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From: YANT, ROBYN (ATTSI) [rh0582@att.com]  
 Sent: Wednesday, January 20, 2010 10:10 AM  
 To: Filings@psc.state.fl.us  
 Subject: Amendment between BellSouth Telecommunications, Inc. d/b/a AT&T Florida and Nuvox Communications, Inc.

Attachments: 9100C\_Sc.pdf



9100C\_Sc.pdf  
(182 KB)

-----Original Message-----

From: YANT, ROBYN [mailto:robyn.holland@att.com]  
 Sent: Wednesday, January 20, 2010 9:45 AM  
 To: YANT, ROBYN  
 Subject: 9100C Scan

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January 19, 2010

Mrs. Ann Cole  
Director, Division of Commission Clerk and Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399

Re: Approval of Amendment to the Interconnection, unbundling, resale and collocation Agreement between BellSouth Telecommunications, Inc d/b/a AT&T Florida d/b/a AT&T Southeast Nuvox Communications, Inc.

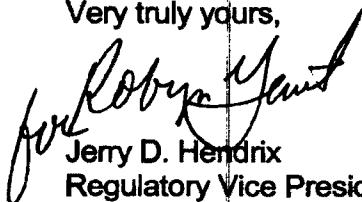
Dear Mrs. Cole:

Please find enclosed for filing and approval, the original and two copies of BellSouth Telecommunications, Inc d/b/a AT&T Florida d/b/a AT&T Southeast Amendment to Interconnection, unbundling, resale and collocation Agreement with Nuvox Communications, Inc.

The underlying agreement was filed on November 8, 2006 in docket 060743-TP.

If you have any questions, please do not hesitate to call Robyn Yant at (850) 577-5551.

Very truly yours,



Jerry D. Hendrix  
Regulatory Vice President

**AMENDMENT TO THE AGREEMENT  
BETWEEN  
NUVOX COMMUNICATIONS, INC.  
AND  
BELLSOUTH TELECOMMUNICATIONS, INC. d/b/a AT&T FLORIDA**

This Amendment (the "Amendment") modifies the Interconnection Agreement by and between BellSouth Telecommunications, Inc. d/b/a AT&T Florida ("AT&T")<sup>1</sup> and NuVox Communications, Inc. ("CLEC"). AT&T and CLEC are hereinafter referred to collectively as the "Parties" and individually as a "Party".

**WHEREAS**, AT&T and CLEC are Parties to an Interconnection Agreement under Sections 251 and 252 of the Communications Act of 1934, as amended (the "Act"), approved June 5, 2006 and as subsequently amended (the "Agreement");

**WHEREAS**, on February 7, 2006, the Florida Public Service Commission rendered its decision in Docket No. 041269-TP (Change of Law Order), Petition to Establish Generic Docket to Consider Amendments to Interconnection Agreements Resulting from Change of Law;

**WHEREAS**, on April 17, 2006, the Florida Public Service Commission rendered its decision on vacated issues in Docket No. 041269-TP (Second Order), Petition to Establish Generic Docket to Consider Amendments to Interconnection Agreements Resulting from Change of Law;

**WHEREAS**, on June 1, 2007, the United States District Court for the Northern District of Florida issued its Order in NuVox Communications, Inc. and Xspedius Communications, LLC, v. The Florida Public Service Commission, CASE 4:06-cv-308-SPM (District Court Order), finding portions of the Change of Law Order and Second Order unlawful in that the PSC "misinterpreted the TRO to prohibit commingling of 251 elements with 271 checklist elements";

**WHEREAS**, on June 18, 2008, the United States Court of Appeals for the Eleventh Circuit issued its Order in NuVox Communications, Inc. and Xspedius Communications, LLC v. BellSouth Telecommunications, Inc., No. 07-13028 (Appeals Court Order), upholding the District Court Order;

**WHEREAS**, the Parties are obligated to amend the Agreement to incorporate the Appeals Court Order; and

**NOW, THEREFORE**, in consideration of the promises and mutual agreements set forth herein, the Parties agree to Attachment 2 of the Agreement as follows:

1. The Parties hereby agree to delete Section 1.11.2.
2. The Parties hereby agree to add the following Sections:

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<sup>1</sup> BellSouth Telecommunications, Inc. is now doing business in Florida as AT&T Florida

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1.11.2 Commingling means the connecting, attaching, or otherwise linking of a UNE, or a Combination, to one or more services or facilities that NuVox has obtained at wholesale from AT&T, or the combining of a UNE or Combination with one or more such wholesale services or facilities, including those services or facilities available pursuant to Section 271 of the Act.

1.11.2.1 Subject to the limitations set forth elsewhere in this Attachment, AT&T shall not deny access to a Network Element or a Combination on the grounds that one or more of the elements: 1) is connected to, attached to, linked to, or combined with such a facility or service obtained from AT&T; or 2) shares part of AT&T's network with access services or inputs for mobile wireless services and/or interexchange services.

3. EXCEPT AS MODIFIED HEREIN, ALL OTHER TERMS AND CONDITIONS OF THE UNDERLYING AGREEMENT SHALL REMAIN UNCHANGED AND IN FULL FORCE AND EFFECT.
4. In entering into this Amendment, neither Party waives, and each Party expressly reserves, any rights, remedies or arguments it may have at law or under the Intervening law or regulatory change provisions in the underlying Agreement (including intervening law rights asserted by either Party via written notice predating this Amendment) with respect to any orders, decisions, legislation or proceedings and any remands thereof, which the Parties have not yet fully incorporated into this Agreement or which may be the subject of further review.
5. This Amendment shall not modify or extend the Effective Date or Term of the underlying Agreement, but rather, shall be coterminous with such Agreement.
6. This Amendment shall be filed with and is subject to approval by the State Commission and shall become effective ten (10) days following execution ("Effective Date").

NuVox Communications, Inc. d/b/a NuVox

By: S. Berlin

Name: Susan J. Berlin

Title: VP Sr. Regulatory Counsel

Date: 1-7-2010

BellSouth Telecommunications, Inc. d/b/a  
AT&T Florida by AT&T Operations, Inc., its  
authorized agent

By: E. Reed, Jr.

Name: Eddie A. Reed, Jr.

Title: Director-Interconnection Agreements

Date: 1-12-10