

Dorothy Menasco

From: WOODS, VICKIE (Legal) [vf1979@att.com]
Sent: Wednesday, November 24, 2010 3:05 PM
To: Filings@psc.state.fl.us
Subject: 100434-TP AT&T Florida's Answer and Affirmative Defenses
Importance: High
Attachments: Document.pdf

A. Vickie Woods

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

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B. Docket No. 100434-TP: Complaint and Petition for relief by Nexus Communications, Inc. against BellSouth Telecommunications d/b/a AT&T Florida for dispute over interpretation of interconnection agreement regarding cash back promotions

C. BellSouth Telecommunications, Inc. d/b/a AT&T Florida

on behalf of Manuel A. Gurdian

D. 5 pages total (includes letter, certificate of service and pleading)

E. BellSouth Telecommunications, Inc. d/b/a AT&T Florida's Answer and Affirmative Defenses

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November 24, 2010

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

RE: Docket No. 100434-TP: Complaint and Petition for relief by Nexus Communications, Inc. against BellSouth Telecommunications, Inc. d/b/a AT&T Florida for dispute over interpretation of interconnection agreement regarding cash back promotions

Dear Ms. Cole:

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

DOCUMENT NUMBER DATE

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FLORIDA PUBLIC SERVICE COMMISSION

Complaint and Petition for relief by Nexus)
Communications, Inc. against BellSouth)
Telecommunications, Inc. d/b/a AT&T Florida)
for dispute over interpretation of)
interconnection agreement regarding cash back)
promotions)
_____)

Docket No.: 100434-TP

Filed: November 24, 2010

AT&T FLORIDA'S ANSWER AND AFFIRMATIVE DEFENSES

BellSouth Telecommunications, Inc. d/b/a AT&T Florida ("AT&T Florida") hereby answers the Complaint filed by Nexus Communications, Inc. ("Nexus").

ANSWER

In response to the specific allegations set forth in the Complaint, AT&T Florida states as follows:

1. AT&T Florida admits the allegations of Paragraph 1 of the Complaint.
2. AT&T Florida admits the allegations of Paragraph 2 of the Complaint.
3. AT&T Florida admits the allegations of the first sentence of Paragraph 3 of the Complaint. AT&T denies the allegations of the second sentence of Paragraph 3 of the Complaint and avers that its principal place of business is 675 Peachtree Street NW, Atlanta, Georgia 30375.
4. AT&T Florida admits that Nexus' Complaint arises under its interconnection agreement(s) ("ICA(s)) with AT&T Florida. AT&T Florida denies the remainder of the allegations of paragraph 4 of the Complaint.

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5. AT&T Florida admits that the provisions of federal law cited in Paragraph 5 of the Complaint and its sub-parts say what they say, and AT&T denies any allegations in Paragraph 5 of the Complaint to the contrary.

6. AT&T Florida admits that it has made available certain promotional offerings to its retail customers that have lasted for more than 90 days. AT&T Florida denies the remainder of the allegations of Paragraph 6 of the Complaint.

7. AT&T Florida admits that it has made available certain cashback promotional offerings to its retail customers. AT&T Florida denies the remainder of the allegations of Paragraph 7 of the Complaint.

8. AT&T Florida admits that to the extent a reseller like Nexus is entitled to the benefit of the cashback component of a promotional offering, the maximum amount to which it is entitled is the face value of the retail cashback component reduced by the Commission-approved resale discount rate set forth in the parties' ICA(s).

9. AT&T Florida denies the allegations of Paragraph 9 of the Complaint.

10. AT&T Florida denies the allegations of Paragraph 10 of the Complaint.

11. AT&T Florida denies the allegations of Paragraph 11 of the Complaint.

12. AT&T Florida denies the allegations of Paragraph 12 of the Complaint.

13. AT&T Florida denies the allegations of Paragraph 13 of the Complaint.

14. AT&T Florida denies the allegations of Paragraph 14 of the Complaint.

15. AT&T Florida denies the allegations of Paragraph 15 of the Complaint.

16. AT&T Florida denies that Nexus is entitled to any of the relief requested in the "wherefore" clause of the Complaint.

17. Any and all allegations in the Complaint that are not expressly admitted herein are denied.

AFFIRMATIVE DEFENSES

18. The Compliant fails to state a cause of action for which relief can be granted.

19. Nexus did not notify AT&T Florida in writing upon the discovery of a billing dispute as required by the parties' ICA(s).

20. Nexus' claims are barred by the doctrines of laches, estoppel, and waiver.

21. Nexus' claims are barred by the statute of limitations.

WHEREFORE, having fully answered, AT&T Florida respectfully requests that this Complaint be dismissed.

Respectfully submitted this 24th day of November, 2010.

BELLSOUTH TELECOMMUNICATIONS, INC.
d/b/a AT&T FLORIDA



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Tracy W. Hatch
Manuel A. Gurdian
c/o Greg Follensbee
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CERTIFICATE OF SERVICE
Docket No. 100434-TP

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via

First Class U.S. Mail this 24th day of November, 2010 to the following:

Martha Brown
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