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State of Florida



Public Service Commission
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TALLAHASSEE, FLORIDA 32399-0850

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DATE: JULY 19, 2001

TO: DIRECTOR, DIVISION OF THE COMMISSION
ADMINISTRATIVE SERVICES (BAYÓ)

FROM: DIVISION OF COMPETITIVE SERVICES (R. MOSES, KENNEDY)
DIVISION OF LEGAL SERVICES (BANKS) *msd* *PKB* *PK*

RE: DOCKET NO. 010973-TL - PETITION FOR EMERGENCY TEMPORARY
WAIVER OF RULES 25-4.066(2) AND (3); 25-4.070(3)(A),
(3)(B), AND (5); 25-4.073(1)(A), (1)(C), AND (1)(D); 25-
4.0770(2); 25-4.040(5); AND 25-4.111, F.A.C., BY BELLSOUTH
TELECOMMUNICATIONS, INC.

AGENDA: 07/24/01 - REGULAR AGENDA - PROPOSED AGENCY ACTION -
INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: EMERGENCY PETITION FOR RULE WAIVER - VOTE
REQUESTED BEFORE AUGUST 4, 2001

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\010973.RCM

CASE BACKGROUND

On July 17, 2001, pursuant to Section 120.542, Florida Statutes, and Rule 28-104.002, Florida Administrative Code, BellSouth Telecommunications, Inc. (BellSouth), filed a Petition for Emergency Temporary Rule Waiver (Petition) (Attachment A). In its Petition, BellSouth seeks a temporary waiver of Rules Nos. 25-4.066(2) and (3); 25-4.070(3)(a), (3)(b), and (5); 25-4.073(1)(a), (1)(c), and (1)(d); 25-4.0770(2); 25-4.040(5); and 25-4.111, Florida Administrative Code.

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Staff obtained the Chairman's approval on July 17, 2001, to file this recommendation for consideration by the Commission at the July 24, 2001, Agenda Conference. The Agenda Conference scheduled on July 24, 2001, is the only Agenda available before August 4, 2001.

In its petition requesting waiver, BellSouth explains that its waiver request meets the standards of Section 120.542, Florida Statutes. Further, BellSouth explains that the purpose of the underlying statutes, Sections, 364.01(4), 364.025, 364.051, 364.15 and 364.19, Florida Statutes, will not be undermined by the request for waiver. However, staff believes that the applicable underlying statutes for the request for waiver is Section 364.03, Florida Statutes.

To briefly summarize, BellSouth requests expedited handling of its Petition because the Agreement between the Communications Workers of America (CWA) and BellSouth will expire at 1:59 p.m. on August 4, 2001. Should BellSouth and the CWA fail to reach an agreement, the CWA may initiate a work stoppage. A work stoppage by the CWA would affect BellSouth's ability to comply with the Commission's rules identified in the Petition. If BellSouth and the CWA successfully negotiate an agreement before expiration of the current agreement, the temporary waiver of the rules identified in the Petition will be moot.

In this recommendation staff addresses each rule, on an issue by issue basis, for which BellSouth seeks an emergency temporary waiver.

The Commission has authority over these matters pursuant to Section 120.542, Florida Administrative Code and Sections 364.01(4), 364.025, 364.051, 364.15 and 364.19, Florida Statutes.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission approve BellSouth's Petition for a temporary and emergency waiver of Rules 25-4.066(2) and (3), Florida Administrative Code?

RECOMMENDATION: Yes. Staff recommends that the Commission should approve BellSouth's Petition for a temporary and emergency waiver of Rules 25-4.066(2) and (3), Florida Administrative Code, for a period beginning August 4, 2001, and ending the day BellSouth and CWA sign a work agreement. BellSouth should file notice of any work stoppage with the Division of the Commission Clerk & Administrative Services no later than Friday, August 3, 2001. BellSouth should also be ordered to file a notification with the Commission that the work agreement is signed within 24 hours after the signing.

(R. Moses/Kennedy/Banks)

STAFF ANALYSIS: BellSouth is an incumbent local exchange telecommunications services provider in Florida. The CWA represents a significant number of BellSouth's craft employees. Currently, BellSouth and the CWA are in negotiations to secure a new agreement for the represented workers. If BellSouth fails to negotiate a new agreement before the expiration of the current agreement at 1:59 p.m. on August 4, 2001, the CWA may initiate a work stoppage.

