

**Ruth Nettles**

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**Sent:** Monday, November 02, 2009 4:46 PM  
**To:** Filings@psc.state.fl.us  
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**Subject:** Docket #090430TP - Saturn Telecommunication Services, Inc. v. AT&T Florida  
**Attachments:** 090430 TP - STS REPLY to ATT MTN TO STRIKE VIDEO 11-2-09doc.pdf

Attached for filing is Saturn Telecommunication Services, Inc.'s Response to AT&T Florida's Motion To Strike Notice of Filing Video Disc and Introduction in Support of its Request For Emergency Petition For Injunctive Relief.

Thank you for your kind assistance in this matter.

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Via – Electronic Filing

November 2, 2009

Ms. Ann Cole, Commission Clerk  
Office of the Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Re: Docket No. 090430-TP: Saturn Telecommunication Services, Inc. v. AT&T Florida

Dear Ms. Cole:

Enclosed is “Saturn Telecommunication Services, Inc.’s (“STS”) Response to AT&T Florida’s Motion To Strike Notice of Filing Video Disc and Introduction in Support of its Request For Emergency Petition For Injunctive Relief” which we ask that you file in the captioned docket.

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

Very truly yours,

*s/ Alan C. Gold*

ALAN C. GOLD

CC: All parties of record

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

SATURN TELECOMMUNICATION  
SERVICES INC., a Florida  
corporation,

Petitioner,

v.

BELLSOUTH  
TELECOMMUNICATIONS, INC., a  
Florida corporation,  
d/b/a AT&T

Respondent.

Docket No.090430-TP

Filed: November 2, 2009

**SATURN TELECOMMUNICATION SERVICES, INC.'S ("STS") RESPONSE TO  
AT&T FLORIDA'S MOTION TO STRIKE NOTICE OF FILING VIDEO DISC  
AND INTRODUCTION IN SUPPORT OF ITS REQUEST FOR "EMERGENCY  
PETITION FOR INJUNCTIVE RELIEF" BEFORE THE PUBLIC SERVICE  
COMMISSION**

Petitioner, SATURN TELECOMMUNICATION SERVICES, INC. ("STS") by and through its undersigned counsel hereby files its Response to BELLSOUTH TELECOMMUNICATIONS, INC. d/b/a AT&T's ("AT&T") Motion To Strike Notice of Filing Video Disc and Introduction in Support of its Request for "Emergency Petition for Injunctive Relief" Before the Public Service Commission, and states as follows:

1. STS' filing of the video which demonstrates some of the major deficiencies in the "new" LEX OSS became necessary after AT&T improperly interjected false factual allegations in support of its Motion To Dismiss STS' Verified Emergency Petition for Injunctive Relief.

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2. Even though AT&T acknowledged in its Motion To Dismiss that all of STS' factual allegations in its Petition are to be taken true for the purposes of the Motion, AT&T improperly interjected false factual claims in its motion, such as STS was basing its Petition on the old LEX system not the new one, which was intended to replace LENS, the new LEX system had the same functionalities as LENS, and other similar misrepresentations. By making these unverified and false statements in its Motion to Dismiss, AT&T has waived its rights to object, or opened the door for STS to file the video.
3. STS filed the video disc not only to support its petition and disprove AT&T factual misrepresentations, but also to give both the Commission and AT&T notice of the defects in LEX and give AT&T an opportunity to cure these obvious deficiencies before retiring LENS.
4. AT&T's claims of deprivation of due process are disingenuous. Due process requirements are for the purposes of providing the other party notice and an opportunity to defend. See: *Shiver v. Wharton*, 9 So.3d 687 (Fla. 4<sup>th</sup> DCA 2009); *Rupp v. Department of Health*, 963 So2d 790 (Fla. 3<sup>rd</sup> DCA 2007)
5. The filing of documentation such as the video in support of its Motion at the earliest possible opportunity affords AT&T far more notice than presenting the video at the hearing and a greater opportunity to defend.
6. AT&T would have no procedural objection if the video was filed as an exhibit to the petition or an amended petition. The filing of the video in

support of the petition is no different than filing it as an exhibit to the petition, and not subject to a procedural objection such as AT&T's instant motion.

