

ANDREW D. SHORE  
Senior Regulatory Counsel

BellSouth Telecommunications, Inc.  
150 South Monroe Street  
Room 400  
Tallahassee, Florida 32301  
(404) 335-0765

March 28, 2005

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

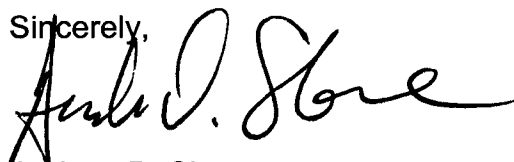
**Re: Docket No. 050160-TP  
Petition of MetroPCS California/Florida, Inc. for Interconnection  
Arbitration Against BellSouth Telecommunications, Inc. Pursuant to  
the Telecommunications Act of 1996**

Dear Ms. Bayó:

Enclosed is BellSouth Telecommunications, Inc.'s Response to the Complaint of MetroPCS California/Florida, 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,



Andrew D. Shore

Enclosure

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

**CERTIFICATE OF SERVICE  
DOCKET NO. 050160-TP**

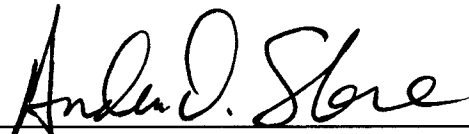
I HEREBY CERTIFY that a true and correct copy of the foregoing was served via

Electronic Mail and Federal Express this 28th day of March, 2005 to the following:

Jeremy Susac  
Kira Scott  
Staff Counsel  
Florida Public Service Commission  
Division of Legal Services  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850  
Tel. No. (850) 413-6199  
[jsusac@psc.state.fl.us](mailto:jsusac@psc.state.fl.us)  
[kscott@psc.state.fl.us](mailto:kscott@psc.state.fl.us)

Charles V. Gerkin, Jr.  
FRIEND, HUDAK & HARRIS, LLP  
Three Ravinia Drive, Suite 1450  
Atlanta, GA 30346  
Tel. No. (770) 399-9500  
Fax. No. (770) 234-5965  
[cgerkin@fh2.com](mailto:cgerkin@fh2.com)

Patrick K. Wiggins  
Law Offices of Patrick K. Wiggins  
Post Office Drawer 1657  
Tallahassee, FL 32302  
Tel No. (850) 222-1358  
Fax. No. (850) 222-1359  
[wigglaw@earthlink.net](mailto:wigglaw@earthlink.net)

  
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Andrew D. Shore

**BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition of MetroPCS California/Florida, Inc. )      Docket No. 050160-TP  
For Interconnection Arbitration Against BellSouth )  
Telecommunications, Inc. Pursuant to the )  
Telecommunications Act of 1996 )      Filed: March 28, 2005

**BELLSOUTH TELECOMMUNICATIONS, INC.'S  
RESPONSE TO COMPLAINT**

Pursuant to 47 U.S.C. § 252(b)(3), BellSouth Telecommunications, Inc. ("BellSouth"), responds to the Petition for Arbitration ("Petition") filed by MetroPCS California/Florida, Inc. ("MetroPCS") and says that:

**BACKGROUND**

Sections 251 and 252 of the Telecommunications Act of 1996 ("1996 Act") encourage negotiations between parties to reach local interconnection agreements. Section 251(c)(1) of the 1996 Act requires incumbent local exchange companies to negotiate the particular terms and conditions of agreements to fulfill the duties described in Sections 251(b) and 251(c)(2)-(6).

As part of the negotiation process, the 1996 Act allows a party to petition a state commission for arbitration of unresolved issues.<sup>1</sup> The petition must identify the issues resulting from the negotiations that are resolved, as well as those that are unresolved.<sup>2</sup> The petitioning party must submit along with its petition "all relevant documentation concerning: (1) the unresolved issues; (2) the position of each of the parties with respect to those issues; and (3) any other issues discussed and resolved by the

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<sup>1</sup> 47 U.S.C. § 252(b)(2).

