

ORIGINAL

050922-TL

Legal Department

Nancy B. White
General Counsel - FL

BellSouth Telecommunications, Inc.
150 South Monroe Street
Room 400
Tallahassee, Florida 32301
(305) 347-5558

December 16, 2005

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

COMMISSION
CLERK

DEC 16 PM 4:20

11688

Re: In re: Petition by BellSouth Telecommunications, Inc. for Waiver of Rules 25-4.066 and 25-4.067, Florida Administrative Code and Petition to Initiate Rulemaking

Dear Ms. Bayo:

Enclosed is an original and fifteen copies of BellSouth Telecommunications, Inc.'s Petition for Waiver of Rules 25-4.066 and 25-4.067, Florida Administrative Code and Petition to Initiate Rulemaking, which we ask that you file in the captioned *new* docket.

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

Sincerely,

Nancy B. White ADH
Nancy B. White

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

RECEIVED & FILED

FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

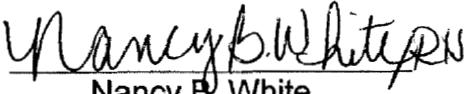
11688 DEC 16 05

FPSC-COMMISSION CLERK

CERTIFICATE OF SERVICE
Petition by BellSouth Telecommunications, Inc. for Waiver of
Rules 25-4.066 and 25-4.067, Florida Administrative Code and
Petition to Initiate Rulemaking

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via
First Class U. S. Mail this 16th day of December, 2005 to the following:

Staff Counsel
Florida Public Service
Commission
Division of Legal Services
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850


Nancy B. White

FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition by BellSouth Telecommunications,) Docket No.: 050922-TL
Inc. for Waiver of Rules 25-4.066 and 25-4.067,)
Florida Administrative Code and Petition to)
Initiate Rulemaking)
_____) Filed: December 16, 2005

**BellSouth Telecommunications, Inc.'s Petition for Waiver of Rules
25-4.066 and 25-4.067, Florida Administrative Code and
Petition to Initiate Rulemaking**

BellSouth Telecommunications, Inc. ("BellSouth"), pursuant to Section 120.542, Florida Statutes, and Rule 28-104.002, Florida Administrative Code, hereby petitions the Florida Public Service Commission ("Commission") to waive Rules 25-4.066 and 25-4.067, Florida Administrative Code, regarding the provision of basic services as a carrier of last resort under certain factual situations as set forth more fully below. In addition, BellSouth, pursuant to Section 120.54(7), Florida Statutes and Rule 25-103.006, Florida Administrative Code, petitions the Commission to initiate rulemaking to amend Rules 25-4.066 and Rule 25-4.067, Florida Administrative Code, as more fully set forth below. In support of its Petition, BellSouth avers the following:

1. BellSouth is an incumbent local exchange company doing business in the State of Florida whose regulated operations are subject to the jurisdiction of the Commission pursuant to Chapter 364, Florida Statutes. BellSouth is a price regulated company pursuant to Section 364.051, Florida Statutes.

2. BellSouth's principal place of business in Florida is 150 West Flagler Street, Suite 1910, Miami, Florida 33130. Pleadings and process may be served upon:

Nancy B. White
c/o Nancy H. Sims
150 South Monroe Street
Suite 400
Tallahassee, Florida 32301
(305) 347-5558

3. Rules 25-4.066 and 25-4.067, Florida Administrative Code, are promulgated under the authority contained in Sections 364.025 and 364.15, Florida Statutes, among other Sections. Section 364.025 requires an incumbent local exchange company to provide basic local telecommunications services within a reasonable time period to any person requesting such service within the company's service territory. Section 364.15, Florida Statutes allows the Commission to order additions or extensions to a telecommunications facility in order to secure adequate service or facilities for telecommunications services.

4. Rule 25-4.066, Florida Administrative Code, requires each telecommunications company to provide facilities designed and engineered in accordance with realistic anticipated customer demands for basic local telecommunications service subject to the company's ability to secure, at reasonable expense, suitable facilities and rights for construction and maintenance of such facilities. Rule 25-4.067, Florida Administrative Code, requires each telecommunications company to make reasonable extensions to its lines and services.

5. BellSouth has encountered a number of situations concerning access at a Multi-Tenant Environment ("MTE")¹, either (i) before BellSouth begins

¹ The term "MTE" includes planned unit developments, including commercial and residential components; residential subdivisions; condominiums; apartment buildings and other types of residential and commercial multi-tenant developments.

provisioning activities to serve end user customers at the MTE or (ii) after BellSouth begins provisioning activities to serve end user customers at the MTE (including incurring material and labor costs to serve). Examples include, but are not limited to, the following:

(A) A property owner² enters into an exclusive facilities and/or service agreement with another communications provider, such that BellSouth will not be permitted to install facilities within and/or provide service within or to the development (referred to herein as a "physical lockout"). In a physical lockout situation, BellSouth is unable to serve and advises the Commission of its inability to serve and inability to satisfy its carrier of last resort ("COLR") obligations.

(B) A property owner enters into a "bulk agreement" with another communications provider where the property owner or a condominium or homeowners' association collects from the residents charges for the provision of communications services to the residents, through rent, fees or dues (referred to herein as an "economic lockout"). In an economic lockout, while the property owner may allow BellSouth to place facilities and provide service, BellSouth can expect little or

² Use of the term "property owner" in the above examples may not be entirely accurate, as these agreements may be with the property owner or developer directly or through a condominium, homeowners' or community association. So, the term "property owner" or "developer" shall mean and refer to any of the above, or more generally, the entity that is controlling decisions and/or entering into agreements regarding communications providers and services at an MTE.

no take rate for its services. Here, the “economics” of provisioning service change, such that the cost to install facilities is balanced against a much smaller number of anticipated customers and anticipated service revenues.

6. From January 1, 2005, through the date of this Petition, BellSouth has experienced physical lockout at nine (9) MTEs. BellSouth advised the Commission of these situations by letters directed to the Department of Competitive Markets and Enforcement of the Commission. Copies of these letters are attached hereto as Composite Exhibit A. Also attached in Composite Exhibit A are selected letters to the Department of Competitive Markets and Enforcement of the Commission prior to 2005, notifying of five (5) physical lockout situations. BellSouth is aware of pending physical lockout situations at three (3) additional MTEs currently under construction. BellSouth is confirming the facts of these pending situations, and following confirmation, BellSouth will send similar letters to the Commission for each of them.

7. In addition, BellSouth is faced with economic lockout situations, as demonstrated in Exhibit B. Exhibit B describes an economic lockout situation at an MTE that is currently under construction. This is just one example; other similar situations are arising regularly and are steadily increasing. BellSouth will be notifying the Commission by letter of these situations on a going-forward basis and advising of BellSouth’s inability to provide service due to economic lockout.

8. These situations have been steadily increasing, and BellSouth expects them to continue to increase. For example, certain larger developers of

multiple developments have informed BellSouth that they have entered into agreements with other communications providers or infrastructure providers, including arrangements for monetary incentives from the providers to the owners that will cover all of the property owner's future developments in certain geographic areas, including BellSouth's service territory. Additionally, a consulting business has arisen in this area, with consultants seeking property owners as clients to pursue and facilitate agreements between them and communications companies that include such monetary incentives.³ In addition, communications providers are actively seeking these agreements.⁴

9. These situations place the COLR in a particularly difficult position. The COLR is caught between its COLR obligations under state law and the property owner's right to enter into an exclusive or bulk agreement with another provider. This may result in BellSouth incurring costs for provisioning facilities to

³ As indicated on Exhibit B, the consultant representing the developer for the development described in that Exhibit is CSI Consulting, Inc. CSI is representing the developer with regard to, and is authorized to negotiate, arrangements for, cable, television, telephone, data, and other telecommunications services at the developments. CSI's website (www.csiconsulting.net) describes CSI as follows: "CSI is a collective group of telecommunication executives who realized that property owners were missing the industry and technical information as well as the critical mass to obtain the greatest value for the telecommunication rights of their property. Contrary to popular belief there are many qualified competitors who would like to serve your residents with Cable TV, Internet and Telephone Services. CSI is working with Franchise Operators, Private Cable and Telephony providers to find the best fit for each of the individual properties we represent. CSI Consulting Services staff manages a large portfolio of client properties. We specialize in creating a competitive environment that allows Developers, HOA's and Condominium Associations to obtain the best possible agreements for Cable TV, Internet, Telephony, and VoIP." Other consultants are similarly marketing these types of arrangements and agreements to developers, thus increasing the number of situations that are arising.

⁴ See, e.g. www.broadstar.com, stating the following: "Enabled by the fact that BroadStar's services and benefits to properties, developers and subscribers, more than rival any competitors (as further discussed herein), BroadStar's business model is to secure exclusive bulk services through long term Right-Of-Entry (ROE) agreements in Multiple Dwelling Units (MDU's) inclusive of high density garden style and high rise apartment complexes and condominiums."

serve end users in furtherance of its regulatory obligations, only to later be informed of a lockout. See, e.g., Composite Exhibit A (including BellSouth's August 2, 2005 letter to the Commission relating to Blue Condominium, describing such a lockout situation).

10. The Commission rules set forth above relating to COLR obligations were first written in 1968. Telecommunications policy has changed significantly, beginning with telecommunications deregulation in 1995 in Florida and in 1996 nationally. The examples set forth above reflect that tenants who cannot get service from the COLR are not precluded from getting service. Competitive providers are meeting those needs.

11. In addition, Section 364.01(4)(g), Florida Statutes, provides the Commission with the authority to ensure that all providers of telecommunications services are treated fairly, by preventing anticompetitive behavior and eliminating unnecessary regulatory restraint. Section 364.01(4)(f), Florida Statutes, provides the Commission with the authority to eliminate rules and regulations that delay or impair the transition to competition.

12. BellSouth, therefore, seeks a waiver of Rule 25-4.066 and 25-4.067, Florida Administrative Code (i.e., a permanent waiver of the COLR obligation) with regard to the specific property involved in instances where the following occurs⁵:

⁵ The term "property owner", as used in these instances, should have the meaning described in footnote 2. The term "communications services", as used below, includes telecommunications services, voice over Internet protocol (VoIP), data, cable, video, or other information services, or similar replacement services.

