



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

RECORDS AND REPORTING

29 MAR -4 AM 10:49

RECEIVED-FTSC

DATE: MARCH 4, 1999

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAY)

FROM: DIVISION OF LEGAL SERVICES (B. KEATING) *PK MCB*
 DIVISION OF CONSUMER AFFAIRS (STOKES) *Sas*
 DIVISION OF COMMUNICATIONS (SHELFER) *W*

RE: DOCKET NO. 990193-TP - COMPLAINT BY ATNEX COMPUTER CORP. AGAINST BELL SOUTH TELECOMMUNICATIONS, INC. REGARDING BILLING DISPUTE.

AGENDA: MARCH 16, 1999 - REGULAR AGENDA - PROCEDURAL MATTER - DECISION PRIOR TO HEARING - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\LEG\WP\990193.RCM

CASE BACKGROUND

On October 2, 1998, Mr. Larry Goodman filed a complaint with the Commission's Division of Consumer Affairs (CAF) against BellSouth Telecommunications, Inc. (BellSouth) on behalf of his company, Atnex Computer Corporation. Mr. Goodman asserted that he had contracted with BellSouth for a T-1 line to be installed for his business, ComputerEase Associates. He noted that ComputerEase merged with Atnex Computer Corporation on April 28, 1998, with the surviving company being Atnex. Mr. Goodman claimed that the line was not installed properly and as a result, he was without service for a period of six months. Mr. Goodman further claimed that he also requested service for three other accounts, Workforce, Federal Fabrication, and Lantana Peat, from BellSouth. He indicated that service was also unsatisfactory on these accounts due to improper installation. Mr. Goodman asserted that he complained about the service problems, but never received credit from BellSouth, even

DOCUMENT NUMBER-DATE

02784 MAR-4 99

FPSC-RECORDS/REPORTING

though he paid over \$40,000 to BellSouth. The customer's attorney added that Mr. Goodman's Club Account bills were "unintelligible." A billing dispute arose between Mr. Goodman and BellSouth. Thereafter, service was disconnected on one of Mr. Goodman's accounts on September 29, 1998. Mr. Goodman claimed that BellSouth did not send notice of the disconnection.

In its response, BellSouth stated that its records showed that the lines had been installed properly and were the circuit type and speed requested by the customer. BellSouth asserted that it discussed the billing concerns with Mr. Goodman and further informed him that he had to keep his accounts current in order to avoid disconnection. BellSouth indicated that Mr. Goodman held a number of accounts that were currently in dispute, but that its records did not indicate that Mr. Goodman had disputed any accounts that had already been disconnected. BellSouth further asserted that Mr. Goodman's original complaint only pertained to termination charges on the ComputerEase account; thus, only the termination charges relating to that account should be considered in dispute. As such, BellSouth believed it should be allowed to disconnect Mr. Goodman's service for any unpaid balance on his Club Account that were not considered to be in dispute in this complaint.

On January 29, 1999, an informal conference was held with the parties and a CAF staff member. The parties were unable to resolve this matter. In addition, it became apparent that the facts of this case are very unclear as to which accounts were disconnected, when they were disconnected, on what basis they were disconnected, what was the service quality, what charges were assessed on the accounts, when the accounts were disputed, and which accounts were disputed. Staff stated that Mr. Goodman's payment of \$6,714.95, which was posted to Mr. Goodman's Club Account, should be considered an interim payment for all accounts in dispute due to the lack of clarity regarding the facts and that Mr. Goodman's Club Account should not be disconnected pending resolution of this dispute. However, based on statements made by BellSouth and the January 18, 1999, letter attached hereto as Attachment A, it appears that Atnex agreed to pay the unpaid balance of the Club Account during the pendency of the dispute. As such, BellSouth apparently disconnected Mr. Goodman's service on or about February 17, 1999.

This is staff's recommendation regarding this dispute.

DISCUSSION OF ISSUES

ISSUE 1: Should this matter be set for hearing?

RECOMMENDATION: Yes. The facts of this case are unclear; thus, staff recommends that this matter be set for a Section 120.57, Florida Statutes, hearing, in accordance with Rule 25-22.032(8), Florida Administrative Code. **(KEATING, STOKES, SHELFER)**

STAFF ANALYSIS: As set forth in the Case Background, the facts in this case are disputed. Staff is unable to make a recommendation to the Commission regarding the dispute, because of this factual dispute and the generally convoluted nature of the case. At this point, staff is unable to develop even a general time line of the events in this case. Staff recommends, therefore, that this matter be set for hearing in accordance with Rule 25-22.032(8), Florida Administrative Code.

