

Ruth Nettles

100022-TP

From: nicki.garcia@akerman.com
Sent: Monday, February 22, 2010 3:54 PM
To: Filings@psc.state.fl.us
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Subject: Electronic Filing - Docket No. 100022-TP
Attachments: 20100222165016137.pdf

Attached is an electronic filing for the docket referenced below. If you have any questions, please contact either Matt Feil or Nicki Garcia at the numbers below. Thank you.

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Docket No. and Name: Docket No. 100022-TP - In Re: Complaint of BellSouth Telecommunications, Inc., d/b/a AT&T Florida Against Image Access, Inc. d/b/a New Phone

Filed on behalf of: New Phone

Total Number of Pages: 5

Description of Documents: Unopposed Motion to Extend Due Date to File Responsive Pleadings and Petition for Relief and to Extend Due Date to Respond to Motion to Consolidate

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*Done
 2/22/10
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February 22, 2010

VIA ELECTRONIC FILING

Ms. Ann Cole
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

**Re: Docket 100022-TP – Complaint of BellSouth Telecommunications, Inc., d/b/a AT&T
Florida Against Image Access, Inc. d/b/a New Phone**

Dear Ms. Cole:

Please find attached for filing the Unopposed Motion to Extend Due Date to File Responsive Pleadings to AT&T Florida's Complaint and Petition for Relief and to Extend Due Date to Respond to AT&T Florida's Motion to Consolidate for the above docket on behalf of Image Access, Inc. d/b/a New Phone.

Your assistance in this matter is greatly appreciated. Should you have any questions, please do not hesitate to contact me.

Sincerely,

Matthew Feil

Attachments

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01178 FEB 22 09
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STATE OF FLORIDA
PUBLIC SERVICE COMMISSION

In Re: Complaint of BellSouth Telecommunications, Inc., d/b/a AT&T Florida)
Against Image Access, Inc. d/b/a New Phone)
_____)

Docket No. 100022-TP

IMAGE ACCESS, INC. d/b/a NEW PHONE'S UNOPPOSED MOTION
TO EXTEND DUE DATE TO FILE RESPONSIVE PLEADINGS TO AT&T
FLORIDA'S COMPLAINT AND PETITION FOR RELIEF

AND TO EXTEND DUE DATE TO RESPOND TO AT&T FLORIDA'S
MOTION TO CONSOLIDATE

Pursuant to Rule 28-106.204, Florida Administrative Code, Image Access, Inc., d/b/a NewPhone ("NewPhone") hereby moves the Florida Public Service Commission ("Commission") to set a February 25 due date for New Phone to file responsive pleadings to the Complaint and Petition for Relief ("Complaint") filed by BellSouth Telecommunications, Inc., d/b/a AT&T Florida ("AT&T") on January 8 and also set a February 25 due date for NewPhone to file a response to AT&T's January 29 Motion to Consolidate. By agreement between the parties, AT&T does not oppose this motion. In support of this motion, NewPhone states as follows:

1. On January 8, 2010, AT&T filed its Complaint against NewPhone. The Commission Clerk served the Complaint on NewPhone by certified mail, return receipt requested, on January 14, 2010.

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2. On January 29, 2010, AT&T filed a Motion to Consolidate this docket with Docket No. 100021-TP, another complaint case AT&T filed against LifeConnex Telecom, LLC f/k/a Swiftel, LLC.

3. Rule 28-106.203, Florida Administrative Code, provides that respondents may file an answer to a petition, but does not require an answer be filed, nor does it establish a due date for answers. Rule 28-106.204(2), Florida Administrative Code, provides that a motion to dismiss a petition must be filed no later than twenty (20) days after service of the petition. Rule 28-106.204(1), Florida Administrative Code, provides that a party may file a response in opposition to a written motion within seven (7) days of service of a motion.

4. By prior unopposed motion filed February 3, 2010, NewPhone proposed, and AT&T agreed not to oppose, that NewPhone file any responsive pleadings to AT&T's claims, and to the Motion to Consolidate, by February 22, 2010. The Commission through its Prehearing Officer approved NewPhone's February 3 motion by Order No. PSC-10-0074-PCO-TP, issued February 8, 2010. NewPhone seeks to extend those due dates by three (3) more days.

5. Due to unanticipated extra time required for coordination of similar matters pending in other states, NewPhone has proposed, and AT&T has agreed not to oppose, a new due date for NewPhone's responsive pleadings and a response to the Motion to Consolidate of February 25, 2010.

6. NewPhone desires to file responsive pleadings to AT&T's claims to elucidate and assert its legal rights in this matter. Such pleadings will assist the Commission understand and refine the issues in this proceeding.

7. NewPhone desires to file a response to the Motion to Consolidate. The Commission's disposition of that motion will impact NewPhone's substantive rights, and NewPhone's response will address how the Commission should evaluate its rule's criteria for consolidation.

8. AT&T has agreed not to oppose and should not be prejudiced by this three day extension, nor will the extension interfere with the Commission's efficient administration of the case.

9. Counsel for NewPhone has consulted with AT&T's counsel regarding this motion, and the undersigned represents that AT&T's counsel does not oppose the motion.

WHEREFORE, NewPhone respectfully request that this Motion be granted.

Respectfully submitted this 22nd day of February, 2010.



Matthew Feil, Esq.
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106 East College Avenue, Suite 1200
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(850) 425-1614

*Attorneys for Image Access, Inc. d/b/a New
Phone*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served upon the following by email, and/or U.S. Mail this 22nd day of February, 2010.

Charles Murphy, Esq. Jamie Morrow, Esq. Office of the General Counsel Florida Public Service Commission 2540 Shumard Oak Boulevard Tallahassee, FL 32399-0850 cmurphy@psc.state.fl.us jmorrow@psc.state.fl.us	E. Earl Edenfield, Jr. Tracy W. Hatch Manuel A. Guardian c/o Gregory R. Follensbee 150 South Monroe Street Suite 400 Tallahassee, FL 32301 mg2708@att.com th9467@att.com
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By: 
Matthew Feil, Esq.