

Dorothy Menasco

From: Woods, Vickie [vf1979@att.com]
Sent: Friday, July 17, 2009 12:01 PM
To: Filings@psc.state.fl.us
Subject: 090246-TP AT&T Florida's Second Notice of Filing Additional Docs. In Support of its Objection and Peititon to Cancel Clective's CLEC Certificate No. 8736
Attachments: Document.pdf

A. Vickie Woods
Legal Secretary to E. Earl Edenfield, Jr., Tracy W. Hatch,
and Manuel A. Gurdian,
BellSouth Telecommunications, Inc. d/b/a AT&T Florida
150 South Monroe Street, Rm. 400
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B. Docket No. 090246-TP: Notice of Adoption of Existing
Interconnection Agreement between BellSouth Telecommunications,
Inc. and Cbeyond Communications, Inc. by Clective Florida, LLC

C. AT&T Florida
on behalf of Manuel A. Gurdian

D. 17 pages total in PDF format (includes letter, certificate, pleading, Exhibit C and D)

E. AT&T Florida's Second Notice of Filing Additional Documentation In Support of its Objection and Peititon to Cancel
Clective's CLEC Certificate No. 8736

.pdf

<<Document.pdf>>

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7/17/2009

DOCUMENT NUMBER-DATE

07264 JUL 17 09

FPSC-COMMISSION CLERK



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July 17, 2009

Ms. Ann Cole, Commission Clerk
Office of the Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

**Re: Docket No. 090246-TP: Notice of Adoption of Existing
Interconnection Agreement between BellSouthTelecommunications,
Inc. and Cbeyond Communications, Inc. by Clective Florida, LLC**

Dear Ms. Cole:

Enclosed is BellSouth Telecommunications, Inc. d/b/a AT&T Florida's Second Notice of Filing Additional Documentation in Support of its Objection and Petition to Cancel Clective's CLEC Certificate No. 8736, which we ask that you file in the captioned docket.

Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely,



Manuel A. Gurdian

cc: All parties of record
Jerry Hendrix
Gregory R. Follensbee
E. Earl Edenfield, Jr.

CERTIFICATE OF SERVICE
Docket No. 090246-TP

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via
(*) Electronic Mail, (**) Facsimile and First Class U.S. Mail this 17th day of July, 2009 to
the following:

Teresa Tan (*)
Victor McKay (*)
Staff Counsels
Florida Public Service
Commission
Division of Legal Services
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
vmckay@psc.state.fl.us
ltan@psc.state.fl.us

Clective Telecom Florida, LLC (**)
2090 Dunwoody Club Drive, #106-257
Atlanta, GA 30350
Tel. No. (404) 272-0445
Fax. No. (203) 547-6326



Manuel A. Gurdian

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Notice of Adoption of Existing Interconnection) Docket No. 090246-TP
Agreement between BellSouth)
Telecommunications, Inc. and Cbeyond)
Communications, Inc. by Clective Florida, LLC) Filed: July 17, 2009

**AT&T FLORIDA'S SECOND NOTICE OF FILING ADDITIONAL
DOCUMENTATION IN SUPPORT OF ITS OBJECTION AND PETITION TO
CANCEL CLECTIVE TELECOM FLORIDA, LLC'S
CLEC CERTIFICATE NO. 8736**

BellSouth Telecommunications, Inc. d/b/a AT&T Florida hereby files the attached documentation in support of its Objection and Petition to Cancel Clective Telecom Florida, LLC's CLEC Certificate No. 8736.

1. *Direct Testimony of Jeffrey Noack, attached hereto as Exhibit "C," filed on behalf of Global NAPs Illinois, Inc., on or about June 20, 2008, in an Illinois Commerce Commission proceeding. The testimony states (at p. 1, lines 2-3) that Mr. Noack is "Director – Network Operations for Global, Inc." (Global NAPs/Global NAPs Illinois, Inc.) and that he has held this position since 1999.*

2. *Correspondence, attached hereto as Exhibit "D," dated October 26, 2004 sent by "Jeff Noack" of Global NAPs to AT&T (BellSouth at the time) indicating that Global NAPs had a "new employee in Atlanta" and "[h]is name is Evan Katz."*

DOCUMENT NUMBER-DATE

07264 JUL 17 8

FPSC-COMMISSION CLERK

Respectfully submitted this 17th day of July, 2009.

