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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Communications Authority, Inc. for arbitration of Section 252(b) interconnection agreement with BellSouth Telecommunications, LLC d/b/a AT&T Florida.	DOCKET NO. 140156-TP DATED: MARCH 2, 2015

COMMUNICATIONS AUTHORITY'S RESPONSE TO
STAFF'S SECOND SET OF INTERROGATORIES
(NOS. 29-66)

Pursuant to Rule 28.106-206, Florida Administrative Code, Communications Authority, Inc. ("CA"), by its attorneys, responds to the first set of Commission Staff's ("Staff") first set of interrogatories as follows:

GENERAL OBJECTIONS

CA makes the following general objections to Staff's Interrogatories. Unless otherwise specified, each of the following General Objections is continuing, and is incorporated into the response to each Interrogatory propounded by Staff as if fully set forth therein. The assertion of the same, similar or additional objections in any specific response does not waive CA's general objections set forth below.

1. CA objects to the instructions provided by Staff to the extent such instructions impose obligations different or greater than set forth in the applicable procedural and discovery rules.

2. CA objects to these Interrogatories to the extent that they are not reasonably calculated to lead to the discovery of admissible evidence and are not relevant to the subject matter of this proceeding.

3. CA objects to each and every Interrogatory to the extent that it purports to seek information about matters outside of the State of Florida.

4. CA objects to each and every Interrogatory to the extent it purports to seek information or documents that are protected from disclosure by the attorney-client privilege, attorney work product doctrine or other privilege.

5. CA objects to each and every Interrogatory to the extent Staff seeks information or documents that are confidential, proprietary, and/or trade secret information protected from disclosure.

6. CA objects to each and every Interrogatory to the extent that it purports to require disclosure of information or documents that are not available to CA or that are equally or more readily available to Staff than obtaining the information or documents from CA.

7. CA objects to these Interrogatories to the extent that they are unduly burdensome, expensive, oppressive, or excessively time consuming as written.

8. CA objects to these Interrogatories to the extent they seek information that is already in the possession of Staff or already in the public record before the Florida Public Service Commission ("Commission"), or elsewhere.

9. CA objects to these Interrogatories that seek to obtain "all" documents to the extent that such an Interrogatory is overbroad and unduly burdensome and seeks information that is neither relevant nor material to the subject matter of this proceeding nor reasonably calculated to lead to the discovery of admissible evidence.

10. CA objects to these Interrogatories to the extent that they seek to impose an obligation on CA to respond on behalf of subsidiaries, affiliates, or other persons that are not parties to this

proceeding on the grounds that such requests are overly broad, unduly burdensome and oppressive.

11. CA objects to these requests to the extent that they are vague, ambiguous, overly broad, imprecise, or utilize terms that are subject to multiple interpretations but are not properly defined or explained for purposes of these requests.

12. CA's responses will provide, subject to any applicable objections, all of the information obtained by CA after a reasonable and diligent search conducted in connection with these requests. CA shall conduct a search of those files that are reasonably expected to contain the requested information. To the extent that the Interrogatories purport to require more, CA objects on the grounds that compliance would impose an undue burden or expense.

13. The objections contained herein are not intended nor should they be construed to waive CA's right to other discovery involving or relating to the subject matter of these Interrogatories, responses or documents produced in response hereto.

14. CA's agreement to respond partially to these Interrogatories should not be construed to mean that any additional documents or information responsive to the Interrogatories exist.

INTERROGATORIES

The Following Question Pertains to Issue 2

29. Is CA currently a Tier 2 AIS? If not, please explain your answer.

No. CA does not currently have an Interconnection Agreement and has no employees, and therefore would not benefit from a Tier 2 AIS status. CA is, however, not certain that it would benefit from Tier 2 AIS status even if it were already operating under an ICA.

The Following Question Pertains to Issue 12

30. Are Issues 12(i) and 24(ii) the same issue? If so, should both issues appear in multiple sections of the ICA or should the language appear in only one section of the General Terms and Conditions (GT&C)? Please explain.

Our concern here is that we only raised this issue once in this arbitration, under issue 12. We did not raise two similar issues; AT&T added it as a line item for issue 24 later. In our view, issues 12 and 24 were distinct. By creating 12i and 24ii, AT&T is now attempting to close out our original issue 12, and our concern is that AT&T is seeking to dispose of the issue that we originally raised. We agree in principle that the issue need not be decided twice, and we also agree that it more appropriately appears in the lower section and not in the definitions. However, we disputed it as AT&T originally presented it to us.

