

Eric Fryson

From: Tom Armstrong [tom.armstrong.sr@gmail.com]

Sent: Tuesday, September 11, 2012 12:27 PM

To: Filings@psc.state.fl.us

Subject: Docket 120169-TP

Attachments: Digital Express, Inc.'s Proposed Issue Identification.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:

Thomas M. Armstrong
Digital Express, Inc.
1803 W. Fairfield Drive, Unit 1
Pensacola, FL 32501
tom.armstrong.sr@gmail.com

- 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 6 pages.
- e. The attached document is DIGITAL EXPRESS, INC.'S *PROPOSED* IDENTIFICATION.

Thomas M. Armstrong
Digital Express, Inc.
[850.291.6415](tel:850.291.6415) mobile
[850.607.2280](tel:850.607.2280) office
[850.308.1151](tel:850.308.1151) fax
tom.armstrong.sr@gmail.com

The information contained in this e-mail is confidential and may be subject to the attorney client privilege or may constitute privileged work product. The information is intended only for the use of the individual or entity to whom it is addressed. If you are not the intended recipient, or the agent or employee responsible to deliver it to the intended recipient, you are hereby notified that any use, dissemination, distribution or copying of this communication is strictly prohibited. If you receive this e-mail in error, please notify us by telephone or return e-mail immediately. Thank you.

DOCUMENT NUMBER-DATE

06114 SEP 11 12

DIGITAL EXPRESS, INC.

1303 W. FAIRFIELD DRIVE, UNIT 1
PENSACOLA, FL 32501
850-291-6415 FAX 850-308-1151

September 11, 2012

Ms. Ann Cole
Commission Clerk
Office of the 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**

Dear Ms. Cole:

Enclosed is Digital Express, Inc.'s *Proposed* Issue List, which we ask that you file in the captioned docket.

Copies have been served to the Parties shown on the attached Certificate of Service list.

Sincerely,



Thomas M. Armstrong
President

DOCUMENT NUMBER-DATE

06114 SEP 11 02

FPSC-COMMISSION CLERK

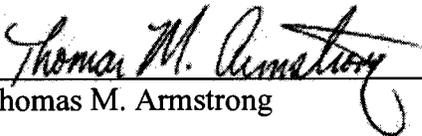
CERTIFICATE OF SERVICE
Docket No. 120169-TP

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

Electronic Mail this 11th day of September, 2012 to the following:

Lee Eng Tan
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399
ltan@,mc.state.fl.us

AT&T
Suzanne Montgomery
Tracy Hatch
150 South Monroe Street, Suite 400
Tallahassee, FL 32301
T: (305) 347-5558
F : (305) 577-4491
sm6526@att.com
th9467@att.com



Thomas M. Armstrong

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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.

Docket No. 120169-TP

Filed: September 11, 2012

DIGITAL EXPRESS, INC.'S PROPOSED ISSUE LIST

Pursuant to Staffs request, Digital Express, Inc. files its *Proposed* Issue List attached
hereto as Exhibit A.

s/ Thomas M. Armstrong

Thomas M. Armstrong
Digital Express, Inc.
1803 W. Fairfield Drive, Unit 1
Pensacola, FL 32501
(850) 291-6415 (Voice)
(850) 308-1151 (Facsimile)
tom.armstrong.sr@gmail.com

DOCUMENT NUMBER-DATE

06114 SEP 11 02

FPSC-COMMISSION CLERK

Digital Express, Inc.'s *Proposed Issues*
Docket No. 120169-TP

1. Whether the New Talk ICA adopted by Digital Express was entered into by AT&T, filed with the Commission on July 10, 2009 and deemed approved by operation of law by the Commission on October 8, 2009 in Docket 090364-TP.
2. Whether the adoption of the New Talk ICA by Digital Express was permissible under federal law.
3. Whether the adoption of the New Talk ICA by Digital Express was permissible under Florida law.
4. Whether the adoption of the New Talk ICA by Digital Express was permissible under the terms of the ICA in effect when Digital Express provided the notice of adoption to AT&T.
5. Whether Digital Express properly provided notice to AT&T of the adoption of the New Talk ICA by Digital Express on June 5, 2012.
6. Whether federal law, Florida law or Commission rule requires Digital Express to provide notice of the adoption of the New Talk ICA by Digital Express to AT&T Florida specifically.
7. Whether any guideline, instruction, policy or other written material provided by AT&T to CLEC's, at the time of the adoption of the New Talk ICA by Digital Express, requests that CLEC's, and in this case, Digital Express, separately notice each separate entity of AT&T, and in this case AT&T Florida, in each state that the adopted ICA covers.
8. Whether Digital Express properly provided notice of the adoption of the New Talk ICA by Digital Express to the Commission on June 5, 2012.

9. Whether federal law, Florida law or Commission rule establishes that a notice of the adoption of an effective ICA previously approved by the Commission must be filed with the Commission for the adoption to be effective.

10. Whether federal law, Florida law, or Commission rule permits an ICA previously approved by the Commission to not have to be made available for adoption.

11. Whether the Commission may consider matters outside the applicable federal law to determine if the objection by AT&T to the adoption of the New Talk ICA by Digital Express is a valid objection.

12. Whether AT&T's objection to the adoption of the New Talk ICA by Digital Express constitutes unreasonable delay as prohibited in the Federal Act.

13. Whether AT&T may attempt to unilaterally impose conditions outside of those set forth in federal law in objecting to the adoption of the New Talk ICA by Digital Express.

14. Whether AT&T may unilaterally oppose the adoption of the New Talk ICA by Digital Express in order to avoid complying with the terms and conditions of the adopted ICA and whether such action is consistent with the language and intent of Section 252(i) of the federal Act?

15. Whether AT&T may unilaterally oppose the adoption of the New Talk ICA by Digital Express when AT&T is in breach of the ICA in effect when the notice of adoption was sent from Digital Express to AT&T and whether such action is consistent with the language and intent of Section 252(i) of the federal Act?

16. Whether AT&T can arbitrarily choose to enforce only certain terms and conditions within an ICA as they interpret them while at the same time ignoring its obligations under the remaining terms and conditions of an ICA.

17. Whether AT&T had notified Digital Express of any alleged breach of the ICA at the time Digital Express adopted the New Talk ICA.

18. Whether AT&T is allowed to designate itself as arbiter having sole and absolute power of judging which terms and conditions of an ICA AT&T can elect to interpret and enforce without availing itself of the dispute mediation process contained within an ICA.

19. Whether AT&T's objection to the adoption of the New Talk ICA by Digital Express is a continued pattern of misconduct AT&T has engaged in that includes targeting CLEC's that are separate legal entities with improper disconnections and withholding funds when AT&T has no legal or regulatory basis to do so.

Exhibit A