

ORIGINAL
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RECEIVED FPSC
MAY 16 AM 11:07
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CLERK

MAY 13, 2005

MS. BAYO
CLERK
FLORIDA PUBLIC SERVICE COMMISSION
2540 SUMARD OAK BLVD.
TALLAHASSEE, FL 32399

040732-TP

Ms. Bayo

In this package you will find an original of the STS TELECOM Emergency Motion to File Supplemental Response to Bellsouth Telecom and Summary Final Order.

Thank you,

Julie
Alan C. Gold *for*

- CMP _____
- COM _____
- CTR _____
- ECR _____
- GCL _____
- OPC _____
- MMS _____
- RCA _____
- SCR _____
- SEC 1
- OTH *Kim P.*

*du
05/17/05
kmp*

05 MAY 16 AM 11:07

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DOCUMENT NUMBER-DATE

04712 MAY 16 05

FPSC-COMMISSION CLERK

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.)	Dated: May 13, 2005
)	

**STS TELECOMMUNICATIONS, INC.'S EMERGENCY MOTION TO FILE
SUPPLEMENTAL RESPONSE TO BELL SOUTH TELECOMMUNICATIONS,
INC.'S MOTION FOR SUMMARY FINAL ORDER**

Saturn Telecommunications, Inc. ("STS"), by and through the undersigned Counsel hereby files this Emergency Motion to File Supplemental Response to BellSouth Telecommunications, Inc.'s Motion For Summary Final Order, and in support thereof states as follows:

1. The Florida Public Service Commission has scheduled the filing date for its Staff Recommendation on May 19, 2005, with the Case Conference scheduled for May 31, 2005.
2. The Staff Recommendation presumably will address all outstanding motions, including the Motions for Summary Final Order filed by BellSouth, and by STS.
3. Recent investigation has uncovered information that may be important and useful for the Commission's recommendations.
4. Since the Motions for Summary Final Orders and Responses thereto were filed by the Parties, BellSouth has taken additional action in violation of the TRRO.
5. STS desires to file a Supplemental Memorandum for the Commission's consideration, as it would be unjust for the Commission to consider the

DOCUMENT NUMBER-DATE

04712 MAY 16 05

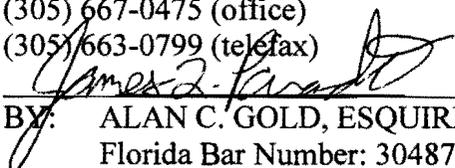
FPSC-COMMISSION CLERK

Motions and responses without having been informed of BellSouth's recent violations. (See attached Supplemental Response)

6. The purpose of this emergency filing is not for the purpose of harassment or delay, but rather the Supplemental Response is being filed such that the Commission may be completely informed of all of the facts and circumstances, including the most recent actions, in order to make fair recommendations and rulings.

Respectfully submitted,

ALAN C. GOLD, P.A.
Gables One Tower
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(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

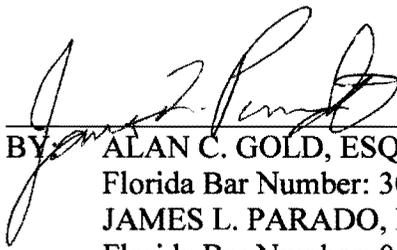
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served via Federal Express on this 13th day of May 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) Filed: May 13, 2005
Telecommunications, Inc.)
_____)

**SUPPLEMENTAL MEMORANDUM IN OPPOSITION TO BELLSOUTH
TELECOMMUNICATION, INC.'S MOTION FOR SUMMARY FINAL ORDER**

The Petitioner, SATURN TELECOMMUNICATION SERVICES, INC. d/b/a STS Telecom ("STS"), by and through the undersigned counsel, files its Supplemental Memorandum In Opposition to BellSouth Telecommunications, Inc.'s ("BellSouth") Motion For Summary Final Order, and states as follows:

1. STS is making the following arguments as a supplement and in addition to all of the arguments it has previously made, including but not limited to, the argument that BellSouth does not have the contractual right to true up or rebill. All such previous arguments are incorporated herein by reference as if the same were set forth fully herein.
2. BellSouth has recently taken action, which is completely inconsistent with the position it has taken in its Motion For Summary Final Order and its opposition to STS' Motion For Summary Final Order.
3. The FCC in its February 4, 2005 Triennial Review Order ("TRRO") determined that ILECs, such as BellSouth are not obligated to provide UNE arrangements for local switching to CLECs, such as STS, except during a transition period when the UNE-P switching must continued to be supplied to the CLEC's embedded customer base. Despite this ruling, BellSouth has chosen to improperly and unlawfully use the TRRO as an

opportunity to eliminate competition by refusing to supply the non- UNE services required under the Interconnect Agreement.

4. BellSouth recently refused orders from STS to add additional lines for existing customers as well as add new customers even though the customers were not UNE-P but rather subject to market based rates under the Interconnect Agreement. BellSouth disingenuously claims the TRRO permits such action.. It is clear that BellSouth's actions constitute a violation of the TRRO as well as a violation of the parties' Interconnect Agreement.
5. There are only two (2) possible alternatives under the Interconnect Agreement and TRRO:
 - (i) If STS's customers are truly market based rate customers, the prohibition in the TRRO regarding the addition of new UNE-P customers does not apply, and BellSouth must continue accepting orders for service for new customers as well as change orders for existing market based rate customers.
 - (ii) If these customers are, in fact, UNE customers under the Act, then BellSouth is not entitled to charge market based rates but must charge TELRIC rates. In this scenario BellSouth's attempt to charge market based rates is improper and its claim must be dismissed.
6. BellSouth cannot have it both ways. BellSouth cannot consistently with the TRRO and the Interconnect Agreement, charge market based rates for the switching and then refuse to add new customers, and make changes for

existing customers on the pretense that switching is UNE and prohibited by the TRRO. Since BellSouth is treating these market based rate customers as UNEs, the rates charged should be TELRIC, or TELRIC plus a dollar during the transition period. Therefore BellSouth's Motion for Final Summary Order should be denied and STS's Motion for Summary Final Order should be granted.

ARGUMENT

7. The FCC on February 4, 2005 issued its Triennial Review Remand Order ("TRRO"). The FCC determined that on a nationwide basis, that ILECs are not obligated to provide unbundled local circuit switching pursuant to Section 251(c) (3) of the Federal Act. The FCC adopted a transition plan that calls for CLECs to move to alternate service arrangements within twelve (12) months of the effective date of the TRRO. The FCC determined that the price for Section 251(c) (3) unbundled switching during the transition period would be higher of (i) the CLECs UNE-P rate as of June 15, 2004 plus one dollar (\$1.00) or (ii) the rate established by a state commission between June 16, 2004 and the effect date of the TRRO plus one dollar (\$1.00).
8. With respect to new UNE-P orders after the effective date of the TRRO, the FCC stated: "The transition period shall apply only to the embedded customer base, and does not permit competitive LECs to add new UNE-P arrangements using unbundled access to local circuit switching pursuant to section 251(c)(3) except as otherwise specified in this Order." (TRRO § 227.)

9. On May 5, 2005, this Commission, in Dockets numbered 041269, 050171 and 050171; Order number PSC-05-0492-FOF-TP prohibited carriers from obtaining “new local switching as an unbundled network element”. This Commission’s ruling did not affect BellSouth’s obligation to provide service subject to market based rates under the Interconnect Agreement.
10. The TRRO also adopted the following:

“...a transition plan that requires competitive LECs to submit orders to convert their UNE-P customers to alternate arrangements within twelve months of the effective date of [the] order. This transition period shall apply only to the embedded customer base, and does not permit competitive LECs to add new customers using unbundled access to local circuit switching. During the twelve-month transition period, which does not supersede any alternative arrangements that carriers voluntarily have negotiated on a commercial basis, competitive LECs will continue to have access to UNE-P priced at TELRIC plus one dollar until the incumbent LEC successfully migrates those UNE-P customers to the competitive LECs’ switches or to alternative access arrangements negotiated by the carriers.” (See TRRO, § 199)(citations omitted)(emphasis added)

It is clear that the FCC in the TRRO prohibited the addition of new customers using UNE-P arrangements. These were the customers that were being charged TELRIC rates. The TRRO does not affect the non-UNE services that the ILEC is required to provide under the applicable Interconnect Agreement

11. The instant docket does not concern customers with UNE-P arrangements, but rather customers that were being charged at market based rates. Consequently the existing customers as well as new customers for whom market based rates apply are unaffected by the TRRO. However, if BellSouth’s position is correct; namely that it does not have to add new

customers due the TRRO, then the only rates that BellSouth should be able to charge these customers is TELRIC, or TELRIC plus a dollar during the transition period. This requires that BellSouth's Motion for Summary Final Order should be denied and STS's Motion for Summary Order should be granted.

12. The TRRO states: "During the twelve-month transition period, which **does not supercede any alternative arrangements that carriers voluntarily have negotiated on a commercial basis**, competitive LECs will continue to have access to UNE-P priced at TELRIC plus one dollar until the incumbent LEC successfully migrates those UNE-P customers to the competitive LECs' switches or to alternative access arrangements negotiated by the carriers." (Section 199) (*emphasis added*). The market based rate section of the Interconnect Agreement constitutes "alternative arrangements that carriers have voluntarily negotiated on a commercial basis". It is clear that the TRRO does not affect those contractual arrangements.
13. In the third Report and Order in the Local Competition Docket (CC Docket no. 96-98) ("319 Remand") the FCC determined that there was no impairment for customers with four (4) or more lines in the top 50 metropolitan statistical areas ("MSAs") and that there is no requirement for the ILECs to provide UNE services to CLECs for customers with four (4) or more lines in the top 50 MSAs. It is those customers to whom the market based rates applies. At no time was BellSouth required to provide

UNE-P arrangements to those customers and at no time did BellSouth provide such UNE-P arrangements for those customers.

14. A review of the Interconnect Agreement supports the above position.

Section 4.2.2 of the Interconnect Agreement provides:

Notwithstanding BellSouth's general duty to unbundle local circuit switching, BellSouth shall not be required to unbundle local circuit switching for IDS Telcom when IDS Telcom serves an end-user with four (4) or more voice-grade (DS-0) equivalents or lines served by BellSouth in one of the following MSAs: Atlanta, GA; Miami, FL; Orlando, FL; Ft. Lauderdale, FL; Charlotte-Gastonia-Rock Hill, NC; Greensboro-Winston Salem-High Point, NC; Nashville, TN; and New Orleans, LA, and BellSouth has provided non-discriminatory cost based access to the Enhanced Extended Link (EEL) throughout Density Zone 1 as determined by NECA Tariff No. 4 as in effect on January 1, 1999.

15. Further Section 4.2.3 of the Interconnect Agreement provides:

In the event that IDS Telcom orders local circuit switching for an end user with four (4) or more DS0 equivalent lines within Density Zone 1 in an MSA listed above, BellSouth shall charge IDS Telcom the market based rates in Exhibit B for use of the local circuit switching functionality for the affected facilities. If a market rate is not set forth in Exhibit B, such rate shall be negotiated by the Parties.

It is clear that there was no UNE-P switching for the customers and billings in issue in the instant docket.

16. In this Docket Bellsouth is seeking to recover from STS monies it claims due for customers that it was not required to provide UNE-P switching at TELRIC rates, but rather for customers it contractually agreed to supply services at the much higher market based rates. This contractual arrangement remained unaffected by the TRRO. Since BellSouth

determined that under the TRRO it has the right to treat these market based customers as UNE customers, and no longer has to add lines for existing customers or add new customers, Bellsouth does not have the right to collect market based rates. The customers are either UNEs or are not UNEs. BellSouth has made its choice. It is not entitled to collect market based rates.

