

REDACTED

STATE OF FLORIDA

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Notice of adoption of existing interconnection,)
unbundling, resale and collocation agreement between)
Bellsouth Telecommunications, Inc. d/b/a AT&T)
Florida d/b/a AT&T Southeast and Image Access, Inc.)
d/b/a NewPhone Inc., by Express Phone Service, Inc.)

Docket No. 110087-TP

DIRECT TESTIMONY

OF

DAVID J. EGAN

ON BEHALF OF

AT&T FLORIDA

COM 5
APA _____
ECR _____
GCL _____
RAD 9
SRC _____
ADM _____
OPC _____
CLK _____
CRT 1

ISSUES:
2 and 3

DOCUMENT NUMBER-DATE

01234 MAR-1 92

FPSC-COMMISSION CLERK

1 **I. INTRODUCTION**

2 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3 A. My name is David J. Egan. My business address is 722 N. Broadway, Floor 9,
4 Milwaukee, WI 53202.

5 **Q. BY WHOM ARE YOU EMPLOYED AND WHAT IS YOUR POSITION?**

6 A. I am employed by AT&T Services, Inc. as a Lead Credit Analyst.

7 **Q. WHAT ARE YOUR RESPONSIBILITIES AS A LEAD CREDIT**
8 **ANALYST?**

9 A. I manage a group within AT&T's Wholesale Credit & Collections group that is
10 responsible for handling Wholesale Global View Collections, Bankruptcy, Exiting
11 CLEC, Litigation Support, Uncollectible Reserve, and Write-off processes for the
12 AT&T incumbent local exchange carriers ("ILECs"), including AT&T Florida.

13 One of my responsibilities in the areas of Bankruptcy and Litigation Support is to
14 provide testimony in Bankruptcy Court or State Regulatory proceedings such as
15 in this matter. I am a subject matter expert for AT&T in the areas of Escrow,
16 Payment of Rates and Charges, and Non-Payment and Procedures for
17 Disconnection.

18 **Q. PLEASE DESCRIBE YOUR EDUCATION AND EMPLOYMENT**
19 **EXPERIENCE.**

20 A. I have a Bachelor of Arts Degree in Business Administration with a major in
21 Accounting from the University of St. Thomas (St. Paul, MN). I have a Masters
22 in Business Administration Degree from the Keller Graduate School of
23 Management. I am a Certified Public Accountant licensed to practice in the State
24 of Wisconsin.

1 As for my work experience, I have worked for AT&T or a predecessor company
2 for nearly thirteen years. I have been in my current position for the last ten years.
3 Prior to that, for one year my primary responsibility was to oversee the Wholesale
4 line collection unit which is responsible for collecting from AT&T's non-
5 bankrupt CLEC customers. When the number of bankruptcies jumped
6 significantly in 2001 it became necessary to dedicate a portion of the collection
7 group to manage AT&T's bankrupt customers and I assumed that role. Further,
8 during my first year of employment with AT&T (then Ameritech), I was hired to
9 develop and implement a credit verification process to assess the risk of new
10 CLEC entrants and to obtain deposits from the CLECs. Prior to coming to work
11 at AT&T, I spent 9 years in the commercial lending groups of a bank and two
12 finance companies. Overall, I have 22 years experience in the areas of credit &
13 collections.

14 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE STATE**
15 **REGULATORY COMMISSIONS?**

16 A. Yes. I have previously testified before the California, Illinois, Michigan, Texas,
17 and Wisconsin Commissions. I have also testified in numerous US Bankruptcy
18 Court proceedings throughout the country.

19 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

20 A. The purpose of my testimony is in support of Issues 2 and 3 and is to discuss the
21 substantial and unpaid amounts Express Phone owed AT&T Florida under its
22 current Interconnection Agreement ("ICA") at the time it made the adoption
23 requests for a new ICA, as well as the substantial and unpaid amounts that
24 Express Phone currently owes AT&T Florida.

1 **II. DISCUSSION OF ISSUES – DOCKET 110087-TP**

2 **A. OCTOBER 20, 2010 ADOPTION REQUEST**

3 **Q. WHEN DID EXPRESS PHONE INITIALLY SUBMIT A REQUEST TO**
4 **AT&T FLORIDA TO ADOPT INTO A DIFFERENT**
5 **INTERCONNECTION AGREEMENT?**

6 A. As AT&T Florida witness Mr. Greenlaw testifies, Express Phone sent AT&T
7 Florida a letter dated October 20, 2010 informing AT&T Florida that it wished to
8 adopt the ICA between “Southwest Bell Texas and Image Access, Inc. d/b/a
9 NewPhone, Inc.”¹

10 **Q. AT THE TIME OF THIS REQUEST, WAS EXPRESS PHONE**
11 **OPERATING UNDER AN ICA IN FLORIDA?**

12 A. Yes. As Mr. Greenlaw testifies, Express Phone was operating under an ICA that
13 became effective November 3, 2006 and that, by its own terms, remained in effect
14 until at least November 2, 2011.

15 **Q. HOW DID AT&T FLORIDA REPLY TO EXPRESS PHONE’S OCTOBER**
16 **20, 2010 REQUEST?**

17 A. As Mr. Greenlaw testified, AT&T Florida denied the request through a letter
18 dated November 1, 2010.

19 **Q. WAS EXPRESS PHONE CURRENT ON ITS BILLS FROM AT&T**
20 **FLORIDA ON OCTOBER 20, 2010 AND NOVEMBER 1, 2010?**

21 A. No. On October 10, 2010, Express Phone had a past due balance on its AT&T
22 Florida accounts of \$930,932, and on November 1, 2010, Express Phone had a
23 past due balance of \$1,012,190.