- A. The property owner permits only one provider (not BellSouth) to install communication facilities during construction of the property;
 - B. The property owner accepts incentives or rewards contingent on the provision of communications services by a provider (not BellSouth) to the exclusion of others;
 - C. The property owner enters into a bulk agreement with a provider (not BellSouth) and collects charges for communications services from the occupants, whether through rent, fees or dues;
 - D. The property owner enters into an agreement with a communications provider(s) that restricts or limits access to MTE real property by other communications providers resulting in restriction of access to BellSouth, or the property owner or grants incentives or rewards to the property owner contingent upon such restriction; or
 - E. The property owner limits or restricts, or enters into an agreement that limits or restricts, the types of communications services BellSouth may provide.
13. BellSouth believes that its Petition for Waiver is in the public

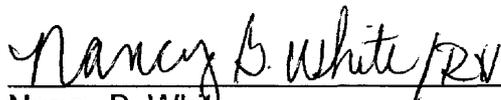
interest.

14. BellSouth also seeks to initiate rulemaking on this issue and to amend Rules 25-4.066 and 25-4.067, Florida Administrative Code to conform to the waiver being sought by BellSouth.

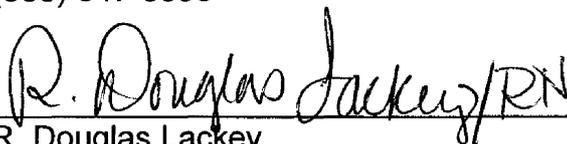
WHEREFORE, BellSouth requests that the Commission grant its Petition for Waiver and initiate rulemaking as requested herein.

Respectfully submitted this 16th day of December, 2005.

BELLSOUTH TELECOMMUNICATIONS, INC.

/RN

Nancy B. White
Manuel A. Gurdian
Sharon R. Liebman
c/o Nancy H. Sims
150 South Monroe Street
Suite 400
Tallahassee, Florida 32301
(305) 347-5558

/RN

R. Douglas Lackey
675 West Peachtree Street, Suite 4300
Atlanta, Georgia
(404) 335-0747

607773

Exhibit A

BELLSOUTH

BellSouth Telecommunications, Inc.
Regulatory & External Affairs
150 South Monroe Street
Suite 400
Tallahassee, FL 32301

Nancy.Sims@Bellsouth.com

Nancy H. Sims
Director

850 577 5555
Fax 850 222 8640

December 5, 2005

Mr. Rick Moses
Chief, Bureau of Service Quality and
Enforcement
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Re: Vista Trace – SW 284 St and US 1, Miami, Florida

Dear Mr. Moses:

The above development is under construction by Cornerstone Group. We understand that the development will have approximately 212 condominium units and is expecting first residents in early 2006.

Since mid-2004, BellSouth has been engaging in efforts to communicate with Cornerstone regarding provisioning for BellSouth service to this development.

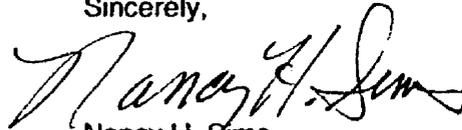
By November 18, 2005 letter to Cornerstone, BellSouth explained that it still had not received from Cornerstone: (1) the easement for a remote terminal cabinet and an easement along the east property line of the development necessary to provide service to residents and (2) previously requested site and electrical plans necessary for BellSouth to properly design suitable conduits, which Cornerstone would need to place, for entrance facilities to each building. The November 18 letter noted that, given BellSouth's numerous prior communications and the close proximity of what we understand is the anticipated date for first residents, we could only assume that Cornerstone does not want BellSouth to provide, and wishes to exclude BellSouth from providing, BellSouth service at this development. The letter asked Cornerstone to respond in 3 days if this were not the case. BellSouth has not heard back from Cornerstone.

We are writing to advise the Commission that, under these circumstances, BellSouth is not in a position to serve residents at this development. If a customer inquires, BellSouth will advise that the developer has not granted rights to BellSouth

necessary for BellSouth to place facilities to serve, such that the customer's order cannot be filled. BellSouth will restrict the addresses in the development. After a certain time, the then-existing infrastructure will make it difficult and costly to install facilities, such that BellSouth may be unable to install facilities even if rights are granted later. Thus, BellSouth would need to assess that issue as well as others in connection with assessing whether it would serve the development if such rights were granted later.

Assuming BellSouth continues to be unable to place facilities, whatever arrangements the developer has made will be arrangements that are likely to effectively result in an exclusive telecommunications provider in the development, and the inability of BellSouth to serve customers who request service from BellSouth.

Sincerely,



Nancy H. Sims

Cc: Cornerstone Group – Attention: Amy Segal & Keith Lucas, 2121 Ponce de Leon Blvd., Coral Gables, FL 33134

BELLSOUTH

BellSouth Telecommunications, Inc.
Regulatory & External Affairs
150 South Monroe Street
Suite 400
Tallahassee, FL 32301

Nancy H. Sims
Director

850 577 5555
Fax 850 222 8640

Nancy.Sims@Bellsouth.com

November 30, 2005

Mr. Rick Moses
Chief, Bureau of Service Quality and
Enforcement
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: 18800 NE 29th Avenue, Aventura, Florida - East Tower,
309 units, and West Tower, 191 units.

Dear Mr. Moses:

The above development is under construction by The Related Group. We understand that first residents are expected at the development soon.

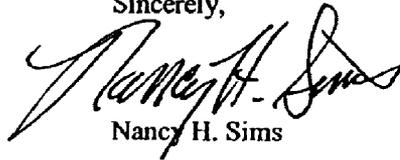
BellSouth has been advised that The Venture Community Services LLC (VCS) has entered into an agreement with The Related Group, which grants to VCS certain exclusive rights to use riser cables and other support structures in the development. BellSouth has been advised that, due to this agreement, BellSouth cannot place its own cable in riser cables and to units in the development. It is our understanding that VCS has contracted with Optical Telecommunications, Inc. to provide telecommunications service to residents and with HControl to provide cable tv, data and other service to residents.

BellSouth advised the developer and the representative from Optical and HControl that, due to the restriction on BellSouth's placement of cable in the building, BellSouth would be unable to serve residents. In an attempt to arrange for BellSouth service at the development, Optical suggested it would place a certain number of copper pairs per floor for BellSouth's use. While BellSouth appreciated the attempts to arrange for BellSouth service, as detailed in the attached letters among BellSouth, The Related Group and Optical dated September 23, September 27 and October 6, 2005, the proposed arrangements are not viable or acceptable to BellSouth.

It appears that necessary pathways, equipment space in the first floor telecommunications room and applicable special construction charges will be provided to BellSouth so that BellSouth can provide requested MetroEthernet service to HControl at the development. Assuming this is the case, and any other applicable conditions are satisfied, BellSouth will provide this service.

Due to the restriction noted above, we are writing to advise the Commission that BellSouth is not in a position to serve residents or others that may request services (e.g. for elevator lines) within the buildings. If a customer inquires, BellSouth will advise that the developer has not granted rights to BellSouth necessary for BellSouth to place facilities to serve, such that the customer's order cannot be filled. BellSouth will restrict the addresses in the development. After a certain time, the then-existing infrastructure will make it difficult and costly to install facilities, such that BellSouth may be unable to install facilities even if rights are granted later. Thus, BellSouth would need to assess that issue as well as others in connection with assessing whether it would serve the development if such rights were granted later.

Sincerely,

A handwritten signature in cursive script, appearing to read "Nancy H. Sims".

Nancy H. Sims

Attachments

**Cc: Ivan Heredia, The Related Group
Mario Bustamante, Optical Telecommunications, Inc. and H Control**



BellSouth Telecommunications, Inc. 305 260 8259
600 N.W. 79 Avenue Fax: 305 262 4878
Room 336
Miami, FL 33126

October 6, 2005

VIA FACSIMILE AND U.S. MAIL

Mario Bustamante,
Optical Telecommunications, Inc.
5000 SW 75th Avenue, Suite 103
Miami, Florida 33155

Re: The Venture – 18800 NE 29th Avenue, Aventura, Florida - East Tower,
309 units, and West Tower, 191 units.

Dear Mr. Bustamante:

Thank you for your September 27, 2005 letter. Responses to a few questions and points raised in your letter are below.

- (1) We do understand your disagreement with BellSouth's statement in our September 23 letter that "BellSouth was advised that it could not place its own facilities in the buildings and to resident units." While BellSouth has been generally told that it can place facilities to the equipment room on the first floor of the East Tower to fill orders from or for H Control or Optical, *BellSouth has been advised that it cannot place its own riser cable and network terminating wire to residents' units.* If this position has changed, please let us know.
- (2) Given the restriction noted in (1) above, your letter suggests that Optical has come up with various proposals for BellSouth's use of Optical's copper pairs to serve end user residents that BellSouth has rejected but that are "in line" with the interconnection agreement. We disagree. As stated in our September 26 letter: While an interconnection agreement between Optical Telecommunications does provide that Optical will make network terminating wire available to BellSouth in a building where BellSouth does not have its own wire for such recurring and non-recurring payments, the agreement does not require such use by BellSouth and it does not contemplate only 10 pairs per floor.
- (3) Your letter seems to modify our prior conversations, by stating that Optical would provide to BellSouth a sufficient number of pairs necessary to provide service to

resident that requests service, just starting with providing to BellSouth 10 pairs per floor. Previously, we had understood the "offer" to be only 10 pairs per floor (you mentioned that there were space limitations that prevented placement of more). If placement of two pairs to each unit for BellSouth's exclusive use is, in fact, possible, such that the pairs could be provided exclusively to BellSouth for so long as needed for a one-time advance payment -- such that the pairs could be "connected through" to each unit in advance and such that BellSouth could use them without running orders or requests through Optical in each case -- please let us know. If not, then the valid issues/problems described in our September 26 letter have not been addressed.

