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July 23, 2004

Ms. 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: Docket No.: 040514-TP  
Petition of Cbeyond Communications, LLC for Arbitration of  
Interconnection Agreements with BellSouth Telecommunications, Inc.  
Pursuant to Section 252(b) of the Communications Act of 1934, as  
Amended**

Dear Ms. Bayó:

Enclosed is a Joint Motion to Hold Proceeding in Abeyance, which we ask that you file in the captioned docket.

Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely,



Andrew D. Shore

cc: All Parties of Record  
Marshall M. Criser III  
R. Douglas Lackey  
Nancy B. White

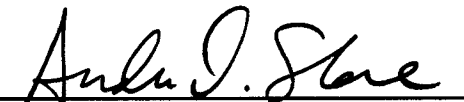
**CERTIFICATE OF SERVICE  
DOCKET NO. 040514-TP**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via Electronic Mail and Federal Express this 23rd day of July, 2004 to the following:

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**Before the  
FLORIDA PUBLIC SERVICE COMMISSION**

In the Matter of	)	
	)	
Petition for Arbitration of	)	Docket No. 040514-TP
	)	
CBEYOND COMMUNICATIONS, LLC	)	
	)	
For an Interconnection Agreement with	)	Filed: July 23, 2004
BellSouth Telecommunications, Inc. Pursuant to	)	
Section 252(b) of the Communications Act of	)	
1934, as Amended	)	

**JOINT MOTION TO HOLD PROCEEDING IN ABEYANCE**

Cbeyond Communications, LLC (“Cbeyond”) and BellSouth Telecommunications, Inc. (“BellSouth”) (together, the “Parties”), through counsel, submit this Joint Motion to Hold Proceeding in Abeyance and hereby respectfully request that the Florida Public Service Commission (the “Commission”) hold the above-captioned proceeding in abeyance for a period of ninety (90) days. By this Joint Motion, and contingent upon a grant by the Commission of the relief requested herein, the Parties waive until June 2005 the deadline, under section 252(b)(4)(C) of the Act, 47 U.S.C. § 252(b)(4)(C), for final resolution by the Commission of the issues set forth in Cbeyond’s Petition and in BellSouth’s Response. In support of this Joint Motion, the Parties submit the following.

Cbeyond and BellSouth have engaged in the above-captioned arbitration proceeding since May 28, 2004. On March 2, 2004, the United States Court of Appeals for the District of Columbia Circuit, in *United States Telecom Ass’n v. FCC*, 359 F.3d 554 (D.C. Cir.2004) (“*USTA II*”), affirmed in part, and vacated and remanded in part, certain rules of the Federal Communications Commission (“FCC”) applicable to the incumbent LECs’ obligation to provide access to network elements on an unbundled basis. The D.C. Circuit initially stayed its *USTA II*

mandate for a period of sixty (60) days. The stay of the *USTA II* mandate later was extended by the D.C. Circuit for a period of forty-five (45) days, until June 15, 2004 on which date the D.C. Circuit's *USTA II* mandate issued. At this time, certain of the FCC's rules applicable to BellSouth's obligation to provide to Cbeyond network elements on an unbundled basis are subject to review and revision by the FCC and the FCC is expected to issue new rules.

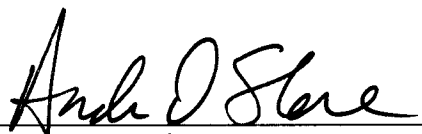
In light of these events, Cbeyond and BellSouth have agreed to the proposed ninety (90) day abatement so that they can consider how the post-*USTA II* regulatory framework should be incorporated into the new agreements currently being arbitrated and to identify what arbitration issues may be impacted and what additional issues, if any, need to be identified for arbitration. The Parties have agreed that no new issues may be raised in this arbitration proceeding other than those that result from the Parties' negotiations regarding the post-*USTA II* regulatory framework.

With this framework, Cbeyond and BellSouth have agreed to avoid a separate/second process of negotiating/arbitrating change-of-law amendments to the current Interconnection Agreement to address *USTA II* and its progeny. Accordingly, Cbeyond and BellSouth have agreed that they will continue operating under their current Interconnection Agreement until they are able to move into the new arbitrated/negotiated agreement that ensues from this proceeding.

Cbeyond and BellSouth also have agreed to continue their efforts to reduce the number of issues already identified during this ninety (90) day period.

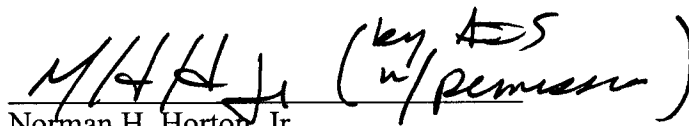
Consistent with the foregoing, the Cbeyond and BellSouth hereby respectfully request that the Commission hold the above-captioned proceeding in abeyance for a period of ninety (90) days. Cbeyond and BellSouth will file amended issues matrices on October 15, 2004.

Respectfully submitted,



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Dated: July 23, 2004