The Following Questions Pertain to Issue 13

31. In his direct testimony, on page 15, lines 12-14, witness Ray indicates the dispute resolution process "already provides for payment of retroactive late payment charges "...when disputes are resolved in favor of AT&T Florida." Is his concern that late payment charges defined in Issue 13 may be in addition to the retroactive late payment charges? Please explain.

The concern is primarily that AT&T will make an argument that Late Payment Charges must be paid even when disputes are resolved in favor of CA, that Late Payment Charges must be paid into escrow during the pendency of a dispute resolution proceeding, and/or that Late Payment Charges upon the Late Payment Charges will not be credited after being charged by AT&T once a dispute is resolved in CA's favor.

32. In his direct testimony, on page 15, lines 14-17, witness Ray indicates CA removed language that would subject CA to late payment charges if "CA does not submit remittance information." Has witness Ray experienced paying a bill in full with the correct remittance data only to have that bill deemed late because the electronic clearinghouse stripped the remittance data from the payment? Please list and explain all known examples.

Yes. During my time at AstroTel, we did attempt to use ACH to pay AT&T on perhaps a dozen different billing accounts over a period of several months. This resulted in a months-long nightmare because the account numbers and/or invoice numbers did not properly transmit from

Regions Bank to AT&T. The payments were received by AT&T, but it took months to figure out where the funds had been allocated and get the funds properly allocated on AT&T's end. In that case, it was difficult to get AT&T to credit Late Payment Charges even though the payments were received on time. In the end, it was discovered that Regions Bank's systems had truncated the invoice numbers and/or account numbers which caused them to be incomplete when AT&T received the payments, and AT&T did not contact AstroTel to get advice on how to apply them.

The Following Questions Pertain to Issue 15

33. In his direct testimony on page 19, lines 2-3, witness Ray testifies that AT&T Florida verifies CLEC insurance "as part of the application process" for services ordered under the ICA. At what point after the ICA has been executed does CA expect to file applications to begin installing its own physical network? Please explain.

CA intends to immediately begin providing resale services once the ICA is approved by the Commission. At some point in the future, perhaps 6 to 12 months later, CA intends to interconnect its facilities-based network to AT&T. However, at that time CA does not intend to collocate but instead intends to lease transport between it and AT&T from FPL Fibernet. Thus, CA will not have collocations at that point, will not have applied for any and will not have access credentials. CA does not ever intend to perform underground work in conduits and manholes; it is not a part of its business plan. Thus, CA does not ever intend to obtain explosion and collapse insurance because it does not intend to apply for nor perform those functions.

34. Please explain whether AT&T Florida has physical barriers in place to prevent CA's entrance to its facilities in the absence of proper insurance endorsements and/or pending an application for services.

Yes. The same barriers that prevent the general public from wandering into an AT&T Central Office also prevent unauthorized CLECs from entering. As part of the collocation process, CLECs must apply for access credentials for each and every employee who will have access. AT&T screens each application, including background and drug tests, before issuing access cards and keys to that employee. Without those, no CLEC employee has access to anything.

The Following Question Pertains to Issue 17(ii) and 17(iii)

35. In witness Ray's experience, has AT&T Florida opposed a CLEC selling its assets or prevented the acquisition of a CLEC by other parties? Please explain.

No, I have no direct experience in this matter.

The Following Questions Pertain to Issue 18

36. Please explain whether negotiating an amendment to incorporate changes reflected in the marketplace or changes in the law is less costly than negotiating an ICA "from scratch." Please explain any cost differences.

Absolutely, negotiating an amendment would be less costly than negotiating a new ICA from scratch. My counsel has estimated the cost if negotiating and fully prosecuting this arbitrated agreement at $150,000. His estimate for an amendment is less than $5,000.00.

37. In his direct testimony on page 21, lines 13-14, witness Ray testified that "AT&T Florida verbally offered to provide assurance to CA under separate cover that it would permit the Agreement to run longer than two years in "evergreen" status ...". Please explain what CA understands AT&T Florida's offer, "under separate cover", to mean?

