

Marguerite McLean

090430-TP

From: jlparado@aol.com
Sent: Friday, April 09, 2010 3:57 PM
To: Filings@psc.state.fl.us
Cc: ke2722@att.com; Tracy Hatch; tbrooks@pas.state.fl.us; ateitzma@pas.state.fl.us; agold@acgoldlaw.com; kkramer@ststelecom.com; mamarant@ststelecom.com; cdiaz@ststelecom.com; rcurry@ststelecom.com; ccoffey@acgoldlaw.com
Subject: 090430-TP: STS v. ATT: Mtn to Continue, etc.
Attachments: 09-0430TP STS v. ATT Mtn to Cont. etc. 4-9-10-jlp.pdf

a. Filed By:

Alan C. Gold, Esquire
James L. Parado, Esquire
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b. RE: 090430-TP: Saturn Telecommunication Systems, Inc. v. AT&T

c. Filed on behalf of Petitioner, Saturn Telecommunication Systems, Inc.

d. Total Number of Pages In Attachment: 34

e. Attachment Discription: Cover Letter to Clerk / Motion to Continue Hearing on Staff's Recommendation Regarding the Retirement of LENS and to Lift Abeyance In Order to Allow Discovery, Exhibits A through J.

DOCUMENT NO. DATE

02690-10 4/9/10

FPSC - COMMISSION CLERK

4/9/2010

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

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Nancy M. Samry, F.R.P.
nmsamry@aol.com

April 9, 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 for filing is Saturn Telecommunication Services, Inc.'s Motion to Continue Hearing on Staff's Recommendation Regarding the Retirement of LENS, and to Lift Abeyance in Order to Allow Discovery. Copies have been served to the parties shown on the Certificate of Service.

We thank you for your assistance and attention to this matter.

Very truly yours,

s/ Alan C. Gold

ALAN C. GOLD

CC: Robert (Kip Edenfield, Esquire (Via Email: ke2722@att.com)
Tracy W. Hatch, Esquire (Via Email: thatch@att.com)
Timisha J. Brooks, Esquire (Via Email: tbrooks@psc.state.fl.us)
Adam J. Teitzman, Esquire (Via Email: ateitzma@psc.state.fl.us)

DOCUMENT NO. DATE
02690-10 4/9/10
FPSC - COMMISSION CLERK

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 MOTION TO
CONTINUE HEARING ON STAFF'S RECOMMENDATION REGARDING THE
RETIREMENT OF LENS, AND TO LIFT ABEYANCE IN ORDER TO ALLOW
DISCOVERY**

Petitioner, SATURN TELECOMMUNICATION SERVICES INC. ("STS") by and through its undersigned Counsel files it's Motion to Continue Hearing on Staff's Recommendation Regarding the Retirement of LENS, and to Lift Abeyance in order to allow discovery, and in support thereof states as follows:

Background

1. On approximately September 3, 2009, STS filed a Verified Petition for Injunctive Release and Request for Stay of AT&T's CLEC OSS-Related Releases, which Petition objected to the retirement of AT&T's current OSS system, LENS and its replacement by the inferior OSS system, LEX. STS firmly believes that the

DOCUMENT NO. DATE

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FPSC - COMMISSION CLERK

replacement of LENS with LEX will create ordering difficulties, and place STS and other Florida CLECs at a significant competitive disadvantage.¹

2. On October 13, 2009, STS filed its Amended Petition For Injunctive Relief and Request to Restrict or Prohibit AT&T from Implementing its CLEC OSS-Related Releases.
3. On December 2, 2009 this Commission issued its Order (Order NO. PSC-09-0799-PAA-TP) in which AT&T was ordered “to run the existing OSS ordering interface (LENS) in parallel to the LEX interface until completion of our staff’s review and a decision by the Commission on this matter.” Further this Commission ordered that “resolution of the remaining requests in STS’ amended petition placed in abeyance until our staff brings a recommendation back to this Commission upon completion of a review.” STS’ remaining requests in its amended petition included without limitation requiring AT&T to correct the deficiencies in LEX prior to the retirement of LENS.

DISCOVERY REQUESTS

4. STS did not interpret the Commission Order to prohibit the taking of depositions of AT&T, which STS believed was critical to showing the deficiencies in LEX. STS also knew that AT&T was anxious to retire LENS as soon as possible and there might be a very short time period between the staff’s recommendation and the hearing by the Commission on the recommendation. In order not to be placed in the

¹ Staff’s audit recognized that “the LEX interface is not as user friendly” as LENS and that unlike LENS, which “generates error messages while a user is populating” an order, “in LEX, the user is not informed of errors ... until after the LSR has been issued to AT&T”, which “may cause delays in the overall time to complete an order”(See page 4 of the audit). Staff’s audit demonstrated numerous other deficiencies in LEX, including without limitation a very limited survey of Florida CLECs in which 46% found LEX was harder to use than LENS. (See page 34 of Audit)

position, which STS now finds itself, namely an upcoming hearing without the opportunity to take meaningful discovery as allowed under the applicable rules- a deprivation of both substantive and procedural due process- STS tried to arrange dates with AT&T to take the deposition of AT&T's employee, Steve Hancock. Mr. Hancock is an AT&T wholesale support manager and intimately involved in the operation of both LENS and LEX. When AT&T did not respond with dates, STS reduced its request to writing. (a copy of said e-mail is attached as Exhibit "A")

