

**ORIGINAL**

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**James L. Parado**

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December 1, 2004

**Federal Express**

Ms. Blanca Bayo, Director  
Commission Clerk and Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

RECEIVED FPSC  
04 DEC - 2 AM 10: 14  
COMMISSION  
CLERK

Dear Ms. Bayo:

040533-TP

Enclosed with this letter on behalf of STS Telecommunication Services, Inc. ("STS") are the original and fifteen copies of the STS's "Motion To Amend Petition To Require Bellsouth Telecommunications, Inc. to Negotiate in Good Faith And/or Require Mediation.

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

Thank you for your assistance with this filing.

Very truly yours,

ALAN C. GOLD



- CMP \_\_\_\_\_
- COM \_\_\_\_\_
- CTR \_\_\_\_\_ cc: Mr. R. Douglas Lackey
- ECR \_\_\_\_\_ Ms. Nancy B. White
- GCL \_\_\_\_\_ STS Telecommunications
- OPC \_\_\_\_\_
- MMS \_\_\_\_\_
- RCA \_\_\_\_\_
- SCR \_\_\_\_\_
- SEC 1
- OTH KJM P.

Enclosure:

cc: Mr. R. Douglas Lackey  
Ms. Nancy B. White  
STS Telecommunications

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RECEIVED & FILED

th  
FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

12792 DEC-2 04

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Interconnection Agreement between	)	
Saturn Telecommunication Services, Inc.	)	040533-TP
d/b/a STS Telecom and BellSouth	)	Filed: December 1, 2004
Telecommunications, Inc.	)	
	)	

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**MOTION TO AMEND PETITION TO REQUIRE BELLSOUTH TELECOMMUNICATIONS, INC. TO NEGOTIATE IN GOOD FAITH AND/OR REQUIRE MEDIATION**

Petitioner, Saturn Telecommunications Services, Inc. ("STS"), by and through the undersigned hereby files this Motion to Amend Petition to Require BellSouth Telecommunications, Inc. to Negotiate in Good Faith and/or Require Mediation, and states as follows:

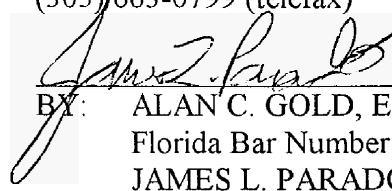
1. On or about June 10, 2004, STS filed its Petition to Require BellSouth Telecommunications, Inc. to Negotiate in Good Faith and/or Require Mediation.
2. As of the date of this filing, the parties have been unable to resolve the issues presented in the Petition.
3. Because attempts by the parties to resolved the issues are at an impasse, STS desires to Amend the Petition to clarify the relief it is seeking.

**WHEREFORE,** STS respectfully requests that the Honorable Commission allow leave to amend the Petition to add a count for arbitration. A copy of the proposed Amended Petition For Mediation and/or Arbitration to Require BellSouth to Negotiate in Good Faith is hereby attached.

DOCUMENT NUMBER-DATE  
12792 DEC -2 3  
FPSC-COMMISSION CLERK

Respectfully submitted,

ALAN C. GOLD, P.A.  
Gables One Tower  
1320 South Dixie Highway  
Suite 870  
Coral Gables, FL 33146  
(305) 667-0475 (office)  
(305) 663-0799 (telefax)



BY: ALAN C. GOLD, ESQUIRE  
Florida Bar Number: 304875  
JAMES L. PARADO, ESQUIRE  
Florida Bar Number: 0580910

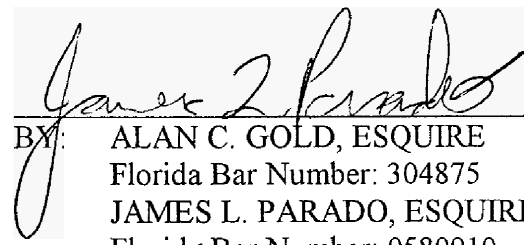
**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been mailed on this 1<sup>st</sup> day of December 2004, to:

NANCY B. WHITE  
C/O Nancy H. Sims  
150 South Monroe Street  
Suite 400  
Tallahassee, FL 32301

R. DOUGLAS LACKEY  
MERIDITH E. MAYS  
Suite 4300, BellSouth Center  
675 West Peachtree Street, N.E.  
Atlanta, GA 30375  
[Lynn.Barclay@bellsouth.com](mailto:Lynn.Barclay@bellsouth.com)

Jason Rojas  
Staff Counsel  
Florida Public Service Commission  
Division of Legal Services  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850  
Tel. No. (850) 413-6179  
[jrojas@psc.state.fl.us](mailto:jrojas@psc.state.fl.us)



BY: ALAN C. GOLD, ESQUIRE  
Florida Bar Number: 304875  
JAMES L. PARADO, ESQUIRE  
Florida Bar Number: 0580910

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Interconnection Agreement between )  
Saturn Telecommunication Services, Inc. ) 040533-TP  
d/b/a STS Telecom and BellSouth ) Filed: December 1, 2004  
Telecommunications, Inc. )  
\_\_\_\_\_ )

**AMENDED PETITION FOR MEDIATION AND/OR ARBITRATION TO REQUIRE  
BELLSOUTH TELECOMMUNICATIONS, INC. TO NEGOTIATE IN GOOD FAITH**

COMES NOW the Petitioner, SATURN TELECOMMUNICATION SERVICES, INC. d/b/a STS TELECOM (“STS”) by and through its undersigned Counsel and files its Amended Petition seeking that the Florida Public Service Commission enter its order requiring BellSouth Telecommunications, Inc. (“BellSouth”) to mediate and/or arbitrate the issues of negotiating an Interconnect Agreement before a representative of the Commission, and states as follows:

**COMMON ALLEGATIONS**

1. The name and address of the company affected by this Petition is the Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, FL 32399.
2. Petitioner, Saturn Telecommunication Services, Inc. (STS) is a corporation organized and existing under the laws of the State of Florida, and doing business as STS Telecom with its principal office located at 12233 SW 55 Street, Suite 811, Cooper City, FL 33330.
3. STS is represented in this action by Alan C. Gold, Esquire, Alan C. Gold, P.A., 1320 South Dixie Highway, Suite 870, Coral Gables, FL 33146; (305) 667-0475.
4. STS is certified by the Florida Public Service Commission as a competitive local exchange telecommunications carrier, certificate number PSC-02-1746-PAA-TX.
5. STS adopted the Interconnect Agreement by and between BellSouth and IDS

Telcom, LLC. Pursuant to the terms of that Agreement, STS is leasing certain services and facilities from BellSouth. The inability to obtain those facilities and services on fair and equitable terms would seriously impair the ability of STS to provide the services that it is offering to the public.

6. On March 3, 2004, in the case of *United States Telecom Association v. Federal Communications Commission*, 00-1012 in the United States Court of Appeals for the District of Columbia raised substantial confusion and uncertainty with respect to the continued viability of Interconnection Agreements such as the agreement between STS and BellSouth.
7. On March 31, 2004, the Federal Communications Commissions sent a letter to the Chairman and CEO of BellSouth, as well as many other similarly-situated individuals, urging them to “begin a period of good faith negotiations to arrive at commercially acceptable arrangements for the availability of unbundled network elements.” A copy of that letter is attached hereto as Exhibit “A”.
8. Pursuant to the letter attached as Exhibit “A”, STS has attempted to negotiate with BellSouth commercially acceptable terms for its Interconnect Agreement, but said attempts have been refused by BellSouth.