- (4) We do not understand the paragraph of your letter relating to the resale provisions in the interconnection agreement. The resale provisions contemplate resale by Optical of BellSouth service. Here, if BellSouth cannot place cable or make use of a third party's cable on agreeable terms to provide service to residents, then there is no such service to residents to "re-sell" per those provisions. Thus, the facts here do not provide for invoking those provisions. Further, the apparent goal of these discussions is to arrange for residents to be able to choose BellSouth as their provider for telecommunications service. If Optical were to resell BellSouth service under the resale provisions, then Optical, not BellSouth, would be the resident's provider.
- (5) Your letter dismisses BellSouth's request for rack space sufficient to provide DSL service, stating that you don't think anyone is concerned about DSL service at this time, since there are many places where BellSouth does not provide DSL service anyway. BellSouth is concerned about DSL service and the ability to provide it to residents at The Venture if BellSouth is providing voice service to them. If BellSouth were provisioning to The Venture in the ordinary course, BellSouth would provision for DSL.

If you have any questions, please let us know.

Sincerely,



Orlando Soto

Cc: Ivan Heredia, The Related Group
Rafael Millares, The Related Group
Frank Valdez, BellSouth
Rosa Perez, BellSouth



September 27th, 2005

Orlando Soto
BellSouth Telecommunications Inc.
600 NW 75th Avenue
Room 336
Miami, FL 33128

Dear Mr. Soto:

Your letter to Mr. Ivan Heredia dated September 26th contains certain comments that require a response from us since they are obviously based on erroneous or a lack of information. As we are sure you are aware, the law requires that you negotiate with us in good faith and prohibits you from using your position as the incumbent carrier in an effort to prevent competition.

First, let me give you some additional information regarding the relationships between our various entities. The company that executed the agreement with The Related Group is The Venture Community Services LLC (VCS), not Optical Telecommunications Inc (OTI) or HControl Corporation. OTI is the regulated company that sells only regulated services and HC is the company that provides unregulated services. I am sure you are familiar with this structure since it is the same thing that BellSouth does.

VCS contracted OTI to provide regulated services (telephone) to The Venture and contracted with HControl to provide unregulated services (cable TV, security, home automation and Internet). Therefore, when you discuss telephone services you are dealing with a certified CLEC that has an Interconnect Agreement that governs how the relationship is handled. When discussing unregulated services, you are dealing with HC as a subcontractor of VCS. These relationships are important in understanding why and how each entity interfaces with the different divisions of BellSouth.

In the first paragraph of your letter, you continue to state that "BellSouth was advised that it could not place its own facilities in the buildings and to resident units" when in fact we have asked you to place facilities in the buildings and work with us on in coordinating the use of facilities to resident units. We have proposed many ways to provide copper pairs to the units of the residents that wish to purchase your service; however, you always come up with a reason why you can't do it even when our proposals are in line with the interconnect agreement.

A good example is the 10 pair limitation that would cause some people to be deprived of your service even though their neighbor may have it or even worse, an order could be

5600 SW 75th Avenue • Suite 103 • Miami, Florida 33155
Telephone: 786-787-7777 • Fax: 786-888-7778

cancelled for lack of facilities. What we said is that we will provide you with copper pairs to all units that request it and we felt a reasonable number of pairs to be made available to each phone closet in anticipation of receiving orders was 10 pairs. These pairs would be a point to point connection from your facilities in the telecom room to the end user's junction box inside his unit but if the person cancels, the pair could be used for another user. We even volunteered to use the same splitter you use for testing purposes.

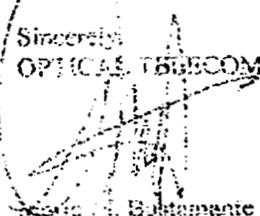
We understand your regulatory issues and your concerns regarding limitations of your back office system such as being unable to actually pay for the use of these copper pairs that we have agreed to install at our expense and so we suggested handling the orders under the Resale Section of the Interconnect Agreement. The reason there is a complete section in the standard agreement relating to the resale of BellSouth services is because it is commonly done and an integral part of the agreement. We are not proposing some new sort of "middleman" arrangement with some evil cable operator, but rather we propose you install the facilities necessary so we can resell BellSouth analog line service to those who wish to buy it and do it under the guidelines of the Interconnection Agreement. Are you going to deny our right to resell BellSouth services as outlined in the agreement?

You stated that the minimum space required to provide analog line service is two racks, the third rack is for DSL services and we stated that we could guarantee enough space for two racks and would do our best to provide the third rack, however I don't think anyone is concerned about DSL service at this time, since there are many places where BellSouth does not provide DSL service anyway.

The issues relating to the Metro Ethernet service will be addressed after our discussion with Sharon Hindman since OTI's services will be delivered over T-1 or DS3 circuits as required and are not related with the Metro Ethernet order. We notified Frank Valdez sometime ago that we had some T-1 orders coming shortly and we wanted him to be aware so he could plan capacity accordingly.

At the end of your letter you state that if the proposed arrangements can be modified to address your concerns you may still be able to provide service; if that means you are willing to negotiate in good faith, I suggest we meet again to discuss your issues in more detail and agree to an arrangement that is beneficial to the future residents of The Venture. We remain flexible and open to your suggestions on how we can make BellSouth service available at The Venture.

Sincerely,
OPTICAL TELECOMMUNICATIONS INC.


Rafael A. Millares
Chief Executive Officer

Cc: Ivan Heredia, Rafael Millares and Anthony Tzamtzis

5000 SW 75th Avenue • Suite 103 • Miami, Florida 33155
Telephone: 786-787-7777 • Fax: 786-888-7778



BellSouth Telecommunications, Inc. 305 280 8200
600 N.W. 79 Avenue Fax 305 252 4978
Room 338
Miami, FL 33125

September 23, 2005

VIA U.S. MAIL AND FACSIMILE
305-445-1834

Ivan Heredia
Project Director, VP
The Related Group
2828 Coral Way, PH 1
Miami, Florida 33145

Re: The Venture - 18800 NE 29th Avenue, Aventura, Florida - East Tower,
309 units, and West Tower, 191 units.

Dear Mr. Heredia:

This is in follow-up to recent meetings including representatives of The Related Group, BellSouth, Optical Telecommunications, Inc., and H Control Corporation related to The Venture. BellSouth has been advised that Optical Telecommunications and/or H Control have been granted exclusive rights by The Related Group to place facilities in riser cables and other support structures, and in the telecommunications rooms, in The Venture. Accordingly, BellSouth was advised that it could not place its own facilities in the buildings and to resident units. This information was provided to BellSouth on various occasions, including at an August 9, 2005 meeting with Rafael Millares and Anthony Tzamtzis of The Related Group and others.

Mario Bustamante, on behalf of the company that will own and place cable in the buildings to the units (we are not sure which of the two companies this will be, Optical Telecommunications or H Control, so have referred to that company as "Cable Owner" below), has offered to BellSouth use of certain of the Cable Owner's cable and space in the telecommunications room on the first floor of the East Tower for BellSouth's use to provide services to a limited number of residents that request service from BellSouth. While BellSouth appreciates the proposed arrangements, for reasons previously discussed with Mr. Bustamante, some of which are outlined below, BellSouth is unable to agree to the proposed arrangements and will be unable to provide service to residents that may request BellSouth service. Also, given the restrictions in the buildings, BellSouth will be unable to provide other services that may be requested by The Related Group, for example, elevator lines. We mention this, although no orders for such lines are now pending.

- Mr. Bustamante offered 10 copper pairs to each floor (we understand that there will be 30 units per floor in each building) for BellSouth's use for a nonrecurring

payment and recurring payments per month for each pair. Mr. Bustamante rejected BellSouth's suggestion of a one-time upfront payment for the availability of pairs to each unit for BellSouth's exclusive use (i.e., no prior communication with the Cable Owner would be required to access and use the pairs). These points are important to BellSouth, as BellSouth cannot be in a position where it can only serve a selected number of units for many reasons, including customer service and operational reasons. The company does not have a mechanism for "restricting" orders after the 10th pair on a floor is used, so orders that BellSouth would be unable to fill might "go through" only to be rejected later for lack of facilities. Nor does the company want to be in a position of explaining to customers why their orders for service or for additional lines cannot be filled (especially when their neighbor or they may already have BellSouth service). In addition, since BellSouth does not know which units those pairs might serve, BellSouth would be unable to "connect through" those pairs to the units on the front end, which BellSouth normally does with its own facilities. If pairs are not "connected through," then each service order using the pairs would require a dispatch by technicians to "turn up" the service. These dispatches are time consuming and costly. Further, the company does not currently have a mechanism in place to administer the proposed recurring payments. When BellSouth places its own facilities to serve residents, of course, these issues are not raised.¹

- Mr. Bustamante advised that space for two BellSouth racks in the telecommunications room on the first floor in the East Tower would be made available to BellSouth at no cost. The East Tower is where we understand H Control would like BellSouth to "take" the Metro Ethernet service ordered by H Control from BellSouth (which service is discussed below). BellSouth needs one rack space or space for a wall mount (approximately 4 feet by 4 feet) in the East Tower for the equipment to provide the Metro Ethernet service to H Control. In addition, BellSouth would need to place two additional racks in the East Tower and three racks in the West Tower to provision other BellSouth service to residents. Thus, the space proposed by Mr. Bustamante in the East Tower would be insufficient for service to residents, even if the 10 pairs per floor and other terms were acceptable.

¹ While an interconnection agreement between Optical Telecommunications does provide that Optical will make network terminating wire available to BellSouth in a building where BellSouth does not have its own wire for such recurring and non-recurring payments, the agreement does not require such use by BellSouth and it does not contemplate only 10 pairs per floor. Further, it is unclear if the Cable Owner here is even Optical Telecommunications, the party to that agreement, as opposed to H Control.

- Mr. Bustamante also suggested that the Cable Owner act as the "middleman", receiving orders from customers that want BellSouth service and then passing them along to BellSouth (or that BellSouth would otherwise need to communicate with the Cable Owner when BellSouth receives a customer order that will require use of one of the pairs). For operational and customer service reasons, among other reasons, BellSouth is not interested in an arrangement that contemplates a "middleman" receiving orders from its customers or that requires communication/approval in advance in each case from the Cable Owner.