<sup>2</sup> See generally, 47 U.S.C. §§ 252(b)(2)(A) and 252(b)(4).

parties.”<sup>3</sup> A non-petitioning party to a negotiation under this section may respond to the other party’s petition and provide such additional information as it wishes within 25 days after a commission receives the petition.<sup>4</sup> The 1996 Act limits a commission’s consideration of any petition (and any response thereto) to the unresolved issues set forth in the petition and in the response.<sup>5</sup>

Through the arbitration process, a commission must resolve the unresolved issues ensuring that the requirements of Sections 251 and 252 of the 1996 Act are met. The obligations contained in those sections of the 1996 Act are the obligations that form the basis for negotiation, and if negotiations are unsuccessful, then form the basis for arbitration. Issues or topics not specifically related to these areas are outside the scope of an arbitration proceeding. Once a commission has provided guidance on the unresolved issues, the parties must incorporate those resolutions into a final agreement to be submitted to a commission for approval.<sup>6</sup>

BellSouth and MetroPCS previously entered into an Interconnection Agreement (“Agreement”) that was approved by this Commission. BellSouth and MetroPCS have negotiated in good faith as to the terms and conditions for a new Agreement, and reached agreement on all but four issues. MetroPCS filed its Petition asking the commission to arbitrate the four remaining issues. BellSouth responds below to each of the separately numbered paragraphs of MetroPCS’s Petition:

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<sup>3</sup> 47 U.S.C. § 252(b)(2).

<sup>4</sup> 47 U.S.C. § 252(b)(3).

<sup>5</sup> 47 U.S.C. § 252(b)(4).

<sup>6</sup> 47 U.S.C. § 252(e).

### **The Parties**

1. BellSouth admits the allegations in paragraph 1 on information and belief.
2. BellSouth admits the allegations in paragraph 2.
3. The allegations in paragraph 3 do not require a response.
4. The allegations in paragraph 4 do not require a response. BellSouth

requests that all pleadings, filings, and communications in this proceeding be served upon the following BellSouth attorneys:

Nancy White  
General Counsel – Florida  
c/o Nancy Sims  
150 South Monroe, Room 400  
Tallahassee, FL 32301-1558  
305-347-5558  
850- 222-8640  
nancy.white@bellsouth.com

Andrew D. Shore  
Sr. Regulatory Counsel  
675 W. Peachtree St.  
Suite 4300  
Atlanta, GA 30375-0001  
404-335-0765  
404-614-4054 (FAX)  
andrew.shore@bellsouth.com

### **Jurisdiction**

5. BellSouth admits that it is an “ILEC” as defined in 47 U.S.C. § 251(h), and that its corporate offices are located at 1155 Peachtree Street NE, Atlanta, GA. Except as specifically admitted, BellSouth denies the allegations in Paragraph 3 of the Petition.

4. The allegations in Paragraph 4 purport to state conclusions of law and, accordingly, do not require a response.

5. BellSouth admits that the 1996 Act sets forth the timeframes alleged for the filing of arbitration petitions and that the Commission has authority under the Act to determine the issues raised in MetroPCS' Petition.

6. BellSouth admits the allegations in Paragraph 6 of the Petition.

7. Section 252 of the 1996 Act sets forth the standards pursuant to which the Commission must resolve the issues in this arbitration. BellSouth admits that the arbitration must be decided in accordance with Sections 251 and 252 of the 1996 Act and Rules adopted pursuant to the Act to the extent that any apply to the issues raised in this arbitration. BellSouth denies the allegation in Paragraph 7 of the Petition that this arbitration must be resolved pursuant to standards set forth in Section 271 of the 1996 Act.

