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September 21, 1998

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

Re: Docket No. 970808-TL

Dear Ms. Bayó:

Enclosed is an original and fifteen copies of BellSouth Telecommunications, Inc.'s **Response To GTC, Inc.'s Motion For Reconsideration And GTC's Motion To Stay The Effectiveness Of The Final Order In The Docket And Bellsouth Telecommunication's Cross-Motion For Reconsideration And Motion To Hold The Subsidy Payments Subject To Refund** 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 the copy to me. Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely,

Nancy B. White (cc)
Nancy B. White

- ACK _____
- AFA *White*
- APP _____
- CAF _____
- CMU *Quadr*
- CTR _____
- EAG _____
- LEG *1*
- LIN *5*
- OPC _____
- RCH _____
- SEC *1*
- WAS _____
- OTH _____

cc: All parties of record
A. M. Lombardo
R. G. Beatty
William J. Ellenberg II

RECEIVED & FILED

[Signature]
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ORIGINAL

CERTIFICATE OF SERVICE
Docket No. 970808-TL

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via
U. S. Mail this 21st day of September, 1998 to the following:

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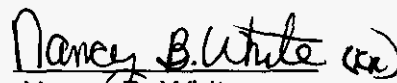
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Nancy B. White

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of BellSouth Telecommunications,) Docket No.: 970808-TL
Inc., for removal of St. Joseph Telephone and)
Telegraph Company's interLATA access subsidy) Filed: Sept. 21, 1998

**BELLSOUTH TELECOMMUNICATION, INC.'S RESPONSE TO GTC, INC.'S
MOTION FOR RECONSIDERATION AND GTC'S MOTION TO STAY THE
EFFECTIVENESS OF THE FINAL ORDER IN THE DOCKET AND
BELLSOUTH TELECOMMUNICATION'S CROSS-MOTION FOR
RECONSIDERATION AND MOTION TO HOLD THE SUBSIDY PAYMENTS
SUBJECT TO REFUND**

Now comes BellSouth Telecommunications, Inc., ("BellSouth"), pursuant to Rule 25-22.060(1)(b), Florida Administrative Code, and responds to GTC, Inc.'s ("GTC") Motion for Reconsideration and Motion to Stay the Effectiveness of the Final Order in the Docket. In addition, BellSouth moves for Reconsideration of Order No. PSC-98-1169-FOF-TL ("Order") issued on August 28, 1998 and for a stay of the implementation of the Order. In support thereof, BellSouth states the following:

1. The proper standard of review for a motion for reconsideration is whether the motion identifies some point of fact or law that was overlooked or was failed to be considered by the Prehearing Officer. See Diamond Cab Co. v. King, 146 So. 2d 889 (Fla. 1962) and Pingree v. Ouaintance, 394 So.2d 161 (Fla. 1st DCA 1981). In a motion for reconsideration, it is not appropriate to reargue matters which have already been considered. See Sherwood v. State, 111 So.2d 96 (Fla. 3d DCA 1959), citing State ex. rel. Jaytex Realty Co. v.

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Green, 105 So.2d 817 (Fla. 1st DCA 1958) (the petition should not be used to reargue matters already addressed in briefs and oral arguments).

2. In its motion, GTC seeks reconsideration of the Florida Public Service Commission's (Commission") failure to consider GTC's Petition to Terminate Access Subsidy and Convert to Payment of Access charge Revenue Directly to GTC, Inc. ("GTC's Petition") in Docket No. 980498-TP. GTC argues that the failure of the Commission to consider the existence of GTC's Petition constitutes a deprivation of due process.

3. BellSouth submits that GTC's Petition is moot due to the decision in this docket. BellSouth filed its Petition to Remove InterLata Access Subsidy Received by GTC ("BellSouth's Petition") on July 1, 1997. The above captioned docket was then opened. On April 6, 1998, some ten months later and approximately six weeks prior to the hearing in this docket, GTC filed its Petition.

