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FPSC - COMMISSION CLERK

State of Florida



## Public Service Commission

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-M-E-M-O-R-A-N-D-U-M-

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**DATE:** November 29, 2018

**TO:** Office of Commission Clerk (Stauffer)

**FROM:** Office of Industry Development and Market Analysis (Eastmond, Bates) *DE* *of CH*  
Office of the General Counsel (Weisenfeld) *AGW TH*

**RE:** Docket No. 20180210-TP – Request for approval of amendment to interconnection, unbundling, resale, and collocation agreement between BellSouth Telecommunications, LLC d/b/a AT&T Florida d/b/a AT&T Southeast and EarthLink Business, LLC.

**AGENDA:** 12/11/18 – Regular Agenda – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** *Administrative* *11-29-18*

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

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### Case Background

On November 7, 2018, BellSouth Telecommunications, LLC d/b/a AT&T Florida (AT&T) filed an emergency amendment to its existing Interconnection Agreement (ICA) with EarthLink Business, LLC (EarthLink).

AT&T stated in its filing that the amendment was “a result of a Force Majeure event due to the fact that the provisions being amended to the underlying ICA(s) are pre-requisites for the network restoration activities CLEC is undertaking in northwestern Florida to restore service to customers impacted by Hurricane Michael.” This amendment revises the underlying ICA that was filed on March 12, 2010, in Docket Number 20100122-TP, by adding a Microwave Entrance Facilities – Collocation Attachment.

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The Commission has jurisdiction pursuant to 47 U.S.C. Section 252(e)(4) and Sections 120.80(13)(d), and 364.16, Florida Statutes.

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### **Discussion of Issues**

**Issue 1:** Should the Commission approve the November 7, 2018 amendment to the Interconnection Agreement between AT&T and EarthLink?

**Recommendation:** Yes. The Commission should approve the November 7, 2018 amendment between AT&T and EarthLink. (Bates, Eastmond, Weisenfeld)

**Staff Analysis:** 47 U.S.C. Section 252(e) provides in relevant part that 1) negotiated ICAs must be submitted to the appropriate state commission for review; 2) a state commission may only reject such agreements for reasons specified in the law; and 3) if a state commission does not act to approve or reject the agreement within 90 days after submission, the agreement is deemed approved.

The Commission's current practice of processing an ICA or amendment to an ICA utilizes an administrative process that entails staff reviewing the filing to ensure there is no basis for rejection under 47 U.S.C. Section 252(e)(2). If no basis for rejection exists, the ICA or amendment is permitted to go into effect, by operation of federal law, 90 days after it was filed with the Commission.<sup>1</sup> However, because this amendment is related to Hurricane Michael restoration efforts, AT&T requested that the amendment be approved as soon as practicable. Staff is therefore forgoing the administrative procedure in order to expedite the approval process and is bringing this amendment to the Commission for approval. This will provide the companies Commission approval earlier than the 90 days from the date of filing as contemplated in the Administrative Procedure Manual.<sup>2</sup>

Staff has reviewed the amendment to the ICA between AT&T and EarthLink filed on November 7, 2018. Staff has found no basis for rejection under 47 U.S.C. Section 252(e)(2), and recommends the Commission approve the amendment.

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<sup>1</sup> Section 2.07.C.5.c., FPSC Administrative Procedures Manual.

<sup>2</sup> The amendment explicitly states that the parties agree it will become effective upon signature by both parties.

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**Issue 2:** Should this docket be closed?

**Recommendation:** If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order. (Weisenfeld)

**Staff Analysis:** At the conclusion of the protest period, if no protest is filed, this docket should be closed upon the issuance of a consummating order.