

ORIGINAL

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June 10, 2002

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COMMISSION  
CLERK

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

**Re: Undocketed Matter**  
**Rule Development for Proposed Adoption of**  
**Rule 25-4.082, F.A.C. and Proposed Amendment of**  
**Rules 25-4.110, 25-24.490, and 25-24.845, F.A.C.**

Dear Ms. Bayó:

Enclosed is an original and fifteen copies of BellSouth Telecommunications, Inc.'s Supplemental Post Workshop Comments, which we ask that you file in the captioned docket.

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

Sincerely,

*James Meza III*  
James Meza III (LAD)

Enclosures

AUS cc: All Parties of Record  
CAF \_\_\_\_\_  
CMP \_\_\_\_\_  
COM \_\_\_\_\_  
CTR \_\_\_\_\_  
ECR \_\_\_\_\_  
GCL \_\_\_\_\_  
OPC \_\_\_\_\_  
MMS \_\_\_\_\_  
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*Meza*  
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**CERTIFICATE OF SERVICE**  
**Undocketed Matter**  
**Rule Development for Proposed Adoption of**  
**Rule 25-4.082, F.A.C. and Proposed Amendment of**  
**Rules 25-4.110, 25-24.490, and 25-24.845, F.A.C.**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via Electronic Mail and U.S. Mail this 10th day of June, 2002 to the following:

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James Meza III (KA)

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Rule Development for Proposed Adoption of     ) Undocketed  
Rule 25-4.082, F.A.C. and Proposed Amendment of     )  
Rules 25-4.110, 25-24.490, and 25-24.845, F.A.C.     )  
\_\_\_\_\_ ) Filed: June 10, 2002

**BELLSOUTH'S SUPPLEMENTAL POST WORKSHOP COMMENTS**

Pursuant to the Florida Public Service Commission Staff's ("Staff") request at the workshop held on May 2, 2002, BellSouth Telecommunications, Inc. ("BellSouth") hereby submits a proposed rule governing the situation when an ALEC exits the telecommunications industry in the State of Florida. The proposed rule is attached hereto as Exhibit 1. In reviewing this proposed rule, the Commission Staff should also review the materials submitted by BellSouth in its original comments, which reference industry wide workshops and uniform regulations adopted by other state commissions governing ALEC to ALEC and ALEC to ILEC customer migration.

Respectfully submitted this 10th day of June, 2002.

BELLSOUTH TELECOMMUNICATIONS, INC.

*Nancy B. White*

NANCY B. WHITE (KA)

JAMES MEZA III

c/o Nancy Sims

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## ATTACHMENT A

### RULES GOVERNING THE DISCONTINUANCE OF LOCAL EXCHANGE TELECOMMUNICATIONS SERVICES PROVIDED BY ALTERNATIVE LOCAL EXCHANGE COMPANIES

#### DEFINITIONS:

**Bankruptcy Petition:** The document that initiates a bankruptcy case under Title 11 of the United States Code (11 U.S.C. § 101 et seq.) and refers to either Chapter 7 for liquidations or Chapter 11 for reorganization of the debtor. The term includes both voluntary and involuntary bankruptcy.

**Certificate of Public Convenience and Necessity or "CPCN":** The authority granted by the Commission to a public utility to operate in the State of Florida.

**Discontinuance:** A permanent cessation of telephone operations by a ALEC to its customers or the termination of individual local exchange telecommunications service offerings to its customers.

**Resale:** Occurs when a ALEC purchases telecommunications services on a wholesale basis from the ILEC and resells those services to its customers.

**Unbundled Network Element or "UNE":** Includes the various physical and functional elements of an ILEC's network offered to ALECs on an unbundled basis as a requirement of the Telecommunications Act of 1996 (47 U.S.C. §251(c)(3)).

