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From: Kim Hancock [khancock@moylelaw.com]
Sent: Thursday, June 28, 2012 9:30 AM
To: Filings@psc.state.fl.us
Cc: Lee Eng Tan; sm6526@att.com; tom@dei.gccoxmail.com; Vicki Kaufman; Adam Teitzman; mark@mfoosterlaw.com
Subject: Docket 120169-TP
Attachments: Ltr Cole 6.28.12.pdf

In accordance with the electronic filing procedures of the Florida Public Service Commission, the following filing is made:

a. The name, address, telephone number and email for the person responsible for the filing is:

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- b. This filing is made in Docket No. 120169-TP.
- c. The document is filed on behalf of Digital Express, Inc.
- d. The total pages in the document are 2 pages.
- e. The attached document is a letter to Ann Cole, Commission Clerk.

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6/28/2012

DOCUMENT NUMBER-DATE
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FPSC-COMMISSION CLERK



June 28, 2012

Via Email

Ms. Ann Cole
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Docket No. 120169-TP, 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 New Talk, Inc. by Digital Express, Inc.

Dear Ms. Cole:

On June 22, 2012, Digital Express, Inc. (Digital) filed a letter with the Commission in which it objected to AT&T's request, and Staff's consent to that request, that AT&T be given until July 9 to "respond" to Digital's Notice of Adoption, filed on June 5, 2012. Digital's objection was related not to the extension (though it is unclear what sort of "extension" was sought and for what purpose as AT&T responded to the June 5 adoption filing on June 20), but to misrepresentations made to Staff regarding Digital's provision of notice of the adoption. As described in detail in Digital's June 22 letter, appropriate notice was sent to AT&T three different ways. It is highly inaccurate to state, as Ms. Montgomery did in her letter of June 20, that AT&T only became aware of the adoption on June 19. It is our hope that, in the future, AT&T will accurately represent the facts when it communicates with Staff and the parties. With that background in mind, Digital will withdraw the objection contained in its June 22 letter as it pertains to any "extension."

Further, federal law and prior rulings of the Commission make it clear that no response or approval by AT&T is necessary for the adoption to be effective. If AT&T objects, it may seek a remedy at the Commission. However, such action by AT&T does not extinguish the effectiveness of the adoption.

In addition, Digital informs the Commission that AT&T has stated its intent to disconnect all of Digital's customers on July 3 due to a dispute with Digital over deposit requirements. Such disconnection violates the rights of both Digital and its some 2,000 customers. Despite good faith efforts on Digital's part, AT&T has continued to make unreasonable deposit demands, which do not appear in the terms of the effective interconnection agreement, and has failed to

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work with Digital to resolve this matter, instead threatening to disconnect Digital's customers. Further, AT&T's objection to Digital's June 5 adoption is simply another example of AT&T's bad faith behavior.

Digital would appreciate any assistance the Commission or Commission Staff can provide in halting this unjustified disconnection which will damage Digital and its customers.

Thank you for your consideration.

Sincerely,


Vicki Gordon Kaufman

cc: Lee Eng Tan
Adam Teitzman
Suzanne Montgomery
Tom Armstrong