

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 110306-TP

REQUEST FOR EMERGENCY RELIEF AND
COMPLAINT OF FLATEL, INC. AGAINST
BELLSOUTH TELECOMMUNICATIONS, INC.
D/B/A AT&T FLORIDA TO RESOLVE
INTERCONNECTION AGREEMENT DISPUTE.

PROCEEDINGS: COMMISSION CONFERENCE AGENDA
ITEM NO. 4

COMMISSIONERS
PARTICIPATING: CHAIRMAN RONALD A. BRISÉ
COMMISSIONER LISA POLAK EDGAR
COMMISSIONER ART GRAHAM
COMMISSIONER EDUARDO E. BALBIS
COMMISSIONER JULIE I. BROWN

DATE: Tuesday, February 14, 2012

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: JANE FAUROT, RPR
Official FPSC Reporter
(850) 413-6732

DOCUMENT NUMBER-DATE

00920 FEB 17 2012

FLORIDA PUBLIC SERVICE COMMISSION

FPSC-COMMISSION CLERK

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

P R O C E E D I N G S

CHAIRMAN BRISÉ: We are moving forward to Item Number 4, Docket Number 110306-TP.

MS. ROBINSON: Good morning, Commissioners.

Item Number 4 -- Pauline Robinson with the Commission legal staff. Item Number 4 addresses AT&T Florida's motion to dismiss Flatel's petition. The parties were approved five minutes each to address the Commission. Staff recommends that as the movant, AT&T Florida addresses the Commission first and then Flatel. Mr. Matari, CEO of Flatel, will participate by telephone, and Tracy Hatch of AT&T Florida will participate in person. Staff is also available for any questions. Thank you.

CHAIRMAN BRISÉ: Thank you very much. Seeing no objection, we will follow five minutes, and as suggested we will allow AT&T to go first, and then Flatel will go second. So, Mr. Hatch.

MR. HATCH: Mr. Chair, I never refuse the opportunity to talk as a lawyer, but it's Flatel's petition, so I think technically they should go first, and I would go last because I'm answering them. But if you wish me to go first, I'll be happy to do so.

CHAIRMAN BRISÉ: Sure. I think that sounds reasonable. So we will have Mr. Matari from Flatel go

1 first.

2 Mr. Matari, are you there?

3 **MR. MATARI:** I'm here.

4 **CHAIRMAN BRISÉ:** Okay. So you have five
5 minutes, sir.

6 **MR. MATARI:** Oh. I was under the impression
7 that AT&T was going to go first.

8 **CHAIRMAN BRISÉ:** No, we switched it around a
9 little bit. You're going to go first.

10 **MS. MARSH:** Oh, okay. Good morning.

11 **CHAIRMAN BRISÉ:** Good morning.

12 **MR. MATARI:** I wanted to -- I thought it was
13 very important that we address the Commission to let
14 them know that -- you know, actually I typed something
15 up, so I'd like to read it to you if you don't mind.

16 **CHAIRMAN BRISÉ:** Sure. Go right ahead.

17 **MR. MATARI:** All right. There are various
18 issues and practices AT&T has implemented that severely
19 impact the way Flatel can do business in Florida. From
20 the way they process the promotions to known issues
21 they have to yet credit the CLEC. Below is a list of
22 major issues AT&T is aware of but yet to make any
23 attempt to resolve.

24 In the AT&T southeast region, CLECs are
25 forced to wait a minimum of 60 days for credit of the

1 promotions to impact the bill. In all other AT&T
2 regions on the AT&T retail side the effect of the
3 impact of the promotion is on the first bill. Instead,
4 the process for Flatel and other AT&T southeast region
5 CLECs is as follows: Receive the AT&T invoice on the
6 designated bill date, depending on the day the new
7 customer signs on, the CLEC will receive the bill for
8 that customer up to 28 or 30 days later, file a
9 promotion request with AT&T promotions group, await
10 acknowledgment of the promotion request, which can take
11 two to three business days, and await resolution of the
12 promotion request, which takes seven to ten business
13 days from the acknowledgment of date. If the promotion
14 request is approved, Flatel could wait up to 30 days to
15 take the credit on the subsequent AT&T invoice.