AT&T FLORIDA



E. EARL EDENFIELD JR.

TRACY W. HATCH

MANUEL A. GURDIAN

c/o Gregory R. Follensbee

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739485

EXHIBIT C

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

Illinois Bell Telephone Company, Inc.)
)
 v.)
) Docket No. 08-0105
Global NAPs Illinois, Inc.)
)
)

**DIRECT TESTIMONY OF JEFFREY NOACK
ON BEHALF OF GLOBAL NAPs ILLINOIS, INC.**

June 20, 2008

24 ring is the Point of Interconnection (or "POI") between Illinois Bell and Global. Each company
25 is responsible for the equipment on their side of that ring.

26 **Q. IS THIS NETWORK DESIGN CONSISTENT WITH THE NETWORK THAT**
27 **ILLINOIS BELL DESCRIBES IN ITS TESTIMONY?**

28
29 A. No. Ms. Pellerin describes a totally different network. According to her, the POI is the
30 LaGrange tandem building and Global ordered 11 special access DS3 facilities to reach that
31 location from Global's Oak Brook facility.²

32 **Q. HOW CAN THE TWO COMPANIES' UNDERSTANDING OF THE NETWORK**
33 **DESIGN BE SO DIFFERENT?**

34
35 A. Ms. Pellerin provides a history of the companies' interconnection agreement negotiations
36 that makes it appear that Global agreed to locate the POI at the LaGrange tandem, when in fact,
37 Global did not do so and instead, intended that the POI be the SONET that was jointly
38 provisioned by the two parties. First, Ms. Pellerin states that the Interim Amendment provided
39 that the parties would interconnect via a SONET system fiber meet between the La Grange
40 tandem location and Global's Oak Brook facility.³ That part of her testimony is correct,
41 although she fails to note that the cost of that SONET ring was split by the two companies. Then
42 she states that the Interconnection Agreement also provided that within 60 days of Commission
43 approval of an ICA, "Global Illinois would seek a determination from the Commission regarding
44 whether Global Illinois could interconnect with AT&T Illinois at Global Illinois' facility."⁴ She
45 then argues that because Global did not seek such a determination, the default location of the
46 POI must be the LaGrange Tandem. Having now moved the location of the POI from the
47 SONET ring to LaGrange, she then argues that Global must pay Illinois Bell for any facilities

² AT&T Ex. 1, p. 6.

³ *Id.*, p. 9.

⁴ *Id.* (citing ¶¶ 3, 3a of the Interim Amendment)

48 used to transport traffic to the LaGrange tandem.⁵ More specifically, she states that under the
49 interconnection agreement, "AT&T Illinois would utilize its facilities in place and charge Global
50 Illinois at rates commensurate with interstate access tariff rates."⁶

51 **Q. WHAT IS THE DEFECT WITH THE CHAIN OF REASONING OF MS.**
52 **PELLERIN?**

53
54 **A.** The provisions that she cites in the parties' Interconnection Agreements and Amendment
55 were made irrelevant by the parties' construction of the SONET ring. As I stated above, Illinois
56 Bell and Global shared the cost of the SONET ring. Thus, Global saw no reason to seek the
57 Commission's determination that the POI should be located at its Oak Brook facility. There was
58 no reason to do so because the SONET ring was the POI. Thus, while Ms. Pelleren accurately
59 quotes from the parties' interconnection agreements and amendment, the particular provisions
60 she relies upon are nonsensical in this situation. The POI was established with the construction
61 of the jointly funded SONET ring. Thus, an appeal to the Commission was not necessary. Even
62 if somehow it is determined that Global should have sought the Commission's determination that
63 the POI would be at its Oak Brook facility, the fact remains that the SONET ring is not an
64 Illinois Bell facility – it is jointly owned. Thus, Illinois Bell is not utilizing "its facilities in
65 place" so it cannot charge interstate access tariffs. Instead, traffic has been and continues to pass
66 over the jointly owned SONET ring.

