

Section 1 - Bureau of Records Completes

Docket No. 060308-TP Date Docketed: 03/31/2006 Title: Joint application for approval of indirect transfer of control of telecommunications facilities resulting from agreement and plan of merger between AT&T Inc. (parent company of AT&T Communications of the Southern States, LLC, CLEC Cert. No. 4037, IXC Registration No. TJ615, and PATS Cert. No. 8019; TCG South Florida, IXC Registration No. TI327 and CLEC Cert. No. 3519; SBC Long Distance, LLC, CLEC Cert. No. 8452, and IXC Registration No. TI684; and SNET America, Inc., IXC Registration No. TI389) ...

Official Filing Date: \_\_\_\_\_ Expiration: \_\_\_\_\_
Last Day to Suspend: \_\_\_\_\_

Referred to: CCA (CMP) ECR GCL PIF RCA SCR SGA
("O" indicates OPR)

Section 2 - OPR Completes and returns to CCA in 10 workdays. Time Schedule

Program Module B1(j)
Staff Assignments

WARNING: THIS SCHEDULE IS AN INTERNAL PLANNING DOCUMENT
IT IS TENTATIVE AND SUBJECT TO REVISION.
FOR UPDATES CONTACT THE RECORDS SECTION: (850) 413-6770

Table with columns: OPR Staff, Staff Counsel, OCRs, Due Dates (Previous, Current), and a central grid for scheduling items 1-40.

Recommended assignments for hearing and/or deciding this case:

Full Commission \_\_\_ Commission Panel \_\_\_
Hearing \_\_\_ Staff \_\_\_

Date filed with CCA: \_\_\_\_\_

Initials OPR \_\_\_\_\_
Staff Counsel \_\_\_\_\_

Section 3 - Chairman Completes

Assignments are as follows:

Table for Hearing Officer(s) with columns: Commissioners (ALL, ED, DS, AR, CT, TW), Hrg Exam, Staff

Table for Prehearing Officer with columns: Commissioners (ED, DS, AR, CT, TW), ADM

Where panels are assigned the senior Commissioner is Panel Chairman: the identical panel decides the case.
Where one Commissioner, a Hearing Examiner or a Staff Member is assigned the full Commission decides the case.

Approved: \_\_\_\_\_
Date: 10118 NOV-75

Section 1 - Bureau of Records Completes

Docket No. 060308-TP Date Docketed: 03/31/2006 Title: Joint application for approval of indirect transfer of control of telecommunications facilities resulting from agreement and plan of merger between AT&T Inc. (parent company of AT&T Communications of the Southern States, LLC, CLEC Cert. No. 4037, IXC Registration No. TJ615, and PATS Cert. No. 8019; TCG South Florida, IXC Registration No. TI327 and CLEC Cert. No. 3519; SBC Long Distance, LLC, CLEC Cert. No. 8452, and IXC Registration No. TI684; and SNET America, Inc., IXC Registration No. TI389) ...

Company: AT&T Communications of the Southern States, LLC, CLEC Cert. No. 4037, IXC Registration No. TJ615, and PATS Cert. No. 8019; TCG South Florida, IXC Registration No. TI327 and CLEC Cert. No. 3519; SBC Long Distance, LLC, CLEC Cert. No. 8452, and IXC Registration No. TI684; and SNET America, Inc., IXC Registration No. TI389) ...

Official Filing Date: \_\_\_\_\_ Expiration: \_\_\_\_\_  
 Last Day to Suspend: \_\_\_\_\_

Referred to: \_\_\_\_\_  
 ("C") indicates OPR

CCA	(CMP)	ECR	GCL	PIF	RCA	SCR	SGA
	X		X				

Section 2 - OPR Completes and returns to CCA in 10 workdays.

Time Schedule

Program Module B1(j)

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 IT IS TENTATIVE AND SUBJECT TO REVISION.  
 FOR UPDATES CONTACT THE RECORDS SECTION: (850) 413-6770

Staff Assignments

OPR Staff	D Buys, R Kennedy	0 Current CASR revision level	Due Dates	
			Previous	Current
		1. Staff Recommendation	NONE	05/25/2006
		2. Agenda	NONE	06/06/2006
		3. PAA Order	NONE	06/26/2006
		4. Close Docket or Revise CASR	NONE	09/01/2006
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Staff Counsel	P Wiggins	8.		
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Recommended assignments for hearing and/or deciding this case:

Full Commission X Commission Panel \_\_\_\_\_  
 Hearing \_\_\_\_\_ Staff \_\_\_\_\_

Date filed with CCA: 04/17/2006

Initials OPR \_\_\_\_\_  
 Staff Counsel \_\_\_\_\_

Section 3 - Chairman Completes

Assignments are as follows:

- Hearing Officer(s)

Commissioners						Hrg Exam	Staff
ALL	ED	DS	AR	CT	TW		
X							

Prehearing Officer

Commissioners					ADM
ED	DS	AR	CT	TW	
					X

Where panels are assigned the senior Commissioner is Panel Chairman: the identical panel decides the case.  
 Where one Commissioner, a Hearing Examiner or a Staff Member is assigned the full Commission decides the case.

Approved: ED/ [Signature]  
 Date: 04/17/2006

Section 1 - Bureau of Records Completes

Docket No. 060308-TP Date Docketed: 03/31/2006 Title: Joint application for approval of indirect transfer of control of telecommunications facilities resulting from agreement and plan of merger between AT&T Inc. (parent company of AT&T Communications of the Southern States, LLC, CLEC Cert. No. 4037, IXC Registration No. TJ615, and PATS Cert. No. 8019; TCG South Florida, IXC Registration No. TI327 and CLEC Cert. No. 3519; SBC Long Distance, LLC, CLEC Cert. No. 8452, and IXC Registration No. TI684; and SNET America, Inc., IXC Registration No. TI389) ...

Company: AT&T Communications of the Southern States, LLC  
 AT&T Communications of the Southern States, LLC  
 AT&T Communications of the Southern States, LLC  
 BellSouth Long Distance, Inc.  
 BellSouth Long Distance, Inc.  
 BellSouth Telecommunications, Inc.

Official Filing Date: \_\_\_\_\_ Expiration: \_\_\_\_\_  
 Last Day to Suspend: \_\_\_\_\_

Referred to: \_\_\_\_\_  
 ("O" indicates OPR)

CCA	(CMP)	ECR	GCL	PIF	RCA	SCR	SGA
	X		X				

Section 2 - OPR Completes and returns to CCA in 10 workdays. Time Schedule

Program Module BI(j)  
 Staff Assignments

WARNING: THIS SCHEDULE IS AN INTERNAL PLANNING DOCUMENT  
 IT IS TENTATIVE AND SUBJECT TO REVISION.  
 FOR UPDATES CONTACT THE RECORDS SECTION: (850) 413-6770

OPR Staff	D Buys, R Kennedy	1	Current CASR revision level	Due Dates	
				Previous	Current
		1.	Staff Recommendation	05/25/2006	06/08/2006
		2.	Agenda	06/06/2006	06/20/2006
		3.	PAA Order	06/26/2006	07/10/2006
		4.	Close Docket or Revise CASR	SAME	09/01/2006
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Staff Counsel	P Wiggins	8.			
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OCRs		11.			
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Recommended assignments for hearing and/or deciding this case:

Full Commission  Commission Panel   
 Hearing Examiner  Staff

Date filed with CCA: 05/30/2006

Initials OPR \_\_\_\_\_  
 Staff Counsel \_\_\_\_\_

Section 3 - Chairman Completes

Assignments are as follows:

- Hearing Officer(s)

Commissioners						Hrg Exam	Staff
ALL	ED	DS	AR	CT	TW		
X							

Prehearing Officer

Commissioners					ADM
ED	DS	AR	CT	TW	
	X				

Where panels are assigned the senior Commissioner is Panel Chairman: the identical panel decides the case.  
 Where one Commissioner, a Hearing Examiner or a Staff Member is assigned the full Commission decides the case.

Approved: ED/hrs  
 Date: Pending 6/06/06

Section 1 - Bureau of Records Complete

Docket No. 060308-TP Date Docketed: 03/31/2006 Title: Joint application for approval of indirect transfer of control of telecommunications facilities resulting from agreement and plan of merger between AT&T Inc. (parent company of AT&T Communications of the Southern States, LLC, CLEC Cert. No. 4037, IXC Registration No. TJ615, and PATS Cert. No. 8019; TCG South Florida, IXC Registration No. TI327 and CLEC Cert. No. 3519; SBC Long Distance, LLC, CLEC Cert. No. 8452, and IXC Registration No. TI684; and SNET America, Inc., IXC Registration No. TI389) ...

Company: AT&T Communications of the Southern States, LLC, CLEC Cert. No. 4037, IXC Registration No. TJ615, and PATS Cert. No. 8019; TCG South Florida, IXC Registration No. TI327 and CLEC Cert. No. 3519; SBC Long Distance, LLC, CLEC Cert. No. 8452, and IXC Registration No. TI684; and SNET America, Inc., IXC Registration No. TI389) ...

Official Filing Date: \_\_\_\_\_ Expiration: \_\_\_\_\_  
 Last Day to Suspend: \_\_\_\_\_

Referred to: \_\_\_\_\_  
 ("O" indicates OPR)

CCA	(CMP)	ECR	GCL	PIF	RCA	SCR	SGA
	X		X				

Section 2 - OPR Completes and returns to CCA in 10 workdays. Time Schedule

Program Module B1(j)		WARNING: THIS SCHEDULE IS AN INTERNAL PLANNING DOCUMENT IT IS TENTATIVE AND SUBJECT TO REVISION. FOR UPDATES CONTACT THE RECORDS SECTION: (850) 413-6770		
Staff Assignments				
OPR Staff	D Buys, R Kennedy	<input checked="" type="checkbox"/> 2	Current CASR revision level	Due Dates Previous Current
		1.	Staff Recommendation - PAA Protest	NONE 08/03/2006
		2.	Agenda	NONE 08/15/2006
		3.	Standard Order	NONE 09/05/2006
		4.	Close Docket or Revise CASR	09/01/2006 09/11/2006
		5.		
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		7.		
Staff Counsel	P Wiggins, J Fudge	8.		
		9.		
		10.		
OCRs		11.		
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Recommended assignments for hearing and/or deciding this case:

Full Commission  Commission Panel \_\_\_  
 Hearing Examiner \_\_\_ Staff \_\_\_

Date filed with CCA: 07/27/2006

Initials OPR \_\_\_\_\_  
 Staff Counsel \_\_\_\_\_

Section 3 - Chairman Completes Assignments are as follows:

Commissioners						Hrg Exam	Staff
ALL	ED	DS	AR	CT	TW		
X							

Commissioners					ADM
ED	DS	AR	CT	TW	
	X				

Where panels are assigned the senior Commissioner is Panel Chairman: the identical panel decides the case.  
 Where one Commissioner, a Hearing Examiner or a Staff Member is assigned the full Commission decides the case.

Approved: ED/ [Signature]  
 Date: 07/27/2006

**Kimberley Pena**

060308

**From:** Kimberley Pena  
**Sent:** Friday, February 23, 2007 9:26 AM  
**To:** Nancy Sims  
**Cc:** Meza, James; Hendrix, Jerry D; Nonnye Grant; Hong Wang; Ann Cole  
**Subject:** RE: Mailing Name for d/b/a (BellSouth/AT&T)

Per this e-mail, we will do so. Thank you.

Nonnye, FYI.