16 On average, for an approved promotion the
17 time it takes for Flatel to receive the benefit of the
18 promotion is 75 days from the date the customer signed
19 up. If the promotion request is denied by AT&T and
20 Flatel does not agree, they have the ability of sending
21 a bill dispute to AT&T requesting they reinvestigate
22 the promotion with the additional information provided.
23 Now, AT&T -- I'm going to try to break this down
24 because I only have five minutes to tell you what has
25 been going on for the last seven years. So one example

1 is what is called the PAMA 7 or the PAMA 8 issue. At
2 the end of 2008, BellSouth introduced two new local
3 service packages to replace their three existing local
4 service packages. The old packages were PAMA 6 and
5 PAMA 5 and VSB, and the new packages were PAMA 7 and
6 PAMA 8. Well, it has been -- this was introduced back
7 in 2008. This is a known issue by AT&T and they have
8 yet to still -- you know, to resolve this. We are
9 still waiting for, you know, some closure to this.

10 Now, all of the disputes that we have filed
11 with AT&T are legitimate, and we have what is called a
12 85 percent winner rate, which basically means that
13 85 percent of everything that we dispute comes back
14 accepted by AT&T. But like I was telling you, the PAMA
15 7 and PAMA 8 issue here, these are promotions that they
16 offer their customers. Now, it has been two years
17 since they have issued any kind of credit to us for
18 this, you know, for these amounts, and these amounts
19 are large, they are not small. And I'm a very small
20 company. You know, I'm a small CLEC, but regardless,
21 the impact to the consumer -- I mean, the impact on my
22 company monetarily will impact the consumers
23 inevitably, and I can't continue to provide good
24 customer service when AT&T holds all of this, you know,
25 holds all of this money and doesn't credit it back to

1 our accounts.

2 CHAIRMAN BRISÉ: Mr. Matari, you have one
3 minute.

4 MR. MATARI: Okay. And real quickly, they
5 offer a free connection to their customer, and, you
6 know, for us to be able to compete we have to offer the
7 same thing, and we can't compete with them if they are
8 going to hold our money for that long.

9 MR. BURGOS: And just so the Commission
10 understands, the issue with PAMA 7 and PAMA 8 is that
11 as soon as that was implemented and the other ones were
12 retired, AT&T stopped paying the rebates that they
13 offered to their customers. They stopped paying to the
14 CLECs. When we brought it to their attention, AT&T
15 acknowledged that there was a glitch in their system
16 and that the new promotions had not been integrated
17 with their disputing system, and they acknowledged that
18 there was a problem. And to this day we have not seen
19 any closure to those disputes, and it's not something
20 that they do to their own consumers. You don't tell --
21 they don't tell their consumers --

22 CHAIRMAN BRISÉ: Sir, you have --

23 (Inaudible; simultaneous conversation.)

24 CHAIRMAN BRISÉ: I will give you 30 seconds
25 to wrap up.

1 **MR. BURGOS:** -- three or four years down the
2 line. And in the meantime they disconnect the line on
3 the customer, and they still haven't addressed the
4 consumers. That is not something that they do to their
5 own customers and it's not --

6 **CHAIRMAN BRISÉ:** All right. Thank you very
7 much. For the record, if you could state your name.

8 **MR. BURGOS:** Lobsang Burgos, Director of
9 Operations at Flatel.

10 **CHAIRMAN BRISÉ:** Okay. I don't know if we
11 got that. If you can spell the last name for us,
12 please.

13 **MR. BURGOS:** B-U-R-G-O-S, Burgos.

14 **CHAIRMAN BRISÉ:** All right. Thank you very
15 much.

16 **MR. BURGOS:** You're welcome.

