

State of Florida




ORIGINAL

## 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-**

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**DATE:** March 13, 2007  
**TO:** Ann Cole, Commission Clerk - PSC, Office of Commission Clerk  
**FROM:** Dale R. Buys, Regulatory Analyst III, Division of Competitive Markets & Enforcement   
**RE:** Docket No. 060732-TL – Complaint regarding BellSouth Telecommunications, Inc.'s failure to provide service on request in accordance with Section 364.025(1), F.S., and Rule 25-4.091(1), F.A.C., by Lennar Homes, Inc.

ITEM 11 – March 13, 2007, Agenda Conference

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Please file the attached Draft Letter proffered by AT&T Florida in the above referenced docket. The new Draft Letter should replace the draft letter in Attachment A, pages 8 through 12, in staff's recommendation filed on March 1, 2007.

Attachment/  
DRB

DOCUMENT NUMBER-DATE

02249 MAR 13 5

FPSC-COMMISSION CLERK

Sender's Address  
Sender's Phone  
Sender's email  
Sender's Fax

(Enter Today's Date)

(Enter Recipient's Name) (Must be Legal Entity Name of Property Owner/Developer)  
Attn: (Enter Name of Authorized Rep of Recipient)  
(Enter Recipient's Address)

RE: (Enter Project Name/Phase of Project/Location)

Dear (Enter Authorized Rep Name):

It is BellSouth Telecommunications, Inc. d/b/a AT&T Florida's ("AT&T Florida") understanding that (Company Name) is developing the above development (the "Development") located in AT&T Florida's franchised service area. AT&T Florida looks forward to building a successful relationship that will enable you and the occupants at the Development to enjoy AT&T Florida's full panoply of services, which may include voice, data and video. If at any time I can answer questions about AT&T Florida and the services that may be available to the Development, please feel free to contact me.

As with any successful relationship, however, AT&T Florida needs to understand the facts and circumstances of providing services at the Development. Thus, before we can proceed with plans to serve the Development, we are requesting information to enable AT&T Florida to decide whether circumstances exist that impact AT&T Florida's "carrier of last resort" (or "COLR") obligation to provide basic local exchange telecommunications service under Section 364.025, Florida Statutes, attached as Attachment A. You may also receive a second letter asking a few additional questions about the circumstances of providing other services at the Development.

1. Please indicate if the owner, developer, condominium association, homeowners' association or any other entity having ownership of control over the Development has entered into any exclusive service arrangements with a communications service provider other than AT&T Florida, such that AT&T Florida will not be permitted to install its facilities at the Development to provide voice service.

Yes \_\_\_\_\_ No \_\_\_\_\_

If no, are such arrangements planned? Yes \_\_\_\_\_ No \_\_\_\_\_

2. Please indicate if the owner, developer, condominium association, homeowners' association or any other entity having ownership of control over the Development has entered into arrangements with a communications service provider other than AT&T Florida, where charges

for voice service provided by the other provider will be collected by any of those parties from occupants or residents at the Development in any manner, for example, via rent, fees, or dues.

Yes \_\_\_\_\_ No \_\_\_\_\_

If no, are such arrangements planned? Yes \_\_\_\_\_ No \_\_\_\_\_

3. Please indicate if the owner, developer, condominium association, homeowners' association or any other entity having ownership of control over the Development has entered into an agreement with a communications service provider other than AT&T Florida to accept incentives or rewards, which are, contingent upon provision of voice service at the Development by the other provider to the exclusion of AT&T Florida or upon restriction or limitation of AT&T Florida's access to the Development.

**Deleted:** arrangements  
**Deleted:** that grant  
**Deleted:** to any of those parties

Yes \_\_\_\_\_ No \_\_\_\_\_

If no, are such arrangements planned? Yes \_\_\_\_\_ No \_\_\_\_\_

4. Will AT&T Florida be restricted in any way from providing voice service at the Development?

Yes \_\_\_\_\_ No \_\_\_\_\_

If the answer above is "yes," please explain, in general terms, how AT&T Florida will be restricted: \_\_\_\_\_

Please provide responses, signed by an authorized representative of (Company Name), to the address indicated above by (Date). If AT&T Florida believes that your responses indicate that conditions exist at the Development that would provide the basis for relief of AT&T Florida's COLR obligation under Section 364.025(6), Florida Statutes, which would then impact AT&T Florida's plans to serve the Development, you will be notified. If you have any questions, please call (###-###-####).