5. When no reply was received that day, a second request for deposition dates went out the following day, stating if no dates were supplied by AT&T, STS would unilaterally notice Mr. Hancock for deposition. (a copy of said e-mail is attached as Exhibit "B")
6. After receiving no reply to either e-mail, on December 28, 2009, STS' counsel sent a letter to AT&T's counsel, together with a notice of deposition scheduling Mr. Hancock for deposition on January 11, 2010 in Birmingham Alabama,(the place where STS believed Mr. Hancock resided), which offered to reschedule the deposition to a mutually convenient date and location (a copy of said correspondence and notice of deposition is attached as Composite Exhibit "C")
7. In response, on January 5, 2010, STS' counsel received an e-mail from AT&T's Counsel objecting to the deposition as being premature. (a copy of said e-mail is attached as Exhibit "D")
8. Also on January 5, 2010 AT&T filed a Motion for a Protective order seeking to stop the taking of the deposition of Mr. Hancock alleging that it was in "derogation of

- the Order holding this proceeding in abeyance". (See paragraph 5 of AT&T's Motion which is attached as Exhibit "E")
9. STS immediately replied to AT&T's Motion for a Protective Order. (A copy of the reply is attached as Exhibit "F")
 10. Shortly after AT&T filed the Motion for a Protective Order, STS' attorney received a call from the Legal Staff at the Commission, who advised STS' that they agreed with AT&T's interpretation of the Commission Order that discovery was in abeyance, and asked STS to withdraw its notice of deposition. Even though STS did not interpret the Order to prohibit depositions, based upon assurances from staff that there will be a point in the proceedings when discovery would be appropriate, STS withdrew its request for the deposition. Moreover STS did not seek relief from the order of abeyance, based upon its belief after talking to the Commission's legal staff that there would be an opportunity for depositions prior to a Commission decision on the retirement of LENS in this matter.
 11. During the middle of March 2010, STS learned that the audit was about to be completed and that the matter was to be set on an April docket. STS' counsel again wrote AT&T's counsel, advising them that it needed to take the Depositions of Steven Hancock, Dan Nickolotsky Sr. and Tina Berard, prior to the agenda hearing, and requested that AT&T agree to deposition dates prior to the hearing or to continue the hearing until May after depositions were completed. (a copy of said letter is attached as Exhibit "G")

12. On March 24, 2010 AT&T counsel replied. The reply ignored many of the questions asked in STS' correspondence, but stated depositions were premature due to the order of abeyance. (a copy of said letter is attached as Exhibit "H")

13. On March 25, 2010 STS' counsel replied to AT&T's counsel, stating.

We are well aware of the order abating further proceedings in this case pending the audit by Staff. We are also aware that AT&T desires to terminate LENS as quickly as possible, and that this matter might be scheduled for hearing on the April agenda. Our prior e-mail was an attempt to work with you to get ready for a hearing in April. Although you might disagree, STS is entitled to due process on its Petition. According to the applicable rules, STS is entitled to discovery, including the taking of depositions, prior to the hearing. We will be happy to wait until the audit is completed and released to take the depositions; however, we will vigorously object to the scheduling of any hearing on the LENS/LEX issues, prior to opportunity to take the depositions. If your client opposes the same or suggests an unrealistic discovery period, we intend to show all relevant correspondence to the Commission, as evidence that STS and my office did everything possible to avoid delay.

(a copy of said correspondence is attached as Exhibit "I")

14. On approximately April 6, 2010, STS received a copy of the Staff's audit and learned that the matter was to be placed on the April 20, 2010 agenda conference.

15. STS immediately contacted AT&T and tried to arrange for the depositions of Steven Hancock, Dan Nickolotsky Sr. and Tina Berard for a time after the staff's recommendation and prior to the April 20th hearing. AT&T's position was that STS was not entitled to deposition prior to the hearing due to the order of abeyance. (e-mails between AT&T's and STS' attorneys are attached hereto as Exhibit "J")

16. STS then contacted FPSC's legal department and were advised that the legal staff's opinion was that the order of abeyance prohibited STS from taking depositions prior to the Agenda hearing on April 20th 2010.

