

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re Complaint of BellSouth
Telecommunications, Inc. d/b/a AT&T
Florida Against Grande Communications
Networks LLC, and Grande Communications
Networks, Inc.)))))
Docket No. 100275-TP
Filed: June 25, 2010

**GRANDE COMMUNICATIONS NETWORKS, LLC'S
ANSWER AND AFFIRMATIVE DEFENSES**

Defendant Grande Communications Networks LLC ("Grande") hereby answers the Complaint of BellSouth Telecommunications, Inc. ("AT&T Florida") and asserts affirmative defenses in the above-captioned proceeding, as set forth below:

INTRODUCTION

The names and contact information for Grande's designated representatives in this matter are:

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and

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This case involves reciprocal compensation and transiting charges that AT&T Florida claims under its Interconnection Agreement with Grande Communications Networks, Inc. (the "Agreement").¹ Though AT&T Florida prefaces its factual allegations with a lengthy introductory statement characterizing the legal effect of the Agreement, Grande prefers to let the document speak for itself.

Grande does not object in principle to paying AT&T Florida amounts due for reciprocal compensation and transit pursuant to its Interconnection Agreement, once traffic is properly characterized and apportioned between those categories of traffic. However, the amounts of traffic that AT&T claims fall into each category are not clear, and in addition, AT&T's complaint excludes some traffic that Grande also believes falls under reciprocal compensation and transit, rather than other types of traffic.² Grande has attempted, and continues to attempt, to resolve this dispute with AT&T through good faith negotiations. Accordingly, Grande respectfully requests staff assistance at reaching such a resolution through mediation.

The unnumbered introductory paragraphs of AT&T's Complaint are not identified as allegations in support of the complaint and thus do not require response. However, to the extent

¹ Grande Communications Networks, Inc. ("Grande Inc.") converted to a limited liability company in the fall of 2009 and is now known as Grande Communications Networks, LLC. Under Delaware law, such conversion is accomplished simply by filing a certificate of conversion and a certificate of formation with the Secretary of State. The company does not believe that notice of the conversion was required under Section 364.33, Florida Statutes, because it did not result in any transfer of the company's IXC and CLEC certificates to a different entity, but instead effectively changed only the company's name and the form of business organization it elected. The company voluntarily surrendered its authority to do business in Florida under its old name on November 16, 2009 and on November 17, 2009, sought and was granted authority to do business under its new name, Grande Communications Networks, LLC. However, the company inadvertently neglected to notify the commission of the conversion and name change, and has done so by letter dated June 25, 2010. Grande has no end-user customers in Florida at this time.

² See Complaint of BellSouth Telecommunications, Inc. d/b/a AT&T Florida Against Grande Communications Networks LLC, and Grande Communications Networks, Inc., n.5, Docket No. 100275-TP (filed May 11, 2010).

a response may be required, Grande generally denies all allegations except as expressly admitted herein.

ANSWER

Except as expressly admitted herein, all of AT&T Florida's allegations are denied:

1. Grande lacks sufficient information to admit or deny the allegations in paragraph 1.
2. Grande acknowledges AT&T's designation of representatives in paragraph 2.
3. Regarding paragraph 3, Grande admits that prior to September 10, 2009, Grande Inc. was a Delaware corporation with its principal place of business in San Marcos, Texas. On September 9, 2009, Grande Inc. was converted to a limited liability company pursuant to Delaware corporate law, resulting in a change of the company's name to Grande Communications Networks, LLC, as well as a change in the form of its business organization. Grande admits that it is certificated as both a CLEC and an IXC and is authorized to provide telecommunications services in the state of Florida.
4. Regarding paragraph 4, Grande admits that Grande Inc. was formerly a Delaware corporation with its principal place of business in San Marcos, Texas. Grande further admits that on September 9, 2009, Grande Inc. was converted to a limited liability company pursuant to Delaware corporate law, resulting in a change of the company's name to Grande Communications Networks, LLC, as well as a change in the form of its business organization. The company's principal place of business remains in San Marcos, Texas. Grande denies that it is not authorized to provide telecommunications services in the state of Florida.

