

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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

DATE: August 7, 2008

TO: Office of Commission Clerk (Cole)

FROM: Division of Regulatory Compliance (Harvey, Hallenstein)
Office of the General Counsel (Teitzman)

RE: Docket No. 000121A-TP – Investigation into the establishment of operations support systems permanent performance measures for incumbent local exchange telecommunications companies. (AT&T FLORIDA TRACK)

AGENDA: 08/19/08 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Carter

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\RCP\WP\000121A.RCM.DOC

Case Background

By Order No. PSC-01-1819-FOF-TP, issued September 10, 2001, in Docket No. 000121A-TP, the Commission adopted a Performance Assessment Plan for the purpose of monitoring performance levels of Operations Support Systems (OSS) provided to CLECs. The performance measurement plan provides a standard against which CLECs and the Commission can measure performance over time to detect and correct any degradation of service provided to CLECs. AT&T's performance measurement plan also includes a Self-Effectuating Enforcement Mechanism (SEEM) remedy plan. The Order also recognizes the Commission's vested authority, per section 364.01(3), Florida Statutes, to provide regulatory oversight necessary to ensure

effective competition in the telecommunications industry. This docket has remained open since that time to address issues and concerns arising from OSS performance.

Following the BellSouth and AT&T merger, AT&T began plans to consolidate the operations support systems (OSS) of the two companies. AT&T started the process of providing official notification to CLECs of its OSS consolidation plans (known as the 22-State OSS Release) over a year ago. The 22-State OSS Release plan involves a phased-in approach. The first phase commenced with the April 19, 2008 release ("April Release").

On May 12, 2008, Cbeyond Communications, LLC (Cbeyond), Time Warner Telecom, LP (TWTC), and DeltaCom, Inc. (Deltacom), jointly referred to as the petitioners, filed a petition with the Commission requesting an audit of the April Release. The petition also requested a stay of CLEC-impacting OSS Releases and that the Commission show cause AT&T to explain in detail the circumstances surrounding the April Release and explain why AT&T should not be penalized for its failure to appropriately implement the April Release.

On May 15, 2008, Commission staff held two informal workshops with AT&T, the petitioners, and other participating CLECs to discuss issues surrounding the current and future OSS releases. During the meetings, AT&T acknowledged that a variety of CLEC-impacting issues arose in connection with the April Release. Furthermore, AT&T made several commitments to address and resolve the issues and to prevent similar occurrences in future OSS releases. AT&T memorialized the list of commitments in a filing with the Commission on May 27, 2008.

On June 2, 2008, AT&T filed a response to the CLECs' May 12, 2008 Complaint. In the response, AT&T attached the list of commitments to resolve the remaining issues associated with the April Release. Included in the list is the temporary suspension of future 22-State OSS releases, expanded customer support and communications, expanded testing for future OSS releases, and providing proactive billing adjustments related to the April Release. AT&T stated that it has used, and continues to use, best efforts to resolve such issues, and it expects to resolve any known, remaining April Release issues by the end of June 2008. AT&T requested that the Commission issue an order dismissing the CLECs' petition.¹

On June 5, 2008 the petitioners filed a response requesting that the Commission deny AT&T's request to dismiss. The petitioners argue that AT&T's request to dismiss fails to state a cause of action for which relief can be granted.

This recommendation addresses whether the Commission should accept the stipulation between AT&T and the petitioners.

¹ AT&T did not file a Motion to Dismiss but rather a response to the CLECs' petition requesting the Commission issue an order dismissing the petition.

Jurisdiction

The Commission is vested with jurisdiction over this matter pursuant to Sections 364.01(3) and (4)(g), Florida Statutes. Pursuant to Section 364.01(3), Florida Statutes, the Florida legislature has found that regulatory oversight is necessary for the development of fair and effective competition in the telecommunications industry. To that end, Section 364.01(4)(g), Florida Statutes, provides, in part, that the Commission shall exercise its exclusive jurisdiction in order to ensure that all providers of telecommunications service are treated fairly by preventing anticompetitive behavior. Furthermore, the FCC has encouraged the states to implement performance metrics and oversight for purposes of evaluating the status of competition under the Telecommunications Act of 1996.

