

Eric Fryson

From: Tom Armstrong [tom.armstrong.sr@gmail.com]
Sent: Friday, June 22, 2012 5:09 PM
To: Filings@psc.state.fl.us
Subject: 120169-TP Digital Express, Inc.'s Response to AT&T's June 20th "Lack of Notice" Letter
Attachments: DEI reply to Montgomer obj ltr to FL PSC 062212.pdf

A. Person responsible for this filing:

Thomas Armstrong, President
Digital Express, Inc.
1803 W. Fairfield Drive, Unit 1
Pensacola, FL 32501
850-291-6415
tom.armstrong.sr@gmail.com

B. Docket

Docket No . I20169-TP: Notice of Adoption of Existing Interconnection, Unbundling, Resale, and Collocation Agreement between BellSouth Tel ecommunications, Inc. d/b /a AT&T Florida d/b/a AT& T Southeast and New Talk, Inc . by Digital Express, Inc.

C. Party on whose behalf the document is filed:

Digital Express, Inc.

D. Total number of pages in each attached document.

6 pages total (includes letter and certificate of service)

E. Brief but complete description of each attached document.

Digital Express, Inc.'s Response to AT&T's June 20th "Lack of Notice" Letter

--

Tom Armstrong
850.291.6415 mobile
850.607.2280 office
850.308.1151 fax
tom.armstrong.sr@gmail.com

DOCUMENT ACCEPTED

04174 JUN 25 09

FPSC-COMMISSION CLERK

6/25/2012

DIGITAL EXPRESS, INC.

1803 W. FAIRFIELD DRIVE, UNIT 1
PENSACOLA, FL 32501
850-291-6415 FAX 850-308-1151

June 22, 2012

Ms. Ann Cole
Commission Clerk
Office of the Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Docket No. 120169-TP

Notice of Adoption of Existing Interconnection, Unbundling, Resale and Collocation Agreement between BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast and New Talk, Inc. by Digital Express

Dear Ms. Cole:

AT&T Florida filed a letter dated June 20, 2012 from Suzanne L. Montgomery, General Attorney-Florida, AT&T, in which it was requested that AT&T Florida be added as a party of record to this docket. Digital Express certainly has no objections to AT&T Florida's request to become a party of record to this docket, however Digital Express must object to what appears to be undue preferential treatment being afforded AT&T by Commission Staff based on misrepresentations by AT&T.

Digital Express sent a notice of adoption to AT&T accordance with the instructions/guidance provided by AT&T itself at <https://clec.att.com/clec/>. To ensure timely delivery of the notice to AT&T, Digital Express provided the notice to AT&T on June 5, 2012 in three distinct separate formats – electronic mail (June 5, 2012 @ 3:08 pm), facsimile (June 5, 2012 @ 2:03 pm) and overnight courier (June 5, 2012 via UPS Next Day Air which was signed for by J. Richards on June 6, 2012 @ 1:13 pm). Until Ms. Montgomery's letter previously referenced, AT&T has not replied in any way shape or form to acknowledge the receipt of the notice but Digital Express did not receive any error message of any type indicating that there was any trouble encountered in the electronic delivery of the message containing the notice, the facsimile transmission functioned without error and as stated above, the overnight courier package was signed for by AT&T.

AT&T's own website, one that is purported by AT&T to provide guidance to CLECs, provides the destination for adoption notices. This address is AT&T Contract Management and that is the address that Digital Express delivered the notice to. There is nothing on the website that advises or instructs CLECs of the any necessity to notify the individual state counsels for AT&T. AT&T was provided notice by Digital Express in format AT&T established and the Commission was

DOCUMENT NUMBER DATE

04174 JUN 25 09

FPSC-COMMISSION CLERK

provided notice by Digital Express in format the Commission established. Additionally, other AT&T personnel in direct communication with Digital Express were advised of the adoption of the agreement.

AT&T was in possession of the notice of adoption for fifteen days by the date of Ms. Montgomery's letter. The only party that can be held responsible for the time between AT&T receiving notice of adoption and Ms. Montgomery's response to the Commission is AT&T itself. Digital Express and the Commission all performed their respective duties in this matter in a timely and prompt manner. The notice of adoption was dated June 5, 2012 and therefore the adoption is effective on that date. AT&T has squandered the fifteen days since that date for no apparent reason other than its own inefficiency in inter-department communications. Neither of the other two parties of interest in this adoption, Digital Express and the Commission, should be negatively affected by AT&T's inaction.

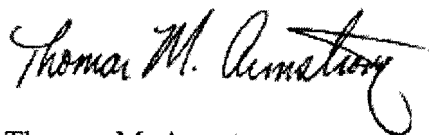
During the preparation of this response to Ms. Montgomery's letter, Digital Express was advised that Commission staff member Ms. Lee Ann Tan has made the decision to give AT&T until July 8th to respond. Digital Express strenuously objects to this decision by Staff as the facts will clearly prove that AT&T's claim is invalid and untruthful.

