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December 21, 1998

ORIGINAL

VIA HAND DELIVERY

Blanca S. Bayo, Director
Florida Public Service Commission
Division of Records and Reporting
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0870

Re: Docket No. 981052-TP

Dear Ms. Bayo:

Enclosed for filing and distribution are the original and fifteen copies of the Telephone Company of Central Florida's Prehearing Statement in the above docket.

Please acknowledge receipt of the above on the extra copy enclosed herein and return them to me. Thank you for your assistance.

Sincerely,

Vicki Gordon Kaufman

- OK _____
- BA _____
- PP _____ VGK/pw
- AF _____ Encl.
- DMU** _____
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- SAG _____
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Telephone Company of)
Central Florida, Inc. for resolution of) Docket No. 981052-TP
items under dispute in resale agreement)
with BellSouth Telecommunications, Inc.) Filed: December 21, 1998
_____)

**THE TELEPHONE COMPANY OF CENTRAL FLORIDA, INC.'S
PREHEARING STATEMENT**

The Telephone Company of Central Florida, Inc. (TCCF), pursuant to Order No. PSC-98-1490-PCO-TP, files its Prehearing Statement.

A. APPEARANCES:

JOSEPH A. MCGLOTHLIN and VICKI GORDON KAUFMAN, McWhirter, Reeves, McGlothlin, Davidson, Decker, Kaufman, Arnold & Steen, P.A., 117 South Gadsden Street, Tallahassee, Florida 32301

On behalf of the Telephone Company of Central Florida, Inc.

B. WITNESSES:

<u>Witnesses</u>	<u>Subject Matter</u>	<u>Issues</u>
<u>Direct</u>		
Elder (Kip) Ripper, III	ESSX	Complaint 1 Arbitration 2
Kenneth E. Koller	ESSX	Complaint 1
Andrea K. Welch	OSS Charges Service Intervals	Arbitration 1, 3

The following witnesses are adverse witnesses and, therefore, have no prefiled direct testimony.

<u>Witnesses</u>	<u>Subject Matter</u>	<u>Issues</u>
Charlotte Webb	ESSX	Complaint 1 Arbitration 2

<u>Witnesses</u>	<u>Subject Matter</u>	<u>Issues</u>
Wade Johnson	ESSX	Complaint 1 Arbitration 2
Rich Dender	ESSX	Complaint 1 Arbitration 2
Bob McRae	ESSX, OSS, Service Intervals	Complaint 1 Arbitration 1,2,3
Wayne Carnes	ESSX, OSS, Service Intervals	Complaint 1 Arbitration 1,2,3
Maress Cathey	ESSX, OSS, Service Intervals	Complaint 1 Arbitration 1,2,3
Tom Boldine	ESSX	Complaint 1 Arbitration 2
Judy Woods	ESSX	Complaint 1 Arbitration 2
Neal Holden	ESSX	Complaint 1 Arbitration 2
Joe Baker	ESSX, OSS, Service Intervals	Complaint 1 Arbitration 1,2,3
Bill French	ESSX	Complaint 1 Arbitration 2
Stephen Vinsavich	ESSX, OSS, Service Intervals	Complaint 1 Arbitration 1,2,3
Jerry Hendrix	ESSX, OSS Negotiations	Complaint 1 Arbitration 1,2
Mark Felder	ESSX, OSS, Service Intervals	Complaint 1 Arbitration 2
Mike Wilburn	OSS	Arbitration 1,3

<u>Witnesses</u>	<u>Subject Matter</u>	<u>Issues</u>
Cheryl Story	OSS	Arbitration 1,3
Jimmy Patrick	OSS	Arbitration 1,3
Judy Glass	OSS, Service Intervals	Arbitration 1,3
Daryl Dakote	ESSX	Complaint 1 Arbitration 2
Theresia Gentry	OSS, Service Intervals	Arbitration 1,3
Vivian Wilder	OSS, Service Intervals	Arbitration 1,3
Gail Eiriksson	OSS, Service Intervals	Arbitration 1,3
Susan Arrington	OSS, Service Intervals	Arbitration 1,3
Bill Thrasher	OSS, Service Intervals	Arbitration 1,3
Bill Bolt	OSS, Service Intervals	Arbitration 1,3

Rebuttal

Elder (Kip) Ripper, III	ESSX	Complaint 1 Arbitration 2
Andrea K. Welch	OSS	Arbitration 1

C. EXHIBITS:

<u>Exhibit</u>	<u>Witness</u>	<u>Description</u>
Exhibit No. ____ (ENR-1)	Ripper	Letter Confirming ESSX Availability
Exhibit No. ____ (ENR-2)	Ripper	Letter Confirming TCCF's Ability to Order as Many ESSX Lines as it Wanted
Exhibit No. ____ (ENR-3)	Ripper	Price Confirmation
Exhibit No. ____ (ENR-4)	Ripper	TCCF's Business Plan