¹ As Mr. Greenlaw testifies, Express Phone’s requests literally asked to adopt the ICA between “Southwestern Bell Texas” and “Image Access, Inc. d/b/a NewPhone, Inc.,” but Express Phone has taken the position that these requests were actually meant to adopt the ICA between AT&T Florida and Image Access, Inc., and we are treating it that way in our direct testimony (reserving the right to address in rebuttal anything Express Phone may say to the contrary in its direct testimony).

1 **Q. IS THERE ANY BASIS IN EXPRESS PHONE'S ICA THAT ALLOWS IT**
2 **TO WITHHOLD PAYMENT OF AMOUNTS BILLED BY AT&T**
3 **FLORIDA?**

4 A. No. Attachment 3—Billing of the ICA states in paragraph 1.4 - Payment

5 Responsibility:

6 Payment of all charges will be the responsibility of Express Phone.
7 Express Phone shall pay invoices by utilizing wire transfer services
8 or automatic clearing house services. Express Phone shall make
9 payment to BellSouth for all services billed **including disputed**
10 **amounts**. BellSouth will not become involved in billing disputes
11 that may arise between Express Phone and Express Phone's
12 customer.

13
14 **B. MARCH 14, 2011 ADOPTION REQUEST**

15 **Q. DID EXPRESS PHONE SUBMIT ANOTHER ADOPTION REQUEST TO**
16 **AT&T FLORIDA?**

17 A. Yes. AT&T Florida subsequently received a letter from Express Phone dated
18 March 14, 2011 requesting an adoption of the ICA between Southwestern Bell
19 Texas and Image Access, Inc. d/b/a New Phone, Inc.

20 **Q. AT THE TIME OF THIS REQUEST, WAS EXPRESS PHONE**
21 **OPERATING UNDER AN ICA IN FLORIDA?**

22 A. Yes, Express Phone was operating under the same ICA that it was operating under
23 at the time of its October 20, 2010 request.

24 **Q. WAS EXPRESS PHONE CURRENT ON ITS BILLS FROM AT&T**
25 **FLORIDA ON MARCH 14, 2011?**

26 A. No. On March 14, 2011, Express Phone had a past due balance on its AT&T
27 Florida accounts of \$1,343,984.

28 **Q. PRIOR TO MARCH 14, 2011, HAD AT&T FLORIDA UNDERTAKEN**
29 **ANY ACTION TO ASK EXPRESS PHONE TO CURE THIS PAST DUE**
30 **BALANCE?**

1 A. Yes. AT&T Florida had previously sent a collection letter dated February 23,
2 2011 to Express Phone demanding payment by March 14, 2011 of \$1,268,490 to
3 AT&T Florida for past due balances owed, or AT&T Florida would take
4 additional action against Express Phone to collect these balances owed. Express
5 Phone has failed to make any payments at any time to satisfy this collection letter.
6 A copy of the collection letter is attached as Exhibit DJE-1.

7 **Q. WHAT ACTION DID AT&T FLORIDA TAKE AGAINST EXPRESS**
8 **PHONE FOR NON-PAYMENT OF THE COLLECTION DEMAND**
9 **LETTER?**

10 A. Per the terms of the ICA, on March 18, 2011, AT&T Florida suspended Express
11 Phone's ability to place orders for new Resale service and on April 20, 2011,
12 AT&T Florida disconnected Express Phone's resale services for failure to satisfy
13 the collection letter.

14 **Q. HOW DID AT&T FLORIDA REPLY TO EXPRESS PHONE'S MARCH**
15 **14, 2011 REQUEST?**

16 A. As Mr. Greenlaw testified, AT&T Florida responded by sending a letter dated
17 March 25, 2011, conditionally accepting Express Phone's request to adopt the
18 new ICA if Express Phone cured the amounts owing under AT&T collection
19 demand letter and submitted adequate security.

20 **Q. WAS EXPRESS PHONE CURRENT ON ITS BILLS FROM AT&T**
21 **FLORIDA ON MARCH 25, 2011?**

22 A. No. By March 25, 2011, Express Phone's past due balance had risen to
23 \$1,417,735.

24 **Q. DID EXPRESS PHONE EVER MEET THE CONDITIONS IN AT&T**
25 **FLORIDA'S MARCH 25, 2011 LETTER?**

1 A. No. Express Phone never paid the past due balance and we never received any
2 security.

3 **Q. DOES AT&T FLORIDA HAVE RECORDS OF THE BILLS IT SENT TO**
4 **EXPRESS PHONE AND PAYMENTS RECEIVED FROM EXPRESS**
5 **PHONE?**

6 A. Yes. The CDs marked as Exhibits DJE-2, DJE-3 and DJE-4 contain copies of the
7 bills that AT&T Florida sent Express Phone from November 2008 through May
8 2011 for its Florida resale accounts. Exhibit DJE-2 contains the bills for Billing
9 Account Number 305Q926878; Exhibit DJE-3 contains the bills for Billing
10 Account Number 561Q926878; and Exhibit DJE-4 contains the bills for Billing
11 Account Number 904Q926878. Those bills reflect current charges, credits, and
12 payments (if any) made.

13 **Q. HAS EXPRESS PHONE CURED THE AMOUNTS IT OWES?**

14 A. No.

15 **Q. HOW MUCH DOES EXPRESS PHONE CURRENTLY OWE AT&T**
16 **FLORIDA FOR SERVICES PROVIDED AND BILLED UNDER THE**
17 **ICA?**

18 A. As of March 1, 2012, the total past due balance Express Phone currently owes
19 AT&T Florida for services provided in Florida is \$1,437,631.

20 **Q. DOES THIS COMPLETE YOUR TESTIMONY?**

21 A. Yes it does.

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On February 13, 2012

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