---

**From:** Sims, Nancy H [mailto:Nancy.Sims@bellsouth.com]  
**Sent:** Thursday, February 22, 2007 5:17 PM  
**To:** Kimberley Pena  
**Cc:** Meza, James; Hendrix, Jerry D  
**Subject:** Mailing Name for d/b/a (BellSouth/AT&T)

Kim,  
 As discussed, please use the d/b/a of "AT&T Florida" as the mailing name for BellSouth Telecommunications, Inc. The d/b/a of "AT&T Florida" and the d/b/a of "AT&T Southeast" were both approved by FPSC Order No. PSC-07-0114-FOF-TP, but for correspondence purposes in Florida, the "AT&T Florida" d/b/a should be used.

If you have any questions, please let me know.  
 Thank you,  
 Nancy Sims  
 (850)577-5555  
 Director Regulatory Relations - Florida

\*\*\*\*\*

The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential, proprietary, and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and delete the material from all computers. GA625

*Done  
 02/26/07  
 Knapp*

DOCUMENT NUMBER-DATE  
 10118 NOV-75

**Kimberley Pena**

**From:** Michael Gross [mgross@earthjustice.org]  
**Sent:** Wednesday, February 14, 2007 1:18 PM  
**To:** Records Clerk  
**Subject:** Removal of name from mailing list

Please remove my name, Michael A. Gross, from the attention line on the mailing list for the FCTA, but please continue to mail to the FCTA without my name. I've changed employers and already requested the addition of my name and new employer on selected mailing lists.

Thank you.

Michael

---

Michael Gross  
 Project Attorney  
 Earthjustice  
 111 S. Martin Luther King Jr. Blvd.  
 Tallahassee, FL 32301  
 T: 850-681-0031  
 F: 850-681-0020  
[www.earthjustice.org](http://www.earthjustice.org)

*Because the earth needs a good lawyer*

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*Done  
 02/15/07  
 KMP*

STATE OF FLORIDA

COMMISSIONERS:  
LISA POLAK EDGAR, CHAIRMAN  
J. TERRY DEASON  
ISILIO ARRIAGA  
MATTHEW M. CARTER II  
KATRINA J. TEW



DIVISION OF THE COMMISSION CLERK &  
ADMINISTRATIVE SERVICES  
BLANCA S. BAYÓ  
DIRECTOR  
(850) 413-6770 (CLERK)  
(850) 413-6330 (ADMIN)

# Public Service Commission

December 22, 2006

RECEIVED  
THOMAS D. HALL

DEC 22 2006

Thomas D. Hall, Clerk  
Supreme Court of Florida  
Supreme Court Building  
Tallahassee, Florida 32301

CLERK, SUPREME COURT  
BY \_\_\_\_\_

**Re: Supreme Court Case No. SC06-1828 – NuVox Communications, Inc., Time Warner Telecom of Florida, L.P., XO Communications Services, Inc., Xspedius Management Co. Switched Services, LLC, and Xspedius Management Co. of Jacksonville, LLC vs. Florida Public Service Commission, et al. (Docket No. 060308-TP)**

Dear Mr. Hall:

The record in the above-referenced case, consisting of three bound volumes, is forwarded for filing in the Court. A copy of the index is enclosed for your use. Please initial and date the copy of this letter to indicate receipt.

Do not hesitate to call me at 413-6744 if you have any questions concerning the contents of this record.

Sincerely,

Kay Flynn,  
Chief of Records

KF:mhl

Enclosure

cc: Vicki Gordon Kaufman, Esquire  
Jon C. Moyle, Jr., Esquire  
David Smith, Office of the General Counsel  
Samantha Cibula, Office of the General Counsel  
parties of record

Stephen H. Grimes, Esquire  
D. Bruce May, Jr., Esquire  
Major B. Harding, Esquire  
John Beranek, Esquire  
Sean A. Lev, Esquire

RECEIVED \_\_\_\_\_ DATE \_\_\_\_\_

DKT file

COMMISSIONERS:  
LISA POLAK EDGAR, CHAIRMAN  
J. TERRY DEASON  
ISILIO ARRIAGA  
MATTHEW M. CARTER II  
KATRINA J. TEW

STATE OF FLORIDA



DIVISION OF THE COMMISSION CLERK &  
ADMINISTRATIVE SERVICES  
BLANCA S. BAYÓ  
DIRECTOR  
(850) 413-6770 (CLERK)  
(850) 413-6330 (ADMIN)

# Public Service Commission

December 22, 2006

Thomas D. Hall, Clerk  
Supreme Court of Florida  
Supreme Court Building  
Tallahassee, Florida 32301

**Re: Supreme Court Case No. SC06-1828 – NuVox Communications, Inc., Time Warner Telecom of Florida, L.P., XO Communications Services, Inc., Xspedius Management Co. Switched Services, LLC, and Xspedius Management Co. of Jacksonville, LLC vs. Florida Public Service Commission, et al.  
(Docket No. 060308-TP)**

Dear Mr. Hall:

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Do not hesitate to call me at 413-6744 if you have any questions concerning the contents of this record.

Sincerely,

Kay Flynn,  
Chief of Records

KF:mhl

Enclosure

cc: Vicki Gordon Kaufman, Esquire	Stephen H. Grimes, Esquire
Jon C. Moyle, Jr., Esquire	D. Bruce May, Jr., Esquire
David Smith, Office of the General Counsel	Major B. Harding, Esquire
Samantha Cibula, Office of the General Counsel	John Beranek, Esquire
parties of record	Sean A. Lev, Esquire

**I N D E X**

**NuVox Communications, Inc., Time Warner Telecom of Florida, L.P., XO  
Communications Services, Inc., Xspedius Management Co. Switched Services, LLC,  
and Xspedius Management Co. of Jacksonville, LLC**

**vs.**

**Florida Public Service Commission, et al.  
FPSC Docket No. 060308-TP  
Supreme Court of Florida Case No. SC06-1828**

**VOLUME 1**

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ITC^DeltaCom Communications, Inc. (ITC), NuVox, XO Communications Services, Inc. (“XO”), and Xspedius Management Co. Switched Services, LLC and Xspedius Management Co. of Jacksonville, LLC (“Xspedius”) (“Joint CLECs”) protest of proposed agency action, filed July 14, 2006.....297

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STATE OF FLORIDA

COMMISSIONERS:  
LISA POLAK EDGAR, CHAIRMAN  
J. TERRY DEASON  
ISILIO ARRIAGA  
MATTHEW M. CARTER II  
KATRINA J. TEW



DIVISION OF THE COMMISSION CLERK &  
ADMINISTRATIVE SERVICES  
BLANCA S. BAYÓ  
DIRECTOR  
(850) 413-6770 (CLERK)  
(850) 413-6330 (ADMIN)

# Public Service Commission

December 22, 2006

Vicki Gordon Kaufman, Esquire  
Moyle, Flanigan, Katz, Raymond, White & Kraskey, P.A.  
The Perkins House  
118 North Gadsden Street  
Tallahassee, Florida 32301

**Re: Supreme Court Case No. SC06-1828 – NuVox Communications, Inc., Time Warner Telecom of Florida, L.P., XO Communications Services, Inc., Xspedius Management Co. Switched Services, LLC, and Xspedius Management Co. of Jacksonville, LLC vs. Florida Public Service Commission, et al. (Docket No. 060308-TP)**

Dear Ms. Kaufman:

I have enclosed an invoice reflecting charges for preparation of the above-referenced record. Please forward a check in the amount indicated, made payable to the Florida Public Service Commission, at your earliest convenience.

Do not hesitate to call if you have any questions concerning this matter.

Sincerely,

Kay Flynn, Chief  
Bureau of Records

KF:mhl  
Enclosure

# FLORIDA PUBLIC SERVICE COMMISSION

2540 Shumard Oak Blvd. ♦ Tallahassee, Florida 32399-0850

Date: 12/22/06

10389

**To:** Vicki Gordon Kaufman, Esquire  
 Moyle Flanigan katz et al  
 The Perkins House  
 118 North Gadsden Street  
 Tallahassee, Florida 32301

Date Paid \_\_\_\_\_

Amount Paid \_\_\_\_\_

Check # \_\_\_\_\_

Check     Cash

PSC Signature \_\_\_\_\_

↑                    ↑  
 This number must appear on  
 all checks or correspondence  
 regarding this invoice.

**Please make checks payable to: FLORIDA PUBLIC SERVICE COMMISSION**

QUANTITY	DESCRIPTION	PRICE	AMOUNT
520 pages	Copying and preparation of Docket 060308-TP on appeal to Supreme Court, Case No. SC06-1828.	@.05¢ per page	\$26.00
1	Certificate of Director		4.00
<b>TOTAL</b>			<b>\$30.00</b>



November 28, 2006

Ms. Blanca S. Bayo, Director  
Division of the Commission Clerk  
& Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

Dear Ms. Bayo:

060308

The purpose of this letter is to inform you that effective immediately, AT&T's State Regulatory Affairs office is relocating offices. Effective immediately, please forward all correspondence, pleadings, etc. for AT&T Communications of the Southern States, LLC d/b/a AT&T and TCG South Florida to Brian Musselwhite and me at the following address:

AT&T  
315 S. Calhoun Street  
Suite 750  
Tallahassee, FL 32301

All office telephone numbers and e-mail addresses remain the same.

Enclosed are the original and 10 copies of this letter. I have also included an extra copy, which I would ask that you please date stamp and return to me in the enclosed reply envelope.

Thank you for your assistance. Please call me on 850-425-6360 should you have any questions.

Sincerely,

Tracy Hatch  
State Attorney – Florida

cc: Parties of Record, Docket Nos. 000121A, 000121B, 040530, 040604, 040763,  
041269, 050119, 060308, 060455, 990649, 990649B

OK 11/29/06  
KMF



Public Service Commission  
-M-E-M-O-R-A-N-D-U-M-

---

**DATE:** November 1, 2006

**TO:** Blanca S. Bayó, Director, Division of the Commission Clerk and Administrative Services

**FROM:** Jane Faurot, Chief, Office of Hearing Reporter Services, Division of the Commission Clerk and Administrative Services

**RE:** DOCKET NO. 060308-TP, AGENDA HELD 10/24/06.

---

Re: JOINT APPLICATION FOR APPROVAL OF INDIRECT TRANSFER OF CONTROL OF TELECOMMUNICATIONS FACILITIES RESULTING FROM AGREEMENT AND PLAN OF MERGER BETWEEN AT&T INC. (PARENT COMPANY OF AT&T COMMUNICATIONS OF THE SOUTHERN STATES, LLC, CLEC CERT. NO. 4037, IXC REGISTRATION NO. TJ615, AND PATS CERT. NO. 8019; TCG SOUTH FLORIDA, IXC REGISTRATION NO. TI327 AND CLEC CERT. NO. 3519; SBC LONG DISTANCE, LLC, CLEC CERT. NO. 8452, AND IXC REGISTRATION NO. TI684; AND SNET AMERICA, INC., IXC REGISTRATION NO. TI389) AND BELLSOUTH CORPORATION (PARENT COMPANY OF BELLSOUTH TELECOMMUNICATIONS, INC., ILEC CERT. NO. 8 AND CLEC CERT. NO. 4455); AND BELLSOUTH LONG DISTANCE, INC. (CLEC CERT. NO. 5261 AND IXC REGISTRATION NO. TI554).

DOCUMENT No: 09968-06, 10/30/06

The transcript for the above proceedings has been completed and is forwarded for placement in the docket file, including attachments.

Please note that Staff distribution of this transcript was made to:

LEGAL, CMP

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A handwritten signature in black ink, appearing to be "JF", written over a horizontal line.

