

Ruth Nettles

000121A-TP

From: Woods, Vickie [vf1979@att.com]
Sent: Friday, October 30, 2009 2:44 PM
To: Filings@psc.state.fl.us
Subject: 000121A-TP AT&T Florida's Resp in Opp to STS's "Request to Hold in Abeyance AT&T's Motion for Expedited Approval of Funding for Lifeline Outreach and for Modification of the Self-Effectuating Enforcement mechanism or Alternatively Deny the Request"

Attachments: Document.pdf

- A. Vickie Woods
Legal Secretary to E. Earl Edenfield, Jr., Tracy W. Hatch,
and Manuel A. Gurdian
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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 Tracy W. Hatch
- D. 8 pages total in PDF format (Letter, Certificate and Pleading)
- E. BellSouth Telecommunications, Inc. d/b/a AT&T Florida's Response in Opposition to STS's "Request to Hold in Abeyance AT&T's

Motion for Expedited Approval of Funding for Lifeline Outreach and for Modification of the Self-Effectuating Enforcement mechanism,

or Alternatively Deny the Request"

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10/30/2009



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October 30, 2009

Ann Cole, Commission Clerk
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Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

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 Response in Opposition to STS's "Request to Hold in Abeyance AT&T's Motion for Expedited Approval of Funding for Lifeline Outreach and for Modification of the Self-Effectuating Enforcement Mechanism, or Alternatively Deny the Request, 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,



Tracy W. Hatch

Enclosures

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

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 30th day of October, 2009 to the following:

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Tracy W. Hatch

(+) 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.) (AT&T FLORIDA TRACK)) /	DOCKET NO. 000121A-TP Filed: October 30, 2009
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AT&T FLORIDA'S RESPONSE IN OPPOSITION TO STS'S "REQUEST TO HOLD IN ABEYANCE AT&T'S MOTION FOR EXPEDITED APPROVAL OF FUNDING FOR LIFELINE OUTREACH AND FOR MODIFICATION OF THE SELF-EFFECUATING ENFORCEMENT MECHANISM, OR ALTERNATIVELY DENY THE REQUEST"

BellSouth Telecommunications, Inc. d/b/a AT&T Florida ("AT&T Florida"), pursuant to Rule 28-106.204, Florida Administrative Code, hereby files this Response in Opposition to Saturn Telecommunications Services, Inc.'s ("STS") "Request to Hold in Abeyance AT&T's Motion for Expedited Approval of Funding for Lifeline Outreach and for Modification of the Self-Effectuating Enforcement Mechanism, or Alternatively Deny the Request"¹ and in support thereof states:

1. On October 23, 2009, STS served on AT&T Florida a Motion to Intervene and Request to Hold in Abeyance AT&T's Motion for Expedited Approval of Funding for Lifeline Outreach and for Modification of the Self-Effectuating Enforcement Mechanism, or Alternatively Deny the Request. The document was not filed with the Commission until October 27, 2009.

¹ While the pleading is labeled a "Request", AT&T Florida believes that STS's pleading is a motion under Rule 106.204 in that seeks affirmative relief as it asks the Commission to "hold" AT&T Florida's Motion for Expedited Approval of Funding for Lifeline Outreach and for Modification of the Self-Effectuating Enforcement Mechanism in abeyance. See STS's filing at "Wherefore" clause. This title is contrary to Rule 28-106.204(1), which provides that "[a]ll requests for relief shall be by motion" so that "[w]hen time allows, the other parties, may, within 7 days of service of a written motion, file a response in opposition."

Response to “Motion to Intervene”

2. As an initial matter, it should be noted that STS failed to file a Petition seeking intervention as required by Rules 28.106.205 and 28.106.201, Florida Administrative Code – the same rules that STS cites in its “Motion to Intervene.” Moreover, STS omits certain of the basic information required by Rule 28.106.201, and for the information that it did include, failed to identify in any meaningful way the portions related to intervention and those related to its request to abate or in the alternative deny. AT&T Florida was forced to divine the pieces of information relevant to each STS request and then to determine where each piece should go. Notwithstanding, AT&T does not object to STS’s desire to intervene in this proceeding.

Response to Request to Abate or Deny

3. AT&T Florida objects to STS’s “Request” to hold AT&T Florida’s Motion for Expedited Approval of Funding for Lifeline Outreach and for Modification of the Self-Effectuating Enforcement Mechanism, or Alternatively Deny the Request. STS’s Request should be summarily denied.

