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May 19, 2004

**HAND DELIVERY**

Ms. Blanca Bayó, Director  
Commission Clerk and Administrative Services  
Room 110, Easley Building  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, Florida 32399-0850

Re: Docket No. 031125-TP

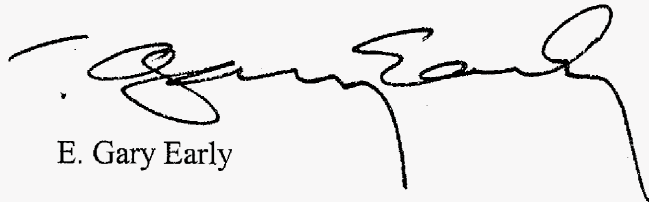
Dear Ms. Bayó:

Enclosed for filing on behalf of IDS Telcom, LLC, is an original and fifteen copies of IDS Telcom, LLC's Motion for Summary Final Order in the above referenced docket.

Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the same to me in the enclosed self-addressed stamped envelope.

Thank you for your assistance with this filing.

Sincerely yours,



E. Gary Early

EGE/amb  
Enclosures  
cc: Parties of Record

BEFORE THE PUBLIC SERVICE COMMISSION

In Re: Complaint against BellSouth            )           Docket No. 031125-TP  
Telecommunications, Inc. for alleged         )  
**overbilling and discontinuance of service,**    )           May 19, 2004  
by IDS Telecom, LLC                            )  
\_\_\_\_\_ )

**MOTION FOR SUMMARY FINAL ORDER**

Petitioner, IDS Telecom, LLC files this Motion for Summary Final Order pursuant to Rule 28-204(4), Florida Administrative Code and Section 120.54(5), Florida Statutes and states:

1. On December 23, 2003, IDS Telecom, LLC (hereinafter “IDS”) filed a complaint with the Commission against BellSouth Telecommunications, Inc. (hereinafter “BellSouth”), which complaint initiated this proceeding. On December 30, 2003, IDS filed its *Amended Complaint by IDS Telecom, LLC against BellSouth Telecommunications, Inc. for Overbilling and Discontinuance of Service, and Petition for Emergency Order Restoring Service.*

2. The amended complaint, which forms the basis for this proceeding, alleged that service to the LENS system was improperly terminated by BellSouth for alleged non-payment of amounts to a “Q Account.” The Q Account was established to accept deposits by IDS in satisfaction of a March 25, 2002 Amendment to Settlement Agreement.

3. IDS alleged that it had paid all that was called for under the express, written terms of the Amendment to Settlement Agreement, and in fact had overpaid what was owed. With regard to the amount properly due under the agreement, and the amount paid by IDS, paragraph 10 of the amended complaint provided that:

However, rather than billing the Total Amount Due of \$2,475,000.00 to the Q Account **as required by the Settlement Agreement**, BellSouth erroneously billed \$3,231,996.10 to the Q Account, or \$756,996.10 in excess of that specified in the Settlement Agreement.

4. BellSouth's answer to paragraph 10 of the amended complaint states that "BellSouth admits the allegations contained in paragraph 10 of the Amended Complaint."

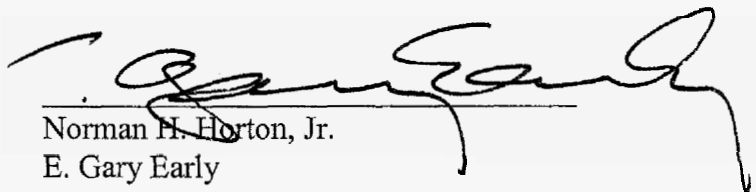
5. Rule 28-106.204(4), F.A.C. provides that:

Any party may move for summary final order whenever there is no genuine issue as to any material fact. The motion may be accompanied by supporting affidavits. All other parties may, within seven days of service, file a response in opposition, with or without supporting affidavits. A party moving for summary final order later than twelve days before the final hearing waives any objection to the continuance of the final hearing.

6. As a result of BellSouth's admission of the only pertinent elements of the amended complaint, i.e. that IDS paid the amounts due under the Settlement Agreement and, due to a BellSouth error, overpaid the amount due by \$756,996.10, this matter is ripe for entry of a final order granting the relief requested in the amended complaint, and ordering repayment to IDS of amounts paid to BellSouth due to BellSouth's erroneous billing.

WHEREFORE, for the reasons set forth herein, IDS moves the Commission to enter a Summary Final Order granting the relief requested in the amended complaint, and ordering repayment to IDS of amounts paid to BellSouth due to BellSouth's erroneous billing.

Respectfully Submitted.



Norman H. Horton, Jr.  
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Counsel for IDS Telecom, LLC

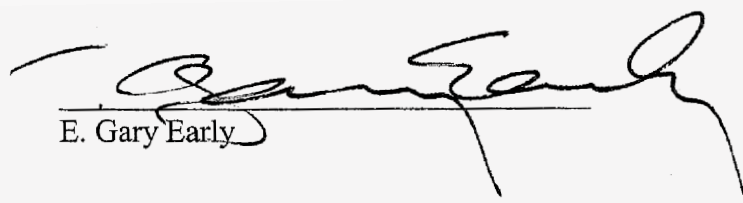
## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served on the following parties by Hand Delivery or electronic mail, and U. S. Mail this 19<sup>th</sup> day of May, 2004.

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E. Gary Early