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DATE: May 20, 2009

TO: Office of Commission Clerk (Cole)

FROM: Division of Regulatory Compliance (M. Watts) *MW*
Office of the General Counsel (Tan) *Tan*

RE: Docket No. 090224-TL – Petition to change demarcation point specified in Rule 25-4.0345(1)(b), F.A.C., by BellSouth Telecommunications, Inc. d/b/a AT&T Florida.

AGENDA: 06/02/09 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\RCP\WP\090224.RCM.DOC

Case Background

On April 21, 2009, BellSouth Telecommunications, Inc. d/b/a AT&T Florida (AT&T Florida) filed its petition requesting permission to change the point of demarcation specified in Rule 25-4.0345(1)(b), Florida Administrative Code (F.A.C.), for basic local service provided to non-residential customers at Panama City Naval Station, Panama City Beach, Florida (Naval Station). The Department of the Navy (Navy) owns and operates the Naval Station. The Navy asked to purchase certain of AT&T Florida's existing cable and outside plant facilities. Coincident with the sale, the Navy advised AT&T Florida that it desired to establish a single point of demarcation at Building #110 for AT&T Florida services to non-residential subscribers at the Naval Station. The Navy's preferred location of the demarcation point is not specified in

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FPSC-COMMISSION CLERK

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Rule 25-4.0345(1)(b), F.A.C., causing AT&T Florida to seek Commission approval to establish the demarcation point at a location other than that specified in the rule.

On April 24, 2009, AT&T Florida filed an Amended Petition to Change the Demarcation Point. The amended petition clarified a scrivener's error in the original petition submitted on April 21, 2009.

The Commission is vested with jurisdiction over this matter pursuant to Sections 364.01(4) and 350.127(2), Florida Statutes (F.S.) Accordingly, staff believes the following recommendations are appropriate.

Discussion of Issues

Issue 1: Should the Commission approve the petition by BellSouth Telecommunications, Inc. d/b/a AT&T Florida to change the location of the demarcation point specified in Rule 25-4.0345(1)(b), F.A.C., for the provision of non-residential basic local service to subscribers at the Panama City Naval Station, Panama City Beach, Florida?

Recommendation: Yes, the Commission should approve the relocation of the demarcation point for the provision of non-residential basic local service to subscribers at the Panama City Naval Station, Panama City Beach, Florida, to a single point of demarcation as determined by the Department of the Navy for all non-residential subscribers' services at the Naval Station. (M. Watts/Tan)

Staff Analysis: Rule 25-4.0345, F.A.C., Customer Premises Equipment and Inside Wire, requires a local exchange company to provide and maintain the network facilities up to and including the demarcation point at each individual customer's premises. Specifically, Rule 25-4.0345(1)(b), F.A.C., states:

(b) "Demarcation Point." The point of physical interconnection (connecting block, terminal strip, jack, protector, optical network interface, or remote isolation device) between the telephone network and the customer's premises wiring. *Unless otherwise ordered by the Commission for good cause shown*, the location of this point is:

1. Single Line/Single Customer Building -- Either at the point of physical entry to the building or a junction point as close as practicable to the point of entry.
 2. Single Line/Multi Customer Building -- Within the customer's premises at a point easily accessed by the customer.
 3. Multi Line Systems/Single or Multi Customer Building -- At a point within the same room and within 25 feet of the FCC registered terminal equipment or cross connect field.
 4. Temporary Accommodations Subscriber Premises with Inadequate Grounding (e.g., some mobile homes, trailers, houseboats, construction modules) -- On a permanent stake, pole, or structure with a suitable safety ground.
- (Emphasis added)*

As emphasized above, Rule 25-4.0345(1)(b), F.A.C., allows an exception to the required demarcation point as ordered by the Commission for good cause shown. AT&T Florida cites in paragraph 11 on page 3 of its petition that good cause is, "*in order to provide service given the changes that the property owner, the Navy, has requested.*"

Before the Navy's plan to purchase existing cable and outside plant located on the Naval Station property from AT&T Florida, demarcation points were established for non-residential subscribers in accordance with Commission rules, e.g., within each customer's space at a point easily accessed by the customer. Because the demarcation points specified in the Commission's rule do not meet the needs of the tenants, the existing cable and outside plant facilities purchase

agreement between AT&T Florida and the Navy, signed on April 16, 2009, stipulated that AT&T Florida would petition the Commission to establish a single point of demarcation for all non-residential customers' services at the Naval Station. To provide telecommunications services in accordance with the Navy's request and to remain compliant with the Commission's rules, AT&T Florida submitted this petition to change the location of the demarcation point.

If the Commission approves the petition to permit AT&T Florida to provide service at a single point of demarcation, AT&T Florida would not be responsible for maintaining the facilities between the single point of demarcation and the affected subscribers' premises. The Navy will notify the affected customers of the change and its ramifications by letter at least 30 days in advance of the change. The letter states that AT&T Florida services will terminate at the new single demarcation point, and instructs customers to contact the Panama City Base Communications Office (BCO) to extend or repair service or to install special circuits between the new demarcation point and their premises. Customers should also contact the BCO prior to contacting AT&T Florida for connecting/disconnecting service or for repair service.

The precedent for the Commission to permit a local exchange company to provide service to a customer at a point of demarcation other than that specified in Rule 25-4.0345, F.A.C., has been previously established. In Docket No. 031114-TL, through Order No. PSC-04-0181-PAA-TL, issued February 23, 2004, the Commission found that AT&T Florida (f/k/a BellSouth) and the Department of the Navy met the burden "for good cause shown" as established by the rule and approved the request of AT&T Florida and the Navy to change the demarcation point established by Rule 25-4.0345(1)(b), F.A.C. In that docket, the property owner (the Navy) requested that a single demarcation point be established to service non-residential customers on the Mayport Naval Station in Jacksonville, Florida. Thereafter, the Navy solicited bids from competing service providers to install and maintain the outside plant facilities to non-residential areas and customers located within the Mayport Naval Station.

Accordingly, staff recommends that the Commission should approve the petition by BellSouth Telecommunications, Inc. d/b/a AT&T Florida to change the location of the demarcation point specified in Rule 25-4.0345(1)(b), F.A.C., for the provision of non-residential basic local service to subscribers at the Panama City Naval Station, Panama City Beach, Florida.

Issue 2: Should this docket be closed?

Recommendation: The Order issued from this recommendation will become final and effective upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest that identifies with specificity the issues in dispute, in the form provided by Rule 28-106.201, F.A.C., within 21 days of the issuance of the Proposed Agency Action Order. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order. **(Tan)**

Staff Analysis: Staff recommends that the Commission take action as set forth in the above staff recommendation.