<u>Exhibit</u>	<u>Witness</u>	<u>Description</u>
Exhibit No. ____ (ENR-5)	Ripper	BellSouth Acceptance of TCCF's Formal Service Request for 201 Line ESSX Agreements for 73 months
Exhibit No. ____ (ENR-6)	Ripper	Charlotte R. Webb Letter Describing Network
Exhibit No. ____ (ENR-7)	Ripper	Examples of Problems TCCF Experienced
Exhibit No. ____ (ENR-8)	Ripper	Non-ESSX Comparison
Exhibit No. ____ (ENR-9)	Ripper	Examples of Delays Experienced as Recently as November 11, 1998
Exhibit No. ____ (ENR-10)	Ripper	Differences in ESSX v. MultiServ Plus
Exhibit No. ____ (KEK-1)	Koller	Installation Schedule of ESSX Systems
Exhibit No. ____ (KEK-2)	Koller	Correspondence Regarding Customer Loss
Exhibit No. ____ (KEK-3)	Koller	Notice and Agenda of Provisioning Meeting
Exhibit No. ____ (KEK-4)	Koller	New Installation Schedule of Remaining ESSX Systems
Exhibit No. ____ (KEK-5)	Koller	Communications Regarding Implementation of ESSX-M Service
Exhibit No. ____ (KEK-6)	Koller	Problems Associated With Special Features
Exhibit No. ____ (KEK-7)	Koller	Correspondence Regarding Move of IFB Accounts to ESSX Service Magnolia DMS100, Magnolia 1 AESS and Pinehills 5 ESS
Exhibit No. ____ (KEK-8)	Koller	Memorandum Regarding 5ESS Central Office Long Distance Problem
Exhibit No. ____ (KEK-9)	Koller	Facsimiles Regarding Moving Accounts
Exhibit No. ____ (KEK-10)	Koller	Correspondence Regarding BellSouth Ordering Guidelines

<u>Exhibit</u>	<u>Witness</u>	<u>Description</u>
Exhibit No. ____ (KEK-11)	Koller	Correspondence Regarding Continuing Problems and Further Customer Loss by TCCF
Exhibit No. ____ (KEK-12)	Koller	Correspondence Regarding Update of 64 Remaining Orders Sent to BellSouth
Exhibit No. ____ (KEK-13)	Koller	Communications Regarding the Additional Orders and the Next Group of Customers to be Moved into ESSX Service
Exhibit No. ____ (KEK-14)	Koller	Correspondence Regarding Change in BellSouth Team Members
Exhibit No. ____ (KEK-15)	Koller	Memo Regarding Special Assemblies for ISDN and CAMA Trunk ANI Information Processing
Exhibit No. ____ (KEK-16)	Koller	Facsimile Reconfirming Joe Baker's Commitment that the Interconnection Services Team Would Initiate the Paperwork
Exhibit No. ____ (KEK-17)	Koller	BellSouth Correspondence Acknowledging Receipt of Bona Fide Request from TCCF
Exhibit No. ____ (KEK-18)	Koller	Memo Regarding Further Customer Loss and Attachments
Exhibit No. ____ (KEK-19)	Koller	Letter from BellSouth Indicating that the T1 Access had Been Developed for All Three Types of Central Offices and that a 16-Week Interval Would Be Needed to Implement this Service Requirement
Exhibit No. ____ (KEK-20)	Koller	Letter from BellSouth Indicating that the Facilities Were No Longer Available for Implementation
Exhibit No. ____ (KEK-21)	Koller	Letter from BellSouth Acknowledging Receipt of a Bona Fide Request for Assumed Dial 9

<u>Exhibit</u>	<u>Witness</u>	<u>Description</u>
Exhibit No. ____ (KEK-22)	Koller	Letter Regarding Request for DIN/DOR
Exhibit No. ____ (KEK-23)	Koller	Correspondence from BellSouth Indicating that a Response to the BFR Must Be received by October 15
Exhibit No. ____ (KEK-24)	Koller	Letter from BellSouth Regarding an ESSX Workshop and Resulting New Schedule for Implementation of the T1 Capabilities for Each Central Office
Exhibit No. ____ (KEK-25)	Koller	BFR Drafted on October 23rd for the DIN/DOR Feature Capability
Exhibit No. ____ (KEK-26)	Koller	Facsimile Confirming What Services TCCF had Requested
Exhibit No. ____ (KEK-27)	Koller	Letter to Joe Baker Requesting an Answer to the Letter Sent on April 29th
Exhibit No. ____ (KEK-28)	Koller	Facsimile Indicating that the DIN/DOR Feature had Not Been Completed and a Due Date of May 20, 1998 was Currently the Scheduled Completion Date
Exhibit No. ____ (AKW-1)	Welch	Existing Agreement Between BellSouth and TCCF
Exhibit No. ____ (AKW-2)	Welch	"Proposed" Agreement Marked Version: February 3, 1998
Exhibit No. ____ (AKW-3)	Welch	Items for Discussions During Renegotiations
Exhibit No. ____ (AKW-4)	Welch	OSS Rate Chart
Exhibit No. ____ (AKW-5)	Welch	Chart Identifying the Current Fees Which TCCF Pays to BellSouth
Exhibit No. ____ (AKW-6)	Welch	"Revised" OSS Chart

