

**Kay Flynn**

**From:** Fatool, Vicki [Vicki.Fatool@BellSouth.COM]  
**Sent:** Wednesday, March 02, 2005 10:00 AM  
**To:** Filings@psc.state.fl.us  
**Subject:** 040779-TP (Z-Tel) BellSouth's Petition Req. Hearing Pursuant to Section 120.57, F.S. and Protest of PAA  
**Importance:** High  
**Attachments:** 040779-T.pdf

**ORIGINAL**

A. Vicki Fatool  
Legal Secretary to Nancy B. White  
BellSouth Telecommunications, Inc.  
150 South Monroe Street  
Suite 400  
Tallahassee, Florida 32301  
(305) 347-5560  
[vicki.fatool@bellsouth.com](mailto:vicki.fatool@bellsouth.com)

RECEIVED-FPSC  
05 MAR -2 PM 2:59  
COMMISSION  
CLERK

B. Docket No.: 040779-TP – Notice of the Adoption Existing Interconnection, Unbundling,  
Resale and Collocation Agreement between BellSouth Telecommunications, Inc. and  
Network Telephone Corporation by Z-Tel Communications, Inc

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C. BellSouth Telecommunications, Inc.  
on behalf of Nancy B. White

D. 6 pages total (including letter, certificate of service, and pleading)

E. BellSouth Telecommunications, Inc.'s Petition Requesting Hearing Pursuant to Section  
120.57, Florida Statutes and Protest of Proposed Agency Action

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02178 MAR -2 05  
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Nancy B. White  
General Counsel - Florida

BellSouth Telecommunications, Inc.  
150 South Monroe Street  
Room 400  
Tallahassee, Florida 32301  
(305) 347-5558

March 2, 2005

ORIGINAL

Mrs. Blanca S. Bayó  
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 the Adoption of Existing Interconnection,  
Unbundling, Resale and Collocation Agreement between  
BellSouth Telecommunications, Inc. and Network Telephone  
Corporation by Z-Tel Communications, Inc.**

Dear Ms. Bayó:

Enclosed is BellSouth Telecommunications, Inc.'s Petition Requesting Hearing Pursuant to Section 120.57, Florida Statutes and Protest of Proposed Agency Action, which we ask that you file in the captioned docket.

Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely,

  
Nancy B. White

cc: All Parties of Record  
Marshall M. Criser III  
R. Douglas Lackey

DOCUMENT NUMBER - DATE

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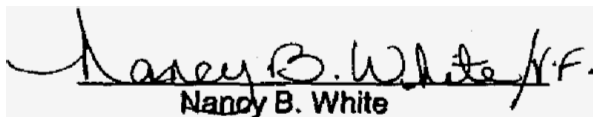
**CERTIFICATE OF SERVICE  
DOCKET NO. 040779-TP**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via  
Electronic Mail and First Class U.S. Mail this 2nd day of March, 2005 to the following:

Victor McKay  
Staff Counsel  
Florida Public Service  
Commission  
Division of Legal Services  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850  
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[vmckay@psc.state.fl.us](mailto:vmckay@psc.state.fl.us)

Womble Carlyle Law Firm  
Michael B. Hazzard  
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Washington, D.C. 20005  
Tel. No. (202) 857-4540  
Fax. No. (202) 261-0035  
[mhazzard@wcsr.com](mailto:mhazzard@wcsr.com)

Peggy Rubino  
Vice President  
Z-Tel Communications, Inc.  
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Nancy B. White

ORIGINAL

FLORIDA PUBLIC SERVICE COMMISSION

In Re: Notice of the Adoption Existing )  
Interconnection, Unbundling, Resale and )  
Collocation Agreement between BellSouth )  
Telecommunications, Inc. and Network )  
Telephone Corporation by Z-Tel )  
Communications, Inc. )

Docket No.: 040779-TP

Filed: March 2, 2005

**PETITION REQUESTING HEARING PURSUANT TO  
SECTION 120.57, FLORIDA STATUTES AND  
PROTEST OF PROPOSED AGENCY ACTION**

Pursuant to Rules 25-22.029 and 28-106.201, Florida Administrative Code, BellSouth Telecommunications, Inc. ("BellSouth") files this Petition to Protest Order No. PSC-05-0158-PAA-TP ("Order") issued on February 9, 2005, and requests an evidentiary hearing under Section 120.57, Florida Statutes. In support of its Petition and Protest, BellSouth states:

1. BellSouth's official address for its Florida business operations is 675 West Peachtree Street, N.E., Suite 4300, Atlanta, Georgia 30375.