5. Grande admits that the address set forth in paragraph 5 is one of its business addresses, but denies that paragraph 5 contains the correct contact information for purposes of this proceeding. Grande's contact information for purposes of this proceeding is set forth on pages 1 and 2, above.
6. Grande admits that the Florida Public Service Commission is located at 2540 Shumard Oak Blvd, Tallahassee, Florida 32399. Paragraph 6 otherwise states legal conclusions to which no response is required.
7. Grande admits the allegations in paragraph 7.
8. Grande admits the allegations in paragraph 8.
9. Grande admits that paragraph 9 purports to describe the succeeding paragraphs of AT&T Florida's Complaint.
10. Grande admits the allegations in paragraph 10, except that prior to the March 28, 2006, amendment to Attachment 3, Section 7.1.4 of that Attachment provided in full that: "the Parties will compensate each other on mutual and reciprocal basis for the per minute of use rate elements associated with Call Transport and Termination of Local Traffic at the elemental rates set forth in Exhibit A of this Attachment. Neither Party shall compensate the other for the per minute of use rate elements associated with Call Transport and Termination of ISP-bound traffic."
11. Grande admits the allegations in paragraph 11.
12. Grande admits that it has delivered traffic to AT&T Florida and that AT&T Florida has completed this traffic to AT&T Florida's customers. Grande further admits that prior to the March 28, 2006, amendment to Attachment 3, Section

7.1.4 of that Attachment provided in full that: “the Parties will compensate each other on mutual and reciprocal basis for the per minute of use rate elements associated with Call Transport and Termination of Local Traffic at the elemental rates set forth in Exhibit A of this Attachment. Neither Party shall compensate the other for the per minute of use rate elements associated with Call Transport and Termination of ISP-bound traffic.” After the March 28, 2006, amendment to Attachment 3, Section 7.1.4 of the Amended Attachment provides that “Each Party shall pay compensation to the other Party for Call Transport and Termination of Local Traffic or ISP-bound Traffic at the composite rate set forth in Exhibit A of Attachment 3.” Grande admits that AT&T Florida has billed Grande for amounts due as reciprocal compensation under the Agreement, but denies that AT&T Florida has billed Grande correctly.

13. Grande admits that AT&T Florida rendered to Grande monthly invoices for reciprocal compensation by means of AT&T’s Carrier Access Billing System (CABS). Grande admits that it has not paid AT&T Florida the full amounts invoiced for reciprocal compensation, and that as of March 31, 2010 the unpaid bills for reciprocal compensation totaled at least \$38,000. Grande admits that the Agreement contains the quoted language, but avers that the Agreement also contains relevant terms and conditions regarding billing disputes. (*See Attachment 7, Sections 2.1-2.3.*)
14. Grande admits the allegations in paragraph 14, but avers that Grande recently offered to pay amounts due and owing for Voice over Internet Protocol (“VoIP”) traffic delivered by Grande to AT&T Florida.

15. Regarding paragraph 15, Grande admits that AT&T Florida has denied Grande's dispute forms. The terms of the Agreement speak for themselves; contentions about their legal effect require no factual response.
16. Grande denies the allegations in paragraph 16, and avers that the Agreement does not expressly address the delivery of VoIP traffic. Prior to the March 28, 2006, Amendment to Attachment 3, Section 7.1.4 of that Attachment provided that:
"Neither Party shall compensate the other for the per minute of use rate elements associated with Call Transport and Termination of ISP-bound traffic." The terms of the Agreement speak for themselves; contentions about their legal effect require no factual response.
17. Grande admits the allegations in paragraph 17.
18. Regarding paragraph 18, Grande admits that Section 2.1.17 of Attachment 3 contains the quoted language; this section provides in full: "**Transit Traffic** is traffic originating on Grande's network that is switched and/or transported by BellSouth and delivered to a third party's network, or traffic originating on a third party's network that is switched and/or transported by BellSouth and delivered to Grande's network."
19. Grande denies allegations in paragraph 19 that AT&T Florida routes and delivers transit traffic on behalf of Grande, but admits that AT&T Florida has done so in the past. Grande no longer does any business in Florida nor does it deliver traffic of any kind to AT&T Florida at this time. The terms of the Agreement speak for themselves; contentions about their legal effect require no factual response.

