



Public Service Commission

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DATE: April 16, 2010

TO: Nancy Argenziano, Chairman
Nathan A. Skop, Commissioner
Lisa Polak Edgar, Commissioner
David E. Klement, Commissioner
Ben A. "Steve" Stevens III, Commissioner

FROM: Adam J. Teitzman, Attorney Supervisor, Office of the General Counsel
Timisha J. Brooks, Attorney, Office of the General Counsel

RE: Item #3 on the April 20, 2010 Agenda Conference: Docket No. 090430-TP - Amended petition for verified emergency injunctive relief and request to restrict or prohibit AT&T from implementing its CLEC OSS-related releases, by Saturn Telecommunication Services, Inc.

On April 9, 2010, Saturn Telecommunications Services (STS) filed a Motion to Continue Hearing on Staff's Recommendation Regarding the Retirement of LENS, and to Lift Abeyance in Order to Allow Discovery. In its Motion, STS 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. Staff counsel clarified with STS that it's Motion for Continuance is a request that the recommendation be deferred from the April 20 Agenda Conference.

On April 15, 2010, AT&T filed a Response in Opposition to STS' Motion. In its Response, AT&T requests that the Commission deny STS' Motion. AT&T states that "Staff's recommendation is set for the April 20, 2010 Agenda Conference as a Proposed Agency Action (PAA) in which interested persons may participate including STS...", "that STS seems to have a thorough misunderstanding of the Commission's administrative procedures regarding proposed agency action...", and lastly that, "if the Commission determines to issue a PAA at the agenda conference, a PAA order is issued within 20 days of the vote. Substantially affected persons usually have 21 days from the date of the order to file a protest requesting a hearing under Sections 120.569 and 120.57, Florida Statutes. If protested, the intended action of the commission becomes subject to an administrative hearing."

AT&T's Response reflects what staff counsel has previously explained to STS. Specifically, that by Order No. PSC-09-0799-PAA-TP, issued December 2, 2009, the Commission placed this matter in abeyance pending the completion of staff's audit. Furthermore, holding this matter in abeyance stayed the proceeding in its entirety including the

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ability to conduct discovery. STS was also advised that if the Commission approves staff's recommendation it will be issued as a PAA Order. STS then would have 21 days from the date of issuance of the PAA Order to file a protest and request an administrative hearing. If an administrative hearing is requested, STS will have the right to conduct discovery including depositions.

Upon review of STS' Motion and AT&T's Response, staff believes that this item should not be deferred from the April 20, 2010, Agenda Conference. This item is noticed as a PAA and interested persons may participate. Consequently, STS will have the opportunity at the Agenda Conference to address the Commission.

Furthermore, STS will have an opportunity to protest any proposed actions ordered by the Commission and to request an administrative hearing. Thus, staff does not believe that any administrative efficiency would be gained by deferring a decision and permitting discovery to be conducted at this time. It should also be noted that if an administrative hearing were requested, the Commission's review of its proposed agency actions, if any, would be *de novo*, meaning as if a decision had not been rendered.

Attached are copies of STS' Motion and ATT's Response for your review.