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RECORDS AND
REPORTING

November 12, 1998

BY HAND DELIVERY

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

Re: Docket Nos. 980703-TP

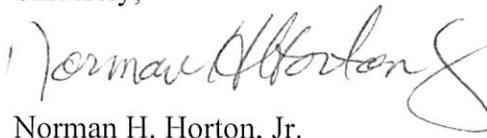
Dear Ms. Bayo:

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

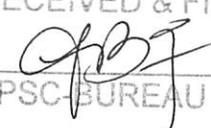
Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the same to me.

Thank you for your assistance with this filing.

Sincerely,


Norman H. Horton, Jr.

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cc: Glenn Richards, Esq.
Parties of Record

DOCUMENT NUMBER-DATE

12692 NOV 12 98

FPSC-RECORDS/REPORTING

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

Docket No. 980703-TP
Filed: November 12, 1998

DIRECT TESTIMONY OF

RICHARD POLLARA

ON BEHALF OF

EASY CELLULAR, INC.

DOCUMENT NUMBER-DATE

12692 NOV 12 88

FPSC-RECORDS/REPORTING

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

2 A. My name is Richard Pollara. Although I am no longer employed with Easy
3 Cellular, Inc. ("Easy Cellular"), at all times during the relevant period of this
4 dispute, I was the President of Easy Cellular.

5 **Q. PLEASE DESCRIBE YOUR RESPONSIBILITIES WITH EASY
6 CELLULAR DURING THE RELEVANT PERIOD.**

7 A. As President of Easy Cellular, I was responsible for all of the day-to-day
8 operations of the company, including the negotiation of Easy Cellular's resale
9 agreements with underlying local exchange carriers and the settlement of billing
10 and/or services disputes between such carriers and Easy Cellular.

11 **Q. IS EASY CELLULAR AUTHORIZED TO PROVIDE LOCAL
12 EXCHANGE SERVICES IN FLORIDA?**

13 A. Yes. Easy Cellular is authorized by the Florida Public Service Commission
14 ("Florida PSC") to provide local exchange service in Florida.

15 **Q. ARE YOU FAMILIAR WITH ORDER NO. PSC-96-1579-FOF-TP AND ITS
16 PROCEDURAL HISTORY?**

17 A. Yes. On December 31, 1996, the Florida PSC issued Order No. PSC-96-1579-
18 FOF-TP (the "December 31 Order") in an arbitration proceeding establishing that
19 BellSouth must provide resellers with a wholesale discount on nonrecurring
20 charges. In this Order, the Florida PSC also determined that the appropriate
21 wholesale discount for BellSouth's residential services is 21.83% and for its
22 business services is 16.81%. On January 15, 1997, BellSouth filed a petition for
23 reconsideration of the December 31 Order. On March 19, 1997, the Florida PSC

1 issued a decision affirming its previous ruling regarding the wholesale discounts
2 levels and that such discounts apply to nonrecurring charges.

3 **Q. DID EASY CELLULAR ENTER INTO A RESALE AGREEMENT WITH**
4 **BELLSOUTH?**

5 A. Yes. On March 3, 1997, Easy Cellular and BellSouth entered into a resale
6 agreement (the "Agreement"). A copy of the Agreement is attached to the
7 Complaint.

8 **Q. DID THE FLORIDA PSC APPROVE THE AGREEMENT?**

9 A. Yes. On March 11, 1997, Easy Cellular and BellSouth submitted the Agreement
10 to the Florida PSC for approval. On June 12, 1997, the Florida PSC issued Order
11 No. PSC-97-0697-FOF-TP, in Docket No. 970303-TP, approving the Agreement.

12 **Q. IS THE AGREEMENT STILL IN EFFECT?**

13 A. No. Easy Cellular and BellSouth terminated the Agreement on February 19,
14 1998. A revised resale agreement was signed on February 20, 1998 (the "Revised
15 Agreement").