JF/rIm

**Matilda Sanders**

*PSC-06-0907-FOF-TP*

From: Jackie Schindler  
Sent: Tuesday, October 31, 2006 11:06 AM  
To: CCA - Orders / Notices; Jason Fudge  
Subject: Order / Notice Submitted

Date and Time: 10/31/2006 11:05:00 AM  
Docket Number: 060308-tp  
Filename / Path: 060308or.doc

9

An ORDER DENYING MOTION TO STAY has been moved to GC Orders for issuance today. Thanks.

js

*18/11*

dkf file

STATE OF FLORIDA

COMMISSIONERS:  
LISA POLAK EDGAR, CHAIRMAN  
J. TERRY DEASON  
ISILIO ARRIAGA  
MATTHEW M. CARTER II  
KATRINA J. TEW



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Public Service Commission

September 28, 2006

Vicki Gordon Kaufman, Esquire  
Moyle Flanigan Katz Raymond  
White & Krasker, PA  
The Perkins House  
118 North Gadsden Street  
Tallahassee, Florida 32301

**Re: NuVox Communications, Inc. Time Warner Telecom of Florida, L.P., XO  
Communications Services, Inc., Xspedius Management Co. Switched Services,  
LLC, and Xspedius Management Co. of Jacksonville, LLC vs. Florida Public  
Service Commission, et al. - FPSC Docket No. 060308-TP  
Supreme Court of Florida Case No. SC06-1828**

Dear Ms. Kaufman:

Enclosed is the index to the above-referenced docket on appeal. Please look the index over and let me know if you have any questions concerning the contents of the record.

The record will be filed with the Court on or before January 2, 2007.

Sincerely,

Kay Flynn, Chief  
Bureau of Records

KF:mhl

cc: Jon C. Moyle, Jr., Esquire  
David E. Smith, Esquire  
Samantha Cibula, Esquire  
parties of record

**I N D E X**

**NuVox Communications, Inc. Time Warner Telecom of Florida, L.P., XO Communications Services, Inc., Xspedius Management Co. Switched Services, LLC, and Xspedius Management Co. of Jacksonville, LLC**

**vs.**

**Florida Public Service Commission, et al.  
FPSC Docket No. 060308-TP  
Supreme Court of Florida Case No. SC06-1828**

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# Public Service Commission

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**-M-E-M-O-R-A-N-D-U-M-** COMMISSION CLERK

**DATE:** September 25, 2006

**TO:** Kay B. Flynn, Chief of Records, Division of the Commission Clerk & Administrative Services  
 Hong Wang, Management Review Specialist, Commission Clerk & Administrative Services  
 Cecelia R. Diskerud, Deputy Clerk, Office of the General Counsel

**FROM:** David E. Smith, Attorney Supervisor, Office of the General Counsel *DES/uls*  
 Wanda L. Terrell, Administrative Assistant, Office of the General Counsel

**RE:** NuVox Communications, Inc., Time Warner Telecom of Florida, L.P., XO Communications Services, Inc., Xspedius Management Co. Switched Services, LLC and Xspedius Management Co. of Jacksonville, LLC. v. The Florida Public Service Commission and BellSouth Telecommunications, Inc., Docket No. 060308-TP, Florida Supreme Court Case No. SC06-1828.

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DOCUMENT NO. 10118-07

DISTRIBUTION

Please note that Samantha Cibula and David Smith are handling the above appeal. The Notice of Administrative Appeal was filed on September 13, 2006. The case schedule is as follows:

<u>Date</u>	<u>Item</u>
From day of filing:	
<u>10/19/06</u>	Draft of Index of Record from CCA to Appeals Attorney.
<u>11/02/06</u>	Index of Record served on Parties.
<u>11/12/06</u>	Copy of Record to Appeals.
<u>11/22/06</u>	Appellant's Initial Brief Due.
<u>12/09/06</u>	Draft Commission Answer Brief Due.
<u>12/14/06</u>	Commission's Answer Brief Due.
<u>01/03/07</u>	Appellant's Reply Brief Due.

DES:wt

STATE OF FLORIDA

COMMISSIONERS:  
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DIRECTOR  
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(850) 413-6330 (ADMIN)

# Public Service Commission

September 14, 2006

Thomas D. Hall, Clerk  
Supreme Court of Florida  
Supreme Court Building  
Tallahassee, Florida 32301

**Re: Joint application for approval of indirect transfer of control of telecommunications facilities resulting from agreement and plan of merger between AT&T Inc. (parent company of AT&T Communications of the Southern States, LLC, CLEC Cert. No. 4037, IXC Registration No. TJ615, and PATS Cert. No. 8019; TCG South Florida, IXC Registration No. TI327 and CLEC Cert. No. 3519; SBC Long Distance, LLC, CLEC Cert. No. 8452, and IXC Registration No. TI684; and SNET America, Inc., IXC Registration No. TI389) and BellSouth Corporation (parent company of BellSouth Telecommunications, Inc., ILEC Cert. No. 8 and CLEC Cert. No. 4455); and BellSouth Long Distance, Inc. (CLEC Cert. No. 5261 and IXC Registration No. TI554) [Joint CLECs] vs. Florida Public Service Commission, et al. - Docket No. 060308-TP**

Dear Mr. Hall:

Enclosed is a certified copy of a Notice of Administrative Appeal, filed in this office on September 13, 2006, on behalf of Joint CLECs. Also enclosed is a copy of Order No. PSC-06-0711-FOF-TP, the order on appeal.

It is our understanding that the index of record is due to be served on the parties to this proceeding on or before November 2, 2006.

Sincerely,

A handwritten signature in cursive script that reads "Kay Flynn".

Kay Flynn, Chief  
Bureau of Records

mhl  
Enclosure

cc: Vicki Gordon Kaufman, Esquire  
Jon C. Moyle, Jr., Esquire  
James Meza, Esquire

Tracy Hatch, Esquire  
David Smith, Esquire  
parties of record

**ORIGINAL**  
**MOYLE, FLANIGAN, KATZ, RAYMOND, WHITE & KRASKER, P.A.**  
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Vicki Gordon Kaufman  
E-mail: vkaufman@moylelaw.com

September 13, 2006

VIA HAND DELIVERY

Ms. Blanca Bayo, Director  
Commission Clerk and Administrative Services  
Room 110, Easley Building  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399

RECEIVED-FPSC  
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COMMISSION  
CLERK

Re: Notice of Appeal of Florida Public Service Commission Order No. PSC-06-0711- FOF-TP  
Docket No. 060308-TP

Dear Ms. Bayo:

Enclosed is the original Notice of Administrative Appeal in the above matter. Also enclosed is an additional copy for you to date stamp and return to me.

Please contact me if you have any questions. Thank you for your assistance.

Sincerely,

*Vicki Gordon Kaufman*  
Vicki Gordon Kaufman

P \_\_\_\_\_  
M \_\_\_\_\_ VGK/pg  
R \_\_\_\_\_ Enclosures

R \_\_\_\_\_ cc: Thomas D. Hall, Clerk of Florida Supreme Court  
L \_\_\_\_\_ (with \$300.00 filing fee)  
C \_\_\_\_\_ Patrick K. Wiggins  
A \_\_\_\_\_ Jason Fudge  
R \_\_\_\_\_ James Meza  
A \_\_\_\_\_ Tracy Hatch

C \_\_\_\_\_  
H Lockard

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

NuVox Communications, Inc., Time Warner Telecom of Florida, L.P., XO Communications Services, Inc., Xspedius Management Co. Switched Services, LLC and Xspedius Management Co. of Jacksonville, LLC

Appellants,

v.

The Florida Public Service Commission, Lisa Polak Edgar, in her official capacity as Chairman of the Florida Public Service Commission; and J. Terry Deason, Isilio Arriaga, Matthew M. Carter II and Katrina J. Tew in their official capacities as Commissioners of the Florida Public Service Commission

and

BellSouth Telecommunications, Inc.,

Appellees.

In re: Joint Application for approval of indirect transfer of control of Telecommunications facilities resulting From agreement and plan of merger Between AT&T Inc. (parent company of AT&T Communications of the Southern States, LLC, CLEC Cert. No. 4037, IXC Registration No. TJ615, and PATS Cert. No. 8019; TCG South Florida, IXC Registration No. TI327 and CLEC Cert. No. 3519; SBC Long Distance, LLC, CLEC Cert. No. 8452, and IXC Registration No. TI684; and SNET America, Inc., IXC Registration No. TI389) And BellSouth Corporation (parent company of BellSouth Telecommunications, Inc., ILEC Cert. No. 8 and CLEC Cert. No. 4455); and BellSouth Long Distance, Inc. (CLEC Cert. No. 5261 and IXC Registration No. TI554).

Docket No. 060308-TP

Filed: September 13, 2006

NOTICE OF ADMINISTRATIVE APPEAL

NOTICE IS GIVEN that NuVox Communications, Inc., Time Warner Telecom of Florida, L.P., XO Communications Services, Inc., Xspedius Management Co. Switched Services, LLC and Xspedius Management Co. of Jacksonville, LLC, Appellants (Joint CLECs), pursuant to Rule 9.030(a)(1)(B)(ii), Florida Rules of Appellate Procedure and Section 364.381, Florida Statutes, appeal to the Florida Supreme Court the Florida Public Service Commission's ("Commission") Order No. PSC-06-0711-FOF-TP, rendered August 24, 2006, in Docket 060308-TP, In re: Joint Application for approval of indirect transfer of control of

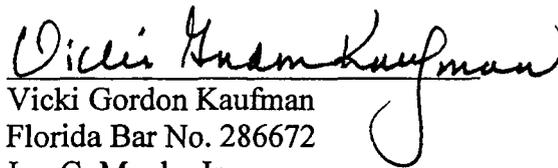
DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

A TRUE COPY  
ATTEST *Kay Deason*  
Chief Bureau of Records

Telecommunications facilities resulting From agreement and plan of merger Between AT&T Inc. (parent company of AT&T Communications of the Southern States, LLC, CLEC Cert. No. 4037, IXC Registration No. TJ615, and PATS Cert. No. 8019; TCG South Florida, IXC Registration No. TI327 and CLEC Cert. No. 3519; SBC Long Distance, LLC, CLEC Cert. No. 8452, and IXC Registration No. TI684; and SNET America, Inc., IXC Registration No. TI389) And BellSouth Corporation (parent company of BellSouth Telecommunications, Inc., ILEC Cert. No. 8 and CLEC Cert. No. 4455); and BellSouth Long Distance, Inc. (CLEC Cert. No. 5261 and IXC Registration No. TI554). This is a final order of the Commission in which it approved the transfer of control of telecommunications facilities without hearing from the affected parties whose rates and services from the newly constituted entity will be affected by the approval, denied Appellees' request for an evidentiary hearing, and found Appellees did not have standing to participate in the case. A copy of the order is attached as Exhibit A.



Vicki Gordon Kaufman  
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Jon C. Moyle, Jr.  
Florida Bar No. 727016  
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Attorneys for Joint CLECs

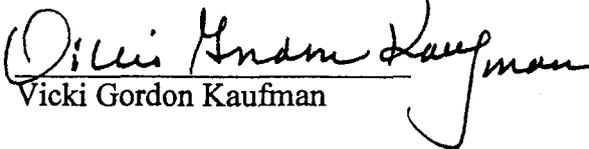
**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing Notice of Administrative Appeal was served via hand delivery (\*) this 13<sup>th</sup> day of September, 2006, to the following:

(\*) Patrick Wiggins  
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Florida Public Service Commission  
Division of Legal Services  
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Vicki Gordon Kaufman

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Joint application for approval of indirect transfer of control of telecommunications facilities resulting from agreement and plan of merger between AT&T Inc. (parent company of AT&T Communications of the Southern States, LLC, CLEC Cert. No. 4037, IXC Registration No. TJ615, and PATS Cert. No. 8019; TCG South Florida, IXC Registration No. TI327 and CLEC Cert. No. 3519; SBC Long Distance, LLC, CLEC Cert. No. 8452, and IXC Registration No. TI684; and SNET America, Inc., IXC Registration No. TI389) and BellSouth Corporation (parent company of BellSouth Telecommunications, Inc., ILEC Cert. No. 8 and CLEC Cert. No. 4455); and BellSouth Long Distance, Inc. (CLEC Cert. No. 5261 and IXC Registration No. TI554).

DOCKET NO. 060308-TP  
ORDER NO. PSC-06-0711-FOF-TP  
ISSUED: August 24, 2006

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman  
J. TERRY DEASON  
ISILIO ARRIAGA  
MATTHEW M. CARTER II  
KATRINA J. TEW

ORDER DENYING PROTESTS

BY THE COMMISSION:

Case Background

On March 31, 2006, AT&T Inc., BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc. (collectively referred to as "Joint Applicants") submitted a joint application for approval of indirect transfer of control of telecommunications facilities from BellSouth Corporation to AT&T Inc. resulting from an Agreement and Plan of Merger jointly executed by the two companies. By Order No. PSC-06-0531-PAA-TP, issued June 23, 2006, we approved the transfer of control ("PAA Order").

On July 14, 2006, ITC^DeltaCom Communications, Inc. (ITC^DeltaCom), NuVox Communications, Inc. (NuVox), XO Communications Services, Inc. (XO), and Xspedius Management Co. Switched Services, LLC and Xspedius Management Co. of Jacksonville, LLC (Xspedius) (collectively "Joint CLECs") filed a protest of the PAA Order. Also on July 14,

DOCUMENT NUMBER-DATE

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EXHIBIT A

FPSC-COMMISSION CLERK

2006, Time Warner Telecom of Florida, L.P. (Time Warner Telecom) filed a protest of the PAA Order and Request for Formal Proceeding.

On July 18, 2006, Joint Applicants<sup>1</sup> filed a Response in Opposition for Lack of Standing to Joint CLECs' and Time Warner's Protests and Petitions for a Formal Proceeding.

On July 25, 2006, Joint CLECs filed a Response to 'Opposition for Lack of Standing'.

#### STANDARD OF REVIEW

When a petitioner files a protest to a proposed agency action, he has the burden to demonstrate that he does, in fact, have standing to participate in the case. Department of Health and Rehabilitative Services v. Alice P., 367 So. 2d 1045, 1052 (Fla. 1st DCA 1979). To prove standing, the petitioner must demonstrate that he will suffer an injury in fact which is of sufficient immediacy to entitle him to a section 120.57 hearing, and that his substantial injury is of a type or nature which the proceeding is designed to protect. Agrico Chemical Co. v. Dept. of Environmental Reg., 406 So. 2d 478, 482 (Fla. 1st DCA 1981).

#### Joint CLECs Petition

Joint CLECs allege that the Joint Applicants failed to meet the "public interest" standard stated by us and that we failed to consider all that 364.01, Florida Statutes, requires. Joint CLECs contend that 364.01, Florida Statutes, requires us to:

- Encourage competition through flexible regulatory treatment among providers of telecommunications services in order to ensure availability of the widest possible range of consumer choice in the provision of all telecommunications services;
- Promote competition by encouraging innovation and investment in telecommunications markets;
- Encourage all providers of telecommunications services to introduce new or experimental telecommunications services;
- Ensure that all providers of telecommunications services are treated fairly, by preventing anticompetitive behavior.

Joint CLECs argue that we fail to address these statutory requirements and how they will be affected by the transfer. *Joint CLEC Petition* pg. 6 ¶ 16. In addition, Joint CLECs contend that the Applicants were required to demonstrate that the proposed merger will not harm competition by "for example, reducing competitive alternatives, increasing market concentration,

---

<sup>1</sup> The July 18 filing by the Joint Applicants included two additional entities: TCG South Florida and AT&T of the Southern States, LLC. For ease of reference, we have referred to all of these entities collectively as "Joint Applicants".

and increasing prices throughout the state.” *Joint CLEC Petition* pg. 6 ¶ 17. Joint CLECs claim that “[t]hough several parties have sought to intervene in this docket and to formally oppose the merger or to oppose the merger without certain conditions, the Commission has not considered the positions of such parties.”<sup>2</sup> *Joint CLEC Petition* pg. 8 ¶ 20.

Joint CLECs claim that their substantial interests are affected by our approval of the transfer “without a thorough investigation as to how the proposed transaction will affect competitors, the competitive marketplace, and the ultimate provision of telecommunications services to end users.” *Joint CLEC Petition* pg. 10 ¶ 23. Next, Joint CLECs claim that with the approval of the transfer, one of the most vigorous competitors to BellSouth’s monopoly power will be silenced. The transfer will result in a huge market consolidation that will reduce consumer choice, on both a retail and wholesale level and harm Joint CLECs’ ability to compete in the consolidated market. *Joint CLEC Petition* pg. 11 ¶ 24. Joint CLECs then cite to Order No. PSC-98-0562-PCO-TX (“BSE Order”) in which we found MCI to be an appropriate party in a certification proceeding because MCI “alleged an immediate threat of harm.”

#### Time Warner Petition

Time Warner also alleges that we have failed to examine the transfer in light of the other relevant provisions of 364.01, Florida Statutes. Time Warner claims that the assertions made by Joint Applicants concerning the merger and relied upon by us have not been tested “by production of evidence, cross-examination of witnesses or review of those assertions.” *Time Warner Petition* ¶ 6. Time Warner claims that as a competitive local exchange carrier, its substantial interests will be affected by losing further market power and competitive influence over segments of the marketplace.

Next, Time Warner alleges that “[i]f special access services are classified as broadband access, Time Warner could be without access to a competitive environment or without any effective remedy or jurisdictional review at the [Commission]. This lack of ability to access jurisdictional review would be detrimental to Time Warner’s competitive abilities in Florida.” *Time Warner Petition* ¶ 9c. Time Warner also claims that “[w]ithout a specific merger condition obligating AT&T and BellSouth to peer their IP networks, the Applicants could block access to their immensely large base of customers . . . . BellSouth and AT&T *could* refuse to accept terminating and transit traffic on their IP network or make onerous demands for peering [which] *could* result in the loss of customers who would move to an IP network with the greatest amount of coverage.” *Time Warner Petition* ¶ 9d. (emphasis added).

#### Joint Applicants’ Response

Joint Applicants state that Joint CLECs and Time Warner bear the burden of establishing standing by proving that: (1) they will suffer injury in fact that is of sufficient immediacy to

---

<sup>2</sup> We considered the concerns of these interested parties and determined that the appropriate way to address their concerns was through comments to the FCC. See Staff Recommendation, filed June 12, 2006, in Docket No. 060308-TP.

entitle the petitioner to a Section 120.57 hearing, and (2) the substantial injury is of a type or nature that the proceeding is designed to protect. See Agrico, 406 So. 2d at 482. If a protesting party fails to make either showing under the Agrico test, their protests and petitions must fail. See Order No. PSC-00-421-PAA-TP at 7. Joint Applicants states that based on our precedent “general assertions of future competitive harm” are insufficient to establish standing. In addition, the alleged competitive injury sought to be remedied is not the type of injury that a transfer of control proceeding is designed to protect. See Order No. PSC-98-0702-FOF-TP, issued, in Docket No. 971604-TP<sup>3</sup> (“MCI Order”); Order No. PSC-00-0421-PAA-TP, issued March 1, 2000, in Docket No. 991799-TP<sup>4</sup> (“Sprint Order”); Order No. PSC-06-0033-FOF-TP, issued January 10, 2006, in Docket No. 050551-TP<sup>5</sup> (“Nextel Order”).

Joint Applicants question the “undue competitive advantages” raised by Joint CLECs and claim that such harm is unlikely since the Joint Applicants remain subject to the same nondiscriminatory wholesale access and interconnection obligations as they are today. *Joint Applicants Response* pg. 9. Consequently, because of our ongoing regulatory oversight over BellSouth, we will have the ability to address any actual claims that may arise after the merger. *Joint Applicants Response* pg. 9.

Next, Joint Applicants summarize the holdings of previous transfer of control proceedings and assert that those same holdings are applicable to this proceeding. Joint Applicants allege that the competitive harm alleged by Joint CLECs and Time Warner is insufficient to satisfy the degree-of-injury prong of the Agrico test. *Joint Applicants Response* pg. 9 citing MCI Order at 14 (“Speculation as to the effect that the merger . . . will have on the competitive market amounts to conjecture about future economic detriment.”); Sprint Order at 7 (“Accordingly, we find that TRA’s speculation as to the effect that the merger of MCI WorldCom and Sprint will have on the competitive market amounts to conjecture about future economic detriment. Such conjecture is too remote to establish standing.”); Nextel Order at 5 (“The ‘injury in fact’ must be both real and immediate and not speculative or conjectural.”).

---

<sup>3</sup> In re: Request for approval of transfer of control of MCI Communications Corporation (parent corporation of MCI Metro Access Transmission Services, Inc., holder of AAV/ALEC Certificate 2986, and MCI Telecommunications Corporation, holder of IXC Certificate 61, PATS Certificate 3080, and AAV/ALEC Certificate 3996) to TC Investments Corp., a wholly-owned subsidiary of WorldCom, Inc. d/b/a LDDS WorldCom.

<sup>4</sup> In re: Joint application of MCI WorldCom, Inc. and Sprint Corporation for acknowledgment or approval of merger whereby MCI WorldCom will acquire control of Sprint and its Florida operating subsidiaries, ASC Telecom, Inc. d/b/a AlternaTel (holder of IXC Certificate No. 4398), Sprint Communications Company Limited Partnership (holder of PATS Certificate No. 5359 and ALEC Certificate No. 4732), Sprint Communications Company, Limited Partnership d/b/a Sprint (holder of IXC Certificate No. 83), Sprint Payphone Services, Inc. (holder of PATS Certificate No. 3822), and Sprint-Florida, Incorporated (holder of LEC Certificate No. 22 and PATS Certificate No. 5365).

<sup>5</sup> In re: Joint application for approval of transfer of control of Sprint-Florida, Incorporated, holder of ILEC Certificate No. 22, and Sprint Payphone Services, Inc., holder of PATS Certificate No. 3822, from Sprint Nextel Corporation to LTD Holding Company, and for acknowledgment of transfer of control of Sprint Long Distance, Inc., holder of IXC Registration No. TK001, from Sprint Nextel Corporation to LTD Holding Company.

Joint CLECs' Response to Joint Applicant's Response

On July 25, 2006, Joint CLECs filed a Response to 'Opposition for Lack of Standing' claiming that the Joint Applicant's Response is in the nature of a motion to dismiss and as such Joint CLECs are entitled to respond. Joint CLECs explain that our order cited by the Joint Applicants involved a petition to intervene in a wastewater certificate proceeding. When the utility responded to the petition to intervene, the intervening parties filed a memorandum in opposition to the response. We ruled that the memorandum in opposition was an unauthorized reply.

Joint CLECs contend that, in this case, the Joint Applicants have filed an affirmative pleading seeking to dismiss the protest. Consequently, Joint CLECs' Response is not an unauthorized reply, but a response to a motion. Joint CLECs state that in ruling on the Joint Applicants' motion to dismiss we must take all of Joint CLECs' allegations as true, and in doing so it is clear that the standing requirements have been met. *Joint CLEC Response* pg. 3 ¶ 10.

Joint CLECs allege that they meet the "injury in fact" prong of the Agrico test, because "this transaction will create a critical resource imbalance in the State of Florida between CLECs and the newly-created mammoth incumbent." *Joint CLEC Response* pg. 5 ¶ 16. Joint CLECs state that the merged company will have little incentive to make the needed elements available at fair and reasonable prices.

Next, Joint CLECs argue that they meet the "zone of interest" test because we have articulated that a public interest standard as enumerated in section 364.01, Florida Statutes, should be applied in transfer proceedings. *Joint CLEC Response* pg. 6 ¶ 21, citing Nextel Order.

Joint CLECs claim that the Joint Applicants cannot rely on the Sprint Order because it was vacated by Order No. PSC-00-1667-FOF-TP and as such it is a nullity and cannot be relied upon for any purpose.<sup>6</sup> Joint CLECs then attempt to distinguish the MCI Order and the Nextel Order because of the magnitude of the impact of this transaction on local exchange competition and the loss of a vigorous competitor from the market. The MCI Order is also distinguishable because it involved the consolidation of two CLECs, not an incumbent.

Again, Joint CLECs claim that the BSE Order most closely fits the instant facts, because the merger and consolidation of two huge telecommunications giants poses an immediate threat of harm to Joint CLECs. *Joint CLEC Response* pg. 12 ¶ 35.

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<sup>6</sup> We disagree. While a vacated order may not have precedential value, the analysis and reasoning does have value. See Smith v. State Farm Mutual Automobile Insurance Co., 964 F.2d 636, 638 (7th Cir. 1992) (noting that while vacated decisions may have no weight as authority, that is distinct from the weight that any document might have because of the quality of its reasoning.); HOA v. HO, 1994 Fla. Div. Adm. Hear. LEXIS 5298 (stating that "[a]lthough this court's decision was vacated as moot, it has no precedential value, however, the analysis and reasoning has value." citing County of Los Angeles v. Davis, 440 U.S. 625, 634 n.6 (1979))

Joint CLECs contend that the Joint Applicants' Response is in the nature of a motion to dismiss and should be treated as such. Regardless of whether Joint Applicants filed a response/motion, any protest to a Proposed Agency Action seeking a 120.57, Florida Statutes, hearing must meet the substantial interest test. See Rule 28-106.201(2), Florida Statutes. As stated above, section 120.569, Florida Statutes, requires the agency to carefully review petitions for legal sufficiency, including a review of whether the petitioner has demonstrated that it has standing under the statutes involved. So, while the pleadings by all parties have illuminated the issues surrounding standing, we have examined the protests in light of the requirements of Rule 25-106.201, Florida Administrative Code, and applicable law.

#### TEST FOR SUFFICIENCY OF PETITION

In order to meet the standard for a valid protest under Rule 28-106.201(2), Florida Administrative Code, a petitioner must explain how the petitioner's substantial interest will be affected by the agency determination. "Before one can be considered to have a substantial interest in the outcome of the proceeding he must show 1) that he will suffer injury in fact which is of sufficient immediacy to entitle him to a section 120.57 hearing, and 2) that this substantial injury is of a type or nature which the proceeding is designed to protect. The first aspect of the test deals with the degree of injury. The second deals with the nature of the injury." Agrico, 406 So. 2d at 482. The "injury in fact" must be both real and immediate and not speculative or conjectural. International Jai-Alai Players Assn. v. Florida Pari-Mutuel Commission, 561 So. 2d 1224, 1225-26 (Fla. 3rd DCA 1990). See also Village Park Mobile Home Assn., Inc. v. State Dept. of Business Regulation, 506 So. 2d 426, 434 (Fla. 1st DCA 1987)(speculation on the possible occurrence of injurious events is too remote).

##### A. Degree of Injury

We find that Joint CLECs and Time Warner have failed to meet the first prong of the Agrico test. Joint CLECs' and Time Warner's allegations fail to demonstrate that either will suffer an injury in fact which is of sufficient immediacy to warrant a Section 120.57 hearing. The alleged injuries raised by Joint CLECs and Time Warner are mere speculation as to perceived future economic harm. See Joint CLEC Petition pg. 11 ¶ 24; Time Warner Petition ¶ 9. Such speculation is too remote to establish standing. See MCI Order (finding that GTE failed to demonstrate that its substantial interests will be affected either as a competitor or as a customer); citing Ameristeel Corp. v. Clark, 691 So. 2d 473 (Fla. 1997)(threatened viability of plant and possible relocation do not constitute injury in fact of sufficient immediacy to warrant a Section 120.57, Florida Statutes hearing); citing Florida Society of Ophthalmology v. State Bd. Of Optometry, 532 So. 2d 1279, 1285 (Fla. 1st DCA 1988)(some degree of loss due to economic competition is not of sufficient immediacy to establish standing).

1) Sufficient Immediacy

Joint CLECs and Time Warner claim that their substantial interests are affected by the loss of a competitor and the resulting resource imbalance. *Joint CLEC Petition* pg. 11 ¶ 24 ; *Time Warner Petition* ¶ 9b; *Joint CLEC Response* pg. 5 ¶ 16. However, we have consistently held that the loss of a competitor is insufficient to establish standing. See MCI Order at 18 (stating that “the ‘loss’ of a competitor in the market does not, in itself demonstrate a harm . . .”); Sprint Order at 7 (“We do not believe that the ‘loss’ of a competitor in the market, in itself, demonstrates harm . . .”).

Next, Time Warner presents a scenario of events that would have to occur before it “could be without access to a competitive environment or without any effective remedy or jurisdictional review at the [Commission]”. *Time Warner Petition* ¶ 9c. While it may be possible to trace these effects back to the proposed merger “the causal chain has too many links in it to view the downstream effects are ‘direct’ or ‘immediate.’” Nextel Order at 6.

B. Nature of Injury

Joint CLECs and Time Warner allege deficiencies in our review of the transfer of control and seek to expand the proceeding beyond the scope of what we have held is relevant in a transfer of control proceeding. While Joint CLECs and Time Warner may allege that a transfer of control proceeding *should* protect against certain alleged injuries, the relevant question for the purposes of determining standing is whether the proceeding *is* designed to protect the injuries alleged.

Joint CLECs’ and Time Warner’s reliance on our citation of 364.01, Florida Statutes, is misplaced. We explained that the public interest is examined within the framework of sections 364.33 and 364.335, Florida Statutes. PAA Order pg. 4. This is consistent with the rule of statutory construction which requires that the more specific statute controls over the general. See State v. J.M., 824 So. 2d 105, 112 (Fla. 2002) citing State ex rel. Johnson v. Vizzini, 227 So. 2d 205, 207 (Fla. 1969).

In their Response, Joint CLECs claim that the standing principles at issue here are the same as in rule challenge proceedings. *Joint Response* pg. 6 n. 12. We disagree. The courts have recognized a distinction between the meaning of the concept, “substantially affected,” as used in 120.56, Florida Statutes, (which deals with challenges to agency rules) and the meaning of the concept, “substantial interest,” as used in 120.57, Florida Statutes (which deals with challenges to agency actions other than rules). See Dept. of Prof. Reg. v. Florida Dental Hygienist Assoc., 612 So. 2d 646, 651 (Fla. 1st DCA 1993). More importantly, Agrico set out the standing requirements in permitting proceedings which are analogous to the merger at issue in this proceeding. In Agrico, competitors challenged the issuance of Agrico’s permits. The court held that “[w]hile petitioners [w]ere able to show a high degree of potential economic injury, they were wholly unable to show that the nature of the injury was one under the protection of chapter 403.” 406 So. 2d at 482; see also Florida Medical Assoc. v. Dept. of Bus. And Prof. Reg., 426 So. 2d 1112, 1118 (stating the general principle that “in licensing or permitting proceedings a claim of standing by third parties based solely upon economic interests

is not sufficient unless the permitting or licensing statute itself contemplates consideration of such interests, or unless standing is conferred by rule or statute, or based upon constitutional grounds.”).

Likewise, in this case, accepting the Petitioners’ allegations as true there may be a high degree of potential economic injury. However, neither section 364.33 nor section 364.335, Florida Statutes, was designed to protect competitors’ interests. We have consistently held that a transfer of control proceeding under Section 364.33, Florida Statutes, is not designed to protect alleged competitive injuries. We have held that the appropriate inquiry in a transfer of control proceeding is the effect of the transfer of control on service to consumers, not on the interests of competitors. See MCI Order at 20 (holding that “Section 364.33, Florida Statutes, gives us jurisdiction to approve the transfer of control of telecommunications facilities for the purpose of providing service to Florida consumers. It does not give us the ability to protect the competitive interests asserted by GTE and CWA.”); Sprint Order at 8 (“Section 364.33, Florida Statutes, gives us jurisdiction to approve the transfer of control of telecommunications facilities for the purpose of providing service to Florida consumers.”).

While it is true that under section 364.01, Florida Statutes, we should encourage and promote competition, the method in which we carry out that duty is found elsewhere in chapter 364, Florida Statutes. See e.g., 364.09, Florida Statutes, (prohibiting rebates or special rates); 364.16, Florida Statutes (governing local interconnection and number portability); 364.161, Florida Statutes, (unbundling and resale); 364.12, Florida Statutes, (negotiated prices for interconnection and resale). In this proceeding, we are operating under sections 364.33 and 364.335, Florida Statutes, which governs whether the transfer of majority organizational control is in the public interest in light of the criteria enumerated therein.

We find that Joint CLECs’ reliance on the BSE Order, for standing based on an “alleged immediate threat of harm” from a PAA Order, is in error. In that Order, we were examining whether BellSouth BSE should be granted an ALEC certificate. We found that “MCI has standing because it is a competitor-ALEC which has alleged an immediate threat of harm by the very granting of ALEC authority to the subsidiary of the ILEC to serve in the ILEC’s incumbent territory.” However, in the MCI Order we distinguished the granting of a certificate from a transfer of control proceeding, because MCI and WorldCom were not seeking a certificate. MCI Order pg. 17.

For the foregoing reasons we find that the Protests filed by Joint CLECs and Time Warner and *Joint CLEC Response* are insufficient to establish standing; and that the defects in these pleadings cannot be cured. Therefore, Order No. PSC-06-0531-PAA-TP is made final and effective August 15, 2006. By denying the protests, we have rendered all outstanding Petitions to Intervene moot.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the protests filed by ITC^DeltaCom Communications, Inc., NuVox Communications, Inc., XO Communications Services, Inc., and Xspedius Management Co. Switched Services, LLC and Xspedius Management Co. of Jacksonville, LLC and Time Warner Telecom of Florida, L.P. are denied. It is further

ORDERED that the Proposed Agency Action Order No. PSC-06-0531-PAA-TP is rendered final with an effective date of August 15, 2006. It is further

ORDERED that this docket is closed.

By ORDER of the Florida Public Service Commission this 24th day of August, 2006.

BLANCA S. BAYÓ, Director  
Division of the Commission Clerk  
and Administrative Services

By:

  
\_\_\_\_\_  
Kay Flynn, Chief  
Bureau of Records

(SEAL)

JKF

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request:

- 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or
- 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of the Commission Clerk and Administrative Services and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.



# Public Service Commission

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

---

**DATE:** August 24, 2006

**TO:** Blanca S. Bayó, Director, Division of the Commission Clerk and Administrative Services

**FROM:** Jane Faurot, Chief, Office of Hearing Reporter Services, Division of the Commission Clerk and Administrative Services

**RE:** DOCKET NO. 060308-TP, AGENDA HELD 08/15/06.

---

Re: JOINT APPLICATION FOR APPROVAL OF INDIRECT TRANSFER OF CONTROL OF TELECOMMUNICATIONS FACILITIES RESULTING FROM AGREEMENT AND PLAN OF MERGER BETWEEN AT&T INC. (PARENT COMPANY OF AT&T COMMUNICATIONS OF THE SOUTHERN STATES, LLC, CLEC CERT. NO. 4037, IXC REGISTRATION NO. TJ615, AND PATS CERT. NO. 8019; TCG SOUTH FLORIDA, IXC REGISTRATION NO. TI327 AND CLEC CERT. NO. 3519; SBC LONG DISTANCE, LLC, CLEC CERT. NO. 8452, AND IXC REGISTRATION NO. TI684; AND SNET AMERICA, INC., IXC REGISTRATION NO. TI389) AND BELLSOUTH CORPORATION (PARENT COMPANY OF BELLSOUTH TELECOMMUNICATIONS, INC., ILEC CERT. NO. 8 AND CLEC CERT. NO. 4455); AND BELLSOUTH LONG DISTANCE, INC. (CLEC CERT. NO. 5261 AND IXC REGISTRATION NO. TI554).