67 **Q. WOULD IT MAKE SENSE FOR GLOBAL TO SHARE THE COST OF THE**
68 **SONET RING AND THEN DECIDE TO PAY ILLINOIS BELL ACCESS**
69 **CHARGE RATES BETWEEN OAK BROOK AND LA GRANGE?**

70

⁵ *Id.* pp. 9-10.

⁶ *Id.* p. 10 citing ¶ 6b f the Interim Amendment)

71 A. Of course not. It would have been absurd for Global to go to the trouble and expense of
72 the construction of a SONET ring and then pretend it did not exist so it could pay Illinois Bell
73 access charge rates.

74 **Q. WHAT ARE THE ELEVEN DS3 CIRCUITS THAT MS. PELLERIN CLAIMS**
75 **THAT GLOBAL ORDERED TO TRANSMIT TRAFFIC BETWEEN THE OAK**
76 **BROOK AND LA GRANGE LOCATIONS?**
77

78 A. These are all circuits on the Illinois Bell side of the SONET ring. Because the SONET
79 ring is the POI, it is Illinois Bell's responsibility to assume the cost of those circuits.

80 **Q. BUT DIDN'T GLOBAL PROVIDE ILLINOIS BELL WITH ASRs REQUESTING**
81 **THAT IT INSTALL THOSE CIRCUITS?**
82

83 A. The ordering of those circuits was one of the major frustrations Global had with Illinois
84 Bell. It has been and continues to be Global's position that all it needs to provide to Illinois Bell
85 is an estimate of the traffic it expects to send to Illinois Bell. It would then be up to Illinois Bell
86 to combine that estimate with its own estimate of traffic heading in the opposite direction and to
87 then install the appropriate circuits on its side of the SONET ring. Illinois Bell has refused to
88 follow that logical course of action and instead has insisted that Global "order" the circuits
89 necessary to carry traffic on the Illinois Bell side of the SONET ring. The mere fact that Global
90 followed Illinois Bell's demands and provided it with ASRs that identified the circuits Illinois
91 Bell would need to have on its side of the SONET ring in no way implies that Global is
92 responsible for the cost of those circuits. I will address the specific ASRs later in this testimony,
93 but at this point, I would simply like to state that Global should never have been forced to submit
94 ASRs in the first place.

95 **Q. WHAT IS THE NATURE OF THE CHARGES ILLINOIS BELL CLAIMS**
96 **GLOBAL OWES?**
97

98 A. While the underlying claim is for the DS3 circuits Illinois Bell claims that Global
99 "ordered," the nature of the charges are access charges, reciprocal compensation and transit
100 charges.

101 **Q. IS GLOBAL ACCOUNTABLE TO ILLINOIS BELL FOR THESE CHARGES?**

102
103 A. No. Global witness Mr. Scheltema will address the fact that the nature of Global's traffic
104 brings it within the Enhanced Service Provider ("ESP") exemption. Rather than examine the
105 legal basis for that exemption, which is what Mr. Scheltema's testimony does, my testimony will
106 provide information demonstrating that Global's traffic is indeed ESP traffic. Very simply,
107 Global's traffic is not "traditional" telephony. In traditional telephony, the carrier would receive
108 calls directly from another carrier. For traditional traffic subject to interstate or intrastate access
109 charges, the calling party would dial a 1+ code to route the call to an interexchange carrier.
110 Global is not a long distance carrier; nor does Global receive traffic from any carrier using a 1+
111 method. Indeed, Global does not have interconnection directly with long distance carriers -
112 period. Similarly, Global's traffic is not local exchange traffic subject to reciprocal
113 compensation. All of Global's outbound traffic comes to it from ESPs, not individual customers
114 making voice calls or third party carriers transmitting voice calls.

