

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 New Talk, Inc. by Digital Express, Inc.

DOCKET NO. 120169-TP  
ORDER NO. PSC-13-0090-PCO-TP  
ISSUED: February 19, 2013

ORDER GRANTING ABATEMENT

This Order is issued under the authority granted by Rule 28-106.211, Florida Administrative Code, which provides that the presiding officer before whom a case is pending may issue any orders necessary to effectuate discovery, prevent delay, and promote the just, speedy and inexpensive determination of all aspects of the case.

On June 5, 2012, Digital Express, Inc. (Digital) filed a Notice of Adoption of an existing interconnection, unbundling, resale, and collocation agreement between BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast (AT&T Florida) and New Talk, Inc. (New Talk ICA) On July 9, 2012, AT&T Florida filed a Response in Opposition to Digital's adoption of the New Talk ICA. Order No. PSC-12-0598-PCO-TP, on November 1, 2012, established procedural dates and set this docket for an administrative hearing on April 18, 2013.

On February 8, 2013, Digital and AT&T filed a Joint Motion for Abatement, stating that the parties have reached an agreement to request an abatement of this docket until all appeals have been resolved in Docket 110087-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 Image Access, Inc. d/b/a NewPhone, Inc. by Express Phone Service, Inc.*<sup>1</sup> In support of their Joint Motion, the parties argue that the issues in this docket are substantially similar to the issues in Docket 110087-TP, which is currently on review to the United States District Court, Northern District of Florida as Case No. 1:12-cv-00197-MP-GRJ.

Upon consideration and in the interest of judicial economy, it is reasonable and appropriate to grant Digital Express and AT&T Florida' Joint Motion for Abatement. Since this is a joint motion, neither party will be prejudiced by granting an abatement. Therefore, this docket will be abated until all pending appeals in Docket 110087-TP have been resolved, a motion from the parties, or upon the Florida Public Service Commission's own motion.

<sup>1</sup> Express Phone Service, Inc. is an affiliate of Digital Express.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

Based on the foregoing, it is

ORDERED by Commissioner Julie I. Brown, as Prehearing Officer, that Digital Express and AT&T Florida's Joint Motion for Abatement is hereby granted, as set forth herein.

By ORDER of Commissioner Julie I. Brown, as Prehearing Officer, this 19<sup>th</sup> day of February, 2013.



JULIE I. BROWN

Commissioner and Prehearing Officer  
Florida Public Service Commission  
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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.