DOCUMENT No: 07603-06, 08/22/06

The transcript for the above proceedings has been completed and is forwarded for placement in the docket file, including attachments.

Please note that Staff distribution of this transcript was made to:

LEGAL, CMP

Acknowledged BY:

A handwritten signature in black ink, appearing to be "Oh", written over a horizontal line.

JF/rlm

**Matilda Sanders**

75c-06-0711-FOF-VP

From: LaSandra Givens  
Sent: Wednesday, August 23, 2006 3:47 PM  
To: CCA - Orders / Notices; Jason Fudge  
Subject: Order / Notice Submitted

10

Date and Time: 8/23/2006 3:41:00 PM  
Docket Number: 060308-TP  
Filename / Path: 060308OR.DOC

ORDER DENYING PROTESTS

18/11

copy to M.G. B.M.P.

**Mátilda Sanders**

CORRESPONDENCE

**From:** Daniels,Sonia C - EXTAF [soniadaniels@att.com]  
**Sent:** Tuesday, August 22, 2006 3:43 PM  
**To:** Filings@psc.state.fl.us  
**Cc:** Daniels,Sonia C - EXTAF  
**Subject:** AT&T/TCG South Florida -Change in Company Information-Address  
**Attachments:** FL AT&T TCG Change in Co. Contact 08-22-2006.pdf

060308

Attached please find for electronic filing Notice of Change of Information on a Regulated Utility for AT&T Communications of the Southern States and TCG South Florida (TG861, TJ615, TA032, TI327, and TA062). The cover letter and attachments are a total of **6 pages**. Thank you for your assistance in this matter.

<<FL AT&T TCG Change in Co. Contact 08-22-2006.pdf>>

*Sonia Daniels/on behalf of Tracy Hatch*  
 Regulatory Manager  
 AT&T External Affairs - Southern Region  
 1230 Peachtree  
 4th Floor  
 Atlanta, GA 30309  
 Phone: 404-810-8488  
 Fax: 281-664-9791

RECEIVED-PPSC  
 06 AUG 22 PM 3:52  
 COMMISSION  
 CLERK



Tracy Hatch  
Senior Attorney  
AT&T Law Division  
Southern Region

Suite 750  
315 S. Calhoun Street  
Tallahassee, FL 32301  
850-425-6360

August 22, 2006

**Via Electronic Filing**

Ms. Blanca S. Bayo  
Director, Division of Commissions Clerk and  
Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, Florida 32399-0850

Re: Change in Company Contact Address for Master Commission Directory

Dear Ms. Bayo:

Effective immediately, the company contact address for the following AT&T and TCG certificated entities has changed. The appropriate Change of Information for Regulated Utility forms have been completed and are attached. Please update your files accordingly.

- AT&T Communications of the Southern States, LLC d/b/a Lucky Dog Phone Co. d/b/a ACC Business d/b/a SmarTalk d/b/a Unispeaksm Service d/b/a Prepaid Serviceguide.com d/b/a CONQUEST (Certificate No. 69)
- AT&T Communications of the Southern States, LLC d/b/a AT&T (Certificate No. 4037)
- AT&T Communications of the Southern States, LLC d/b/a AT&T (Certificate No. 8019)
- TCG South Florida (Certificate No. 4018)
- TCG South Florida (Certificate No. 3519)

If you have any questions, please contact Brian Musselwhite at (850) 425-6313 or Tracy Hatch at (850) 425-6360.

Sincerely yours,

A handwritten signature in cursive script that reads "Tracy Hatch".

Tracy W. Hatch

TO: FLORIDA PUBLIC SERVICE COMMISSION  
DIVISION OF THE COMMISSION CLERK & ADMINISTRATIVE SERVICES  
2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FL 32399-0850

RE: CHANGE OF INFORMATION ON REGULATED UTILITY

<b>Official Company Name:</b> (As appears on certificate) AT&T Communications of the Southern States, LLC d/b/a AT&T	<b>Mailing Name:</b> (Must be part of official company name; 58 characters or less) AT&T
<b>Certificate No.:</b> (A separate form must be used for each certificate number) Certificate No. 4037 Company Code: TA062	<b>Physical Location:</b> 315 S. Calhoun Street Suite 750 Tallahassee, FL 32301
<b>Attention Line:</b> (Person to whom all official FPSC correspondence is addressed) Brian Musselwhite	<b>Mailing Address:</b> 315 S. Calhoun Street Suite 750 Tallahassee, FL 32301
<b>Liaison Officer(s)</b>	
<b>Officer No. 1:</b> <b>Name:</b> Brian Musselwhite <b>Title:</b> Vice President – Regulatory and Legislative Affairs <b>Telephone Number:</b> (850) 425-6313 <b>Fax No:</b> (832) 213-0204 <b>E-mail Address:</b> bmusselwhite@att.com	<b>Officer No. 2:</b> <b>Name:</b> <b>Title:</b> <b>Telephone Number:</b> <b>Fax No:</b> <b>E-mail Address:</b>
<b>Company Web Address:</b> <a href="http://www.att.com">www.att.com</a>	

SUBMITTED BY COMPANY REPRESENTATIVE:

Name: Sonia Daniels

Title: Docket Manager

Telephone No: 404-810-8488

Date: August 22, 2006

TO: FLORIDA PUBLIC SERVICE COMMISSION  
DIVISION OF THE COMMISSION CLERK & ADMINISTRATIVE SERVICES  
2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FL 32399-0850

RE: CHANGE OF INFORMATION ON REGULATED UTILITY

<b>Official Company Name:</b> (As appears on certificate) AT&T Communications of the Southern States, LLC d/b/a AT&T	<b>Mailing Name:</b> (Must be part of official company name; 58 characters or less) AT&T
<b>Certificate No.:</b> (A separate form must be used for each certificate number) Certificate No. 8019 Company Code: TG861	<b>Physical Location:</b> 315 S. Calhoun Street Suite 750 Tallahassee, FL 32301
<b>Attention Line:</b> (Person to whom all official FPSC correspondence is addressed) Brian Musselwhite	<b>Mailing Address:</b> 315 S. Calhoun Street Suite 750 Tallahassee, FL 32301
<b>Liaison Officer(s)</b>	
<b>Officer No. 1:</b> Name: Brian Musselwhite Title: Vice President – Regulatory and Legislative Affairs Telephone Number: (850) 425-6313 Fax No: (832) 213-0204 E-mail Address: bmusselwhite@att.com	<b>Officer No. 2:</b> Name: Title: Telephone Number: Fax No: E-mail Address:
<b>Company Web Address:</b> <a href="http://www.att.com">www.att.com</a>	

SUBMITTED BY COMPANY REPRESENTATIVE:

Name: Sonia Daniels

Title: Docket Manager

Telephone No: 404-810-8488

Date: August 22, 2006

TO: FLORIDA PUBLIC SERVICE COMMISSION  
DIVISION OF THE COMMISSION CLERK & ADMINISTRATIVE SERVICES  
2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FL 32399-0850

RE: CHANGE OF INFORMATION ON REGULATED UTILITY

<b>Official Company Name:</b> (As appears on certificate) AT&T Communications of the Southern States, LLC d/b/a AT&T d/b/a Lucky Dog Phone Co. d/b/a ACC Business d/b/a SmarTalk d/b/a Unispeaksm Service d/b/a <a href="http://www.prepaidserviceguide.com">www.prepaidserviceguide.com</a> d/b/a Conquest	<b>Mailing Name:</b> (Must be part of official company name; 58 characters or less) AT&T
<b>Certificate No.:</b> (A separate form must be used for each certificate number) Certificate No. N/A Company Code: TJ615	<b>Physical Location:</b> 315 S. Calhoun Street Suite 750 Tallahassee, FL 32301
<b>Attention Line:</b> (Person to whom all official FPSC correspondence is addressed) Brian Musselwhite	<b>Mailing Address:</b> 315 S. Calhoun Street Suite 750 Tallahassee, FL 32301
<b>Liaison Officer(s)</b>	
<b>Officer No. 1:</b> <b>Name:</b> Brian Musselwhite <b>Title:</b> Vice President – Regulatory and Legislative Affairs <b>Telephone Number:</b> (850) 425-6313 <b>Fax No:</b> (832) 213-0204 <b>E-mail Address:</b> <a href="mailto:bmusselwhite@att.com">bmusselwhite@att.com</a>	<b>Officer No. 2:</b> <b>Name:</b> <b>Title:</b> <b>Telephone Number:</b> <b>Fax No:</b> <b>E-mail Address:</b>
<b>Company Web Address:</b> <a href="http://www.att.com">www.att.com</a>	

SUBMITTED BY COMPANY REPRESENTATIVE:

Name: Sonia Daniels

Title: Docket Manager

Telephone No: 404-810-8488

Date: August 22, 2006

TO: FLORIDA PUBLIC SERVICE COMMISSION  
DIVISION OF THE COMMISSION CLERK & ADMINISTRATIVE SERVICES  
2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FL 32399-0850

RE: CHANGE OF INFORMATION ON REGULATED UTILITY

<b>Official Company Name:</b> (As appears on certificate) TCG South Florida	<b>Mailing Name:</b> (Must be part of official company name; 58 characters or less) TCG South Florida
<b>Certificate No.:</b> (A separate form must be used for each certificate number) Certificate No. 3519 Company Code: TA032	<b>Physical Location:</b> 315 S. Calhoun Street Suite 750 Tallahassee, FL 32301
<b>Attention Line:</b> (Person to whom all official FPSC correspondence is addressed) Brian Musselwhite	<b>Mailing Address:</b> 315 S. Calhoun Street Suite 750 Tallahassee, FL 32301
<b>Liaison Officer(s)</b>	
<b>Officer No. 1:</b> <b>Name:</b> Brian Musselwhite <b>Title:</b> Vice President – Regulatory and Legislative Affairs <b>Telephone Number:</b> (850) 425-6313 <b>Fax No:</b> (832) 213-0204 <b>E-mail Address:</b> bmusselwhite@att.com	<b>Officer No. 2:</b> <b>Name:</b> <b>Title:</b> <b>Telephone Number:</b> <b>Fax No:</b> <b>E-mail Address:</b>
<b>Company Web Address:</b> <a href="http://www.att.com">www.att.com</a>	

SUBMITTED BY COMPANY REPRESENTATIVE:

Name: Sonia Daniels

Title: Docket Manager

Telephone No: 404-810-8488

Date: August 22, 2006

**TO: FLORIDA PUBLIC SERVICE COMMISSION  
DIVISION OF THE COMMISSION CLERK & ADMINISTRATIVE SERVICES  
2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FL 32399-0850**

**RE: CHANGE OF INFORMATION ON REGULATED UTILITY**

<b>Official Company Name:</b> (As appears on certificate) TCG South Florida	<b>Mailing Name:</b> (Must be part of official company name; 58 characters or less) TCG South Florida
<b>Certificate No.:</b> (A separate form must be used for each certificate number) N/A Company Code: TI327	<b>Physical Location:</b> 315 S. Calhoun Street Suite 750 Tallahassee, FL 32301
<b>Attention Line:</b> (Person to whom all official FPSC correspondence is addressed) Brian Musselwhite	<b>Mailing Address:</b> 315 S. Calhoun Street Suite 750 Tallahassee, FL 32301
<b>Liaison Officer(s)</b>	
<b>Officer No. 1:</b> <b>Name:</b> Brian Musselwhite <b>Title:</b> Vice President – Regulatory and Legislative Affairs <b>Telephone Number:</b> (850) 425-6313 <b>Fax No:</b> (832) 213-0204 <b>E-mail Address:</b> bmusselwhite@att.com	<b>Officer No. 2:</b> <b>Name:</b> <b>Title:</b> <b>Telephone Number:</b> <b>Fax No:</b> <b>E-mail Address:</b>
<b>Company Web Address:</b> <a href="http://www.att.com">www.att.com</a>	

**SUBMITTED BY COMPANY REPRESENTATIVE:**

Name: Sonia Daniels

Title: Docket Manager

Telephone No: 404-810-8488

Date: August 22, 2006

RECEIVED

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COMMISSION  
CLERK

To: Florida Public Service Commission

Dear Sir,

Recently in my morning paper, I read a article stating that Bell South was a is being bought by ATT. Several years ago at least 15, the Federal government passed a law breaking up big companies such as ATT, and other big companies been having a monopoly in the field that they are in. But once again companies are buying up this companies, and cutting out competition, that was intended in the above mentioned Federal.