#### **COUNT I: MEDIATION**

8. STS re-allages and re-avers paragraphs 1 through 8 above, and said paragraphs are hereby incorporated as if the same were set forth fully herein.
9. STS has attempted repeatedly to negotiate an agreement with BellSouth. Despite repeatedly making efforts by STS, BellSouth refuses to enter good faith negotiations. BellSouth has refused to negotiate in person, issued numerous ultimatums, has

refused to negotiate any significant terms and has done everything possible to obstruct negotiations. The method and manner of “negotiation” by BellSouth renders the process of negotiation meaningless and is tantamount to no negotiation at all.

10. Pursuant to the Interconnect Agreement above mentioned and Florida Law, the Florida Public Service Commission has jurisdiction over this matter.
11. Both the public as well as STS will suffer great harm unless BellSouth is compelled to negotiate an agreement in good faith.
12. STS hereby requests that the PSC mediate all matters concerning the above.
13. BellSouth’s failure to negotiate is in violation of 47 U.S.C. Sec. 252(b)(5), and the PSC is required to mediate the dispute pursuant to 47 U.S.C. Sec. 252(a)(2), which provides that any party may request at any point that the State Commission to participate and mediate the negotiation.

WHEREFORE, SATURN TELECOMMUNICATIONS SERVICES, INC. d/b/a STS TELECOM requests that the Florida Public Service Commission enter its order that:

- A. BellSouth has refused to negotiate in violation of 47 U.S.C. Sec. 252(b)(5).
- B. BellSouth shall in good faith enter face-to-face meaningful negotiations with STS before the PSC as mediator on a Interconnect Agreement pursuant to 47 U.S.C. Sec. 252(a)(1).

#### **COUNT II: ARBITRATION**

- 14 STS re-allages and re-avers paragraphs 1 through 8 above, and said paragraphs are hereby incorporated as if the same were set forth fully herein.
- 15 BellSouth’s actions constitute a refusal to negotiate in good faith as defined by 47 U.S.C. Sec. 252(b)(5), which provides that the refusal of any other party to

participate further in negotiations or refusal to negotiate in good faith in the presence or with the assistance of the State Commission shall be considered a failure to negotiate in good faith.

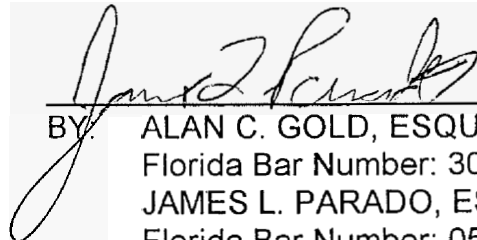
16. BellSouth's refusal to negotiate in good faith forces the parties to be subject to arbitration under 47 U.S.C. Sec. 252(b)(4).
16. If mediation is refused or at an impasse, the PSC is required to arbitrate the dispute pursuant to 47 U.S.C. Sec. 252(b)(4), which provides for a State Commission to arbitrate any open and unresolved issues.

WHEREFORE, SATURN TELECOMMUNICATIONS SERVICES, INC. d/b/a STS TELECOM requests that the Florida Public Service Commission enter its order that:

- A. In addition to mediation or in lieu thereof, that BellSouth and STS be required to attend arbitration pursuant to 47 U.S.C. Sec. 252 (b)(1) within the next 9 months as required under 47 U.S.C. Sec. 252(b)(4)(C) and for such other relief to which Petitioner is entitled.

Respectfully submitted,

ALAN C. GOLD, P.A.  
Gables One Tower  
1320 South Dixie Highway  
Suite 870  
Coral Gables, FL 33146  
(305) 667-0475 (office)  
(305) 663-0799 (telefax)



BY: ALAN C. GOLD, ESQUIRE  
Florida Bar Number: 304875  
JAMES L. PARADO, ESQUIRE  
Florida Bar Number: 0580910

**CERTIFICATE OF SERVICE**


**I HEREBY CERTIFY** that a true and correct copy of the foregoing has been mailed on this

1st day of December 2004, to:

NANCY B. WHITE  
C/O Nancy H. Sims  
150 South Monroe Street  
Suite 400  
Tallahassee, FL 32301

