

ORIGINAL

040732

RECEIVED: FPSC

Law Offices of Alan C. Gold, P.A.

1320 South Dixie Highway
Suite 870
Coral Gables, FL 33146
(305) 667-0475
(305) 663-0799 - Fascimile

05 FEB 22 AM 10:05

COMMISSION
CLERK

Alan C. Gold
Direct Dial: 305-667-0475, ext. 1
e-mail: agold@kcl.net

James L. Parado
Direct Dial: 305-667-0475, ext. 25
e-mail: jlp@kcl.net

January 24, 2005

Clerk's Office
Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Interconnection Agreement between Saturn Telecommunication Services, Inc.
d/b/a STS Telecom and BellSouth Telecommunications, Inc.

~~040533-TP~~

040732 - TP
(Handwritten initials)

Dear Matilda:

Enclosed are an original and fifteen copies of STS Telecom's Motion for Extension of Time to File Response to BellSouth's Motion for Summary Final Order, which we ask that you file in the captioned docket.

A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return the copy to me. Copies have been serviced to the parties shown on the attached Certificate of Service.

Sincerely,

Leanne Brown

Leanne Brown

- CMP _____
- COM _____
- CTR _____
- ECR _____
- GCL _____ /lb
- OPC _____
- MMS _____ Encl.

- RCA _____ Cc: Nancy B. White
- SCR _____ R. Douglas Lackey
- SEC 1 Jason Rojas, Public Service Commissions

OTH Kim P.
de 02/22/05

05 FEB 22 AM 9:52

DOCUMENT NUMBER-DATE
01798 FEB 22 05

FPSC-COMMISSION CLERK

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Interconnection Agreement between)
Saturn Telecommunication Services, Inc.)
d/b/a STS Telecom and BellSouth)
Telecommunications, Inc.)
_____)

04-0732-TP
Filed:

**MOTION FOR EXTENSION OF TIME TO FILE RESPONSE TO
BELLSOUTH'S MOTION FOR SUMMARY FINAL ORDER**

The Petitioner, SATURN TELECOMMUNICATION SERVICES, INC. d/b/a STS Telecom ("STS"), by and through its undersigned counsel, and requests an extension of time for ten (10) days in which to file its response to BellSouth Telecommunication Inc.'s Motion For Summary Final Order, and in support thereof states as follows:

1. STS's attorney has had extremely hectic schedule during the period of time in which a response was due to BellSouth's Motion For Summary Final Judgment, which schedule has included a two-week jury trial, preparing for oral arguments, numerous depositions and a heavy client meeting schedule.
2. STS's counsel has spoken to Counsel for BellSouth regarding an extension of time for ten (10) days, and they have indicated they have no objection to the extension of time.
3. No party would be prejudiced due to a short continuance to respond to BellSouth's Motion For Summary Final Judgment.
4. In an abundance of caution, in the unlikely event that the Public Service Commission denies this request for an extension of time; STS has attached hereto as Exhibit A its Preliminary Response to BellSouth's Motion For Summary Final Order. Said Preliminary Response is incomplete and with the

DOCUMENT NUMBER-DATE


01798 FEB 22 '08

FPSC-COMMISSION CLERK

additional 10 day extension, STS will file its detailed Memorandum in Opposition to BellSouth's Motion For Summary Final Order and Affidavit.

5. **WHEREFORE**, Petitioner, STS, by and through the undersigned Counsel, requests that this Honorable Commission enter its Order granting Petitioner and extension of ten (10) days in which to file a response to BellSouth's Motion For Summary Final Order.

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 served via Electronic Mail and Federal Express on this 21st day of February 2005, to:

Staff Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

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



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.) 04-0732 TP
d/b/a STS Telecom and BellSouth)
Telecommunications, Inc.)
_____)

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

Comes now the Petitioner, SATURN TELECOMMUNICATION SERVICES, INC. d/b/a STS Telecom ("STS"), by and through its undersigned counsel, and files this Preliminary Response in Opposition to BellSouth Telecommunication Inc.'s Motion For Summary Final Order, and states that this Preliminary Response is only intended to be utilized in the event that the Public Service Commission ("Commission") denies STS's Motion For an Extension of Time to File Response. STS states that this Preliminary Response is only being filed in an abundance of caution and that it needs ten (10) additional days as set forth in the accompanied Motion For Extension of Time in order to fully and properly set forth STS's position.