BellSouth requested in its petition that the duration of the temporary waiver initially be for 30 days and an extension would be granted if the work stoppage extended beyond 30 days. Staff believes that a more efficient approach would be to grant the waiver for the duration of the work stoppage, should one occur, which would eliminate the need for the Commission to address extensions to the waiver. This approach also eliminates BellSouth being granted a waiver for any length of time after the work stoppage has ceased.

Rules 25-4.066(2) and (3), Florida Administrative Code, Availability of Service, provide:

(2) Where central office and outside plant facilities are readily available, at least 90 percent of all requests for primary service in any calendar month shall normally be satisfied in each exchange or service center

within an interval of three working days after receipt of application when all tariff requirements relating thereto have been complied with, except those instances where a later installation date is requested by the applicant or where special equipment or services are involved.

(3) Each telecommunications company shall establish as its objective the satisfaction of at least 95 percent of all applications for new service in each exchange within a 30 day maximum interval and, further, shall have as its objective the capability of furnishing service within each of its exchanges to applicants within 60 days after date of application; except those instances where a later installation date is requested by the applicant or where special equipment or services are involved.

If the CWA initiates a work stoppage, a significant number of BellSouth craft employees that perform installation services will not report to work. BellSouth will assign management personnel with the intent to fulfill its obligations to provide service to the areas it serves.

In order to be granted a waiver, BellSouth's petition must meet the requirements of Section 120.542, Florida Statutes. Under this statutory requirement, a petitioner requesting a waiver of a Commission rule must first demonstrate that the purpose of the underlying statute will otherwise be served if the waiver of the rule is granted. Secondly, the petitioner must demonstrate that continued enforcement of the rule would result in substantial hardship for the petitioner or violate principles of fairness. Pursuant to 120.542 (2), Florida Statutes, "substantial hardship means a demonstrated economic, technological, legal or other type of hardship to the person requesting the variance or waiver."

Staff believes that BellSouth's petition meets the requirements of Section 120.542, Florida Statutes. First, BellSouth has demonstrated, if the Commission grants the waiver request, that, to the extent possible, suitable and proper telecommunications facilities and connections will be provided to persons, who may apply for it, as required by Section 364.03 (3), Florida Statutes, underlying Rules 25-4.066(2) and (3), Florida Administrative Code. By reassigning management personnel to perform installation services, the public interest will be served

because BellSouth has expressed its intent to fulfill its obligations to provide service to the areas it serves.

Secondly, the company has demonstrated that the Commission's enforcement of the requirements of Rules 25-4.066(2) and (3), Florida Administrative Code, would result in substantial hardship for the company. BellSouth has committed to an approach whereby it will assign management personnel to perform installation services. However, reality dictates that some delays in installations may occur. Enforcement of the Commission's installation rules would potentially subject BellSouth to significant penalties if customers file complaints and the company was show caused based upon these complaints. BellSouth files quarterly performance reports and will self-report non-compliance with the Commission's service installation rules. Likewise, BellSouth would potentially be subjected to significant penalties based on the self-reporting of performance that fails to meet the Commission's installation rules.

Therefore, staff recommends that the Commission should approve BellSouth's Petition for a temporary and emergency waiver of Rules 25-4.066(2) and (3), Florida Administrative Code, for a period beginning August 4, 2001, and ending the day BellSouth and CWA sign a work agreement. BellSouth should file notice of any work stoppage with the Division of the Commission Clerk & Administrative Services no later than Friday, August 3, 2001. BellSouth should also be ordered to file a notification with the Commission that the work agreement is signed within 24 hours after the signing.

ISSUE 2: Should the Commission approve BellSouth's Petition for a temporary and emergency waiver of Rules 25-4.070(3)(a), (3)(b), and (5), Florida Administrative Code?