17. BellSouth's abuse of the TRRO is not limited to STS. It is a matter of great public importance. There are numerous carriers which service customers in Florida with four or more lines in MSAs that Bellsouth was not required to supply UNE-P switching, but supplied switching under Interconnect Agreements that provides for service at market based rates. BellSouth has either overcharged these carriers by charging market based rates instead of TELRIC or severely damaged the carriers by refusing to add lines for the existing market based rate customers and add new market based rate customers. (See Documents attached as "Composite Exhibit A")
18. Bellsouth abused the TRRO in order to eliminate competition and reestablish a monopoly. BellSouth refused to properly service STSs' non-UNE customers at market based rate in violation of the Interconnect Agreements. Bellsouth then attempted to solicit STS's customers by offering rates that are less than TELRIC and other incentives. (See Documents attached as Composite Exhibit B")
19. Moreover, BellSouth has misinterpreted the TRRO in order to coerce carriers into signing commercial agreements that are contrary to public

policy and unconscionable in that Bellsouth attempts to exempt the agreement from the oversight and regulation of the Florida PSC, and allow BellSouth to escape from the protections of the Service Quality Measurement Plan (“SQM”) and Self-Effectuating Enforcement Mechanism (“SEEM”) remedy payments. The SQM/SEEM are designed to monitor performance levels of operations support systems provided by the ILEC to the CLEC and provide remedy payments for failure to provide adequate levels of performance. This was necessary for the development of effective competition and to prevent unfair competition. Elimination of such remedy payments only benefits BellSouth and is a disservice to the citizens of Florida. In fact, the actions of BellSouth complained of in this Memorandum subject BellSouth to such remedy payments.

CONCLUSION

In the instant docket, BellSouth is attempting to charge STS market based rates for certain business customers with four (4) or more lines in certain large MSAs. BellSouth initially claimed it has a right to do so, due to the finding in the FCC’s 319 Remand that there was no impairment for such markets and no obligations to provide unbundled switching. Then after the TRRO was entered, BellSouth reversed its position and stated that the CLECs had no right to add new customers on market based rates. To accomplish this, BellSouth argues that the TRRO prohibits the addition of customers; however the TRRO only addresses using UNE-P arrangements BellSouth position is

clearly contradictory. BellSouth cannot maintain both positions. If these market based rate customers were in effect UNE-P customers, then BellSouth should have charged TELRIC rates the entire time and not market based rates. In such an event, BellSouth's Petition in the instant docket should be dismissed and STS should be awarded final summary judgment in its favor. On the other hand, if these market based rate customers are not UNE-P customers, then, under the Interconnect Agreement, BellSouth must continue to accept new adds and changes.

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

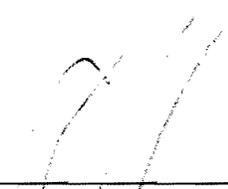
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served via Federal Express on this 13th day of May 2005, to:

Staff Counsel
Florida Public Service Commission
Division of Legal Services
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

COMPOSITE EXHIBIT A

Affidavit

On May 6th at 10:19AM, I spoke with Carla at the BellSouth LCSC. The purpose of my call was to check the status of electronic PON (NEWTTESTZONE2BUS), she expressed that she was unable to give me the status of the PON. I then expressed to her why was the PON processed due to the fact that they were not supposed to process any New Install lines under Company Code 654A? She began to ask if we (STS) had signed a Commercial Agreement and I stated that we did not. She then stated that she would have this order referred to a Manager for review. She also stated that there might be a glitch in the system due to the fact that if you are not "Under Contract" then the order should have been clarified. I then began to ask her to define the term "Under Contract". She defined under contract as those carriers whom have signed a Commercial Agreement with Bellsouth thus prohibiting them from processing new orders (ADDS) under there existing UNEP (Interconnect Agreement). I then advised her to have this order referred to her manager so we could get a clear understanding of this matter.

I, Damon Peele, solemnly swear that the above information is true and accurate to the best of my knowledge on May 6th 2005

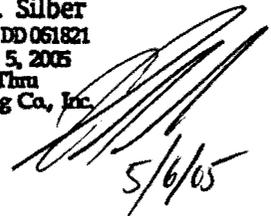
Signed,



Damon L. Peele



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



5/6/05

Affidavit

On May 6th at 10:19am, I was a witness to a conference call between Damon Peele and Carla from Bellsouth's LCSC department. The call was placed to verify the status of electronic PON: NEWTESTZONE2BUS. When Damon asked Carla for the status of the PON he was told that she was not allowed to give that information. Damon then proceeded to ask her why, was the order pending for completion when it should have been clarified? Carla asked if we were "Under Contract"? She was asked to verify what it meant to be "Under Contract". She said "Under Contract" means having a Commercial Agreement. At that point, Damon told her that STS did not sign a Commercial Agreement. Carla then said that the system should not have let the order go through. There must be a glitch in the system. When asked to verify the policy, Carla stated that it is Bellsouth's policy to reject orders for new UNE-P installations that are not under the Commercial Agreement. Carla asked if we would like her to bring it to the Manager's attention for review. Damon said to please do so, so that we can get a clear understanding of the procedure.

I, Rosa Arias, solemnly swear that the above information is true and accurate to the best of my knowledge on this 6th day of May 2005.

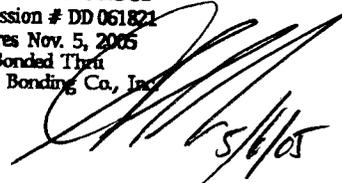
Signed,



Rosa Arias



Andrew T. Silber
Commission # DD 061821
Expires Nov. 5, 2006
Bonded Through
Atlantic Bonding Co., Inc.



5/6/05

Affidavit

On May 6, 2005 at 10:19 am, I witness (sat in on a conversation between Mr. Damon Peele STS Telecom & Carla-Bellsouth LCSC Rep.). Also in the room was Ms. Rosa Arais.