ISSUE 2: What should be the status of Mr. Goodman's various BellSouth accounts while this dispute is pending?

RECOMMENDATION: While this case is pending a formal hearing, Mr. Goodman's accounts should remain disconnected until Mr. Goodman pays the undisputed amounts due, in accordance with Rule 25-22.032(10), Florida Administrative Code. It appears that Mr. Goodman has failed to pay an undisputed portion of the accounts. **(KEATING)**

STAFF ANALYSIS: Again, staff emphasizes that the facts of this case are very unclear. It appears, however, that the parties reached an oral agreement in January that Atnex would pay the balance on its Club Account in order to retain service. That agreement is memorialized by letter dated January 18, 1999, and it is signed by the attorneys for each party. Although it is not clear whether the parties agreed that the amount to be paid was still in dispute or not, it is clear that there was agreement that service would be disconnected if the amount indicated was not received by January

29, 1999. Staff had also indicated in its December 24, 1998, letter to Mr. Goodman that it appeared that the Club Account should not be considered in dispute. Attachment B. As such, Atnex's service was apparently disconnected by BellSouth in accordance with Rule 25-22.032(10), Florida Administrative Code, which states, in pertinent part:

. . . if the customer fails to pay the undisputed portion of the bill the utility may discontinue the customer's service pursuant to Commission rules.

Staff notes, however, that it is concerned that BellSouth appeared to be willing to disconnect Mr. Goodman's service even when staff questioned whether or not the Club Account balance was actually disputed. Staff questions whether or not the initial complaint by Mr. Goodman was inaccurately stated due to miscommunication between Mr. Goodman and his initial contact person at BellSouth. Nevertheless, based upon what has been submitted to date, it appears that Mr. Goodman's Club Account was properly disconnected in accordance with the Commission's rules. See also Attachment C and D.

ISSUE 3: Should this Docket be closed?

RECOMMENDATION: No. If the Commission approves staff's recommendation in Issue 1, this Docket should remain open pending the outcome of the hearing. **(KEATING)**

STAFF ANALYSIS: If the Commission approves staff's recommendation in Issue 1, this Docket should remain open pending the outcome of the hearing.

02/01/99 17:08 TALLAHASSEE REGULATORY -> FPSC

02/01/99 17:20

15:44 651-368-8293

CARTER & HOLDEN, P.A.

NO. 005 P002/002
PAGE 02

George B. Thomas
General Attorney

BellSouth Telecommunications, Inc.
Shannon Tower Building
Suite 1910
100 West Flagler Street
Miami, Florida 33130
(305) 372-5274

January 18, 1999

Via-Facsimile

Donald Thomas, Esq.
Carter & Thomas
1300 North Federal Highway
Suite 312
Boca Raton, Florida 33432

Re: Atnex Computer Corp./BellSouth Telecommunications

Dear Mr. Thomas:

This will confirm our telephone conversation of this date. As agreed, BellSouth Telecommunications, Inc. ("BellSouth") is willing to reactivate Atnex's account number 561-V52-7018-233 through the informal conference set for January 29, 1999, in return for the partial payment by cashier's check of \$6,714.93. Said payment will be delivered in my office by courier on January 19, 1999 by 11:00 A.M. This payment will be credited to your client's account. Failure to make this payment by the date and time specified will result in the immediate disconnection without notice of the account. Additionally, the acceptance of this payment does not constitute a waiver by BellSouth of its respective rights and position. As I advised, BellSouth does not concede that this account was in dispute prior to its disconnection.


If you agree to the terms herein, please enclose a copy of this letter and fax and mail it to me. I will proceed to have the account reactivated. If you have any questions, please feel free to contact me.

Sincerely,


George B. Thomas

Agreed,

ATNEX

By: 
Donald J. Thomas, Attorney in Fact

DOCKET NO. 990193-TP
DATE: MARCH 4, 1999

ATTACHMENT B

STATE OF FLORIDA

Commissioners:
JULIA L. JOHNSON, CHAIRMAN
J. TERRY DEASON
SUSAN F. CLARK
JOE GARCIA
E. LEON JACOBS, JR.



DIVISION OF CONSUMER AFFAIRS
BEVERLEE DEMELLO
DIRECTOR
(850) 413-6100
TOLL FREE 1-800-342-3552

Public Service Commission

December 24, 1998

Mr. Larry Goodman
Atnex Computer Corporation
1650 South Powerline
Deerfield Beach, FL 33442

Re: RE: FPSC # 2298361

Dear Mr. Goodman:

This is a follow up to our conversation on December 15, 1998, regarding your case against BellSouth Telecommunications, Inc. (BellSouth).

