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June 16, 1997

VIA FEDERAL EXPRESS

4710 130-TP

Ms. Blanca S. Bayo
Director, Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399

Dear Ms. Bayo:

Enclosed for filing are an original and fifteen (15) copies of a Petition for Relief Under 47 U.S.C. §252(i) of Telenet of South Florida, Inc.

A copy of the Brief is also on the enclosed diskette formatted in WordPerfect 6.1 for Windows. Please date stamp the extra hard copy and return it in the enclosed self-addressed envelope.

Thank you for your attention to this matter.

Sincerely,



Ronald J. Jarvis

Enclosures

cc: All parties of record

177803.1

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FPSC-RECORDS/REPORTING

**BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION**

In re:)
)
TELENET OF SOUTH FLORIDA, INC.)
)
Petition for Relief Under 47 U.S.C. § 252(i))
To Opt Into Interconnection Agreement with)
)
BELLSOUTH TELECOMMUNICATIONS, INC.)
)

Docket No. _____

**PETITION FOR RELIEF UNDER 47 U.S.C. § 252(i)
OF TELENET OF SOUTH FLORIDA, INC.**

Douglas G. Bonner
Ronald J. Jarvis

SWIDLER & BERLIN, CHARTERED
3000 K Street, N.W., Ste. 300
Washington, D.C. 20007-5116
Phone: (202) 424-7500
Fax: (202) 424-7645

Attorneys for Telenet of South Florida, Inc.

Dated: June 16, 1997

**BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION**

In re: _____)
)
TELENET OF SOUTH FLORIDA, INC.)
)
Petition for Relief Under 47 U.S.C. § 252(i))
To Opt Into Interconnection Agreement with)
)
BELLSOUTH TELECOMMUNICATIONS, INC.)
_____)

Docket No. _____

**PETITION FOR RELIEF UNDER 47 U.S.C. § 252(i)
OF TELENET OF SOUTH FLORIDA, INC.**

Telenet of South Florida, Inc. ("Telenet"), by its undersigned attorneys, hereby petitions the Florida Public Service Commission (the "Commission") for relief under Section 252(i) of the Telecommunications Act of 1996 (the "1996 Act") with respect to the rates, terms and conditions for interconnection and related arrangements with BellSouth Telecommunications, Inc. ("BellSouth"). In support of its petition, Telenet states as follows:

Background

1. Telenet is a Florida corporation with offices located at 10422 Taft Street, Pembroke Pines, Florida 33026, and is a certified alternative local exchange company ("ALEC") under Florida law to provide alternative local exchange telecommunications services within the state of Florida.
2. Telenet currently provides intra-LATA voice telecommunications services to customers in the Southeast Florida LATA comprising Palm Beach, Broward and Dade Counties pursuant to a retail tariff.

3. BellSouth is a monopoly provider of local exchange services within the State of Florida. BellSouth is a corporation with its principal place of business located at 150 West Flagler Street, Suite 1901, Miami, Florida 33130. At all relevant times, BellSouth has provided intrastate local exchange and exchange access service in Florida subject to the regulatory authority of this Commission.

4. For purposes of Sections 251 and 252 of the 1996 Act, BellSouth is and has been at all relevant times an "incumbent local exchange carrier" in the State of Florida as defined by Section 251(h) of the Telecommunications Act of 1996 (the "1996 Act").

5. Under the 1996 Act:

A local exchange carrier shall make available any interconnection, service, or network element provided under an agreement approved under this section to which it is a party to any other requesting telecommunications carrier *upon the same terms and conditions* as those provided in the agreement.

47 U.S.C. § 252(i) (emphasis supplied).

6. On March 31, 1997, Telenet requested by letter to J. Phillip Carver, Esq. of BellSouth, and pursuant to Florida Statutes Section 364.161(1), and the Telecommunications Act of 1996, that BellSouth "unbundle its network features, functions, and capabilities, as well as access to signaling databases, systems and routing processes, including but not limited to those relating to Call Forwarding services, and offer them to Telenet." Telenet further requested in its letter that BellSouth "negotiate terms, conditions and prices of this unbundling request." (A copy of Telenet's letter is attached as "Exhibit 1" hereto.)

7. In the course of the parties' negotiations, in April, 1997, BellSouth offered to Telenet its Interconnection Agreement with AT&T in Florida (the "AT&T Agreement"), and forwarded the entire agreement to Telenet for consideration. See April 14, 1997 letter from Ida Bourne, BellSouth, to Douglas Bonner, Swidler & Berlin (attached as "Exhibit 2" hereto).

8. Upon review of the AT&T Agreement, Telenet indicated that it wished to "opt-in" to the agreement pursuant to its rights under the 1996 Act. BellSouth's representatives assured Telenet that it could obtain all of the terms and conditions of the AT&T Agreement, without restriction or modification. The parties also agreed that BellSouth would remove irrelevant attachments to the AT&T Agreement, and present a "condensed version" of the AT&T Agreement to Telenet, but keeping all other substantive provisions of the AT&T Agreement intact.