The conversations I witness were as such:

Thank you for calling Bellsouth LCSC my name is Carla how may I help you. Mr. Peele identified himself as Damon and wanted to check the status of an electronic PON. Carla advised Damon that she was unable to give PON statuses. Damon advised Carla that he had questions on a PON that had a FOC. Carla requested the Company Code, Damon advised her 645A, Carla requested a call back number, Damon advised her 954-252-1020, Carla requested the PON number. Damon advised her (NEWTSTZONE2BUS), Damon went on to ask Carla why was this order worked? And in fact it should have not been worked. Carla stated did he want to cancel the PON. Damon restated his question of why was the PON worked because Bellsouth was NOT supposed to process any New Install lines UNE-P lines in zone 2 under company code 645A. Carla explained that the system worked the order. . Carla then stated that it might be the 1st indication of a Glitch with the system. Carla also went on to ask if STS is under contract. Damon asked Carla to explain. She stated that under contract means, carriers that had signed the Commercial Agreement it would "PROHIBIT" the carrier from processes a New add under their existing UNEP Interconnection Agreement. . Damon asked if there was a Notification about the Zone 2 and the new.... Carla cut-in and stated that they had NOT received any information the in Center (LCSC) regarding this information. Damon requested the order be referred to a manger for understanding. Carla stated she would have the order referred to a manger and the manager would give him a callback. Damon thanked Carla and ended the call.

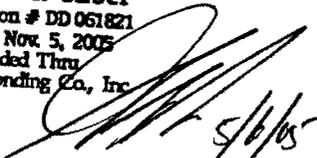
I, Ronald Eugene Curry, solemnly swear that the above information is true and accurate to the best of my knowledge on May 6, 2005

Signed,


Ronald E. Curry



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


5/6/05

Alan Gold

From: Keith Kramer [kkramer@ststelecom.com]
Sent: Wednesday, May 11, 2005 2:40 PM
To: 'Alan Gold'; 'James Parado'
Subject: FW: Action Required RE: Test case

Please review this e-mail which clearly indicates that they will reject new adds, this needs to be indicated that this is BellSouth's official position consistent with the CN.

From: Wright, Vicki [mailto:Vicki.Wright@BellSouth.com]
Sent: Tuesday, May 10, 2005 11:33 AM
To: Keith Kramer
Cc: Wright, Vicki
Subject: RE: Action Required RE: Test case

Glad I could help. Have a good day!!

-----Original Message-----

From: Keith Kramer [mailto:kkramer@ststelecom.com]
Sent: Tuesday, May 10, 2005 9:35 AM
To: Wright, Vicki
Subject: RE: Action Required RE: Test case

Thanks for the follow through.

From: Wright, Vicki [mailto:Vicki.Wright@BellSouth.com]
Sent: Tuesday, May 10, 2005 8:12 AM
To: Keith Kramer; Damon L. Peele; Andrew Silber; Ron Curry; Jackson, Debra C; Foster, Ann
Cc: Morrison, Jerry; Todtschinder, Kyle R; Wright, Vicki
Subject: Action Required RE: Test case
Importance: High

Deb-

Per the e-mail below from Keith Kramer with STS Telecom and also a conversation I had with him last week, we need to ensure that the records reflect the following:

Saturn Telecommunication Services, Inc. d/b/a STS does not have a Commercial Agreement. Therefore, orders reflecting company code 645A should be rejected if submitted for new adds.

STS Telecom, LLC executed a Commercial Agreement effective 1/1/2005 for purposes of UNE-P; i.e. new adds. The appropriate company code for this CLEC is 135D.

Keith, thank you for bringing this to our attention and Damon, thank you for providing the necessary data. Ann, thank you for your research as well.

Please let me know if there are any questions.

Thanks,

Vicki Wright
Interconnection Services
BellSouth Telecommunications, Inc.

5/13/2005

34S91, 675 West Peachtree Street
Atlanta, Georgia 30375
404.927.7514
404.529.7839 Fax

If you have received this message in error or do not wish to receive future commercial electronic mail messages from BellSouth Interconnection Services visit <http://contactmanage.bellsouth.com/interconnection/optout/index.asp> or write to us at:
Attn: BellSouth Interconnection Services Marketing Communications
Rm 34H71
675 West Peachtree
Atlanta, GA 30375

-----Original Message-----

From: Keith Kramer [mailto:kkramer@ststelecom.com]
Sent: Friday, May 06, 2005 11:03 AM
To: 'Damon L. Peele'; 'Andrew Silber'; 'Ron Curry'
Cc: Wright, Vicki
Subject: Test case

Damon, I talked to Vicki Wright our former negotiator, and told her that we were able to process new adds lines to the embedded base, and that we did a test case of a new account under the STS Inc. OCN and we got a FOC, then of the subsequent call. Please forward her all of the information, the PON # the FOC date and anything else that you believe that she needs to follow this up at her end. Please get this to her asap.

Keith G. Kramer
Executive Vice President
STS Telecom
Cooper City, 33330
Desk: 954-252-1003
Direct Fax: 786-363-0103

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BellSouth Interconnection Services

675 West Peachtree Street
Atlanta, Georgia 30375

**Carrier Notification
SN91085061**

Date: March 7, 2005

To: Competitive Local Exchange Carriers (CLEC)

Subject: CLECs – (Interconnection/Contractual and Product/Service) – Triennial Review Remand Order (TRRO) - Unbundling Rules

On February 4, 2005, the Federal Communications Commission (FCC) released its permanent unbundling rules in the Triennial Review Remand Order (TRRO).

On February 11, 2005, BellSouth released Carrier Notification letter SN91085039, in which BellSouth set forth its understanding of the TRRO, particularly as it affected BellSouth's obligations to provide a number of former Unbundled Network Elements ("UNEs") after March 11, 2005. Specifically, BellSouth acknowledged that there would be a transition period for the embedded base of these former UNEs, but concluded that the FCC had intended to stop all "new adds" of these former UNEs effective March 11, 2005.

BellSouth posted this Carrier Notification letter on February 11, 2005, in order to provide the CLECs with as much lead time as possible in order to allow the CLECs to take whatever steps were necessary to adjust to the new situation created by the TRRO. Unfortunately, the step chosen by a number of CLECs in response to the clear language of the FCC dealing with "new adds" has been to ask various state commissions to order BellSouth to continue to accept such "new adds." Indeed, this approach has, to date, been successful in at least one jurisdiction, Georgia.