On a related note, H Control has submitted a service order to BellSouth for Metro Ethernet service, which BellSouth understands the company plans to use for its provision of services to residents. There are some details to be addressed regarding the service order (for example, the appropriate tariff from which the service should be ordered and imposition of special construction charges for the order pursuant to applicable tariff provisions, as the Metro Ethernet service is not otherwise available at the building and BellSouth has no other requirement for the facilities to be constructed for the service). Assuming those issues are properly addressed and that BellSouth is provided, at no cost, sufficient space in the equipment room as noted above and conduit from the property line to the first floor equipment room in the East Tower in which to place its fiber for the Metro Ethernet service, BellSouth will provide that service.² Shamon Hindman, Associate Sales Manager for BellSouth Business, will be discussing these issues with representatives of H Control.

If you have any questions, please let us know. Also, if the proposed arrangements can be modified to address all of BellSouth's concerns, please let us know, as that may enable BellSouth to provide service to residents.

We look forward to serving future projects of The Related Group and regret that we will be unable to serve residents at this project.

Sincerely,



Orlando Soto

Cc: Rafael Millares, The Related Group
 Mario Bustamante, Optical Telecommunications/H Control, 5000 SW 75th
 Avenue, Suite 103, Miami, Florida 33155, Fax: 786-888-7778
 Frank Valdez
 Rosa Perez

² This also assumes that no other problems arise, such as, for example, difficulty securing permits from the City of Aventura for placement of necessary facilities in City rights-of-way.

FILE COPY



BellSouth Telecommunications, Inc.

Suite 400
150 South Monroe Street
Tallahassee, Florida 32301

Phone (850) 222-1201
Fax (850) 222-8640

Nancy H. Sims
Director-Regulatory Relations

September 12, 2005

VIA FACSIMILE AND U.S. MAIL

Mr. Rick Moses
Chief, Bureau of Service Quality and
Enforcement
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Windsor Falls and Deerfoot Point Developments, Jacksonville, FL

Dear Mr. Moses:

The above developments are new developments under construction by D.R. Horton in Jacksonville, Florida. We understand that the developments will include approximately 596 and 93 residential units, respectively. We also understand that first residents are expected in Deerfoot Point in or about October 2005. We do not know when first residents are expected at Windsor Falls.

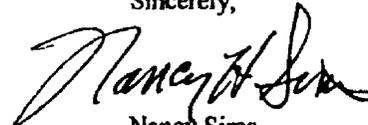
Based upon information we have received from D.R. Horton and Capitol Infrastructure, LLC, it is our understanding that D.R. Horton has entered into an arrangement with Capitol to be the exclusive party installing communications facilities in these developments. An RFP from Capitol indicates that Capitol is authorized to arrange for the provision of video, voice and data service in the developments and has or will install infrastructure in the developments that the "winning" bidder will be required to use.

We are writing to advise the Commission that, under these circumstances, BellSouth is not in a position to serve customers in the development. If a customer inquires, BellSouth will advise that the developer has not granted rights to BellSouth necessary for BellSouth to place facilities to serve, such that the customer's order cannot be filled. BellSouth will restrict the addresses in the developments. After a certain time, the then-existing infrastructure will make it difficult and costly to install facilities, such that BellSouth may be unable to install facilities even if rights are granted later. Thus, BellSouth would need to assess that issue as well as others in connection with assessing whether it would serve the developments if such rights were granted later.

Assuming BellSouth continues to be unable to place facilities, whatever arrangements the developer has made or makes will be arrangements that are likely to effectively result in an exclusive telecommunications provider in the development, and the inability of BellSouth to serve customers who request service from BellSouth.

We recently sent a letter to you similar to this letter, notifying of BellSouth's need to restrict service to a new condominium in South Florida due to a developer's agreement with another communications provider. In that letter, we indicated that, prior to the developer providing information to BellSouth regarding the agreement, the developer had worked with BellSouth for some time regarding provision of service by BellSouth to the condominium, thus resulting in costs incurred by BellSouth to serve. Here, again, BellSouth incurred such costs prior to being notified of the arrangements at these developments. BellSouth will be seeking such costs from the developer. We would like to make the Commission aware of such circumstances and of the fact that BellSouth is becoming increasingly concerned about them.

Sincerely,



Nancy Sims

Cc: D.R. Horton, Attention: George G. Goodhue, Director
Of Land Development - North, 9456 Phillips Highway,
Jacksonville, FL 32256



BellSouth Telecommunications, Inc.
Suite 400
150 South Monroe Street
Tallahassee, Florida 32301

Phone (850) 222-1201
Fax (850) 222-8640

Nancy H. Sims
Director-Regulatory Relations

Mr. Rick Moses
Chief of the Bureau of Service Quality
Division of Competitive Service
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

July 29, 2005

Re: The Registry at Michigan Park, Orlando, FL

Dear Rick:

This letter is to notify you that BellSouth has been forced to restrict the property located at 5550 E. Michigan Street, Orlando, Florida (called The Registry at Michigan Park) from the provision of telecommunications services. This building is within BellSouth's franchised territory and is an apartment complex including approximately 264 units.

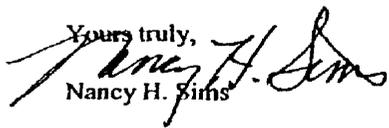
In early 2004, BellSouth was advised that the landlord, The Registry at Michigan Park, LLC, had made an exclusive agreement with Orlando Telephone Company ("OTC") to serve residents at the complex, such that BellSouth would not be permitted to place facilities to serve.

BellSouth has determined that it inadvertently provided service to two residential customers at the building using what we have been advised are OTC's facilities. This service was installed on June 2 and June 4, 2005. OTC notified BellSouth to object and direct BellSouth to cease providing the service. Using the letters attached, BellSouth will notify the two customers that BellSouth will need to terminate service given the arrangements that the landlord has made with OTC at the building. BellSouth has also addressed the issue that gave rise to the inadvertent provision of service to the two customers.

BellSouth will advise customers requesting service at this address that the property is restricted, and BellSouth will not be able to honor their request for service.

If you have any questions or comments concerning this matter, please contact Wayne Tubaugh at (850) 224-5128 or me at (850) 222-1201.

Yours truly,


Nancy H. Sims

Attachments

BELLSOUTH

BellSouth Telecommunications, Inc.
150 West Flagler Street
1815
Miami, FL 33130
John.Merlino@bellsouth.com

John Merlino
Manager
Regulatory & External Affairs
305 347 5428

July 28, 2005

Raymond Glaudell
5550 E. Michigan Street
Apt. 1106
Orlando, Florida 32812

Re: BellSouth Service – Telephone Number 407-382-8044

Dear Mr. Glaudell:

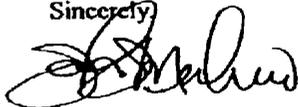
We regret to inform you that, as of August 31, 2005, BellSouth Telecommunications, Inc. will no longer be in a position to continue to provide telephone service to you at The Registry at Michigan Park apartment complex.

Although BellSouth would like to continue to provide service, BellSouth has been advised that your landlord has made an exclusive arrangement with Orlando Telephone Company to serve residents at the complex. So, the landlord is restricting BellSouth's ability to provide service at the complex.

Please contact Orlando Telephone Company at 407-996-8900 to establish your new service. Please do so prior to August 31, 2005 to ensure that you have new service before BellSouth's service is discontinued. You should also contact your long distance provider to ensure that your current long distance plan is not changed as a result of the change in your local service provider.

We apologize for any inconvenience and hope that BellSouth will be able to serve your needs in the future.

Sincerely,



John Merlino

BELLSOUTH

BellSouth Telecommunications, Inc.
150 West Flagler Street
7815
Miami, FL 33138
John.Merlino@bellsouth.com

John Merlino
Manager
Regulatory & External Affairs
305 347 5428

July 28, 2005

Michael Melton
5550 E. Michigan Street
Apt. 3212
Orlando, Florida 32812

Re: BellSouth Service – Telephone Number 407-737-1628

Dear Mr. Melton:

We regret to inform you that, as of August 31, 2005, BellSouth Telecommunications, Inc. will no longer be in a position to continue to provide telephone service to you at The Registry at Michigan Park apartment complex.

Although BellSouth would like to continue to provide service, BellSouth has been advised that your landlord has made an exclusive arrangement with Orlando Telephone Company to serve residents at the complex. So, BellSouth's ability to provide service at the complex has been restricted.

Please contact Orlando Telephone Company at 407-996-8900 to establish your new service. Please do so prior to August 31, 2005 to ensure that you have new service before BellSouth's service is discontinued. You should also contact your long distance provider to ensure that your current long distance plan is not changed as a result of the change in your local service provider.

We apologize for any inconvenience and hope that BellSouth will be able to serve your needs in the future.

Sincerely,



John Merlino



BellSouth Telecommunications, Inc.
Suite 400
150 South Monroe Street
Tallahassee, Florida 32301

Phone (850) 222-1201
Fax (850) 222-8640

Nancy H. Sims
Director-Regulatory Relations

August 2, 2005

Mr. Rick Moses
Chief of the Bureau of Service Quality
Division of Competitive Service
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Blue Condominium – 601 NE 36th Street, Miami, Florida

Dear Rick:

This letter is to notify you that BellSouth has been forced to restrict the above property from the provision of telecommunications services. This building is within BellSouth's franchised territory.

Recall that we sent a July 22, 2005 letter to Beth Salak at the Commission, with a copy to you, regarding this property. At that time, we were awaiting a response from Hyperion, the developer, as to whether it would seek to restrict BellSouth from the building. BellSouth had, for some time, been engaging in work to serve the building, including incurring labor and material costs to do so and placing wire in the building.

By letter dated July 22, 2005 to BellSouth, a copy of which is attached, Hyperion advised BellSouth that it would be restricted from serving the building since "Hyperion is moving forward with Broadstar." Our assumption is that the agreement with Broadstar is exclusive, as BellSouth already had facilities in the building and was prepared to complete them to serve, whether or not Broadstar was also serving.

BellSouth will advise customers requesting service at this address that the property is restricted, and BellSouth will not be able to honor their request for service.