115 **Q. WHAT ARE THE IMPORTANT DISTINCTIONS BETWEEN GLOBAL'S**
116 **TRAFFIC AND TRAFFIC OF A TRADITIONAL TELECOMMUNICATIONS**
117 **CARRIER?**

118
119 A. Global can receive traffic in different formats, including asynchronous transmission
120 ("ATM") and IP. Global can also terminate calls, *i.e.*, exchange them with Illinois Bell, in
121 different formats. Unfortunately, although we would prefer to deliver our traffic in IP format
122 through an optical interconnect, Illinois Bell requires us to translate the traffic into time division
123 multiplexing ("TDM") to accommodate their network.

124 The traditionally, ordinary long distance calls were dialed by a competitive carrier's
125 customers and sent to Illinois Bell via feature group D trunks, for which the competitive carrier
126 paid originating access. Global does not use feature group D trunks. Global converts the traffic
127 it receives to ATM for transport. Global then hands off our traffic as TDM to Illinois Bell.
128 Illinois Bell requires Global to hand the traffic off in TDM.

129 **Q. WHAT IS TDM?**

130 A. TDM is a method of transmission upon which circuit-switched networks rely, in which
131 each communication requires a dedicated slot on a circuit. The circuit slot is established when
132 the call begins and is freed when the call ends. An IP telephony solution, on the other hand,
133 allows telephone conversations to travel over the same IP networks used for data
134 communications. IP telephony is much more efficient because conversations are "bundled" in the
135 IP networks, with all communications flowing through the same circuit. Each bundle is routed by
136 virtue of its address of origin and destination; a server-based "*call manager*" on the end-user side
137 acts as the switch.

138 To further explain IP telephony: the open architecture of the Internet allows data to be
139 transmitted in a way fundamentally different from circuit-switched service. In circuit-switched
140 communications a single, dedicated physical circuit must be established for the duration of the
141 call; packet-switched communications rely on "connectionless routing", in which calls are
142 divided into digital packets that are dispersed among multiple circuits that travel different paths
143 to their destinations, and are transmitted only with other packets carrying other information. The
144 use of IP to transmit voice enables a wide range of capabilities that are not available with
145 traditional phone service - and to integrate various capabilities seamlessly, enabling more
146 efficient communications.

147 **Q. HOW DOES GLOBAL DELIVER ITS TRAFFIC TO ILLINOIS BELL?**

148

149 A. As noted above, Global transmits traffic on its own network using IP packet format,
150 usually ATM. Illinois Bell, however, refuses to accept traffic in that format, so Global must
151 "step down" the traffic to the technologically backward format of TDM. Nevertheless, the
152 portion of the communications path that travels on Global's network uses IP packet format.

153 **Q. AT&T WITNESS MS. MOORE PROVIDES TESTIMONY ON THE ASR'S**
154 **SUBMITTED BY GLOBAL FOR FOUR INTRASTATE SPECIAL ACCESS DS3S USED**
155 **TO PROVIDE CONNECTION TO THE AT&T NETWORK. DO YOU HAVE A**
156 **RESPONSE TO THAT TESTIMONY?**

157 A. Yes. Schedules BAM-1 through BAM-3 are the ASRs submitted by Global to AT&T
158 for these DS3s. As I stated above, Global should never have needed to submit these ASRs
159 because AT&T, not Global, is responsible for the facilities ordered in these ASRs, which are on
160 Illinois Bell's side of the SONET ring. In any event, they are instructive. A review of those
161 exhibits demonstrates how AT&T has prohibited Global from identifying the nature of the traffic
162 it intended to transmit, and thus prevented Global from providing AT&T with information that
163 would show that the traffic would be subject to the ESP exemption. I prepared some of these
164 ASRs and can say from personal experience that it is a frustrating experience because AT&T
165 leaves no room for explanation on these ASRs for unusual situations. There was simply no way
166 to indicate in these ASRs that traffic would be entirely that of ESPs. Virtually the only thing that
167 AT&T would allow us to say was if traffic would be intra LATA or inter LATA.

