

Ruth Nettles

000121A-TP

From: Woods, Vickie [vf1979@att.com]
Sent: Friday, October 16, 2009 3:11 PM
To: Filings@psc.state.fl.us
Subject: 000121A-TP AT&T Florida's Motion for Expedited Approval of Lifeline Outreach Funding and for Modification of SEEM Penalty Payments
Importance: High
Attachments: Document.pdf

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B. Docket No. 000121A-TP: In Re: Investigation into the Establishment of Operations Support Systems Permanent Incumbent Local Exchange Telecommunications Companies.

C. BellSouth Telecommunications, Inc.
 on behalf of E. Earl Edenfield, Jr.

D. 9 pages total in PDF format (Letter, Certificate and Report)

E. BellSouth Telecommunications, Inc. d/b/a AT&T Florida's Motion for Expedited Approval of Lifeline Outreach Funding and for Modification

of SEEM Penalty Payments

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October 16, 2009

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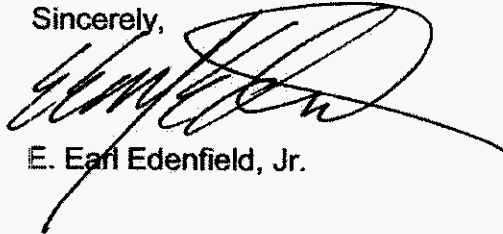
Re: Docket No. 000121A-TP
In Re: Investigation into the establishment of operations support systems permanent performance measures for incumbent local exchange Telecommunications companies (BellSouth Track)

Dear Ms. Cole:

Enclosed is BellSouth Telecommunications, Inc. d/b/a AT&T Florida's Motion for Expedited Approval of Lifeline Outreach Funding and for Modification of SEEM Penalty Payments, which we ask that you file in the captioned docket.

A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return the copy to me. Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely,



E. Earl Edenfield, Jr.

Enclosures

cc: All parties of record
Jerry D. Hendrix
Gregory R. Follensbee

CERTIFICATE OF SERVICE
Docket No. 000121A-TP

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via

Electronic Mail and U.S. Mail the 16th day of October, 2009 to the following:

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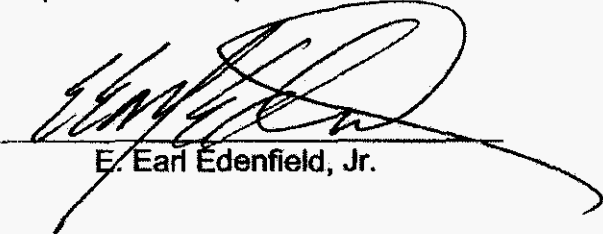
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E. Earl Edenfield, Jr.

(+) Signed Protective Agreement

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.)

Docket No.: 000121A-TP

Filed: October 16, 2009

**MOTION FOR EXPEDITED APPROVAL OF LIFELINE OUTREACH FUNDING AND
FOR MODIFICATION OF SEEM PENALTY PAYMENTS**

BellSouth Telecommunications, Inc., d/b/a AT&T Florida ("AT&T Florida"), pursuant to Rule 28-106.204 of the *Florida Administrative Code*, files this Motion for Expedited Approval of Funding for Lifeline Outreach and for Modification of the Self-Effectuating Enforcement Mechanism ("Motion")¹, and says:

The Florida Public Service Commission ("Commission") is currently conducting an annual review of the Service Quality Measurement ("SQM") Plan and Self-Effectuating Enforcement Mechanism ("SEEM") Plan. In the context of that review, AT&T Florida has asked that Tier 2 and associated administrative penalty payments be eliminated because they are unfairly discriminatory, unreasonably punitive and are no longer appropriate based on current market conditions. Contemporaneous with the ongoing SQM/SEEM Review, AT&T Florida's Community Service Fund ("CSF"), which principally funds the outreach efforts of the Lifeline Assistance and Link-Up programs that assist low-income consumers with telephone connection fees and monthly telephone bills, has become exhausted. The AT&T Florida CSF is of critical importance to the sustainability of the Lifeline Assistance and Link-Up programs in the state of Florida. In its Motion, AT&T Florida proposes a solution that modernizes the regulation of the

¹ The AT&T Florida SEEM plan was originally established by Order No. PSC-01-1819-FOF-TP dated September 10, 2001. The most recent version of the SEEM plan, Version 5.00, is dated May 15, 2007 and was approved by the Commission in Order No. PSC-07-0286-PAA-TP.

wholesale telecommunications industry and, at the same time, provides much-needed funding for the AT&T Florida CSF.