Need for Depositions

17. STS desires to depose Steven Hancock, Dan Nickolotsky Sr. and Tina Berard in this case, and states that said depositions are necessary for STS to properly present its case. According to an affidavit of Steven Hancock dated August 28, 2009, filed in another proceedings, Mr. Hancock is "a Wholesale Support Manager supporting ordering and preordering issues as it relates to AT&T's OSS for over 50 CLEC customers including Saturn Telecommunication Services (STS)." Dan Nickolotsky is believed to be an AT&T area manager dealing in wholesale customer care who was involved in the LEX demonstration before staff and STS, and was at the LEX Pilot training session in Birmingham, Alabama which was referred to in the Staff's audit. According to an affidavit of Tina Berard dated September 1, 2009, filed in another proceedings, Ms Berard was a "Sr. Quality M&P Process Manager for AT&T....responsible for Wholesale Contract Management." Ms. Berard was involved in the development of the Bulk Migration Work Around Process, which is supposed to be the process which STS utilizes to convert customers to its commingled network. AT&T claims that this process can be ordered through LEX.
18. STS believes that the deposition of these three individuals would provide substantial evidence relevant to these proceedings including without limitation demonstrating; some of the flaws in LEX, that the demonstrations by AT&T to PSC staff were not based upon reality but a "dog and pony" show, that AT&T

never gave CLECs in Florida a real opportunity to be trained on, or test LEX, that the demonstration in Birmingham was not open to all CLECs and not designed to train CLECS, and that LEX is not only substantially inferior to LENS, it is also substantially inferior to AT&T's retail OSS.

Argument

19. The Commissions Order placed STS amended petition "in abeyance until our staff brings a recommendation back to the Commission upon completion of a review". It is not necessary to argue whether the Commission's Order precluded discovery prior to the staff making a recommendation, because staff has made a recommendation and there was time, if AT&T cooperated, to take depositions after the recommendation and prior to the scheduled hearing. The staff made a recommendation and scheduled the same for hearing on April 20, 2010. By the very terms of the Order, the abeyance has been dissolved. Staff is asking the Commission to rule on STS' requests in its Amended Petition. STS is prepared and has attempted to take the depositions prior to the hearing. In fact STS has done everything possible to take the depositions timely in order not to delay the hearing.
20. Pursuant to Florida's Administrative **28-106.206. Discovery;**

After commencement of a proceeding, parties may obtain discovery through the means and in the manner provided in Rules 1.280 through 1,390, Florida Rules of Civil Procedure. The presiding officer may issue appropriate orders to effectuate the purposes of discovery and to prevent delay, including the imposition of sanctions in accordance with the Florida Rules of Civil Procedure, except contempt.
21. STS has attempted to work with AT&T to schedule the depositions so as not to delay the scheduled hearing.

22. STS has discussed the matter with PSC legal staff, made staff aware of the desire and necessity to take the depositions. STS was assured by staff that there would be an opportunity for discovery. Despite these assurances from staff, STS was deprived of its opportunity for discovery.
23. STS has made serious allegations in its Amended Petition on the retirement of an established OSS system (LENS) utilized by CLECs throughout the state of Florida. Staff's audits and recommendations recognized that the allegations made by STS regarding the deficiencies in LEX were well-founded; however, differs from STS in that Staff recommended the retirement of LENS prior to those deficiencies being corrected, whereas STS believes the deficiencies should be corrected prior to the retirement of LENS. STS believes that Staff's recommendation was based in part upon misleading and false information supplied by AT&T, and requests limited discovery in order to prove these points.
24. AT&T should be precluded from objecting to a short delay in the hearing on staff's recommendation, because it had numerous opportunities to allow STS to obtain the discovery it needed prior to the April 20th Agenda hearing. In fact, it objects to STS' request for discovery as "premature". How can discovery be premature, if the matter is scheduled for an imminent hearing? How can this Commission render a fair and reasoned decision on STS' Amended Petition if STS is precluded from taking allowable discovery prior to the hearing? What good does discovery do after the Commission makes a decision?

25. Furthermore STS should be allowed the discovery on its Amended Petition as allowed under the rules, as required under principles of substantive and procedural due process, and as led to believe they would receive by PSC legal staff.

WHEREFORE, SATURN TELECOMMUNICATION SERVICES, INC. requests that this Commission continue the hearing on Staff's recommendation, rule that the abeyance on the remaining claims in STS' petition was lifted once the staff submitted its recommendation, or alternatively dissolve the abeyance and allow STS to proceed with discovery, and require that AT&T produce Steven Hancock, Dan Nickolotsky Sr. and Tina Berard for deposition in this matter.

s/ Alan C. Gold
Alan C. Gold (Florida Bar No. 304875)
James L. Parado (Florida Bar No. 580910)
Attorney e-mail address:
agold@acgoldlaw.com
jparado@acgoldlaw.com
ALAN C. GOLD, P.A.
1501 Sunset Drive
2nd Floor
Coral Gables, FL 33143
Telephone: (305) 667-0475
Facsimile: (305) 663-0799

CERTIFICATE OF GOOD FAITH

I HEREBY CERTIFY that I have attempted to confer with Defendant's Counsel prior to the filing the instant motion; however have been unable to resolve these issues.

s/ Alan C. Gold

Alan C. Gold (Florida Bar No. 304875)

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 9th day of April 2010 to the following:

Earl E. Edenfield, Esquire
Tracy W. Hatch, Esquire
AT&T Southeast Legal Dept.
150 South Monroe Street, Ste. 400
Tallahassee, FL 33130
Tel. No. (305) 347-5561
Facsimile: (305) 577-4491
Email: ke2722@att.com;
mg2708@att.com

Timisha J. Brooks, Esquire
Adam J. Teitzman, Esquire
Staff Counsel
Florida Public Service Commission
Division of Legal Services
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
Tel. No. (850) 413-6212
tbrooks@psc.state.fl.us
ateitzma@psc.state.fl.us

s/ Alan C. Gold

Alan C. Gold (Florida Bar No. 304875)

Subj: **FW: 090430-TP Florida Public Service Commission - STS v. ATT**
Date: 12/22/2009 3:03:11 P.M. Central Standard Time
From: nmsamry@aol.com
To: ke2722@att.com

Mr. Edenfield:

We would like to take the deposition of Steve Hancock. The dates we are proposing are January 4, 5, 11, 12, 14 or 15. Please advise which date would be more convenient and what location you would be producing Mr. Hancock for his deposition. We thank you for your kind attention to this.

Nancy M. Samry, F.R.P.
Alan C. Gold, P.A.
1501 Sunset Drive
2nd Floor
Coral Gables, FL 33143
305-667-2908
305-749-8729, fax
nmsamry@aol.com



Wednesday, April 07, 2010 AOL: Nmsamry

P.2/18

TD:13056630799

3056630799

APR-7-2010 03:32P FROM:ALAN C GOLD PA

Subj: Re: FW: 090430-TP Florida Public Service Commission - STS v. ATT
Date: 12/23/2009
To: ke2722@att.com
CC: kkramer@ststelecom.com

Mr. Edenfield:

Again we request dates for the taking of Steve Hancock's deposition. We would like to take the same on any one of the following dates. January 4, 5, 11, 12, 14 or 15. If we fail to hear from you as to a convenient date for you and Mr. Hancock, I have been instructed to schedule the deposition for a date solely convenient to our schedules. We trust this would not be necessary. Looking forward to hearing back from you.

Nancy M. Samry, F.R.P.
Alan C. Gold, P.A.
1501 Sunset Drive
2nd Floor
Coral Gables, FL 33143
305-667-2908
305-749-8729, fax
nmsamry@aol.com

In a message dated 12/22/2009 3:03:11 P.M. Central Standard Time, nmsamry@aol.com writes:

Mr. Edenfield:

We would like to take the deposition of Steve Hancock. The dates we are proposing are January 4, 5, 11, 12, 14 or 15. Please advise which date would be more convenient and what location you would be producing Mr. Hancock for his deposition. We thank you for your kind attention to this.

Nancy M. Samry, F.R.P.
Alan C. Gold, P.A.
1501 Sunset Drive
2nd Floor
Coral Gables, FL 33143
305-667-2908
305-749-8729, fax
nmsamry@aol.com



Wednesday, April 07, 2010 AOL: Nmsamry

P.1/18

TO: 13056630799

30566630799

APR-7-2010 03:32P FROM: ALAN C GOLD PA

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

Attorneys:

Alan C. Gold
agold@acgoldlaw.com
James L. Parado, JD, LL.M.
jparado@acgoldlaw.com

1501 Sunset Drive
Second Floor
Coral Gables, Florida 33143
Telephone: (305) 667-0475
Facsimile: (305) 663-0799

Paralegal:

Nancy M. Samry
nmsamry@aol.com

December 28, 2009

Via Email: ke2722@att.com

Kip Edenfield, Esquire
AT&T Florida
Attention: Legal Department
150 West Flagler Street
Suite 1910
Miami, FL 33130

RE: SATURN TELECOMMUNICATION SERVICES, INC., a Florida Corporation
v. BELL SOUTH TELECOMMUNICATIONS, INC., a Georgia Corporation,
d/b/a AT&T FLORIDA

Dear Kip

Best wishes for a happy, healthy and prosperous New Year.

Pursuant to my previous emails and to avoid unnecessary delays in the taking of Steve Hancock's deposition, attached please find Notice of Taking Deposition of Steve Hancock for January 11, 2010. The deposition is currently scheduled for Birmingham, Alabama as we understand that Mr. Hancock resides in Birmingham. If the date and/or location is not convenient to you, please advise and we will attempt to reschedule the deposition for a date convenient to everyone's schedule. It did not make sense to delay scheduling a date for the deposition if all you were doing, was objecting.

Very truly yours,

Alan C. Gold

ALAN C. GOLD

cc: STS Telecom



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:December 28, 2009

NOTICE OF TAKING DEPOSITION

PLEASE TAKE NOTICE that deposition(s) has been scheduled for the following:

DEPONENT: STEVE HANCOCK
DATE: January 11, 2010
TIME: 9:30 a.m.

