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July 27, 2006

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COMMISSION
CLERK

VIA HAND DELIVERY

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

Re: Complaint of Embarq Florida, Inc. f/k/a Sprint-Florida, Incorporated against AT&T Communications of the Southern States, LLC d/b/a AT&T d/b/a Lucky Dog Phone Co. d/b/a ACC Business d/b/a SmarTalk d/b/a Unispeaksm Service d/b/a www.prepayserviceguide.com d/b/a/ CONQUEST for failure to pay intrastate access charges pursuant to Embarq's tariffs, Docket No. 060455-TP

Dear Ms. Bayo:

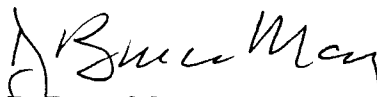
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- RCA _____
- SCR _____
- SGA _____
- SEC 1
- OTH kump.

On behalf of AT&T Communications of the Southern States, LLC ("AT&T"), enclosed for filing in the referenced proceeding are the original and seven (7) copies of its Renewed Motion to Hold Discovery in Abeyance.

For our records, please acknowledge your receipt of this filing on the enclosed copy of this letter. Thank you for your consideration.

Sincerely,

HOLLAND & KNIGHT LLP


D. Bruce May

DBM:kjg
Enclosures

cc: Commissioner Katrina J. Tew – Pre-Hearing Officer
Susan S. Masterton
Jeremy Susack
Adam Teitzman/Kira Scott
Laura King/Nancy Pruitt

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Complaint of Embarq Florida, Inc. f/k/a
Sprint-Florida, Incorporated against AT&T
Communications of the Southern States,
LLC d/b/a AT&T d/b/a Lucky Dog Phone
Co. d/b/a ACC Business d/b/a SmarTalk
d/b/a Unispeaks Service d/b/a
www.prepaidserviceguide.com d/b/a/
CONQUEST for failure to pay intrastate
access charges pursuant to Embarq's tariffs

Docket No. 060455-TP

Filed: July 27, 2006

**AT&T COMMUNICATIONS OF THE SOUTHERN STATES, LLC'S
RENEWED MOTION TO HOLD DISCOVERY IN ABEYANCE**

AT&T Communications of the Southern States, LLC ("AT&T"), hereby renews its request that the Commission hold all discovery (including interrogatories and document requests) in abeyance pending the resolution of AT&T's Motion to Dismiss Embarq's Complaint or, in the Alternative, Stay the Proceeding filed in this docket on July 10, 2006 ("Motion"). Such order is within the discretion of the Pre-Hearing Officer and would best serve the interests of judicial economy and minimizing litigation costs.

FACTS

Embarq Florida Inc. ("Embarq") filed its Complaint against AT&T on June 14, 2006. On June 30, 2006, prior to the time for AT&T to file a responsive pleading to the Complaint, Embarq served its First Set of Interrogatories (NOS. 1-19) and First Request for Production of Documents on AT&T. On July 10, 2006, AT&T filed its Motion requesting that the Commission dismiss the Complaint or alternatively hold the proceeding in abeyance and "*stay all discovery until after the conclusion of Embarq's lawsuit in federal court.*" (Emphasis added.) On July 10, 2006, AT&T also filed a Request for Oral Argument on its Motion. On July 17, 2006, Embarq filed a response to AT&T's Motion. Absent an order holding discovery in

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abeyance, AT&T's responses to the referenced discovery are due on August 3, 2006¹, prior to the expected resolution of AT&T's Motion.

ARGUMENT

Pursuant to Florida Administrative Code Rule 28-106.206, the Pre-Hearing Officer has broad latitude to "issue appropriate orders to effectuate the purposes of discovery" in pending matters. Thus, the Pre-Hearing Officer has the authority to enter an order holding all discovery in abeyance pending the resolution of AT&T's Motion. Such an order would best serve the interests of judicial economy and conserve the parties' resources. Spending time and money on written discovery when the case may be summarily dismissed or held in abeyance is wasteful – both to the parties and to the Commission Staff who will spend time reviewing filed discovery responses.