BACKGROUND ON THE AT&T FLORIDA SEEM PLAN

In the context of its application for Section 271 relief and in the environment of emerging competitive local markets, BellSouth, now AT&T Florida, voluntarily entered into the SEEM remedy portion of the Performance Assessment Plan (“the Plan”) adopted by the Commission in Order No. PSC-01-1819-FOF-TP. The purpose of the Plan was to provide a measurement and monitoring mechanism to verify that AT&T Florida is providing its wholesale customers with nondiscriminatory access to AT&T Florida’s OSS. Within the SEEM portion of the Plan, the Commission established both Tier 1 (payable directly to CLECs) and Tier 2 and associated administrative (payable to the state of Florida) penalty payments.²

The original purpose of Tier 2 and associated administrative penalty payments was to impose on AT&T Florida an added incentive to ensure it structured and implemented its OSS and associated processes in a way that enhanced the competitive landscape. In other words, Tier 2 remedies provided additional financial incentives to focus on the overall competitive process to maintain an open market and prevent backsliding. This “safeguard” is no longer necessary. The Florida local telecommunications market (as it has evolved since passage of the Act in 1996) is irreversibly open. Since Section 271 approval in 2002, AT&T Florida has unquestionably maintained its ordering, provisioning, maintenance & repair, and billing systems and associated processes at levels that support the CLEC industry and provides an efficient CLEC with a

² Tier 2 and associated administrative penalty payments are in addition to Tier 1 penalty payments. Tier 2 payments are made to the Commission for deposit in the General Revenue Fund for the State of Florida. This petition requests that all payments to the state of Florida associated with the SQM/SEEM Plan be eliminated. Neither the CLECs nor the Commission derive any direct benefit from Tier 2 payments. Tier 1 penalty payments are assessed on failures to meet specific OSS metrics and are paid directly to the affected CLECs. It should be noted that AT&T Florida is not advocating any changes to Tier 1 penalties in the instant Motion, but rather supports the continued review of Tier 1 under the existing Docket.

meaningful opportunity to compete.³ In fact, the recent Commission report on the status of competition in the telecommunications industry to the Legislature provides:

Wireless and VoIP services have become a significant portion of the voice communications market. Historically, the Commission has not addressed barriers to entry that may be impacting wireless and VoIP providers. However, these intermodal competitors are providing viable competitive alternatives to both residential and business subscribers as evidenced by the fact that intermodal subscribership has increased while wireline subscribership has decreased. In addition, CLECs investing in facilities in Florida are providing a range of service options, and do not appear to have insurmountable obstacles relating to interconnection issues. Therefore, the Commission concludes that competitors are able to provide functionally equivalent service to both residential and business customers.⁴

With the wide availability of these and more traditional telecommunications alternatives, it is safe to say that the local exchange market has minimal or no barriers to entry or exit. With competition firmly entrenched, Tier 2 and associated administrative remedies no longer serve their intended purpose and should be eliminated as they are unnecessarily punitive.⁵ Importantly, Tier 2 remedies have been eliminated by all states comprising AT&T's Midwest, West, and Southwest regions. Tier 2 remedies were eliminated most recently in AT&T's West region when the California Public Utilities Commission eliminated the Tier 2 requirement effective December 18, 2008 (Decision 08-12-032) and the Nevada Public Utilities Commission approved the elimination of Tier 2 on June 16, 2009 (Docket 09-01029). In AT&T's East region, AT&T was never subjected to Tier 2 remedies.

In addition to being unnecessarily punitive, SEEM payments are also discriminatory. For example, each large ILEC in Florida (AT&T Florida, Verizon and Embarq) is subject to a

³ AT&T Florida has successfully completed three FCC Section 272 biennial compliance audits; the latest – and final – in 2007.

⁴ FPSC's 2008 Report on the Status of Competition in the Telecommunications Industry (August 2008), p. 70.

