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COMMISSION
CLERK

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March 23, 2005

Commission Clerk and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

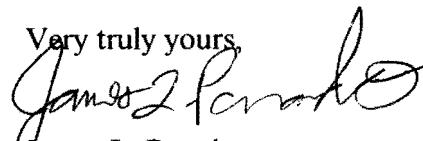
Re: 040732-TP

Enclosed please find the original and fifteen copies of STS Telecommunications, Inc.'s Response to BellSouth Telecommunications, Inc.'s Motion To Strike and Reponse In Opposition to Motion For Summary Final Order, we ask that you file in the captioned docket.

Please mark it to indicate that the original was filed and return the copy to our office. Copies have been served to the parties shown on the attached Certificate of Service.

- CMP _____
- COM 5 _____
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- HMS _____
- RCA _____
- SCR _____
- SEC 1 _____
- OTH _____

cc: Mr. R. Douglas Lackey
Ms. Meredith Mays
Ms. Nancy B. White
Florida Public Service Commission

Very truly yours,

James L. Parado
For Alan C. Gold

DOCUMENT NUMBER-DATE

03051 MAR 29 05

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

| | | |
|--|---|-----------------------|
| In re: Interconnection Agreement between |) | |
| Saturn Telecommunication Services, Inc. |) | Docket No.: 040732 TP |
| d/b/a STS Telecom and BellSouth |) | |
| Telecommunications, Inc. |) | Dated: March 23, 2005 |
| |) | |

**STS TELECOMMUNICATIONS, INC.'S RESPONSE TO BELLSOUTH
TELECOMMUNICATIONS, INC.'S MOTION TO STRIKE AND RESPONSE IN
OPPOSITION TO MOTION FOR SUMMARY FINAL ORDER**

Saturn Telecommunications, Inc. ("STS"), pursuant to Rule 28-106.204(1), Florida Administrative Code, hereby files its response to "BellSouth Telecommunications, Inc.'s Motion to Strike and Response in Opposition to Motion For Summary Final Order," and in support thereof states as follows:

1. STS disputes BellSouth's contention that STS' Response to BellSouth's Affirmative Defenses and Counterclaim was not filed properly with the Commission. In any event, even if the Response was not properly filed, failure to respond should be treated as a general denial.

2. If BellSouth insists on enforcing a deadline for the time to STS to file its Response, then BellSouth should also be subject to the same treatment, i.e. BellSouth is estopped from filing a Motion to Strike, since it failed to timely file the Motion to Strike within 7 days of discovering STS' alleged failure to file timely. It is interesting that BellSouth has waited until now to file a Motion to Strike, given that STS has recently filed its own Motion For Summary Final Order. It should be clear that BellSouth is seeking to avoid a judgment on the merits because it realizes its substantive arguments are contrary to law. BellSouth waived any objections to STS' alleged untimely

filing, when BellSouth filed a Motion For Summary Final Order on February 14, 2005.¹

3. Florida law requires responsive pleadings should not be stricken without leave to amend. *See Van Valkenberg v. Chris Craft Industries, Inc.*, 252 So.2d 280 (Fla. 4th DCA 1971). Litigants should be allowed to amend pleadings feely in order that causes of action may be tried on their merits and in the interest of justice; any doubts should be resolved in favor of allowing amendments. *See id.* Striking of a party's pleadings resulting in dismissal or default is the most severe sanction, and it should be used sparingly and reserved to those instances where conduct is flagrant, willful, or persistent. *See Barnes v. Horan*, 841 So.2d 472 (Fla. 3rd DCA 2003).
4. STS filed its Answer & Affirmative Defenses, Responses In Opposition to BellSouth's Summary Final Order, and STS' Motion For Summary Final Order, in good faith. BellSouth is in no way prejudiced, as all of STS' filings have been served on BellSouth and are all before the Commission. With respect to the Affidavit of Keith Kramer, the same was served on BellSouth and the Commission with STS' preliminary Response on March 3, 2005.
5. With all of the Responses and supporting documentation being served on BellSouth and before the Commission, there is no valid reason as to why the Commission cannot make its rulings on all Motions before it on the merits.

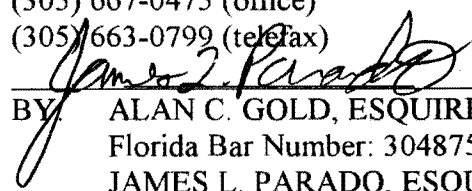
¹ BellSouth admitted that it "elected to file a substantive, rather than a procedural, motion to resolve this matter." See BellSouth's Motion to Strike, page 3.

6. BellSouth's is unfairly attempting to deny STS' right to have judgments before the Commission on the merits of the case because BellSouth realizes that its Counterclaim and Motion For Summary Final Order are without merit.

WHEREFORE, STS respectfully requests that this Commission deny BellSouth's Motion to Strike, and proceed with rulings on all Motions before it on the merits.

Respectfully submitted,

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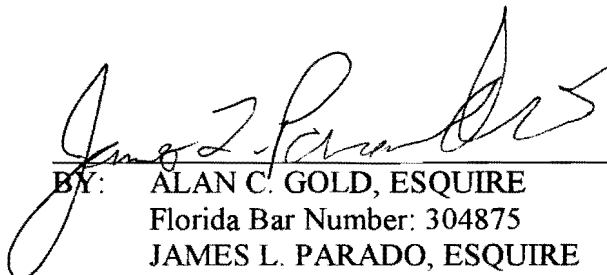
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served via Federal Express on this 23rd day of March 2005, to:

Staff Counsel
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