9. BellSouth transmitted to Telenet on May 14, 1997, a purported "condensed" version of the AT&T Agreement. See May 14, 1997 letter from Betsy Melvin, BellSouth, to Ronald Jarvis, Swidler & Berlin (attached as "Exhibit 3" hereto). However, upon inspection, Telenet discovered that this May 14, 1997 draft agreement presented by BellSouth was not in fact a "condensed" version of the AT&T Agreement at all, but a substantially revised agreement, excluding beneficial terms and conditions contained in the AT&T Agreement, and including many new restrictions that were not contained in the AT&T Agreement.

10. For example, the "condensed" agreement contains unique use and user restrictions on the resale of certain AT&T retail services, which do not exist in the AT&T Agreement. Moreover, this Commission expressly ruled in the AT&T arbitration that it would uphold the absence of all use and user restrictions in the AT&T Agreement. See *In re: Petition by AT&T*

Communications of the Southern States, Inc., Docket No. 960833-TP, Order No. PSC-96-1579-FOF-TP (December 31, 1996) at page 34.¹

11. In a May 22, 1997 teleconference held by the parties to discuss BellSouth's revised AT&T agreement ("Revised Agreement"), Telenet indicated to BellSouth that the Revised Agreement directly contravened the parties' prior agreement that the AT&T Agreement would be offered to Telenet, with the exception of certain unnecessary attachments, without any restrictions or modifications. Telenet again requested to exercise its right under 47 U.S.C. § 252(i) to "opt-in" to the AT&T Agreement.

12. During the May 22 teleconference, however, BellSouth stated that it requires the new agreement to contain certain use and user restrictions contained in a BellSouth retail tariff. See BellSouth General Subscriber Service Tariff, Section A13.9.1.A.² Telenet objected to the insertion of any tariffed use and user restrictions on resale of BellSouth's retail services in the new agreement, noting that, pursuant to 47 U.S.C. § 252(i), BellSouth must offer to any telecommunications carrier the same terms and conditions for services provided to AT&T. Telenet again stated that BellSouth's addition of restrictions not contained in the AT&T Agreement would be discriminatory and would violate the 1996 Act. The discussions of the parties in that teleconference were memorialized in a

¹In its December 31, 1996 Order, the Commission found that "no restrictions on the resale of services shall be allowed, except for restrictions applicable to the resale of grandfathered services, residential services, and Lifeline/LinkUp services to end users who are eligible to purchase such service directly from BellSouth."

²Section A13.9.1.A of BellSouth's tariff provides:

Call forwarding shall not be used to extend calls on a planned and continuing basis to intentionally avoid the payment in whole or in part, or message toll charges that would regularly be applicable between the station originating the call and the station to which the call is transferred.

letter from Telenet to BellSouth. See May 23, 1997 Letter from Ronald J. Jarvis, Swidler & Berlin, to Jerry Hendrix of BellSouth (attached as "Exhibit 4" hereto).

13. On the following day, May 23, 1997, BellSouth sent a letter to Telenet, threatening to disconnect certain features of service needed by Telenet on June 23, 1997. A copy of this letter is attached as "Exhibit 5" hereto.

14. In response to this letter, counsel for Telenet contacted BellSouth requesting that it reconsider its position in violation of Telenet's rights under Section 252(i) of the 1996 Act. Telenet requested that BellSouth withdraw its disconnection threat and enter into earnest negotiations for an interconnection agreement with Telenet. BellSouth's representative agreed to discuss these issues with BellSouth's Legal Department, and respond in writing. See May 30, 1997 letter from Ronald J. Jarvis, Swidler & Berlin, to Jerry Hendrix, BellSouth (a copy of this letter is attached as "Exhibit 6" hereto).

15. On June 3, 1997, BellSouth responded in writing that it intended to proceed to with its threat to disconnect Telenet services on June 23, 1997, unless Telenet would agree in writing to accept the additional restrictions on resale of BellSouth's retail services not contained in the AT&T Agreement. BellSouth's letter is attached as "Exhibit 7" hereto.

16. Telenet responded by letter of June 4, 1997 to BellSouth, pointing out that BellSouth is violating Telenet's rights under Section 252(i) of the 1996 Act by not offering to Telenet the same terms and conditions provided to AT&T. Telenet again requested that BellSouth refrain from disconnecting Telenet unless Telenet accepts BellSouth's modified agreement. Telenet's letter is attached as "Exhibit 8" hereto.

17. On June 11, 1997, Telenet filed with the Commission an "Emergency Motion for Stay," requesting that the Commission stay the effectiveness of its arbitration Order at least pending consideration of Telenet's Motion for Reconsideration, and if necessary, pending judicial review.