Sincerely,

AT&T Florida

\_\_\_\_\_

(Owner/Developer Company)

Signed by: \_\_\_\_\_

(Authorized Representative)

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## Attachment A

### 364.025, Florida Statutes - Universal service.--

(1) For the purposes of this section, the term "universal service" means an evolving level of access to telecommunications services that, taking into account advances in technologies, services, and market demand for essential services, the commission determines should be provided at just, reasonable, and affordable rates to customers, including those in rural, economically disadvantaged, and high-cost areas. It is the intent of the Legislature that universal service objectives be maintained after the local exchange market is opened to competitively provided services. It is also the intent of the Legislature that during this transition period the ubiquitous nature of the local exchange telecommunications companies be used to satisfy these objectives. Until January 1, 2009, each local exchange telecommunications company shall be required to furnish basic local exchange telecommunications service within a reasonable time period to any person requesting such service within the company's service territory.

(2) The Legislature finds that each telecommunications company should contribute its fair share to the support of the universal service objectives and carrier-of-last-resort obligations. For a transitional period not to exceed January 1, 2009, the interim mechanism for maintaining universal service objectives and funding carrier-of-last-resort obligations shall be established by the commission, pending the implementation of a permanent mechanism. The interim mechanism shall be applied in a manner that ensures that each competitive local exchange telecommunications company contributes its fair share to the support of universal service and carrier-of-last-resort obligations. The interim mechanism applied to each competitive local exchange telecommunications company shall reflect a fair share of the local exchange telecommunications company's recovery of investments made in fulfilling its carrier-of-last-resort obligations, and the maintenance of universal service objectives. The commission shall ensure that the interim mechanism does not impede the development of residential consumer choice or create an unreasonable barrier to competition. In reaching its determination, the commission shall not inquire into or consider any factor that is inconsistent with s. 364.051(1)(c). The costs and expenses of any government program or project required in part II of this chapter shall not be recovered under this section.

(3) If any party, prior to January 1, 2009, believes that circumstances have changed substantially to warrant a change in the interim mechanism, that party may petition the commission for a change, but the commission shall grant such petition only after an opportunity for a hearing and a compelling showing of changed circumstances, including that the provider's customer population includes as many residential as business customers. The commission shall act on any such petition within 120 days.

(4)(a) Prior to January 1, 2009, the Legislature shall establish a permanent universal service mechanism upon the effective date of which any interim recovery mechanism for universal service objectives or carrier-of-last-resort obligations imposed on competitive local exchange telecommunications companies shall terminate.

(b) To assist the Legislature in establishing a permanent universal service mechanism, the commission, by February 15, 1999, shall determine and report to the President of the Senate and the Speaker of the House of Representatives the total forward-looking cost, based upon the most recent commercially available technology and equipment and generally accepted design and placement principles, of providing basic local telecommunications service on a basis no greater than a wire center basis using a cost proxy model to be selected by the commission after notice and opportunity for hearing.

(c) In determining the cost of providing basic local telecommunications service for small local exchange telecommunications companies, which serve less than 100,000 access lines, the commission

shall not be required to use the cost proxy model selected pursuant to paragraph (b) until a mechanism is implemented by the Federal Government for small companies, but no sooner than January 1, 2001. The commission shall calculate a small local exchange telecommunications company's cost of providing basic local telecommunications services based on one of the following options:

1. A different proxy model; or
2. A fully distributed allocation of embedded costs, identifying high-cost areas within the local exchange area the company serves and including all embedded investments and expenses incurred by the company in the provision of universal service. Such calculations may be made using fully distributed costs consistent with 47 C.F.R. parts 32, 36, and 64. The geographic basis for the calculations shall be no smaller than a census block group.