The July 22 letter also says that counsel for Hyperion, Mr. Steimel, discussed this matter with the PSC staff and suggests that staff indicated that the FPSC does not typically take a role in such matters, except perhaps to monitor BellSouth's proper reimbursement for non-recoverable expenses. The letter does not identify PSC staff members with whom Mr. Steimel spoke, nor does it detail the substance of the conversation(s). Since we have no additional information about the conversation(s) between PSC staff and Mr. Steimel on this issue, we ask that you

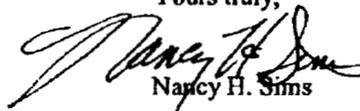
advise us regarding the questions asked and PSC staff's responses, so we have more insight regarding PSC staff's approach and position on this type of circumstance. We are concerned if the FPSC indicated that it would not take a role in a situation where, due to apparent insistence from a competitive carrier, a developer entered into what appears to be an exclusive deal with the carrier, thus restricting the carrier of last resort (or any other carrier, for that matter) from serving residents in the building that request service and resulting in the inability of residents to secure service from any carrier other than the developer-selected carrier.

Also attached is our July 29, 2005 letter to Mr. Steimel seeking reimbursement of \$51,425 in unrecoverable costs BellSouth incurred to serve Blue Condominium.

As indicated in our July 22 letter to Ms. Salak, this is an issue that may justify more formal legal or regulatory actions.

If you have any questions, please let us know.

Yours truly,



Nancy H. Sims

Cc: Beth Salak, Director – Division of Competitive Markets & Enforcement, Florida Public Service Commission
Wayne Tubaugh

Attachments

Greenberg Traurig

Walter Stalmei, Jr.
Tel. 202.462.4883
Fax 202.331.3101
stalmeiwt@gtlaw.com

July 22, 2005

VIA FACSIMILE
305-375-0208

Sharon R. Liebman, Esq.
BellSouth Telecommunications, Inc.
150 West Flager Street, 1910
Miami, Florida 33130

Re: Blue Condominium

Dear Sharon:

This is to formally respond to your letter dated June 30, 2005, and to address issues that we have discussed to date.

I appreciate the time you have taken to discuss Blue Condominium issues. I have analyzed the issues; had extensive discussions with my client and Florida Public Service Commission (FPSC) Staff; and reviewed BellSouth's General Subscriber Tariff, Part A5.

Hyperion appreciates BellSouth's interest in an agreement to provide service to Project Blue. However, Hyperion has been operating under an executed letter of understanding with Broadstar for several months. As a result of its continued letter of understanding with Broadstar, and amid serious timing concerns, Hyperion is moving forward with Broadstar. Even if Hyperion was interested in pursuing further an arrangement with BellSouth, is not in a position to change strategy at this late date without violating the terms of the Broadstar understanding and without serious risk to Project Blue completion dates.

Regarding your June 30 letter requesting reimbursement, please be advised there are no orders or written or other understandings between Hyperion and BellSouth for permanent service to the building. After a review of all materials and in the absence of any written agreements we concluded that BellSouth's wiring of the premises was unauthorized, and/or went beyond authorization for limited interim service during construction.

Nevertheless in the spirit of cooperation and closure Hyperion is open to reimbursing BellSouth for its reasonable costs. Our inspection of the building reveals that BellSouth has pulled one set of CAT 5E (4 pairs) single wire from the distribution room to the units on the 7th to the 32nd Floors. This wire is bound and tied and not connected to anything. We located no wire in the main risers; and no wire, terminal blocks or other equipment in the

- ALBANY
 - AMSTERDAM
 - ATLANTA
 - BOCA RATON
 - BOSTON
 - CHICAGO
 - DALLAS
 - DENVER
 - FORT LAUDERDALE
 - LOS ANGELES
 - MIAMI
 - NEW BRUNSWICK
 - NEW YORK
 - ORANGE COUNTY, CA
 - ORLANDO
 - PHILADELPHIA
 - PHOENIX
 - SILICON VALLEY
 - TALLAHASSEE
 - TYSONS CORNER
 - WASHINGTON, D.C.
 - WEST PALM BEACH
 - WASHINGTON
 - DUNCH
- www.gtlaw.com

Sharon R. Liebman, Esq.
July 22, 2005
Page 2

communication rooms, the ground floor communication room or the conduits leading to the curb termination.

While your letter of June 30 generally outlines BellSouth's costs, we request a specific breakdown prior to providing reimbursement. BellSouth has not provided estimated or actual costs to Hyperion to date, as discussed in Section A5.2.2 of the tariff and elsewhere, so we will require a reasonable itemization of expenses incurred. In this regard it is not appropriate to include costs associated with BellSouth's provision of elevator, fire and emergency communications services to Blue during construction, as those costs for normal services are recovered through BellSouth's regulated rates.

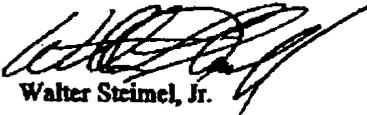
I have discussed this matter with the FPSC. My understanding is that the FPSC typically does not take a role in matters such as these, except perhaps to monitor BellSouth's proper reimbursement for only reasonable non-recoverable expenses.

Hyperion values its relationship with BellSouth and respects BellSouth's obligations to provide service as required by law. Hyperion prefers to keep a good relationship with BellSouth and has other development projects in the pipeline and is open to discussing BellSouth's provision of service to those developments.

Hyperion will have little or no use for the work BellSouth has done at Project Blue, does not believe it is obligated for any costs, and is making an offer to compromise solely in the interest of cooperation and closure. It is of course BellSouth's prerogative to accept the good faith offer to settle, or to pursue this further. However, I must convey that Hyperion will aggressively respond to any attempt by BellSouth to interfere in the timely completion of Project Blue.

We can resolve this cost issue quickly if BellSouth will provide Hyperion with an itemization of its adjusted reasonable costs for installed wiring. Hyperion expects to receive this itemization as soon as possible so that it can resolve payment of those costs and close this matter.

Very truly yours,


Walter Steimel, Jr.

WES

cc: Hyperion Development Group, Inc.

BellSouth Telecommunications, Inc.
Museum Tower Building
150 West Flagler Street
1910
Miami, FL 33130

sharon.liebman@bellsouth.com

Sharon R. Liebman
Attorney

305 347 5570
Fax 305 375 8209

July 29, 2005

VIA FACSIMILE AND U.S. MAIL.

Walter Steimel, Jr.
Greenberg Traurig
800 Connecticut Avenue, NW
Suite 5001
Washington, D.C. 20006

Re: Blue Condominium

Dear Walt:

We were disturbed and disappointed to receive your July 22, 2005 letter. Based upon the letter, it is our understanding that Hyperion is restricting BellSouth from providing service at the Blue Condominium building.

Your reliance on the absence of any written agreement or other understandings between Hyperion and BellSouth for service to the building is misplaced. There were, in fact verbal agreements and understandings between Hyperion and BellSouth, upon which BellSouth reasonably relied in incurring costs and placing facilities to serve the building. The suggestion in your letter that BellSouth's placement of wiring in the building was "unauthorized" or "went beyond authorization for limited interim service during construction" is wholly inaccurate and particularly disturbing; BellSouth was, at Hyperion's prior request and in furtherance of its regulatory obligations, working diligently to ensure that timely service would be available to new residents.

You requested a more detailed explanation of BellSouth's costs incurred to provide service to the building, so that Hyperion could reimburse BellSouth for those costs. The requested information follows.

- (1) Placement of conduit up to property line (no use for conduit, except to serve the building) - \$1,695 for engineering by outside contractors; \$22,479 for labor; \$5,746 for material (total: \$29,920)
- (2) Riser cable (not placed, but these costs were incurred and are otherwise unrecoverable) - \$1,911 for engineering by outside contractors; \$1,219 for material (total: \$3,130)
- (3) Placement of wires in building - \$17,108 for labor, \$30 for miscellaneous material and \$516 for engineering by outside contractors (total: \$17,654)
- (4) Fiber and equipment to have been placed in equipment room (not placed, but these costs were incurred and are otherwise unrecoverable) - \$721 for labor

Total: \$51,425

This amount is less than the amount in our June 30, 2005 letter to Mr. Khan, as we have sought to recover incurred costs where possible (for example, use of material ordered for Blue Condominium elsewhere, where possible). Further, we have not even sought to calculate and include costs for the engineering time for our BellSouth employees, which would increase the sum above. Attached are portions of internal construction reports, cross referenced to the numbers above, evidencing these costs. As the reports are proprietary, we are only providing select and relevant portions.

We do not understand your reference to the inappropriateness of including costs associated with BellSouth's provision of elevator, fire and emergency communications to Hyperion during construction. BellSouth is not currently providing such service and is not in a position to do so, given Hyperion's restriction of BellSouth from the building. Also, given this restriction, it is unclear how we would be able to provide service to Broadstar if Broadstar requests TIs from BellSouth into the building to facilitate its provision of service (such a request for TIs from a competitive carrier is typical).

While we strongly believe Hyperion has acted inappropriately here, we appreciate the indication in your letter that Hyperion values its relationship with BellSouth and prefers to keep good relations with BellSouth for other projects in the pipeline. In light of this, we expect that a check in above sum from Hyperion will be forthcoming *no later than August 22*. As I believe Hyperion is aware, Juan Garcia with BellSouth Residential Solutions is an appropriate contact with BellSouth for other projects. His telephone number is 786.218.8081.

Sincerely,



Sharon R. Liebman

Attachments

cc: Orlando Soto
Harold Elosegui
Rosa Perez
Gina Santibanez

2/2/2005

08:50

SOUTH FL TURF ENG → 3053750209

NO. 079

007

PAGE 2

ANALYSIS OF CONTRACT PROPOSAL REPORT
BCN REQUEST

①

TI	SRCB	ACTUAL
	DIG	1,695
	LABI	22,479
	MATH	5,746
	TENC	0
	TOTAL	29,920

ACTUAL
29,920

ANALYSIS OF CONTRACT PROPOSAL REPORT

2

TI SRCE	ACTUAL
EMAT	0
MATN	0
TENG	0
TLB1	0
*TOTAL	0
EMAT	0
ENG	1,911
MATN	1,219
TENG	0
TLB1	0
*TOTAL	3,130
*AREA \$	3,130

2005

08:50

SOUTH FL TURF ENG + 3053758209

NO.079

009

ANALYSIS OF CONTRACT PROPOSAL REPORT

DATE: 07/26/05

11

3

PT	SRCE	ACTUAL
	EMAT	360
	MATN	30
	TLB1	17,108
	*TOTAL	17,498
	EMAT	0
	ENG	156
	MATN	0
	TENG	0
	TLB1	0
	*TOTAL	156
	EMAT	0
	MATN	0
	TLB1	0
	*TOTAL	0
	*AREA 5	156
	*TBO 5	17,654

ANALYSIS OF CONTRACT PROPOSAL REPORT

4

TI	SACE	ACTUAL
	EMAT	0
	LABI	721
	MATN	0
	TENG	0
	TLBI	0
	*TOTAL	721
	EMAT	0
	MATN	0
	TENG	0
	TLBI	0
	*TOTAL	0
	EMAT	0
	MATN	0
	TENG	0
	TLBI	0
	*TOTAL	0
	EMAT	0
	MATN	0
	TENG	0
	TLBI	0
	*TOTAL	0
	EMAT	0
	MATN	0
	TENG	0
	TLBI	0
	*TOTAL	0
	EMAT	0
	MATN	0
	TENG	0
	TLBI	0
	*TOTAL	0



BellSouth Telecommunications, Inc.
Suite 400
150 South Monroe Street
Tallahassee, Florida 32301

Phone (850) 222-1201
Fax (850) 222-8640

Nancy H. Sims
Director-Regulatory Relations

June 24, 2005

Mr. Rick Moses
Chief, Bureau of Service Quality and
Enforcement
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Timber's Run, Jacksonville, Florida

Dear Mr. Moses:

Timber's Run is a new development under construction by D.R. Horton in Jacksonville, Florida. We understand that the development will include approximately 120 residential units, and that the first residents are expected later this year.

Mr. Goodhue of D.R. Horton recently advised BellSouth that D.R. Horton is "going with Capitol Broadband" at this development, such that D.R. Horton is not interested in working with BellSouth for BellSouth to place facilities to serve customers at the development.

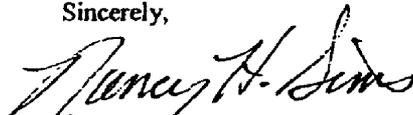
D.R. Horton did not refer us to Capitol to discuss possible arrangements to serve. We are unaware of the arrangements between Capitol and D.R. Horton. But, we assume they are similar to the arrangements between Capitol and the developer of Timothy's Landing, the subject of our June 22, 2005 letter to you, arrangements under which BellSouth is unable to serve customers at Timothy's Landing.

We are writing to advise the Commission that, under these circumstances, BellSouth is not in a position to serve customers in the development. If a customer inquires, BellSouth will advise that the developer has not granted rights to BellSouth necessary for BellSouth to place facilities to serve, such that the customer's order cannot be filled. BellSouth will restrict the addresses in the development pending any subsequent grant of rights. After a certain time, the then-existing infrastructure will make it difficult and costly to install facilities, such that BellSouth may be unable to install facilities even if rights are granted later.

Again, BellSouth does not know about the arrangements that the developer has made with Capitol, or that Capitol has made with other companies, for telecommunications service in the development. We know that Capitol is seeking service directly from BellSouth, as a BellSouth customer in the development.

Assuming BellSouth continues to be unable to place facilities, whatever arrangements the developer has made or makes will be arrangements that are likely to effectively result in an exclusive telecommunications provider in the development, and the inability of BellSouth to serve customers that request service from BellSouth.

Sincerely,



Nancy H. Sims

Cc: D.R. Horton, Attention: George G. Goodhue, Director
Of Land Development - North, 9456 Phillips Highway,
Jacksonville, FL 32256



BellSouth Telecommunications, Inc.

Suite 400
150 South Monroe Street
Tallahassee, Florida 32301

Phone (850) 222-1201
Fax (850) 222-8640

Nancy H. Sims
Director-Regulatory Relations

June 24, 2005

Mr. Rick Moses
Chief, Bureau of Service Quality and
Enforcement
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Herron Isles, Jacksonville, Florida

Dear Mr. Moses:

Herron Isles is a new development under construction by Matovina & Company ("Matovina") in Jacksonville, Florida. We understand that the development will include approximately 760 residential units and that first residents are expected soon.

BellSouth had been in contact with Matovina since early 2004 regarding service to this development. Chip Borstein (VP for Matovina & Company) signed a BellSouth Notice of Intent/Application for Service for Phase I of the development on April 28, 2004. BellSouth attended pre-construction meetings and began incurring costs to prepare to provide service to this development, including costs to design the job, costs to purchase material, payment to Jax Utilities Management to provide conduit under planned roadways for future cable placement and partial placement of cable.

But, in April 2005, Matovina requested that BellSouth stop activity to provide service in the development, indicating that a company called Capitol Broadband was to be the selected provider for services. At that point, BellSouth did cease activity to provide service to the development. Where possible, BellSouth re-allocated certain material it had ordered for this development to other jobs. The costs BellSouth incurred to provide service to this development (described above) less these re-allocated material costs total approximately \$98,000.

We assume that the developer's deal with Capitol for this development is similar to the deal referenced in our June 22, 2005 letter to you regarding Timothy's Landing, a different Matovina development where BellSouth is unable to provide service. But, we do not have details regarding the specific deal.

We are writing to advise the Commission that, under these circumstances, BellSouth is not in a position to serve customers in the development. If a customer inquires, BellSouth will advise that the developer has not granted rights to BellSouth necessary for BellSouth to place facilities to serve, such that the customer's order cannot be filled. BellSouth will restrict the

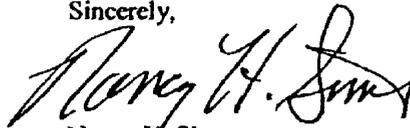
addresses in the development pending any subsequent grant of rights. After a certain time, the then-existing infrastructure will make it difficult and costly to install facilities, such that BellSouth may be unable to install facilities even if rights are granted later.

BellSouth does not know about the arrangements that the developer has made with Capitol, or that Capitol has made with other companies, for telecommunications service in the development. We know that Capitol is seeking service directly from BellSouth, as a BellSouth customer in the development.

The purpose of this letter is also to notify the Commission of BellSouth's detrimental and reasonable reliance upon prior representations and agreements by Matovina regarding placement of facilities to serve this development, resulting in approximately \$98,000 in as yet unreimbursed costs to BellSouth, as noted above. BellSouth believes that the developer is responsible to reimburse it for these costs and is concerned about future situations where developers similarly indicate that they wish for BellSouth to serve, but then indicate otherwise after BellSouth has incurred costs to serve. BellSouth may seek a signed "commitment" letter from developers to best position itself in these situations. We welcome any assistance the Commission can offer or any questions the Commission may have regarding this type of situation.

Assuming BellSouth continues to be unable to place facilities, whatever arrangements the developer has made or makes will be arrangements that are likely to effectively result in an exclusive telecommunications provider in the development, and the inability of BellSouth to serve customers that request service from BellSouth.

Sincerely,



Nancy H. Sims

Cc: Greg Matovina, Matovina & Company
2955 Hartley Road, Suite 108, Jacksonville, FL 32257



BellSouth Telecommunications, Inc. 850 222-1201
Suite 400 Fax 850 222-8640
150 South Monroe Street
Tallahassee, Florida 32301

Nancy H. Sims
Director - Regulatory Relations

June 22, 2005

Mr. Rick Moses
Chief, Bureau of Service Quality and
Enforcement
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Timothy's Landing, Jacksonville, Florida

Dear Mr. Moses:

Timothy's Landing is a new development under construction by Matovina & Company ("Matovina") in Jacksonville, Florida. We understand that the development will include approximately 420 residential units (townhouses) and that first residents are expected later this year.

When BellSouth inquired with Matovina about cable placement to serve the development, Matovina directed BellSouth to a company called Capitol. BellSouth learned that Matovina granted to Capitol Infrastructure, LLC exclusive rights to control certain blanket and perimeter easement areas within the development, areas that are necessary for cable placement to serve residents. Capitol indicated a willingness to grant rights to BellSouth to use the easement areas on certain conditions – for example, only after receiving "reasonable compensation" from BellSouth for use of the areas and, it seems, on a customer-by-customer basis subject to verification by BellSouth to Capitol of a service agreement between BellSouth and a customer.¹

¹ Capitol Infrastructure, LLC apparently secured such rights from a Grantor (we assume, Matovina or the related property owner) in an Easement and Memorandum of Agreement, which is Exhibit C to a Master Community Infrastructure Agreement provided by Capitol to BellSouth. We assume that the Agreement has, in fact, been executed. Paragraph 10 of Exhibit C reads as follows. We assume Capitol would be applying this Paragraph 10 in connection with granting rights to BellSouth to use the easement areas. Note the conditions below requiring, as a pre-condition to the grant of easement rights to a public utility, a valid bona fide service agreement with a resident and reasonable compensation to Capitol, and referring to video and voice, but not data, services.

If a resident within the Property enters into a valid bona fide service agreement with a franchise video provider or public utility in the state in which the Property is located with respect to regulated video or voice services respectively, as the case may be, Grantee will, upon request by such resident, public utility or regulated service provider, and subject to Grantee receiving reasonable compensation therefore, grant limited non-Infrastructure non-exclusive easement access rights to the Property to such public utility or franchise video provider sufficient to enable such provider to provide the regulated service to the end user on the Property during the term of such service agreement, such rights to be consistent with the provisions of Section 8 above.

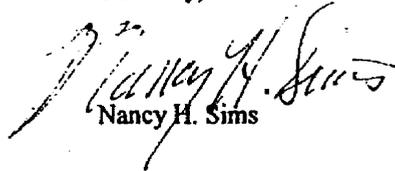
Based upon our communications with Capitol, it remains unclear to BellSouth whether Capitol would seek to limit the types of services BellSouth could provide to residents (e.g. voice, data) or if the provision of certain services would require that BellSouth enter into a separate agreement with Capitol and be provided over Capitol's infrastructure.

