



Florida Telephone Services

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re:)	
)	
Petition for Arbitration of the Interconnection)	
Agreement Between BellSouth Telecommunications,)	Docket No. 991947-TP
Inc. and Florida Telephone Services, LLC)	
Pursuant to the Telecommunications Act of 1996.)	

FLORIDA TELEPHONE SERVICES, INC.'S MEMORANDUM IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT

Florida Telephone Services, LLC (Florida Telephone Services) submits this memorandum in support of its motion for summary judgment filed herewith regarding the issue of BellSouth Telecommunication's (BellSouth) claim to charge for costs of providing Operations Support Systems ("OSS") for use by Florida Telephone Services.

I. Background and Procedural History.

On or about September 16, 1997, Florida Telephone Services and BellSouth entered into a resale agreement whereby Florida Telephone Services would resell BellSouth's telecommunications services within the BellSouth region, including Florida. The Florida Public Commission approved the Resale Agreement in 1998. The term of the Resale Agreement was for two years, expiring in 1999. Pursuant to the terms of the Resale Agreement, the parties have agreed to continue service pursuant to its terms until such time as a new Resale

Agreement is in effect.

In anticipation of the expiration of the Resale Agreement and pursuant to the terms of that Agreement, BellSouth issued a written request for negotiation of a new resale agreement to Florida Telephone Services on July 14, 1999. In this letter, BellSouth advised Florida Telephone Services that it was providing notice, pursuant to Section I of the Resale Agreement and in compliance with Section 251©(1) of the Telecommunications Act of 1996 ("1996 Act"), of BellSouth's request to commence good-faith negotiations toward a new agreement. BellSouth also included a copy of BellSouth's new standard Resale Agreement for Florida Telephone Service's review.

Florida Telephone Services contacted BellSouth by telephone regarding the proposed new resale agreement. Florida Telephone Services primarily voiced a concern over the proposed charges for access to and use of the interfaces to BellSouth's operations support systems ("OSS").

The parties discussed the issues and questions regarding the existing resale agreement that could affect the new agreement. Florida Telephone Services asked that the OSS charges be eliminated from the new resale agreement as they were not fair to Florida Telephone Services. FLORIDA TELEPHONE SERVICES has no choice but to purchase services from BellSouth. BellSouth holds a monopoly in the region and the fact that Florida Telephone Services now has to pay for every order sent to BellSouth makes Florida Telephone Services uncompetitive when reselling these same services. A customer when signed up by BellSouth will pay less than what Florida Telephone Services can charge the same customer. This is not what the 1996 Telecommunications Act was intended to do. This is uncompetitive. This is a way for BellSouth to eliminate the competitive CLEC like Florida Telephone

Services from the market. Its another way for BellSouth to remain a monopoly and monopolies don't serve the public interest.

BellSouth has made no effort in discussing the OSS charges other than to say that they are costs and they should be charged to the CLEC. Florida Telephone Services tried to negotiate with BellSouth toward a new resale agreement. Unfortunately, these efforts were discarded. Consequently, the parties failed to negotiate a new resale agreement, BellSouth filed the Petition for Arbitration that commenced the captioned docket on December 21, 1999.

Although there are many issues dealing with BellSouth (enough to write a book about) The issue that most concerns Florida Telephone Services in this Arbitration involves charges for access to OSS.

BellSouth charges Florida Telephone Services between \$39 and \$49 being activation fees to activate a customer in Florida. In addition BellSouth collects and keeps between \$3.50 and \$7.00 as "FCC" charges every month from Florida Telephone Services.

BellSouth can take from 1 to 10 days to activate this customer. Sometimes longer. All this is done without the assistance of the BellSouth rep as Florida Telephone Services uses electronic means to provision orders. However with some orders BellSouth forces Florida Telephone Services to use manual methods. This increases the time and money to provision the order.

BellSouth earns a minimum of about \$40 from Florida Telephone Services for each order they process. They don't have to use their customer service reps to process the order, that's what Florida Telephone Services does. To be competitive with BellSouth, Florida Telephone Services has to make less than 5% of a customers bill. This 5% equates to only 0.50 cents per month on a \$10 residential line. Imagine what an OSS charge would do to Florida Telephone Services. BellSouth, on the other hand, makes a minimum \$3.50

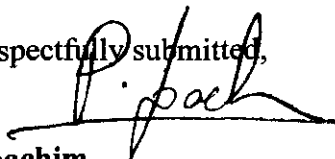
per residential line **plus** their profit margin on the line. For Florida Telephone Services to stay competitive every cent counts.

II. **Conclusion.**

If BellSouth is allowed to charge for OSS, then BellSouth can come back with a host of other charges and this will keep raising the cost of doing business for resellers like Florida Telephone Services. Any charges that BellSouth wants to charge must be a tariff or in some way an equal or balanced mechanism that is also charged to their own customers. A charge similar to the FCC charge that BellSouth presently collects and keeps may be a way for BellSouth to collect some extra revenue . If a monopoly like BellSouth is allowed to charge fees that are out side the regulated and tariff rates as they apply to their own customers, then ultimately what will happen is that Florida Telephone Services will end up paying more to BellSouth to resell BellSouth's own services, than what BellSouth's own customers would pay. Is this what the Telecommunications Act of 1996 intended to do?

For all of the above reasons, Florida Telephone Services respectfully asks that the Commission issue an order to BellSouth to wave all fees in connection with OSS and continue with BellSouth's Resale Agreement with Florida Telephone Services. This will maintain the competitiveness of the telecommunications industry ultimately giving the customer a choice and persevering the integrity of the Telecommunications Act of 1996.

Respectfully submitted,



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