18. The parties are presently deadlocked in their negotiations due to BellSouth's refusal to allow Telenet to obtain the AT&T Agreement on the same terms and conditions as AT&T for resale of BellSouth's retail services. BellSouth's apparent position is that Telenet must take retail services from BellSouth subject to the restrictions contained in BellSouth's retail tariff, despite the fact that AT&T is not required to take retail services subject to any of BellSouth's retail tariff restrictions. Telenet and AT&T are equally entitled to purchase retail services on a nondiscriminatory basis from BellSouth -- not pursuant to enduser tariffs, but as ALECs, in accordance with the 1996 Act, the FCC First Report and Order, and this Commission's decisions.

19. BellSouth contends that any exercise of Telenet's rights under Section 252(i) requires a rewriting of the AT&T Agreement to include BellSouth's enduser tariff, as upheld by the Commission in an arbitration proceeding between Telenet and BellSouth concerning that tariff.

20. Telenet, as the requesting carrier, has negotiated in good faith in accordance with § 252(c)(1) of the 1996 Act to attempt to establish terms and conditions for a binding agreement with BellSouth for interconnection, services and network elements.

21. BellSouth's refusal to afford Telenet the same terms and conditions provided to AT&T in the AT&T Agreement by insisting on the inclusion of additional restrictive conditions not contained in the AT&T Agreement violates Telenet's rights under Section 252(i) of the 1996 Act.

Telenet is entitled to be offered the "same terms and conditions" provided by BellSouth to AT&T under the AT&T Agreement.³

Request for Relief

1. Telenet requests that the Commission resolve this unresolved interconnection issue between Telenet and BellSouth by requiring BellSouth to allow Telenet to obtain the same terms and conditions as the AT&T Agreement in their entirety (less any sections or attachments which the parties mutually agree are superfluous) including Section 24 of the AT&T Agreement, which provides, *inter alia*, that (with limited and specific exceptions) there are no use or user restrictions on the resale of BellSouth's retail service offerings.⁴

³In the May 23, 1997 Teleconference, BellSouth raised for the first time the issue that the AT&T Agreement "did not exist" since it had not been signed by the parties. As of the end of December, 1996, however, all relevant portions of the agreement had been approved by order of the Commission, and the parties had been ordered to execute this order. See *In re: Petition by AT&T Communications of the Southern States, Inc.*, Docket No. 960833-TP, Order No. PSC-96-1579-FOF-TP (December 31, 1996). In addition, on May 27, 1997, the Commission found that BellSouth and AT&T had both violated 47 U.S.C. § 252(b)(5) of the 1996 Act by failing to execute the agreement as required. See *In re: Petition by AT&T Communications of the Southern States, Inc.*, Docket No. 960833-TP, Order No. PSC-97-0600-FOF-TP (May 27, 1997). The Commission granted the parties an additional 14 days, or until June 10, 1997, to file an the executed agreement, or face a daily monetary penalty. Telenet understands that, on June 10, 1997, the signed AT&T Agreement was filed with the Commission by the parties. The Commission will shortly issue its order approving the agreement as signed. Accordingly, BellSouth can no longer maintain its recent position that "no agreement exists" between BellSouth and AT&T.

⁴The relevant subsection 24.3, entitled "Restrictions on Resale," provides as follows:

With the exception of short-term promotions, defined as those promotions that are offered for a ninety (90) day period or less and which are not offered on a consecutive basis, BellSouth shall offer for resale at wholesale prices all telecommunications services that BellSouth provides at retail to non-telecommunications carriers, including governmental bodies and information providers. Short-term promotions may be resold at the retail rate.

No terms and conditions, including use and user restrictions, shall be applicable to the resale of BellSouth's telecommunications services except for:

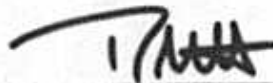
- (i) a restriction on the resale of residential service to residential customers;
- (ii) LifeLine/Link-up services shall be available for resale by AT&T only the

(continued...)

2. Telenet also requests that the Commission order that no restrictions or modifications may be added to the existing terms and conditions of the AT&T Agreement by BellSouth, unless BellSouth and Telenet mutually agree to do so.

3. in addition, Telenet requests that the Commission instruct BellSouth that it may not discontinue any service to Telenet or threaten to discontinue any existing service during the pendency of the Commission's decision on this Petition.

Respectfully submitted,



Douglas G. Bonner
Ronald J. Jarvis

SWIDLER & BERLIN, CHARTERED
3000 K Street, N.W., Ste. 300
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(202) 424-7500 (Voice)
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Attorneys for Telenet of South Florida, Inc.

Dated: June 16, 1997

*(...continued)

- those customers who are eligible to purchase such service directly from BellSouth;
- (iii) All grandfathered services are available for resale by AT&T to those customers or subscribers who already have grandfathered status; and
 - (iv) N11/E911/911 services shall be available for resale by AT&T.