BellSouth's Motion For Summary Judgment should be denied and this case should be permitted to proceed on the merits on the basis of any or all of the following factual disputes:

1. Even if one assumes that BellSouth is entitled to bill at the market base rates as set forth in the Interconnect Agreement, BellSouth improperly billed for those rates and the amount owing to BellSouth is disputed.
2. BellSouth billed STS on a monthly basis for all services it was providing and STS paid those monthly billing amounts in full. The bills upon which BellSouth is



now attempting to collect for retail customers with four or more lines are amounts which BellSouth did not previously bill in its regular monthly billings. Instead BellSouth is retroactively and subsequently changing amounts that were billed in the past from the billed cost basis to a much higher market rate and expecting STS to pay the enormous difference. *The Interconnection Agreement does not provide* for this rebilling. Additionally, equitable principals of waiver and estoppel preclude BellSouth from rebilling the same.

3. The rates charged by BellSouth in its market based rates to CLEC is, in many instances, far greater than the retail rate BellSouth charges to the customer. As such, it constitutes a barrier to entry and an attempt to drive STS and similar CLEC's out of business.

STATEMENT OF FACTS

4. STS is a competitive local exchange carrier ("CLEC"), certified by the Florida Public Service Commission to provide such service in January 2003. In order to commence business, STS reviewed several interconnection agreements and determined that the Interconnect Agreement between BellSouth and IDS Telcom, LLC., was in STS's best interest. Had STS negotiated a new interconnection agreement with BellSouth or resorted to arbitration before the Florida Public Service Commission, the time delay and cost would have prohibitive and precluded the entry of STS into the marketplace as a competitive local exchange carrier.
5. On the date that the Interconnection Agreement was adopted, STS had not previously been involved in providing local telecommunication services in

Florida and was not aware of the great disparity in rates for retail customers that have four or more lines between what BellSouth provided in the Interconnection Agreement and represented as wholesale market rates, and the retail rates it offered the general public.

6. The Interconnection Agreement with BellSouth and STS provided in Section 29.1 of the "General Terms and Conditions" the following: "This section applies to network interconnection and/or unbundled network element and other service rates that are *expressly subject to true-up* under this Agreement." (*emphasis added*) Thus, Section 29.1 of the relevant agreement only gave BellSouth the ability to correct or rebill (true-up) those charges which the agreement expressly allowed to be rebilled.
7. STS only accepted the Florida rates found in attachment 2 of the Interconnection Agreement which stated "BellSouth is currently developing the billing capability to mechanically bill the recurring and non-recurring market rates in this Section except for non-recurring charges for not currently combined in Florida and North Carolina. In the interim, BellSouth cannot bill market." There is absolutely no provision in the Interconnection Agreement allowing BellSouth to true-up or subsequently adjust these market rates.
8. BellSouth billed STS on a monthly basis and STS paid those amounts in full. There was nothing in the bills indicating the charges for retail customers with 4 or more lines was subject to change, and as stated previously, there was nothing in the Interconnection Agreement subjecting this aspect of the bill to subsequent change by BellSouth. STS billed its customers and took action based upon its

belief on the accuracy of the BellSouth billings and the plain language of the Interconnection Agreement. Some of the action taken by STS in reliance on the billing and actions of BellSouth are set forth in the Affidavit of Keith Kramer. It was only much later that BellSouth attempted to true-up its rates going back as far as 6 months in adjusting billing upwards for “market rates”. Not only did BellSouth inaccurately bill the rates, it had no authority under the Agreement to rebill and true-up the rates. Moreover, the rates are not based upon market, but in many instances, are far greater than the rates BellSouth charges to the retail customer. The market rates constitute a barrier to entry and are improper.