After our telephone conversation, I contacted BellSouth and requested that a report be sent to me showing if any protect accounts were being scheduled for interruption. From this, documentation shows the following account history for the accounts that are not subject to protection and are considered undisputed:

- ▶ Account # 561 989-9355-739, owes \$ 9,386.74 for Howard Barsky DBA Computer Ease. Status: Final.
- ▶ Account # 561 V47-9222-222, owes \$ 4,576.21 for Computer Ease Atnex. Status: Final.
- ▶ Account # 561 V52-7018-233, owes \$11,010.43 for Computer Ease Atnex Status: Live (November 24, 1998, an interruption notice was sent requesting the balance of \$10,508.76 by December 1, 1998.)
- ▶ Account # 561 V47-1492-492, owes \$2,164.38 for Computer Ease, Inc. Status: Final in Outside Collection Agency. (Dishonored check received on April 27, 1998, \$1,000.00 included.)
- ▶ Account # 305 W54-6641-808, owes \$805.11 for Atnex Computer Eases. Status: Live (November 2, 1998, A disconnect letter was sent requesting the balance of \$509.47 by November 9, 1998. Pending authorization to disable.)

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Mr. Larry Goodman
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December 24, 1998

- ▶ Account # 305 W54-8901-901, owes \$1,239.18 for Atnex Computer, Inc. Status: Disabled November 9, 1998. Pending authorization to total disconnect.
- ▶ Account # 561 Z17-6513-336, owes \$2,056.48 for Howard Barsky DBA Computer Ease. Status: Final in Outside Collection Agency.

To date, BellSouth Telecommunications reports that they have received payments of \$727.78 on November 5, 1998, and \$1,651.86 on December 20, 1998. Therefore, the company does show the payment that you faxed to me on December 12, 1998. Also, documentation shows that as of December 23, 1998, your attorney has not contacted BellSouth Telecommunication's attorneys.

On the other hand, the following accounts are considered in dispute and are protected. The company cannot take any action related to the outstanding balances for these two accounts listed below as follows:

- ▶ In October 1997, your T-1 line was installed. On September 29, 1998, your service was cut on this account for nonpayment of the following accounts: Federal Fabrication, Account #954v84-0451, of which there is an outstanding balance of \$850.00 (installation charges) and \$4,122.93 (termination liability charges); and Lantana Peat and Soil, Account #651v47-5534, of which there are an outstanding balance of \$925.00 (installation charges) and \$3,611.10 (termination liability charges). Please understand that because you opened a case with Florida Public Service Commission on October 2, 1998 (after the date that your service was disconnected), the PSC can only require that BellSouth Telecommunications hold off on collection action until this matter is resolved. However, BellSouth Telecommunications is not required to reactive service on these accounts.

As we discussed, please understand that only the accounts that are in dispute would be subject to protection until your Florida Public Service Commission case against BellSouth Telecommunications is resolved. As explained above, the services on two protected accounts were already interrupted before you filed your case with the Florida Public Service Commission. So this only stops the company from attempting to collect the outstanding balances on these two accounts. Furthermore, you will also need to pay all charges related to the undisputed accounts to prevent the company from interrupting service on those accounts.

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ATTACHMENT B

Mr. Larry Goodman
Page 3
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If you have any questions pertaining to your case or the information provided in this letter, please contact me at 1-800-342-3552, at my direct line 850-413-6115, or by E-mail at jplescow@psc.state.fl.us.

Sincerely,


John Plescow
Regulatory Specialist

cc: BellSouth Telecommunications

DOCKET NO. 990193-TP
DATE: MARCH 4, 1999

ATTACHMENT C

Attachment 4 ★
TELEFAX COVER SHEET

BELLSOUTH TELECOMMUNICATIONS, INC.
LEGAL DEPARTMENT

MUSEUM TOWER - SUITE 1910
150 W. FLAGLER ST.
MIAMI, FL 33130

PLEASE DELIVER THE FOLLOWING PAGES AS SOON AS POSSIBLE TO:

NAME: Leroy Rasberry, PSC (850) 413-6362
Shirley Stokes, PSC (850) 413-6362
Donald Carter counsel for Atnex (561) 368-0293

ADDRESS: FAX NO.: 850) 413-6362

FROM: Lisa B. Hogan, Esquire

TELEPHONE NO.:(305) 347-5567 FAX NO: (305) 375-0209

COMMENTS: Attached is a chart of all of the BellSouth Telecommunications, Inc. accounts for Atnex/Computer Ease which are in arrears. This list is being provided as a courtesy pursuant to Shirley Stokes' request during the January 29, 1999 informal conference concerning the termination charges on two accounts which are the subject of the 10/98 PSC complaint. The complaint concerns the termination and installation charges relating to the first two items on the list. The list does not include accounts for BellSouthDOTNET internet service company which are also in arrears.

