

State of Florida



## Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FLORIDA 32399-0850

**-M-E-M-O-R-A-N-D-U-M-**

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**DATE:** September 2, 2009

**TO:** Office of Commission Clerk (Cole)

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

**RE:** Docket No. 090375-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:** 09/15/09 – 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\090375.RCM.DOC

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### Case Background

On July 17, 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 tenants at Brandon Place, Orange Park, Florida (Brandon Place). Moosehaven, Inc. (Moosehaven) owns and operates a retirement community established for members of the Loyal Order of the Moose.

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Brandon Place, currently under construction<sup>1</sup>, will be the newest component of the retirement community. Moosehaven advised AT&T Florida that it desired to establish a single point of demarcation at 1980-1 Astor Street to provide AT&T Florida services to the tenants of Brandon Place. Moosehaven's preferred location of the demarcation point is not specified in 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 July 21, 2009, staff sent a letter to Moosehaven requesting additional information to clarify the impact that changing the demarcation point would have on the residents of Brandon Place. Moosehaven responded on August 3, 2009. After reviewing Moosehaven's response, staff requested additional clarification on August 27, 2009. Moosehaven responded via e-mail the same day, stating in pertinent part:

Moosehaven is a retirement community in existence for 87 years. We currently provide all telephone equipment service and line repair to our residents from an existing demarcation point to the various existing customers on this campus and have done so for many years.

As part of a redevelopment project, we are opening new accommodations on an undeveloped portion of the campus. This new component will offer duplex housing instead of the apartment type accommodations found on the older portion of the campus. We request that a second demarcation point be established for this new development with the understanding that Moosehaven will continue to provide all equipment services and line repairs from that demarcation point to each individual customer as part of the service we offer to residents.

A resident, experiencing a loss of dial tone or other telephone problem, will report the problem to Moosehaven. Moosehaven will then verify if the problem is that of the telecommunications service provider, or if the problem is on the resident's side of the demarcation point. Moosehaven will either contact the telecommunications service provider, on behalf of the resident, or will make repairs to the network on the resident's side of the demarcation point, including wiring inside the resident's premises. Moosehaven offers this service as a convenience to its customers. Staff believes that the residents of Brandon Place will be adequately served from the single demarcation point requested.

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.

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<sup>1</sup> Brandon Place will be completed in three phases:

- Phase 1 estimated completion: 2010
- Phase 2 estimated completion: 2011
- Phase 3 estimated completion: 2012

All site work and infrastructure will be completed in Phase 1.

### 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 residential basic local service to subscribers at Brandon Place, Orange Park, Florida?

**Recommendation:** Yes, the Commission should approve the relocation of the demarcation point for the provision of residential basic local service to subscribers at Brandon Place, Orange Park, Florida, to a single point of demarcation as determined by Moosehaven, Inc. for all residential subscribers' services at Brandon Place. **(M. Watts/Brooks)**

**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. Moosehaven stated in its response to staff's July 21, 2009 letter that the Brandon Place component of its retirement community would be adequately served by a minimum point of entry.

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. Moosehaven stated that it will provide all necessary maintenance, upgrades, troubleshooting and repair to the telecommunications equipment between its single demarcation point and the Brandon Place residents' premises.

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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 residential basic local service to subscribers at Brandon Place, Orange Park, Florida.

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**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. **(Brooks)**

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