

ORIGINAL

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971425-TP

October 28, 1997

**BY HAND DELIVERY**

Ms. Blanca Bayo, Director  
Division of Records and Reporting  
Room 110, Easley Building  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, Florida 32399-0850

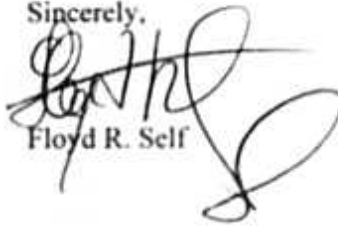
Dear Ms. Bayo:

Enclosed for filing on behalf of AT&T Wireless Services of Florida are the original and fifteen copies of AT&T Wireless Services of Florida's Petition for Arbitration with BellSouthTelecommunications, Inc.

Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the same to me.

Thank you for your assistance with this filing.

Sincerely,



Floyd R. Self

- ACK
- AFA \_\_\_\_\_
- APP \_\_\_\_\_
- CAF \_\_\_\_\_
- CMU \_\_\_\_\_
- CTR \_\_\_\_\_
- EPS \_\_\_\_\_
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- CI \_\_\_\_\_
- FI \_\_\_\_\_
- SI \_\_\_\_\_
- WI \_\_\_\_\_

FRS:amb  
Enclosures  
cc: William H. Higgins, Esq.  
Parties of Record

RECEIVED & FILED

FLORIDA DEPARTMENT OF RECORDS

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition by AT&T Wireless )  
Services of Florida, Inc., for Arbitration )  
with BellSouth Telecommunications, Inc. )  
pursuant to the Telecommunications Act of 1996 )

Docket No.  
Filed: October 28, 1997

**PETITION OF AT&T WIRELESS SERVICES OF FLORIDA, INC.,  
FOR ARBITRATION WITH BELL SOUTH TELECOMMUNICATIONS, INC.**

AT&T Wireless Services of Florida, Inc., ("AWS") for itself and as agent for each commercial mobile radio service ("CMRS") provider carrier identified in paragraph 1 below (collectively "AWS Carriers"), pursuant to Section 252(b) of the Communications Act of 1934, as amended (the "Act"), 47 U.S.C. § 252(b), hereby petitions the Florida Public Service Commission ("PSC" or "Commission") to arbitrate one issue that has not been resolved through negotiations between AWS and BellSouth Telecommunications, Inc. ("BellSouth"). Specifically, AWS requests the Commission to establish the rate for the Final LATA-Wide Additive between the parties pursuant to Section 252(d) of the Act, 47 C.F.R. §§51.701-51.717, the guidelines adopted by the Federal Communications Commission ("FCC") in its First Report and Order, FCC 96-325, CC Docket Nos. 96-98 and 95-185 (August 8, 1996) ("Interconnection Order"), and the March 17, 1997 interconnection agreement of the parties.

In support of this petition, AWS states as follows:

**I. INTRODUCTION**

1. AWS is a Florida corporation, having its principal place of business at 11760 N. U.S. Highway 1, West Tower, Third Floor, North Palm Beach, FL 33408. AWS is the agent for the following AWS Carriers, each of which are telecommunications carriers authorized by the FCC to

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provide commercial mobile radio services within certain designated areas in the state of Florida: Melbourne Cellular Telephone Company; FL - 4 Cellular, Inc.; Talcom, Inc.; Bradenton Cellular Partnership; Ocala Cellular Telephone Company, Inc.; Sarasota Cellular Telephone Company. The names and addresses of the representatives of AWS to whom all pleadings, notices, orders or other correspondence regarding this matter should be sent are:

Floyd R. Self  
Messer, Caparello & Self, P.A.  
P.O. Box 1876  
Tallahassee, FL 32302-1876  
Telephone: 904-222-0720  
Facsimile: 904-224-4359

William H. Higgins  
AT&T Wireless Services  
West Tower, Third Floor  
.11760 N. U.S. Highway 1  
North Palm Beach, FL 33408

2. BellSouth is a local exchange telecommunications company certificated by this Commission to provide local exchange telecommunications service within Florida. Section 364.02 (6), Florida Statutes (1996). BellSouth is and at all material times has been an "incumbent local exchange carrier" ("ILEC") in Florida as defined by the Act. 47 U.S.C. § 251(h).