<u>Exhibit</u>	<u>Witness</u>	<u>Description</u>
Exhibit No. ____ (AKW-7)	Welch	September 24, 1998 Fax With Language Regarding OSS Issue Which Would Be Acceptable to TCCF, with the Exclusion of the OSS Chart
Exhibit No. ____ (AKW-8)	Welch	September 29, 1998 Response from BellSouth to the Above Language and Proposed Alternate Language
Exhibit No. ____ (AKW-9)	Welch	Response to BellSouth's Above-Referenced Communication
Exhibit No. ____ (AKW-10)	Welch	Ms. Keyer's Response Dated October 7, 1998
Exhibit No. ____ (AKW-11)	Welch	Implementation and Recurring Costs Associated With the Reseller's Implementation of EDI
Exhibit No. ____ (AKW-12)	Welch	Estimate of the Processing Fees Which BellSouth Would Have Charged TCCF for the Months of May 1998 and October 1998 If the OSS Language and Chart Proposed by BellSouth had Been Part of the TCCF Agreement During Those Months
Exhibit No. ____ (AKW-13)	Welch	BellSouth's Standard Interval Guide
Exhibit No. ____ (AKW-14)	Welch	TCCF Log Tracking Adds, Moves and Changes

TCCF reserves the right to utilize additional exhibits on cross-examination.

D. STATEMENT OF BASIC POSITION:

Telephone Company of Central Florida's Statement of Basic Position:

TCCF is a small reseller of local and long distance services. In May 1996, TCCF, in good faith, entered into a Resale Agreement with BellSouth Telecommunications, Inc. (BellSouth). Pursuant to that Resale Agreement, BellSouth was required to provision ESSX

service to TCCF for resale.

The first portion of this case involves TCCF's complaint that BellSouth did not fulfill its obligations under the Resale Agreement because it never provisioned ESSX to TCCF in an appropriate manner. ESSX was a major component of TCCF's Business Plan. BellSouth's failure to appropriately provision ESSX resulted in a major loss of customers to TCCF as well as damage to TCCF's business reputation. Further, BellSouth's failure to live up to its obligations under the Resale Agreement has thwarted the goal of the Telecommunications Act of 1996 to bring local competition to consumers. To remedy BellSouth's failure to perform under the current Resale Agreement, the Commission must permit TCCF to resell ESSX under the new Resale Agreement with BellSouth.

The second portion of this case concerns issues which TCCF and BellSouth cannot agree on in the negotiation of a new Resale Agreement. There are three issues in dispute. The first concerns whether ESSX must be made available for resale under the new Agreement. It is TCCF's position that because BellSouth never provisioned ESSX as required, it must be included in the new Agreement for both current and new customers--this is the only remedy TCCF has. Alternatively, TCCF would agree to accept MultiServ, but only at the ESSX price.

The second arbitration issue relates to BellSouth's demand that TCCF compensate it for the development of OSS systems and/or that BellSouth be permitted to greatly inflate its processing charges through the inclusion of an OSS rate chart in the new Agreement. However BellSouth characterizes the proposed increase in processing charges, they are discriminatory and violative of the Telecommunications Act of 1996. If such charges are couched as OSS "development" charges, it is TCCF's position that it is BellSouth's responsibility to develop

systems to comply with the Act, just as TCCF must expend money to purchase software and make other adjustments in its business practices. To the extent, BellSouth tries to justify the charges as additional processing fees, it is TCCF's view that this is an arbitrary attempt to increase resellers' costs (and thus decrease the wholesale discount ordered by this Commission) and should not be permitted. This is especially the case given the fact that BellSouth does not have OSS in place which is adequate to appropriately process resellers' orders at parity with the way BellSouth processes orders from its retail customers.

The last arbitration issue concerns BellSouth's provision of service order intervals which are equivalent to those provided to its retail customers. Throughout the history of the current Agreement, TCCF has continually discussed this problem with BellSouth to no avail. TCCF needs this Commission to ensure that BellSouth will provide appropriate service intervals under the new Agreement. Thus, it asks the Commission to include language to that effect in the Agreement and to impose a \$25.00 penalty on each order not provisioned within the appropriate service interval.