**Petition for Relief Under 47 U.S.C. Section 252(i)
of Telenet of South Florida
June 16, 1997**

EXHIBIT 1

DOUGLAS G. BONNER
OF COUNSEL

SWIDLER
&
BERLIN
CHARTERED

CHRON COPY

DIRECT DIAL
(202) 424-7701

March 31, 1997

VIA FACSIMILE (404) 658-9022 AND U.S. MAIL

J. Phillip Carver, Esq.
BellSouth Telecommunications, Inc.
4300 BellSouth Center
675 Peachtree St., NE
Atlanta, GA. 30375-0001

Re: **Florida PSC Docket No. 961346-TP**
Telenet of South Florida, Inc. v. BellSouth Telecommunications, Inc.

Dear Phil:

This is Telenet of South Florida, Inc.'s ("Telenet") request, pursuant to Florida Statutes Section 364.161(1), for BellSouth Telecommunications, Inc. ("BellSouth") to unbundle its network features, functions, and capabilities, as well as access to signaling databases, systems and routing processes, including but not limited to those relating to Call Forwarding services, and offer them to Telenet. Such unbundling of Call Forwarding and other services is also required on rates, terms and conditions that are just, reasonable, and nondiscriminatory under Section 251(c)(3) of the Telecommunications Act of 1996. Telenet requests that BellSouth immediately negotiate terms, conditions and prices of this unbundling request.

Telenet wishes to emphasize that it is renewing a request or requests it has previously made of BellSouth which should be decided by the Florida Public Service Commission ("Commission") in the above docket pursuant to Telenet's pending arbitration petition. Specifically, Telenet unsuccessfully engaged in negotiations with BellSouth during the months of June to August, 1996 for at least sixty (60) days as required by Florida Statutes Section 364.161(1). Subsequently, Telenet petitioned the Commission on November 12, 1996 to arbitrate its unbundling request. The Commission has already found that Telenet's pending arbitration petition states a proper claim for arbitration of an unbundling request for multipath call forwarding under F.S. 364.161(1), as well as whether BellSouth's call forwarding tariff constitutes a reasonable resale restriction under F.S. 364.161(2). See Order Denying Motion to Dismiss, Order No. PSC-97-0072-FOF-TP (Issued Jan. 23, 1997). Accordingly, another unbundling request is altogether unnecessary for the Commission to arbitrate the unbundling issue squarely presented by Telenet's arbitration petition.

Nevertheless, in the event the Commission may decline to decide this specific issue for

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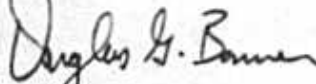
J. Phillip Carver, Esq.

March 31, 1997

Page 2

procedural or other reasons, in an effort to resolve this matter expeditiously without further arbitration, as the Commission has urged, Telenet renews its unbundling request to BellSouth by this letter. Telenet looks forward to BellSouth's prompt response so that substantive negotiations may resume and an agreement be concluded without further need for Commission arbitration.

Sincerely,

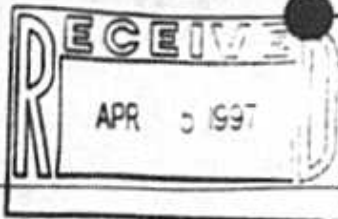


Douglas G. Bonner

cc: Charles Pellegrini, Esq. (via facsimile: 904/413-6250)
Ms. Nancy H. Sims
Telenet of South Florida

**Petition for Relief Under 47 U.S.C. Section 252(i)
of Telenet of South Florida
June 16, 1997**

EXHIBIT 2



BELLSOUTH

BellSouth Interconnection Services

Memorandum

File Code
Date April 14, 1997

To Douglas G. Bonner, Swidler & Berlin Chartered
Telephone number 202-424-7701
Fax number 202-424-7645

From Ida Bourne
Telephone number 404-927-7511
Fax number 404-529-7839

Subject Telenet of South Florida, Inc.

As promised, enclosed for your review is a copy of the agreement negotiated between BellSouth and AT&T for the provision of interconnection, unbundled services and resale in the state of Florida. A copy of this agreement is also being forwarded to Mitchell Kupinsky at Telenet of South Florida.

We look forward to your comments relative to this Agreement and meeting to discuss them in our meeting on Friday.

Please do not hesitate to call me or Jerry Hendrix, 404-927-7503, with questions prior to that meeting.