20. Grande admits that it has delivered traffic to AT&T Florida requiring transiting services and that AT&T has provided that service as alleged in paragraph 20. Grande denies that AT&T Florida has billed Grande correctly. Grande admits that it has refused to pay the full amount of transiting charges for VoIP traffic, but avers that it has since offered to pay amounts due and owing for VoIP traffic delivered by Grande to AT&T Florida.
21. Paragraph 21 raises no new factual allegations as to which a response from Grande is required.
22. Grande has been unable to replicate AT&T's calculation of the amount that AT&T alleges is owed, and on that basis cannot admit or deny the allegations of paragraph 22.
23. Grande repeats each and every admission and denial of an allegation, as set forth in paragraphs 1-22.
24. Paragraph 24 raises no new factual allegations as to which a response from Grande is required.
25. Paragraph 25 raises no new factual allegations as to which a response from Grande is required.
26. Grande admits that AT&T has made several demands for payment. Paragraph 26 raises no other new factual allegations as to which a response from Grande is required.
27. Paragraph 25 raises no new factual allegations as to which a response from Grande is required.

28. Paragraph 28 raises no new factual allegations as to which a response from Grande is required. To the extent any response is required, Grande denies this paragraph.
29. Grande repeats each and every admission and denial of an allegation, as set forth in paragraphs 1-22.
30. Paragraph 30 raises no new factual allegations as to which a response from Grande is required.
31. Paragraph 31 raises no new factual allegations as to which a response from Grande is required.
32. Paragraph 32 raises no new factual allegations as to which a response from Grande is required. To the extent any response is required, Grande denies this paragraph.

AFFIRMATIVE DEFENSES

In further answer to AT&T Florida's Complaint, and in support of its Affirmative Defenses, Grande hereby alleges as follows:

33. AT&T Florida's claims against Grande are barred for failure of a condition or conditions precedent, in that AT&T Florida failed to accurately bill Grande under the terms of the parties' interconnection agreement.
34. AT&T Florida's claims against Grande are barred or limited by the statute of limitations to the extent, if any, that it seeks recovery for claims dating before May 11, 2005.

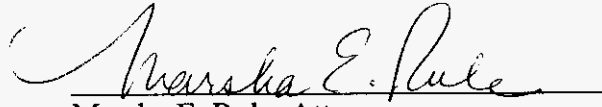
35. To the extent that AT&T Florida seeks recovery for interstate services or mixed interstate and intrastate service or other service beyond the Commission's jurisdiction, this Commission lacks subject matter jurisdiction.
36. Grande reserves the right to designate additional defenses as they become apparent throughout the course of discovery, investigation and otherwise.

REQUEST FOR STAFF MEDIATION

Grande has attempted in good faith to resolve this dispute through settlement negotiations, but AT&T Florida has not been receptive to Grande's attempts. Grande requests mediation by the Staff of the Public Service Commission to further attempt to reach a voluntary resolution of this dispute with AT&T Florida.

WHEREFORE, Grande respectfully requests the Commission to deny the relief sought by AT&T, set this matter for Staff mediation, and grant Grande such other and further relief as may be just and appropriate.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by email and United States Mail this 25th day of June, 2010, to the following:

Florida Public Service Commission:

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Pauline Evans, Esq.
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