

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: December 22, 2008

**NUVOX COMMUNICATIONS, INC.'S
PETITION TO INTERVENE AND JOINDER IN COMPLAINT
OF CBeyond COMMUNICATIONS, LLC AND DELTACOM, INC.**

Pursuant to sections 120.569, .57, Florida Statutes, and rules 25-22.039, 28-106.201 and 28-106.205, Florida Administrative Code, NuVox Communications, Inc. (NuVox), through its undersigned counsel, files its Petition to Intervene and Joinder in Complaint of Cbeyond Communications, LLC and Deltacom, Inc (Petitioners). In support thereof, NuVox states

1. Name and address of agency. The affected agency is the Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.

2. Name and address of Petitioner. The name and address of the Petitioner is:

NuVox Communications, Inc.
Two North Main Street
Greenville, SC 29601
Telephone: (864) 331-7323

3. Petitioner's representatives. Copies of all pleadings, notices, and orders in this docket should be provided to:

Vicki Gordon Kaufman
Anchors Smith Grimsley
118 North Gadsden Street
Tallahassee, Florida 32301
Telephone: (850) 681-3828

Facsimile: (850) 681-8788
ykaufman@asglegal.com

Susan J. Berlin
NuVox Communications, Inc.
Two North Main Street
Greenville, SC 29601
Telephone: (864) 331-7323
sberlin@nuvox.com

4. Notice of docket. NuVox received notice of this docket by following activity in this docket.

5. Statement of Substantial Interests. NuVox is a CLEC authorized to do business in the state of Florida. NuVox serves business customers in Florida.

6. NuVox uses AT&T's operations support systems (OSS) to place orders, receive confirmation of such orders, receive clarifications, receive order rejects, and perform a myriad of functions which are integrally related to its business operations and its ability to serve its customers.

7. On April 19, 2008, AT&T's OSS system failed in critical areas, resulting in NuVox's inability to utilize the necessary functionalities of the system to service its current customers and to bring new customers on line. The details surrounding this failure are set out in detail in Petitioners' Complaint in this matter, filed on May 12, 2008, and in this Commission's Order No. PSC-08-0618-PAA-TP. Thus, NuVox will not repeat them here. As a result of this OSS failure, Commission Staff conducted an audit of the release deficiencies and procedures. Thus, NuVox files this Petition to Intervene and joins in the Complaint of Petitioners.

8. In this case, the Commission will consider the circumstances surrounding the AT&T OSS failure, what remedies must be put in place to prevent such an event in

the future, and what penalties should be assessed against AT&T as a result of the April OSS failure, as well as what action should be taken regarding the findings of the Staff audit. Thus, as a wholesale customer of AT&T, who relies on the AT&T OSS to provide appropriate and timely service to its customers, NuVox's substantial interests will be affected in this docket by the action the Commission takes in this matter on Petitioners' Complaint.

9. NuVox's interests are of the type that this proceeding is designed to protect. *See, Agrico Chemical Company v. Department of Environmental Regulation*, 406 So.2d 478 (Fla. 2nd DCA 1981). This proceeding will evaluate and put in place appropriate measures regarding the AT&T OSS as well as evaluate past failures and assess penalties. Thus, the purpose of the proceeding coincides with NuVox's substantial interests.

10. Disputed Issues of Material Fact. Disputed issues of material fact include, but are not limited to, the following:

- a. Did AT&T follow the required Change Management Procedure in implementing the OSS changes?
- b. Did AT&T engage in appropriate testing before instituting the OSS changes?
- c. If testing of the new releases occurred, what were the results of such testing?
- d. If testing of the new releases occurred, how were the results of such testing incorporated into the implementation of the changes?
- e. What requirements should be put in place to prevent similar problems with future OSS releases?

f. Should the recommendations contained in the Staff audit be implemented? If so, when and how should such procedures be monitored in the future?

g. What penalties should be imposed on AT&T for its OSS failure?

11. Ultimate Facts Alleged.

a. AT&T failed to properly implement the new releases to its OSS system;

b. AT&T's failure to properly implement the new OSS releases caused NuVox to be unable to service its existing customers and to bring new customers on line resulting in detriment to NuVox.

11. Rules and statutes justifying relief. The rules and statutes that entitle NuVox to intervene and participate in this case include, but are not limited to:

- a. Section 364.01(3), Florida Statutes;
- b. Section 364.01(4)(g), Florida Statutes;
- c. Order No. PSC-01-1819-FOF-TP;
- d. Order No. PSC-PSC-08-0618-PAA-TP;
- d. Rule 28-106.201, Florida Administrative Code.

12. Relief. NuVox joins in Petitioners' Complaint and requests that the Commission enter an Order permitting NuVox to intervene and participate as a full party in this docket.

WHEREFORE, NuVox requests that the Commission enter an order allowing it to intervene and participate as a full party in this docket.

s/ Vicki Gordon Kaufman
Vicki Gordon Kaufman
Anchors Smith Grimsley
118 North Gadsden Street
Tallahassee, Florida 32301
Telephone;(850)681-3828
Facsimile: (850)681-8788
vkaufman@asglegal.com

Attorneys for NuVox

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a true and correct copy of the foregoing Petition to Intervene was served via Electronic Mail and U.S. Mail this 22nd day of December, 2008 to the following:

Adam Teitzman
Staff Counsel
Lisa Harvey
Florida Public Service Commission
Division of Legal Services
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0580
Email: ateitzman@psc.state.fl.us
lsharvey@psc.state.fl.us

Gregory Follensbee
AT&T Florida
150 South Monroe Street, Suite 400
Tallahassee, FL 32301-1561
Email: greg.follensbee@att.com

Beth Keating
Akerman Law Firm
106 East College Avenue, Suite 1200
Tallahassee, FL 32301
Email: beth.keating@akerman.com

Katherine K. Mudge
Covad Communications Company
7000 N. MoPac Expressway, Floor 2
Austin, TX 78731
Email: kmudge@covad.com

Robert Culpepper
AT&T Florida
150 South Monroe Street, Suite 400
Tallahassee, FL 32301-1561
Email: rc1191@att.com

Matthew Feil
Akerman Senterfitt
105 East College Ave., Suite 1200
Tallahassee, FL 32301
Email: matt.feil@akerman.com

David A. Konuch
Florida Cable Telecommunications
Association, Inc.
246 E. 6th Avenue, Suite 100
Tallahassee, FL 32303
Email: dkonuch@fcta.com

Tony Mastando
Deltacom
7037 Old Madison Pike, Suite 400
Huntsville, AL 35757
Email: tony.mastando@deltacom.com

Dulaney O'Roark, III
Verizon
Six Concourse Parkway
Suite 3200
Atlanta, GA 30328
Email: de.oroark@verizon.com

Howard E. Adams
Pennington Law Firm
215 S. Monroe Street, 2nd Floor
Tallahassee, FL 32301
gene@penningtonlaw.com

Douglas C. Nelson
Sprint Nextel
233 Peachtree Street, N. E.
Suite 2200
Atlanta, GA 30303
Email: douglas.c.nelson@sprint.com

Carolyn Ridley, VP Regulatory Affairs
tw telecom of florida, l.p
555 Church Street, Suite 2300
Nashville, TN 37219
Email: Carolyn.ridley@twtelecom.com

s/ Vicki Gordon Kaufman
Vicki Gordon Kaufman