17 **CHAIRMAN BRISÉ:** All right.

18 AT&T, Mr. Hatch.

19 **MR. HATCH:** Thank you, Mr. Chairman. Tracy
20 Hatch appearing on behalf of AT&T Florida.

21 Commissioners, we support the staff
22 recommendation. We believe that they have come to
23 exactly the correct conclusion here. Essentially, what
24 Mr. Matari didn't mention is the provision in his ICA
25 that says when we receives service from us we bill him

1 for that service. He is required under his
2 interconnection agreement to pay for the services that
3 we bill him for regardless of any disputes. If he has
4 any complaints, he can bring them to the Commission for
5 resolution, which he has done. But the bottom line is
6 he has not paid his bills consistent with the ICA. We
7 had disconnected service, and we essentially support
8 the staff recommendation to dismiss his complaint.

9 **CHAIRMAN BRISÉ:** Thank you very much.

10 Commissioners? Commissioner Brown.

11 **COMMISSIONER BROWN:** Thank you, Mr. Chairman.

12 And, Staff, just for the record, how long has
13 the nonpayment default been doing on with AT&T?

14 **MS. ROBINSON:** Based on our records, it's
15 probably since 2007, but AT&T may be able to better
16 clarify.

17 **MR. HATCH:** It's a rolling horizon because
18 they pay a little, we bill more, they pay some, they
19 bill more. But at least since the beginning of this
20 year and before. And when we issued the disconnect
21 notices back in, I believe, September or October time
22 frame, they were well in arrears. Even disregarding
23 the amounts of their essentially credits that they
24 claim that they are owed, they were still not paying
25 their bills consistent with the ICA.

1 **COMMISSIONER BROWN:** You said notices,
2 multiple notices?

3 **MR. HATCH:** Yes. There is a series of a
4 couple of notices where you get first disconnect notice
5 and then you get a final disconnect notice and then
6 services ordering is suspended and then ultimately
7 service is disconnected.

8 **COMMISSIONER BROWN:** Okay. So the company
9 has been somewhat lenient, at least, with the
10 nonpayment?

11 **MR. HATCH:** For better or for worse, we have
12 been slow to pursue our remedies under the contract.

13 **COMMISSIONER BROWN:** Right. And I have a
14 question for staff regarding whether the Commission has
15 received any complaints after the service was
16 terminated from customers?

17 **MR. LOWERY:** Paul Lowery with staff. We have
18 not received any besides Mr. Matari's actual case that
19 we are dealing with right now.

20 **COMMISSIONER BROWN:** Okay. Thank you.

21 **CHAIRMAN BRISÉ:** All right.

22 Commissioner Balbis.

23 **COMMISSIONER BALBIS:** Thank you, Mr.
24 Chairman. I just have a few questions for staff. How
25 many customers were affected by this discontinuation of

1 service?

2 MR. LOWERY: When you say affected, it's kind
3 of difficult sometimes to get that affected number. I
4 can give you -- before it started, we have got 2,700
5 customers that were with AT&T through Flatel. When we
6 were done crunching the numbers that we were given, you
7 have got about 700 customers that did not stay with
8 Flatel, so you have got about --

9 COMMISSIONER BALBIS: And for those customers
10 that had their service discontinued, I mean, what is
11 the process? I mean, they can immediately get service
12 from another provider, or do we have customers out
13 there that do not have phone service?

14 MR. LOWERY: What happened was some of the
15 customers were switched over to a commercial agreement
16 prior to the disconnect. So these customers, according
17 Mr. Matari, were customers who couldn't afford the
18 higher Zone 3 rate, which was about \$65. They
19 probably -- my estimate would be that they moved on to
20 another service. That's the best I could give you on
21 that one.

22 COMMISSIONER BALBIS: Okay. You know,
23 unfortunately, our hands are somewhat tied here. I
24 agree with staff's assertion that we do not have
25 jurisdiction and that the companies can seek relief

1 through another venue. But with that, I would move
2 staff's recommendation on all issues for this item.