#### **1. Requirements for discontinuance:**

A. An ALEC intending to cease operations and to discontinue the provision of all local exchange telecommunications services in Florida shall file a formal petition for authority to do so with the Commission no less than 30 days prior to the date of discontinuance of local exchange telecommunications services and shall notify the LECs in the ALEC's service territory. The petition shall provide:

Exhibit 1'

1. The number of affected customers and types of service offerings provided;
2. A description of customer notification efforts by the ALEC and copies of the written notice sent or proposed to be sent to the ALEC's customers. Notice shall be consistent with the requirements of Section 6(c).
3. A full explanation of the reasons for the proposed discontinuance of operations, including any plan to transfer the ALEC's customers to other carriers; and
4. A request for cancellation of the petitioning ALEC's certificate or certificates to provide local exchange telecommunications services and, if applicable, interexchange telecommunications services upon the approval for discontinuance of the ALEC's local exchange operations. If cancellation of the certificate or certificates is not requested, a concise statement of why the Commission should not cancel the certificate or certificates should be given.
5. A statement that the ALEC intends to pay all undisputed amounts to the ILEC at least five (5) days prior to the date of discontinuance.

B. Customers shall be provided no less than thirty (30) days' notice prior to disconnection of service.

C. The ALEC shall provide a toll-free number that customers may call with inquiries prior to the discontinuance of local exchange service.

D. In its consideration of the petition, the Commission shall determine if sufficient notice has been provided to customers and shall prescribe any additional notice or other requirements, as it deems necessary in the public interest.

E. Except in instances pursuant to Section 4(b), no discontinuance of local exchange telecommunications service shall be implemented until the Commission has ruled on the petition, notice has been provided to end user customers, and all undisputed amounts have been paid to the ILEC.

**2. Requirements for partial discontinuance:**

A. An ALEC intending to partially discontinue local exchange telecommunications services on a geographic basis, by functional type (e.g. resale) or by class (e.g. residential), shall file a formal petition no less than thirty (30) days prior to discontinuance of service for authority to do so with the Commission. The petition shall provide:

1. The number of affected customers and types of service offerings provided; and
2. A full explanation of the reasons for partial discontinuance of service, including any plans to transfer the ALEC's affected customers to other services or carriers;

B. Customers shall be provided no less than thirty (30) days' notice of the proposed discontinuation of service and the notice shall be consistent with the requirements of Section 6 (c) of this rule. The petition shall include a copy of the written notice sent or proposed to be sent to the ALEC's customers.



**3. Administrative cancellation of certificates**

An ALEC that is found to have ceased providing local exchange telecommunications services to its customers in Florida without providing notice to the Commission and to its customers under this Rule shall be in violation of this Rule. If found in violation of the Rule, the ALEC's certificate may be administratively cancelled and the ALEC may be fined up to \$25,000 per day for every day that the violation continues pursuant to Section 364.285, Florida Statutes.

**4. Bankruptcy requirements**

A. An ALEC that is the subject of a bankruptcy petition shall provide to the Commission a complete copy of the bankruptcy petition and any plan filed under Chapter 11 of the Bankruptcy Code. Simultaneous with a bankruptcy petition being filed by or against an ALEC or its corporate parent, the ALEC shall provide written notice and a copy of such bankruptcy petition to the Commission. The written notice shall include the following information and be updated as necessary:

1. Whether the ALEC currently provides service offerings to customers in Florida and the number of its customers and types of services provided;
2. The name, address, and telephone number of any trustee in bankruptcy, and
3. The name, address and telephone number of the attorney representing the ALEC in its bankruptcy petition.

B. In those cases where the ALEC has filed for bankruptcy protection and the bankruptcy judge has issued its ruling on surety and terms of disconnection, the notice

by the ILEC to the Commission pursuant to Section 5(b) may be reduced to a 7-business day notice.

C. Nothing contained in this Rule is intended to limit the protections afforded creditors by any provision of the Bankruptcy Code, including but not limited to 11 U.S.C. §§ 365 and 366.

## **5. Duties of ILECs**

A. All ILECs must make a good faith effort to work with an ALEC subject to this rule in determining what portion, if any, of its bill for resale or unbundled network elements provided by the ILEC to the ALEC is disputed and which portion is undisputed. The ILEC shall work with the carrier to resolve the billing dispute and arrange for payment of the outstanding charges, pursuant to the interconnection agreement entered into between the ILEC and the ALEC.

B. All ILECs must send to the ALEC a notice of intent to disconnect or deny services to the ALEC for non-payment of charges pursuant to the current Interconnection Agreement. A copy of the notice shall be provided to the Commission Staff.

C. All ILECs must state the following in the content of the notice:

1. The name, address and account number of the ALEC;
2. A plain statement of the grounds upon which the right to disconnect or deny is founded, including the amount owed; and
3. The exact date and time or range of dates and times service will be discontinued.