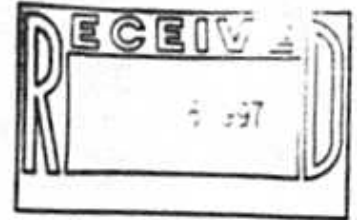
Enclosure (1)

cc: Mitchell Kupinsky

**Petition for Relief Under 47 U.S.C. Section 252(i)
of Telenet of South Florida
June 16, 1997**

EXHIBIT 3

MEMORANDUM



Date: May 14, 1997
To: Ronald Jarvis, Swidler & Berlin Chartered
Mitchell Kupinsky, Telenet of South Florida, Inc.
cc: Doug Bonner
From: Betsy Melvin, Manager, BellSouth Telecommunications, Inc.
Subject: Draft Agreement between BellSouth and Telenet

As promised in the May 6, 1997 conference call, a new draft interconnection is attached. At your request, a condensed version has been prepared, and the service descriptions and technical requirements for all unbundled network elements have been omitted.

A conference call to discuss issues in the agreement has been scheduled for Thursday, May 22, 1997 at 10:00 a.m (ET). Please review the attached draft agreement and provide me a list of any issues identified prior to the May 22 meeting. My facsimile number is 404-529-7839.

I look forward to speaking with you on May 22.

Betsy Melvin

**Petition for Relief Under 47 U.S.C. Section 252(i)
of Telenet of South Florida
June 16, 1997**

EXHIBIT 4

SWIDLER
&
BERLIN
CHARTERED

May 23, 1997

VIA FACSIMILE AND FIRST CLASS MAIL

Jerry Hendrix
Director, Interconnection Services
BellSouth Telecommunications, Inc.
BellSouth Center
675 West Peachtree Street
Atlanta, GA 30375

Re: Telenet of South Florida, Inc. Negotiations for Interconnection Agreement with BellSouth Telecommunications, Inc.

Dear Mr. Hendrix:

This letter memorializes the teleconference between BellSouth and Telenet which took place yesterday, May 22, 1997 at 10:00. The attendees were Mary Jo Peed, Esq. and yourself for BellSouth, Mitchell Kupinsky of Telenet and Morton Posner and myself of Swidler & Berlin, for Telenet.

Prior to the teleconference, I sent you a letter, and a follow-up note by facsimile, and this letter was provided by facsimile also to Ms. Peed. The essence of my letter was that, during the last teleconference with Doug Bonner, the parties had agreed that Telenet would "opt in" to the AT&T Interconnection Agreement, and that BellSouth would "condense" the AT&T agreement by removing irrelevant language. The letter stated that the draft interconnection agreement we received from BellSouth was not, as we had expected, the AT&T Agreement minus portions that do not apply to Telenet, but something altogether different that included restrictive language not in the AT&T Agreement, and omitted language from the AT&T Agreement which Telenet considers essential.

The letter restated Telenet's request under 47 U.S.C. Section 252(i) to "opt in" to the AT&T Interconnection Agreement, and suggested that the applicable sections of the AT&T Interconnection Agreement be lifted whole, without addition or modification, from the actual agreement, and used to make a new draft agreement for Telenet.

Jerry Hendrix
May 23, 1997
Page 2

You stated that it had not been BellSouth's intention to deceive or contravene our previous understanding, but that the draft we had received was a good faith effort to "condense" the important aspects of the AT&T Agreement, and craft an agreement that would serve what BellSouth believed Telenet's purpose is. You also stated that BellSouth had no difficulty with proceeding in the way that Telenet proposes, that is, essentially "taking scissors" to the AT&T Interconnection Agreement, and removing the irrelevant portions, but keeping the precise language of the terms and conditions that are applicable to Telenet's business.

Accordingly, you suggested that BellSouth would send to me at Swidler & Berlin, via overnight courier, the diskette containing the AT&T Interconnection Agreement in Microsoft Word for Windows 6.0 format, and that I would "take the next cut" at a new draft agreement for Telenet by removing portions of the agreement that we consider inapplicable, while retaining the precise language of the remaining sections. You considered that this could probably be accomplished that evening, but did not guarantee the diskettes would be shipped that day. (I note parenthetically that we did not receive the diskettes today, so I presume they will arrive after the upcoming long weekend.)

Ms. Peed indicated that BellSouth's one proviso is that the new draft must incorporate by reference or otherwise contain the essence of, the FPSC's recent decision in the arbitration proceeding between Telenet and BellSouth. She stated that the FPSC has already ruled on Telenet's use of BellSouth's services, and so the agreement should reflect the determinations in the decision. Mr. Posner and I objected to that inclusion, since the arbitration decision involved the single question of whether BellSouth could continue to provide service to Telenet as a retail customer subject to a restriction contained in its tariff. We contended that, since Telenet would be an interconnected carrier under the new arrangement, this decision is not properly applicable, because Telenet would not be taking service under BellSouth's tariff in the same fashion.

In addition, Mr. Posner and I pointed out that, pursuant to 47 U.S.C. Section 252(i), Telenet may avail itself of all the terms and conditions of any interconnection agreement entered into between BellSouth and any other carrier, without addition, modification, let or hindrance. We stated that to incorporate the Commission's decision into the contract would have the effect of compelling Telenet to agree to restrictions on the resale of BellSouth's services which AT&T is not subject to, and that Telenet is afforded the full right under federal law to have the benefits of the AT&T Interconnection Agreement without restrictions. We stated that Telenet would not agree to yield any part of the rights guaranteed to it under the 1996 Act.