Furthermore, notwithstanding the fact that BellSouth's Carrier Notification SN91085039 was posted on February 11, 2005, various CLECs continue, as recently as March 3, 2005, to file requests with state commissions that have not addressed this question. These requests remain pending before state commissions and it is not clear, because of the delay in filing of these requests by the CLECs, that all state commissions will have a full and adequate opportunity to consider the important issue of whether the FCC actually meant what it said in its order when it indicated that there would be no "new adds." Indeed, at the present time there are at least two commissions in BellSouth's region that have scheduled consideration of the CLECs' requests at a date beyond March 11, 2005, the effective date of the TRRO, and the date that BellSouth had established to prevent unlawful "new adds."

Because of these events, BellSouth herewith revises the implementation date contained in Carrier Notification SN91085039 in the following respects. BellSouth will continue to receive, and will not reject, CLEC orders for "new adds" so they relate to the former UNEs as identified by the FCC for a short period of time. BellSouth will continue to accept CLEC orders for these "new adds" until the earlier of (1) an order from an appropriate body, either a commission or a court, allowing BellSouth to reject these orders; or (2) April 7, 2005. By doing this, BellSouth intends to allow those commissions who have not had the opportunity to fully and carefully consider the requests of the CLECs and the responses of BellSouth, to do so in a measured way, rather than the various "emergency" proceedings created by the dilatory tactics of a number of CLECs.

By extending the time during which BellSouth will accept these orders, BellSouth does not abandon its legal position that the clear words of the FCC mean exactly what they say. BellSouth will continue to pursue that position before the state commissions, and to the extent that a commission has ruled adversely to BellSouth's position, in the courts. Specifically, BellSouth will be asking the appropriate courts to stay any such adverse order we receive.

In addition, BellSouth hereby puts the CLECs on notice that it intends to pursue the various CLECs who place orders for "new adds" after March 10, 2005 to the greatest extent of the law, in an effort to recover the revenue that BellSouth loses as a result of the placement of these unlawful orders. Should any state commission be inclined to ignore the plain language of the FCC's TRRO, and to order BellSouth to continue accepting "new adds" until the issue is fully resolved, BellSouth will ask that commission to require CLECs to compensate BellSouth, in the event BellSouth ultimately prevails in its legal claim, for any former UNE added after March 10, 2005, in an amount equal to the difference in the rate paid by the CLEC and the appropriate rate BellSouth should have collected (either commercial or resale, depending on which service option the CLEC ultimately elects).

As noted in Carrier Notification SN91085039, CLECs will continue to have several options involving switching, loops and transport available to serve their new customers. To this end, with regard to the combinations of switching and loops that constituted UNE-Platform (UNE-P), BellSouth is offering CLECs these options:

- Short Term (3-6 month) Commercial Agreement to provide a bridge between the effective date of the Order and the negotiation of a longer term commercial agreement,
- Long Term Commercial Agreement (3 years, effective January 1, 2005, with transitional discounts available under those agreements executed by March 10, 2005)

In addition, most CLECs, if not all, already have the option of ordering these former UNEs, and particularly the combination of loops and switching, as resale, pursuant to existing interconnection agreements. With regard to the former high capacity loops and transport UNEs, BellSouth has two options for CLECs to consider. Specifically, CLECs may either elect to order resale of BellSouth's Private Line Services or alternatively, may request Special Access service.

Finally, as stated in Carrier Notification letter SN91085032 concerning the availability of a long term commercial agreement, through March 10, 2005, BellSouth will continue to offer its current DS0 Wholesale Local Voice Platform Services Commercial Agreement ("DS0 Agreement") with transitional discounts off of BellSouth's market rate for mass market platform services. Beginning March 11, 2005, BellSouth will offer a DS0 Agreement, but the existing transitional discounts will not be available.

To obtain more information about this notification, please contact your BellSouth contract negotiator.

Sincerely,

ORIGINAL SIGNED BY JERRY HENDRIX

Jerry Hendrix – Assistant Vice President
BellSouth Interconnection Services

BellSouth Interconnection Services

675 West Peachtree Street
Atlanta, Georgia 30375

**Carrier Notification
SN 91085064**

Date: March 9, 2005
To: Competitive Local Exchange Carriers (CLEC)
Subject: CLECs – (Product/Service) – Commercial Agreement for BellSouth DS0 Wholesale Local Voice Platform Services

In **Carrier Notification Letter SN91085032**, BellSouth announced that while it intends to continue to make available for CLECs commercial agreements for DS0 switching and platform services, the transitional discounts off of BellSouth's market rate for mass market platform services, as contained in BellSouth's current commercial agreement offer, will no longer be available after March 10, 2005.

This is to announce that beginning March 11, 2005, BellSouth will offer a new commercial agreement, although discounts off the market rate for mass market DS0 platform services will be less than those previously available. This new commercial agreement term is through December 31, 2007.

BellSouth encourages CLECs to contact their contract negotiator to find out more about BellSouth's commercial agreement offers.

Sincerely,

ORIGINAL SIGNED BY JERRY HENDRIX

Jerry Hendrix – Assistant Vice President
BellSouth Interconnection Services

BellSouth Interconnection Services

675 West Peachtree Street
Atlanta, Georgia 30375

**Carrier Notification
SN91085039**

Date: March 10, 2005

To: Competitive Local Exchange Carriers (CLEC)

Subject: CLECs – (Product/Service) – **REVISED** - Triennial Review Remand Order (TRRO) - Unbundling Rules (Originally posted February 11, 2005 and Revised February 25, 2005) **BellSouth has revised the implementation date contained in this letter. Please refer to Carrier Notification letter SN91085061, posted March 7, 2005, for additional details.**

On February 4, 2005, the Federal Communications Commission (FCC) released its permanent unbundling rules in the Triennial Review Remand Order (TRRO).

The TRRO has identified a number of former unbundled network elements ("UNEs") that will no longer be available as of March 11, 2005, except as provided in the TRRO. These former UNEs include all switching¹, as well as certain high capacity loops in specified central offices², and dedicated transport between a number of central offices having certain characteristics,³ as well as dark fiber⁴ and entrance facilities⁵.