LOCATION: Tyler Easton Court Reporters
1819 5th Avenue, North
Suite 1020
Birmingham, AL 35203
800-458-6031

s/ Alan C. Gold

Alan C. Gold (Florida Bar No. 304875)
James L. Parado (Florida Bar No. 580910)
Attorney e-mail address:
agold@acgoldlaw.com
jparado@acgoldlaw.com
ALAN C. GOLD, P.A.
1501 Sunset Drive
2nd Floor
Coral Gables, FL 33143
Telephone: (305) 667-0475
Facsimile: (305) 663-0799

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 28th day of December, 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
Facsimile: (305) 577-4491
Email: ke2722@att.com;
mg2708@att.com

Timisha Brooks, Esquire
Staff Counsel
Florida Public Service Commission
Division of Legal Services
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
Tel. No. (850) 413-6212
tbrooks@psc.state.fl.us

s/ Alan C. Gold

Alan C. Gold (Florida Bar No. 304875)

01/05/2010

12:16

BELLSOUTH + 3056630799

NO.507 0002

Page 1 of 1

GURDIAN, MANNY (Legal)

From: GURDIAN, MANNY (Legal)
 Sent: Tuesday, January 05, 2010 11:57 AM
 To: agold@agoldlaw.com; James L. Parado
 Cc: EDENFIELD JR., KIP (Legal); HATCH, TRACY W (Legal)
 Subject: RE: Saturn Telecommunication Services Inc. v BellSouth Telecommunications, Inc. d/b/a AT&T -
 Docket Number: 09-0430-TP

Alan/James

In this docket, the Commission entered an Order holding that the docket be "placed in abeyance until our staff brings a recommendation back to this Commission upon completion of a review." Moreover, the parties have not identified any issues nor has the Commission set a procedural schedule regarding discovery and hearing dates. Thus, AT&T believes that STS's Notice is clearly outside the scope of activities permitted by the Order, premature and, thus, inappropriate. Accordingly, AT&T requests that STS withdraw its Notice of Taking Deposition.

Please let me know by 3pm today whether STS is willing to withdraw its Notice. Otherwise, AT&T will file a Motion for Protective Order regarding same.

Thanks,
 Manny

From: Nancy M. Samry [mailto:nmsamry@aol.com]
 Sent: Monday, December 28, 2009 5:22 PM
 To: EDENFIELD JR., KIP (Legal); GURDIAN, MANNY (Legal); kkramer@ststelecom.com;
 mam@ark@ststelecom.com; WOODS, VICKIE (Legal)
 Subject: Saturn Telecommunication Services Inc. v BellSouth Telecommunications, Inc. d/b/a AT&T - Docket
 Number: 09-0430-TP

Please see attached letter and Notice of Taking Deposition

Nancy M. Samry, F.R.P.
 Alan C. Gold, P.A.
 1501 Sunset Drive
 2nd Floor
 Coral Gables, FL 33143
 305-887-0475, ext 4
 305-883-0799, fax
 nmsamry@aol.com

1/5/2010



P. 18/18

TO: 130566330799

30566330799

APR-7-2010 03:36P FROM: ALAN C GOLD PA



Manuel A. Gurdian
Attorney

AT&T Florida
150 South Monroe Street
Suite 400
Tallahassee, FL 32301

T: (305) 347-5561
F: (305) 577-4491
manuel.gurdian@att.com

January 5, 2010

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: Petition for verified emergency injunctive relief and request for stay of AT&T's CLEC OSS-related releases by Saturn Telecommunications Services, Inc.

Dear Ms. Cole:

Enclosed is BellSouth Telecommunications, Inc. d/b/a AT&T Florida's Motion for Protective Order, 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,

Manuel A. Gurdian

cc: All parties of record
Jerry Hendrix
Gregory R. Follensbee
E. Earl Ederfield, Jr.

888 Proud Sponsor of the U.S. Olympic Team



CERTIFICATE OF SERVICE
Docket No. 090430-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 5th day of January, 2010 to the following:

Timisha Brooks
Staff Counsel
Florida Public Service
Commission
Division of Legal Services
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
Tel. No. (850) 413-6212
tbrooks@psc.state.fl.us

Law Offices of Alan C. Gold, P.A.
Alan Gold
1501 Sunset Drive Second Floor
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STS Telecom
Mr. Keith Kramer
P. O. Box 822270
Pembroke Pines, FL 33082-2270
Tel. No. (954) 252-1003
Fax No. (786) 363-0103
kkramer@ststelecom.com



Manuel A. Gurdian

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Petition for verified emergency injunctive relief) Docket No. 090430-TP
and request for stay of AT&T's CLEC)
OSS-related releases by Saturn Telecommunication)
Services, Inc.)
_____) Filed: January 5, 2010

AT&T FLORIDA'S MOTION FOR PROTECTIVE ORDER

BellSouth Telecommunications, Inc. d/b/a AT&T Florida ("AT&T Florida") pursuant to Rule 28-106.204, Florida Administrative Code, hereby moves the Florida Public Service Commission ("Commission") to issue an order protecting AT&T Florida from Saturn Telecommunications Services, Inc.'s ("STS") Notice of Taking Deposition of Steve Hancock ("Notice"). This Notice is inappropriate, as the Commission has entered an Order holding that the docket be "placed in abeyance until our staff brings a recommendation back to this Commission upon completion of a review." In further support of its support thereof, AT&T Florida states the following:

1. On December 2, 2009, the Commission issued Order No. PSC-09-0799-PAA-TP (the "Order") in this docket and found that there was "no need to restrict or prohibit AT&T from implementing its OSS release scheduled for November 14, 2009, as our staff is allowed to conduct a post implementation review." The Commission also dismissed a portion of STS' amended petition and ordered that the docket was to remain open pending the outcome of further proceedings including resolution of the remaining requests in STS' amended petition.
2. Moreover, the Commission held this docket in abeyance until staff completed its review and brought a recommendation back to the Commission.