We are writing to advise the Commission that, under these circumstances, BellSouth is not in a position to serve customers in the development. If a customer inquires, BellSouth will advise that the developer has not granted rights to BellSouth necessary for BellSouth to place facilities to serve, such that the customer's order cannot be filled. BellSouth will restrict the addresses in the development pending any subsequent grant of rights. After a certain time, the then-existing infrastructure will make it difficult and costly to install facilities, such that BellSouth may be unable to install facilities even if rights are granted later.

BellSouth does not know about the arrangements that the developer has made with Capitol, or that Capitol has made with other companies, for telecommunications service in the development. We know that Capitol is seeking service directly from BellSouth, as a BellSouth customer in the development.

Assuming BellSouth continues to be unable to place facilities, whatever arrangements the developer has made or makes will be arrangements that are likely to effectively result in an exclusive telecommunications provider in the development, and the inability of BellSouth to serve customers that request service from BellSouth.

Sincerely,



Nancy H. Sims

Cc: Greg Matovina, Matovina & Company
2955 Hartley Road, Suite 108, Jacksonville, FL 32257



BellSouth Telecommunications, Inc.
Regulatory Relations
150 South Monroe Street
Suite 400
Tallahassee, FL 32301

nancy.sims@bellsouth.com

Nancy H. Sims
Director

850 222 1201
FAX 850 222 9640

January 24, 2005

VIA FACSIMILE AND U.S. MAIL

Mr. Rick Moses
Chief, Bureau of Service Quality and
Enforcement
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: The Preserve – NE 8th Avenue & NE 90th Street, Miami, Florida

Dear Mr. Moses:

The Preserve is a new development under construction by The Cornerstone Group in Miami, Florida. We understand that the development will include approximately 100 townhouses.

The Cornerstone Group has advised BellSouth that it does not want BellSouth to serve the development and that Broadstar will be the sole provider in the development.

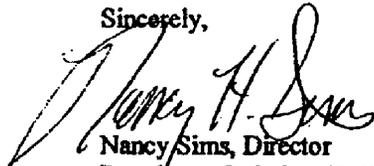
We are writing to advise the Commission that BellSouth is not in a position to serve customers in the development. If a customer inquires, BellSouth will advise that the developer has not granted rights to BellSouth necessary for BellSouth to place facilities to serve, such that the customer's order cannot be filled. BellSouth will restrict the addresses in the development pending any subsequent grant of rights. After a certain time, the then-existing infrastructure will make it difficult and costly to install facilities, such that BellSouth may be unable to install facilities even if rights are granted later.

BellSouth does not know exactly what arrangements the developer has made with Broadstar for telecommunications service in the development. Broadstar is seeking service from BellSouth in the development.

Sims/Moses
The Preserve, Page 2

Assuming BellSouth continues to be unable to place facilities, whatever arrangements the developer has made or makes will be arrangements that effectively result in an exclusive telecommunications provider in the development and the inability of BellSouth to serve customers that request service from BellSouth. Should you have any questions concerning this matter, please call Wayne Tubaugh at (850) 224-5128.

Sincerely,

A handwritten signature in cursive script, appearing to read "Nancy H. Sims". The signature is written in dark ink and is positioned above the typed name and title.

Nancy Sims, Director
Regulatory Relations/BellSouth
(850) 222-1201



BellSouth Telecommunications, Inc.
Regulatory Relations
150 South Monroe Street
Suite 400
Tallahassee, FL 32301

nancy.sims@bellsouth.com

Nancy H. Sims
Director

850 222 1201
FAX 850 222 8640

November 30, 2004

VIA U.S. MAIL

Mr. Rick Moses, Chief
Bureau of Service Quality & Enforcement
Division of Competitive Services & Enforcement
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Alhambra Cove -- Opa-Locka, Florida

Dear Mr. Moses:

Alhambra Cove is a development under construction by The Cornerstone Group in Opa-Locka, Florida. We understand that the development will include 250 townhouses.

The Cornerstone Group has advised BellSouth that it does not want BellSouth to serve the development and that Broadstar will be the sole provider in the development.

As we understand that the first certificates of occupancy are expected soon, we are writing to advise the Commission that BellSouth is not in a position to serve customers in the development. If a customer inquires, BellSouth will advise that the developer has not granted rights to BellSouth necessary for BellSouth to place facilities to serve, such that the customer's order cannot be filled. BellSouth will restrict the addresses in the development pending any subsequent grant of rights. After a certain time, the then-existing infrastructure will make it difficult and costly to install facilities, such that BellSouth may be unable to install facilities even if rights are granted later.

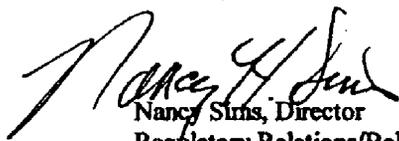
Broadstar has asked BellSouth to provide service to Broadstar to its point of presence in the development. Subject to receipt of necessary rights to place facilities to provide the requested service, BellSouth will do so.

Sims/Moses, Alhambra Cove
Page 2

Assuming BellSouth is unable to place facilities to provide service to residents at the development, whatever arrangements the developer has made or makes will be arrangements that effectively result in an exclusive telecommunications provider in the development and the inability of BellSouth to serve customers that request service from BellSouth.

Should you have questions concerning this matter, please call.

Sincerely,

A handwritten signature in cursive script, appearing to read "Nancy Sims".

Nancy Sims, Director
Regulatory Relations/BellSouth
(850) 222-1201



BellSouth Telecommunications, Inc. 850 224-5128
Suite 400 Fax 850 224-7608
150 South Monroe Street
Tallahassee Florida 32301
July 12, 2004

A. W. "Wayne" Tuboogh
Manager
Network

Mr. Rick Moses, Chief
Bureau of Service Quality and Enforcement
Division of Competitive Markets & Enforcement
Florida Public Service Commission
Tallahassee, FL 32399-0850

Re: Brickell Bay Plaza - Miami-Dade County, Florida

Dear Mr. Moses:

Brickell Bay Plaza is a new residential building under construction by Florida East Coast Realty (FECR) in Miami-Dade County, Florida. It is our understanding that the building will contain approximately 656 units and that first residents will move-in within the next month or two.

For some time (our correspondence dates back to March 2003), we have been communicating with FECR in an effort to secure the rights needed to place facilities to serve residents in the building. As indicated in the attached June 23, 2004 letter from FECR to Mr. Soto of BellSouth, FECR is confirming that it has made the business decision to select BroadStar Communications and Blonder Tongue Telephone to serve the building. The letter says that, if we contact them, they will make available to BellSouth access to the property, but that we must address the terms of such access with them as FECR's agent.

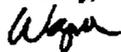
Based upon prior indications from FECR that we should communicate with BroadStar as FECR's agent, we inquired with BroadStar about access in various telephone conversations (our notes reflect no less than five telephone conversations since February 2004) and in an e-mail dated May 7, 2004. But, Broadstar has not provided a substantive reply, simply continuing to indicate that they will get back to us.

We are writing to advise the Commission that, at this point, and notwithstanding our efforts to secure rights needed to place facilities to serve or use a third party's facilities (if they meet BellSouth's specifications and needs) on acceptable terms, BellSouth is not in a position to serve customers at the building that request BellSouth service. If a customer inquires, BellSouth will advise that the developer has not granted to BellSouth the rights necessary for BellSouth to serve, such that the customer's order cannot be filled.

Tubaugh/Moses
Brickell, Page 2

Of course, BellSouth would like to be in a position to serve residents and stands ready to do so if, for example, rights to use third-party facilities that meet BellSouth's needs and specifications, and on other terms acceptable to BellSouth, are granted in a timely manner.

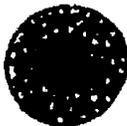
Sincerely,



Wayne Tubaugh

Attachment

Cc: Orlando Soto
Philip C. Dahan, Florida East Coast Realty, Inc.



FLORIDA EAST COAST REALTY, INC.

POST OFFICE BOX 012949 • MIAMI, FLORIDA 33101
TEL: (305) 358-7710 • FAX: (305) 358-1619

June 23, 2004

VIA FAX AND MAIL

Mr. Orlando J. Soto
BellSouth Telecommunications, Inc
600 N.W 79 Avenue
Room 336
Miami, Florida 33126

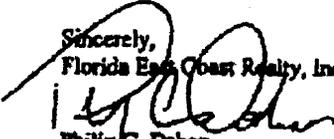
Re: The Club at Brickell Bay Plaza
1201 Brickell Bay Drive
Miami, Florida 33131

Dear Mr. Soto:

I am writing in response to your letter of May 26, 2004, addressed to Wayne Hollo regarding The Club at Brickell Bay Plaza project.

As you know, we have made the business decision to select Broad star Communications and Blonder Tongue Telephone to serve our project. If you contact them, they will make available to you the appropriate access to the property, but you must address the terms of any such access with them as our agent. If, at some point BellSouth's carrier of last resort obligations necessitate some kind of notice to the Florida Public Service Commission, then we would appreciate a copy of any such correspondence.

If you and further questions about this, contact Mr. Douglas Bell at Broadstar Communications at 800-943-3381, our authorized agent in this matter.

Sincerely,
Florida East Coast Realty, Inc.

Philip C. Dehan
Senior Vice President

CC: Wayne Hollo
Douglas Bell, Broadstar Communications



BellSouth Telecommunications, Inc.
Regulatory Relations
150 South Monroe Street
Suite 400
Tallahassee, FL 32301

nancy.sims@bellsouth.com

Nancy H. Sims
Director

850 222 1201
Fax 850 222 0640

VIA FACSIMILE AND HAND DELIVERY

March 4, 2004

Mr. Rick Moses
Chief, Bureau of Service Quality and
Enforcement
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Portofino Isle Development - County of Port St. Lucie, Florida

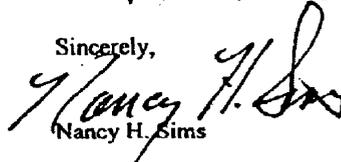
Dear Mr. Moses:

Portofino Isle is a new development under construction by Prime Investors & Developers in the County of St. Lucie, Florida. We also understand that several other developers/homebuilders are also involved with the development. We have been advised that portions of the development are expected to be complete around mid-2004, and the development is anticipated to include approximately 512 single-family units, 165 multifamily units and roughly 56 acres of retail/commercial property.