I understood it to mean that AT&T would provide a confidential written assurance outside of the normal negotiation and arbitration process to CA that it would permit CA's new ICA to run past its expiration date and into evergreen status if CA would consent to the shorter official timeframe. AT&T's negotiator, Lora Mach, specifically said to me that AT&T desired to limit the length of time that the agreement could be adopted by other CLECs with this maneuver.

<u>The Following Questions Pertain to Issue 19</u>

38. Please explain what the economic harm to CA would be if AT&T Florida is permitted to unilaterally cancel the ICA prior to the resolution of a dispute in accordance with the dispute resolution process in the ICA or the expedited process in Commission Rule No. 25-22.0365, Florida Administrative Code?

It would be an extinction event for CA. Whether or not CA eventually prevailed in the dispute resolution process, it would have no business left to maintain. No CLEC could survive being disconnected by AT&T in markets where AT&T is the ILEC and the CLEC is serving end users.

39. If AT&T Florida unilaterally cancels the ICA with CA in accordance with the ICA as written, and the disputes are resolved in favor of CA, what process will CA have to

undertake to recoup its losses and re-establish its business? Please explain your answer in detail.

None. CA could theoretically file a lawsuit against AT&T for the damages that AT&T caused. However, in practice this is not feasible. CA's business operations would be entirely shut down and their value utterly destroyed. CA would likely be facing lawsuits from its own customers for the sudden loss of their service and the resulting damage, CA would have no ongoing revenue coming in, and CA would therefore be totally unable to mount an expensive lawsuit against AT&T to recover those damages.

40. Please explain what is included in "all appeals" in CA's suggested language in Exhibit PHP-1, GT&C section 8.3.1.

CA's original language was styled so that AT&T would be foreclosed from disconnecting CA or terminating the agreement until all appeals of an adverse decision were exhausted. The adverse decision could be a decision of a commercial arbitrator, the Commission, or a court. Such appeals could be an appeal to the Commission from another venue, a motion for reconsideration before the Commission, an appeal to the FCC, or an appeal to a court with jurisdiction. CA has since proposed alternative language in direct talks with AT&T that, after the first adverse decision from the Commission, would require CA to post a bond or deposit equal to the amount of the dispute in order to avoid disconnecting during any appeals. This alternative was intended to address AT&T's concerns about never-ending appeals which operate to simply extend the life of a bankrupt CLEC. Such actions were never CA's intention so it believes that the revised

proposal addresses the concern while still protecting CA's right to exist during the pendency of a dispute.

41. At what point or points of the dispute resolution process as delineated in Exhibit PHP-1 should AT&T Florida be permitted to terminate the ICA with CA? Please explain the process in detail.

AT&T should be entitled to terminate the ICA if:

a. AT&T sends a notice of default to CA and CA fails to cure the default and also fails to contest the default by timely opening a Dispute Resolution proceeding or,

b. The parties have conducted a Dispute Resolution proceeding which concluded in favor of AT&T and CA has neither cured its default in full nor posted a bond or deposit along with the filing of an appeal within the allowed time for an appeal or,

c. The agreement has expired, AT&T has sent a notice of intent to terminate and CA has not requested AT&T to negotiate a new agreement within the time allowed.

CA also believes that, under agreed language, AT&T would also have the right to remove collocated equipment which is improperly collocated because it does not comply with the NEBS safety criteria. CA agreed to a very short time frame for cure of such an event which can occur even before a dispute resolution proceeding concludes. After the short cure period AT&T may take action to remedy the issue if CA fails to do so. However, this would not be a complete termination of the ICA.

The Following Question Pertains to Issue 21

42. In his direct testimony, witness Ray testifies, on page 23, lines 11 through 15, that CA seeks to strike AT&T Florida's proposed language for GT&C section 1.1.8 because the language seems to impose late payment charges upon CA even if CA makes timely payments. As an alternative to striking the language, could issue 21 be resolved by including clarifying language that would indicate that CA would not be charged late payment charges as long as the payment was received by the bill due date. If no, please explain.

Yes, CA would agree to such language. CA has proposed exactly that to AT&T but has not received a response thus far to that proposal.

The Following Question Pertains to Issue 22(a) and 22(b)

43. In his direct testimony on page 24, lines 6-9, witness Ray testified that using AT&T Florida's preferred dispute resolution spreadsheet "requires substantial extra resources" because it requires "one or more employees" to transfer dispute details from CA's dispute forms to AT&T Florida's spreadsheet. Please explain why additional employees would be required.

