

J. Phillip Carver  
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**ORIGINAL  
FILE COPY**

January 31, 1996

Mrs. Blanca S. Bayó  
Director, Division of Records and Reporting  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Betty Easley Conference Center, Rm. 110  
Tallahassee, FL 32399-0850

Re: Docket 951354-TL  
Price Regulation

Dear Mrs. Bayó:

Enclosed is an original and fifteen copies of BellSouth Telecommunications, Inc.'s Petition on Proposed Agency Action, which we ask that you file in the captioned matter.

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 to the parties shown on the attached Certificate of Service.

Sincerely,

*J. Phillip Carver (BK)*  
J. Phillip Carver

- ACK
- AFA
- APP
- DAF
- CHL*  *Carver*
- CTR
- EAG
- LEG
- LIN
- OPC
- RCH
- SEC
- WAS

Enclosures

cc: All Parties of Record  
A. M. Lombardo  
R. G. Beatty  
R. Douglas Lackey

RECEIVED & FILED

*Time*  
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4. On January 10, 1996, the Florida Public Service Commission ("Commission") entered the subject Order, which is entitled, Order Acknowledging Election of Price Regulation and Notice of Proposed Agency Action Order Requiring Reduction of Certain Rates. The first portion of this Order was simply to acknowledge that BellSouth had filed a notice of election of price regulation. In the Proposed Agency Action portion of the Order, the Commission first noted that Section 364.051, Florida Statutes, provides that "the company's rates for basic telecommunications service and certain protected nonbasic services are [to] be capped at July 1, 1995, levels." (Order at p. 2) The Order next states that BellSouth has filed tariffs after July 1, 1995 that reflect rate regroupings of the Jensen Beach, West Palm Beach and Holly-Navarre exchanges. The Order then states the conclusion that these rate regroupings constitute price increases that are prohibited by the above-referenced portion of the revised Chapter 364. Accordingly, BellSouth was ordered to eliminate these "rate increases."

5. This Proposed Agency Action will obviously have an effect upon the substantial interests of BellSouth in that it dictates that BellSouth must make immediately the reduction of the rates described above. Moreover, to the extent that this Order has precedential value, BellSouth may be precluded from filing tariffs relating to rate groupings at any time before

January 1, 2001 (at which time the previously-referenced rate cap of § 364.051(2a) expires).

6. There are two known disputed issues, both of which necessarily require the resolution of disputed factual issues and the application of Florida law. These issues are as follow:

- (1) Does the subject rate regrouping (and by extension, any rate regrouping), constitute a price increase that is prohibited by Chapter 364.051?
- (2) If question one is answered in the negative, does this create a situation that is in violation of the prohibitions of undue discrimination set forth in Sections 364.08, 364.09, and 364.10, Florida Statutes?

BellSouth alleges the facts set forth below in paragraphs 7 through 9. The first question should be answered in the negative. The proper interpretation of Section 364.051 is that it prohibits an increase in the price charged for a given service. If, however, the nature of the service changes, Section 364.051 does not prevent charging a higher rate for the revised, new service.

8. In this instance, rate regrouping occurs as a result of moving subscribers into an exchange or calling area that has a larger calling scope. In other words, subscribers move from a smaller rate group (in which they are able to reach fewer other subscribers on the basis of a local call) to a larger rate group

(in which they may make a local call to a greater number of subscribers). Clearly, this constitutes a change in the nature of their service. Specifically, the service is enhanced by the expansion of their calling scope. Given this, there is no violation of § 364.051 as a result of a customer paying a different (higher) price for local service as a result of moving from one rate group to another.<sup>1</sup>

9. If rate regrouping is not allowed, then this will create a situation in which similarly situated customers are charged different rates for the same service. In other words, the customers in the exchanges who, under the terms of the Order, are not subject to rate regrouping will pay less for their local service than all or most of the other customers in Florida who have comparable calling scopes. BellSouth submits that this result constitutes undue discrimination in the price charged for service provided to similarly situated customers, and, accordingly, violates Sections 364.08, 364.09 and 364.10, Florida Statutes.

10. The proper resolution of the issues stated above necessarily requires that the Commission have an opportunity to receive evidence in order to make the necessary factual determinations relating to these issues. For this reason,

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<sup>1</sup> Likewise, if a subscriber moves from a larger to a smaller rate group, the price that they are charged for local service should also be reduced.

BellSouth respectfully requests a hearing pursuant to Section 120.57, Florida Statutes. BellSouth further requests that at the conclusion of this proceeding, the Commission enter an Order in which it sustains the positions of BellSouth as set forth above.

WHEREFORE, BellSouth respectfully requests the Commission to grant the foregoing Petition and initiate formal proceedings on all relevant issues.

BELLSOUTH TELECOMMUNICATIONS, INC.

Robert G. Beatt, (BR)

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100-28010  
PUCCO  
L. J. P. Carver  
Nancy H. Sims

CERTIFICATE OF SERVICE  
DOCKET NO. 951354-TL

I HEREBY CERTIFY that a true and correct copy of the  
foregoing was served by U.S. Mail this 31<sup>st</sup> day of January, 1996  
to the following:

Staff Counsel  
Florida Public Service Commission  
2340 Shumard Oak Blvd.  
Tallahassee, Florida 32301

J. Phillip Carver (BL)  
J. Phillip Carver