The CLUB account charges are subject to the January 18, 1999 settlement agreement executed by counsel for BST and Atnex. They were not related to the termination charges nor were they the subjects of the complaint or disputed by Atnex in the complaint.

Thank you for your attention to this matter.

TOTAL NUMBER OF PAGES INCLUDING THIS COVER SHEET: 3

DATE: Monday, February 01, 1999

TIME: 6:29 PM

TRANSMITTAL IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL TO WHOM IT IS ADDRESSED, AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND/OR EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF THE RECIPIENT OF THIS TRANSMISSION IS NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, REPRODUCTION OR REPLICATION OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS TRANSMISSION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE, AND RETURN THE ORIGINAL TRANSMITTAL TO US AT THE ABOVE ADDRESS VIA UNITED STATES POSTAL SERVICE. WE WILL REIMBURSE YOU FOR THE POSTAGE. THANK YOU.

02/01/99 1:59

account total BST services total

balance

monthly charges

speed

billing #

circuit id

address

location

old headquarters

854-V84-0451 64K \$138.17 561-989-9355 89,388.74

\$1,428.38

\$138.17

64K

561-V47-5534

800KDA500360

10570 HAGEN RANCH ROAD, BOYNTON BEACH

LARIANA PEAT & SON

561-V47-9222

128K PORT

561-V47-5150

80LDA500439

TERMINATED BY CUSTOMER

\$4,576.21

\$170.71

128K LINE

561-V47-9222

800JHG506471

TERMINATED BY CUSTOMER

\$15,389.33

\$2,164.38

\$487.17

T1

561-V47-1492

800GDA500035

6600 W. Roger Circle Boca Raton

#3

\$1,247.00

\$549.68

T1

561-V47-8459

800GDA501060

1650 S POWERLIN E ROAD, DEERFIELD BEACH

NEW HEADQUARTERS

#4 CLUB ACCOUNT

\$318.89

\$38.14

1FB

561-989-9408

561-989-9408

VIEW DRIVE ROYAL PALM BEACH

\$1170.24

\$449.60

1FB'S

954-429-9191

954-429-9191

ADAM WEBER

\$1826.47

\$539.68

T1

561-V47-3704

800GDA501005

702 E. LAKE VIEW DRIVE ROYAL PALM BEACH

\$532.05

\$120.37

128K PORT

561-V47-1830

800LDA500494

7100 WEST CAMINO REAL, ROCA

ON LINE TECHNOLOGIES

ACCOUNT #	ADDRESS	ACCOUNT #	DESCRIPTION	AMOUNT	DATE	AMOUNT
80CLDA500361	1700 N DIXIE HWY, BOCA RATON	561-V47-8981	128K PORT	\$120.37	561-V52-7018	\$403.20
80DHMG506119	7777 GLADES ROAD, BOCA RATON	561-V47-6745	128K	\$163.14	561-V52-7018	\$178.35
80CKDA500317		954-V84-1957	64K	\$136.17	954-989-9355	
80CLDA500435		561-V47-9235	128K PORT	\$120.37	561-V52-7018	\$288.57
80DHMG509451		561-V47-0048	128K LINE	\$170.68	561-V52-7018	\$589.11
					561-V52-7018	\$10,634.00
70CLDA500234	3400 CORAL WAY, MIAMI	305-W54-6641	128K PORT	\$128.37	N/A	\$656.19
70DHMG508427		305-W54-6901	128K LINE	\$170.88	N/A	\$1032.73
						\$1032.73
						\$29,876.63
						AS OF 10/98
						\$10,834.00
						\$856.19
						\$13,429.90
						1/18/99

* This does not include amounts in arrears for BellSouth. DOTNET internet service company

Sheet1

Attachment 5 *

INVOICE NUMBER 561-V47-0046,CKT-80.DHMG.506451..SB=Workforcesystems

MONTH AMOUNTS

)/O Balance	Aug-98	\$187.71
)/O Balance	Aug-98	\$190.70 NSF Check part of 08/98 bal
CLUB	Sep-98	\$221.86
CLUB	Oct-98	\$184.88
CLUB	Nov-98	\$184.88
CLUB	Dec-98	\$184.88
CLUB	Jan-99	\$184.97
SUB-TOT		\$1,339.88