AT&T anticipates that Embarq may claim that it is unnecessary to stay discovery in this proceeding because AT&T has already compiled information responsive to Embarq's interrogatories and document requests in other litigations. Such a claim distorts the facts. Much of the information requested by Embarq in its discovery is unique to Embarq and has not been produced or compiled during the course of discovery in other litigation matters.² While some of the discovery in other litigations may be responsive to a very limited number of Embarq's requests, in other litigation AT&T has not produced any Sprint/Embarq specific documents or information.

¹ See Fla. R. Civ. P. Rules 1.340(a) and 1.350(b)(recognizing that defendant may serve answers or objections to interrogatories and responses to request for production of documents within 45 days after service of the initial pleading).

² For example, Embarq's discovery seeks information on: "PIU factors you [AT&T] would have reported to Embarq"; "the difference between the amount of access charges you [AT&T] paid Embarq on calls made with Enhanced Prepaid Card Service..."; "[t]otal originating number of interstate Toll Free minutes (using 1+8XX) for which you [AT&T] used any portion of Embarq's facilities..."; and "[E]ach NPA-NXX-XXXX telephone number associated with an enhanced prepaid calling card platform that has been provided to Embarq as an originating or terminating telephone number for calls using AT&T's Enhanced Prepaid Card Service...."

Rather than address the unassailable fact that Embarq is trying to litigate the same issues in three different forums -- something that could easily lead a casual observer to conclude that gamesmanship is taking place -- Embarq may also accuse AT&T of dilatory tactics designed to prevent it from obtaining discovery. AT&T is not seeking to prevent Embarq from obtaining discovery. Rather, AT&T merely seeks to provide one comprehensive set of responses to Embarq's requests and that simply cannot be accomplished with multiple proceedings and multiple discovery requests. Any information that Embarq seeks regarding its claims³ can and will be provided, as required by law, in either this proceeding if AT&T's pending Motion is denied, or the similar federal proceeding. But that should not occur until after the Commission addresses AT&T's Motion.

Most importantly, there is much to be gained and little to be lost by holding discovery in abeyance while the Commission deliberates on key jurisdictional issues, the resolution of which could result in outright dismissal or abeyance of the proceeding. As explained above, abating discovery pending resolution of AT&T's Motion would minimize litigation costs and advance the public policy interests of administrative efficiency and judicial economy. Moreover, holding discovery in abeyance will not prejudice either party. This case has not been scheduled for hearing and there has been no order issued establishing a procedural schedule for discovery or the filing of testimony. Thus, holding discovery in abeyance will not impede either party's

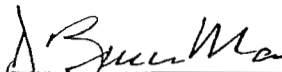
³ Embarq may also attempt portray AT&T as intransigent with regards to potential settlement of its claims. Again, that is not true. The parties have attempted to resolve the claims underlying the complaint, but have been unable to do so to date. While AT&T will diligently defend Embarq's claims and file any and all appropriate counterclaims and third-party claims, it is open to settlement discussions. AT&T merely asks that those discussions occur in one forum. In fact, the parties are required to participate in mandatory mediation in the Missouri federal district court proceeding very early in that case (we believe it could be as early as September 2006). If Embarq truly wants to attempt to settle all claims in this matter, not just in Florida but in every state, the Missouri federal case provides that the best forum to accomplish that objective.

development of its case, and it will conserve the resources of both the parties and the Commission.

For these reasons, AT&T respectfully requests that the Pre-Hearing Office hold discovery in abeyance pending resolution of AT&T's Motion. The undersigned counsel has conferred with counsel for Embarq on the Renewed Motion and counsel for Embarq objects thereto.

Respectfully submitted this 27th day of July, 2006.

HOLLAND & KNIGHT LLP



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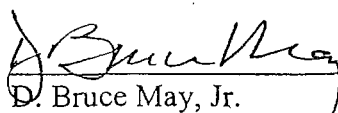
and

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Fax: (850) 425-6361

Attorneys for AT&T Communications of the Southern States, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was provided by hand-delivery to Susan S. Masterton, Counsel for Embarq Corporation, 1313 Blair Stone Road, Tallahassee, Florida 32301; Adam Teitzman/Kira Scott, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850 and Laura King/Nancy Pruitt, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850 all on this 27th day of July, 2006.


D. Bruce May, Jr.

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