ARGUMENT

STS agrees with the standards of summary judgment stated in BellSouth’s Memorandum; namely, that summary final order **cannot** be given if there are genuine issues of material fact. Moreover, it cannot be given if there are matters of law in dispute. This standard is a very high standard with the facts viewed in the light most favorable to STS, as the non-moving party, and all inferences from those facts made in favor of STS. It is clear that BellSouth’s Motion For Summary Final Order does not meet the stringent requirement for a summary judgment and BellSouth’s Motion must be denied.

MATERIAL FACTS ARE IN DISPUTE AS TO AMOUNT OF BILL

Even if one assumes for the sake of argument that BellSouth is entitled to bill the market based rates according to the Interconnection Agreement, STS disputes the amounts billed by BellSouth. (See Affidavit of Jonathan Krutchik). The dispute

regarding the amount of bills is sufficient to defeat BellSouth's Motion For Summary Final Order.

THE INTERCONNECTION AGREEMENT DOES NOT PERMIT REBILLING

The Interconnection Agreement is a document prepared in its entirety by BellSouth. As such, any ambiguities must be construed against the drafter. See, *Ware Else v. Ofstein*, 856 So.2d 1079 (Fla. 5th DCA 2003); *Maines v. Davis*, 491 So.2d 1233, (Fla. 1st DCA 1986); *Inguez v. American Hotel Register Company*, 820 So.2d 953 (Fla. 3rd DCA 2002.) The rights and obligations BellSouth and STS are as expressly set forth by BellSouth under the Interconnection Agreement which it drafted. In Section 29 of the Interconnection Agreement entitled "Rate True-Up" BellSouth provides that certain specified rates can be later adjusted up or down, and in Section 29.1 limits those adjustable rates to those "expressly subject to true-up under this Agreement." Thus, BellSouth had the ability to expressly designate which rates are subject to true-up under the Interconnection Agreement. BellSouth chose not to subject the market based rates to true-up. STS accepted the agreement drafted by BellSouth which did not allow the rates for retail customers with four or more lines to be charged retroactively. If BellSouth wanted to bill STS for services to these customers at market rates, it was required to do so in the regular billing. It cannot retroactively rebill or true-up the rates. Whether it is an error or intentional, the Interconnection Agreement was drafted by BellSouth, and should be interpreted according to its plain language. As such, the rates for these services are not subject to true-ups.

Moreover, even if these rates were subject to true-up, equitable principles of waiver and estoppel requires that these rates not be subject to true-up. STS has taken

actions based upon the regular billing by BellSouth and would be harmed if BellSouth could change its position. It has long been recognized in the law that the parties to an agreement may, by their actions, indicate an abandonment of one of the contractual terms. See *Gustafson v. Jenson*, 515 So.2d 1298 (Fla. 3rd DCA 1987), *Painter v. Painter*, 823 So.2d 268 (Fla. 2nd DCA 2002). In the affidavit of Keith Kramer attached hereto, Mr. Kramer sets forth the actions of BellSouth which indicates that BellSouth abandoned the right to true-up for these services. Moreover, the affidavit of Mr. Kramer proves that BellSouth by its actions waived or is estopped from being able to true-up the rates charged to STS for retail customers with four or more lines to a higher market rate. The issues of abandonment, waiver and estoppel are issues which are not appropriate for summary disposition. See, *Scheibe v. Bank of America*, 822 So.2d 575 (Fla. 5th DCA 2002) and *Woodruff v. Government Employees Insurance Company*, 669 So.2d 1114 at 1115 (Fla. 1st DCA 1996). BellSouth billed for rates and were paid for those rates. BellSouth cannot rebill for these services at higher rates.

THE RATES ARE BARRIER TO ENTRY

After entering the market and receiving the true-up bill on market based rates from BellSouth, STS discovered that in many instances these market based rates which were supposed to be wholesale rates promulgated to certified local exchange carriers were in many instances substantially higher than BellSouth would sell to its retail customers. It would be impossible to effectively compete with BellSouth when it charges wholesale rates at a substantially higher price than retail rates. This is in violation of 47 U.S.C. § 251, which requires BellSouth to provide access to their network at a fair price for that access. The argument that STS could have discovered

the same, if it was more experienced in the market or had spent hundreds of thousands of dollars in analyzing the rates has no bearing on the issues before this Commission. The statutes require BellSouth to provide access at fair rates. The fact that it might have been discovered earlier does not eliminate the duty of BellSouth to provide fair rates. Furthermore, rates such as the inflated market based rates creates an "economic barrier" to entry in violation of Section 251 of the Act. The Florida Public Service Commission should not enforce unfair rates.

