

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: February 19, 2009

**COMPETITIVE CARRIERS OF THE SOUTH, INC.'S
PETITION TO INTERVENE**

Pursuant to sections 120.569, .57, Florida Statutes, and rules 25-22.039, 28-106.201 and 28-106.205, Florida Administrative Code, the Competitive Carriers of the South, Inc. (CompSouth), through its undersigned counsel, files its Petition to Intervene in the above referenced docket. CompSouth requests that it be afforded all applicable rights under Florida law and under the rules and regulations of the Florida Public Service Commission (Commission) as a party in this case. As grounds therefore, CompSouth 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:

Competitive Carriers of the South, Inc.
118 North Gadsden Street
Tallahassee, Florida 32301

3. Petitioner's representatives. All pleadings, orders, notices and other correspondence with respect to this docket should be addressed to:

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

5. Statement of Substantial Interests. CompSouth is a not-for-profit corporation whose members provide competitive telecommunications services in the state. In 2000, the Commission opened Docket No. 000121-TP to develop permanent performance metrics for the evaluation of the OSS of the incumbent local exchange carriers.¹ The Commission issued Order No. PSC-01-1819-FOF-TP (OSS Order) on September 10, 2001. In that order the Commission approved performance requirements and the Self-Effectuating Enforcement Mechanism (SEEM) plan. This docket has remained open since that time to address issues arising from OSS performance and the SEEM plan. As CLECs whom the performance requirements and SEEM plan are intended to protect from anticompetitive behavior, CompSouth will be substantially affected by action taken in this docket.

6. CompSouth'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).

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

a. Whether AT&T gave appropriate notice of the alleged force majeure event occurring on December 6, 2008 as required by the SEEM plan;

b. Whether the alleged force majeure event occurring on December 6, 2008 constitutes a Force Majeure Event as defined in the SEEM plan;

c. Whether AT&T should make all SEEM payments due and not withhold any payments related to the December 6, 2008 event.

¹ This docket was later broken into three sub-dockets, one for each ILEC. Order No. PSC-02-0503-PCO-TP.

8. Ultimate Facts Alleged. Ultimate facts alleged include, but are not limited to, the following:

- a. AT&T failed to give prompt notice that it intended to declare the December 6, 2008 event to be a Force Majeure event as required by the SEEM plan;
- b. The December 6, 2008 event was not a Force Majeure event;
- c. AT&T should not be excused from the requirement to make SEEM payments.

9. Rules and statutes justifying relief. The rules and statutes that entitle CompSouth 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. Rule 25-22.039, Florida Administrative Code;
- e. Rule 28-106.201, Florida Administrative Code.

10. Relief. CompSouth requests that the Commission enter an Order permitting CompSouth to intervene and participate as a full party in this docket.

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

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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 19th day of February, 2009 to the following:

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