The additional burden takes several forms. First, CA's own systems are capable of generating a dispute notice and submitting that notice to AT&T. This notice is already used as part of the

same OSS system to transmit billing disputes to other carriers, including ILECs. The notice does contain all of the information required by the agreed language explained in detail under GTC 13.4.3 Service Center Dispute Resolution. Please note that my copy of the GTC draft may have a slightly different paragraph number from other circulating copies. This section describes in detail seven different elements which must be included with a billing dispute in order for it to be processed, and the parties have already agreed to this language proposed by AT&T. CA believes that as long as it provides these seven elements, it has provided adequate detail for AT&T to resolve the dispute. In this case, CA's burden is still considerable; it must process anywhere from a dozen to several hundred bills each months from AT&T, enter the details into CA's OSS system, create disputes for any incorrect charges and then pay the bill. CA's OSS system then transmits the billing dispute, including all of the agreed details from GTC 13.4.3, to AT&T via email using the same email address at which AT&T accepts disputes from all carriers. This is CA's normal process, and CA provided AT&T with a sample copy of its proposed automated form in its first discovery response last November.

If AT&T's language were to prevail, however, several more steps must be added. First, a CA employee would have to manually take the billing dispute data from CA's systems and enter it into AT&T's special spreadsheet which is then emailed to AT&T. The problem with this is three-fold.

First, it takes considerable time for CA's employee to copy the data from CA perfectly usable auto-generated notice into the special AT&T spreadsheet form.

Second, AT&T's spreadsheet is very restrictive; it does not permit a verbose explanation of what the problem is. Often, a dispute cannot be properly described in this spreadsheet because of the limitations upon what can be entered. This generally causes AT&T to reject the dispute for inadequate information, even though it is AT&T's form that prevented the information from being entered in the first place. CA then has to escalate the dispute, this time using its original form which showed the entire description, in order to get AT&T to process it. This whole adventure could have been avoided and a lot of effort not wasted if CA had been permitted to submit its own form in the first place, as long as that form complies with the agreed terms specified in GTC 13.4.3.

Third, AT&T's spreadsheet sometimes requires information which is not relevant to the dispute and which therefore cannot or should not be included. For instance, there is no USOC ordering code for a Late Payment Charge. Sometimes CLECs have problems filing billing disputes because of issues like this, where a reasonable reading of the dispute would clearly provide enough data to resolve it but the dispute is rejected solely on formatting grounds. CA believes this practice is unfair and that the required use of the special spreadsheet enables it to continue.

<u>The Following Questions Pertain to Issue 23</u>

44. What are CA's specific objections to paying disputed charges into an interest-bearing escrow account? Please explain your answer in detail.

CA's specific objections are that CA is a small company with limited resources. It would harm CA if it were required to raise a limitless amount of capital to fund a reserve intended to cover a potentially huge AT&T billing error. CA could be forced to borrow money on unfavorable terms on short notice to fund such a reserve, through no fault or error of its own. In such a case, CA could be forced to pay fees in order to obtain the financing along with high interest charges for the borrowed funds. In such a case, AT&T's language does not propose any compensation for such costs incurred by CA nor for the resources consumed by this adventure. For a small company, monopolizing its limited financial resources as well as time attention of its executives operating in crisis mode for this sort of thing is a tremendous burden. AT&T's language sets up a lose/lose proposition for CA, where if AT&T prevails, CA loses. If CA prevails, CA loses there too. And so AT&T gets to submit CA to a "death of a thousand paper cuts" by bullying its smaller competitor and running up its costs.

Also, AT&T's examples of why it needs this provision are fundamentally flawed. AT&T has absorbed losses from CLECS before in large part because AT&T failed to invoke the Dispute Resolution process that was available to it under its ICA in the cases it cited. In this case, AT&T similarly seeks to require CA to escrow disputed funds so that AT&T need not bother with invoking Dispute Resolution or timely processing disputes. It can drain CA's financial resources at whatever rate it desires without ever compensating CA for the costs incurred by CA for AT&T's billing mistakes or behavior. CA has already agreed to a two-month deposit based upon CA's then-current monthly billing. CA has proposed that both parties have access to the Commissions Expedited Dispute Resolution process so that neither party must wait a long time to get finality on billing disputes. AT&T seeks to require CA to invoke Dispute Resolution for

anything it does, but seeks more favorable remedies for itself such as this escrow provision. And so, CA disagrees with the escrow concept because it allows AT&T to place all risk as well as all responsibility upon CA while taking none itself. CA believes that this is obviously unfair.