RECOMMENDATION: Yes. Staff recommends that the Commission should approve BellSouth's Petition for a temporary and emergency waiver of Rules 25-4.070(3)(a), (3)(b), and (5), Florida Administrative Code, for a period beginning August 4, 2001, and ending the day BellSouth and CWA sign a work agreement. BellSouth should file notice of any work stoppage with the Division of the Commission Clerk & Administrative Services no later than Friday, August 3, 2001. BellSouth should also be ordered to file a notification with the Commission that the work agreement is signed within 24 hours after the signing. **(R. Moses/Kennedy/Banks)**

STAFF ANALYSIS: Rules 25-4.070(3)(a), (3)(b), and (5), Florida Administrative Code, Customer Trouble Reports, provides:

(3)(a) Service Interruption: Restoration of interrupted service shall be scheduled to insure at least 95 percent shall be cleared within 24 hours of report in each exchange as measured on a monthly basis. For any exchange failing to meet this objective, the company shall provide an explanation with its periodic report to the Commission.

(3)(b) Service Affecting: Clearing of service affecting trouble reports shall be scheduled to insure at least 95 percent of such reports are cleared within 72 hours of the report in each exchange as measured on a monthly basis.

(5) Repeat Trouble: Each telephone company shall establish procedures to insure the prompt investigation and correction of repeat trouble reports such that the percentage of repeat troubles will not exceed 20 percent of the total initial customer reports in each exchange when measured on a monthly basis. A repeat trouble report is another report involving the same item of plant within 30 days of the initial report.

If the CWA initiates a work stoppage, a significant number of BellSouth craft employees assigned to restore interrupted service and clear service affecting trouble reports will not report to

work. BellSouth will assign management personnel in an attempt to fulfill its obligations to restore interrupted service and clear service affecting trouble reports. BellSouth will make every effort to continue to give priority restoration to those customers providing emergency services.

Staff believes that BellSouth's petition meets the requirements of Section 120.542, Florida Statutes. First BellSouth has demonstrated that, if the request for waiver is granted, it will, to the extent possible, maintain suitable and adequate telecommunications facilities in good condition and repair as required by Sections 364.03(2) and (3), Florida Statutes, underlying Rules 25-4.070(3)(a), (3)(b), and (5), Florida Administrative Code. By reassigning management personnel to perform restoration of interrupted service and clearing of service affecting trouble reports, BellSouth demonstrates its intention to fulfill its obligations to provide service. BellSouth's approach, of prioritizing restoration of interrupted service to those customers providing emergency services, is in the best interest for the safety and welfare of the public.

Secondly, the company has demonstrated that the Commission's enforcement of the requirements of Rules 25-4.070(3)(a), (3)(b), and (5), Florida Administrative Code, would result in substantial hardship for the company. BellSouth has committed to an approach whereby it will assign management personnel to perform restoration of interrupted services and clearing of trouble reports affecting service. However, with limited staff and resources some delays in restorations and clearing of trouble reports are imminent if a work stoppage occurs. Enforcement of the Commission's repair rules would potentially subject BellSouth to significant monetary penalties if customers file complaints and the company was show caused based upon these complaints.

Therefore, staff recommends that the Commission should approve BellSouth's Petition for a temporary and emergency waiver of Rules 25-4.070(3)(a), (3)(b), and (5), Florida Administrative Code, for the duration of the work stoppage beginning August 4, 2001 and ending the day BellSouth and the CWA sign a work agreement. BellSouth should file notice of any work stoppage with the Division of the Commission Clerk & Administrative Services no later than Friday, August 3, 2001. BellSouth should also be ordered to file a notification with the Commission that the work agreement is signed within 24 hours after the signing.

ISSUE 3: Should the Commission approve BellSouth's Petition for a temporary and emergency waiver of Rule 25-4.073(1)(a), (1)(c), and (1)(d), Florida Administrative Code?

RECOMMENDATION: Yes. Staff recommends that the Commission approve BellSouth's Petition for a temporary and emergency waiver of Rules 25-4.073(1)(a), (1)(c) and (1)(d), Florida Administrative Code, for a period beginning August 4, 2001, and ending the day BellSouth and CWA sign a work agreement. BellSouth should file notice of any work stoppage with the Division of the Commission Clerk & Administrative Services no later than Friday, August 3, 2001. BellSouth should also be ordered to file a notification with the Commission that the work agreement is signed within 24 hours after the signing. **(R. Moses/Kennedy/Banks)**

STAFF ANALYSIS: Rules 25-4.073(1)(a), (1)(c), and (1)(d), Florida Administrative Code, Answering Time, provides:

(1)(a) If emergency services for the LEC's total serving area is currently answered by the 911 system, at least ninety (90%) percent of the calls offered to the LEC provided operator shall be answered within thirty (30) seconds after zero only is dialed.

