

Kay Flynn

From: Barclay, Lynn [Lynn.Barclay@bellsouth.com]
Sent: Friday, April 16, 2004 4:09 PM
To: Filings@psc.state.fl.us
Cc: Fatool, Vicki; Peters, Evelyn; Linda Hobbs; Nancy Sims; Holland, Robyn P.; Bixler, Micheale; Slaughter, Brenda ; Mays, Meredith
Subject: 030300-TP BellSouth's Letter requesting Commission take official notice of Alabama Decision



030300 Letter
 Alabama decis

a. Lynn Barclay

Legal Secretary to Meredith E. Mays
 BellSouth Telecommunications, Inc.
 c/o Nancy Sims
 150 South Monroe Street
 Room 400
 Tallahassee, Florida 32301
 (404) 335-0788
 lynn.barclay@bellsouth.com

b. Docket No. 030300-TP (Petition of the Florida Public Telecommunications Association for Expedited Review of BellSouth Telecommunications Inc.'s Tariffs With Respect to Rates for Payphone Line Access, Usage, and Features)

c. BellSouth Telecommunications, Inc.
 on behalf of Meredith E. Mays

d. 4 pages total (including attachment)

e. BellSouth Telecommunications, Inc.'s Letter requesting the Commission to take official notice of the attached recent decision from the Alabama Public Service Commission regarding denial of refunds

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ORIGINAL

Legal Department

Meredith Mays
Senior Regulatory Counsel

BellSouth Telecommunications, Inc.
150 South Monroe Street
Room 400
Tallahassee, Florida 32301
(404) 335-0750

April 16, 2004

Ms. Blanca S. Bayó
Division of the Commission Clerk and
Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

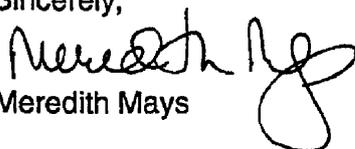
Re: Docket No. 030300-TP (Petition of the Florida Public Telecommunications Association for Expedited Review of BellSouth Telecommunications Inc.'s Tariffs With Respect to Rates for Payphone Line Access, Usage, and Features)

Dear Ms. Bayó:

BellSouth respectfully requests that the Commission take official notice of the attached decision from the Alabama Public Service Commission, which denied a claim for refunds sought by the Southern Public Communication Association and that was issued on April 13, 2004.

A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return the copy to me. Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely,


Meredith Mays

Enclosure

cc: Parties of Record
Nancy White
Lee Fordham

535582

DOCUMENT NUMBER - DATE
04599 APR 16 2004
FPSC-COMMISSION CLERK

**CERTIFICATE OF SERVICE
DOCKET NO. 030300-TP**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via
Electronic Mail and FedEx this 16th day of April, 2004 to the following:

Lee Fordham
Staff Counsel
Florida Public Service Commission
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Suzanne Fannon Summerlin
Suzanne Fannon Summerlin, P.A.
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Tel. No. (850) 656-2288
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sbharvey@suzannesummerlinattorney.com
Represents Davel Communications



Meredith E. Mays

(+) signed Protective Agreement



STATE OF ALABAMA
ALABAMA PUBLIC SERVICE COMMISSION
P.O. BOX 304260
MONTGOMERY, ALABAMA 36130-4260

JIM SULLIVAN, PRESIDENT
JAN COOK, ASSOCIATE COMMISSIONER
GEORGE C. WALLACE, JR., ASSOCIATE COMMISSIONER

WALTER L. THOMAS, JR.
SECRETARY

**SOUTHERN PUBLIC COMMUNICATION
ASSOCIATION,**

DOCKET 29172

Complainant

and

**BELLSOUTH TELECOMMUNICATIONS,
INC.,**

Defendant

ORDER

BY THE COMMISSION:

On December 3, 2003, Southern Public Communication Association filed its Complaint against BellSouth Telecommunications, Inc. contending that BellSouth owes refunds for the period before it made a tariff filing reducing rates.

On February 4, 2004, BellSouth filed its Answer and Motion to Dismiss the Complaint. It contends the Commission lacks the ability to grant the relief requested by the Complainant; that relief is prohibited by the filed rate doctrine; and BellSouth has not waived its right to rely upon the tariff filing requirements.

On March 15, 2004, Southern Public Communication Association filed its Response in Opposition to the Motion to Dismiss. It contends a refund is mandated by

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federal law. Also, the Commission has discretion to exercise its equitable rate making power to force BellSouth to comply with §276 through the issuance of refunds.

It appears, and we find, that the reasoning of BellSouth's Motion to Dismiss is very compelling and the Motion is due to be granted.

IT IS, THEREFORE, ORDERED BY THE COMMISSION, That the Complaint filed by Southern Public Communication Association against BellSouth Telecommunications, Inc. is hereby dismissed.

IT IS FURTHER ORDERED, That this Order shall be effective as of the date hereof.

DONE at Montgomery, Alabama this 13th day of April, 2004.

ALABAMA PUBLIC SERVICE COMMISSION



Jim Sullivan, President



Jan Cook, Commissioner



George C. Wallace, Jr., Commissioner

ATTEST: A True Copy



Walter L. Thomas, Jr., Secretary