Finally, AT&T enjoys a de-facto monopoly in the areas where it operates as an ILEC. This fundamental fact was made plain in the Act, but AT&T seems to pretend that the parties here are equals. This is plainly not the case; comparably tiny competitors like CA must be protected from AT&T's monopolistic practices if competition is to survive. This requirement is such a practice, and would never be found in or agreed to in a voluntary agreement between two competitors where one party did not possess a monopoly on a resource vital to the other.

45. What are the costs involved to raise and escrow funds for disputed amounts? Please explain.

See answer to 44 above.

<u>The Following Question Pertains to Issue 26</u>

46. Please explain any functional difference between AT&T Florida's suggested language and CA's suggested language for subsection 13.1.2 of the ICA?

This issue has been resolved.

The Following Question Pertains to Issue 29(i) and 29(ii)

47. On page 59, lines 1 through 11 of his direct testimony, AT&T Florida's witness Pellerin stated two reasons why AT&T Florida opposes CA's proposed language for Issues 29(i) and 29(ii). Witness Pellerin also identified examples, on page 62, lines 11 through 21, and page 63, lines 1 through 10, where the federal courts and the FCC have issued rulings that support AT&T Florida's position. What is CA's position regarding AT&T Florida's witness Pellerin's testimony referenced above on Issues 29(i) and 29(ii)? Please explain your answer in detail and cite any applicable statutes, laws, rules, orders, etc., to support your position.

I am not a lawyer and must rely on counsel to respond to this issue in a supplemental response.

The Following Question Pertains to Issue 30

48. On page 31, lines 5-7 of his direct testimony, witness Ray testifies that "CA has also removed language which would illegally bind non-parties to this agreement, clarifying that each party is responsible to the other for the actions of any other party acting on its behalf."

    a. Please provide additional clarification regarding the statement "CA has also removed language which would illegally bind non-parties to this agreement."

See response below; AT&T's original language attempted to make a simple order-placer liable for all of CA's obligations under this agreement. Since the third party is not a party to this agreement, CA believes this was not legal.

b. Please provide the specific language that was removed.

AT&T's original 17.1 read "In the event that CLEC consists of two or more separate entities as set forth in this Agreement and/or any Amendments hereto, or any third parties places orders under this Agreement using CLEC's company codes and identifiers, all such entities shall be jointly and severably liable for CLEC's obligations under this Agreement."

c. Please discuss and cite the authority regarding the legality of the language removed.

CA believes this issue has been resolved. In any event, It seems like common contract law that non-parties to an agreement may not be bound by that agreement. Only parties are bound by an agreement's terms.

<u>The Following Question Pertains to Issue 35</u>

49. How do other ILECs treat the facilities between the CLEC's collocation space and the cross-connect point? Please explain your answer.

Other ILECs do not charge extra for intra-building facilities used to connect Local Interconnection Trunks to the ILEC network. My direct experience with Verizon, Embarq and Northeast Florida Telephone ILECs in Florida are all consistent in this manner.

The Following Question Pertains to Issue 37

50. In her direct testimony, AT&T Florida's witness Pellerin testifies on page 78, lines 3 through 6, that AT&T Florida is not proposing to charge CA for 911 trunks, as stated in CA's response to Staff's Interrogatory No. 9. However, CA would be responsible for the cost of the facilities over which the 911 trunks ride and the public safety agencies do not pay for.

a. Does CA agree that it is responsible for the cost of the facilities over which the 911 trunks ride? Please explain your answer.

CA disagrees because we believe that AT&T has crafted a straw man and has then torn it down. CA plans to connect facilities directly at the POI for Local Interconnection. 911 is generally accepted to be included as a component of local interconnection. Indeed, AT&T's proposed language requires 911 before any other local interconnection may be installed. Thus, CA believes that if it hands off a DS1 facilities at the POI for 911, just as it does for other Local Interconnection trunks, then CA has met its burden.