8. BellSouth admits the allegations in Paragraph 8 of the Petition.

#### **Background**

9. BellSouth admits the allegations in Paragraph 9 of the Petition.

10. BellSouth admits the allegations in Paragraph 10 of the Petition.

#### **Issues to be Resolved**

11. Bellsouth admits that there are four issues that remain unresolved between the parties. BellSouth also admits that those issues are set forth in the arbitration Petition and that MetroPCS set forth its position with respect to each issue and purports to set forth BellSouth's position. BellSouth denies that MetroPCS accurately set forth BellSouth's position with respect to each issue. BellSouth denies that MetroPCS has the right to add additional issues to this arbitration.

The unresolved issues, the section in the agreement where they arise, and BellSouth's position on each issue are set forth below. In some instances where MetroPCS has failed to state the issue accurately in a fair, neutral manner, BellSouth has restated the issue.

**ISSUE 1:** [Deposit Policy – Section VI.C.5] Is BellSouth's credit rating relevant in determining whether a CMRS carrier customer of BellSouth's should provide a deposit to BellSouth?

**BELLSOUTH'S POSITION:** No, of course not. Whether BellSouth secures an account with a deposit depends upon the credit risk posed by the particular BellSouth customer. BellSouth's credit rating has no impact whatsoever on the credit risk posed by a specific customer.

**ISSUE 2:** [Setoff of Past Due Amounts – Section VI.C.5] Should MetroPCS be permitted to set off undisputed charges owed by BellSouth that are over ninety (90) days past due against amounts that MetroPCS owes BellSouth?

**BELLSOUTH'S POSITION:** No. The interconnection agreement contains specific provisions that penalize BellSouth if it fails to timely pay amounts due to MetroPCS, such as the imposition of late payment charges. MetroPCS' allegation that BellSouth fails to pay appropriate late payment charges is no justification for expanding the remedies available to MetroPCS. MetroPCS, like any party, has the right to enforce its contract if BellSouth does not pay late payment charges required by the agreement.

**ISSUE 3:** [Transit Fee – Section VII.C] Should BellSouth be permitted to charge an unregulated, “market-based” rate for transiting traffic from MetroPCS to third party carriers, including CLECs and other ILECs and CMRS carriers?

**BELLSOUTH’S POSITION:** BellSouth is not attempting to charge an “unregulated” rate for transiting traffic from MetroPCS to third parties. There is a valid, effective tariff in Florida that sets forth the appropriate rate. MetroPCS’s citation to a Georgia Order has no relevance to the lawful, tariffed rate in Florida. Moreover, in the Georgia proceeding MetroPCS cites, the Georgia Commission did not address the transit rate for CMRS carriers, which is the issue with respect to MetroPCS.

**ISSUE 4:** [Tandem Congestion – Section XIII.C.1] When a tandem switch becomes congested, should BellSouth be required to haul MetroPCS’ traffic to a new tandem free of charge?

**BELLSOUTH’S POSITION:** No. BellSouth is willing to waive charges that would otherwise apply when BellSouth requests that a CMRS carrier route traffic directly to an end-office switch as a result of congestion/space exhaustion at a BellSouth tandem. BellSouth should not, however, be required to waive charges when the CMRS carrier sends its traffic to another tandem opened to relieve congestion at an existing tandem.

WHEREFORE, BellSouth respectfully requests that the Commission:


1. Arbitrate the issues set forth herein and in MetroPCS’ Petition and adopt BellSouth’s position with respect to each issue;




2. Require the parties to incorporate into their interconnection agreement language proposed by BellSouth and which reflects its positions on the disputed issues;
3. Order the parties to file an interconnection agreement containing such terms; and
4. Approve the interconnection agreement in accordance with Section 252 of the 1996 Act.

Respectfully submitted this 28th day of March, 2005.

BELLSOUTH TELECOMMUNICATIONS, INC.

  
\_\_\_\_\_  
NANCY B. WHITE  
c/o Nancy H. Sims  
150 South Monroe Street, Suite 400  
Tallahassee, FL 32301  
(305) 347-5558

  
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R. DOUGLAS LACKEY  
ANDREW D. SHORE  
Suite 4300, BellSouth Center  
675 W. Peachtree Street, NE  
Atlanta, GA 30375  
(404) 335-0765

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