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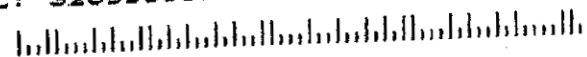


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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into the establishment of operations support systems permanent performance measures for incumbent local exchange telecommunications companies.
(AT&T FLORIDA TRACK)

DOCKET NO. 000121A-TP
ORDER NO. PSC-08-0618-PAA-TP
ISSUED: September 23, 2008

The following Commissioners participated in the disposition of this matter:

MATTHEW M. CARTER II, Chairman
LISA POLAK EDGAR
KATRINA J. McMURRIAN
NANCY ARGENZIANO
NATHAN A. SKOP

NOTICE OF PROPOSED AGENCY ACTION
ORDER ACCEPTING STIPULATION

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

I. Case Background

By Order No. PSC-01-1819-FOF-TP, issued September 10, 2001, in Docket No. 000121A-TP, this Commission adopted a Performance Assessment Plan for the purpose of monitoring performance levels of Operations Support Systems (OSS) provided to CLECs. The performance measurement plan provides a standard against which CLECs and the Commission can measure performance over time to detect and correct any degradation of service provided to CLECs. AT&T's performance measurement plan also includes a Self-Effectuating Enforcement Mechanism (SEEM) remedy plan. The Order also recognizes our vested authority, per section 364.01(3), Florida Statutes, to provide regulatory oversight necessary to ensure effective competition in the telecommunications industry. This docket has remained open since that time to address issues and concerns arising from OSS performance.

Following the BellSouth and AT&T merger, AT&T began plans to consolidate the operations support systems (OSS) of the two companies. AT&T started the process of providing official notification to CLECs of its OSS consolidation plans (known as the 22-State OSS

Release) over a year ago. The 22-State OSS Release plan involves a phased-in approach. The first phase commenced with the April 19, 2008 release (“April Release”).

On May 12, 2008, Cbeyond Communications, LLC (Cbeyond), Time Warner Telecom, LP (TWTC), and DeltaCom, Inc. (Deltacom), jointly referred to as the petitioners, filed a petition with the Commission requesting an audit of the April Release. The petition also requested a stay of CLEC-impacting OSS Releases and that we issue a Show Cause Order requiring AT&T to explain in detail the circumstances surrounding the April Release and explain why AT&T should not be penalized for its failure to appropriately implement the April Release.

On May 15, 2008, our staff held two informal workshops with AT&T, the petitioners, and other participating CLECs to discuss issues surrounding the current and future OSS releases. During the meetings, AT&T acknowledged that a variety of CLEC-impacting issues arose in connection with the April Release. Furthermore, AT&T made several commitments to address and resolve the issues and to prevent similar occurrences in future OSS releases. AT&T memorialized the list of commitments in a filing with this Commission on May 27, 2008.

On June 2, 2008, AT&T filed a response to the CLECs’ May 12, 2008 Complaint. In the response, AT&T attached the list of commitments to resolve the remaining issues associated with the April Release. Included in the list is the temporary suspension of future 22-State OSS releases, expanded customer support and communications, expanded testing for future OSS releases, and provision of proactive billing adjustments related to the April Release. AT&T stated that it has used, and continues to use, best efforts to resolve such issues, and it expects to resolve any known, remaining April Release issues by the end of June 2008. AT&T requested that we issue an order dismissing the CLECs’ petition.¹

On June 5, 2008, the petitioners filed a response requesting that we deny AT&T’s request to dismiss.

II. Jurisdiction

We are vested with jurisdiction over this matter pursuant to Sections 364.01(3) and (4)(g), Florida Statutes. Pursuant to Section 364.01(3), Florida Statutes, the Florida legislature has found that regulatory oversight is necessary for the development of fair and effective competition in the telecommunications industry. To that end, Section 364.01(4) (g), Florida Statutes, provides, in part, that this Commission shall exercise its exclusive jurisdiction in order to ensure that all providers of telecommunications service are treated fairly by preventing anticompetitive behavior. Furthermore, the FCC has encouraged the states to implement performance metrics and oversight for purposes of evaluating the status of competition under the Telecommunications Act of 1996.

¹ AT&T did not file a Motion to Dismiss but rather a response to the CLECs’ petition requesting an order dismissing the petition.