

REDACTED**Eric Fryson**

From: Jon Moyle [jmoyle@moylelaw.com]
Sent: Wednesday, November 07, 2012 8:05 AM
To: Filings@psc.state.fl.us
Cc: Adam Teitzman; Charles Murphy; th9467@att.com; sm6526@att.com
Subject: RE: Budget Prepay Inc.'s Request for Confidential Classification
Attachments: Budget's Request for Confidential Classification 11.7.112.pdf

Electronic Filing

a. Person responsible for this electronic filing:

Jon Moyle
 Moyle Law Firm
 The Perkins House
 118 North Gadsden Street
 Tallahassee, FL 32301
 (850) 681-3828
jmoyle@moylelaw.com

claim of confidentiality
 notice of intent
 request for confidentiality
 filed by OPC

For DN 07514-12, which
 is in locked storage. You must be
 authorized to view this DN.-CLK

b. Docket No. 120231-TP

In re: Complaint of Budget Prepay, Inc. against AT&T Florida

c. Documents being filed on behalf of Budget Prepay, Inc.

d. There are a total of 9 pages.

e. The document attached for electronic filing is Budget's Request for Confidential Classification. The original, with the a copy of the un-redacted confidential information will be filed under seal in accordance with Rule 25-22.006. Please let me know if you need any additional information or have questions.

Jon Moyle
jmoyle@moylelaw.com



Moyle Law Firm, P.A.
 The Perkins House
 118 N. Gadsden St.
 Tallahassee, FL 32301
 850-681-3828 (Voice)
 850-681-8788 (Fax)

11/7/2012

DOCUMENT NUMBER-DATE

07500 NOV-7 09

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of BUDGET PREPAY, INC.
Against BellSouth Telecommunications, LLC
d/b/a AT&T Florida

DOCKET NO. 120231- TP

Filed: November 7, 2012

**BUDGET PREPAY, INC.'S REQUEST FOR CONFIDENTIAL
CLASSIFICATION**

Budget Prepay, Inc. ("Budget"), pursuant to rule 25-22.006, Florida Administrative Code, requests confidential classification for certain information contained in one document attached to the "Notice of Commencement of Collection Action" filed by BellSouth Telecommunications, LLC d/b/a AT&T Florida ("AT&T") on October 19, 2012 in the above-styled matter. As grounds therefor, Budget states:

1. On August 28, 2012, Budget filed a complaint with this Commission on August 28, 2011 to resolve a billing dispute with AT&T.
2. On September 17, 2012, AT&T answered Budget's complaint and asserted a counterclaim.
3. On October 8, 2012, Budget moved to dismiss AT&T's counterclaim for failing to meet a condition precedent to pursuing a claim, namely, failing to pursue dispute resolution as required by the parties' interconnection agreement.

4. On October 19, 2012, AT&T responded to Budget's motion to dismiss and filed its Notice of Commencement of Collection Action.

3. Attached to AT&T's Notice of Commencement of Collection Action was a four page letter from AT&T to Budget dated October 19, 2012 for which AT&T provided the Commission with Notice of Intent to Request Specified Confidential Classification. AT&T indicated that Budget would be responsible for seeking confidential classification for any information it claimed as confidential. Accordingly, Budget is now seeking confidential protection for certain information as detailed herein.

4. Section 364.183(3), Florida Statutes, provides that:

The term "proprietary confidential business information" means information, regardless of form or characteristics, which is owned or controlled by the person or company, is intended to be and is treated by the person or company as private in that the disclosure of the information would cause harm to the ratepayers or the person's or company's business operations, and has not been disclosed unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or private agreement that provides that the information will not be released to the public.

Section 364.183(3)(e), Florida Statutes, provides that "proprietary confidential business information" includes:

Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of information.