3. Per the Order, the Commission Staff is currently performing its review of AT&T Florida's November OSS Release. Upon completion of the review, Commission Staff will bring a recommendation back to the Commission regarding the results of its evaluation and conclusions and any recommended action, if any.

4. On or about December 28, 2009, STS served the Notice. The Notice provides that STS has scheduled the deposition of Mr. Hancock for January 11, 2010 in Birmingham, Alabama in the above-referenced docket.

5. STS' Notice is clearly in derogation of the Order holding this proceeding in abeyance pending the Commission Staff's conduct of its review of AT&T Florida's November OSS Release. As a result the Notice is harassing and a waste of resources, both AT&T Florida's as well as the Commission Staff's.

6. Moreover, since the matter is in abeyance, the parties have not identified any Issues nor has the Commission set a procedural schedule regarding discovery and hearing dates.

7. Accordingly, as STS's Notice is clearly outside the scope of activities permitted by the Order and premature, the Commission should issue an order protecting AT&T Florida from STS's inappropriate discovery effort.

8. AT&T Florida fully believes that the Commission can and should issue its order granting the instant Motion, however, if the Commission were inclined to allow the deposition of Steve Hancock to proceed, then AT&T Florida would request that the scope of questions at the deposition be specifically limited to the allegations related to STS's amended petition and not permit STS to conduct a "fishing expedition" of matters unrelated to this docket, such as its pending complaint against AT&T before the Federal

Communications Commission and the current SQM/SEEM review in Docket No.
000121A.

9. AT&T Florida has conferred with STS's counsel and STS refuses to
withdraw its Notice and objects to this Motion.

WHEREFORE, AT&T Florida respectfully requests the entry of an Order
protecting AT&T Florida from STS's Notice of Taking Deposition of Steve Hancock.

Respectfully submitted this 5th day of January, 2010.

AT&T FLORIDA



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January 6, 2010

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 STS' Response In Opposition To AT&T Florida's Motion For A Protective Order, which we ask that you file in the captioned docket.

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

Very truly yours,

s/ Alan C. Gold

ALAN C. GOLD

CC: All parties of record



BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

SATURN TELECOMMUNICATION SERVICES INC., a Florida corporation,	}	
	}	Docket No.090430-TP
Petitioner,	}	
	}	Filed: January 6, 2010
v.	}	
BELLSOUTH TELECOMMUNICATIONS, INC., a Florida corporation, d/b/a AT&T	}	
	}	
Respondent.	}	

STS' RESPONSE IN OPPOSITION TO AT&T FLORIDA'S MOTION FOR A PROTECTIVE ORDER

Comes Now, Saturn Telecommunications Services, Inc. ("STS") and files its Response in Opposition to AT&T Florida's ("AT&T" or "BellSouth") Motion for a Protective Order as follows.

1. AT&T's Motion for a Protective Order which seeks to prohibit the taking of the deposition of AT&T's employee, Steven Hancock, is filed in bad faith and designed to prevent STS and this Commission from discovering the truth; namely, that its new OSS system, LEX, is inferior to LENS¹ and to the system utilized by AT&T retail (RNS).²
2. In order to accomplish its purpose, AT&T distorts the meaning of this Commission's Order issued December 2, 2009, Order No. PSC-09-0799-PAA-TP entitled *ORDER AUTHORIZING STAFF AUDIT AND*

¹ LENS (Local Electronic Navigation System) was implemented by BellSouth, and was required by this Commission to provide for the same quality of on-line edits as the AT&T Retail Navigation System.

² AT&T's RNS (Retail Navigation System) is the ordering system that AT&T (Southeast Region) employs to order retail services to end-users.

GRANTING IN PART AND DENYING IN PART AT&T'S PARTIAL MOTION TO DISMISS AND NOTICE OF PROPOSED AGENCY ACTION ORDER DENYING STS' REQUEST FOR INJUNCTIVE RELIEF AND REQUEST TO RESTRICT OR PROHIBIT AT&T FROM IMPLEMENTING ITS CLEC OSS-RELATED RELEASE ("Order").