7. The filing of an exhibit in support of a verified petition, such as the video disc, is not prohibited under the rules and in no manner prejudices AT&T. If AT&T wanted to respond to STS' video, there is absolutely nothing procedurally prohibiting AT&T from making such a filing.
8. It is obvious that AT&T's attempt to strike the video has absolutely nothing to do with due process concerns or the veracity of the documentation of the deficiencies of the new LEX OSS in the video, but rather an act of desperation intended to hide the deficiencies in LEX from the Commissioners, other CLECs, and the citizens of the State of Florida at large.
9. If AT&T truly believed the video to be inaccurate, there was nothing preventing it from filing proof of its inadequacies. Indeed, if AT&T had any proof or belief that the video was false, inaccurate or misleading in any respect, there is not doubt whatsoever that AT&T would point out the deficiencies in STS' video to this Commission. The fact that AT&T points to no deficiencies should be taken as an admission that the video is true and accurate, and evidences some of the major deficiencies in the new LEX OSS system<sup>1</sup>.

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<sup>1</sup> Even in their Motion, AT&T acknowledges that at least some of the demonstrations in the video are accurate and complete by stating in paragraph 3; "The 'Video Disc' then provides six demonstrations of order submissions using LEX and LENS which, *in some cases*, does not provide a full and accurate picture of LEX's pre-ordering and ordering capabilities." (emphasis added) It should be noted that the video was

10. AT&T Motion to Strike is no more than gamesmanship by AT&T's counsel in his attempt to obfuscate the truth from the Commission and to retire LENS in violation of the Commission's Supra Order and numerous federal and state statutes and regulations.
11. If AT&T were truly interested in providing an ordering system that complied with the Supra Order, complied the other requirements of state and federal law, and provided CLECs with an ordering system that was equivalent to AT&T's own retail system, it would have thanked STS for documenting the deficiencies in LEX and pointing out the inaccuracies in AT&T's prior statements to the Commission, and utilized the video as an opportunity to correct the deficiencies in LEX.
12. AT&T's instant Motion is indicative that AT&T has neither an intention nor desire to improve the LEX Operating System but rather intends to give the CLECs a defective and inferior system to that which they presently enjoy and to AT&T retail.
13. Due to the fact that AT&T raises questions regarding the authenticity of the Video, attached is verification that the Video is true and accurate.

WHEREFORE, Saturn Telecommunication Services, Inc files its opposition to AT&T's Motion to Strike and request that this Honorable Commission deny said Motion.

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designed to demonstrate some of the major deficiencies in LEX, which it accurately did, and not designed to give a detailed description of all of LEX's ordering capabilities. STS has never claimed that LEX does not have numerous beneficial capabilities, but rather that LEX has certain major flaws as compared to LENS and the ordering system employed by AT&T retail, which if left uncorrected would give AT&T retail an unfair competitive advantage and create unlawful barriers to entry.

s/ Alan C. Gold  
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**CERTIFICATE OF SERVICE**  
**Docket No. 090430-TP**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing was served  
via Electronic Mail this 1st day of November , 2009 to the following:

Earl E. Edenfield, Esquire  
Tracy W. Hatch, Esquire  
Manuel A. Gurdian, Esquire  
c/o Gregory R. Follensbee  
AT&T Southeast Legal Dept.  
150 South Monroe Street, Ste. 400  
Tallahassee, FL 33130  
Tel. No. (305) 347-5561  
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Timisha Brooks, Esquire  
Staff Counsel  
Florida Public Service Commission  
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[tbrooks@psc.state.fl.us](mailto:tbrooks@psc.state.fl.us)

s/ Alan C. Gold  
Alan C. Gold (Florida Bar No. 304875)

VERIFICATION OF VIDEO


STATE OF FLORIDA                    }

COUNTY OF BROWARD                }

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

1.     The following information is true and correct and made under penalties of perjury.
2.     I am over the age of eighteen years of age and competent to make this Affidavit.
3.     I am the Project Manager of Saturn Telecommunication Services, Inc.
4.     The Video Disc that was filed before this Commission on or about September 28, 2009 was made under my direction and control and accurately reflects some of the major deficiencies in the new LEX OSS and accurately documents some of the major differences between the LEX OSS and the LENS OSS.

FURTHER AFFIANT SAYETH NAUGHT.

  
CARYN DIAZ

BEFORE ME the undersigned authority of this 2<sup>nd</sup> day of Nov., 2009 personally appeared CARYN DIAZ who is personally known to me or has produced \_\_\_\_\_ as identification, and who after being first duly sworn deposes and says, that she had read the foregoing Affidavit, that the information contained therein, is true and correct and based upon her personal knowledge.

NOTARY PUBLIC  
Print Name:  
Commission No.:  
Expiration:

