at this time, the monies owed, if any, to BellSouth for the  
10 provision of services from the period of March 1997 through and including  
11 November 1997. Notwithstanding, the damages, if any, owed to BellSouth must be  
12 limited to the date of the filing of its counterclaim in this matter.

13 **Q. DOES THIS COMPLETE YOUR TESTIMONY?**

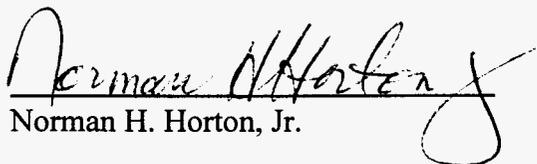
14 A. Yes.

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Rebuttal Testimony of Richard Pollara on behalf of Easy Cellular, Inc. in Docket No. 980703-TP has been furnished by Hand Delivery (\*) and/or U.S. Mail to the following parties of record this 1st day of December, 1998:

Beth Keating, Esq.\*  
Division of Legal Services  
Room 370, Gunter Building  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

Mary K. Keyer, Esq.  
c/o Ms. Nancy H. Sims  
BellSouth Telecommunications, Inc.  
150 South Monroe Street, Suite 400  
Tallahassee, FL 32301

  
Norman H. Horton, Jr.