

Marguerite McLean

000121A-TP

From: Lynette Tenace [ltenace@kagmlaw.com]
Sent: Friday, October 09, 2009 3:03 PM
To: Filings@psc.state.fl.us
Cc: Adam Teitzman; Lisa Harvey; Jerry Hallenstein; Beth Keating; rc1191@att.com; ke2722@att.com; dkonuch@fcta.com; de.oroark@verizon.com; greg.follensbee@att.com; douglas.c.nelson@sprint.com; kmudge@covad.com; gene@penningtonlaw.com; Carolyn.ridley@twtelecom.com; gene.watkins@cbeyond.net
Subject: Docket No. 000121A-TP
Attachments: Cbeyond Complaint, Request for Stay of OSS Release and Request for Expedited Treatment 10.09.09.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:

Vicki Gordon Kaufman
 Jon C. Moyle, Jr.
 Keefe Anchors Gordon & Moyle
 118 North Gadsden Street
 Tallahassee, FL 32301
 (850) 681-3828
vkaufman@kagmlaw.com
jmoyle@kagmlaw.com

- 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 Cbeyond Communications, LLC.
- d. The total pages in the document is 9 pages.
- e. The attached document is Cbeyond's Complaint, Request for Stay of OSS Release and Request for Expedited Treatment.

Lynette Tenace

ltenace@kagmlaw.com



**Keefe, Anchors
 Gordon & Moyle**

Keefe, Anchors, Gordon and Moyle, P.A.
 The Perkins House
 118 N. Gadsden St.
 Tallahassee, FL 32301
 850-681-3828 (Voice)
 850-681-8788 (Fax)
www.kagmlaw.com

The information contained in this e-mail is confidential and may be subject to the attorney client privilege or may constitute privileged work product. The information is intended only for the use of the individual or entity to whom it is addressed. If you are not the intended recipient, or the agent or employee responsible to deliver it to the intended recipient, you are hereby notified that any use, dissemination, distribution or copying of this communication is strictly prohibited. If you receive this e-mail in error, please notify us by telephone or return e-mail immediately. Thank you.

10/9/2009

DOCUMENT NUMBER-DATE

10435 OCT-9 8

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: October 9, 2009

**CBEYOND COMMUNICATIONS, LLC'S COMPLAINT,
REQUEST FOR STAY OF OSS RELEASE AND
REQUEST FOR EXPEDITED TREATMENT**

Cbeyond Communications, LLC (Cbeyond), pursuant to rule 28-106.201, Florida Administrative Code, through its undersigned counsel, files this Complaint and Request for Stay of OSS Release against BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast (AT&T). In addition, due to the fact that AT&T plans to implement its new release in November, Cbeyond requests that its Complaint be processed on an expedited basis. As grounds therefore, Cbeyond 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:

Cbeyond Communications, LLC
320 Interstate North Parkway, Suite 300
Atlanta, Georgia 30339

3. Petitioner's representatives. All pleadings, orders, notices and other correspondence with respect to this docket should be addressed to:

Vicki Gordon Kaufman
Jon C. Moyle, Jr.
Keefe Anchors Gordon & Moyle, PA
118 North Gadsden Street
Tallahassee, Florida 32301
850.681.3828
vkaufman@kagmlaw.com
jmoyle@kagmlaw.com

Charles E. (Gene) Watkins
Cbeyond Communications, LLC
320 Interstate North Parkway, Suite 300
Atlanta, Georgia 30339
678.370.2174
gene.watkins@cbeyond.net

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

5. Statement of Substantial Interests. Cbeyond is a CLEC certified to do business in Florida. Cbeyond serves business customers in Florida and 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. When AT&T's OSS system does not function correctly, Cbeyond experiences an inferior ability to bring on new customers, manage existing customers, and migrate moving customers -- resulting in lost business, poor service, and, most importantly, discriminatory treatment.

6. Because the correct functioning of AT&T's OSS system is critical to the operation of Cbeyond's business and its ability to provide service to its customers, Cbeyond'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).

7. OSS Release Problems. AT&T has indicated that in November 2009, it will implement a new OSS release which will make changes to AT&T's OSS in an attempt to introduce the 22-state LEX GUI ordering system into the 13-state BellSouth region. It is Cbeyond's understanding that such changes include retirement of certain parts of the OSS related to AT&T's attempts to integrate BellSouth's 13-state OSS system with AT&T's 22-state system.

8. It is further Cbeyond's understanding that the Local Exchange Navigation System (LENS) will be retired and replaced with a combination of the Local Service Request Exchange (LEX) and Enhanced Verigate. In addition to the problems identified by Saturn Telecommunications Services, Inc. (STS) in Docket No. 090430-TP, Cbeyond has identified additional problems in AT&T's proposed release. If such problems are not corrected *before* the release, the OSS will not function properly and will create a myriad of problems for Cbeyond as it attempts to provide service to new and existing customers.

