

ORIGINAL

LAW OFFICES

McWHIRTER, REEVES, MCGLOTHLIN, DAVIDSON, RIEF & BAKAS, P.A.

100 NORTH TAMPA STREET, SUITE 2600
TAMPA, FLORIDA 33602-5126

MAILING ADDRESS: TAMPA
P.O. Box 3350, TAMPA, FLORIDA 33601-3350

TELEPHONE (813) 224-0866

FAX (813) 221-1854

CABLE GRANDLAW

PLEASE REPLY TO
TALLAHASSEE

TALLAHASSEE OFFICE

117 S. GADSDEN
TALLAHASSEE, FLORIDA 32301

TELEPHONE (850) 222-2525

FAX (850) 222-5006

LYNWOOD F. ARNOLD, JR.
JOHN W. BAKAS, JR.
C. THOMAS DAVIDSON
STEPHEN O. DECKER
LINDA E. JORGE
VICKI GORDON KAUFMAN
JOSEPH A. MCGLOTHLIN
JOHN W. MCWHIRTER, JR.
RICHARD W. REEVES
FRANK J. RIEF, III
DAVID W. STEEN
PAUL A. STRANKE

March 27, 1998

VIA HAND DELIVERY

Ms. Blanca Bayó
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Docket No. 971056-TX - In re: Application for certificate to provide alternative local exchange telecommunications service by BellSouth BSE, Inc.

Dear Ms. Bayó:

Enclosed are the original and 15 copies of the Joint Prehearing Statement of FCCA, AT&T, and MCI to be filed in the above dor.ket.

ACK I have enclosed an extra copy of the above document for you to stamp and
AFA return to me. Please contact me if you have any questions. Thank you for your
APP assistance.

Sincerely,

Joe McGlothlin
Joseph A. McGlothlin

CAF _____
CMU *CMU*
CTR _____
EAG _____
LEG *2 JAM/jg*
LIN _____
OPC Enclosures
RCH _____
SEC
WAS _____
OTH _____

RECEIVED & FILED
Jan
FPSC BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

0365 MAR 27 88

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for certificate)	Docket No. 971056-TX
to provide alternative local)	
exchange telecommunications)	Filed: March 27, 1998
service by BellSouth BSE, Inc.)	
<hr/>		

**JOINT PREHEARING STATEMENT OF
FLORIDA COMPETITIVE CARRIERS ASSOCIATION,
AT&T COMMUNICATIONS OF THE SOUTHERN STATES, INC.,
AND MCI TELECOMMUNICATIONS CORPORATION**

Pursuant to Order No. PSC-98-0088, the Florida Competitive Carriers Association ("FCCA"), AT&T Communications of the Southern States, Inc. ("AT&T"), and MCI Telecommunications Corporation ("MCI") hereby submit their Joint Prehearing Statement.¹

1. **WITNESSES**

FCCA, AT&T, and MCI will sponsor the testimony of Joseph Gillan.

¹ FCCA, AT&T, and MCI have coordinated the preparation of a Joint Prehearing Statement for ease of reference during the Prehearing Conference. As individual parties, they reserve their right to cross-examine witnesses and otherwise participate separately during the proceeding.

2. **STATEMENT OF BASIC POSITION**

FCCA, AT&T, and MCI did not object to the granting of a certificate to BellSouth BSE to operate as an ALEC in areas in which BellSouth is not the incumbent local exchange company (ILEC). However, with respect to BellSouth's ILEC service area, BellSouth BSE is a sham entrant, because BellSouth BSE is simply BellSouth in a different form. The Commission should recognize that BellSouth BSE has not filed an "application to enter" the market. Instead, BellSouth is attempting to re-enter the market in a way that would avoid regulatory requirements imposed on the ILEC by the Telecommunications Act of 1996 and Chapter 364, Florida Statutes. The Commission should not countenance the attempt to achieve back-door deregulation. BellSouth BSE's application for authority to provide ALEC service in BellSouth's ILEC service area should be denied.

3. **POSITIONS ON ISSUES**

ISSUE NO. 1: In light of the provisions of the Telecommunications Act of 1996 and Chapter 364, Florida Statutes, should the Commission grant BellSouth BSE a certificate to provide alternative local exchange service pursuant to Sections 364.335 and 364.337, Florida Statutes, in the territory served by BellSouth Telecommunications, Inc. as the incumbent LEC?

POSITION OF FCCA, AT&T, AND MCI: No. BellSouth BSE is simply BellSouth in another form. BellSouth BSE's application to provide ALEC service in BellSouth's ILEC territory is simply an effort to "re-enter" the market in a manner designed to escape regulatory requirements, such as the requirement that the ILEC's services be offered to competitors at wholesale, subject to a prescribed wholesale discount applicable to ILECs.

ISSUE NO. 2: In light of the provisions of the Telecommunications Act of 1996 and Chapter 364, Florida Statutes, if the Commission grants BellSouth BSE a certificate to provide alternative local exchange service in the territory served by BellSouth Telecommunications, Inc. as the incumbent LEC, what conditions or modifications, if any, should the Commission impose?

POSITION OF FCCA, AT&T, AND MCI: The Commission should not grant the certificate to BSE, the ALEC, without first requiring BellSouth BSE to abide by all terms and conditions imposed on BellSouth, the ILEC, by the Telecommunications Act of 1996 and Chapter 364, Florida Statutes. If BellSouth BSE's purpose in applying for the certificate is to be able to package certain products and follow certain customers who change or add locations, as BellSouth BSE contends, these requirements would serve no impediment to BellSouth BSE's claimed business purposes.

ISSUE NO. 3: (Legal Issue) Does the fact that BellSouth, the ILEC, and BellSouth BSE were established as separate corporate entities prevent the Commission from treating BellSouth BSE as the ILEC in another form for regulatory purposes?

POSITION OF FCCA, AT&T, AND MCI: No. The Commission has the legal authority and the responsibility to "pierce the corporate veil" in this situation. In particular, the 1996 Act was designed to prevent ILECs from abusing their market power. Under BSE's proposal, BellSouth/BSE would have all of the advantages of market power with none of the safeguards. The Commission can and should recognize that for purposes of its regulation, BellSouth BSE is BellSouth, the ILEC, in a different form, and take regulatory measures designed to ensure that BellSouth will not be allowed to circumvent obligations imposed by federal and state law by the artifice of a new corporate entity.

4. **STIPULATED ISSUES**

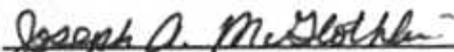
None.

5. **STATEMENT OF ALL PENDING MOTIONS**

None at this time.

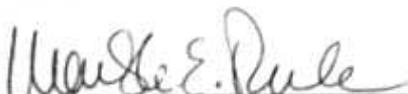
6. **STATEMENT AS TO ANY REQUIREMENT SET FORTH
IN THE PREHEARING ORDER THAT CANNOT BE COMPLIED WITH**

None.



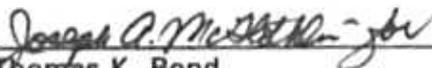
Joseph A. McGlothlin
Vicki Gordon Kaufman
McWhirter, Reeves, McGlothlin,
Davidson, Rief & Bakas
117 South Gadsden Street
Tallahassee, Florida 32301
(850) 222-2525

Attorneys for
Florida Competitive Carriers Association



Marsha E. Rule
101 North Monroe Street, Suite 700
Tallahassee, Florida 32301
(850) 425-6365

Attorney for AT&T Communications of the
Southern States, Inc.



Thomas K. Bond
MCI Telecommunications Corporation
780 Johnson Ferry Road, Suite 700
Atlanta, Georgia 30342

Attorney for MCI

CERTIFICATE OF SERVICE

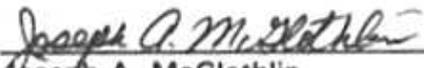
I HEREBY CERTIFY that a true and correct copy of the Joint Prehearing Statement of FCCA, AT&T, and MCI has been furnished by United States mail or hand delivery(*) this 27th day of March, 1998, to the following:

Martha Carter Brown*
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Room 390-M
Tallahassee, Florida 32399-0850

Mark Herron
E. Gary Early
Akerman, Senterfitt & Eidson, P.A.
216 South Monroe Street
Suite 200
Tallahassee, FL 32301

Kenneth Hoffman
Rutledge Law Firm
Post Office Box 551
Tallahassee, FL 32302

Barbara D. Auger
Peter Dunbar
Pennington, Moore, Wilkinson
& Dunbar, P.A.
215 South Monroe Street
Tallahassee, FL 32301



Joseph A. McGlothlin