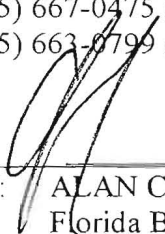
Moreover, if the Commission considers the equities of the situation, the equities lie with STS. At the time the Interconnection Agreement was adopted by STS, BellSouth had not billed CLECS for market rates for retail customers having four or more lines. STS did not know when, if ever, those rates would be billed. STS bills its customers on a monthly basis. BellSouth waited long periods of time and then billed for 6 months in arrears. This is designed to hurt the CLECS and their relationship with their customers. In fact, many customers were lured back to BellSouth by BellSouth's programs designed to win customers back at rates much lower than these supposedly wholesale "market rates". It is not practical to bill these customers or even rebill existing customers retroactively for six months. Thus, the actions of BellSouth and its delayed billing caused hardship to STS. If BellSouth has the right to charge market rates for retail customers with four or more lines, it must do so in a prudent and responsible manner for existing bills and not retroactively charge substantial amounts for periods which are long past.

CONCLUSION

STS has demonstrated that there are substantial matters of fact in dispute and that BellSouth is not entitled to a summary final order.

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

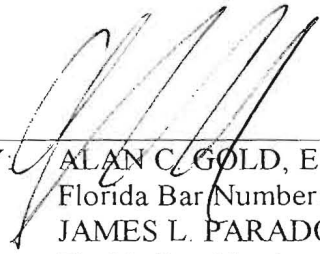
CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a true and correct copy of the foregoing has been served via Electronic Mail and Federal Express on this 21st day of February 2005, to:

Staff Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

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



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.) 040732-TP
 d/b/a STS Telecom and BellSouth)
 Telecommunications, Inc.)
 _____)

AFFIDAVIT OF KEITH KRAMER

I, Keith Kramer, being of lawful age, and duly sworn upon my oath, do hereby depose and state:

1. My name is Keith Kramer. I am the Executive Vice President of Saturn Telecommunications Services, Inc. (hereinafter referred to as "STS Telecom" or "the Company"). My business address is 12233 SW 55th Street, Cooper City, Florida 33330.
2. As Executive Vice President my duties are legal and regulatory, business planning, network planning, and sales. Prior to STS Telecom I served as Senior Vice president of IDS Telcom, in charge of legal and regulatory.
3. I am submitting this Affidavit in support of the billing dispute and in response to BellSouth's Motion for Summary Final order in this docket.
4. The Interconnection Agreement that STS Telecom adopted from IDS Telcom is in excess of 970 pages. Where BellSouth specifically identifies every portion and cost of every item, they have including a tool kit.
5. Neither when I was an Employee of IDS nor as Executive Vice President of STS would we agree to BellSouth arbitrarily choosing any specific amount of time to incorrectly bill STS and then demand payment upon receipt of the back bill.

6. STS Telecom at the time of the Interconnect Agreement was concerned only with the State of Florida and the products and services available to the Company at the time we adopted the IDS agreement.
7. When I was employed at IDS Telcom prior to being employed by STS Telecom, BellSouth did not bill IDS for Market Based Rates, nor was there any period during my employ at IDS did BellSouth state that they were going to start billing for those rates.
8. STS Telecom receives monthly billing for all other services that we receive from BellSouth. Nowhere in the Agreement does it state that BellSouth reserves the right to change the billing cycles to whatever it deems appropriate. At the adoption of the IDS Interconnect Agreement, it was never disclosed that BellSouth made such an agreement to IDS, or any one else for that matter.
9. When STS Telecom adopted the IDS agreement, it was understood between the parties that Market Based rates were fair and reasonable. It was also understood that if STS desired to negotiate the Market Based Rates, that to do so would require an arbitration process with the FPSC, but since BellSouth was not required to provide such services, if STS requested arbitration for the Market Based Rates with the Commission, BellSouth would either not execute the Interconnect Agreement, or would not provide for the port/loop combinations in the Tier 1 markets until such time as the arbitration process had been completed. Since there were at the time no other wholesale providers of port/loop combinations in the Tier 1 markets in Florida, seeking arbitration would have

been a serious barrier to entry based on the rules for which BellSouth provided local service at that time.