(1)(c) At least ninety (90%) percent of all calls directed to intercept, directory assistance and repair services and eighty (80%) percent of all calls to business offices shall be answered within thirty (30) seconds after the last digit is dialed.

(1)(d) Notwithstanding (c) above, when a company utilizes a menu driven, automated, interactive answering system (referred to as the system), at least (95%) percent of the calls offered shall be answered within 15 seconds after the last digit is dialed. The initial recorded message presented by the system to the customer shall only identify the company and the general options available to the customer. The option of transferring to a live attendant shall be included in the initial message. For subscribers electing the option of transferring to a live assistant, except for business office calls, at least ninety-five (95%) percent of all calls shall be transferred by the system to a live attendant prepared to give immediate assistance within

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fifty-five (55) seconds after the last digit of the telephone number listed in the directory for the company's service(s) was dialed. Eighty-five (85%) percent of all such calls directed to any business office shall be transferred by the system to a live attendant within fifty-five (55) seconds after the last digit is dialed. At any time during the call, the customer shall be transferred to live assistance if the customer fails to interact with the system for a time period of ten (10) seconds following any prompt. For the purposes of this section, interaction means responding to a customer prompt offered by the system by keying (pressing) a number or character of a Dual-Tone Multiple-Frequency (DTMF) keypad associated with a telephone.

Staff believes that BellSouth's petition meets the requirements of Section 120.542, Florida Statutes. First BellSouth has demonstrated that, if the request for waiver is granted, it will continue to provide telecommunications services, to the extent possible, in an adequate, efficient and reasonable manner as required by Section 364.03 (1), Florida Statutes, underlying Rules 25-4.073(1)(a), (1)(c) and (1)(d), Florida Administrative Code. Through the reassignment of office-type personnel to perform other functions, BellSouth will be able to provide telecommunications services to its consumers.

Secondly, the company has demonstrated that the Commission's enforcement of the requirements of Rule 25-4.073(1)(a), (1)(c) and (1)(d), Florida Administrative Code, would result in substantial hardship for the company. BellSouth has stated that it will reassign management personnel to perform other duties in the event of a work stoppage. Due to limited staffing, consumers will probably experience some delays when placing calls to directory assistance, repair and the business offices. Enforcement of the Commission's answer time rules (Rules 25-4.073(1)(a), (1)(c) and (1)(d), Florida Administrative Code) would potentially subject BellSouth to significant monetary penalties if customers file complaints and the company was show caused based upon these complaints.

Therefore, staff recommends that the Commission approve BellSouth's Petition for a temporary and emergency waiver of Rules 25-4.073(1)(a), (1)(c), and (1)(d), Florida Administrative Code, for the duration of the work stoppage, should one occur, beginning

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August 4, 2001, and ending on the day BellSouth and the CWA sign a work agreement. BellSouth should file notice of any work stoppage with the Division of the Commission Clerk & Administrative Services no later than Friday, August 3, 2001. BellSouth should also be ordered to file a notification with the Commission that the work agreement is signed within 24 hours after the signing.

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ISSUE 4: Should the Commission approve BellSouth's Petition for a temporary and emergency waiver of Rule 25-4.0770(2), Florida Administrative Code?

RECOMMENDATION: Yes. Staff recommends that the Commission should approve BellSouth's Petition for a temporary and emergency waiver of Rule 25-4.0770(2) for the period beginning August 4, 2001, and ending the day BellSouth and the CWA sign a work agreement. BellSouth should file notice of any work stoppage with the Division of the Commission Clerk & Administrative Services no later than Friday, August 3, 2001. BellSouth should also be ordered to file a notification with the Commission that the work agreement is signed within 24 hours after the signing. **(R. Moses/Kennedy/Banks)**

STAFF ANALYSIS: Rule 25-4.0770(2), Florida Administrative Code, Customer Appointments, provides:

Each company shall keep at least 95 percent of all appointments each month. Where appointments cannot be kept by the company, the customer shall be notified by telephone call prior to the beginning of the appointment period if a can-be-reached number is obtained from the customer and a new appointment shall be scheduled. No appointment cancelled in this manner shall constitute a kept or missed appointment by the company.