Discussion of Issues

Issue 1: Should the Commission accept the stipulation “Agreement Regarding Audit of AT&T Florida’s April OSS Release”?

Recommendation: Yes. Upon review of the parties’ stipulation, staff recommends the Commission accept the stipulation regarding the audit of AT&T Florida’s April OSS Release as set forth in Attachment 1 (Harvey, Hallenstein)

Staff Analysis: On April 19, 2008, AT&T implemented a software release titled Release 27.1 (April Release) in the nine state former BellSouth region as part of AT&T’s 22-State OSS consolidation plan. Since April 19, 2008 the petitioners and numerous other CLECs, have experienced a severe impact in their ability to interface with AT&T’s OSS. Specifically, the CLECs reported that they had not received order confirmations, requests for order clarifications, disconnection notices, rejection notices, and communications related to meetings at the customer premises for installations for a period of time following the release. CLEC orders submitted to AT&T during this timeframe were adversely affected by this release.

At a May 7, 2008, AT&T Change Control Process meeting between AT&T and participating CLECs, AT&T admitted that problems occurred with the April Release. At the meeting, AT&T provided a detailed chronology of events that occurred the first two weeks after the April release. AT&T acknowledged that outgoing transactions, clarifications and rejections were not being delivered to CLECs. AT&T also acknowledged that a backlog of orders in the manual processing center occurred due to outages and instability of the system used by the AT&T representatives in the company’s manual processing center. In subsequent Change Control Process meetings, AT&T identified additional issues associated with the release. Most notably over 200,000 billing completion notices and 12,000 completion notices had not been properly delivered to CLECs in the region.

On May 15, 2008, AT&T participated in two informal workshops with the Commission staff to discuss issues surrounding the April Release and AT&T’s plans for future OSS Releases in the Southeast region. At the workshop, and in response to the petition, AT&T acknowledges that a variety of CLEC-impacting issues arose in connection with the April Release in the Southeast region and that such issues primarily impacted CLECs’ ability to timely receive outbound transmissions from AT&T in certain situations. AT&T asserts that it has used, and continues to use best efforts to resolve such issues, and expected to resolve any known, remaining April Release issues in June. AT&T also asserted that it would continue to communicate the status of such issues to all CLECs in a timely and informative manner.

At the workshops, AT&T estimated that 71,000 orders in the nine state region were negatively affected by the April Release. Of these orders, AT&T stated that 59,000 were electronic orders, and 11,000 were backlogged manual orders. The CLEC petitioners describe this April Release as the most significant competitively damaging OSS failure in the State of Florida since enactment of the Telecommunication Act of 1996.

In a June 30, 2008 response to a staff data request, AT&T reported that there have been 229 identified software defects open from the April Release, 125 of which have had a direct impact on CLECs. Below is a chart detailing the severity of the April Release defects.

April Release Defect Status As of June 30, 2008

| | 1-Critical | 2-Major | 3-Average | Total |
|---------------------------------------|------------|---------|-----------|-------|
| CLEC Impacting Defects | 58 | 41 | 26 | 125 |
| Non-CLEC Impacting Defects | 31 | 53 | 20 | 104 |
| Total CLEC/Non-CLEC Impacting Defects | 89 | 94 | 46 | 229 |

In response to the May 15, 2008 workshop, AT&T provided a list of commitments to resolve the open issues associated with the April Release. At staff's request, AT&T memorialized the commitments made during the May 15th meeting. A copy of the AT&T "commitment" letter is shown in Attachment 2. Staff acknowledges AT&T for their willingness to step forward with these commitments. AT&T states that the disruption to the normal processing of CLEC ordering was the result of a series of unexpected events including hardware, software, and network issues. AT&T contends that there was no total breakdown of AT&T's OSS. AT&T intends to address and resolve the April Release issues and implement process improvements that should reduce the likelihood of issues of this magnitude arising in connection with future 22-State OSS Releases in the Southeast. AT&T also committed to keeping the Commission Staff and interested CLECs informed of its efforts.

