

**Marguerite McLean**

080631-TP

**From:** WOODS, VICKIE (Legal) [vf1979@att.com]  
**Sent:** Monday, January 11, 2010 4:41 PM  
**To:** Filings@psc.state.fl.us  
**Subject:** 080631-TP (DSL) AT&T Florida's Prehearing Statement  
**Importance:** High  
**Attachments:** Document.pdf; LEGAL-#765973-v1-080631-TP\_AT&T's\_Prehearing\_Statement.DOC

- A. Vickie Woods  
 BellSouth Telecommunications, Inc. d/b/a AT&T Florida  
 150 South Monroe Street  
 Suite 400  
 Tallahassee, Florida 32301  
 (305) 347-5560  
[vf1979@att.com](mailto:vf1979@att.com)
- B. Re: Docket No. 080631-TP: Petition for Commission to intervene, investigate and mediate dispute between DSL Internet Corporation d/b/a DSLi and BellSouth Telecommunications, Inc.
- C. BellSouth Telecommunications, Inc. d/b/a AT&T Florida  
 on behalf of Manuel A. Gurdian
- D. 8 pages total (includes letter, certificate of service and pleading) (.pdf)  
 6 pages total (includes pleading) (.word)
- E. BellSouth Telecommunications, Inc. d/b/a AT&T Florida's Prehearing Statement

.pdf .word

&lt;&lt;Document.pdf&gt;&gt; &lt;&lt;LEGAL-#765973-v1-080631-TP\_AT&amp;T's\_Prehearing\_Statement.DOC&gt;&gt;

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1/11/2010

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General Attorney

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January 11, 2010

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

**Re: Docket No. 080631-TP: Petition for Commission to intervene,  
investigate and mediate dispute between DSL Internet Corporation d/b/a  
DSLi and BellSouth Telecommunications, Inc.**

Dear Ms. Cole:

Enclosed is BellSouth Telecommunications, Inc. d/b/a AT&T Florida's  
Prehearing Statement, 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  
Gregory R. Follensbee  
Jerry D. Hendrix  
E. Earl Edenfield, Jr.

**CERTIFICATE OF SERVICE**  
**Docket No. 080631-TP**

I HEREBY CERTIFY that a true and correct copy was served via Electronic Mail  
and First Class U. S. Mail this 11th day of January, 2010 to the following:

Florida Public Service Commission  
Charles Murphy, Staff Counsel  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850  
Tel. No. (850) 413-6098  
[cmurphy@psc.state.fl.us](mailto:cmurphy@psc.state.fl.us)

Eduardo Maldonado  
Vice President - Operations  
DSL Internet Corporation  
815 NW 57<sup>th</sup> Avenue  
Suite 300  
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Tel. No. (305) 779-5752  
Fax. No. (305) 779-4329  
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\_\_\_\_\_  
Manuel A. Gurdian

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

Petition for Commission to intervene, ) Docket No. 080631-TP  
investigate and mediate dispute between )  
DSL Internet Corporation d/b/a DSLI and )  
BellSouth Telecommunications, Inc. )  
\_\_\_\_\_ ) Filed: January 11, 2010

**AT&T FLORIDA'S PREHEARING STATEMENT**

BellSouth Telecommunications, Inc. d/b/a AT&T Florida ("AT&T Florida"), hereby submits, in compliance with the *Order Establishing Procedure* (Order No.: PSC-09-0585-PCO-TP), issued August 31, 2009, its Prehearing Statement.

**A. Witnesses**

AT&T Florida proposes to call the following witnesses to offer direct and rebuttal testimony on the issues in this proceeding:

<u>Witness</u>	<u>Issues</u>
Cindy Clark (Direct and Rebuttal)	2, 3, 4(a), 4(b)
P. L. (Scot) Ferguson (Direct and Rebuttal)	1, 2, 3, 4(a), 4(b)

AT&T Florida's witnesses present facts and/or policy considerations that support AT&T Florida's positions on these issues. AT&T Florida reserves the right to call additional witnesses, including witnesses to address or respond to inquiries from the Florida Public Service Commission ("Commission"), to address issues not presently designated that may be designated by the Prehearing Officer at the Prehearing Conference to be held on January 25, 2010, and to address issues raised in any discovery response or testimony by witnesses for DSL Internet Corporation d/b/a DSLI ("DSLII") that has not yet been filed.

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**B. Exhibits**

- |                      |   |
|----------------------|---|
| Cindy Clark          | CAC-1 Relevant sections of AT&T's FCC Tariff No. 1  |
|                      | CAC-2 Circuit detail calculation  |
|                      | CAC-3 E-mails providing the circuit detail calculation to DSLi  |
|                      | CAC-4 Late Payment Charges calculation as of September 28, 2009   |
|                      | CAC-5 Carrier Notification SN91086028, dated March 1, 2006  |
| P.L. (Scot) Ferguson | PLF-1 2003 Interconnection Agreement between BellSouth Telecommunications, Inc. and DSL Internet Corporation d/b/a DSLi                         |
|                      | PLF-2 <i>Amendment</i> to the 2003 Interconnection Agreement between DSL Internet Corporation d/b/a DSLi and BellSouth Telecommunications, Inc. |
|                      | PLF-3 2007 Interconnection Agreement between BellSouth Telecommunications, Inc. and DSL Internet Corporation d/b/a DSLi                         |

\* Any exhibits sponsored by DSLi's witness, Eduardo Maldonado.

\* AT&T Florida's Responses to all Interrogatories, Requests for Admissions and Requests for Production issued by Staff or DSLi.