Digital Express has attached to this correspondence proof of the delivery of notice to AT&T on June 5, 2012. Digital Express cannot be held responsible for nor should their due process rights be infringed upon by AT&T's failure to properly handle a valid notice delivered to them in the manner and at the destination AT&T itself established.

Digital Express hereby urges the Commission to continue on a normal schedule course of action in the administratively recording the adoption of the agreement by Digital Express effective upon date of notice as supported by law and to require AT&T to submit any response by the time frame that would normally apply to the notice AT&T received on June 5, 2012.

Thank you for your attention to this matter. Please feel free to call me if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Thomas M. Armstrong". The signature is written in black ink and is positioned above the typed name and title.

Thomas M. Armstrong
President

SHIPPING DOCUMENT RECEIPT

PREPAID LETTER

UPS Next Day Air Saver

See instructions on back. Call 1-800-PICK-UPS (1-800-742-5877) for additional information.



U501 543 636 6

[Redacted area]

EXPIRATION DATE

2010625412 1/98 W

① DATE OF RECEIPT: 06/05/12

② TELEPHONE: 092-198

③ REFERENCE NUMBER

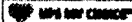

NAME	TELEPHONE	
DIGITAL EXPRESS	850-291-6415	
COMPANY		
1803 W. FAIRFIELD DR., Unit 1		
STREET ADDRESS		
CITY	STATE	ZIP CODE
Pensacola	FL	32501

SHIPPER'S COPY

④

NAME	TELEPHONE	
Contract Management	210-821-4105	
COMPANY		
AT&T		
311 S. Akard, Four AT&T Plaza, 9th Floor		
STREET ADDRESS		
CITY	STATE	ZIP CODE
Dallas	TX	75202

RECEIPT OF OVERNIGHT COURIER PACKAGE BY ADDRESSEE VERIFICATION

United States		New User Log-In Contact UPS The UPS Store Search
My UPS	Shipping	Tracking Freight Locations Support UPS Solutions
Tracking Number: [REDACTED]	Log-In for additional tracking details.	Other Tracking Options
Tracking Detail		Print Help AAA
U5015438366		Updated: 05/08/2012 8:00 P.M. Eastern Time
Delivered		Shipping Information
Delivered On: Wednesday, 05/08/2012 at 1:13 P.M. Left At: Front Desk Signed By: J RICHARDS Proof of Delivery		To: DALLAS, TX, US
Additional Information		Shipped By
Type: Package		UPS NEXT DAY AIR SAVER
Shipment Progress	What's This?	 TIRED OF GETTING THIS? 

FACSIMILE TRANSMISSION VERIFICATION

HP Color LaserJet CM1312nfi MFP

Last Call Report

DIGITAL EXPRESS INC
 8504976354
 Jun-5-2012 2:06PM

Job	Date	Time	Type	Identification	Duration	Pages	Result
1076	6/ 5/2012	2:03:55PM	Send	18004044548	2:18	7	OK

Docket No. 120169-TP
June 20, 2012
Page 5

ELECTRONIC MAIL NOTIFICATION TO AT&T



Tom Armstrong <tom.armstrong.sr@gmail.com>

Notice of the Adoption of ICA by Digital Express, Inc. (BellSouth Telecommunications, Inc d/b/a AT&T Florida d/b/a AT&T Southeast and New Talk, Inc.)

1 message

Tom Armstrong <tom.armstrong.sr@gmail.com>
To: m41654@att.com

Tue, Jun 5, 2012 at 3:08 PM

Attached is notice of adoption of the ICA between BellSouth Telecommunications, Inc d/b/a AT&T Florida d/b/a AT&T Southeast and New Talk, Inc. by Digital Express, Inc.

Tom Armstrong
850.291.8415 mobile
850.607.2280 office
850.308.1151 fax
tom.armstrong.sr@gmail.com

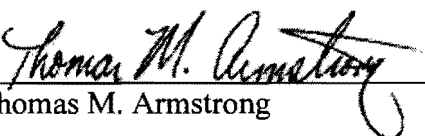
notice of adoption of new talk 05052012.pdf
687K

CERTIFICATE OF SERVICE
Docket No. 120169-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 22th day of June, 2012 to the following:

Shalonda Hopkins
Staff Counsel Florida Public Service
Commission Division of Legal Services
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
Tel. No. (850) 413-6098
shopkins@psc.state.fl.us

AT&T
Suzanne Montgomery
General Attorney
AT&T Florida
150 South Monroe Street, Suite 400
Tallahassee, FL 32301
T: (305) 347-5558
F : (305) 577-4491
sm6526@att.com



Thomas M. Armstrong