Ms. Peed indicated that BellSouth would refuse to enter into the abridged AT&T Interconnection Agreement with Telenet if it did not also contain the restrictions set forth in the FPSC's arbitration decision. Ms. Peed additionally stated that there was no AT&T Interconnection Agreement, because BellSouth had not signed it yet, but had 14 days to finalize it. I responded that

Jerry Hendrix
May 23, 1997
Page 3

the Agreement had already been approved by the Commission, and that Telenet was entitled to have the benefit of it.

This dispute was not resolved, but was tabled in a civil fashion by all parties pending the completion of the new draft agreement, to be completed according to the understandings set forth above. I additionally committed to a prompt turnaround of our work, and expressed the hope that we could work out our sole remaining issue in an amicable fashion, or that it might wither away in the interim.

When asked how BellSouth proposed to address the difference if it could not be resolved, you proposed that, if the difference remains, BellSouth and Telenet might submit two different versions of the draft agreement to the Commission, and have the Commission decide which to approve. I did not express an opinion as to the proper method of resolving the difference, and did not agree to the submission of two separate agreements, but rather reserved judgment on the issue until after the new draft agreement has been completed and passed upon by both parties.

At this point, we jointly determined that there was nothing further of import to discuss, and we terminated the teleconference.

The foregoing reflects our best recollection of what transpired during the May 22, 1997 teleconference. We look forward to receiving the diskettes containing the AT&T Interconnection Agreement, and restate our promise to complete our portion of the work expeditiously.

Sincerely,



Ronald J. Jarvis

cc: Mr. Marvin Kupinsky
Mr. Mitchell Kupinsky
Douglas G. Bonner, Esq.
Mary Jo Peed, Esq.

**Petition for Relief Under 47 U.S.C. Section 252(i)
of Telenet of South Florida
June 16, 1997**

EXHIBIT 5

**Petition for Relief Under 47 U.S.C. Section 252(i)
of Telenet of South Florida
June 16, 1997**

EXHIBIT 6

RONALD J. JARVIS
ATTORNEY-AT-LAW

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May 30, 1997

VIA FIRST CLASS MAIL AND AIR MAIL

Mr. Jerry Hendrix
Director, Interconnection Services
BellSouth Telecommunications, Inc.
BellSouth Center
675 West Peachtree Street
Atlanta, GA 30375

Re: Telenet of South Florida, Inc. Negotiations for Interconnection Agreement with BellSouth Telecommunications, Inc.

Dear Mr. Hendrix:

This letter memorializes the teleconference between BellSouth and Telenet which took place this afternoon, May 30, 1997. The attendees were Mary Jo Peed, Esq., Betsy Melvin and yourself for BellSouth, and myself on behalf of Telenet.

This conference call was in response to my previous request to you to reexamine (i) BellSouth's threat to terminate service to Telenet on June 13, 1997 in light of the fact that it was being used as unfair leverage to gain advantage in the course of interconnection negotiations with Telenet; and (ii) BellSouth's refusal to give Telenet the benefit of the same terms and conditions in the AT&T Interconnection agreement unless Telenet agrees to additional restrictions not contained in the AT&T order (viz., restrictions against resale of BellSouth's services contained in the FPSC's recent Telenet arbitration order).

Our consistent position has been that (i) BellSouth already offered Telenet the unrestricted right to opt into the AT&T Agreement, and BellSouth's recent decision to renege on its offer is not good faith negotiation; (ii) BellSouth is required by federal law (47 U.S.C. Section 252(i)) to offer Telenet, *or any provider*, the benefit of any terms and conditions offered to any other carrier, without discrimination, and without additional restrictions; (iii) the FPSC's arbitration order concerns the manner in which Telenet may use BellSouth's retail services as a retail customer, subject to tariff provisions, and does not address whether Telenet is entitled to have the benefit, under federal law, of the terms and conditions offered to AT&T, so the FPSC's order is inapposite in this context; and (iv) finally, the FPSC's order strongly encouraged the parties to resolve these issues through settlement negotiation. BellSouth's threat to terminate service in two weeks, coupled with artificial

Jerry Hendrix
May 30, 1997
Page 2

restrictions upon Telenet's rights to opt into a Commission-approved interconnection agreement, violates the spirit of the FPSC's order in the Telenet proceeding.

You stated in this teleconference that BellSouth has considered its position, and intends to execute its threat to disconnect Telenet's service on June 13, *unless Telenet agrees in writing to abide by restrictions on resale of BellSouth's services not included in the AT&T Interconnection Agreement*. Thus, you are clearly, and illegally, using the threat of disconnection of our client's service to gain leverage in Telenet's interconnection negotiations, attempting to force Telenet to agree to accept an agreement that differs materially from the resale provisions provided to AT&T. As I noted to you in our teleconference, this is outright discrimination, and it is clearly in violation of the Telecommunications Act of 1996.