## **6. Duties of ALECs**

A. All ALECs shall make a good faith effort to work with the ILEC in determining what portion, if any, of its bill for resale or unbundled network elements provided by the ILEC to the ALEC is disputed and which portion is undisputed. The ALEC shall work with the ILEC to resolve the billing dispute and arrange for payment of the outstanding charges, pursuant to the interconnection agreement entered into between the ILEC and the ALEC.

B. All ALECs shall fax and file by certified mail with the Commission a notarized affidavit (Exhibit A) verifying that the ALEC will either pay the undisputed amount owed to underlying carrier and that the ALEC will mail or send telephonic notice to its customers at least thirty (30) days prior to the disconnection date listed on the notice, if not a fine may be imposed by the Commission. The ALEC shall also file a spreadsheet containing a list of customer names, addresses, and telephone numbers under seal, at least thirty (30) days prior to the disconnection date listed on the notice. The list shall specifically identify those end user customers who are public utilities or agencies, governmental agencies, inmate facilities or hospitals. If the ALEC is facilities based, the list required shall also include circuit ids, cable pair identification and a statement of authorization to complete the number portability process required for transfer of local exchange service to another local service provider; and a statement that the ALEC will set the appropriate triggers in the Number Portability database to allow for the complete completion of calls. This list shall be used to facilitate the transfer of the end user customers to their new local service provider.

C. All ALECs shall send a notice to customers which shall read in legible easy to read bold type as follows:

**\*\*\*NOTICE\*\*\***

**We regret to inform you that (ALEC NAME) is discontinuing its offering of local exchange service in your area. Because of (ALEC NAME's) decision and to avoid interruption of telephone service, you need to make other arrangements for local exchange service prior to (DATE). The names and telephone numbers of local service providers are located in your telephone directory. If you fail to choose a new provider, you risk interruption of telephone service. Once you have chosen another service provider, that carrier may request your customer service record from ALEC NAME. Please have your new provider call 1-8XX-TN.**

D. The ALEC shall notify the North American Numbering Plan Administrator ("NANPA") and provide the requisite documents for the relinquishment of NXX codes and/or thousand blocks to the NANPA and the Commission.

E. The ALEC shall return all deposits and apply all appropriate credits associated with the discontinued service within 30 days of the discontinuation.

F. All ALECs shall no later than five (5) days after filing a petition, notify all 9-1-1 entities affected by the discontinuance by providing a copy of the petition to the affected 9-1-1 entities.

## **7. Penalties**

Any willful or intentional violation of this Rule may subject the telecommunications service provider to a penalty not to exceed \$25,000 for each day

during which such violation continues. Violations may also constitute grounds for forfeiture of a ALECs Certificate of Public Convenience and Necessity to provide service in Florida.

**EXHIBIT A**

**AFFIDAVIT**

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, before me, the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared \_\_\_\_\_, appearing herein in his capacity as (Title) \_\_\_\_\_ of (Company) \_\_\_\_\_, (the "Company") duly authorized to act on behalf of said Company, who being by me first duly sworn deposed and said that:

1. The foregoing instrument/Notice of Disconnect was received by said Company with an undisputed amount listed as \_\_\_\_\_ (Dollar Amount) due to the underlying carrier and a date of disconnect listed as \_\_\_\_\_ (Date or Dates Specified).

He/She is appearing to swear or affirm that he/she will ensure, on behalf of said Company, that:

The Company can and will pay the undisputed amount owed to the underlying carrier at least five (5) days prior to the disconnect date;

AND

The Company will mail or send telephonic notice, pursuant to the North Carolina Utilities Commission Rules and Regulations, to your customers at least 10 days prior to the disconnection date as listed in the attached Notice from the underlying carrier (ATTACHMENT OF NOTICE REQUIRED.) Circle form of notifications: mail or telephonic notice

AND to affirm that if the Company fails to do what I am representing herein, then I understand that the Company is subject to a fine of \$25,000 per day for every day that the violation continues.

AND if present before the Commission and duly sworn, my testimony would be the same.

\_\_\_\_\_  
Person duly authorized to act for  
the Company

SWORN TO AND SUBSCRIBED BEFORE ME THIS \_\_\_\_\_ DAY OF  
\_\_\_\_\_, 200\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_  
410491