

Marguerite McLean

100022-TP

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Sent: Tuesday, August 03, 2010 4:34 PM
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Subject: Electronic Filing - Docket No. 100022-TP
Attachments: 20100803162726234.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:

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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 NewPhone

Filed on behalf of: NewPhone

Total Number of Pages: 4

Description of Documents: Motion for Leave to File Amended Counter-Claim

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August 3, 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 NewPhone**

Dear Ms. Cole:

Attached for filing in the above-referenced docket, please find the Motion for Leave to File Amended Counter-Claim filed on behalf of Image Access, Inc. d/b/a NewPhone.

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

DOCKET NUMBER DATE

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STATE OF FLORIDA
PUBLIC SERVICE COMMISSION

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

Docket No. 100022-TP
Filed: August 3, 2010

MOTION FOR LEAVE TO FILE AMENDED COUNTER-CLAIM OF IMAGE ACCESS,
INC. d/b/a NEWPHONE

Image Access, Inc. d/b/a NewPhone ("NewPhone") respectfully requests leave to file its Amended Counter-Claim. In support of this Motion, NewPhone states as follows:

1. The First Amended Counter-Claim of NewPhone is being filed for the purpose of supplementing and clarifying Paragraph 2 of its Counter-Claim.

2. NewPhone's instant motion is consistent with the Parties' Joint Motion on Procedural Issues filed May 13, 2010. The May 13 Joint Motion proposed the Consolidated Phase approach to this and related matters before this and other state commissions, and reserved the parties' rights to amend and supplement their claims and counterclaims.¹ Granting this motion will not cause delay or prejudice in the above-captioned docket, which has been held in abeyance pursuant to this Commission's Order Holding Dockets in Abeyance, Order No. PSC-10-0402-PCO-TP, issued June 18, 2010 ("Abeyance Order"). Nor is this motion inconsistent with Abeyance Order, as all parties understood that the cases in Florida would not proceed even though the parties reserved their rights to amend their pleadings.

¹ See paragraph 5, May 13, 2010, Joint Motion on Procedural Issues.

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3. The filing of this amended pleading neither expands nor contracts the issues the Parties requested be consolidated pursuant to their Joint Motion on Procedural Issues dated May 13, 2010.

4. Counsel for NewPhone has contacted counsel for AT&T and advised of this filing. While AT&T reserves its rights to respond to the allegations in the amended pleading, AT&T does not object to the filing of the amended pleading. Accordingly, NewPhone respectfully requests leave to file its amended pleading.

WHEREFORE, NewPhone respectfully requests that this motion be granted, permitting it to file its Amended Answer, Affirmative Defenses and Counter-Claim of Image Access, Inc. d/b/a NewPhone, which is submitted herewith.

Respectfully submitted this 3rd day of August, 2010.

Respectfully submitted,



Matthew Feil, Esq.
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COUNSEL FOR IMAGE ACCESS, INC. d/b/a
NEWPHONE

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 3rd day of August, 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. 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.