Mr. Abbo of Prime, who is copied on this letter, has advised BellSouth that his company does not want BellSouth to place facilities to provide service to residences in the development. Mr. Abbo advised that he has made arrangements with Hometown Cable for provision of telecommunications service to residences at the development.

We are writing to advise the Commission that BellSouth is not in a position to serve residential customers in the development that request BellSouth service. If a customer inquires, BellSouth will advise that the developer has not permitted BellSouth to place facilities to serve, such that the customer's order cannot be filled. After a certain time, the then-existing infrastructure will make it difficult and costly to install facilities, such that BellSouth may be unable to install facilities even if rights are granted later.

Sincerely,



Nancy H. Sims

Cc: Edward Abbo, Prime Investors & Developers, Inc., 3030 S.W. 135th Avenue
Miramar, FL 33027



BellSouth Telecommunications, Inc. 850 222-1201
Suite 400 Fax 850 222-8640
150 South Monroe Street
Tallahassee, Florida 32301

Nancy H. Sims
Director - Regulatory Relations

September 4, 2003

VIA FACSIMILE AND U.S. MAIL

Mr. Rick Moses
Chief, Bureau of Service Quality and
Enforcement
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Tesoro Development - County of Port St. Lucie, Florida

Dear Mr. Moses:

Tesoro is a new development under construction by The Ginn Company in the County of St. Lucie, Florida. The attached letter from BellSouth to The Ginn Company describes BellSouth's recent efforts to secure easement rights to place facilities in the development to serve customers that desire BellSouth service and the issues that may prevent BellSouth from placing facilities to serve.

Assuming BellSouth is unable to place facilities, whatever arrangements the developer has made or makes will be arrangements that effectively result in an exclusive telecommunications provider in the development and the inability of BellSouth to serve customers that request service from BellSouth.

Sincerely,

A handwritten signature in cursive script that reads 'Nancy H. Sims'.

Nancy H. Sims

Attachment



BellSouth Telecommunications, Inc.
Engineering Department
3300 Okrochobee Road
Room 237
Fort Pierce, FL 34947

August 28, 2003

VIA U.S. MAIL AND FACSIMILE

Mike Sayre
The Ginn Company
3228 SW Martin Downs Blvd.
Suite 5
Palm City, Florida 34990

Re: Tesoro Development

Dear Mr. Sayre:

This letter is in follow-up to our June 19, 2003 meeting including you and Mr. Kerner and our prior communications regarding the above development in St. Lucie County. It is our understanding that the development is under construction and is anticipated to include approximately 1,500 residences and a small strip shopping mall and be complete on/around November 2003.

Your June 19, 2003 e-mail to Mr. Tefft of BellSouth, sent just after our June 19 meeting, asks BellSouth to "suspend activities relating to the development, including attending construction meetings on site" due to certain legal and technical difficulties that had arisen. You copied this e-mail to other representatives of The Ginn Company, an attorney and a representative of a company called Hometown Cable. During our subsequent meeting with you on July 3, 2003, you explained that it was The Ginn Company's intent to make arrangements with another provider for telecommunications service at the development and to not grant easements to BellSouth to allow it to place facilities to serve.

Nevertheless, the previously recorded plats for the development provide that the utility easements are dedicated to BellSouth. You suggested that this was a "mistake" and that your company plans to record "corrected" plats that do not dedicate the easements to BellSouth. Prior to receipt of your June 19, 2003 e-mail and in reliance on the dedication, BellSouth had already expended time and money for design work for the development. At a minimum, a legal question exists regarding whether the plats can be changed to essentially revoke the easements dedicated to BellSouth. Further, BellSouth does not understand your company's desire to limit the telecommunications choices of your residents.

At the present time, the easements are dedicated to BellSouth and BellSouth desires to use them to place facilities to serve the development. We would like to engage in further discussions with you regarding placement of BellSouth facilities. As BellSouth has an obligation as the carrier of last resort in the area of the development to provide service to customers who request it, BellSouth will be notifying the Florida Public Service Commission of the status of our efforts to serve the development and the issues that may prevent BellSouth from serving.

Sincerely,



Robert Moyano

cc: Wayne Tubaugh
Gary Tefft
Pat Dillaha



BellSouth Telecommunications, Inc.
Regulatory Relations
150 South Monroe Street
Suite 400
Tallahassee, FL 32301

nancy.sims@bellsouth.com

Nancy N. Sims
Director

950 222 1201
Fax 850 222 0640

June 14, 2001

Mr. Rick Moses
Chief of the Bureau of Service Quality
Division of Competitive Service
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Vizcaya Subdivision, Orlando, Florida
Doctor Khanna – CATS#384124T

Dear Rick:

This letter is to notify you that BellSouth Telecommunications, Inc. (BellSouth) has restricted Vizcaya Subdivision, Orlando, Florida from the provision of telecommunications services. ABD Development Company (ABD) developed the property, and the company advised by letter to BellSouth dated April 2000 that it had signed a contract with Orlando Telephone Company (OTC) and "...that the services of BellSouth [would] not be needed." BellSouth is a Local Exchange Company, and this Subdivision is within BellSouth's territory.

Communications and correspondence between BellSouth and ABD and BellSouth and OTC followed the April 2000 letter from ABD. ABD's counsel, in June 2000, modified the message in the April 2000 letter somewhat by indicating that BellSouth could provide service by interconnecting with the OTC Network, leasing OTC facilities or purchasing spare capacity from OTC. ABD directed BellSouth to contact OTC regarding these options. BellSouth sought information from OTC regarding the options. The most recent correspondence on this issue is a July 2000 letter from BellSouth to Mr. Bornack of OTC requesting information on seven points by reply letter to assess the feasibility of using OTC's network to provide service.

The discussions with OTC attendant to these letters focused on the proposed lease of OTC distribution facilities, not feeder facilities, with OTC advising that BellSouth would need easement rights from ABD to place feeder facilities to the clubhouse.

On May 24, 2001, BellSouth received an order for service from a customer, Doctor Khanna, residing at 8510 Verese Ct. in the Subdivision. He has been advised that we are unable to provide service to him, and we understand that he has submitted a complaint to the PSC (CATS#384124T). We also understand that he is interested in local telephone service from BellSouth so that he may use a long distance provider that, apparently, OTC will not provide. Doctor Khanna can access his desired long distance provider via an access code, so he is not without options.

It is not feasible for BellSouth to provide service to this customer. Service would require placement of approximately 3,400 feet of buried fiber optic cable (feeder facilities) to the clubhouse in the Subdivision and placement of digital subscriber carrier equipment, at a total cost of approximately \$60,000. Also, BellSouth would need to secure an easement to place approximately 1,200 feet of the buried cable in the Subdivision's private roads. BellSouth previously attempted, but was unable to secure, such an easement from ABD around July 2000. BellSouth would also need, in the clubhouse equipment room, space and support structures (e.g. conduit, backboard, grounding, etc.) to provide service.

As additional information, OTC had also advised that BellSouth would be charged a hook up fee of \$78.00 and a recurring \$8.50 per month fee for each cable pair. OTC advised that only one pair would be available to BellSouth and that if a customer disconnects service, BellSouth would be required to return the pair and pay the connection and monthly fee charges again and send a technician to the premises when BellSouth service is re-requested. Requests for second lines for fax machines, modems, etc. had not been addressed, nor had terms regarding maintenance of the facilities, terms regarding which BellSouth would have concerns in order to maintain its service standards and requirements.

As this type of arrangement is not feasible for BellSouth, and as our efforts to seek an acceptable arrangement approximately one year ago were unsuccessful, BellSouth has declined to provide service.

BellSouth has been forced to restrict the Subdivision from the provision of telecommunication services. BellSouth will advise customers requesting service at the Subdivision that BellSouth will not be able to honor their requests for service. We will also advise that OTC is a local service provider that we understand is providing service in the Subdivision.

Page 3
Sims/Moses

We would like to add that the April 2000 letter from ABD merely indicated that the services of BellSouth would not be needed, as the company had signed a contract with OTC. Upon the affirmative efforts on BellSouth's part to dispute this apparent "exclusive" arrangement, ABD proposed the alternatives mentioned above for BellSouth to provide service and indicated that the agreement between OTC and ABD does not prohibit another company from providing services to residents of the Subdivision (a copy of the contract was not provided to us). OTC did not provide a written reply as to the details of any of these alternatives in response to our July 2000 letter, and the information provided to BellSouth verbally suggests that the terms proposed by OTC on the alternatives are not feasible.

BellSouth, of course, would like to serve all customers that desire our service, and we are concerned about the need to resort to restriction of the Subdivision.

Should you have any questions concerning this matter, please contact me at (850) 222-1201.

Yours truly,



Nancy H. Sims

Copy to: Sharon Liebman
John Plescow
John Merlino

Exhibit B

EXHIBIT B

Puerta de Palmas

- Puerta de Palmas is a condominium development under construction in Miami, Florida. Urban Development One is the developer. The development, located at 888 S.W. 37th Avenue, will have 1 building with a total of 198 Units and 40,000 square feet of retail space. First residents are anticipated to move into the development in mid-2006.
- BellSouth has been advised that the developer entered into a consulting agreement with CSI Consulting, Inc. ("CSI") pursuant to which CSI would represent the developer with regard to, and be authorized to negotiate, arrangements for cable, television, telephone, data, and other telecommunications services at the developments.
- On or about September 13, 2005, CSI informed BellSouth that the developer would be entering into arrangement with Hotwire Communications for the provision of service to residents. CSI informed BellSouth that the agreement with Hotwire would be a bulk agreement for data and cable service. On December 13, 2005, BellSouth was further informed that the bulk agreement would also include voice service. Under the "bulk" agreement, we understand that the condominium association will contract with the Hotwire for services, the association will pay Hotwire for the services, and the association will collect payment for the services from residents through condominium association fees.