5. Budget has reviewed the document AT&T attached to its Notice of Commencement of Collection Action and seeks confidential classification for only a portion of the document – information which reflects the amount of money involved in the billing dispute and a chart which reveals the monthly billing sums. The information for which Budget requests confidential classification is the following:

- Information regarding Budget's business activity in Florida as reflected in a monthly billing chart on page 4 of the confidential document and information regarding the billing amounts in dispute;
- Information regarding billing information contained on lines 2 and 12 on page 1 of the letter, information found on lines 4, 6, 8 and information contained within footnote 2 on page 2 of the letter.

This information falls squarely within the types of information for which confidential classification is appropriate. This information, if made public, could provide other competing telecommunications companies with useful information about Budget's activities in Florida that could be harmful to and impair Budget's competitive interests. This information is sensitive, confidential business information that should be protected as it falls within the clear scope of the statutory definition of "proprietary confidential business information".

6. Exhibit A to this request is one copy of the confidential information with such information highlighted in yellow. Exhibit A, which is filed under seal,

should be treated as confidential pending a ruling on this request. Exhibit B is two redacted copies of the information which may be made available for public review and inspection.

7. The designated information for which confidential classification is sought is intended to be and is treated by Budget as confidential.

WHEREFORE, Budget respectfully requests that the highlighted information on Attachment A be accorded confidential classification.

s/ Jon C. Moyle, Jr.

Jon C. Moyle, Jr.
jmoyle@moylelaw.com
Moyle Law Firm, PA
118 North Gadsden Street
Tallahassee, FL 32301
(850) 681-3828 (Voice)
(850) 681-8788 (Facsimile)

Katherine King
Katherine.king@keanmiller.com
Randy Young
Randy.young@keanmiller.com
Randy Cangelosi
Randy.cangelosi@keanmiller.com
Carrie Tournillon
Carrie.tournillon@keanmiller.com
Kean Miller LLP
400 Convention Street, Suite 700
Baton Rouge, Louisiana 70802
(225) 389-3723 (Voice)
(225) 405-8671 (Facsimile)

Attorneys for Budget Prepay, Inc.

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a true and correct copy of the foregoing Request for Confidential Classification, without unredacted Exhibit A, has been furnished by Electronic Mail (*) this 7th day of November 2012:

(*) Adam Teitzman
(*) Charlie Murphy
Office of the General Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
ATeitzma@PSC.STATE.FL.US
cmurphy@PSC.STATE.FL.US

(*) Tracy Hatch
(*) Suzanne L. Montgomery
AT&T
150 South Monroe Street, Suite 400
Tallahassee, FL 32301
Th9467@att.com
sm6526@att.com

s/ Jon C. Moyle, Jr.

Jon C. Moyle, Jr.

PROPRIETARY
&
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Exhibit 1 to the Notice of Commencement
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October 19, 2012

VIA OVERNIGHT MAIL

REDACTED

R. Daniel Hyde, III
Budget Prepay, Inc.
1325 Barksdale Boulevard, Suite 300
Bossier City, LA 71111

Re: Notice of Suspension and Discontinuance – Florida Resale Accounts

Dear Mr. Hyde:

AT&T Florida's records indicate that, as of September 30, 2012, Budget Prepay, Inc. ("Budget") has a past due balance of [REDACTED] on Budget's Florida resale accounts, as shown on Attachment "A".

Under the terms of the parties' Interconnection Agreement (the "ICA"), Budget is required to pay AT&T Florida for "all services billed" "on or before the next bill date." ICA, Attachment 7, §§ 1.2.2, 1.3. The only exception for timely payment of all billed charges by Budget is "as provided in section 2," which is entitled "Billing Disputes." While Section 2.2 of the ICA allows Budget to withhold disputed amounts until the billing dispute is resolved, it narrowly defines a "billing dispute" as "a reported dispute *of a specific amount of money actually billed by either party.*" (emphasis added).