The FCC, recognizing that it removed significant unbundling obligations formerly placed on incumbent local exchange carriers (ILEC), adopted transition plans to move the embedded base of these former UNEs to alternative serving arrangements.⁶ The FCC provided that the transition period for each of these former UNEs (loops, transport and switching), would commence on March 11, 2005.⁷ The FCC made provisions to include these transition plans in existing interconnection agreements through the appropriate change of law provisions. It also provided that rates for these former UNEs during the transition period would be trued up back to the effective date of the TRRO to reflect the increases in the prices of those former UNEs that were approved by the FCC in the TRRO.

The FCC took a different direction with regard to the issue of "new adds" involving these former UNEs. With regard to each of the former UNEs the FCC identified, the FCC provided that no "new adds" would be allowed as of March 11, 2005, the effective date of the TRRO. For instance, with regard to switching, the FCC said, "This transition period shall apply only to the embedded customer base, and does not permit competitive LECs to add new customers using unbundled access to local circuit switching."⁸ The FCC also said "This transition period shall apply only to the embedded customer

¹ TRRO, ¶199

² TRRO, ¶¶174 (DS3 loops), 178 (DS1 loops)

³ TRRO, ¶¶126 (DS1 transport), 129 (DS3 transport),

⁴ TRRO, ¶¶133 (dark fiber transport), 182 (dark fiber loops)

⁵ TRRO, ¶141

⁶ TRRO, ¶¶142 (transport), 195 (loops), 226 (switching)

⁷ TRRO, ¶¶143 (transport), 196 (loops) 227 (switching)

⁸ TRRO, ¶199

base, and does not permit competitive LECs to add new UNE-P arrangements using unbundled access to local circuit switching pursuant to section 251 (c)(3) except as otherwise specified in this Order." (footnote omitted)⁹

The FCC clearly intended the provisions of the TRRO related to "new adds" to be self-effectuating. First, the FCC specifically stated that "Given the need for prompt action, the requirements set forth herein shall take effect on March 11, 2005..."¹⁰ Further, the FCC specifically stated that its order would not "...supersede any alternative arrangements that carriers voluntarily have negotiated on a commercial basis..."¹¹ but made no such finding regarding existing interconnection agreements. Consequently, in order to have any meaning, the TRRO's provisions regarding "new adds" must be effective March 11, 2005, without the necessity of formal amendment to any existing interconnection agreements. Therefore, while BellSouth will not breach its interconnection agreements, nor act unilaterally to modify its agreements, the FCC's actions clearly constitute a generic self-effectuating change for all interconnection agreements with regard to "new adds" for these former UNEs.

Thus, pursuant to the express terms of the TRRO, effective March 11, 2005, for "new adds," BellSouth is no longer required to provide unbundled local switching at Total Element Long Run Incremental Cost ("TELRIC") rates or unbundled network platform ("UNE-P") and as of that date, BellSouth will no longer accept orders that treat those items as UNEs.

Further, effective March 11, 2005, BellSouth is no longer required to provide high capacity UNE loops, including copper loops capable of providing High-bit Rate Digital Subscriber Line (HDSL) services in certain central offices or to provide UNE transport between certain central offices. As of that date, BellSouth will no longer accept orders that treat these items as UNEs, except where such orders are certified pursuant to paragraph 234 of the TRRO. In addition, as of March 11, 2005 BellSouth is no longer required to provide new UNE dark fiber loops or UNE entrance facilities under any circumstances and we will not accept orders for these former UNEs.

Prior to the effective date of the TRRO, BellSouth will provide comprehensive information to CLECs regarding those central offices where UNE DS1 and DS3 loops are no longer available, and the routes between central offices where UNE DS1, DS3 and dark fiber transport are no longer available.

CLECs will continue to have several options involving switching, loops and transport available to serve their new customers. To this end, with regard to the combinations of switching and loops that constituted UNE-P, BellSouth is offering CLECs these options:

- Short Term (6 month) Commercial Agreement to provide a bridge between the effective date of the Order and the negotiation of a longer term commercial agreement,
- Long Term Commercial Agreement (3 years, effective January 1, 2005, with transitional discounts available under those agreements executed by March 10, 2005)

In addition, most CLECs, if not all, already have the option of ordering these former UNEs, and particularly the combination of loops and switching, as resale, pursuant to existing interconnection agreements.

To be clear, in the event one of the above options is not selected and a CLEC submits a request for new UNE-P on March 11, 2005 or after, the order will be returned to the CLEC for clarification and resubmission under one of the available options set forth above. CLECs that have already signed a Commercial Agreement may continue to request new service pursuant to their Commercial Agreement.

⁹ TRRO, ¶227

¹⁰ TRRO ¶235

¹¹ TRRO ¶199 Also see ¶ 198

With regard to the former high capacity loop and transport UNEs, including dark fiber and entrance facilities, that BellSouth is no longer obligated to offer, BellSouth has two options for CLECs to consider. Specifically, CLECs may either elect to order resale of BellSouth's Private Line Services or alternatively, may request Special Access service in lieu of the former TELRIC-priced UNEs. Any orders submitted for new unbundled high capacity loops and unbundled dedicated interoffice transport in those non-impaired areas after March 11, 2005, without the required certifications, will be returned to the CLEC for clarification and resubmission under one of the above options.

To obtain more information about this notification, please contact your BellSouth contract negotiator.

Sincerely,

ORIGINAL SIGNED BY JERRY HENDRIX

Jerry Hendrix – Assistant Vice President
BellSouth Interconnection Services

BellSouth Interconnection Services

675 West Peachtree Street
Atlanta, Georgia 30375

**Carrier Notification
SN91085089**

Date: April 15, 2005
To: Competitive Local Exchange Carriers (CLEC)
Subject: CLECs – (Product/Service) – Triennial Review Remand Order (TRRO) - Unbundling Rules

On March 7, 2005, BellSouth released Carrier Notification **SN91085061** advising CLECs that, as a result of the events described therein, it would continue to receive CLEC orders for "new adds" of former Unbundled Network Elements (UNE) as identified by the Federal Communications Commission (FCC) in the Triennial Review Remand Order (TRRO) beyond the beyond the March 11, 2005 effective date of the TRRO, as set forth in Carrier Notification **SN91085039**. Specifically, BellSouth stated that it would "continue to accept CLEC orders for these 'new adds' until the earlier of (1) an order from an appropriate body, either a commission or a court, allowing BellSouth to reject these orders; or (2) April 17, 2005."