If the CWA initiates a work stoppage, a significant number of BellSouth craft employees that fulfill customer appointments will not report to work. BellSouth will assign management personnel with the intent to fulfill its obligations to meet customer appointments.

Staff believes that BellSouth's petition meets the requirements of Section 120.542, Florida Statutes. First, BellSouth has demonstrated that telecommunications services will be rendered, to the extent possible, in a prompt, expeditious and efficient manner as required by Section 364.03, Florida Statutes, underlying Rule 25-4.0770(2), Florida Administrative Code. Thus the purpose of the underlying statute will be served if the Commission grants the waiver request. By reassigning management personnel to fulfill customer appointments, BellSouth will be able to provide consumers with service in as expeditious and efficient manner as possible.

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Secondly, the company has demonstrated that the Commission's enforcement of the requirements of Rule 25-4.0770(2), Florida Administrative Code, would result in substantial hardship for the company. If a work stoppage occurs, BellSouth will be significantly limited in staffing. BellSouth has committed to an approach whereby it will assign management personnel to assist in meeting customer appointments. However, some delays in meeting customer appointments may occur. Enforcement of the Commission's customer appointments rules would potentially subject BellSouth to significant monetary penalties if customers file complaints and the company was show caused based upon these complaints.

Therefore, staff recommends that the Commission should approve BellSouth's Petition for a temporary and emergency waiver of Rule 25-4.0770(2) for the duration of the work stoppage, should one occur, beginning August 4, 2001, and ending the day BellSouth and the CWA sign a work agreement. BellSouth should also be ordered to file a notification with the Commission that the work agreement is signed within 24 hours after the signing.

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ISSUE 5: Should the Commission approve BellSouth's Petition for a temporary and emergency waiver of Rule 25-4.040(5), Florida Administrative Code?

RECOMMENDATION: Yes. Staff recommends that the Commission should approve BellSouth's Petition for a temporary and emergency waiver of Rule 25-4.040(5), Florida Administrative Code, exclusive of the requirement to maintain listings for "Poison Information Center", for the period beginning August 4, 2001, and ending the day BellSouth and the CWA sign a work agreement. BellSouth should file notice of any work stoppage with the Division of the Commission Clerk & Administrative Services no later than Friday, August 3, 2001. BellSouth should also be ordered to file a notification with the Commission that the work agreement is signed within 24 hours after the signing. **(R. Moses/Kennedy/Banks)**

STAFF ANALYSIS: Rule 25-4.040(5), Florida Administrative Code, Telephone Directories; Directory Assistance, provides:

Directory assistance operators shall maintain records of all telephone numbers (except for non-published telephone numbers) in the area for which they have the responsibility of furnishing service. Directory assistance records must also contain listings for "Poison Information Center" and the local telephone number, where the area served by the directory assistance operator has local calling to a Poison Information Center. If no local telephone number exists, then the toll-free telephone number of a Poison Information Center shall be listed. All new or changed listings shall be provided to directory assistance operators within 48 hours after connection of service, excluding Saturdays, Sundays and holidays.

If the CWA initiates a work stoppage, BellSouth may reassign a significant number of its non-represented employees to other more critical functions. BellSouth will assign functions to non-represented employees with the intent to fulfill its obligations to provide service to the areas it serves.

In part, Rule 25-4.040(5), Florida Administrative Code, requires BellSouth to maintain listings on "Poison Information Centers". Staff believes that maintenance of the "Poison Information Center" listings is a vital function directly related

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to the health and welfare of Florida's citizens. In addition, staff believes that maintenance of the poison control listings is an insignificant workload. The maintenance of the "Poison Information Center" listings should not be part of the waiver. The other requirements in Rule 25-4.040(5), Florida Administrative Code, should be included in the waiver.

Staff believes that BellSouth's petition meets the requirements of Section 120.542, Florida Statutes. First, BellSouth has demonstrated its commitment to protect the public health, safety and welfare of consumers by committing to continue to provide telecommunications services, to the extent possible, as required by Section 364.01, Florida Statutes, underlying Rule 25-4.040(5), Florida Administrative Code. Thus the purpose of the underlying statute will be served if the Commission grants the waiver request. BellSouth has expressed its intent to fulfill its obligations to provide service to the areas it serves.