R. DOUGLAS LACKEY  
MERIDITH E. MAYS  
Suite 4300, BellSouth Center  
675 West Peachtree Street, N.E.  
Atlanta, GA 30375  
**Lynn.Barclay@bellsouth.com**

Jason Rojas  
Staff Counsel  
Florida Public Service Commission  
Division of Legal Services  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850  
Tel. No. (850) 413-6179  
**irojas@psc.state.fl.us**

  
BY \_\_\_\_\_  
ALAN C. GOLD, ESQUIRE  
Florida Bar Number: 304875  
JAMES L. PARADO, ESQUIRE  
Florida Bar Number: 0580910





Federal Communications Commission  
Washington, D.C. 20554

March 31, 2004

F. Duane Ackerman  
Chairman & CEO  
BellSouth Corporation  
1155 Peachtree Street, N.E.  
Suite 2000  
Atlanta, GA 30309

Dear Mr. Ackerman:

We write to urge your participation in a serious effort to reach mutually acceptable terms for offering unbundled network elements. Ongoing litigation has unsettled the market. We call upon the telecommunications industry to begin a period of commercial negotiations designed to restore certainty and preserve competition in the telecommunications market. We have asked telecommunications carriers to engage in a period of good faith negotiations to arrive at commercially acceptable arrangements for the availability of unbundled network elements. We trust the parties to utilize all means at their disposal, including the selection of a third-party mediator, to maximize the success of this effort. For our part, we intend to petition the D.C. Circuit for a 45-day extension of the stay of the court's mandate vacating the Commission's rules. We likewise will request that the Solicitor General seek a comparable extension of the deadline for filing a petition for certiorari. We seek your support in these two matters.

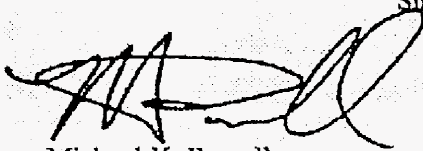
The express, limited purpose of these requests is to allow negotiations to take place and for the parties to reach commercial agreements. The Communications Act emphasizes the role of commercial negotiations as a tool in shaping a competitive communications marketplace. After years of litigation and uncertainty, such agreements are needed now more than ever. In the past, the Commission has been divided on these issues. Today, we come together with one voice to send a clear and unequivocal signal that the best interests of consumers are served by negotiation. We call on all sides to commit to working in good faith toward a prompt resolution.



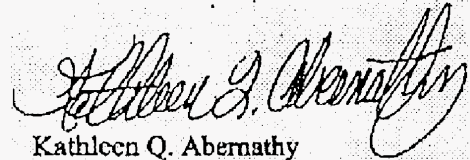
F. Duane Ackerman  
March 31, 2004  
Page 2

We urge you to participate fully in this important effort. Please indicate to us by Tuesday, April 6 whether your company or organization will participate and will support a stay of the court's mandate. In the end, we trust you share our view that America's telephone consumers are served best by ending this uncertainty and getting back to business. America's telephone consumers will be served by successfully negotiated agreements.

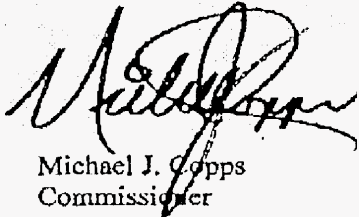
Sincerely,



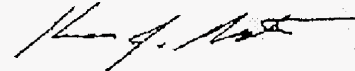
Michael K. Powell  
Chairman



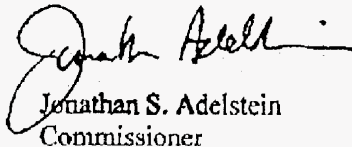
Kathleen Q. Abernathy  
Commissioner



Michael J. Copps  
Commissioner



Kevin J. Martin  
Commissioner



Jonathan S. Adelstein  
Commissioner