4. In this docket, a specific issue was considered by the Commission regarding the disposition of the funds if the access subsidy was terminated (Issue 6). This issue was established early on in the process. GTC had every opportunity to file testimony in this docket in support of its contention that the funds should be connected to GTC. GTC chose not to file such testimony. Instead, GTC filed its Petition. The GTC Petition is moot because the issue therein, i.e., the disposition of the funds, has been decided in this docket. GTC was not deprived of due process by this Commission; GTC apparently did not choose to take advantage of the process.

5. GTC has offered nothing new in its Motion to warrant reconsideration of the Order. GTC merely seeks a second bite at the apple.

6. BellSouth moves for reconsideration on the grounds that the Commission failed to consider the fact that BellSouth had reduced toll rates by \$31 million, a reduction that was not required by settlement or sharing agreements. (Tr. p. 67). The Order merely acknowledges that BellSouth made reductions in its switched access charges and characterizes those reductions as mostly the result of settlement or sharing agreements. (Order, p.16). BellSouth's witness, however, testified that BellSouth's toll rates had been reduced by \$31 million on BellSouth's initiative. (Tr. p.67).

7. Moreover, the Commission failed to consider that companies had been allowed to offset their subsidy payment reduction with rate reductions made in other areas. (Tr. p.128). In other words, over the years, the Commission has recognized that other Commission actions may be used to eliminate any potential surplus from the subsidy. For example, the Commission has allowed companies to put the subsidy on additional depreciation, implementing intraLATA bill and keep, and reducing local service rates, among other things. (Tr. p.128). Access charge reductions should not be the only type of rates considered as offsets to the subsidy. Therefore, BellSouth seeks reconsideration of the Order and a finding that BellSouth has offset the subsidy payments and no rate reduction is required.

8. GTC has also requested that the Commission stay the effectiveness of the Order because GTC will be deprived of the subsidy payments as soon as BellSouth files a tariff reducing some rates by the amount of the subsidy payment. BellSouth does not believe that GTC should continue to receive the subsidy payments. However, as discussed below, BellSouth agrees that it should not file a tariff reducing rates at this time.

9. BellSouth seeks a stay pursuant to Rule 25-22.061(1)(a) Florida Administrative Code, which requires that a stay be granted pending judicial review when the Order involves a "decrease in rates" charged to BellSouth's customers. In these instances, it is not necessary for BellSouth to show that it is likely to prevail on the merits, that it has suffered irreparable harm or that the stay is not contrary to the public interest. There is no question in this case that the Order decreases the rates presently charged by BellSouth.

10. BellSouth submits that the subsidy payments made by BellSouth to GTC should be held by BellSouth subject to refund pending the final outcome of the Commission's decision on the motions for reconsideration and pending the outcome of any judicial review. Holding the payments subject to refund protects both parties and BellSouth customers in this matter. If GTC's Motion is granted after BellSouth has reduced rates, then BellSouth will be required to make payments to GTC in addition to the rate reductions already made, thereby paying twice. If BellSouth's Motion is granted, after BellSouth has filed its tariff, then again, the monies will be gone. Moreover, since it is unknown at this time

whether either party will seek judicial review of this matter, the stay requested by BellSouth (holding the payment subject to refund) should remain in effect until after final order of this Commission or final judicial review.

11. By holding the subsidy payments subject to refund pending the outcome of the motions for reconsideration and any judicial review, BellSouth, GTC and BellSouth customers will all be protected. The monies will not be transferred to GTC or as a rate reduction by BellSouth until the matter is final. GTC should not, however, continue to receive a windfall from subsidy payments due to any stay.

WHEREFORE, BellSouth requests that GTC's Motion for Reconsideration be denied, that BellSouth's Motion for Reconsideration be granted, and that GTC's Motion to Stay be modified and BellSouth's Motion to Hold the Subsidy Payments Subject to Refund be granted.

Respectfully submitted this 21st day of September, 1998.

BELLSOUTH TELECOMMUNICATIONS, INC.

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