16 **Q. DID THE AGREEMENT CONTAIN ANY SPECIFIC REFERENCES TO**
17 **NONRECURRING CHARGES?**

18 A. No. The agreement did not contain any specific references to nonrecurring
19 charges. Rather, the agreement broadly stated that Easy Cellular could purchase
20 for resale all of BellSouth's services at a discount rate off of the retail rate for
21 such services.

22 **Q. DURING THE PERIOD OF MARCH 1997 TO SEPTEMBER 1997, DID**
23 **BELLSOUTH APPLY THE WHOLESALE DISCOUNT TO**

1 **NONRECURRING CHARGES BILLED TO EASY CELLULAR?**

2 A. No. Despite the terms of the Agreement and the existence of the December 31
3 Order requiring BellSouth to apply the wholesale discount to nonrecurring
4 charges, from March 1997 until September 1997, BellSouth charged Easy
5 Cellular tariffed retail rates for nonrecurring charges.

6 **Q. SPECIFICALLY, WHAT NONRECURRING CHARGES SHOULD HAVE**
7 **BEEN DISCOUNTED DURING THE MONTHS OF APRIL 1997**
8 **THROUGH SEPTEMBER 1997?**

9 A. The charges applicable to Connection Fees and Call Screening/Restriction.

10 **Q. DURING THE MONTHS OF APRIL 1997 THROUGH SEPTEMBER 1997,**
11 **WHAT DID BELLSOUTH CHARGE EASY CELLULAR TO CONNECT**
12 **ITS END-USER CUSTOMERS?**

13 A. \$40.00 per line.

14 **Q. APPLYING THE WHOLESALE DISCOUNT, HOW MUCH SHOULD**
15 **EASY CELLULAR HAVE BEEN CHARGED TO CONNECT ITS END-**
16 **USER CUSTOMERS?**

17 A. \$31.27, using the 21.83% discount level.

18 **Q. DURING THE MONTHS OF APRIL 1997 THROUGH SEPTEMBER 1997,**
19 **HOW MANY ACTIVATIONS DID BELLSOUTH PROCESS FOR EASY**
20 **CELLULAR?**

21 A. 5,440.

22 **Q. WHAT WERE THE TOTAL OVERCHARGES TO EASY CELLULAR**
23 **BECAUSE OF BELLSOUTH'S FAILURE TO APPLY THE WHOLESALE**

1 **DISCOUNT TO EASY CELLULAR'S CONNECTION FEES?**

2 A. \$47,491.20.

3 **Q. DURING THE MONTHS OF APRIL 1997 THROUGH SEPTEMBER 1997,**

4 **WHAT DID BELLSOUTH CHARGE EASY CELLULAR FOR CALL**

5 **SCREENING/RESTRICTION SERVICES?**

6 A. \$10.00 per line.

7 **Q. APPLYING THE WHOLESALE DISCOUNT, HOW MUCH SHOULD**

8 **EASY CELLULAR HAVE BEEN CHARGED FOR CALL SCREENING/**

9 **RESTRICTION SERVICES?**

10 A. \$7.82, using the 21.83% discount.

11 **Q. DURING THE MONTHS OF APRIL 1997 THROUGH SEPTEMBER 1997,**

12 **HOW MANY REQUESTS FOR CALL SCREENING/RESTRICTION**

13 **SERVICES DID BELLSOUTH PROCESS FOR EASY CELLULAR?**

14 A. 5,440.

15 **Q. WHAT WERE THE TOTAL OVERCHARGES TO EASY CELLULAR**

16 **BECAUSE OF BELLSOUTH'S FAILURE TO APPLY THE WHOLESALE**

17 **DISCOUNT TO EASY CELLULAR'S CALL**

18 **SCREENING/RESTRICTION FEES?**

19 A. \$11,859.20.

20 **Q. IN SUM, HOW MUCH HAS BELLSOUTH OVERCHARGED EASY**

21 **CELLULAR BY NOT APPLYING THE WHOLESALE DISCOUNT RATE**

22 **TO NONRECURRING CHARGES FROM MARCH 1997 UNTIL**

23 **SEPTEMBER 1997?**

1 A. \$59,350.40.

2 **Q. DID THE AGREEMENT CONTAIN ANY WHOLESALE DISCOUNT**
3 **RATES?**

4 A. Yes. The Agreement contained an 18% discount off of the retail rate for
5 residential telecommunications services and a 12% discount off of the retail rate
6 for business telecommunications services.