3. On March 17, 1997, pursuant to sections 251 and 252 of the Act, BellSouth and AWS executed an interconnection agreement ("Agreement") for the rates, terms, and conditions of the exchange of traffic between the parties to be effective March 1, 1997. The Agreement was approved by this Commission on June 12, 1997 as is reflected in Order No. PSC-97-701-FOF-TP.

4. The Agreement resolved all interconnection issues between the parties except for what the Agreement identifies as the "LATA-Wide Additive." As Section V.A.(1) of the Agreement

states:

The LATA-Wide Additive is intended to compensate BellSouth for any additional transport and other costs associated with transporting and terminating Local Traffic throughout a LATA instead of only within local calling areas, including EAS routes, as defined by the Commission as of the Effective Date. As of the Effective Date, the parties disagree as to the proper amount for the LATA-Wide Additive.

While the parties disagreed as to the amount of the LATA-Wide Additive, they nevertheless came to a temporary resolution for the LATA-Wide Additive so that their agreement on all other issues could proceed.

5. Accordingly, the Agreement provides for an "Interim LATA-Wide Additive" that was included in the Type 1 and Type 2A rates. See Attachment B-1, Section C of the Agreement. The Interim LATA-Wide Additive is subject to (a) further negotiations and, if necessary, arbitration pursuant to the Act, and (b) a retroactive true-up based upon the Final LATA-Wide Additive. See Section V. Modification of Rates, in the Agreement. The Agreement specifically provides that the amount of the Interim LATA-Wide Additive "shall have no probative value in any Commission or FCC proceedings, as the case may be, to determine the Final LATA-Wide Additive." Agreement, Section V.A.(1).

6. In a letter dated May 20, 1997, AWS requested negotiations on the LATA-Wide Additive pursuant to the Agreement and the Act ("AWS Request"). BellSouth received the AWS Request on May 21, 1997. A true and correct copy of the AWS's Request is appended hereto as Exhibit "A."

7. Subsequent to making and receiving the AWS Request, the Parties have negotiated in an attempt to reach an agreement on interconnection rates, terms, and conditions.

8. As of this date, the parties are continuing their negotiations, with a face-to-face meeting scheduled for Wednesday, October 29, 1997 in Atlanta, Georgia. AWS believes the parties may be able to satisfactorily negotiate an agreement on the LATA-Wide Additive, thus avoiding the need for this Commission to arbitrate this issue. However, given the receipt date of the AWS Request and the strict statutory timeframes established by the Act for the filing of arbitration requests (See § 47 U.S.C. 252(b)(1)), AWS is filing this Petition in order to preserve its right to obtain arbitration in the event the parties are unable to negotiate an agreement on this matter.

## **II. PROCEDURAL REQUIREMENTS**

9. Under Section 252 of the Act, parties to a negotiation for interconnection within a particular state have the right to petition the respective state commission for arbitration of any open issues whenever negotiations between them fail to yield an agreement. 47 U.S.C. § 252(b). Either Party may seek such arbitration during the period between the 135th day and the 160th day after the date the ILEC received the request for negotiation. *Id.* Because BellSouth received the AWS Request on or about May 21, 1997, the window for requesting arbitration began on September 23, 1997 and ends on October 28, 1997. Accordingly, this Petition is being filed within the time period established by the Act.

## **III. UNRESOLVED ISSUES AND POSITION OF THE PARTIES**

10. The following sets forth the unresolved issue between AWS and BellSouth and the last respective positions of AWS and BellSouth as understood by AWS, which BellSouth will clarify in its response pursuant to Section 252(b)(3) of the Act:

Issue: What is the appropriate rate for the Final LATA-Wide Additive provided for in Section V of the Agreement for interconnection between AWS and BellSouth dated March 17, 1997?

AWS Position: The Final LATA-Wide Additive for Florida should be \$.00004848 per MOU. On the basis of this Final LATA-Wide Additive, the parties should calculate the resulting true-up set forth in Section V of the Agreement.

BellSouth Position: The Final LATA-Wide Additive should be in the range of \$.0005161 to \$.0007742.

#### **IV. RESOLVED ISSUES**

11. With respect to the LATA-Wide Additive, there are no resolved issues. The parties have successfully negotiated an interconnection agreement that addresses all other rates, terms, and conditions of interconnection between the parties. The Agreement was approved by Order No. PSC-97-0701-FOF-TP, issued June 12, 1997.