Secondly, the company has demonstrated that the Commission's enforcement of the requirements of Rule 25-4.040(5), Florida Administrative Code, exclusive of the requirement to maintain listings for "Poison Information Center", would result in substantial hardship for the company. Due to limited staffing, BellSouth has defined an approach whereby it will continue to provide services to consumers by reassigning management personnel to perform services as needed. However, some delays in updating telephone directories may occur. Enforcement of the Commission's telephone directories rules would potentially subject BellSouth to significant monetary penalties if customers file complaints and the company was show caused based upon these complaints.

Therefore, staff recommends that the Commission should approve BellSouth's Petition for a temporary and emergency waiver of Rule 25-4.040(5), Florida Administrative Code, exclusive of the requirement to maintain listings for "Poison Information Center", for the duration of the work stoppage, should one occur, beginning August 4, 2001, and ending the day BellSouth and the CWA sign a work agreement. BellSouth should file notice of any work stoppage with the Division of the Commission Clerk & Administrative Services no later than Friday, August 3, 2001. BellSouth should also be ordered to file a notification with the Commission that the work agreement is signed within 24 hours after the signing.

ISSUE 6: Should the Commission approve BellSouth's Petition for a temporary and emergency waiver of Rule 25-4.111, Florida Administrative Code?

RECOMMENDATION: Staff recommends that the Commission should limit its approval to Section (1) of Rule 25-4.111, Florida Administrative Code, of BellSouth's Petition for a temporary and emergency waiver of Rule 25-4.111, Florida Administrative Code, for the period beginning August 4, 2001, and ending the day BellSouth and the CWA sign a work agreement. BellSouth should be ordered to resolve all backlogged complaints, if any, within 15 days after an agreement is reached between BellSouth and the CWA. BellSouth should file notice of any work stoppage with the Division of the Commission Clerk & Administrative Services no later than Friday, August 3, 2001. BellSouth should also be ordered to file a notification with the Commission that the work agreement is signed within 24 hours after the signing. (R. Moses/Kennedy/Banks)

STAFF ANALYSIS: Rule 25-4.111, Florida Administrative Code, Customer Complaints and Service Requests, provides:

(1) Each telephone utility shall make a full and prompt investigation of all complaints and service requests made by its customers, either directly to it or through the Commission and respond to the initiating party within fifteen (15) days. The term "complaint" as used in this rule shall be construed to mean any oral or written report from a subscriber or user of telephone service relating to a physical defect, difficulty or dissatisfaction with the operation of telephone facilities, errors in billing or the quality of service rendered.

(2) Arrangements shall be made by each telephone company to receive customer trouble reports twenty-four (24) hours daily and to clear trouble of an emergency nature at all hours, consistent with the bona fide needs of the customer and personal safety of utility personnel.

(3) If the use of service by any subscriber interferes unreasonably with the necessary service of other customers, such subscribers may be required to take service in sufficient quantity or of a different class or grade.

If the CWA initiates a work stoppage, BellSouth may assign management personnel, normally assigned to complaint resolution, to other functions, such as installation and repair. BellSouth will assign functions to management employees with the intent to fulfill its obligations to provide service to the areas it serves. Staff supports BellSouth's objective of prioritizing dial tone service as its primary objective.

In its Petition, BellSouth requested a waiver of Rule 25-4.111, Florida Administrative Code in its entirety. In reviewing the text of BellSouth's Petition, staff believes that BellSouth only meant to request a waiver of Section (1) of Rule 25-4.111, Florida Administrative Code. Therefore, staff believes that Sections (2) and (3) of Rule 25-4.111, Florida Administrative Code, should be excluded from the waiver. Section (2) of Rule 25-4.111, Florida Administrative Code, requires that BellSouth receive customer trouble reports 24 hours per day. Staff believes that BellSouth could use an automatic recording device to meet this requirement (during business and non-business hours) and thus Section (2) should not be included in any waiver approval. Section (3) of Rule 25-4.111, Florida Administrative Code, addresses a subscriber's use of a service that may cause interference with the service of other subscribers. Staff believes that Section (3) of Rule 25-4.111, Florida Administrative Code, should be excluded from the waiver.

Staff believes that BellSouth's petition meets the requirements of Section 120.542, Florida Statutes. First, BellSouth has demonstrated that telecommunications services shall be provided, to the extent possible, in an expeditious and efficient manner as required by Section 364.03, Florida Statutes, underlying Rule 25-4.111(1), Florida Administrative Code. By reassigning management personnel to perform other functions, BellSouth will be able to continue to provide services to its consumers in an expedited and efficient manner. Thus the purpose of the underlying statute will be met.

