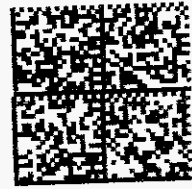


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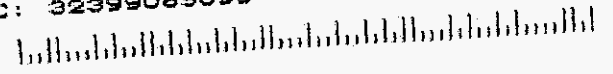
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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-09-0165-PAA-TP
ISSUED: March 23, 2009

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 ALLOWING
AT&T TO MOVE FORWARD WITH THE NEXT 22-STATE OSS RELEASE

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 this 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 which includes payments to CLECs (Tier 1) and to the State of Florida (Tier 2) when AT&T's performance fails to meet the standard. 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.

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Following the BellSouth and AT&T merger, AT&T began plans to migrate and consolidate the former BellSouth 9-state southeast OSS platform into a single pre-ordering and ordering operations support systems platform for use across AT&T's 22-state region. At the time of the merger, AT&T's Local Wholesale OSS operated uniformly in all of AT&T's 13-state region for many of the same CLEC customers doing business in the former BellSouth 9-state region. AT&T determined that the 13-state OSS system would produce greater efficiencies for the benefit of both AT&T and its customers throughout the 22-state region.

In 2007, AT&T started the process of providing official notification to CLECs of its OSS consolidation plans, known as the 22-state OSS Release. The 22-state OSS Release plan involves a phased-in approach over several years. The first phase commenced with the April 19, 2008 release (April Release).

Numerous CLEC-impacting issues arose in connection with the April Release. As a result, 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 this Commission requesting a third-party independent audit of the April Release.¹ The petition also requested a stay of CLEC-impacting OSS Releases, that we issue a Show Cause Order, requiring AT&T to explain in detail the circumstances surrounding the April Release, and why AT&T should not be penalized for its failure to appropriately implement the April Release.

AT&T acknowledged that a variety of CLEC-impacting issues arose in connection with the April Release. On July 31, 2008, a conference call was held between our staff and the parties exploring the possibility that an audit be conducted by Commission staff. After further discussion, on August 5, 2008, the parties agreed to the audit being conducted by Commission staff and entered into a stipulation. Per Commission Order No. PSC-08-0618-PAA-TP, filed in Docket 000121A-TP, we approved the stipulation.

The stipulation further states that the petitioners would dismiss the request for an independent audit and hold the remaining portions of the petitioner's complaint in abeyance, pending a vote on our staff's recommendation addressing the final audit report. On September 12, 2008, the petitioners filed their agreement and Notice of Dismissal of their request for an independent audit with prejudice. The remaining portions of the complaint held in abeyance are the delay of future 22-state OSS releases and the request for a show cause proceeding.

The audit report was completed in January 2009, and it includes our staff's opinion as to whether appropriate and adequate measures have been undertaken to prevent CLEC-impacting issues with future scheduled 22-state OSS releases. In summary, the audit report contains 18 recommendations for improvement resulting from the review of AT&T's April 2008 OSS Release.

¹ On September 26, 2008, Time Warner Telecom filed in Docket 000121A-TP a Notice of Withdrawal from participation in the complaint.