⁵ Lest there be any doubt that Tier 2 and associated administrative penalty payments have served their intended purpose and are no longer needed. Other than payments related to the anomalous April 2008 software release, Tier 2 payments have consistently declined over time – clearly illustrating that their purpose has been served.

performance measures plan. The SQM portion of the respective plans is substantially similar in the means by which nondiscriminatory performance is measured. AT&T Florida is unique in that it is the only ILEC in Florida that is subject to a SEEM remedy plan. While AT&T Florida voluntarily acquiesced to the initial SEEM plan, the Commission's order implementing the SEEM plan mandates that AT&T Florida alone bear the burden of remedies; a burden that no other Florida ILEC has. In the furtherance of the Commission's duty to ensure that all providers are treated fairly and in a nondiscriminatory fashion, and in recognition of the evolution of the telecom market from a regulatory model to a normalized commercial model, it is now time to eliminate Tier 2 and associated administrative penalties.

BACKGROUND ON LIFELINE OUTREACH FUNDING IN FLORIDA

The Lifeline Assistance and Link-up programs assist low-income consumers with telephone connection fees and monthly telephone bills. The programs were initially developed when the Federal Communications Commission ("FCC") determined that it was crucial for all citizens to have affordable local telephone service. AT&T Florida has been a participant in the Lifeline program since as early as 1988. The penetration of Lifeline within its targeted group has historically been relatively low. However, in recent years, the penetration has expanded significantly. One key element in the expansion of the Lifeline subscribership has been the outreach efforts of the Commission, Office of Public Counsel ("OPC"), and AT&T Florida, which have been principally funded by the recently-exhausted AT&T Florida CSF. The AT&T Florida CSF was created and initially funded in 2002 as a result of an agreement between AT&T Florida and the OPC in settlement of a dispute concerning service quality measures imposed by the Commission's Rules. The fund operates under the full supervision of the Commission and the OPC.

Lifeline subscribership eligibility has been a hallmark of the Commission's and OPC's public outreach efforts. Through their efforts, Lifeline penetration has significantly increased through the years. There can be no doubt that the Commission's and OPC's Lifeline outreach program has played a significant role in increasing the number of persons subscribing to Lifeline. In fact, under the supervision of the Commission and OPC, AT&T Florida held over 190 educational Lifeline/Link-Up outreach sessions throughout the state during the first half of 2009 with over 47,000 attendees and approximately 970 Lifeline/Link-Up applications submitted. Moreover, the availability of Lifeline has been legislatively expanded twice; eligibility was increased to 135 percent or less of the federal poverty guidelines for Lifeline subscribers in 2005, and again in 2009 to 150 percent of the federal poverty guidelines for Lifeline subscribers. These increases in the number of those eligible for Lifeline have necessitated more and greater efforts to inform eligible persons of the availability of Lifeline.

No one questions the efficacy of the Lifeline outreach or the success of Commission's and OPC's Lifeline outreach efforts. Until now, the AT&T Florida CSF has had sufficient amounts to fund a vigorous outreach program under the auspices of the Commission and OPC. However, the AT&T Florida CSF is now depleted and is in desperate need of additional funding in order for the Commission and OPC to continue these much-needed Lifeline outreach efforts.

CONCLUSION


AT&T Florida's proposal accomplishes two distinct goals simultaneously. First, by eliminating the unnecessarily punitive and discriminatory Tier 2 SEEM payments and associated administrative remedies, the Commission can modernize the regulation of the wholesale telecommunications industry. Second, by eliminating Tier 2 SEEM payments and associated administrative penalties, the Commission can obtain much-needed funding for the AT&T Florida

CSF. Specifically, AT&T Florida proposes that the Commission enter an order eliminating Tier 2 SEEM and associated administrative penalty payments and, upon that order becoming final and non-appealable, AT&T Florida will make a one-time contribution to the CSF of \$250,000.

Granting AT&T Florida's Motion will ensure continued funding for the Commission's and OPC's Lifeline outreach efforts for at least another twelve months from the date of the final order. Further, the elimination of Tier 2 SEEM payments and associated administrative penalties will not diminish AT&T Florida's performance incentives, will eliminate discriminatory treatment of AT&T Florida and is consistent with the trend to eliminate such penalties nationwide where they previously existed.

WHEREFORE, AT&T Florida requests that the Commission expeditiously grant the instant Motion to eliminate Tier 2 and associated administrative penalty payments from the SEEM Plan and enable AT&T Florida to provide \$250,000 in additional funding to the AT&T Florida CSF.

Respectfully submitted this 16th day of October, 2009.



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