Secondly, the company has demonstrated that the Commission's enforcement of the requirements of Rule 25-4.111(1), Florida Administrative Code, would result in substantial hardship for the company. BellSouth has committed to an approach whereby it will assign management personnel to perform functions involving the delivery of basic local service. However, some delays in resolving consumer complaints may occur. Enforcement of the Commission's

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consumer complaints rules would potentially subject BellSouth to significant monetary penalties if customers file complaints and the company was show caused based upon non-resolution of these complaints.

Therefore, staff recommends that the Commission should limit its approval to Section (1) of Rule 25-4.111, Florida Administrative Code, of BellSouth's Petition for a temporary and emergency waiver of Rule 25-4.111, Florida Administrative Code, for the duration of the work stoppage, should one occur, beginning August 4, 2001, and ending the day BellSouth and the CWA sign a work agreement. BellSouth should be ordered to resolve all backlogged complaints, if any, within 15 days after an agreement is reached between BellSouth and the CWA. BellSouth should file notice of any work stoppage with the Division of the Commission Clerk & Administrative Services no later than Friday, August 3, 2001. BellSouth should also be ordered to file a notification with the Commission that the work agreement is signed within 24 hours after the signing.

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ISSUE 7: Should the Commission order BellSouth to publicize, through radio, television, and newspaper advertisements, the potential of delays in service and support to customers, if there is a work stoppage by the CWA?

RECOMMENDATION: Yes. Staff recommends that the Commission should order BellSouth to publicize, through radio, television, and newspaper advertisements, the potential of delays in service and support to customers, if there is a work stoppage by the CWA. BellSouth should prepare announcements in advance and immediately release the prepared announcements if a work stoppage occurs. **(R. Moses/Kennedy)**

STAFF ANALYSIS: Existing and potential customers should be well informed of any work stoppages that may cause a degradation in the quality of service and support provided by BellSouth. Informed consumers will be better equipped to deal with potential service delays.

Therefore, Staff recommends that the Commission should order BellSouth to publicize, through radio, television, and newspaper advertisements, the potential of delays in service and support to customers, if there is a work stoppage by the CWA. BellSouth should prepare announcements in advance and immediately release the prepared announcements if a work stoppage occurs.

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ISSUE 8: Should this docket be closed?

RECOMMENDATION: No. If staff's recommendations are approved or denied, the result will be a proposed agency action order. If no timely protest to the proposed agency action is filed within 21 days of the date of the issuance of the Order, the Commission's decision shall be final and effective upon issuance of the consummating order. This docket shall remain open pending notification that an agreement has been reached by BellSouth and the CWA. Thereafter, this docket shall be closed administratively if no further action from the Commission is required. **(BANKS)**

STAFF ANALYSIS: If staff's recommendations are approved or denied, the result will be a proposed agency action order. If no timely protest to the proposed agency action is filed within 21 days of the date of the issuance of the Order, the Commission's decision shall be final and effective upon issuance of the consummating order. This docket shall remain open pending notification that an agreement has been reached by BellSouth and the CWA. Thereafter, this docket shall be closed administratively if no further action from the Commission is required.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by BellSouth Tele-)	
communications, Inc., for Emergency)	
Temporary Waiver of Rules 25-4.066(2)	i	
and (3); 25-4.070(3)(a), (3)(b), and (5);	i	Docket No.
25-4.073(1)(a), (1)(c) and (1)(d);)	
25-4.0770(2); 25-4.040(5); and 25-4.1 1 1,)	
Florida Administrative Code)	Filed: July 17, 2001

**BELLSOUTH TELECOMMUNICATIONS, INC.'S PETITION
FOR EMERGENCY TEMPORARY RULE WAIVER**

BELLSOUTH TELECOMMUNICATIONS, INC. ("BELLSOUTH"), pursuant to Section 120.542, Florida Statutes, and Rule 28-I 04.002, Florida Administrative Code, hereby petitions the Florida Public Service Commission to waive Rules 25-4.066(2) AND (3); 25-4.070(3)(a), (3)(b); AND 25-4.073(1)(a), (1)(c) AND (1)(d); 25-4.0770(2); 25-4.040(5); AND 25-4.1 1 1, Florida Administrative Code, on a temporary and emergency basis.

