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From: Carr, Edilma [ECarr@wcsr.com]
Sent: Thursday, June 23, 2005 5:05 PM
To: Filings@psc.state.fl.us
Subject: Docket No. 040779-TP

Attachments: Proposed stipulated facts.pdf



Proposed stipulated facts.pdf

Please see the IRS Circular 230 Notice and the Confidentiality Notice below before reading this email.

Dear Ms. Bayó:

Attached please find Z-Tel Communications, Inc.'s Proposed Stipulated Facts for electronic filing in the above-referenced docket. The document has five pages (including cover letter, pleading and service list). If you have any questions, please contact the undersigned counsel.

Michael B. Hazzard,
Counsel to Z-Tel Communications, Inc.

DID: (202) 857-4540
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Womble Carlyle Sandridge & Rice, PLLC <<Proposed stipulated facts.pdf>>
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be relied upon until such review has occurred. Thank you for your cooperation.

June 23, 2005

VIA ELECTRONIC FILING

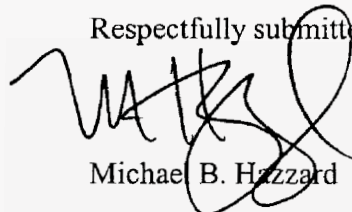
Mrs. Blanca S. Bayo
Director, Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

**Re: Docket No.: 040779-TP
Notice of Adoption of Existing Interconnection, Unbundling,
Resale and Collocation Agreement between Bell South
Telecommunications, inc. and Network Telephone
Corporation by Z-Tel Communications, Inc.**

Dear Ms. Bayo:

Enclosed please find Z-Tel Communications, Inc.'s Proposed Stipulated Facts for filing in the above-referenced proceeding. Z-Tel notes that BellSouth filed its proposal while the parties were in the midst of negotiations, which is at a minimum disappointing. Although Z-Tel believes that the parties would likely have been able to reach mutually-agreeable language with good faith negotiations, BellSouth acted unilaterally to foreclose that outcome. With the exception of paragraph 8 and some other modest word changes, the parties' proposals are largely similar, but have some substantive differences.

Respectfully submitted,



Michael B. Hazzard

Counsel to Z-Tel Communications, Inc.

cc: Attached Service List

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

| | | |
|---|---|-----------------------|
| In Re: Notice of the Adoption Existing |) | |
| Interconnection, Unbundling, Resale and |) | Docket No.: 040779-TP |
| Collocation Agreement between BellSouth |) | |
| Telecommunications, Inc. and Network |) | |
| Telephone Corporation by Z-Tel |) | |
| Communications, Inc. |) | |
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PROPOSED STIPULATED FACTS OF Z-TEL COMMUNICATIONS, INC.

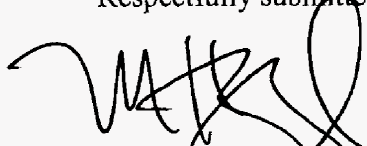
1. Z-Tel adopted the MCI WorldCom Communications Interconnection Agreement with BellSouth for Florida dated September 12, 2001; as a result, BellSouth and Z-Tel were parties to an interconnection agreement in Florida with an effective date of April 18, 2003 and an expiration date of September 11, 2004.
2. On January 21, 2004, BellSouth requested negotiations with Z-Tel for a new interconnection agreement.
3. On February 19, 2004, BellSouth sent Z-Tel a copy of BellSouth's proposed agreement.
4. On February 20, 2004, BellSouth forwarded a second request to Z-Tel for negotiations.
5. On March 22, 2004, BellSouth sent Z-Tel a third request for negotiations.
6. On April 20, 2004, BellSouth contacted Z-Tel regarding interconnection agreement negotiations.
7. From January 21, 2004 through May 20, 2004, Z-Tel and BellSouth had numerous discussions about a successor interconnection agreement.

8. On July 22, 2004, Z-Tel filed a notice with this Commission that it had adopted the interconnection agreement between BellSouth and Network Telephone in its entirety.
9. BellSouth did not agree to Z-Tel's adoption, and BellSouth objected to that adoption with this Commission.
10. In early August 2004, BellSouth indicated it would agree to Z-Tel's adoption of the Network Telephone and BellSouth interconnection agreement only if Z-Tel agreed to replace in its entirety Attachment 2, UNEs, of the Network Telephone and BellSouth interconnection agreement.
11. Network Telephone and BellSouth continue to operate under the same interconnection agreement that Z-Tel adopted.
12. The last amendment to the interconnection agreement between BellSouth and Network Telephone is dated May 20, 2005 and was effective May 24, 2005. The BellSouth/Network Telephone interconnection agreement has not been amended to reflect the *Triennial Review Order*¹ or the *Triennial Review Remand Order*.²

¹ *In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers* (CC Docket No. 01-338); *Implementation of the Local Competition Provisions of The Telecommunications Act of 1996* (CC Docket No. 96-98); *Deployment of Services Offering Advanced Telecommunications Capability* (CC Docket No. 98-47) Report and Order on Remand and Further Notice of Proposed Rulemaking, FCC 03-36, 18 FCC Rcd. 16978 (2003), vacated and remanded in part, *United States Telecom Ass'n v. FCC*, 359 F.3d 554 (D.C. Cir. 2004) ("*USTA II*").

² *In the Matter of Unbundled Access to Network Elements* (WC Docket No. 04-313); *Review of the Section 251 Unbundling Obligations of Incumbent Local exchange Carriers* (CC Docket No. 01-338), Order on Remand, FCC 04-290 (rel. Feb. 4, 2005).

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'M. Hazzard', written over a horizontal line.

Michael B. Hazzard
Womble Carlyle Sandridge & Rice, PLLC
1401 Eye Street, Seventh Floor
Washington, DC 20005
Tel.: (202) 857-4540

Counsel to Z-Tel Communications, Inc.

June 23, 2005

CERTIFICATE OF SERVICE
DOCKET NO. 040779-TP

I, Edilma Carr, hereby certify that a true and correct copy of the foregoing was served via Electronic Mail and First Class U.S. Mail this 23rd June, 2005 to the individuals on the following list:

**Parties of Record and Interested Persons
in Docket 040779:**

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Edilma M. Carr