\* DSLi's Responses to all Interrogatories, Requests for Admissions and Requests for Production issued by Staff or AT&T Florida.

\* Transcripts of any depositions that may be taken in this proceeding.

AT&T Florida reserves the right to file exhibits relating to any discovery response or testimony that may be filed under the circumstances identified in Section "A" above. AT&T Florida also reserves the right to introduce exhibits for cross-examination, impeachment, or any other purpose authorized by the applicable Florida Rules of Civil Procedure, Florida Rules of Evidence and the Rules of the Commission.

### **C. AT&T Florida's Statement of General Position**

Pursuant to Commission Order No. PSC-06-0172-FOF-TP, AT&T Florida and DSLi were required to amend their interconnection agreement to reflect the changes of law resulting from the TRO and TRRO. This order, as it pertains to DSLi's complaint, required DSLi (and other CLECs as well) to do one of the following regarding its delisted UNE circuits: 1) move the circuits to the CLEC's own network; 2) move the circuits to a third-party's network; 3) disconnect the circuits; or 4) convert the circuits to equivalent special access circuits. DSLi chose option no. 4 and requested that AT&T Florida convert its delisted circuits to equivalent special access circuits. AT&T Florida did so. Now, DSLi contends that it does not owe AT&T Florida the "true-up" amount despite AT&T Florida having provided a service to DSLi at DSLi's request. This is wrong. The Commission should find that DSLi is obligated to pay AT&T Florida the charges billed by AT&T Florida for the "true-up" amount.

### **D. AT&T Florida's Position on the Issues**

**Issue 1:**      **What document(s) and/or applicable law governs the parties' relationship as it relates to AT&T's "true-up" billing for \$188,820.59 plus late payment charges as applicable?**

**Position:**      The following documents and applicable law govern the parties' relationship with respect to AT&T Florida's "true-up" billing: the Federal Communications Commission's ("FCC") Triennial Review Order; the FCC's Triennial Review Remand Order; Commission Order No. PSC-06-0172-FOF-TP; Commission Order No. PSC-05-0639-PCO-TP; the 2003 Interconnection Agreement between the Parties; the TRRO Amendment to the 2003 Interconnection Agreement; the 2007 Interconnection Agreement between the Parties; and AT&T's F.C.C. Tariff No. 1.

**Issue 2:** Was the "true-up" amount AT&T seeks to collect from DSLI (\$188,820.59 plus late payment charges as applicable) calculated in accordance with the document(s) and/or applicable law identified in Issue 1?

**Position:** Yes, AT&T Florida followed the terms of the applicable law and documents referenced above. In order to calculate the amount due, AT&T Florida used the circuit structure of the UNE circuit to determine the appropriate special access billing for that circuit. AT&T Florida reviewed the specific delisted circuits that DSLI had in service and used the UNE billed elements as the basis for the true-up calculation. For each circuit component, or USOC, billing on the UNE circuit, AT&T Florida identified and substituted the comparable special access USOC.

The true-up period for embedded base circuits, or the circuits in place prior to March 11, 2005, began on March 11, 2006 and ended on the date the circuit was actually converted or disconnected. For circuits installed after March 11, 2005, the start date for the true-up was the service effective date, through the date the service was converted or disconnected. The "true-up" amount due is the difference between the UNE billing that was rendered to DSLI, and the appropriate special access billing for the particular circuit configuration, for the time period described above. The "true-up" amount that DSLI owes AT&T Florida is \$175,459.26 plus late payment charges.

**Issue 3:** Was the "true-up" amount AT&T Florida seeks to collect from DSLI (\$188,820.59 plus late payment charges as applicable) billed in accordance with the document(s) and/or applicable law identified in Issue 1?

**Position:** Yes. AT&T Florida followed the terms of the documents and applicable law referenced above in billing DSLI the "true-up" amount.

**Issue 4(a):** Based on the document(s) and/or applicable law identified in Issue 1, and any affirmative defenses, what amount, if any, does DSLI owe for AT&T's "true-up" billing of \$188,820.59 plus late payment charges as applicable?

Position: DSLi owes AT&T Florida \$175,459.26 plus late payment charges.

**Issue 4(b): When should any such owed amount be due?**

Position: Based upon the May 28, 2008 bill date, DSLi should have paid the amount due on June 27, 2008. DSLi should pay AT&T Florida \$175,459.26 plus late payment charges immediately.

**E. Stipulations**

To date, the parties have not entered into any stipulations.

**F. Pending Motions**

On January 6, 2010, AT&T Florida filed a Motion to Compel against DSLi. On January 8, 2010, AT&T Florida filed an Agreed Motion for Continuance.

**G. AT&T Florida's Notice of Intent to Use Confidential Information at Hearing**

AT&T Florida has provided confidential information as exhibits to testimony filed on AT&T Florida's behalf and may provide additional confidential information in response to future discovery. AT&T Florida has requested confidentiality for the following:

1. Direct Testimony of Cindy Clark – Portion of Exhibit CAC-4 (DSL's confidential information)

AT&T Florida reserves the right to use any such information at hearing, subject to appropriate measures to protect its confidentiality.

**H. Other Requirements**

AT&T Florida knows of no requirements set forth in any Prehearing Order with which it cannot comply.



Respectfully submitted this 11th day of January, 2010.

AT&T FLORIDA



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E. Earl Edenfield, Jr.

Tracy W. Hatch

Manuel A. Gurdian

c/o Gregory R. Follensbee

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