Specifically, BellSouth seeks the following:

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

2. BellSouth's principal place of business in Florida is 150 W. 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, FL 32301

3. BellSouth is subject to the regulation of the Florida Public Service Commission ("Commission"). The substantial interests of BellSouth will be affected by the Commission's determination as to the matter set forth in this petition.

4. Rules 25-4.066(2) and (3), Florida Administrative Code require that 90% of all requests for primary service be satisfied within three working days, where facilities are available, and requires 95% of all applications for new service in each exchange within a 30 day maximum interval.

5. Rules 25-4.070(3)(a), (3)(b), and (5), Florida Administrative Code require that restoration of interrupted service shall be scheduled to insure at least 95% are cleared within 24 hours, that 95% of service affecting reports be cleared within 72 hours; and that the percentage of repeat troubles not exceed 20% of the total initial customer reports in each exchange.

6. Rules 25-4.073(1)(a), (1)(c) and (1)(d), Florida Administrative Code require that 90% of calls be answered within 30 seconds; that 90% of all calls to repair and 80% of all calls to business offices be answered within 30 seconds; and that 95% of calls be answered within 15 seconds after the last digit is dialed.

7. Rule 25-4.0770(2), Florida Administrative Code requires that 95% of appointments be kept each month. Rule 25-4.040(5), Florida Administrative Code requires that all new or changed listings shall be provided to directory assistance operators within 48 hours. Rule 25-4.1 1 1, Florida Administrative Code requires that all complaints must be responded to within 15 days.

8. By its written terms, On August 4, 2001 at 1 1:59 p.m. (Eastern), the Agreement between the Communications Workers of American ("CWA") and BellSouth is scheduled to expire. BellSouth and the CWA are currently in negotiations to secure a new agreement. While BellSouth is hopeful that these negotiations will be successful, in the event that BellSouth is unable to negotiate a new agreement with the CWA prior to the termination of the current agreement, then a work stoppage may be initiated by the CWA. This work stoppage would affect BellSouth's ability to comply with the Commission rules listed herein.

9. In the event of a work stoppage, a significant number of BellSouth craft employees will not report to work and management employees will be called upon to fill the void. Many of these craft employees have duties that determine BellSouth's compliance with the Commission's rules. In addition, managers that have responsibility for compliance with these rules will be reassigned to other positions.

10. BellSouth's waiver request meets the standards of Section 120.542, Florida Statutes. The purpose of the underlying statutes, Sections 364.01(4), 364.025, 364.051, 364.15, and 364.19 is, in part, to promote the public health, safety, and welfare by ensuring that basic local telecommunications services are available to all consumers. BellSouth's waiver will not undermine this purpose. It is BellSouth's intent to fulfill its obligations to provide service to the areas it serves in the event of a work stoppage. BellSouth will make every effort to continue to give priority restoration to those customers providing emergency services.

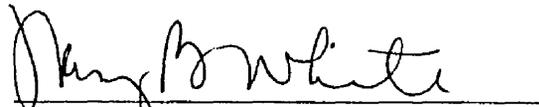
11. BellSouth submits that the equities in this case weigh heavily in favor of granting this waiver. Although the relief requested in this Petition may not be necessary, in the event that a work stoppage does occur, the precise duration of the need for this relief is not known. Therefore, BellSouth submits that the Commission should approve the waiver described above for an initial period of 30 days, starting on the date of a work stoppage, and subject to Commission review, and possible extension.

12. BellSouth seeks this temporary waiver on an emergency basis in light of the fact that, by its written terms, the agreement is scheduled to expire on August 4, 2001 at 11:59 p.m. (eastern). BellSouth will suffer immediate adverse effects unless the waiver is issued prior to that date.

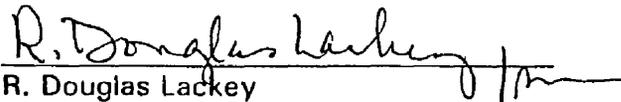
WHEREFORE, BellSouth requests that, having demonstrated good cause for its request, the Commission grant its Petition for Emergency Temporary Rule Waiver.

Respectfully submitted this 17th day of July, 2001.

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