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MARY K. KEYER  
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19 JAN -8 PM 4:40

BellSouth Telecommunications, Inc.  
150 South Monroe Street  
Room 400  
Tallahassee, Florida 32301  
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RECORDS AND  
REPORTING

January 8, 1999

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

RE: Docket No. 981052-TP

Dear Mrs. Bayo:

Enclosed are an original and 15 copies of BellSouth Telecommunications, Inc.'s Response to TCCF's Motion to Compel BellSouth to Produce Witnesses for Deposition and Hearing. Please file these documents in the captioned docket.

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 on the parties shown on the attached Certificate of Service.

Sincerely,

*Mary K. Keyer* (ck)  
Mary K. Keyer

- ACK \_\_\_\_\_
- AFA \_\_\_\_\_
- APP \_\_\_\_\_
- CAF \_\_\_\_\_
- CMU Javanza
- CTR \_\_\_\_\_ Enclosures
- EAG \_\_\_\_\_
- LEG 2 cc: All Parties of Record
- LIN 3 M. M. Criser, III
- OPC \_\_\_\_\_ N. B. White
- RCH \_\_\_\_\_ W. J. Ellenberg (w/o enclosures)
- SEC 1
- WAS \_\_\_\_\_
- OTH \_\_\_\_\_

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*[Signature]*  
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FPSC-RECORDS/REPORTING

ORIGINAL

**CERTIFICATE OF SERVICE**  
**Docket No. 981052-TP**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via U.S. Mail this 8<sup>th</sup> day of January, 1999, to the following:

Andrea K. Welch  
Telephone Company of Central  
Florida, Inc.  
3599 W. Lake Mary Boulevard  
Suite E  
Lake Mary, Florida 32746  
(407) 328-5002

Joseph A. McGlothlin  
Vicki Gordon Kaufman  
McWhirter, Reeves, McGlothlin,  
Davidson, Decker, Kaufman,  
Arnold & Steen, P.A.  
117 South Gadsden Street  
Tallahassee, FL 32301  
(850) 222-2525  
Attys. for TCCF

Mary K. Keyer (ke)  
Mary K. Keyer

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: January 8, 1999

**BELLSOUTH TELECOMMUNICATIONS, INC.'S  
 RESPONSE TO TCCF'S MOTION TO COMPEL BELLSOUTH  
 TO PRODUCE WITNESSES FOR DEPOSITION AND HEARING**

BellSouth Telecommunications, Inc. ("BellSouth"), provides the following response to the Telephone Company of Central Florida, Inc.'s ("TCCF") Motion to Compel BellSouth to Produce Witnesses for Deposition and Hearing. For the reasons stated herein, TCCF's motion must be denied.

BellSouth received on January 4, 1999, TCCF's request to take the depositions of six individuals prior to the discovery deadline of January 15, 1999. Four of the named individuals are designated witnesses in the case and have filed pre-filed testimony. The depositions of those witnesses have been set for Thursday and Friday, January 14 and 15, 1999.

The depositions of TCCF's three designated witnesses will be taken immediately following the BellSouth depositions on Thursday and Friday, January 14 and 15, 1999. Counsel for TCCF was not available to schedule these depositions the week of January 4, and counsel for BellSouth was unavailable January 11-13.

BellSouth has not refused to make Joe Baker and Mike Wilburn available for depositions, as TCCF states in its motion. Although the discovery deadline is January 15, 1999, BellSouth has indicated to TCCF that it would make these individuals available for deposition tentatively for Monday, January 18, subject to their schedules, if the four BellSouth witnesses whose depositions are scheduled

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for January 14 and 15, 1999, could not provide answers to TCCF's questions that can only be answered by Mr. Baker or Mr. Wilburn.

TCCF has provided no basis in its motion as to why it is necessary to take the depositions of Mr. Baker and Mr. Wilburn. Mr. Baker is the Vice President - Sales Network & Carrier Services for BellSouth. He has the overall responsibility of sales and customer support for all of BellSouth's wholesale customers, including all interexchange carriers, internet service providers, the independent telephone companies, wireless carriers (cellular, PCS, and paging), payphone service providers, alternative local exchange carriers, both resellers and facilities-based carriers, and BellSouth's affiliated customers. Mr. Baker in effect has responsibility for all non-end-user customers of BellSouth.