9. Cbeyond has thus far identified the problems described herein with the proposed new release which will be detrimental to Cbeyond and the CLEC community. Cbeyond has determined that AT&T's Graphical User Interface (GUI), Enhanced Verigate system fails to provide the correct address when a spare loop reservation request is submitted. Cbeyond determined this by comparing the end user address returned by a spare loop reservation request to the legacy BellSouth systems, LENS/CAFÉ, to the end user address returned by this request in the legacy SBC systems using Verigate. The address returned by the legacy BellSouth systems LENS/CAFÉ is more precise (e.g., contains the suite number and/or floor number of business in multi-dwelling units) than the address returned by the legacy SBC system GUI Verigate. Further, if the precise address returned by LENS/CAFÉ is used in Verigate, Verigate ignores the precise address information provided and returns only the Minimum Point of Entry (MPOE) address.

10. This malfunction is problematic because the MPOE address may be an invalid termination point for the requested cable/pair reservation. Therefore, it is imperative that Verigate be corrected prior to the decommissioning of LENS and CAFÉ so that Verigate can use the verified precise address provided and so that circuits requested by wholesale customers are

provisioned to the correct location. If this problem is not corrected, so that Verigate uses the precise verified address, many future ordering and provisioning problems will be created in Florida. For example, circuits that are ordered by wholesale customers will be incorrectly delivered to the MPOE address rather than to a specific floor or suite where the end user is located. Subsequent, and avoidable, move or extension orders will have to be worked and completed to deliver the circuit to the actual address/location of the end user. This will create customer dissatisfaction with Cbeyond's service and give AT&T an unfair and undue competitive advantage in the marketplace.

11. Cbeyond has also determined that AT&T's legacy SBC systems fail to operate properly in the legacy BellSouth territory in another way. This malfunction concerns Cbeyond's ability to use AT&T's systems to validate whether or not the Connecting Facility Assignment (CFA) code it plans on including on an order for a loop facility is available (*i.e.*, not already being used for some other loop). A CFA is an identification code given to a physical or logical network point in a wire center. Cbeyond, and other CLECs, must include a valid/available CFA on UNE loop orders sent to AT&T so that AT&T can know where in the central office to connect the loop. If Cbeyond fails to provide a valid/available CFA on a loop order, AT&T's provisioning system will reject the order. Currently, Cbeyond can pre-order validate CFAs using AT&T's legacy BellSouth system, CAFÉ. However, AT&T's legacy SBC Verigate does not permit Cbeyond to pre-order validate the availability of CFAs in Florida.

12. This legacy SBC system malfunction is problematic because once CAFÉ is decommissioned and Cbeyond is forced to use Verigate for pre-ordering, the failure of Verigate to permit Cbeyond to validate a CFA will cause employees of Cbeyond to waste time and money having to resubmit orders with corrected CFA. This will result in a delay in the completion of

wholesale/UNE circuit orders, creating customer dissatisfaction. It will permit AT&T to discriminate against its wholesale customers in favor of its retail services and will give AT&T an undue competitive advantage in the marketplace. As such, this legacy SBC system problem must be corrected prior to the decommissioning of LENS.

13. It is also Cbeyond's experience that the pre-order validation of available CFAs that is currently available in legacy Bellsouth OSS CAFÉ provides Cbeyond with information to alert AT&T when AT&T has failed to update its systems with returned CFAs (*i.e.*, a returned CFA is a CFA that was used, but due to a disconnection, is no longer being used). In the past, AT&T has sometimes been slow to activate returned CFAs in its provisioning systems. This creates a mismatch between actual available CFAs and the status of available CFAs in AT&T systems. The absence of CFA availability information for Florida in AT&T's Verigate pre-ordering system will eliminate Cbeyond's pre-order ability to ensure that AT&T puts returned CFAs back into available status. When AT&T fails to expeditiously put returned CFAs back into available status, Cbeyond's ability to efficiently utilize the CFA it has purchased is reduced and Cbeyond's cost is inappropriately increased. Therefore, AT&T must be required to enhance its Verigate system so that it provides pre-order CFA functionality that is at parity with its legacy BellSouth CAFÉ system prior to the decommissioning of CAFÉ.¹

14. The Commission should bear in mind the fiasco that occurred with AT&T's April 2008 Release. The Commission Staff conducted an audit of that event and the Commission found:

The Commission staff audit revealed AT&T's management's lack of understanding of the magnitude and complexity of the conversion effort from the beginning. The report states that failures were evident in *AT&T's planning, organizing, directing, and control of this project*. The audit report contains 18 recommendations for improvement that resulted from the review of

¹ Cbeyond has made AT&T aware of these issues.