All of a sudden in the last several years alot of companies that were to have broken up into smaller companies, ~~are~~ are getting bigger and bigger, and the competition is getting smaller and smaller. If you let ~~the~~ the Bell South sale go thru your committee will be ~~not~~ breaking

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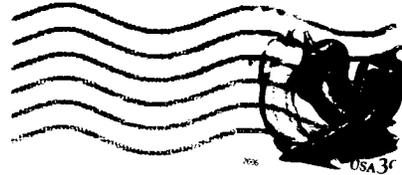
a Federal law and hurting the common  
person. I pray that your committee will  
deny A-77 from getting any bigger than it is,  
and hurting the common person.  
Thank you for your time in this matter, and  
I would greatly appreciate a reply.

Joan Treley  
Ron Crow  
100 Blind B road Road  
Hawana Florida, 32333

EVANS  
100 BLIND BROOK ROAD  
HAUWA FLORIDA  
32833

TALLAHASSEE FL 323

22 JUL 2006 PM 1 L



FLORIDA PUBLIC SERVICE COMMISSION  
2540 SHUMARD OAK BLVD  
TALLAHASSEE, FL

32399-0850 0001

32399-0850

**Kimberley Pena**

---

**From:** Kimberley Pena  
**Sent:** Thursday, July 20, 2006 7:41 AM  
**To:** Patrick Wiggins  
**Subject:** RE: Dkt. 060308

**Per this e-mail, we will change their status. Thank you.**

**-----Original Message-----**

**From:** Patrick Wiggins  
**Sent:** Wednesday, July 19, 2006 6:07 PM  
**To:** Kimberley Pena  
**Subject:** RE: Dkt. 060308  
**Importance:** High

**Kimberley:**

**For administrative purposes, the petitioners protesting the proposed agency action should be reflected as Parties of Record.**

**Sorry for the delay.**

**Patrick**

**-----Original Message-----**

**From:** Kimberley Pena  
**Sent:** Monday, July 17, 2006 10:37 AM  
**To:** Patrick Wiggins; Jason Fudge  
**Subject:** Dkt. 060308  
**Importance:** High

**We have received protests in this docket from Time Warner, ITC^Deltacom, NuVox Communications, XO Communications, and Xspedius Management Co. Switched Services/of Jacksonville. Please let me know if these entities and their representative should be reflected as Parties of Record. Thank you.**

*Done  
07/20/06  
KMP*



Public Service Commission  
-M-E-M-O-R-A-N-D-U-M-

---

**DATE:** July 3, 2006

**TO:** Blanca S. Bayó, Director, Division of the Commission Clerk and Administrative Services

**FROM:** Jane Faurot, Chief, Office of Hearing Reporter Services, Division of the Commission Clerk and Administrative Services

**RE:** DOCKET NO. 060308-TP, AGENDA HELD 06/20/06.

---

Re: JOINT APPLICATION FOR APPROVAL OF INDIRECT TRANSFER OF CONTROL OF TELECOMMUNICATIONS FACILITIES RESULTING FROM AGREEMENT AND PLAN OF MERGER BETWEEN AT&T INC. (PARENT COMPANY OF AT&T COMMUNICATIONS OF THE SOUTHERN STATES, LLC, CLEC CERT. NO. 4037, IXC REGISTRATION NO. TJ615, AND PATS CERT. NO. 8019; TCG SOUTH FLORIDA, IXC REGISTRATION NO. TI327 AND CLEC CERT. NO. 3519; SBC LONG DISTANCE, LLC, CLEC CERT. NO. 8452, AND IXC REGISTRATION NO. TI684; AND SNET AMERICA, INC., IXC REGISTRATION NO. TI389) AND BELLSOUTH CORPORATION (PARENT COMPANY OF BELLSOUTH TELECOMMUNICATIONS, INC., ILEC CERT. NO. 8 AND CLEC CERT. NO. 4455); AND BELLSOUTH LONG DISTANCE, INC. (CLEC CERT. NO. 5261 AND IXC REGISTRATION NO. TI554).

DOCUMENT No: 05826-06, 06/29/06

The transcript for the above proceedings has been completed and is forwarded for placement in the docket file, including attachments.

Please note that Staff distribution of this transcript was made to:

LEGAL, CMP

Acknowledged BY:

A handwritten signature in black ink, appearing to be "JF", written over a horizontal line.

JF/rjm

**Kay Flynn**

060308

**From:** Filings@psc.state.fl.us  
**Sent:** Monday, June 19, 2006 4:48 PM  
**To:** Patrick Wiggins; Jason Fudge; Dale Buys; Ray Kennedy  
**Cc:** Blanca Bayo; Hong Wang; Matilda Sanders; Kimberley Pena; Dorothy Menasco; Timolyn Henry; Michael Cooke  
**Subject:** RE: Filing in Docket No. 060308-TL

Thanks, Patrick.

The AG's office just dropped off envelopes addressed to each Commissioner (I'm assuming the letter is in those envelopes) so we'll forward them on to the Suite.

Kay

-----Original Message-----

**From:** Patrick Wiggins  
**Sent:** Monday, June 19, 2006 4:41 PM  
**To:** Filings@psc.state.fl.us; Jason Fudge; Dale Buys; Ray Kennedy  
**Cc:** Blanca Bayo; Hong Wang; Matilda Sanders; Kimberley Pena; Dorothy Menasco; Timolyn Henry  
**Subject:** RE: Filing in Docket No. 060308-TL

Kay:

1. CCA does not need to forward this the Chairman. It was sent to her as Chairman, not personally. Entering the letter normally suffices.
2. We don't need to be concerned about in what format the other four Commissioners received the letter - hard copy or email. They can handle the receipt of the letter normally.
3. This docket is still in the informal information gathering stage. An Order on PAA has not yet been issued. Thus this stage is in the nature of legislative fact gathering than adjudication, so this letter does not raise ex parte communication issues and you need not be concerned.

Let me know if you have any other questions.

Patrick

-----Original Message-----

**From:** Filings@psc.state.fl.us  
**Sent:** Monday, June 19, 2006 4:13 PM  
**To:** Patrick Wiggins; Jason Fudge; Dale Buys; Ray Kennedy  
**Cc:** Blanca Bayo; Hong Wang; Matilda Sanders; Kimberley Pena; Dorothy Menasco; Timolyn Henry  
**Subject:** FW: Filing in Docket No. 060308-TL

We received the attached e-filing a few moments ago. It concerns Docket 060308 on tomorrow's agenda. The e-filing is a letter to the Chairman from the AGO.

What we would normally do with this kind of filing is print it, document-number it, and enter it in CMS described something like "Copy of 6/19/06 letter from AGO/Crist to Chairman providing comments on pending BellSouth/AT&T merger" but I have a few concerns:

1. Does the AGO expect this would be forwarded to the Chairman by CCA?
2. The other 4 Commissioners are cc'd on the letter; did they get e-mailed copies of the letter?
3. Since no parties are cc'd on either the letter or the transmittal e-mail, should I be concerned about an ex parte situation?

Please advise on how to proceed with this e-filing.

Thanks.

Kay

-----Original Message-----

From: Mary Kay Carlton [mailto:Mary\_Kay\_Carlton@oag.state.fl.us]

Sent: Monday, June 19, 2006 3:58 PM

To: Filings@psc.state.fl.us

Subject: Filing in Docket No. 060308-TL

Attorney General's Comment Letter - Docket No. 060308-TL, In Re AT&T / Bell South Merger.

1. Charles J. Crist, Jr., Attorney General, Office of the Attorney General, PL-01 The Capitol, Tallahassee, FL 32399, (850) 414-3300, is responsible for this electronic filing.
2. The filing is to be made in Docket No. 060308-TL, In Re AT&T / Bell South Merger.
3. The filing is made on behalf of Charles J. Crist, Jr., Attorney General, State of Florida.
4. The total number of pages is 2.
5. Attached to this e-mail in PDF format is the Attorney General's Comment Letter to Ms. Lisa Polak Edgar, Chairwoman.

Mary Kay Carlton

Assistant to Christopher M. Kise, Solicitor General Office of the Attorney General

PL-01 The Capitol

Tallahassee, FL 32399

850-414-3681

850-410-2672 (fax)

(See attached file: BellSouthATTMerger.pdf)

Kay Flynn

060308

**From:** Donna Jones  
**Sent:** Friday, June 16, 2006 2:47 PM  
**To:** All PSC Staff; Commissioners & Staffs  
**Subject:** Items of Interest at Upcoming Agenda Conference 6/20/06

A news release was distributed to the daily newspapers this afternoon, 6/16/06, and is now available on the PSC web site:

<http://www.psc.state.fl.us/general/news/pressrelease.cfm?release=96>

*Donna Jones*  
*Office of Public Information*  
*Public Service Commission*  
*Telephone: 4 13-6566, Intercom 43 1*



State of Florida  
**Public Service Commission**  
**NEWS RELEASE**

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June 16, 2006

Contact: 850-413-6482

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### Items of Interest at Upcoming Agenda Conference 6/20/06

**TALLAHASSEE** — The following items are among those scheduled for consideration by the Commission at the June 20, 2006, Agenda Conference:

**ITEM 3:**

**DOCKET NO. 060172-EU – PROPOSED RULES GOVERNING PLACEMENT OF NEW ELECTRIC DISTRIBUTION FACILITIES UNDERGROUND, AND CONVERSION OF EXISTING OVERHEAD DISTRIBUTION FACILITIES TO UNDERGROUND FACILITIES, TO ADDRESS EFFECTS OF EXTREME WEATHER EVENTS.**

**DOCKET NO. 060713-EU – PROPOSED AMENDMENTS TO RULES REGARDING OVERHEAD ELECTRIC FACILITIES TO ALLOW MORE STRINGENT CONSTRUCTION STANDARDS THAN REQUIRED BY NATIONAL ELECTRIC SAFETY CODE.** The Commission will consider a staff recommendation on proposed amendments to rules which address the construction of new underground facilities, the conversion of existing overhead electrical lines to underground, and more stringent construction standards for overhead electrical lines to withstand extreme weather events.