10. BellSouth both on retail rates provided to their end-users and in the Interconnect Agreement has thousands of rates to which they are able to bill monthly. BellSouth continues to create multiple rates for both retail, special access, interconnect agreements, and commercial agreements to which they are able to create the bill for on a monthly basis before entering into agreements to provide for such service. Yet for the Market Based Rates, not only did BellSouth not bill for the services for several years to CLECs, after STS Telecom entered into the agreement BellSouth decided to start billing for such services in a way that was not representative of the actual Market Based Rates, but for cost based rates with an arbitrary true-up to those rates. Then BellSouth arbitrarily decided to bill CLECs in a true-up form every six months, based on monthly differences between Cost Based Rates, and Market Based Rates. Common sense leads one to believe that the data is available on a monthly basis as with all of the other services that BellSouth bills the Company, yet BellSouth opted for a six month true up without mutual agreement, either in the actual Interconnect Agreement, or any subsequent agreements.
11. Subsequent to STS adopting the IDS Interconnect Agreement, BellSouth reduced a number of their retail rates, such as business line installations, to significantly less than what is provided for in the Market Based Rates of the Interconnect Agreement.

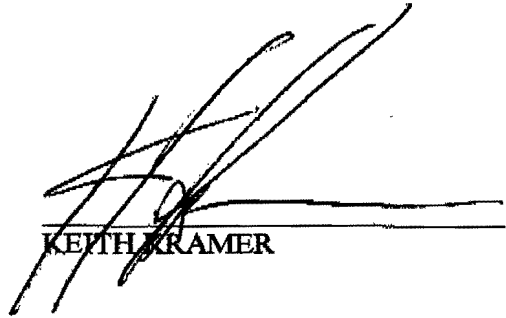
12. BellSouth also after the notification of the (un agreed to) Market Based Rates six-month billing true up, started winning back customers that STS had in the Tier 1 markets of Miami and Ft. Lauderdale, through their "Rewards Program" consumer agreement, at rates significantly less than the Market Based Rates in the Interconnection Agreement.
13. In the State of Florida the Company has the ability to provide the customer protection from slamming, and unwanted service changes through a "Local Service Freeze" (LSF) put on the account. STS has numerous customers who have entered into agreements with the customer to provide service with such LSFs attached. BellSouth honors the LSF on our customers against unwanted services that are provided by other CLECs, but refuses such an honor when BellSouth itself wins back a customer.
14. STS has found that when we provide service to a customer in a Tier 1 MSA of Miami and Ft. Lauderdale through BellSouth, that BellSouth will subsequently contact the customer with a program that has rates at or below the Market Based Rates, and sign the customer to an agreement, in most cases some sort of a Rewards Program Agreement.
15. STS has found on several occasions that even though the Company would have an agreement with the end-user prior to their change back to BellSouth, that the customer would be intimidated by BellSouth on their agreement, not understand the terms, and when the customer discovered what the true terms of the agreement with BellSouth, would seek remedies from the Company's contract, so that they would not have to enter into a fight with BellSouth.

16. BellSouth does not provide for any credits of Market based rates to STS, including the conversion charges for any customer to which the Company secured the services of a customer on such an agreement, that BellSouth has subsequently won back, based on rates below what BellSouth had originally offered the customer prior to STS making them a customer.
17. BellSouth has provided for back billing of Tier 1 customers of STS in Miami and Ft. Lauderdale for six-month intervals. When the Company audits such bills based on the rates provided for in the Interconnection Agreement (regardless of the Company's belief of the fairness of such rates), the Company has found them to be grossly inaccurate, to BellSouth's favor.
18. The Company finds that when BellSouth provides win-back to our customers at rates less than what we receive from BellSouth, then the Company receives a bill for such overpriced services over and above the monthly bill at six-month intervals. Then such true up is grossly over billed, and a demand is made for an immediate payment (where two years ago such demands were not made). This puts the Company at an extreme financial hardship that is difficult if not impossible to anticipate, since the Company has no prior knowledge of which customer that BellSouth will win back at rates less than what BellSouth provides to STS.
19. STS believes that in order for Market Based Rates to be fair and reasonable that they should represent a) a competitive market where there is more than one provider of such service; and b) that the provider of such service protects the interest of the company that the service is provided to, specifically as to the

customers of the Company, and do what is necessary to protect those customers from predatory companies that seek to provide unfair competition.