(5) After January 1, 2001, a competitive local exchange telecommunications company may petition the commission to become the universal service provider and carrier of last resort in areas requested to be served by that competitive local exchange telecommunications company. Upon petition of a competitive local exchange telecommunications company, the commission shall have 120 days to vote on granting in whole or in part or denying the petition of the competitive local exchange company. The commission may establish the competitive local exchange telecommunications company as the universal service provider and carrier of last resort, provided that the commission first determines that the competitive local exchange telecommunications company will provide high-quality, reliable service. In the order establishing the competitive local exchange telecommunications company as the universal service provider and carrier of last resort, the commission shall set the period of time in which such company must meet those objectives and obligations.

(6)(a) For purposes of this subsection:

1. "Owner or developer" means the owner or developer of a multitenant business or residential property, any condominium association or homeowners' association thereof, or any other person or entity having ownership in or control over the property.
2. "Communications service provider" means any person or entity providing communications services, any person or entity allowing another person or entity to use its communications facilities to provide communications services, or any person or entity securing rights to select communications service providers for a property owner or developer.
3. "Communications service" means voice service or voice replacement service through the use of any technology.

(b) A local exchange telecommunications company obligated by this section to serve as the carrier of last resort is not obligated to provide basic local telecommunications service to any customers in a multitenant business or residential property, including, but not limited to, apartments, condominiums, subdivisions, office buildings, or office parks, when the owner or developer thereof:

1. Permits only one communications service provider to install its communications service-related facilities or equipment, to the exclusion of the local exchange telecommunications company, during the construction phase of the property;
2. Accepts or agrees to accept incentives or rewards from a communications service provider that are contingent upon the provision of any or all communications services by one or more communications service providers to the exclusion of the local exchange telecommunications company;

3. Collects from the occupants or residents of the property charges for the provision of any communications service, provided by a communications service provider other than the local exchange telecommunications company, to the occupants or residents in any manner, including, but not limited to, collection through rent, fees, or dues; or

4. Enters into an agreement with the communications service provider which grants incentives or rewards to such owner or developer contingent upon restriction or limitation of the local exchange telecommunications company's access to the property.

(c) The local exchange telecommunications company relieved of its carrier-of-last-resort obligation to provide basic local telecommunications service to the occupants or residents of a multitenant business or residential property pursuant to paragraph (b) shall notify the commission of that fact in a timely manner.

(d) A local exchange telecommunications company that is not automatically relieved of its carrier-of-last-resort obligation pursuant to subparagraphs (b)1.-4. may seek a waiver of its carrier-of-last-resort obligation from the commission for good cause shown based on the facts and circumstances of provision of service to the multitenant business or residential property. Upon petition for such relief, notice shall be given by the company at the same time to the relevant building owner or developer. The commission shall have 90 days to act on the petition. The commission shall implement this paragraph through rulemaking.

(e) If all conditions described in subparagraphs (b)1.-4. cease to exist at a property, the owner or developer requests in writing that the local exchange telecommunications company make service available to customers at the property and confirms in writing that all conditions described in subparagraphs (b)1.-4. have ceased to exist at the property, and the owner or developer has not arranged and does not intend to arrange with another communications service provider to make communications service available to customers at the property, the carrier-of-last-resort obligation under this section shall again apply to the local exchange telecommunications company at the property; however, the local exchange telecommunications company may require that the owner or developer pay to the company in advance a reasonable fee to recover costs that exceed the costs that would have been incurred to construct or acquire facilities to serve customers at the property initially, and the company shall have a reasonable period of time following the request from the owner or developer to make arrangements for service availability. If any conditions described in subparagraphs (b)1.-4. again exist at the property, paragraph (b) shall again apply.

(f) This subsection does not affect the limitations on the jurisdiction of the commission imposed by s. 364.011 or s. 364.013.

**History.**--s. 7, ch. 95-403; s. 18, ch. 97-100; s. 1, ch. 98-277; s. 1, ch. 99-354; s. 1, ch. 2000-289; s. 2, ch. 2000-334; s. 4, ch. 2003-32; s. 2, ch. 2006-80.