According to AT&T Florida's records Budget's open "billing disputes" (as that term is defined in the ICA) total no more than [REDACTED]. The remaining purported disputes do not relate in any way to an "amount of money actually billed" by AT&T Florida. Rather, Budget is improperly withholding payments based on its claim for credits under certain long-distance promotional offerings by BellSouth Long Distance, Inc. (the "LD Claims"). Those LD Claims are not "billing disputes," as that term is defined in the ICA. At best, they are claims for damages; and the ICA unambiguously provides that "[c]laims by the billed party for damages of any kind will not be considered a billing dispute for purposes of this Section." ICA, Attachment 7, § 2.2.

Nothing in the ICA allows Budget to engage in self-help by withholding payment of validly billed, undisputed charges based on any claims for amounts or damages Budget contends AT&T Florida or any other entity owes it.

EXHIBIT "B"

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Exhibit 1 to the Notice of Commencement
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For the foregoing reasons, the LD Claims must be disregarded for the purposes of determining the undisputed amount due from Budget to AT&T Florida for resale services. After removing the disputes based on the LD Claims, AT&T Florida's records indicate that, at most, Budget has submitted a total of _____ in disputes that can be considered, for the limited purposes of this letter, to be "billing disputes" under Section 2 of Attachment 7 to the ICA.¹ Thus, Budget has an undisputed past due balance of _____ as of September 30, 2012.

Accordingly, pursuant to Section 1.7.2 of Attachment 7 to the ICA, AT&T Florida demands that Budget pay AT&T Florida _____ (the "Undisputed Past Due Amount") within fifteen (15) days of the date of this notice. If Budget fails or refuses to pay the Undisputed Past Due Amount by that date (i.e., November 5, 2012), AT&T Florida will refuse additional applications for service, pending orders for service will not be completed, and access to ordering systems will be suspended, in accordance with Section 1.7.2.

In addition, if Budget does not pay the Undisputed Past Due Amount and all other amounts not in dispute that come past due by the thirtieth (30th) day following the date of this notice (i.e., November 19, 2012), AT&T Florida will discontinue the provision of existing services to Budget, in accordance with Section 1.7.2.

Without waiving the foregoing, and given the pendency of Docket No. 120231-TP before the Florida Public Service Commission, AT&T Florida will voluntarily delay suspension and disconnection until at least the close of business on November 27, 2012, to give Budget an opportunity to request that the Florida Public Service Commission address this issue at its November 27, 2012 Agenda Conference. Absent payment or a Commission ruling directing otherwise, AT&T will suspend service no earlier than close of business on November 27, 2012.

Kindly remit payment of the Undisputed Past Due Amount to AT&T Florida at the following address:

AT&T ROC-CABS
600 North Point Parkway
Alpharetta, Florida 30005

¹ AT&T Florida does not agree that the remaining disputes are valid or correct. AT&T Florida merely recognizes that the other disputes submitted by Budget may be of the type that are considered to be "billing disputes" for the purposes of determining the amount of undisputed past due charges due from Budget to AT&T Florida for resale services at this time. AT&T Florida does not waive, and expressly preserves, its right to pursue collection of all monies due, or that may come due, from Budget, including but not limited to the collection of all monies withheld as a result of those other disputes.

² This amount is calculated by reducing the current past due balance of _____ by the amount of billing disputes which are unrelated to the LD Claims and which may relate to amounts billed by AT&T Florida to Budget for resale services.


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AT&T Florida reserves its rights with respect to any and all other amounts that are due, or may come due, from Budget, including but not limited to late payment charges that will continue to accrue in connection with the Budget's Florida resale accounts.

If you have any questions, please contact me directly at (414) 274-7111.

Sincerely,

A handwritten signature in black ink, appearing to read "James J. Grier".

James J. Grier
Director - Credit and Collections

Attachment A
Budget Prepay - Florida

Month	Sum of Prev Bal	Current Payment	Current Adj.	Sum of Bal Due	Current Charges	Current LPC's	Sum of Total Due
June-08							
July-08							
August-08							
September-08							
October-08							
November-08							
December-08							
January-09							
February-09							
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