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Sent: Friday, September 12, 2008 9:34 AM
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Subject: Docket No. 000121A-TP
Attachments: image001.emz; oledata.mso; Notice of Dismissal of Audit Request and Motion to Hold Remain Matter in Abeyance.pdf

In accordance with the Commission's electronic filing procedures, Petitioners file the following:

- a. Person responsible for this filing:

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- b. This filing is made in Docket No. 000121A, In re: Investigation into the establishment of operations support systems permanent performance measures for incumbent local exchange telecommunications companies (BellSouth Track).
- c. The document is filed on behalf of Petitioners, Cbeyond Communications, LLC, tw telecom inc., Deltacom, Inc.
- d. The document has 5 pages.
- e. The attached document is: Petitioners' Notice of Dismissal of Portion of Complaint and Motion to Hold Remaining Portions of Complaint in Abeyance.

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into the)
establishment of operations)
support systems permanent)
Performance measures for)
incumbent local exchange)
telecommunications companies.)
(BellSouth Track))
_____)

Docket No. 000121A-TP

Filed: September 12, 2008

PETITIONERS' NOTICE OF DISMISSAL OF PORTION OF COMPLAINT AND MOTION TO HOLD REMAINING PORTIONS OF COMPLAINT IN ABEYANCE

Cbeyond Communications, LLC, tw telecom inc., and Deltacom, Inc. (Petitioners), hereby file this Notice of Dismissal of a portion of their Complaint (as described below) and a Motion to Hold the remaining portions of the Complaint in Abeyance. As ground therefor, Petitioners state:

1. On April 19, 2008, AT&T attempted to switch several legacy BellSouth ordering systems to AT&T's ordering systems in OSS Release 10 and 10.1 in the thirteen-state AT&T region and Release 27.1, Version 27.1 in the nine-state BellSouth region.

2. This OSS Release, as AT&T has acknowledged, caused a variety of issues that severely impacted Petitioners' (and other CLECs') ability to interface with AT&T's OSS system.

As Commission Staff stated:

[T]he 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.¹

¹ Staff Recommendation, August 7, 2008 at 4. Staff also notes that over 200,000 billing completion notices and 12,000 completion notices were not properly delivered to CLECs.

3. As a result of this highly flawed OSS release, on May 12, 2008, Petitioners filed a Complaint requesting that the Commission:

- Commence an independent audit of the events surrounding the April OSS Release;
- Prohibit AT&T from implementing any further OSS releases until the completion of the audit and the appropriate testing and implementation of the audit recommendations and;
- Show cause AT&T and require it to explain in detail what caused the failure of its OSS release on April 19, 2008 and why it should not be penalized for its failure to appropriately implement the April Release.

4. Petitioners and AT&T have agreed that in lieu of the independent audit Petitioners requested in their Complaint, Commission Staff shall conduct an audit regarding the April Release. Such agreement is memorialized in Agreement Regarding Audit of AT&T Florida's April OSS Release (Agreement), which was attached to the Staff Recommendation filed in this docket on August 7, 2008.

5. The Agreement also requires Petitioners to dismiss their request for an independent audit with prejudice and request that the Commission hold the remaining portions of Petitioners' Complaint in Abeyance pending the Commission's vote on the final audit report. The Agreement requires AT&T, upon the filing of this motion, to refrain from further 22-state OSS releases until the earlier of the Commission's vote on the final audit report and Staff recommendation or a mutually agreeable timeframe.

6. The Commission voted upon and approved this Agreement at its Agenda Conference held on September 4, 2008.

WHEREFORE, Petitioners hereby:

1. Dismiss with prejudice that portion of their Complaint which requests an independent audit of the April Release; and

2. Request that the Commission hold the remaining portions of Petitioners' Complaint in Abeyance pending the Commission's vote upon the final audit report and Staff recommendation or a mutually agreeable timeframe.

/s/ Vicki Gordon Kaufman

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via

Electronic Mail and U.S. Mail this 12th day of September, 2008 to the following:

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