In practice, AT&T has never made this argument before with any of the CLECs that I have worked for in Florida, even though I've handled over a dozen 911 interconnection projects between CLECs and AT&T in Florida. Handing off 911 facilities at the POI was always the only requirement, and AT&T did not in fact bill the CLEC for any facilities. CA is simply seeking the same arrangement, and I am not clear whether AT&T is proposing to charge CA something that it did not charge the other CLECs or if there is some other issue.

b. If AT&T Florida agreed to remove the 911 trunks language and clarified that CA would be responsible for the cost of the 911 facilities would CA have any objections? Please explain your answer.

If AT&T revised the language so that 911 trunks were not mentioned and AT&T also revised their language so that CA is not compelled to order HVCI trunks that it does not want, then CA would have no further objections. CA's objection is that ancillary services should be optional.

The Following Question Pertains to Issue 38

51. In the direct testimony of AT&T Florida's witness Neinast, page 3, lines 16 through 26, page 4, lines 1 through 9, and page 6, lines 1 through 19, he testifies that pursuant to Section 251 (c)(2)(B) of the Federal Telecommunications Act of 1996, the POI must be a point located on the ILEC's network. Therefore, he testifies, the collocation arrangement can not be the POI because the collocation arrangement is not a point within AT&T Florida's network**.**

What is CA's position on the testimony of witness Neinast referenced above? Please explain your answer and cite any applicable statutes, orders, laws, rules, etc., that support your position.

Prior to 2012, AT&T did not take that position. Historically, the industry as a whole considered the ILEC Central Office itself to be "on the ILEC network" and the Central Office itself was the POI. CA would prefer that this arrangement continue as it seems like the most reasonable course. However, just in recent years, AT&T has begun to take this new position that only certain areas of its own building are on its network, and it just happens that CLECs cannot get

collocations in those areas. This seems clearly designed to permit AT&T to charge CLECs for creative new things that didn't exist before, which is what AT&T has recently started to do.

Neinast's position presupposes that it can unilaterally change the definition of the POI from the Central Office to the special restricted room in the Central Office to which CLECs are denied access. CA disagrees that it can. The act seems to clearly state that Local Interconnection should be revenue-neutral, which flies in the face of what AT&T is trying to do here.

I am not a lawyer and must rely on counsel for citations that will be provided in a supplemental response.

The Following Questions Pertain to Issue 39(a)

52. Please define term Local Homing Tandem.

This issue has been resolved.

53. Does CA agree to accept the language proposed for Issue 39(a) in AT&T Florida's witness McPhee's direct testimony on page 24, lines 12 through 14, for the Network Interconnection Section 4.1.6? If no, please explain your answer.

This issue has been resolved.

The Following Question Pertains to Issue 39(b)

54. Does CA agree to accept the language proposed for Issue 39(b) in AT&T Florida's witness McPhee's direct testimony on page 27, lines 7 through 14, for the Network Interconnection Section 4.3.1? If no, please explain your answer.

This issue has been resolved.

The Following Questions Pertain to Issue 41

55. On page 29, lines 14 through 19, AT&T Florida's witness McPhee testifies that CA's proposed language speaks in terms of AT&T Florida providing SIP Voice-Over-IP/Voice Using-IP trunk groups. However, based in part on CA's comments, witness McPhee states that he believes that CA is "basically talking about IP interconnection." Does CA agree with witness McPhee's statement that CA is referring to IP interconnections as opposed to SIP Voice-Over-IP/Voice Using-IP trunk groups? Please explain your answer.

Yes and no. SIP Voice-over-IP would be a voice interconnection which uses the public internet to carry the call traffic in packet form. SIP Voice-using-IP would be the same voice interconnection but would use a private IP network between the parties to carry the call traffic in packet form. CA disagrees that this has to do with internet IP interconnection, although some form of IP interconnection would be required for VoIP to work.

56. AT&T Florida's witness McPhee testifies in his direct testimony on page 28, lines 20 through 21, and on page 29, lines 1 through 2, that the Federal Telecommunications Act of 1996 does not require IP interconnection and that the question of whether the Federal Telecommunications Act of 1996 does require IP interconnection is currently pending at the FCC. Does CA agree with the above referenced testimony of witness McPhee? Please explain your answer.

