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Sent: Monday, December 22, 2008 4:25 PM
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Subject: Docket No. 000121A-TP
Attachments: NuVox Comm. Petition to Intervene and Joinder in Complaint of Cbeyond Comm. and Deltacom 12.22.08.pdf

In accordance with the electronic filing procedures of the Florida Public Service Commission, the following filing is made:

- a. The name, address, telephone number and email for the person responsible for the filing is:

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- b. This filing is made in Docket No. 000121A-TP, In re: Investigation into the establishment of operations support systems permanent performance measures for incumbent local exchange telecommunications companies. (BellSouth Track)
- c. The document is filed on behalf of NuVox Communications.
- d. The total pages in the document are 7 pages.
- e. The attached document is NuVox Communications, Inc.'s Petition to Intervene and Joinder in Complaint of Cbeyond Communications, LLC and Deltacom, Inc.

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DOCUMENT NUMBER-DATE

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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. (BellSouth Track)

Docket No. 000121A-TP

Filed: December 22, 2008

**NUVOX COMMUNICATIONS, INC.'S
PETITION TO INTERVENE AND JOINDER IN COMPLAINT
OF CBeyond COMMUNICATIONS, LLC AND DELTACOM, INC.**

Pursuant to sections 120.569, .57, Florida Statutes, and rules 25-22.039, 28-106.201 and 28-106.205, Florida Administrative Code, NuVox Communications, Inc. (NuVox), through its undersigned counsel, files its Petition to Intervene and Joinder in Complaint of Cbeyond Communications, LLC and Deltacom, Inc (Petitioners). In support thereof, NuVox states

1. Name and address of agency. The affected agency is the Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.

2. Name and address of Petitioner. The name and address of the Petitioner is:
NuVox Communications, Inc.
Two North Main Street
Greenville, SC 29601
Telephone: (864) 331-7323

3. Petitioner's representatives. Copies of all pleadings, notices, and orders in this docket should be provided to:

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4. Notice of docket. NuVox received notice of this docket by following activity in this docket.

5. Statement of Substantial Interests. NuVox is a CLEC authorized to do business in the state of Florida. NuVox serves business customers in Florida.

6. NuVox uses AT&T's operations support systems (OSS) to place orders, receive confirmation of such orders, receive clarifications, receive order rejects, and perform a myriad of functions which are integrally related to its business operations and its ability to serve its customers.

7. On April 19, 2008, AT&T's OSS system failed in critical areas, resulting in NuVox's inability to utilize the necessary functionalities of the system to service its current customers and to bring new customers on line. The details surrounding this failure are set out in detail in Petitioners' Complaint in this matter, filed on May 12, 2008, and in this Commission's Order No. PSC-08-0618-PAA-TP. Thus, NuVox will not repeat them here. As a result of this OSS failure, Commission Staff conducted an audit of the release deficiencies and procedures. Thus, NuVox files this Petition to Intervene and joins in the Complaint of Petitioners.

8. In this case, the Commission will consider the circumstances surrounding the AT&T OSS failure, what remedies must be put in place to prevent such an event in

the future, and what penalties should be assessed against AT&T as a result of the April OSS failure, as well as what action should be taken regarding the findings of the Staff audit. Thus, as a wholesale customer of AT&T, who relies on the AT&T OSS to provide appropriate and timely service to its customers, NuVox's substantial interests will be affected in this docket by the action the Commission takes in this matter on Petitioners' Complaint.

9. NuVox's interests are of the type that this proceeding is designed to protect. *See, Agrico Chemical Company v. Department of Environmental Regulation*, 406 So.2d 478 (Fla. 2nd DCA 1981). This proceeding will evaluate and put in place appropriate measures regarding the AT&T OSS as well as evaluate past failures and assess penalties. Thus, the purpose of the proceeding coincides with NuVox's substantial interests.

10. Disputed Issues of Material Fact. Disputed issues of material fact include, but are not limited to, the following:

- a. Did AT&T follow the required Change Management Procedure in implementing the OSS changes?
- b. Did AT&T engage in appropriate testing before instituting the OSS changes?
- c. If testing of the new releases occurred, what were the results of such testing?
- d. If testing of the new releases occurred, how were the results of such testing incorporated into the implementation of the changes?
- e. What requirements should be put in place to prevent similar problems with future OSS releases?

f. Should the recommendations contained in the Staff audit be implemented? If so, when and how should such procedures be monitored in the future?

g. What penalties should be imposed on AT&T for its OSS failure?

11. Ultimate Facts Alleged.

a. AT&T failed to properly implement the new releases to its OSS system;

b. AT&T's failure to properly implement the new OSS releases caused NuVox to be unable to service its existing customers and to bring new customers on line resulting in detriment to NuVox.

11. Rules and statutes justifying relief. The rules and statutes that entitle NuVox to intervene and participate in this case include, but are not limited to:

a. Section 364.01(3), Florida Statutes;

b. Section 364.01(4)(g), Florida Statutes;

c. Order No. PSC-01-1819-FOF-TP;

d. Order No. PSC-PSC-08-0618-PAA-TP;

d. Rule 28-106.201, Florida Administrative Code.

12. Relief. NuVox joins in Petitioners' Complaint and requests that the Commission enter an Order permitting NuVox to intervene and participate as a full party in this docket.

WHEREFORE, NuVox requests that the Commission enter an order allowing it to intervene and participate as a full party in this docket.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Petition to Intervene was served via Electronic Mail and U.S. Mail this 22nd day of December, 2008 to the following:

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