Consistent with Carrier Notification SN91085061 and orders issued by commissions and courts, this is to advise CLECs that, effective April 17, 2005, BellSouth will no longer accept new service requests from CLECs for mass market unbundled local switching and Unbundled Network Element-Platform (UNE-P) in the states of Florida, Georgia, Mississippi, and North Carolina. However, in North Carolina, consistent with the NCUC order, BellSouth will continue to accept new service requests from CLECs for mass market unbundled local switching and UNE-P for embedded base customers at the customer's existing locations that are currently served by UNE-P. Such service requests must be submitted manually, but will be charged at the mechanized rate.

BellSouth will continue to offer the following options to CLECs who wish to serve their customers with the combinations of switching and loops that constituted UNE-P:

- Short Term (6 month) Commercial Agreement to permit the CLEC to place new orders for switching and port/loop combinations.
- Long Term Commercial Agreement (through December 31, 2007)

To obtain more information about this notification, please contact your BellSouth contract negotiator.

Sincerely,

ORIGINALSIGNED BY JERRY HENDRIX

Jerry Hendrix – Assistant Vice President
BellSouth Interconnection Services

COMPOSITE EXHIBIT B

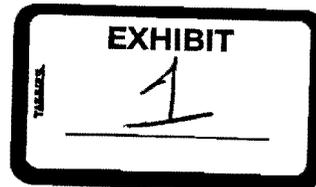
BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Interconnection Agreement between)
Saturn Telecommunication Services, Inc.) 040732-TP
d/b/a STS Telecom and BellSouth)
Telecommunications, Inc.)
_____)

AFFIDAVIT OF KEITH KRAMER

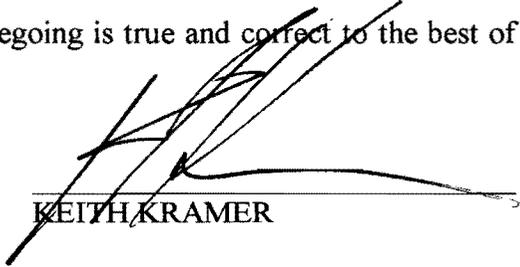
I, Keith Kramer, being of lawful age, and duly sworn upon my oath, do hereby depose and state:

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 support of the Supplemental Memorandum in Opposition to BellSouth Telecommunications, Inc.'s Motion For Summary Final Order in this docket.
4. BellSouth has been soliciting STS customers and offering STS customers prices and other incentives that are less than TELRIC. (A copy of the documents substantiating this is attached hereto as Exhibit 1)
5. BellSouth is refusing to add new customers and/or new lines for existing customers which customers are not UNE-P customers, but rather market based rate customers in violation of the Interconnect Agreement.



6. This refusal to service STS's new and existing STS customers has caused STS substantial damages.
7. I have had conversations with BellSouth negotiators who advised me that BellSouth makes no distinction between UNE-P customers and market based rate customers and will process no new adds. (Copy of e-mail is attached as Exhibit 2)
8. BellSouth has advised me that the only way we can add new customers or new lines for existing customers is to agree to a commercial agreement which will contain the following provisions: (a) STS must transfer the entire embedded base to the commercial agreement at prices substantially higher than TELRIC plus one dollar, (b) the commercial agreement proposed by BellSouth does not allow STS to transfer customers to its switch facilities, (c) the Florida PSC has no jurisdiction and any attempt to invoke the jurisdiction of the Florida PSC will render the entire agreement void, and (d) eliminate SQM/SEEM remedy payments.
9. This concludes my Affidavit.

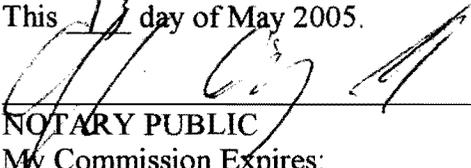
I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.



KEITH KRAMER

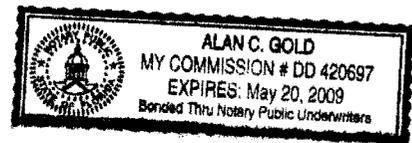
SWORN TO AND SUBSCRIBED BEFORE ME

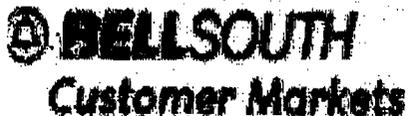
This 13 day of May 2005.



NOTARY PUBLIC

My Commission Expires:





FAX COVER

ATTN: DAVE LEDBETTER

From: JOSEPH PEMBROOK

Phone: 954-565-6066

Pages: 5-INCLUDING COVER

Fax: 954-566-0305

Date: 5/04/05

Re: BellSouth Savings, Discounts, & Promotions

Firm: VAN BUREN COUNT fruit

For Review & Please Comment

Urgent - Limited Time Offer

HELLO, DAVE

As per our conversation here is the Quote showing the monthly savings! The most important reason for choosing BellSouth is the reliability and quality of service we provide your company. Peace of mind is just as valuable as Spending Less!

Also keep in mind that you will also receive:

- \$ 75.00 for the first line that you bring back to BellSouth.
- \$ 50.00 for each additional line that bring back to BellSouth
- Free listing of Your Company in the BellSouth Yellow Pages.
- Variety of DSL products to choose from (such as): Fast Access DSL 1.5Mbps x 256 Kbps or 3Mbps x 384Kbps or(768Mbps x 512Kbps BURSTABLE TO T-1.)

Handwritten: X 13415

***** **BONUS** ***** **BONUS** ***** **BONUS** *****

Limited time offer: For every line you bring back to BellSouth, You can receive a FREE {\$100.00 Rebate} T-Mobile BLACKBERRY 7100it Cell Phone. Activation is FREE also, so act now while this promotion is valid and supplies last !!!!

If you have any questions please feel free to give me a call.