The FCC is considering the issue as are several states. Absent a ruling from the FCC, states have authority under the Telecom Act to determine in an arbitration proceeding whether section 251 and 252 interconnection should be technology neutral.

57. On page 32, lines 5 through 15 of his direct testimony, AT&T Florida's witness McPhee testifies that CA's proposed language is not needed because if the FCC determined that ILECs were required to provide IP interconnection pursuant to Section 251(c)(2) of the Federal Telecommunications Act of 1996, CA could assert the FCC's ruling pursuant to the agreed "Intervening Law" provisions in GT&C, section 24 of the ICA. What is CA's position on the testimony of witness McPhee referenced above? Please explain your answer and reference any applicable laws, orders, statutes, rules, etc., to support your position.

CA prefers not to kick the can down the road to a future proceeding if possible. CA believes that AT&T provides the type of interconnection sought by CA today in some form, even though AT&T claims that it is not technically capable of doing so. CA further believes that this Commission has the authority to require interconnection in any technically feasible manner between an ILEC and CLECs, which is what CA is seeking. To the extent that it is proven at some point that AT&T is technically capable, CA believes it is entitled to modern, cost effective interconnection so that it can more cost-effectively compete without discrimination.

58. On page 34, lines 12 through 21, and page 35, lines 1 through 14 of his direct testimony, witness McPhee testifies that CA's proposed language for Issue 41 is directly contrary to the All-or-Nothing Rule because CA's proposed language would entitle CA to adopt the

rates, terms and conditions governing IP interconnection in another ICA without adopting the remaining rates, terms and conditions in that agreement. What is CA's position on the testimony of witness McPhee referenced above? Please explain your answer and reference any applicable laws, orders, statutes, rules, etc., to support your position.

CA does not believe the all-or-nothing rule would apply because CA is not seeking to adopt any part of another CLEC's ICA. CA is seeking just, reasonable and non-discriminatory terms which CA is clearly entitled to under the Act. The all-or-nothing rule was not intended to apply in cases where an ICA was being arbitrated; it applies to the separate process of ICA adoption which CA is not attempting to invoke.

The Following Question Pertains to Issue 42

59. Does CA agree to accept AT&T Florida's proposed language for Issue 42 if AT&T Florida included the provisions stated in AT&T Florida's response to Staff's Interrogatory No. 48? If not please explain your answer and submit alternative proposed language.

This issue has been resolved.

The Following Question Pertains to Issue 43(i)

60. CA's witness Ray testified on page 39, lines 13 through 14 of his direct testimony, that late payment charges and interest are mutually exclusive and may not be combined. However, AT&T Florida's witness Pellerin testified on page 82, lines 10 through 14 of her direct testimony, that under Florida law late payment charges and interest are not mutually exclusive. Please reference and explain any applicable statutes, rules, orders,

laws, etc., that support CA's position that late payment charges and interest are mutually exclusive.

Florida's usury statute, in F.S. Ch. 687, prescribes a maximum rate of interest of 18% interest per year. For any interest beyond that, several statute come into play: all interest forfeited and repaid double (§687.04); criminal usury: credit at rate of 25-45% is misdemeanor with penalty of up to 60 days in prison and/or $500 fine; over 45% is 3rd degree felony; keeping the books/records for loan at 25% is 1st degree misdemeanor, and if loan or forbearance is criminal, debt is not enforceable (§687.071)

The Following Questions Pertain to Issue 45

61. On page 40, lines 4 through 7 of his direct testimony, witness Ray testifies about end user A conveying its number to end user B. Please clarify what you mean by "conveying its number."

I mean that if Fred's Sandwich Shop is CA's customer, and Fred decides to sell his shop to Subway, which intends to continue his operating business under its own name, Fred should be permitted to convey the business's phone number along with the rest of the business assets in the sale. In order to keep Fred's business phone number, which there is no doubt Subway would want to do, Subway should not have to dismantle Fred's service from CA and go become an AT&T customer instead.

62. On page 40, lines 7-10 of his direct testimony, witness Ray testifies that release of the number as AT&T Florida wants is anti-competitive. Please explain how the language that AT&T Florida has proposed is anti-competitive.