4. AT&T Florida’s Motion for Expedited Approval of Funding for Lifeline Outreach and for Modification of the Self-Effectuating Enforcement Mechanism was filed October 16, 2009, in the instant docket. AT&T Florida filed the motion in the context of and in conjunction with the Commission’s ongoing six-month review of the service quality measures (“SQM”) that measure the quality of AT&T Florida’s service to its wholesale customers, the CLECs, including STS. The six-month review also is examining the penalty provisions associated with performance measures in the Self-

Effectuating Enforcement Mechanism (“SEEM”) Plan of which Tier 2 penalty payments are a part.

5. Only a small portion of STS’s Request discusses Tier 2 penalty payments. The bulk of STS’s Request is devoted to discussing its own misperceived plight embodied in its two current complaints against AT&T Florida that are pending in other separate proceedings; the first complaint is currently before the Commission seeking to preclude a release of a new OSS ordering interface² and the other complaint is before the FCC regarding commingling of certain unbundled network elements (“UNEs”) with other non-UNE network facilities³. Neither of these cases is relevant to the ongoing review of AT&T Florida’s SQM and SEEM Plans. Neither case involves or will address performance measures or penalty payments, particularly Tier 2 payments which are not made to CLECs. Neither case will have any impact on the ongoing six-month review of SQM or SEEM Plans. Performance measures established by the Commission will continue to measure AT&T Florida’s OSS performance regardless of any commingling and regardless of which ordering interface is used.

6. STS’s limited arguments actually discussing Tier 2 penalty payments and the necessity of finding a replacement source of funding for Lifeline outreach are misplaced. STS’s suggestion that if AT&T Florida’s performance were perfect, there would not be remedy payments is ludicrous – no dynamic system with the complexity and variability of AT&T Florida’s OSS systems will ever be error free. To put STS’s

² See STS’s “Request to Hold in Abeyance AT&T’s Motion for Expedited Approval of Funding for Lifeline Outreach and for Modification of the Self-Effectuating Enforcement Mechanism, or Alternatively Deny the Request”, Exhibit B.

³ See STS’s “Request to Hold in Abeyance AT&T’s Motion for Expedited Approval of Funding for Lifeline Outreach and for Modification of the Self-Effectuating Enforcement Mechanism, or Alternatively Deny the Request”, Exhibit A.

argument in perspective, if STS's service ordering personnel could enter an order without making any errors, it would not need the edit checking and error correcting opportunities that it argues it must have in its pending complaint in Docket No. 090430-TP.

7. As AT&T noted in support of its motion to eliminate Tier 2 penalties, as AT&T Florida's performance has improved over time, Tier 2 payments have commensurately declined. This alone is sufficient indication that the purpose of Tier 2 penalties has been served. The incentive to institute parity performance has been successful. With the maturity of AT&T Florida's OSS systems, the extra incentive attributed to Tier 2 penalties is no longer needed.

8. It is interesting to note that STS did not mention the most important defect in the Tier 2 penalty scheme. The Tier 2 penalty scheme is unreasonably and unlawfully discriminatory. As also noted in AT&T's motion to eliminate Tier 2 penalties, no other ILEC in Florida is subject to SEEM penalties. While AT&T voluntarily subjected itself to SEEM penalties at the inception of the process to build systems to provide parity service to CLECs, continued imposition of Tier 2 penalties in the current competitive climate after those systems have been established and have been providing appropriate service is no longer appropriate.

9. STS's Request is simply another scattershot effort seeking to extract any possible leverage it can to bolster its pending complaints at the expense of and with the effect of disrupting unrelated proceedings. To make STS's motivations crystal clear, note that its request is conditioned not on completion of the six-month review of the SQM and SEEM Plans, but on STS's hoped for results in its pending complaints. STS essentially asks the Commission to hold the Tier 2 portion of the SEEM Plan review hostage to

STS's unrelated complaints until the complaints are resolved. The Commission should not countenance any such request and should summarily deny STS's request to abate or to deny AT&T's Motion for Expedited Approval of Funding for Lifeline Outreach and for Modification of the Self-Effectuating Enforcement Mechanism.

WHEREFORE, for the reasons set forth above, AT&T Florida respectfully requests that the Commission deny STS's Request to Hold in Abeyance AT&T's Motion for Expedited Approval of Funding for Lifeline Outreach and for Modification of the Self-Effectuating Enforcement Mechanism, or Alternatively Deny the Request.

Respectfully submitted this 30th day of October, 2009.

AT&T FLORIDA



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