3. In Section III, *Decision* of the Order, this Commission ruled: "However, this Commission, in its continuing oversight rule of AT&T's operation support system (OSS) and its exclusive authority to prevent anticompetitive behavior amongst telecommunications providers, may at its discretion, require AT&T to stay its November 14, 2009 release in the form requested by STS".
4. In its Order, this Commission found no need to exercise its discretion to prohibit AT&T from implementing its OSS release, but instead "ORDERED that AT&T shall be required to run the existing OSS ordering interface (LENS) in parallel to the LEX interface until completion of our staff's review and a decision by the Commission in this matter."
5. In its Order, this Commission further ordered that once the proposed agency portion of the order becomes final, "this docket shall be remain open pending the outcome of further proceeding including resolution of the remaining requests in STS' amended petition placed in abeyance until our staff brings a recommendation back to this Commission upon completion of the review."

6. In its Order the Commission clearly and distinctly ruled that it would defer ruling on STS' requests in its amended petition to prevent AT&T from retiring LENS, until the staff conducted its audit of AT&T's operating systems. Thus the Commission will hold any final hearing and decision on STS' requests for relief in abeyance until completion of the audit. The docket remains open. Discovery was not stayed. Moreover there is no reason to stay discovery.
7. In its *Consummation Order*, Order No. PSC-09-0850-CO-TP issued December 29, 2009, this Commission ordered that the Order "has become effective and final" and that "this docket shall remain open."
8. STS appreciates the tremendous efforts that staff is undertaking to audit LEX with regards to both LENS and AT&T Retail Navigation System (RNS); however Staff's audit does not preclude STS from conducting its own investigation into the adequacy of LEX and the comparison of LEX to LENS and to AT&T's RNS. STS' investigation will complement the staff's audit; not hinder it. Moreover the taking of discovery such as the deposition of Mr. Hancock who is intimately involved with AT&T's wholesale OSS systems, will allow this docket, which is still open, to come to a quick resolution upon completion of staff's audit.
9. The applicable rules clearly permit discovery including depositions "after commencement of a proceeding" FAC 28-106.206.
10. Discovery has not been stayed, nor is there a pending request to stay discovery.

11. STS originally attempted to investigate the adequacy of AT&T's wholesale OSS systems without formal discovery by conducting tests and conducting training on such systems sponsored by AT&T. To that end STS traveled to Birmingham, Alabama on November 19, 2009. Even though STS was one of only two CLECs to attend the session, AT&T refused to answer STS questions on the new OSS systems on ordering various types of UNEs that STS utilizes in its commingled network. Rather AT&T berated the questioning by STS employees, and insisted that a separate and private demonstration (training session) be provided. (See string of e-mails attached as Exhibit "A")

12. A separate demonstration to be given by Steve Hancock³ to STS was scheduled for December 22, 2009. Staff also requested to attend. (See e-mails attached hereto as Composite Exhibit "B")

13. AT&T unilaterally cancelled the December 22, 2009 demonstration. Obviously AT&T is trying to hide the defects in LEX and scrambling for additional time to attempt to implement a fix. The instant motion by AT&T is just another desperate attempt to buy more time and to obfuscate the truth.

14. STS requires the deposition of Mr. Hancock to prepare its case. More importantly, STS needs to discover to truth about AT&T's wholesale OSS system in order that it can properly conduct its business and adequately service its customers.

15. The Rules of Civil Procedure regarding discovery are applicable in these proceedings and govern the scope of discovery. STS intends to inquire of

³ This is the person STS noticed to be deposed.

Mr. Hancock those matters permitted under the rules; which "are relevant to the subject matter of the pending action" or "reasonably calculated to lead to the discovery of relevant information: See § 1.280 Fla. R. Civ. P. There is no basis whatsoever to limit the deposition other than required by the applicable rules. AT&T's request to limit the scope of Mr. Hancock's deposition to less than required under the rules governing these proceedings is without merit.

WHEREFORE, STS requires that this Commission deny AT&T's Motion for a Protective Order as to Steve Hancock's deposition, and require AT&T to produce Mr. Hancock for deposition as expeditiously as possible.

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 6th day of January 2010 to the following:

Earl E. Edenfield, Esquire
Tracy W. Hatch, Esquire
Manuel A. Gurdian, Esquire
c/o Gregory R. Follensbee
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Florida Public Service Commission
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s/ Alan C. Gold
Alan C. Gold
(Florida Bar No. 304875)

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Paralegal:

Nancy M. Samry, F.R.P.
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March 18, 2010

VIA E-MAIL ONLY

Kip Edenfeld, Esquire - : ke2722@att.com
Tracy Hatch, Esquire - thatch@att.com

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

Gentlemen:

It is our understanding that the Florida Public Service Commission "FPSC" will be placing on its April Docket the issues relating to Lens/Lex. This correspondence is being written to enable us to adequately prepare for that hearing. Prior to the hearing, we need to take the depositions of Steven Hancock, Dan Nickolotsky Sr., and Tina Berard. We believe that all three individuals are located in Birmingham, AL and that 2 days would be sufficient for all three depositions to be completed. If you do not wish us to take the depositions until the audits are out, I suggest that we jointly call Staff and request that the hearing on the Lens/Lex issues be moved to a date in May. Please note that if the date is moved to May, it would need to be after the first week in May in which we anticipate the Status Conference before the FCC.

