

Marguerite McLean

100021-TP

From: nicki.garcia@akerman.com
Sent: Thursday, May 13, 2010 10:54 AM
To: Filings@psc.state.fl.us
Cc: Charles Murphy; mg2708@att.com; th9467@att.com; paul.guarisco@phelps.com; jimdry@newphone.com; matthew.feil@akerman.com; ke2722@att.com; hwalker@babco.com; eheard@lifeconnex.net
Subject: Electronic Filing - Docket No. 100021-TP
Attachments: 20100513105054737.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.

Person Responsible for Filing:

Matthew Feil
AKERMAN SENTERFITT
 106 East College Avenue, Suite 1200
 Tallahassee, FL 32301
 (850) 425-1614 (direct)
 (850) 222-0103 (main)
 matt.feil@akerman.com

Docket No. and Name: Docket No. 100021 -TP - In Re: Complaint of BellSouth Telecommunications, Inc., d/b/a AT&T Florida Against LifeConnex Telecom, LLC f/k/a Swiftel, LLC

Filed on behalf of: LifeConnex Telecom, LLC

Total Number of Pages: 6

Description of Documents: Joint Motion on Procedural Issues

Nicki Garcia

Office of:
 Lila A. Jaber
 Matthew Feil

Akerman Senterfitt
 106 East College Avenue, Suite 1200
 Tallahassee, FL 32301
 (850) 425-1677
 Nicki.Garcia@Akerman.com



www.akerman.com

CONFIDENTIALITY NOTE: The information contained in this transmission may be privileged and confidential information, and is intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this transmission in error, please immediately reply to the sender that you have received this communication in error and then delete it. Thank you.

CIRCULAR 230 NOTICE: To comply with U.S. Treasury Department and IRS regulations, we are required to advise you that, unless expressly stated otherwise, any U.S. federal tax advice contained in this transmittal, is not intended or written to be used, and cannot be used, by any person for the purpose of (i) avoiding penalties under the U.S. Internal Revenue Code, or (ii) promoting, marketing or recommending to another party any transaction or matter addressed in this e-mail or attachment.

2010 MAY 13 10:54 AM

04016 MAY 13 2010

5/13/2010

FPSC-COMMISSION CLERK



Dallas
Denver
Fort Lauderdale
Jacksonville
Los Angeles
Madison
Miami
New York
Orlando
Tallahassee
Tampa
Tysons Corner
Washington, DC
West Palm Beach

Suite 1200
106 East College Avenue
Tallahassee, FL 32301
www.akerman.com
850 224 9634 tel 850 222 0103 fax

May 13, 2010

VIA ELECTRONIC FILING

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

**Re: Docket 100021-TP – Complaint of BellSouth Telecommunications, Inc., d/b/a AT&T
Florida Against LifeConnex Telecom, LLC f/k/a Swiftel, LLC**

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

Dear Ms. Cole:

Attached for filing in the above-referenced dockets, please find a Joint Motion on Procedural Issues filed on behalf of the parties in the two dockets.

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

Sincerely,

Matthew Feil
AKERMAN SENTERFITT
106 East College Avenue, Suite 1200
Tallahassee, FL 32302-1877
Phone: (850) 224-9634
Fax: (850) 222-0103

Attachments

DOCUMENT NUMBER-DATE

04016 MAY 13 09

FPSC-COMMISSION CLERK

STATE OF FLORIDA
PUBLIC SERVICE COMMISSION

In Re: Complaint of BellSouth Telecommunications, Inc., d/b/a AT&T Florida)
Against LifeConnex Telecom, LLC f/k/a)
Swiftel, LLC)
_____)

Docket No. 100021-TP

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

Docket No. 100022-TP

JOINT MOTION ON PROCEDURAL ISSUES

Pursuant to Rule 28-106.204, Florida Administrative Code, LifeConnex Telecom, LLC f/k/a Swiftel, LLC ("LifeConnex"), Image Access, Inc. d/b/a NewPhone ("NewPhone") and BellSouth Telecommunications, Inc., d/b/a AT&T Florida ("AT&T") (the aforesaid named parties collectively referred to as "Joint Movants") hereby jointly move the Florida Public Service Commission ("Commission") to address pending motions and procedural issues in the captioned dockets as set forth in this Joint Motion. The two above-captioned proceedings are similar, not only to each other but to cases pending before the regulatory commissions of eight other states (the states of the former BellSouth region).¹ To promote the reasonable, efficient, and expeditious determination of these proceedings, the Parties respectfully submit the following Joint Motion concerning motions and procedural issues:

¹ This Joint Motion is also being filed in each of the other states.