The language is anti-competitive because it would force and end-user subscriber to change service from its chosen carrier (CA) to another carrier (AT&T) "just because". When a business is acquired, the new owner generally wants to keep things running just as they are. In the above example, CA would be required by AT&T's contract language to disclose to AT&T that Subway wants Fred's phone number, and would then have a duty to tell Subway that it must switch to AT&T in order to keep Fred's business number. No reason is given for this bizarre requirement; it is generally understood that an end-user subscriber owns its phone number, not the carrier who issues it. Neither CA nor AT&T should have a right to dictate to a subscriber which carrier to use.

63. On page 40, lines 9-10 of his direct testimony, witness Ray testifies that "CA's language clarifies that only if the number is no longer assigned must it be returned." Please clarify if "no longer assigned" means the number is disconnected and must be returned to the original Service Provider assigned the NXX.

Yes.

<u>The Following Question Pertains to Issue 46(i)</u>

64. On page 40, lines 9-10 of his direct testimony, witness Ray testifies that "The FCC has affirmed the use of "nomadic VoIP" which involves local telephone numbers which are used outside of their original geographic rate center."

a. Please clarify whether in this example the "nomadic VoIP" partners with a provider to obtain numbering resources and whether that partner's coverage area overlaps the geographic location of the ILEC rate center.

Nomadic VoIP may be provided by "over the top" VoIP providers, but it may also be provided by a CLEC directly to end user customers. CA intends to provide both end user retail services and also wholesale services to OTTP VoIP Providers. In order to provide nomadic VoIP, only two things are technically required whether the provider is a CLEC or not:

1. Direct local interconnection in the original serving LATA for exchange of calls and,
2. 911 service which correctly routes the calls to the proper PSAP in the geographic area where the end user is currently located

Thus, if CA is interconnected in the Miami LATA and has a customer who desires to move from Miami to Dallas, CA can provide VoIP service on the original Miami number to the customer after he moves to Dallas. CA must simply ensure that it provides a nomadic 911 service (which AT&T does not offer but which is readily available) in the Dallas area.

b. Please explain whether FCC rules require location portability.

I am not a lawyer and must rely on counsel. I would respond yes, however. The FCC's number portability rules are set out at 47 CFR §51.203.

<u>The Following Question Pertains to Issue 47</u>

65. On page 3, lines 7 through 11 of his direct testimony, AT&T Florida's witness Chamberlin testifies that he believes that CA wants the Commission to require AT&T

Florida to make a human agent immediately available for any CA telephone call to report an outage, open a repair ticket, or inquire about a repair ticket that was previously opened. Is witness Chamberlin's belief correct? Please explain your answer in detail.

No. I think CA has been clear throughout that all it desires is a mechanism to get a live repair agent on the phone when CA has an outage. CA does not object to the use of a simple IVR nor to a reasonable hold time. CA objects to AT&T's current practice of using an IVR for CLEC repair calls which requires the entering of a circuit ID or ticket number, which then hangs up on the caller even if a correct response is entered.

The Following Question Pertains to 66

66. Please refer to AT&T Florida's witness Pellerin's direct testimony, page 94, line 20, through page 95, line 26. Please describe CA's position regarding what "a showing of changed circumstances" would include that may allow UNE rates to be revisited. Please explain CA's position in detail including the set of circumstances, a change in law, the period of time, etc.

The simple answer is time. The retail cost of telecommunications services, ranging from bundled residential plans to high capacity circuits for business, has plummeted since the last cost study was done almost 15 years ago. AT&T's position seems to be that it is selling retail service at a fraction of the cost of that same service in 2001, but that its wholesale TELRIC-based costs for similar services has not changed. We believe that the cost of wholesale service has diminished as technology has advanced, just as the cost of retail services has also diminished over time.

_____s/_____
Mike Ray
President, Communications Authority, Inc.

_____/s/_____
Kristopher E. Twomey
Counsel to Communications Authority, Inc.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Communications Authority, Inc. for arbitration of Section 252(b) interconnection agreement with BellSouth Telecommunications, LLC d/b/a AT&T Florida.	DOCKET NO. 140156-TP DATED: MARCH 2, 2015

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original and one correct copy of COMMUNICATIONS AUTHORITY'S RESPONSE TO STAFF'S SECOND SET OF INTERROGATORIES TO COMMUNICATIONS AUTHORITY, INC. (NOS. 29-66) has been served by electronic mail this 23rd day of March, 2015:

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