Thank you for your anticipated cooperation in this matter.

Very truly yours,

/s Alan C. Gold

ALAN C. GOLD

cc: STS Telecom





Tracy W. Hatch
General Attorney

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T: (850) 577-5508
thatch@att.com

March 24, 2010

Mr. Alan C. Gold, Esq.
1501 Sunset Drive
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Coral Gables, Florida 33143

VIA ELECTRONIC MAIL

Re: Docket No. 090430-TP - In re: Amended petition for verified emergency injunctive relief and request to restrict or prohibit AT&T from implementing OSS-related releases, by Saturn Telecommunications, Inc.

Dear Mr. Gold:

This letter is in response to your March 18, 2010 request to depose certain individuals at AT&T. From a review of the status of the proceeding, it appears that your request for depositions is premature. As you may recall, by Order No. PSC-09-0799-TP the Florida Public Service Commission determined that its Staff would conduct an audit of AT&T's LEX OSS ordering interface. In conjunction with the Staff's audit, the Commission ordered that "the remaining requests in STS' amended petition placed in abeyance until our staff brings a recommendation back to this Commission upon completion of the review." See Order 09-0799, p. 11.

Until the Commission lifts its order holding the case in abeyance, any depositions of AT&T's personnel in conjunction with this docket is premature.

If you have any questions, please feel free to contact me.

Sincerely,


Tracy W. Hatch

Enclosure

cc: Jerry D. Hendrix
Gregory R. Follensbee
E. Earl Edenfield, Jr.

 Printed on Recycled Paper



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March 25, 2010

VIA E-MAIL ONLY

Tracy Hatch, Esquire - thatch@att.com

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

Dear Mr. Hatch:

This acknowledges receipt of your e-mail of March 24, 2010, which is in response to my e-mail to you dated March 18, 2010. Thank you for finally responding to correspondence from my office; however, it would be helpful if you actually addressed the matters raised in my e-mail. Another copy of my March 18th e-mail is attached for your review.

We are well aware of the order abating further proceedings in this case pending the audit by Staff. We are also aware that AT&T desires to terminate LENS as quickly as possible, and that this matter might be scheduled for hearing on the April agenda. Our prior e-mail was an attempt to work with you to get ready for a hearing in April. Although you might disagree, STS is entitled to due process on its Petition. According to the applicable rules, STS is entitled to discovery, including the taking of depositions, prior to the hearing. We will be happy to wait until the audit is completed and released to take the depositions; however, we will vigorously object to the scheduling of any hearing on the LENS/LEX issues, prior to opportunity to take the depositions. If your client opposes the same or suggests an unrealistic discovery period, we intend to show all relevant correspondence to the Commission, as evidence that STS and my office did everything possible to avoid delay.



Based on past comments, we anticipate you might object to discovery, alleging that it is for use in the FCC proceedings. In an attempt to assuage this concern, we are willing to agree to delay both the depositions and a hearing on the issues until after the FCC rules. We anticipate that a decision by the FCC will be very enlightening to the State Commissioners on the motivation and intent of AT&T.

Very truly yours,

/s Alan C. Gold

Alan C. Gold

cc. STS Telecom

Alan C. Gold

From: EDENFIELD JR., KIP (Legal) [ke2722@att.com]

Sent: Wednesday, April 07, 2010 4:56 PM

To: agold@acgoldlaw.com

Subject: Re: Docket No. 090430-TP

Alan - you have summarized AT&T's position correctly regarding the taking of depositions in this case.
Kip

From: Alan C. Gold <agold@acgoldlaw.com>

To: EDENFIELD JR., KIP (Legal); 'Keith Kramer' <kkramer@ststelecom.com>

Sent: Wed Apr 07 16:18:46 2010

Subject: Docket No. 090430-TP

Dear Kip

This serves to confirm our conversation yesterday in which I inquired of AT&T's position regarding the taking of depositions in the above docket, due to the release of the audit, and the upcoming recommendations by staff. You advised me that it was the position of your client that the abeyance ordered by the Commission in its Order issued December 2, 2009, Order number PSC-09-0799-PAA-TP was still in effect, which precluded my clients from taking discovery at least through the agenda hearing on the 20th. When I checked with Adam Teitzman, he advised me that his interpretation of the order was that the abeyance was still in effect, which precluded the taking of the depositions. STS' position is that we need to take the depositions of Steven Hancock, Dan Nickolotsky, and Tina Berard prior to a hearing on the retirement of LENS. We are still prepared to travel to Birmingham or wherever these three individuals reside to take their depositions prior to the April 20, 2010 agenda. If we take these depositions we will be prepared to go forward with the hearing on the retirement of LENS and not object to the hearing taking place. Otherwise we will vehemently object to the hearing on the 20th and seek permission to take discovery. Please advise if I have misunderstood your position or if you will make these three individuals available for deposition next week after staff makes its recommendations.

Thank you

Alan

4/7/2010