7 **Q. WERE THE WHOLESALE DISCOUNTS OFFERED IN THE**
8 **AGREEMENT THE SAME AS THE WHOLESALE DISCOUNTS**
9 **ESTABLISHED IN THE DECEMBER 31 ORDER?**

10 A. No. The December 31 Order established a 21.83% discount for residential
11 telecommunications services and a 16.81% discount for business
12 telecommunications services.

13 **Q. DID BELL SOUTH OFFER EASY CELLULAR THE WHOLESALE**
14 **DISCOUNTS IN THE DECEMBER 31 ORDER?**

15 A. No.

16 **Q. DID BELLSOUTH OFFER TO CONFORM THE AGREEMENT TO**
17 **INCLUDE THE WHOLESALE DISCOUNT RATES ESTABLISHED IN**
18 **THE DECEMBER 31 ORDER?**

19 A. No.

20 **Q. DID BELLSOUTH APPLY THE WHOLESALE DISCOUNT RATES**
21 **ESTABLISHED IN THE DECEMBER 31 ORDER TO EASY**
22 **CELLULAR'S PURCHASE OF BELLSOUTH'S SERVICES?**

23 A. No.

1 **Q. HOW MUCH DID BELLSOUTH CHARGE EASY CELLULAR IN**
2 **RECURRING FEES FROM MARCH 1997 THROUGH NOVEMBER 1997?**

3 A. \$523,805.57.

4 **Q. APPLYING THE 21.83% DISCOUNT, HOW MUCH SHOULD**
5 **BELLSOUTH HAVE CHARGED EASY CELLULAR IN RECURRING**
6 **FEES?**

7 A. \$503,743.81.

8 **Q. IN SUM, HOW MUCH HAS BELLSOUTH OVERCHARGED EASY**
9 **CELLULAR BY NOT PROVIDING EASY CELLULAR WITH THE**
10 **21.83% DISCOUNT RATE?**

11 A. \$20,061.76

12 **Q. DOES THE REVISED AGREEMENT CONTAIN ANY WHOLESALE**
13 **DISCOUNT RATES?**

14 A. Yes. The Revised Agreement contains a 21.83% discount off of the retail rate for
15 residential telecommunications services and a 16.81% discount off of the retail
16 rate for business telecommunications services.

17 **Q. WHAT KIND OF RELIEF IS EASY CELLULAR SEEKING?**

18 A. Easy Cellular is requesting that the Florida PSC order BellSouth to credit Easy
19 Cellular the amount that it has been overcharged, plus all late fees.

20 **Q. WHAT IS THE TOTAL AMOUNT OF OVERCHARGES OR DAMAGES**
21 **TO EASY CELLULAR?**

22 A. \$79,412.16, plus all accrued late fees. This figure represents the amount
23 BellSouth has overbilled Easy Cellular by (1) not applying the wholesale discount

1 rate to nonrecurring charges from March 1997 until September 1997, and (2) not
2 providing Easy Cellular with the residential wholesale discount of 21.83% from
3 March 1997 until November 1997.

4 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

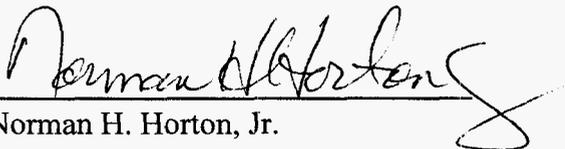
5 A. Yes, it does.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Direct Testimony of Richard Pollara in Docket No. 980703-TP has been furnished by Hand Delivery (*) and/or U.S. Mail to the following parties of record this 12th day of November, 1998:

Beth Keating, Esq.*
Division of Legal Services
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2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

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c/o Ms. Nancy H. Sims
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Norman H. Horton, Jr.