2. BellSouth's principal place of business in Florida is 150 W. Flagler Street, Suite 1910, Miami, Florida 33130. Pleadings and process may be served upon:

Nancy White  
c/o Nancy H. Sims  
150 South Monroe Street, Suite 400  
Tallahassee, Florida 32301  
(305) 347-5558  
[nancy.white@bellsouth.com](mailto:nancy.white@bellsouth.com)  
[nancy.sims@bellsouth.com](mailto:nancy.sims@bellsouth.com)

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3. BellSouth is a local exchange company providing local exchange and intraLATA toll service in Florida.

4. BellSouth received notice of the Florida Public Service Commission's ("Commission") decision by downloading a copy of the Order from the Commission's web site on or about February 9, 2005.

5. In the Order, the Commission allowed Z-Tel Communications, Inc. ("Z-Tel") to adopt the interconnection agreement between BellSouth and Network Telephone Corporation ("Network") effective as of July 23, 2004. BellSouth protests the entirety of the Order for the following reasons:

6. First, the Commission erred in allowing the adoption inasmuch as the BellSouth/Network agreement is not compliant with current law. Z-Tel's adoption is contrary to Section 252(i) of the Telecommunications Act of 1996 (the "Act") and the rules of the Federal Communications Commission ("FCC"), as is the agreement Z-Tel has adopted. BellSouth did not agree to accept an agreement's terms and conditions that are no longer required by law or that are contrary to law.

7. Second, the adoption by Z-Tel violates the FCC's Interim Rules Order<sup>1</sup>. The FCC specifically held that "competitive LECs may opt into the contract provisions 'frozen' in place by this interim approach "as of June 15, 2004. Interim Order, at paragraph 22.

8. Third, the adoption by Z-Tel violates the FCC's rules requiring the adoption of an agreement within a reasonable period of time after it is available

for public inspection under Section 252(f) of the Act. Z-Tel's adoption violated these rules due to the significant changes in the law. Rule 51.809(c).

9. Fourth, the Commission erred in allowing Z-Tel to unilaterally adopt the BellSouth/Network agreement without agreement by BellSouth.

10. Finally, the Commission erred in finding that Z-Tel was not required to comply with the terms of its existing interconnection agreement regarding adoptions.

11. The substantial interests of BellSouth are, therefore, affected by the Order.

12. BellSouth submits the following disputed issues of material fact, policy, and law for resolution in a hearing conducted under Section 120.57, Florida Statutes:

A. Is the Commission authorized under federal law to allow the actions set forth in Order No. PSC-05-0158-PAA-TL?

B. Is Z-Tel allowed to unilaterally adopt an agreement without the consent or knowledge of BellSouth?

C. Is Z-Tel allowed to forego compliance with the terms of its existing interconnection agreement concerning adoptions?

D. Is Z-Tel allowed to adopt an interconnection agreement that is not in compliance with the existing law?

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<sup>1</sup> In the matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers; CC Docket No. 01-338; Order and Notice of Proposed Rulemaking; FCC04-179(2004).

13. BellSouth is entitled to relief under Chapter 120, 350, and 364, Florida Statutes, Chapter 25-22 and 28-106, Florida Administrative Code, and the Act

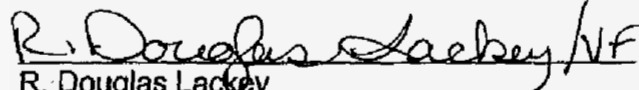
WHEREFORE, BellSouth protests the Order discussed herein, requests that a hearing be held on this issue pursuant to Section 120.57, Florida Statutes, and request that the Commission grant such other relief as is necessary and proper under the circumstances.

Respectfully submitted this 2nd day of March, 2005.

BELLSOUTH TELECOMMUNICATIONS, INC.



Nancy B. White  
c/o Nancy H. Sims  
150 South Monroe Street, Suite 400  
Tallahassee, FL 32301  
Tel. No. (305) 347-5558



R. Douglas Lackey  
675 W. Peachtree Street, Suite 4300  
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(404) 335-0747

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