**ITEM 5: DOCKET 060308-TP – JOINT APPLICATION FOR APPROVAL OF INDIRECT TRANSFER OF CONTROL OF TELECOMMUNICATIONS FACILITIES RESULTING FROM AGREEMENT AND PLAN OF MERGER BETWEEN AT&T INC. (PARENT COMPANY OF AT&T COMMUNICATIONS OF THE SOUTHERN STATES, LLC, CLEC CERT. NO. 4037, IXC REGISTRATION NO. TJ615, AND PATS CERT. NO. 8019; TCG SOUTH FLORIDA, IXC REGISTRATION NO. TI327 AND CLEC CERT. NO. 3519; SBC LONG DISTANCE, LLC, CLEC CERT. NO. 8452, AND IXC REGISTRATION NO. TI684; AND SNET AMERICA, INC., IXC REGISTRATION NO. TI389) AND BELL SOUTH CORPORATION (PARENT COMPANY OF BELL SOUTH TELECOMMUNICATIONS, INC., ILEC CERT. NO. 8 AND CLEC CERT. NO. 4455; AND BELL SOUTH LONG DISTANCE, INC. (CLEC CERT. NO. 5261 AND IXC REGISTRATION NO. TI554).** The Commission will address a staff recommendation on the indirect transfer of control of the facilities and operations of BellSouth Telecommunications, Inc. and BellSouth Long Distance, Inc. from BellSouth Corporation to AT&T Inc.

**ITEM 9: DOCKET NO. 060154-EI – PETITION FOR ISSUANCE OF STORM RECOVERY FINANCING ORDER PURSUANT TO SECTION 366.8260, F.S. (2005), BY GULF POWER COMPANY.** The Commission will consider a staff recommendation on the proposed stipulation and settlement agreement associated with Gulf Power's petition for issuance of storm recovery financing order.

**ITEM 11: DOCKET NO. 050958-EI – PETITION FOR APPROVAL OF NEW ENVIRONMENTAL PROGRAM FOR COST RECOVERY THROUGH ENVIRONMENTAL COST RECOVERY CLAUSE BY TAMPA ELECTRIC COMPANY.** The Commission will take up a staff recommendation addressing Tampa Electric Company's petition to recover costs associated with improved reliability of the flue gas desulfurization systems (scrubbers) on Big Bend Units 1, 2, and 3 through the Environmental Cost Recovery Clause.

###

Website - <http://www.floridapsc.com>  
Kevin Bloom, Director, Office of Public Information

CORRESPONDENCE

060308-TP

RECEIVED FPSC

MAY -9 AM 8:06

COMMISSION  
CLERK

**Filings@psc.state.fl.us - 2006 Filings - Microsoft Outlook**

Back Messages Find Type a contact to find

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Folder List: Mailbox - Matilda Sanders, Calendar, CCA-Records Procedure Ite, Contacts, Deleted Items, Drafts [4], Inbox, Inboxes, Sent Items, personal, Infected, Journal, Junk E-mail, Notes, Outbox, Quarantine, Restored Items, Sent Items, Spam, Tasks, Search Folders, Mailbox - Filings@psc.state.fl.us, Calendar, Contacts, Deleted Items, Drafts, Inbox, 2004filings, 2005 filings, 2006 Filings, Related (nonfilling) E- Pilot Material, Infected, Journal, Junk E-mail

Lock for: Search In: 2006 Filings Find Now: Clear Options

**Filings@psc.state.fl.us - 2006 Filings**

Received	From	Subject	Size
Date: Yesterday			
Mon 5/8/2006 4:07 PM	Tim Perry	Docket No. 060154-EI, Notice of Service of the Florida Industrial Power Users Group's First Set ...	56 KB
Mon 5/8/2006 4:04 PM	Fatool, Vicki	060308-TP Joint Response in Opposition to NuVox Communications, Inc. Petition to Intervene	592 KB
Mon 5/8/2006 8:35 AM	Toni McCoy	Web Posting of Cancellation of Telecommunications Certificates/Registrations from January 1, 2...	77 KB
Date: Last Week			
Fri 5/5/2006 4:36 PM	Kelly, Tameia D [...]	Docket No. 060158-TL, Sprint-Florida, Inc. response to Commission Order No. PSC-06-0258-PA...	2 MB
Fri 5/5/2006 10:50 AM	Ann Bassett	Docket No. 040130-TP	2 MB
Fri 5/5/2006 10:48 AM	Ann Bassett	Docket No. 040130-TP	2 MB
Fri 5/5/2006 10:47 AM	Ann Bassett	Docket 040156-TP	3 MB
Fri 5/5/2006 10:46 AM	Ann Bassett	Docket No. 040156-TP	3 MB
Fri 5/5/2006 10:45 AM	Ann Bassett	Docket No. 040514-TP	2 MB
Fri 5/5/2006 10:44 AM	Ann Bassett	Docket No. 040514-TP	2 MB
Fri 5/5/2006 10:42 AM	Ann Bassett	Docket No. 041269-TP	3 MB
Fri 5/5/2006 10:41 AM	Ann Bassett	Docket No. 041269-TP	3 MB
Fri 5/5/2006 10:41 AM	Ann Bassett	Docket No. 041269-TP	3 MB
Fri 5/5/2006 10:39 AM	Ann Bassett	Docket No. 041269-TP	3 MB
Fri 5/5/2006 10:04 AM	rstjrlaw@aol.com	Docket No. 040384-WS	6 MB

**060308-TP Joint Response in Opposition to NuVox Communications, Inc. Petition to Intervene**  
Fatool, Vicki [Vicki.Fatool@BellSouth.COM]

This message was sent with High Importance.

To: Filings@psc.state.fl.us

Attachments: 060308-T.pdf (523 KB); KHYTE\_DOCS-#214394-v8-Opposi\_lo\_o\_NuVox\_Pe\_l\_o\_fo\_Leave\_To\_l\_e\_ve\_e\_l\_Flb\_ida3.DOC (66 KB)

A. Vicki Fatool  
Legal Secretary to James Meza III and Manuel A. Gurdian  
BellSouth Telecommunications, Inc.  
150 South Monroe Street  
Suite 400

507 Items Online

Start Filings@psc... Case Manage... 7:59 AM

POSSIBLE DUPLICATE OF  
DN 04069-06

CORRESPONDENCE

060308-TP

RECEIVED FPSC

MAY -9 AM 8:06

COMMISSION  
CLERK

**Filings@psc.state.fl.us - Inbox - Microsoft Outlook**

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Look for: Search In: Inbox Find Now Clear Options

**Filings@psc.state.fl.us - Inbox**

Received	From	Subject
Date: Yesterday		
Mon 5/8/2006 5:53 PM	Fatool, Vicki	060308-TP Joint Response in Opposition to NuVox Communi...

**060308-TP Joint Response in Opposition to NuVox Communications, Inc. Petition to Intervene**  
**Fatool, Vicki [Vicki.Fatool@BellSouth.COM]**

This message was sent with High Importance.

To: Filings@psc.state.fl.us

Attachments: 060308-T.pdf (523 KB); KHHTE\_DOCS-#214394-v8-Opposi\_lo\_\_o\_NuVox\_Pe\_i\_lo\_\_fo\_\_Leave\_To\_I\_e\_ve\_e\_l\_Flo\_ida3.DOC (66 KB)

A. Vicki Fatool  
 Legal Secretary to James Meza III and Manuel A. Gurdian  
 BellSouth Telecommunications, Inc.  
 150 South Monroe Street  
 Suite 400

1 Item Online

Start Filings@psc.... Case Manage... 7:59 AM

POSSIBLE DUPLICATE of  
DN 04065-06



Florida Cable Telecommunications Association

Steve Wilkerson, President

VIA FACSIMILE

May 5, 2006

Ms. Blanca S. Bayo, Director  
Division of the Commission Clerk  
and Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

RE: FPSC Docket No. 060308-TL

Dear Ms. Bayo:

I am writing to request that the Florida Cable Telecommunications Association, Inc. ("FCTA") be placed on the mailing list of persons interested in monitoring the above-referenced docket. Please send all mailings to the following:

Michael A. Gross  
Vice President, Regulatory Affairs & Regulatory Counsel  
Florida Cable Telecommunications Association, Inc.  
246 E. 6<sup>th</sup> Avenue, Suite 100  
Tallahassee, FL 32303  
850/681-1990 Tel.  
850/681-9676 Fax  
E-Mail Address: mgross@fcta.com.

*Done  
5/5/06  
R.V.N*

Thank you for your assistance in this matter. Please contact me with any questions.

*OK  
uj*

Sincerely,

Michael A. Gross  
Vice President, Regulatory Affairs  
& Regulatory Counsel

MAG:mj

06-0308 - Docket No. -

060308

ADD AS INTERESTED PERSON -

FOR TIME WARNER TELECOM -

FOR TIME WARNER TELECOM -

**Pennington  
Moore  
Wilkinson  
Bell &  
Dunbar P.A.**  
ATTORNEYS AT LAW  
TALLAHASSEE, FLORIDA 32302-2095

Howard E. (Gene) Adams  
Attorney at Law

(850) 222-3533 - Phone  
(850) 933-6222 - Cell  
(850) 222-2126 - Fax  
gene@penningtonlaw.com

215 South Monroe Street  
2nd Floor (32301)  
Post Office Box 10095  
Tallahassee, Florida 32302-2095

Done  
04/24/06  
KMP

OIC

MF

**Kay Flynn**

060308-TP

**From:** Kay Flynn  
**Sent:** Monday, April 03, 2006 9:27 AM  
**To:** Patrick Wiggins; Beth Salak; Ray Kennedy  
**Subject:** RE: BellSouth/AT&T filing  
**Attachments:** Blank Bkgrd.gif

Thanks.

It's Docket No. 060308-TP.

---

**From:** Rick Melson  
**Sent:** Monday, April 03, 2006 9:26 AM  
**To:** Kay Flynn; Patrick Wiggins; Beth Salak; Ray Kennedy  
**Subject:** RE: BellSouth/AT&T filing

Yes.

---

**From:** Kay Flynn  
**Sent:** Monday, April 03, 2006 7:31 AM  
**To:** Rick Melson; Patrick Wiggins; Beth Salak; Ray Kennedy  
**Subject:** BellSouth/AT&T filing

We received on Friday a joint app for approval of indirect transfer of control of facilities (relating to merger of AT&T and BellSouth). Do we assign a docket number??

Kay

*Please note: Florida has a very broad public records law. Most written communications to or from state officials regarding state business are considered to be public records and will be made available to the public and to the media upon request. Therefore, your e-mail message may be subject to public disclosure.*

STATE OF FLORIDA



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KATRINA J. TEW

DIVISION OF THE COMMISSION CLERK &  
ADMINISTRATIVE SERVICES  
BLANCA S. BAYÓ  
DIRECTOR  
(850) 413-6770 (CLERK)  
(850) 413-6330 (ADMIN)

## Public Service Commission

April 4, 2006

James Meza III, Esquire  
BellSouth Telecommunications, Inc.  
150 South Monroe Street, Suite 400  
Tallahassee, Florida 32301-1556

**Re: Docket No. 060308-TP**

Dear Mr. Meza:

This will acknowledge receipt of a joint application for approval of indirect transfer of control of telecommunications facilities resulting from agreement and plan of merger between AT&T Inc. (parent company of AT&T Communications of the Southern States, LLC, CLEC Cert. No. 4037, IXC Registration No. TJ615, and PATS Cert. No. 8019; TCG South Florida, IXC Registration No. TI327 and CLEC Cert. No. 3519; SBC Long Distance, LLC, CLEC Cert. No. 8452, and IXC Registration No. TI684; and SNET America, Inc., IXC Registration No. TI389) and BellSouth Corporation (parent company of BellSouth Telecommunications, Inc., ILEC Cert. No. 8 and CLEC Cert. No. 4455; and BellSouth Long Distance, Inc. (CLEC Cert. No. 5261 and IXC Registration No. TI554), which was filed in this office on March 31, 2006, and assigned the above-referenced docket number. Appropriate staff members will be advised.

Mediation may be available to resolve any dispute in this docket. If mediation is conducted, it does not affect a substantially interested person's right to an administrative hearing. For more information, contact the Office of General Counsel at (850) 413-6248 or FAX (850) 413-7180.

Bureau of Records

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