20. STS finds difficulty in the fact that BellSouth charges unfair pricing in the Market Based Rates, provides a true up every six months that was never agreed to, and provides the necessary information to their win-back group to provide retail pricing to win back STS Telecom's customers at rates less than what is in the Interconnect Agreement. STS Telecom believes that these behaviors present an UNREASONABLE AND UNFAIR, competitive advantage in the Interconnect Agreement that STS never agreed to, and believes that the laws provide relief with the FPSC.
21. STS believes that even though the FCC allowed for the fact that BellSouth is not required to provide for cost based rates for UNE-P in the Tier 1 zones, it did not contemplate that the Bell Operating Companies such as BellSouth would use their monopolistic strength as a means of luring CLECs into an agreement to which BellSouth would know that they could put such an economic hardship by making up rules as they go along as to put CLECs into economic hardship. STS believes that no reasonably and economically well run CLEC could anticipate, agree, or profit under this type of nondisclosure on the part of BellSouth.
22. STS never agreed to a six-month true up in the Interconnect Agreement.
23. This concludes my Affidavit.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.


KEITH KRAMER

SWORN TO AND SUBSCRIBED BEFORE ME
This 21st day of February 2005.



Andrew T. Silber
Commission # DD 061821
Expires Nov. 5, 2005
Bonded Through
Atlantic Bonding Co., Inc.



NOTARY PUBLIC

My Commission Expires: *Nov, 5th 2005*

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Interconnection Agreement between
Saturn Telecommunication Services, Inc.
d/b/a STS Telecom and BellSouth
Telecommunications, Inc. }

04-0732-TP
Filed:

**AFFIDAVIT IN OPPOSITION TO BELL SOUTH'S MOTION FOR SUMMARY
FINAL ORDER**

STATE OF FLORIDA, }
 }ss
COUNTY OF BROWARD }

BEFORE ME the undersigned authority personally appeared, JONATHAN
KRUTCHIK who, after being first duly sworn, deposes and says:

1. The following information is true and correct and based upon my
 personal knowledge.
2. I was a co-founder of Saturn Telecommunication Services, Inc.
 d/b/a STS Telecom ("STS") and has served as its President since
 its inception.
3. Part of my duties as President includes the responsibility for
 overseeing all computers and billing functions of STS.
4. I was instrumental in developing and customizing STS's billing
 system.
5. I reviewed the documents from BellSouth regarding the disputed
 market based rates and I am familiar with the Interconnect

Agreement and issue and what the amount of appropriate billing should be.

- 6. Even if BellSouth had the right to bill for the market based rates set forth in the Interconnect Agreement, the bills presently submitted by BellSouth and the amount which BellSouth claims STS owes it are erroneous and incorrect.
- 7. The bills which BellSouth claims is due and owing from STS is substantially less than the amount that BellSouth claims.
- 8. I am in the process of gathering documentation to support the fact that BellSouth has overbilled and will be supplementing this Affidavit by supplying the documentation within the next 10 days.

FURTHER AFFLIANT SAYETH NAUGHT.



 JON KRUTCHIK

BEFORE ME the undersigned authority of this 21st day of February 2005 personally appeared, JON KRUTCHIK, who is personally known to me and who after being first duly sworn deposes and says, that he had read the foregoing Affidavit, that the information contained therein, is true and correct and based upon his personal knowledge.



Andrew T. Silber
 Commission # DD 061821
 Expires Nov. 5, 2005
 Bonded Thru
 Atlantic Bonding Co., Inc.

NOTARY PUBLIC
 Print Name: ANDREW SILBER
 Commission No.: DD 061821