In the current petition, the CLECs requested an independent audit be conducted that focuses on the cause of the OSS failures. In its June 2, 2008 Response, AT&T denies that an independent audit of the April Release is necessary. AT&T states that it has provided, and will continue to provide, information and explanations regarding the April Release, and has fully supported CLEC requests for status, escalation, and assistance. AT&T also states that it will continue to respond to CLEC inquiries through individual customer support and weekly conference calls opened to all CLECs.² AT&T asserts that its internal review and expanded test plan will include any necessary root cause analysis of the April Release issues.

A conference call was held between staff and the parties on July 31, 2008 exploring the possibility that the audit be conducted by Commission staff. After further discussions, on August 5, 2008, the parties agreed to the audit being conducted by Commission staff and entered into the attached stipulation (Attachment 1). The scope of the audit would be to:

- Document and assess AT&T's root cause analysis of the April Release.

² Weekly conference calls began May 12, 2008 and ended July 15, 2008.

- Document and assess AT&T's defect resolution associated with the April Release.
- Document and assess pre-release and post-release communications.

The stipulation also states the petitioners will file a Motion to Dismiss the request for an independent audit and request the Commission to hold the remaining portions of the complaint in abeyance pending the Commission's acceptance of staff's recommendation addressing the final audit report.³ Following the filing of this Motion, AT&T agrees to refrain from implementing future 22-State OSS releases until the earlier of the Commission vote on the final audit report and staff's recommendation or a mutually agreeable timeframe.⁴ Additionally, the stipulation states that AT&T shall still be accountable for its commitments made in Attachment 2.

Conclusion: Upon review of the parties' stipulation, staff recommends the Commission accept the stipulation regarding the audit of AT&T Florida's April OSS Release as set forth in Attachment 1.

³ The remaining portions of the complaint include delaying future 22-State OSS releases and requesting a show cause proceeding of why AT&T should not be penalized for its failure to appropriately implement the April Release.

⁴ To the extent the parties disagree with staff's audit recommendations or further guidance is needed, a vote from the Commission may be necessary.

Docket No. 000121A-TP

Date: August 7, 2008

Issue 2: Should this docket be closed?

Recommendation: No. If the Commission approves staff's recommendation in Issue 1, the resulting Order will be issued as Proposed Agency Action. The Order will become final upon issuance of a Consummating Order if no person whose substantial interests are affected timely files a protest within 21 days of the issuance of the Order. This docket should remain open pending the conclusion of the audit and for purpose of future performance measure monitoring. **(Teitzman)**

Staff Analysis: If the Commission approves staff's recommendation in Issue 1, the resulting Order will be issued as Proposed Agency Action. The Order will become final upon issuance of a Consummating Order if no person whose substantial interests are affected timely files a protest within 21 days of the issuance of the Order. This docket should remain open pending the conclusion of the audit and for purpose of future performance measure monitoring.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into the)
establishment of operations)
support systems permanent) Docket No. 000121A-TP
Performance measures for)
incumbent local exchange)
telecommunications companies.)
(BellSouth Track))
_____)

**AGREEMENT REGARDING AUDIT OF
AT&T FLORIDA'S APRIL OSS RELEASE**

This Agreement Regarding Audit of AT&T Florida's April OSS Release ("the Agreement") is entered into by and between BellSouth Telecommunications, Inc. d/b/a AT&T Florida ("AT&T Florida" or "AT&T"), and Cbeyond Communications, LLC ("Cbeyond"), tw telecom inc. ("twtc") and DeltaCom, Inc. ("Deltacom") (collectively "the Parties").

WHEREAS, in April 2008, AT&T commenced the first step in a phased-in approach to implement a more uniform Operations Support Systems ("OSS") for competitive local exchange carriers ("CLECs") to access OSS across AT&T's 22-state operating region ("April Release");

WHEREAS, certain CLEC-impacting issues arose in connection with the April Release;

WHEREAS, on May 12, 2008, Cbeyond, twtc, and Deltacom (collectively, "the Petitioners"), filed a complaint against AT&T Florida with the Florida Public Service Commission ("Commission"), wherein the Petitioners requested, among other things, for the Commission to commence an independent audit of the April Release and to prohibit