INVOICE NUMBER 561-V47-1830,CKT-80.QLDA.500494..SB=On-Line Technologies

MONTH AMOUNTS

)/O Balance	Jul-98	\$132.11
)/O Balance	Aug-98	\$134.10
)/O Balance	Aug-98	\$132.92 NSF Check part of 08/98 bal
CLUB	Sep-98	\$156.14
CLUB	Oct-98	\$130.12
CLUB	Nov-98	\$130.12
CLUB	Dec-98	\$130.12
CLUB	Jan-99	\$130.18
SUB-TOT		\$1,075.81

INVOICE NUMBER 561-V47-3704,CKT-80.QGDA.501005..SB=Adam Weber

MONTH AMOUNTS

)/O Balance	Jun-98	\$619.93 NSF Check part of 05/98 bal
)/O Balance	Jul-98	\$598.81
)/O Balance	Aug-98	\$607.73
CLUB	Sep-98	(\$137.51) Disconnected 08-25-98
SUB-TOT		\$1,688.96

INVOICE NUMBER 561-V47-6745,CKT-80.DHMG.506119..SB=A-Web Shop

MONTH AMOUNTS

)/O Balance	Aug-98	\$178.36
CLUB	Sep-98	\$214.07
CLUB	Oct-98	\$178.39
CLUB	Nov-98	\$178.39
CLUB	Dec-98	\$178.39
CLUB	Jan-99	\$178.54
SUB-TOT		\$1,106.14

INVOICE NUMBER 561-V47-8459,CKT-80.QGDA.501060..SB=New Headquarters

MONTH AMOUNTS

)/O Balance	Aug-98	\$619.07
CLUB	Sep-98	\$720.48
CLUB	Oct-98	\$603.67
CLUB	Nov-98	\$606.80
CLUB	Dec-98	\$591.15
CLUB	Jan-99	\$600.54

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ATTACHMENT D

Sheet1

SUB-TOT \$3,741.71

INVOICE NUMBER 561-V47-8961,CKT-80.QLDA.500361..SB=A-Web Shop

MONTH AMOUNTS

O Balance	Jul-98	\$137.71	NSF Check part of 07/98 bal
O Balance	Jul-98	\$131.79	NSF Check part of 07/98 bal
O Balance	Aug-98	\$133.76	
CLUB	Sep-98	\$77.82	Disconnected 09-19-98
SUB-TOT		\$481.08	

INVOICE NUMBER 561-V47-9217,CKT-80.DHMG.506843..SB=On-Line Technologies

MONTH AMOUNTS

O Balance	Jul-98	\$193.65	
O Balance	Aug-98	\$187.75	
CLUB	Sep-98	\$221.86	
CLUB	Oct-98	\$184.88	
CLUB	Nov-98	\$184.88	
CLUB	Dec-98	\$184.88	
CLUB	Jan-99	\$184.97	
SUB-TOT		\$1,342.87	

INVOICE NUMBER 561-V47-9235,CKT-80.QLDA.500435..SB=Workforcesystems

MONTH AMOUNTS

O Balance	Aug-98	\$134.15	
CLUB	Sep-98	\$156.14	
CLUB	Oct-98	\$130.12	
CLUB	Nov-98	\$130.12	
CLUB	Dec-98	\$130.12	
CLUB	Jan-99	\$130.18	
SUB-TOT		\$810.83	

INVOICE NUMBER 561-989-9408-Larry Goodman's fax @ home=New Headquarters

MONTH AMOUNTS

O Balance	May-98	\$124.31	NSF Check part of 05/98 bill
O Balance	Jun-98	\$47.71	
O Balance	Jul-98	\$58.21	
O Balance	Aug-98	\$52.52	
CLUB	Sep-98	\$39.09	
CLUB	Oct-98	\$53.04	
CLUB	Nov-98	\$71.84	
CLUB	Dec-98	\$55.00	
CLUB	Jan-99	\$57.87	
SUB-TOT		\$559.59	

INVOICE NUMBER 954-429-9191-Main business lines=New Headquarters

MONTH AMOUNTS

O Balance	Aug-98	\$668.13	
CLUB	Sep-98	\$593.67	
CLUB	Oct-98	\$669.69	

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ATTACHMENT D

Sheet1

CLUB	Nov-98	\$672.48
CLUB	Dec-98	\$698.69
CLUB	Jan-99	\$952.51
SUB-TOT		<u>\$4,255.17</u>

TOTAL

\$16,402.04

(\$1,651.86) Payment posted on 01/07/99 bill

(\$727.78) Payment posted on 11/07/98 bill

(\$592.51) Payment transfer to 11/07/98 bill from account 954-429-9191

(\$6,714.95) Payment posted on 01/20/99

\$6,714.94 GRAND TOTAL PAST DUE ON CLUB ACCOUNT