

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Emergency Complaint of Express Phone Service, Inc. against Bellsouth Telecommunications, Inc. d/b/a AT&T Florida regarding interpretation of the parties' interconnection agreement.

DOCKET NO. 110071-TP
ORDER NO. PSC-11-0574-PCO-TP
ISSUED: December 14, 2011

ORDER DENYING REQUEST FOR ABEYANCE

On March 15, 2011, Express Phone filed a complaint against AT&T Florida (Complaint).¹ The Complaint alleges that AT&T Florida planned to improperly disrupt Express Phone's service order provisioning, and cut off all services to existing Express Phone customers due to billing disputes arising out of the parties' Interconnection Agreement (ICA).²

On March 18, 2011, Express Phone filed a motion seeking emergency relief to maintain the status quo, allowing Express Phone to continue service to its customers.³ By Order No. PSC-11-0180-PCO-TP, issued March 30, 2011, Express Phone's Emergency Motion was denied. Express Phone was disconnected on March 30, 2011.

On April 4, 2011, AT&T Florida filed its Response in Opposition to Express Phone's Emergency Complaint, Request to Hold Docket in Abeyance and Request for Mediation. On July 6, 2011, Order No. PSC-11-0291-PAA-TP set this docket for an evidentiary hearing.

Express Phone filed a request on November 10, 2011, asking that the docket be placed in abeyance. AT&T Florida filed its Response in Opposition on November 17, 2011. In its request for abeyance, Express Phone argues that this Commission has other dockets in which similar promotional credits are in dispute. Express Phone asserts that these same disputes are pending in other states. Express Phone states that the parties jointly requested to hold the dockets in abeyance in Docket Nos. 100021-TP and 100022-TP (Lifeconnex dockets), which the Commission granted on June 18, 2010.⁴ Express Phone argues that an abeyance would conserve resources and effort on the part of all parties while Commissions in other states resolve similar promotional credit issues. As such, Express Phone requests that this docket be held in abeyance pending resolution of the Lifeconnex dockets in other states.

¹ Emergency Complaint, Request for Emergency Relief to Avoid Customer Disconnection, Request to Hold Docket in Abeyance, and Request for Mediation against BellSouth Telecommunications, Inc. d/b/a AT&T Florida.

² Express Phone states that the billing disputes stem from the calculation/application of promotional credits for resold services.

³ Express Phone Service, Inc's Motion for Emergency Consideration by the Prehearing Officer to Maintain Status Quo.

⁴ Order No. PSC-10-0402-PCO-TP, Docket No. 100021-TP, In re: Complaint and petition for relief against LifeConnex Telecom, LLC f/k/a Swiftel, LLC by BellSouth Telecommunications, Inc. d/b/a AT&T Florida and Docket No. 100022-TP, In re: Complaint and petition for relief against Image Access, Inc. d/b/a New Phone by BellSouth Telecommunications, Inc. d/b/a AT&T Florida.

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AT&T Florida asserts that Express Phone's request should be denied in its entirety because Express Phone is not a party to the aforementioned dockets in Florida or any other state. AT&T Florida further asserts that the Lifeconnex dockets involve different promotional credit issues. AT&T concludes that Express Phone has not provided a sufficient basis to place this docket into abeyance.

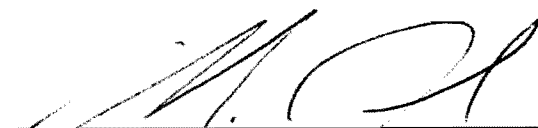
Upon review of Express Phone's complaint and the relevant promotional dockets cited by Express Phone, I find that the promotional credits at issue in this proceeding are not identical to those cited by Express Phone as the basis for the requested abeyance. It is therefore unnecessary to place the docket in abeyance at this time. If Express Phone does not wish to proceed at this time, the company may withdraw its complaint without prejudice and refile at a later date.

Therefore, as the Lifeconnex dockets are not directly related to the issues in this docket, I do not find it appropriate to hold this docket in abeyance at this time and shall deny Express Phone's motion.

Based on the foregoing, it is

ORDERED by Commissioner Eduardo E. Balbis, as Prehearing Officer, that Express Phone's Request for Abeyance is hereby denied.

By ORDER of Commissioner Eduardo E. Balbis, as Prehearing Officer, this 14th day of December, 2011.



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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and

time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.