Thank you,

JOSEPH PEMBROOK

Executive Account Manager Cc: Reacquisition Manager "Ric Brehmer"

Phone # 1-888-205-8841

Ext. No. # 318

Fax # 1-888-205-8843



VAN BUREN COUNTY FRUIT EXCHANGE

Description	Quantity	Installation	Monthly
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Complete Choice (FL)
 Exchange: FORT LAUDERDALE (Rate Group 12)
 Package Type: Business Flat Rate Service

8-Line Package	1	\$0.00	\$124.00
8-Line Package - 36 Month: 25% Rewards	1	\$0.00	(\$81.00)
Call Waiting	1	\$0.00	\$0.00
Call Forwarding Variable - Line	1	\$0.00	\$0.00
Remote Access Call Forwarding Variable	1	\$0.00	\$0.00
Three-Way Calling with Transfer	1	\$0.00	\$0.00
Star 98 Access	1	\$0.00	\$0.00
Call Return	1	\$0.00	\$0.00
Repeat Dialing	1	\$0.00	\$0.00
Call Selector	1	\$0.00	\$0.00
Call Block	1	\$0.00	\$0.00
Call Tracing	1	\$0.00	\$0.00
Enhanced Caller ID with Call Management (with CFDA)	1	\$0.00	\$0.00
RingMaster I (One Additional Number)	1	\$0.00	\$0.00
RingMaster II (First Additional Number)	1	\$0.00	\$0.00
RingMaster II (Second Additional Number)	1	\$0.00	\$0.00
Message Waiting Indication, Audible	1	\$0.00	\$0.00
Line Connection Charge	1	\$56.24	\$0.00
Line Connection Charge (Addtl. Instance)	7	\$84.35	\$0.00
End User Common Line (EUCL)	8	\$0.00	\$54.08
Telecommunications Relay Service	8	\$0.00	\$1.20
Federal Universal Service Charge	8	\$0.00	\$7.44

V-MAIL

-15.50

3-year Term

Circuit Location #1
 NPA/NXX: 954/565

Serving CO: FTLDFLCRDS0 (954/565) - BellSouth Telecomm, Inc. - FL
 *Hunting Service is included for 7 lines.
 *Rates quoted for this product are based on Tariff Sections A3.45 (GSST),
 4.7 (FCC 1), A4 (GSST).

TOTAL MONTHLY PRICE ON NEXT PAGE \$300.87

Custom Entry (FL)

*The Custom Entry portion of this quote has been manually entered and is subject to verification

WAIVE INSTALL FEES	1	(\$140.59)	\$0.00
SIMPLE SAVINGS 20%	1	\$0.00	(\$64.80)
ROLL OVER IS FREE	1	\$0.00	\$0.00
FASDT ACCESS BUSINESS DSL 3.Mx384	1	\$0.00	\$59.95
BELLSOUTH LONG DISTANCE .01 CENTS PER MIN FOR THE FIRST 90 DAYS AFTER 90 DAYS BELLSOUTH LONG DIS	1	\$0.00	\$0.00
WILL BE .05 CENTS PER MIN	1	\$0.00	\$0.00

.39 .49

\$216.67

Prepared By: JOSEPH PEMBROOK (800) 248-8841
 Quote Number: BBS06001085146
 This Quote is valid 30 days from last revision date, 05/05/2005. Federal, State and Local tax not included.
 The information contained in this proposal is proprietary to BellSouth and is offered solely for the purpose of evaluation. It may not be disclosed to third parties without prior written permission from BellSouth. This quote is subject to the availability of the services set forth above.



V-MAIL Free / Intra (ATA) (AD-7) 40.75 (2)

VAN BUREN COUNTY FRUIT EXCHANGE



Description	Quantity	Installation	Monthly
PLUS EVERY DOLLAR YOU SPEND WITH BELLSOUTH	1	\$0.00	\$0.00
YOU WILL RECEIVE A POINT THAT IS REDEEMABLE	1	\$0.00	\$0.00
FOR A BILL CREDIT (OR) CHOOSE FROM OUR CATALOG	1	\$0.00	\$0.00

Total Installation \$0.00

Total Monthly \$300.87



Custom Entry (FL)

Complete Choice (FL)

CKL # 1 VAN BUREN COUNTY FRUIT EXCHANGE

. FL

*Attn Shannon Smith
954-280-2506*

Prepared by JOSEPH PEMBROOK (800) 295-8844	
Quote Number: 08902000508346	
This Quote is valid 30 days from last revision date, 05/05/2005 Federal, State and Local tax not included.	
The information contained in this proposal is proprietary to BellSouth and is offered solely for the purpose of evaluation. It may not be disclosed to third parties without prior written permission from BellSouth. This quote is subject to the availability of the services set forth above.	

Free BlackBerry 7100T



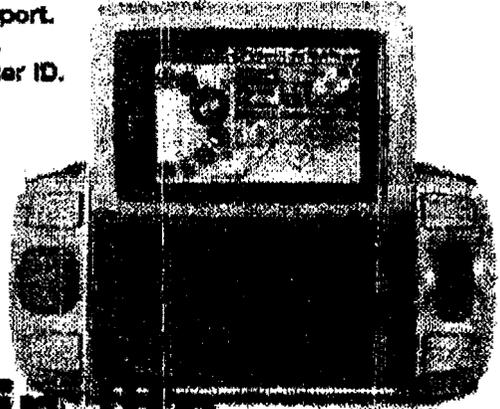
With new voice & data activation
and \$100.00 mail in rebate
\$449.00 value.

- Unlimited Email.
- Unlimited Web Browsing.
- Bluetooth enabled.
- Built-in Speakerphone.
- Access to AIM, Yahoo Messenger, ICQ.
- Largest Data Coverage in the nation.
- Roaming in over 180 countries worldwide.

Free Sidekick 1100

With new voice & data activation
and \$100.00 mail in rebate \$449.00 value.

- 6 MB e-mail account included.
- Instant messaging.
- Real web browsing.
- World Phone (Tri-band).
- Integrated camera with flash.
- Speakerphone.
- Vcard support.
- Organizer.
- Photo caller ID.



**Who said nothing in life
is FREE?**