3 **CHAIRMAN BRISÉ:** Commissioner Edgar.

4 **COMMISSIONER EDGAR:** Thank you, Mr. Chairman.
5 I would second the motion with the comment, I think in
6 keeping with Commissioner Balbis's comments, that we
7 have concerns about customers being disconnected and
8 what their options are and what their notification is.
9 However, I think that the issue before us is beyond our
10 purview. And, therefore, again, I second the motion.

11 **CHAIRMAN BRISÉ:** All right. The motion has
12 been moved and seconded. All in favor say aye.

13 (Vote taken.)

14 **CHAIRMAN BRISÉ:** Any opposed?

15 Very good. The motion carries. Thank you
16 very much, staff.

17
18
19
20
21
22
23
24
25

1 STATE OF FLORIDA)

2 : CERTIFICATE OF REPORTER

3 COUNTY OF LEON)

4
5 I, JANE FAUROT, RPR, Chief, Hearing Reporter
6 Services Section, FPSC Division of Commission Clerk, do
7 hereby certify that the foregoing proceeding was heard
8 at the time and place herein stated.

9 IT IS FURTHER CERTIFIED that I
10 stenographically reported the said proceedings; that
11 the same has been transcribed under my direct
12 supervision; and that this transcript constitutes a
13 true transcription of my notes of said proceedings.

14 I FURTHER CERTIFY that I am not a relative,
15 employee, attorney or counsel of any of the parties,
16 nor am I a relative or employee of any of the parties'
17 attorney or counsel connected with the action, nor am I
18 financially interested in the action.

19 DATED THIS 17th day of February, 2012.

20
21
22
23
24
25


26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512
513
514
515
516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559
560
561
562
563
564
565
566
567
568
569
570
571
572
573
574
575
576
577
578
579
580
581
582
583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
600
601
602
603
604
605
606
607
608
609
610
611
612
613
614
615
616
617
618
619
620
621
622
623
624
625
626
627
628
629
630
631
632
633
634
635
636
637
638
639
640
641
642
643
644
645
646
647
648
649
650
651
652
653
654
655
656
657
658
659
660
661
662
663
664
665
666
667
668
669
670
671
672
673
674
675
676
677
678
679
680
681
682
683
684
685
686
687
688
689
690
691
692
693
694
695
696
697
698
699
700
701
702
703
704
705
706
707
708
709
710
711
712
713
714
715
716
717
718
719
720
721
722
723
724
725
726
727
728
729
730
731
732
733
734
735
736
737
738
739
740
741
742
743
744
745
746
747
748
749
750
751
752
753
754
755
756
757
758
759
760
761
762
763
764
765
766
767
768
769
770
771
772
773
774
775
776
777
778
779
780
781
782
783
784
785
786
787
788
789
790
791
792
793
794
795
796
797
798
799
800
801
802
803
804
805
806
807
808
809
810
811
812
813
814
815
816
817
818
819
820
821
822
823
824
825
826
827
828
829
830
831
832
833
834
835
836
837
838
839
840
841
842
843
844
845
846
847
848
849
850
851
852
853
854
855
856
857
858
859
860
861
862
863
864
865
866
867
868
869
870
871
872
873
874
875
876
877
878
879
880
881
882
883
884
885
886
887
888
889
890
891
892
893
894
895
896
897
898
899
900
901
902
903
904
905
906
907
908
909
910
911
912
913
914
915
916
917
918
919
920
921
922
923
924
925
926
927
928
929
930
931
932
933
934
935
936
937
938
939
940
941
942
943
944
945
946
947
948
949
950
951
952
953
954
955
956
957
958
959
960
961
962
963
964
965
966
967
968
969
970
971
972
973
974
975
976
977
978
979
980
981
982
983
984
985
986
987
988
989
990
991
992
993
994
995
996
997
998
999
1000