

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of:)	
)	
BellSouth Wireless Cable, Inc)	
BellSouth Interactive Media)	CSR-5243-E
Services, Inc.)	
)	
Petition for Special Relief)	
Requesting a Finding of Effective Competition)	
In Unincorporated St. John's County, FL)	

MEMORANDUM OPINION AND ORDER

Adopted: May 15, 2000

Released: May 17, 2000

By the Deputy Chief, Cable Services Bureau:

1. BellSouth Wireless Cable, Inc. and BellSouth Interactive Media Systems, Inc. (collectively "BellSouth") filed a Petition for Special Relief requesting a finding of effective competition in St. John's County, Florida in conjunction with its showing of compliance with Section 21.912 and 74.931(h) of the Commission's rules.¹ No oppositions were filed.

2. The Communications Act and the Commission's rules provide that only the rates of cable systems that are not subject to effective competition may be regulated.² One of the basis by which a cable system will be deemed subject to effective competition is if fewer than 30% of the households in the system's franchise area subscribe to the cable system's service.³ In the absence of a demonstration to the contrary, cable systems are presumed not to be subject to effective competition.⁴ The cable operator bears the burden of rebutting the presumption that effective competition does not exist with evidence that effective competition as defined by Section 76.905 of the Commission's rules, is present within its franchise area.⁵

3. BellSouth submitted reliable data that the number of households in its St. John's County franchise area is 33,426⁶ and states that its system provides service to only one subscriber in the franchise area,⁷ or less than 1% of the total number of households in its St. John's County franchise area. BellSouth

¹ 47 C.F.R. §§ 21.912, 74.931(h).

² Communications Act § 623(a)(2), 47 U.S.C. § 543(a)(2); 47 C.F.R. § 76.905(a).

³ Communications Act § 623(1)(1)(A) 47 U.S.C. § 543(1)(1)(A); 47 C.F.R. § 76.905(b)(1).

⁴ 47 C.F.R. § 76.906.

⁵ 47 C.F.R. § 76.911(b)(1).

⁶ BellSouth Petition at 3 and Exhibit C.

⁷ BellSouth Petition at 3.

has meet its burden of proving that its cable system serving unincorporated St. John's County is subject to effective competition.

4. Accordingly, **IT IS ORDERED** that the petition for special relief requesting a finding of effective competition in its St. John's County, Florida franchise area filed by BellSouth Wireless Cable, Inc. and BellSouth Interactive Media Services, Inc. **IS GRANTED**.

5. This action is taken pursuant to delegated authority pursuant to Section 0.321 of the Commission's rules.⁸

FEDERAL COMMUNICATIONS COMMISSION

William H. Johnson
Deputy Chief, Cable Services Bureau

⁸ 47 C.F.R. § 0.321.