AT &T's April 2008 OSS Release. The scope of the review includes AT&T's root cause analysis of the April Release failures, the defect management process, and AT&T's commitments made to this Commission. AT&T has taken steps to resolve many of the identified problems. However, there are still many unknowns.²

As Commissioner Skop noted at the March 13, 2009 Agenda Conference where problems with AT&T's April 2008 Release were discussed: "So I think where we are at is that we need to prevent reoccurrence of this problem from happening in the future."³ Cbeyond agrees. Thus, the Commission should carefully evaluate the new proposed release to ensure that such a situation does not arise again by making sure that the new OSS release works properly *before* it is implemented.

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

a. Whether AT&T has engaged in appropriate testing of its proposed new release prior to announcing its implementation;

b. Whether AT&T should be required to ensure that all functionality available with LENS is available and working in its new system release prior to the decommissioning of LENS;

c. Whether AT&T should be required to ensure that its new OSS release provides the correct address when a spare loop reservation request is submitted;

d. Whether AT&T should be required to ensure that its new OSS release validates whether or not a Connecting Facility Assignment (CFA) is available;

e. Whether AT&T's system new release should be stayed until all problems are identified and corrected.

² Order No. PSC-09-0165-PAA-TP at 3, emphasis supplied.

³ Transcript March 13, 2009 Agenda Conference, Item 10 at p. 14.

16. Ultimate Facts Alleged. Ultimate facts alleged include, but are not limited to, the following:

a. AT&T's failure to appropriately test its new OSS release will result in harm to Cbeyond because it will affect its ability to serve current customers and bring on new customers;

b. AT&T should be required to ensure that all components of its release are working properly before the release is launched and its legacy BellSouth systems are decommissioned.

17. Rules and statutes justifying relief. The rules and statutes that entitle Cbeyond 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. Rule 28-106.201, Florida Administrative Code.

18. Relief. Cbeyond requests that:

a. The Commission prohibit AT&T from implementing the November release until all identified problems have been resolved;

b. The Commission process this Complaint on an expedited basis.

WHEREFORE, Cbeyond requests that the Commission:

1. Prohibit AT&T from implementing the November OSS release until all problems with the release have been resolved;

2. Process this Complaint on an expedited basis given AT&T's intent to

implement the release in November; and

3. Grant such other relief as necessary.

s/Vicki Gordon Kaufman

Vicki Gordon Kaufman
Jon Moyle, Jr.
Keefe Anchors Gordon & Moyle
118 North Gadsden Street
Tallahassee, FL 32301
(850) 681-3828 (Voice)
(850) 681-8788 (Fascimile)
vkaufman@kagmlaw.com
jmoyle@kagmlaw.com

Charles E. (Gene) Watkins
Cbeyond Communications, LLC
320 Interstate North Parkway, Suite 300
Atlanta, Georgia 30339
(678) 370-2174 (Voice)
(678) 424-2500 (Fascimile)
gene.watkins@cbeyond.net

Attorneys for Cbeyond

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a true and correct copy of Cbeyond's Complaint and Request for Stay of OSS Release and Request for Expedited Treatment was served via Electronic Mail and U.S. Mail this 9th day of October, 2009 to the following:

Adam Teitzman, Staff Counsel
Lisa Harvey, Jerry Hallenstein
Florida Public Service Commission
Division of Legal Services
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0580
ateitzma@psc.state.fl.us
lsharvey@psc.state.fl.us
jhallens@psc.state.fl.us

Beth Keating
Akerman Law Firm
106 East College Avenue, Suite 1200
Tallahassee, FL 32301
beth.keating@akerman.com

Kip Edenfield, General Counsel
Robert Culpepper, General Attorney
AT&T Florida
150 South Monroe Street, Suite 400
Tallahassee, FL 32301-1561
rc1191@att.com
ke2722@att.com

David A. Konuch
Florida Cable Telecommunications
Association, Inc.
246 E. 6th Avenue, Suite 100
Tallahassee, FL 32303
dkonuch@fcta.com

Dulaney O'Roark, III
Verizon
Six Concourse Parkway
Suite 3200
Atlanta, GA 30328
de.oroark@verizon.com

Gregory Follensbee
AT&T Florida
150 South Monroe Street, Suite 400
Tallahassee, FL 32301-1561
greg.follensbee@att.com

Douglas C. Nelson
Sprint Nextel
233 Peachtree Street, N. E.
Suite 2200
Atlanta, GA 30303
douglas.c.nelson@sprint.com

Katherine K. Mudge
Covad Communications Company
7000 N. MoPac Expressway, Floor 2
Austin, TX 78731
kmudge@covad.com

Howard E. Adams
Pennington Law Firm
215 S. Monroe Street, 2nd Floor
Tallahassee, FL 32301
gene@penningtonlaw.com

Carolyn Ridley, VP Regulatory Affairs
Time Warner Telecom of Florida, L.P.
555 Church Street, Suite 2300
Nashville, TN 37219
Carolyn.ridley@twtelecom.com

s/Vicki Gordon Kaufman
Vicki Gordon Kaufman