The Parties respectfully request that the Commission:

1. Hold all other pending motions in abeyance; and
2. Convene a consolidated proceeding (Consolidated Phase), to which the Complainant and all Respondents are parties, to resolve the following issues:²

- (a) how cash back credits to the resellers should be calculated;
- (b) whether the word-of-mouth promotion is available for resale and, if so, how the credits to resellers should be calculated; and
- (c) how credits to resellers for waiver of the line connection charge should be calculated.

3. If the Commission approves this Joint Motion, the Parties will work in good faith to propose by June 11, 2010, a procedural schedule for a Consolidated Phase hearing in each of the nine states.³

4. Once the Commission has issued an order resolving the issues in the Consolidated Phase, the Parties will work in good faith to address or, if necessary, request the Commission to resolve, all remaining unresolved claims and counterclaims related to the Consolidated Phase and determine what, if any, dollar amounts are owed or

² The Parties are not asking the Commission to decide any other issues, including without limitation issues related to AT&T's announcement of its intent to change its formula for calculating cashback credits, in the Consolidated Phase. This Joint Motion, however, does not limit the *arguments* which may be made by any Party in the Consolidated Phase. Any Party may raise any arguments it believes are relevant to the Consolidated Phase, whether or not such arguments also relate to claims outside the Consolidated Phase. Similarly, AT&T may object to any arguments it believes are irrelevant or object for any other reason, but it will not object on the grounds that raising arguments related to other claims is inconsistent with this Joint Motion.

³ This is similar to the approach taken by pre-merger BellSouth and the parties to the Commission's dockets addressing the FCC's Triennial Review Remand Order ("TRRO") and its progeny. Those parties presented a coordinated, region-wide schedule that resulted in the expeditious resolution of those proceedings on a regional basis.

credits due each Party. As stated below, any individual Party may also seek to pursue in its respective docket, either concurrent with or following the Consolidated Phase, any issue, claim, or counterclaim, including related discovery, that is not addressed in the Consolidated Phase.

5. Nothing in this Joint Motion is intended, or shall be construed, as a waiver of any Party's pending motions, claims, counterclaims or defenses or any Party's right to amend and supplement its claims, counterclaims, or other pleadings, or to pursue any issue, claim, or counterclaim that is not addressed in the Consolidated Phase in each Party's respective docket, either concurrent with or following the Consolidated Phase, or to seek such other relief as a change in circumstances may warrant.

WHEREFORE, the Joint Movants request that this Motion be granted.

Respectfully submitted this 13th day of May, 2010.




Matthew Feil, Esq.
Akerman Senterfitt
106 East College Avenue, Suite 1200
Tallahassee, FL 32301
(850) 425-1614

*Attorneys for LifeConnex Telecom, LLC
and Image Access, Inc. d/b/a NewPhone*

Joint Motion on Procedural Issues
May 13, 2010

Paul F. Guarisco (LA Bar Roll No. 22070)
W. Bradley Kline (LA Bar Roll No. 32530)
PHELPS DUNBAR LLP
11 City Plaza, 400 Convention Street,
Suite 1100
Post Office Box 4412
Baton Rouge, Louisiana 70821
Telephone: (225) 376-0241
Facsimile: (225) 381-9197
paul.guarisco@phelps.com

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



E. Earl Edonfield, Jr.
Tracy W. Hatch
Manuel A. Gurdian
AT&T Florida
c/o Gregory R. Follensbec
150 South Monroe Street
Suite 400
Tallahassee, FL 32301
Telephone: (305) 347-5561
Facsimile: (305) 577-4491
Email: kc2722@att.com
th9467@att.com
mg2708@att.com

*Attorneys for BellSouth
Telecommunications, Inc. d/b/a AT&T
Florida*

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 13th day of May, 2010.

Charles Murphy, Esq. Office of the General Counsel Florida Public Service Commission 2540 Shumard Oak Boulevard Tallahassee, FL 32399-0850 cmurphy@psc.state.fl.us	E. Earl Edenfield, Jr. Tracy W. Hatch Manuel A. Gurdian c/o Gregory R. Follensbee 150 South Monroe Street Suite 400 Tallahassee, FL 32301 mg2708@att.com th9467@att.com ke2722@att.com
Henry M. Walker, Esq. Bradley Arant Boult Cummings, LLP 1600 Division Street, Ste 700 Nashville, TN 37203 hwalker@babco.com	Paul F. Guarisco Phelps Dunbar LLP II City Plaza 400 Convention Street-Suite 1100 P.O. Box 4412 Baton Rouge, LA 70821-4412 paul.guarisco@phelps.com
Jim Dry President Image Access, Inc. d/b/a NewPhone 5555 Hilton Avenue, Ste 605 Baton Rouge, LA 70808 jimdry@newphone.com	

By: 
Matthew Feil, Esq.