E. STATEMENT OF ISSUES AND POSITION:

Complaint

1. **ISSUE:** Has BST provided TCCF with ESSX service in compliance with the parties' Resale Agreement for periods of time not covered by settlements and adjustments made regarding ESSX? if not, what action, if any, should the Commission take?

TCCF: *No. The Telecommunications Act of 1996 requires services to be made available for resale on a nondiscriminatory basis. BellSouth has failed to follow this provision of the Act. Though TCCF has continually tried to work with the changing BellSouth personnel so that ESSX could be properly provisioned, BellSouth has never been able to adequately provide the service. BellSouth actions have resulted in TCCF customers being

disconnected, some for more than a week. It has resulted in TCCF being required to provide refunds to dissatisfied customers, has resulted in many customers returning to BellSouth, and has damaged TCCF's reputation in the marketplace. Finally, BellSouth's actions have thwarted the purpose of the Act--to bring competition to the local market.*

Arbitration

1. ISSUE: Should BST be permitted to recover from TCCF its non-recurring and recurring costs of providing OSS for use by ALECs?

TCCF: *No. BellSouth has attempted to include language in the new Resale Agreement which would require TCCF to pay BellSouth for the development of OSS systems. It has also attempted to include an "OSS chart" setting out fees for OSS services. It is TCCF's position that it is BellSouth's responsibility under the Act to provide OSS at parity with what it provides itself. As the Commission has said, each party should bear its own costs. Further, requiring resellers to pay for the development of these systems would turn the Act on its head. It should also be remembered that resellers have their own development costs. BellSouth's attempt to inflate the fees charged for processing orders is nothing more than an arbitrary and discriminatory attempt to reduce the wholesale discount ordered by this Commission and should not be permitted. In addition, the Commission should not place the burden on small carriers of trying to analyze BellSouth's cost studies.*

A. If so, how should the charges for such use be determined?

TCCF: *As noted above, no such fees should be permitted. But if such fees are permitted, the Commission must determine, prior to permitting any such fees, that BellSouth is providing OSS to resellers that is equal to that BellSouth uses when processing retail orders. BellSouth should be required to substantiate all costs, explain the formula used to recover such costs, explain how the costs will be apportioned among ALECs, explain any future anticipated costs and identify OSS which will result from such expenditures.*

B. What language and rates regarding OSS should be included?

TCCF: *Language should be included requiring BellSouth to provide OSS to resellers that is at parity with the OSS BellSouth personnel use to process retail orders. The Commission should institute a monitoring process to ensure that this is accomplished. No additional processing fees or

"development" fees should be permitted.*

2. **ISSUE:** Should ESSX be made available for resale in the new Resale Agreement?

TCCF: *Yes. BellSouth has failed to live up to its current Agreement regarding ESSX resale. The only way this situation can be remedied is to include ESSX for resale in the new Agreement. It should be available to new customers and current customers for at least 18 months. Alternatively, TCCF would be willing to accept MultiServ from BellSouth at the ESSX price.*

3. **ISSUE:** What language, if any, should be included within the agreement to guarantee the delivery of service order intervals to TCCF that are at least equal to the service intervals delivered to BellSouth's retail customers?

TCCF: *Over the past two years under the current Agreement, TCCF has continually complained to BellSouth regarding the lack of parity of service intervals and BellSouth's failure to meet the time frames in the Service Interval Guide. Language should be included in the agreement requiring BellSouth to adhere to standard service order intervals and a \$25.00 penalty should be imposed per order to all orders which are processed according to these standards. Further, the Commission should require monthly status reports from BellSouth on this subject.*

F. STIPULATED ISSUES:

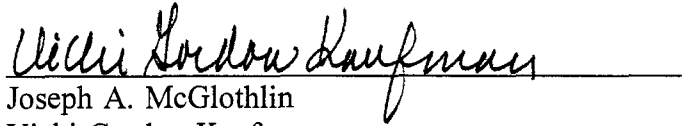
None at this time.

G. PENDING MOTIONS:

TCCF has no pending motions.

H. OTHER MATTERS:

TCCF seeks the inclusion of Issue No. 3 delineated above in this proceeding. This issue was raised by TCCF and objected to by BellSouth.



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Attorneys for the Telephone Company of
Central Florida, Inc.

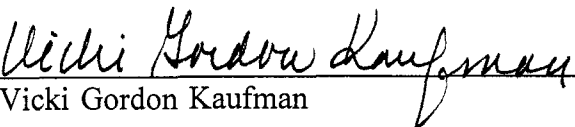
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Telephone Company of Central Florida, Inc.'s foregoing **Prehearing Statement** has been furnished by United States Mail or Hand Delivery (*) this **21st** day of **December, 1998**, to the following:

June McKinney*
Florida Public Service Commission
Division of Legal Services
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0870

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BellSouth Telecommunications, Inc.
675 West Peachtree Street, N.E.
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