#### **V. PROCEDURAL MATTERS**

12. AWS recognizes that it may be necessary to obtain and provide more information regarding the specific issues to be arbitrated. For example, BellSouth may raise new matters in its reply. Accordingly, AWS hereby reserves its right to submit additional information during the course of this proceeding and to assert its original position on any additional issues that BellSouth claims are unresolved.

13. Section 252(b)(4)(c) requires that the PSC render a decision in this proceeding not later than nine months after AWS submitted its request for negotiations to BellSouth *i.e.*, by February 21, 1998. In order to allow for the most expeditious conduct of this arbitration, AWS respectfully requests that the PSC convene a status conference, as promptly as possible, to establish a procedural schedule for discovery requests and the conduct of a hearing in this matter.

**VI. CONCLUSION**

14. WHEREFORE, for the foregoing reasons, AWS respectfully requests the following relief:

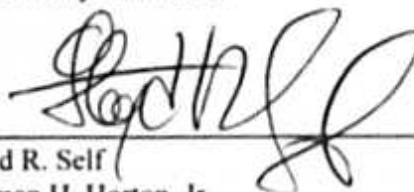
a. That the Commission arbitrate the unresolved issue between AWS and BellSouth and issue an order setting the Final LATA-Wide Additive at \$.0004848, and for the parties to undertake the retroactive true-up required by the Agreement.

b. That, in light of the time limitations under the Act, the Commission act expeditiously on this petition and establish a schedule for the arbitration.

c. That BellSouth be required to provide AWS and the arbitrator with all relevant documents in sufficient time to allow AWS meaningfully to examine and address those documents as part of this arbitration.

d. For such other relief as the Commission determines is fair, just, and reasonable.

Respectfully submitted,



Floyd R. Self  
Norman H. Horton, Jr.  
Messer, Caparello & Self, P.A.  
215 S. Monroe Street, Suite 701  
Tallahassee, FL 32302-1876  
(904) 222-0720

William H. Higgins  
AT&T Wireless Services  
West Tower, Third Floor  
11760 N. U.S. Highway 1  
North Palm Beach, FL 33408

**AT&T WIRELESS SERVICES OF FLORIDA, INC.**

Date: October 28, 1997



B. Kelly Kleer  
Regulatory Counsel  
Southeast Region

AT&T Wireless Services  
Legal Department  
West Tower, Third Floor  
11760 North US Highway 1  
North Palm Beach, FL 33408  
Tel: 771-4379

May 20, 1997

**VIA FACSIMILE (205-977-0767) and REGULAR MAIL**

Mr. Randy Ham  
Manager, Wireless Interconnection  
BellSouth Interconnection  
Room 63D1  
3535 Colonnade Parkway, South  
Birmingham, Alabama 35243

Re: Final LATA-wide Additive Negotiation

Dear Randy:

In accordance with Article V, paragraph B, of the Agreement, effective as of March 1, 1997, between BellSouth Telecommunications, Inc. and AT&T Wireless Services of Florida, Inc. (the "Agreement"), this is to request negotiation of a Final LATA wide Additive (as defined in the Agreement) pursuant to Sections 251 and 252 of the Telecommunications Act of 1996 with respect to the state of Florida.

Sincerely,

BKK/jg

EXHIBIT "A"



**CERTIFICATE OF SERVICE**

I hereby certify that on this 28th day of October, 1997, a copy of the foregoing Petition for Arbitration was served upon the following persons by hand delivery (\*) or overnight delivery (\*\*).

David Falgoust Esq.\*\*  
BellSouth Telecommunications, Inc.  
Suite 4300 - Legal Department  
675 West Peachtree Street, NE  
Atlanta, GA 30375

David Falgoust Esq.\*  
c/o Ms. Nancy Sims  
BellSouth Telecommunications, Inc.  
150 S. Monroe St., Suite 400  
Tallahassee, FL 32301

Mr. Randy Ham \*\*  
BellSouth Telecommunications, Inc.  
3535 Colonnade Parkway, South, Room  
E3DIU  
Birmingham, AL 35243

Monica Barone, Esq.\*  
Division of Legal Services  
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2540 Shumard Oak Boulevard  
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Mr. Stan Greer\*  
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Florida Public Service Commission  
2540 Shumard Oak Boulevard  
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Ms. Robin Norton\*  
Division of Communications  
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Floyd R. Self