BellSouth's stated position is that the FPSC's decision in the Telenet arbitration proceeding "created an inconsistency" with its decision in the AT&T Arbitration proceeding, and that it is BellSouth's duty to resolve this legal conflict by attempting to include language from the FPSC's decision in the Telenet proceeding in the text of any agreement with Telenet, even if that means that BellSouth is refusing to grant to Telenet the same rights it has offered to AT&T. When I stated that this is not unlike the conduct for which BellSouth was cautioned in the Commission's May 27 decision in the AT&T proceeding, you stated that this issue is a separate matter.

I reiterate that BellSouth's refusal to give Telenet the benefit of the same terms and conditions offered to AT&T is a direct and blatant violation of the 1996 Act and is unjustly discriminatory against Telenet. BellSouth's use of the threat of disconnection to attempt to leverage this concession also constitutes bad faith negotiation.

You indicated that BellSouth was not persuaded by this, and intends to proceed on its proposed course in any event. I requested that BellSouth put this in writing, and you stated that you would do so on Monday.

Sincerely,



Ronald J. Jarvis

cc: Mr. Marvin Kupinsky
Mr. Mitchell Kupinsky
Douglas G. Bonner, Esq.
Mary Jo Peed, Esq.

**Petition for Relief Under 47 U.S.C. Section 252(i)
of Telenet of South Florida
June 16, 1997**

EXHIBIT 7

BellSouth Telecommunications, Inc.
Room 14531 BellSouth Center
675 West Peachtree Street, N.E.
Atlanta, Georgia 30375

June 3, 1997

Mr. Ronald J. Jarvis
Swidler & Berlin Chartered
3000 K Street, N.W., Suite 300
Washington, DC 20007-5116

Re: Negotiations for Interconnection Agreement between Telenet of South Florida, Inc. and BellSouth Telecommunications, Inc.

Dear Mr. Jarvis:

This letter is in response to your letter dated May 30, 1997. This letter also states in writing BellSouth's position as stated in the May 30 conference call held between BellSouth and Swidler & Berlin representing Telenet of South Florida, Inc. (Telenet).

As we stated in the May 30 conference call, BellSouth will offer to Telenet the same interconnection agreement as agreed to between BellSouth and AT&T - Florida with the inclusion of the clause which will allow Telenet to provide services to its end users provided that Telenet's use of features and functions are not in violation of the tariff or of Florida law. The purpose for the inclusion of this clause is to comply with Order No. PSC-97-0462-FOF-TP issued by the Florida Public Service Commission on April 23, 1997 in which the Commission ordered "that BellSouth Telecommunications, Inc., may continue to sell its call forwarding services to Telenet of South Florida, Inc., subject to the restrictions of General Subscriber Service Tariff section A13.9.1.A.1." The AT&T agreement already includes a provision that states that both AT&T and BellSouth agree to abide by all applicable laws in connection with the implementation of the agreement. Telenet's assertions that the Commission's arbitration decision no longer applies to its operations is the foundation for BellSouth's conclusion that Telenet would not honor the general provision of the AT&T agreement that both parties will abide by the applicable law. Therefore, BellSouth has concluded that it must insist on specific language. The requirement imposed on both AT&T and Telenet (and, for that matter, BellSouth) to act lawfully is precisely the same.

With regards to your statement of "BellSouth's threat to terminate service to Telenet on June 13, 1997," BellSouth has not "threatened" Telenet, rather BellSouth has advised Telenet of its intent to remove the features in question from all telephone lines provided to Telenet effective June 13, 1997. This notice of disconnection was sent to Telenet of South Florida, Inc. on May 23, 1997 as a result of the Florida Commission Order No. PSC-97-0462-FOF-TP and as a result of Telenet not providing satisfactory proof that its use of BellSouth features was not in violation of the tariff.

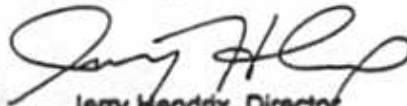
Page 2
June 3, 1997

In response to your statement in your letter of May 30, 1997 that "it [termination of service] was being used as unfair leverage to gain advantage in the course of interconnection negotiations with Telenet," BellSouth's decision to terminate the use of certain features was due to (1) Telenet's violation of Florida law with the use of features and (2) the Florida Public Service Commission's findings regarding this issue as stated in their Final Order. The decision to disconnect the features in question is in no way being used as leverage in the interconnection negotiations.

