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REPLY TO TALLAHASSEE

April 9, 1997

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Ms. Blanca Bayo, Director  
Division of Records & Reporting  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

RE: Petition for Numbering Plan Area Relief for 904 Area Code, by BellSouth  
Telecommunications, Inc., in Docket No. 961153-TL

Dear Ms. Bayo:

Enclosed please find the original and fifteen (15) copies of The City of  
Jacksonville's Request for Oral Argument on Petition For Leave For Limited  
Intervention and The City of Jacksonville's Petition For Leave For Limited Intervention.

If additional information is needed, please do not hesitate to contact me.

Sincerely,

John R. Marks, III

JRM/lcg  
Enclosures

RECEIVED & FILED

DOCUMENT NUMBER-DATE

03664 APR-96

FPSC-RECORDS/REPORTING

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

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**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

**In Re: Petition for Numbering Plan Area  
Relief for 904 Area code, by BellSouth  
Telecommunications, Inc.**

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**Docket No. 961153-TL  
Filed: April 9, 1997**

**PETITION FOR LEAVE FOR LIMITED INTERVENTION**

City of Jacksonville (Jacksonville or City) by and through its undersigned counsel petitions the Florida Public Service Commission pursuant to Chapter 120, Fla. Statutes and Rule 25-22.039, Fla. Administrative Code for leave to intervene in the above captioned proceeding. In compliance with Rule 25-22.036(7)(a), Fla. Administrative Code, the City states the following:

1. The City of Jacksonville is a Florida municipal corporation having its offices at:

220 East Bay Street  
Jacksonville, Florida 32202

The City is a person as defined in Section 120.52(13), Fla. Statutes.

2. The address and telephone number of the person to receive notices, pleadings, orders or other documents and communications in connection with this proceeding is:

John R. Marks, III  
Katz, Kutter, Haigler, Alderman,  
Marks, Bryant & Yon, P.A.  
106 East College Avenue, Suite 1200  
Tallahassee, Florida 32301  
(904) 224-9634

3. Jacksonville is a unit of state government authorized by state statute to represent the interest of the citizens of Jacksonville which encompasses all of Duval County. This proceeding before the Commission involves the substantial interest of the residents of

DOCUMENT NUMBER-DATE  
03668 APR-96  
FPSC-RECORDS/REPORTING

**Jacksonville and the City is authorized to represent their interest.**

**4. Jacksonville files this Petition as a "person" having a substantial interest in the subject matter of this docket. Jacksonville asserts its own interest as a telephone service subscriber and the interest of those citizens and businesses of Jacksonville who are subscribers of telephone services.**

**5. All of the current parties to this docket appear to agree that Jacksonville's substantial interest will be affected by the Commission's decision.**

**6. The staff recommendation in this docket dated March 21, 1997 provided the following:**

**At page 8 of that recommendation, the staff states:**

**The Respondents argue that Jacksonville was eligible at one time to intervene in this proceeding as a party.**

**At page 9 of the recommendation, it states:**

**Indeed, Jacksonville was clearly entitled to party status.**

**At page 10 the recommendation states:**

**The City of Jacksonville clearly has a stake in the outcome of the proceeding...**

**Then at page 11 of the recommendation the following is provided:**

**Staff recognizes that the Commission's decision indeed affects the substantial interest of Jacksonville and its citizens...**

**7. It appears from the foregoing that Jacksonville's only fault was its failure to file a Petition to Intervene five (5) days prior to the hearing conducted on December 9, 1996, as required by Rule 25-22.039 Fla. Administrative Code.**

8. **The staff further stated in its March 21, 1997 recommendation at page 4:**

**The letters from BellCore, NANC and the FCC written after the recommendation had closed and the Commission had made its decision represent those entities' response to the Commission's decision... Staff believes that the letters provide new evidence that may be material to the Commission's reconsideration decision. If the new evidence is competent and relevant, the staff believes that the Commission should admit it into the record and consider it. The staff recommends that the appropriate way to deal with the new evidence is to reopen the record, allow parties a brief, but reasonable opportunity to conduct discovery and respond to the evidence and conduct a brief hearing to consider it.**

9. **Based on the staff's recommendation of March 21, 1997, the Commission at its April 1, 1997 regular Agenda Conference voted to reopen the record in this docket for the limited purpose of considering the letters from NANC, Bellcore and the FCC concerning the Commission's decision to use two (2) new area codes in its relief plan.**

10. **Clearly, since the Commission has reopened the record and intends to conduct another hearing to include and consider additional evidence, Jacksonville and its citizens whose interest will be substantially affected should be allowed to participate in the reopened process.**

11. **It is Jacksonville's understanding that the limited hearing will be conducted on April 16, 1997. The City has therefore endeavored to file this Petition For Leave For Limited Intervention at least five (5) days in advance of that hearing.**

12. **The City understands and acknowledges that intervenors take the case as they find it. Further, the City understands and recognizes the desire of the Commission and the**

parties to expeditiously complete this matter in order to implement the new area code plan in a timely fashion. Notwithstanding Jacksonville's belief that it has a right to intervene without limitations, if allowed to intervene, the City agrees to limit its participation in the manner suggested in its prior Motion for Leave to Participate filed on February 25, 1997, i.e. in a manner similar to *amicus curiae*.

13. The City does not intend to present any witnesses or evidence of its own, but would request the right to support or oppose evidence already in the record or to be presented at the hearing scheduled for April 16, 1997. The City would also request leave to present oral argument and/or submit briefs based on the record.

14. The City cannot find any statutory reference or case law to support a position that Jacksonville should not be allowed this limited intervention or to participate in the manner suggested. The Commission's basic practice and policy on participation by parties and the receipt of evidence has always been inclusive. It is uncharacteristic and contrary to the general practice of the Commission to have a rule, policy, or practice that excludes or limits participation in its public hearings.

15. Jacksonville believes the only possible remaining disputed issues of material fact relate to the letters from Bellcore, NANC and the FCC referred to in the staff's recommendation of March 21, 1997 and used as the basis for reopening the record.

16. It is Jacksonville's position that those letters are appropriate for consideration by the Commission; if done in the manner stated in the staff's March 21, 1997 recommendation.

17. Jacksonville believes that the only remaining ultimate fact is that the Commission did


not have the opportunity to consider the letters from Bellcore, NANC and the FCC.

18. The City is entitled to relief pursuant to Chapters 25-4 and 25-24, Fla. Administrative Code and Chapter 364, Fla. Statutes.

**BASED UPON THE FOREGOING**, the City of Jacksonville respectfully request the Florida Public Service Commission to issue an order granting this Petition For Leave For Limited Intervention and allow the City of Jacksonville to participate in the manner as suggested above.

Dated this 9<sup>th</sup> day of April, 1997.

Respectfully submitted,



John R. Marks, III  
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Marks, Bryant & Yon, P.A.  
106 East College Avenue, Suite 1200  
Tallahassee, Florida 32301  
(904) 224-9634

**CERTIFICATE OF SERVICE  
DOCKET NO. 961153-TL**

**I HEREBY CERTIFY** that a true copy of the foregoing has been furnished by hand delivery to Ms. Blanca Bayo, Director, Division of Records and Reporting, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, Mr. Charlie Pellegrini, Mr. Will Cox, Division of Legal Services, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, Mr. Ralph Widell, Division of Communications, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850 and by U.S. Mail to the following individuals on this 9<sup>th</sup> day of April, 1997.

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