Marcus B. Cathey, Assistant Vice President - Sales, reported directly to Mr. Baker until March 1998, and still reports indirectly to him. Mr. Cathey's responsibilities include sales and service for over 150 alternative local exchange carriers who are either facility-based providers or resellers. He has been in that position since August 1997. Mr. Cathey has interacted with TCCF regularly since he became Assistant Vice President - Sales for BellSouth. Mr. Baker's contacts regarding TCCF were limited to the ESSX® Service issue and occurred mainly before BellSouth's settlement with TCCF in April 1997. Since that time, Mr. Baker has had very little, if any, contacts with TCCF. Mr. Cathey has addressed, and is prepared to address, in full the ESSX® Service issues in this docket. The details surrounding the problems with ESSX® Service prior to October 1997, when BellSouth provided a second settlement adjustment to TCCF, are irrelevant.

Mr. Cathey has been in his job since August 1997, and is very familiar with TCCF, commitments made to TCCF, and TCCF's problems, claims, etc. Until it is determined that Mr. Cathy cannot respond to TCCF's inquiries in this case, and that Mr. Baker has relevant information that Mr. Cathey cannot address, his deposition should not be ordered. TCCF's attempts to schedule Mr. Baker's deposition and to further seek an order compelling his attendance at the hearing are without merit and are only attempts to harass Mr. Baker and BellSouth.

TCCF has also moved the Commission to compel the production of Mike Wilburn, Director - Sales, for deposition and hearing. Mr. Wilburn reports to Mr. Cathey and has reported to him since joining Mr. Cathey's organization. Mr. Wilburn and Mr. Cathey have worked hand in hand on TCCF's account. Mr. Cathey has addressed the issues in this case and is prepared to answer questions regarding TCCF's account. BellSouth has not refused to produce Mr. Wilburn for his deposition. BellSouth has agreed to produce him for a deposition tentatively set for January 18, subject to his schedule, after the discovery deadline of January 15, should it be determined that Mr. Cathey cannot answer any questions of TCCF regarding relevant issues in this case that only Mr. Wilburn can answer.

BellSouth is not trying to manage TCCF's right to discovery or preclude TCCF from taking discovery. TCCF's representation to the Commission that "BellSouth will not make Mr. Baker and Mr. Wilburn available without order of this Commission" is blatantly false. The parties are under a short timeframe within which to complete discovery and BellSouth is making every effort to work with TCCF to be reasonable and accommodating. BellSouth has worked with TCCF

in scheduling the requested depositions and has agreed to make Mr. Baker and Mr. Wilburn available if there is a reasonable good faith basis for their depositions after TCCF takes the depositions of the other four BellSouth witnesses. Based on the above, TCCF's motion to compel the depositions of Mr. Baker and Mr. Wilburn has no merit and should be denied.

TCCF has included in its motion to compel a request to compel the attendance of Mr. Baker and Mr. Wilburn at the hearing of this matter on January 22, 1999. TCCF, however, has provided no reason to support its motion to compel their attendance at the hearing. BellSouth has identified five witnesses in this docket who have filed pre-filed testimony on all the issues in this case. TCCF will take the depositions of four of those witnesses. The issues herein are not so complex as to require additional witnesses to testify to these matters. As stated before, Mr. Cathey can address any and all issues that either Mr. Baker or Mr. Wilburn would be able to address. Mr. Baker is the Vice President – Sales located in Atlanta, Georgia, and has over 300 management employees in his organization. To require his attendance at the hearing in this matter would be unduly burdensome and is a form of harassment. His knowledge of the issues in this matter are not so unique as to require his attendance either for deposition or hearing.

Mr. Wilburn is located in Birmingham, Alabama. To require him to be at the hearing would also be a form of harassment and create an undue burden on him and BellSouth since Mr. Cathey can address any and all issues that Mr. Wilburn can. TCCF has provided nothing to support its motion to compel the

attendance of Mr. Baker or Mr. Wilburn for deposition or at the hearing of this matter. Therefore, TCCF's motion should be denied.

Respectfully submitted this 8th day of January, 1999.

BELLSOUTH TELECOMMUNICATIONS, INC.

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