As we stated in the conference call on May 30, BellSouth is willing to assure that disconnection not take place if Telenet is willing to submit in writing that Telenet will not use BellSouth's features in violation of any tariff or Florida law. This written consent on the part of Telenet is in conformance with the April 23 Order stating that BellSouth "may continue to sell its call forwarding services to Telenet of South Florida, Inc., subject to the restrictions of General Subscriber Service Tariff section A13.9.1.A.1."

BellSouth is continuing interconnection negotiations with Telenet and is interested in reaching an agreement with Telenet.

Sincerely,



Jerry Hendrix, Director
Interconnection Services
BellSouth Telecommunications, Inc.

CC: Doug Bonner
Marvin Kupinsky
Mitchell Kupinsky
J. Phillip Carver
Mary Jo Peed
Nancy White

**Petition for Relief Under 47 U.S.C. Section 252(i)
of Telenet of South Florida
June 16, 1997**

EXHIBIT 8

SWIDLER
&
BERLIN
CHARTERED

June 4, 1997

VIA FACSIMILE

Mr. Jerry Hendrix
Director, Interconnection Services
BellSouth Telecommunications, Inc.
BellSouth Center
675 West Peachtree Street
Atlanta, GA 30375

Re: Telenet of South Florida, Inc. Negotiations for Interconnection Agreement with BellSouth Telecommunications, Inc.

Dear Mr. Hendrix:

We are in receipt of your June 3, 1997 facsimile letter in which you respond to my letter of May 30, 1997, and clarify BellSouth's position in writing concerning disputed issues arising out of the interconnection discussions we have had recently with BellSouth on behalf of Telenet.

BellSouth's statement of a purported "conclusion" in its letter that Telenet does not intend to honor the terms and conditions of AT&T's Interconnection Agreement to "abide by the applicable law," is misguided. Moreover, its representation that Telenet has asserted during discussions that the Florida Commission's arbitration order "no longer applies to its operations" is both inaccurate and misleading.

Telenet has *never* stated or implied that it does not intend to honor the AT&T Interconnection Agreement's terms and conditions; *nor* has Telenet indicated that it would not otherwise "abide by applicable law." If, indeed, BellSouth has "concluded" otherwise, it has done so without reference to the facts or to the contents of our discussions. Telenet has *every intention* of honoring the AT&T Interconnection Agreement's terms and conditions, and abiding by applicable law. This has never been in question.

Mr. Jerry Hendrix
June 4, 1997
Page 2

Nor has Telenet asserted or implied that the Florida Commission's arbitration order "no longer applies to its operations." Telenet's position, *prior to* misstatement by BellSouth, is that, pursuant to 47 U.S.C. Section 252(i), BellSouth cannot legally place *any* preconditions or restrictions on Telenet's ability to opt-in to an approved Interconnection Agreement, and that any attempt to do so is illegal and discriminatory under federal law.

Finally, BellSouth's assertion that its statement of intent to terminate service to Telenet is not being employed as leverage in the interconnection agreement negotiations is squarely contradicted by language in its letter (at page 2) which offers to maintain uninterrupted service if Telenet agrees that it will accept greater restrictions on resale of BellSouth's services than required of AT&T in AT&T's Interconnection Agreement with BellSouth (*viz.*, subjecting itself to *tariff restrictions* in addition to the terms and conditions included in the AT&T Interconnection Agreement). This use of threat to gain an enhanced negotiation position is inconsistent with the letter and the spirit of the Florida Commission's arbitration order, which encouraged BellSouth and Telenet to negotiate an interconnection agreement in good faith and to resolve any disputes.

Telenet has requested reconsideration of the Florida Commission's arbitration order, and has made a formal written request to BellSouth to "opt-in" to the AT&T Interconnection Agreement as previously offered by you. During the pendency of the Florida Commission's reconsideration of its order, and while we are negotiating an interconnection agreement under federal law, we ask again that BellSouth withdraw its threat to disconnect our client.

Sincerely,



Ronald J. Jarvis

cc: Mr. Marvin Kupinsky
Mr. Mitchell Kupinsky
Douglas G. Bonner, Esq.
Mary Jo Peed, Esq.

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of June 1997, copies of the foregoing PETITION FOR RELIEF UNDER 47 U.S.C. § 252(i) OF TELENET OF SOUTH FLORIDA, INC., were sent via Federal Express to the following parties:

Ms. Blanca S. Bayo (C + 15)
Director, Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399

Joe Garcia
Commissioner
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Diane K. Kiesling
Commissioner
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

J. Phillip Carver
BellSouth Telecommunications, Inc.
150 South Monroe Street
Suite 400
Tallahassee, Florida 32301

Nancy H. Sims
Director, Regulatory Affairs
BellSouth Telecommunications, Inc.
150 South Monroe Street
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Tallahassee, Florida 32301

Nancy White
BellSouth Telecommunications, Inc.
675 West Peachtree Street
Room 4300
Atlanta, Georgia 30375

Charlie Pellegrini
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850


Sonja L. Sykes-Minor