

ORIGINAL

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From: Barclay, Lynn [Lynn.Barclay@bellsouth.com]  
 Sent: Thursday, August 12, 2004 3:22 PM  
 To: Filings@psc.state.fl.us  
 Cc: Fatool, Vicki; Peters, Evelyn; Linda Hobbs; Nancy Sims; Holland, Robyn P; Bixler, Micheale; Slaughter, Brenda ; Mays, Meredith  
 Subject: Docket No. 040601-TP Joint Proposal

- a. Lynn Barclay  
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- b. Docket No. 040601-TP (Covad Petition)
- c. BellSouth Telecommunications, Inc.  
 on behalf of Meredith E. Mays
- d. 3 pages total (including attachment)
- e. Joint Proposal between Covad Communications Co. and BellSouth Telecommunications, Inc.

<<040601 joint proposal.pdf>>

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## JOINT PROPOSAL

August 12, 2004

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

**Re: Docket No. 040601-TP**

Dear Ms. Bayó:

The purpose of this letter is to advise the Commission that Covad and BellSouth have met and discussed the issues raised in the above-referenced docket. We are pleased to report that BellSouth and Covad have developed a proposal that we believe will facilitate the conduct and resolution of this matter in an administratively efficient manner. We are also pleased to report that the parties' have resolved Issue Nos. 2, 3, 6, 7, and 8 in their entirety, and that discussions concerning Issue Nos. 4, 5, 9 and 10 continue. Covad and BellSouth respectfully request that the Commission enter an initial procedural and scheduling order consistent with this proposal, as detailed below.

On or before September 3, 2004, Covad and BellSouth will simultaneously file legal briefs with the Commission. The parties' briefs will be limited to the following legal question:

*Is BellSouth obligated to provide Covad access to line sharing after October 2004?*

Pending a Commission decision on the foregoing legal question, the parties agree to hold in abeyance all other issues and outstanding motions. While the parties do not intend to be presumptuous concerning the Commission's schedule, the parties are hopeful that filing briefs on a single issue by September 3, 2004 will facilitate an expedited decision in this matter.

In addressing the legal question, the parties do not intend to include jurisdictional arguments, which both parties' have addressed, and will continue to address, in connection with *In Re: BellSouth Emergency Petition for Declaratory Ruling and Preemption of State Action*, WC Docket No. 04-245, which is pending before the Federal Communications Commission. BellSouth is not waiving its right to raise a jurisdictional challenge in any second phase of this docket, and Covad has agreed that it will not object to a jurisdictional challenge raised during any second phase of this proceeding. The parties' intention in limiting the scope of the initial

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briefs is to obtain a decision on the threshold legal question while at the same time preserving all other arguments, including jurisdictional arguments, which each party expressly reserves.

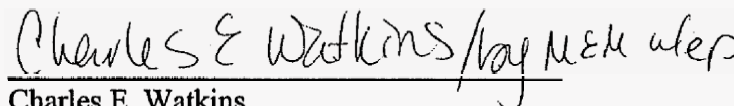
Following the issuance of a Commission decision on the legal question, the parties agree to reconvene and discuss: (1) whether further proceedings are necessary; and (2) whether the parties can mutually agree to the nature of such proceedings. If necessary, such further proceedings would address jurisdictional issues and pricing relating to line sharing, as well as any other non-line sharing issues raised in this docket. Subsequent to such discussions, the parties will either submit an agreed-upon plan to the Commission, or will notify the Commission that the parties could not agree upon a joint proposal, at which point either party would be free to pursue any outstanding motions and further Commission action. The parties further agree to reconvene and discuss the impact of any FCC decision issued in WC Docket No. 04-245 in the event such an order is released prior to the issuance of a decision by this Commission.

We respectfully request that you treat this letter as our joint request to adopt the initial procedural and scheduling order that we have proposed. We are available to discuss this proposal during the upcoming conference call on August 19, 2004.

Very truly yours,



Meredith E. Mays  
Attorney for BellSouth Telecommunications



Charles E. Watkins  
Attorney for Covad Communications

cc: Parties of Record

547114

**CERTIFICATE OF SERVICE  
Docket No. 040601-TP**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via  
Electronic Mail and U.S. Mail this 12<sup>th</sup> day of August, 2004 to the following:

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Meredith E. Mays