168 **Q. WHY WERE SOME ASRs ORDERED OUT OF AT&T'S ICC TARIFF AND SOME**
169 **OUT OF ITS INTERSTATE TARIFF?**

170

171 A. I don't know. According to Ms. Moore, Global ordered four DS3s out of Illinois Bell's
172 ICC tariff and seven DS3s out of its FCC tariff.⁷ Global had intended that all eleven circuits be
173 listed as "local" and had asked Illinois Bell how to do so. Global believes it followed the
174 procedures that Illinois Bell told it to follow to make that designation. The fact that the ASRs
175 resulted in charges under state and federal tariffs demonstrates both the difficulty of using the
176 ASRs and the absurdity of using ASRs for this particular situation. All of the traffic passed on
177 by Global to Illinois Bell is ESP traffic. The fact that some circuits are being charged under
178 state and others under federal tariffs is most likely due to some confusion when attempting to
179 complete these ASRS. The fact that different tariffs apply to circuits used for exactly the same
180 thing demonstrates the problems Illinois Bell causes when, as here, it insists that Global fit a
181 square peg into a round hole.

182

183 **Q. AT&T WITNESS HARLEN PROVIDES TESTIMONY ON THE ASR'S**
184 **SUBMITTED BY GLOBAL FOR TRUNKS THAT AT&T HAS CLAIMED ARE**
185 **SPECIFICALLY FOR LOCAL AND INTRALATTA TOLL TRAFFIC. DO YOU**
186 **HAVE A RESPONSE TO THAT TESTIMONY?**

187

188 A. Yes. Schedule RMH-2 contains the ASRs submitted by Global to AT&T for these
189 circuits. As with the DS3 circuits addressed above, a review of those exhibits demonstrates how
190 AT&T has prohibited Global from identifying the nature of the traffic it intended to transmit
191 over these DS3s and thus prevented Global from providing AT&T with information that would
192 show that the traffic would be subject to the ESP exemption.

193

194

⁷ AT&T Ex. 3, p. 3.

195 **Q. DID YOU EVER SPEAK TO ANY REPRESENTATIVE OF ILLINOIS BELL**
196 **REGARDING YOUR FRUSTRATION WITH THE ASRs?**

197 A. Yes. Beginning early on in the relationship I had a number of conversations with
198 representatives of Illinois Bell, including Pat White and Paul Weinstein, regarding the fact that
199 the ASR form did not provide a proper option or an adequate manner to describe what Global
200 was sought and my concern that Global might be improperly charged. Each time I was instructed
201 that unless Global completed the form as presented a DS3 could not be ordered.

202 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

203

204 A. Yes.

EXHIBIT D

From: Jeff Noack [mailto:jnoack@gnaps.com]
Sent: Thursday, October 28, 2004 10:47 AM
To: Danforth, Dawn
Subject: Re: new cafe id

Hello Dawn from Bell South.
I tried to fill this form out. Let me know what else you need.
Evans Email is evan@gnaps.com

Jeff from Global NAPs

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

From: [Danforth, Dawn](#)
To: [Jeff Noack](#)
Sent: Thursday, October 28, 2004 10:45 AM
Subject: RE: new cafe id

Well hello there Jeff from Global NAPs...long time no hear from!!

Left Evan a voice mail for his email address so I can send him the profile request form, but I've also attached it here in case you have his address handy and you can forward to him.

Just need the general company info, the type of user = RT Customer, and the user name info section and then send it back to me.

Hope you and yours are doing well.

Dawn from BellSouth
205-714-0243

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

From: Jeff Noack [mailto:jnoack@gnaps.com]
Sent: Tuesday, October 26, 2004 1:57 PM
To: Danforth, Dawn
Subject: new cafe id

Hello Dawn from Bell South,

I hope you are still there and this is a good email address for you.
Global NAPs has a new employee in Atlanta.

Hi s name is Evan Katz phone number 404-753-7890.

Jeff Noack
Global NAPs
410-552-0663