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June 11, 2009

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COMMISSION
CLERK

Ann Cole, Commission Clerk
Office of the Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

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

Dear Ms. Cole:

Enclosed is an original and fifteen copies of BellSouth Telecommunications, Inc. d/b/a AT&T Florida's Petition for Waiver, which we ask that you file in the captioned docket.

A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return the copy to me. Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely,

E. Earl Edenfield, Jr.

Enclosures

cc: All parties of record
Jerry D. Hendrix
Gregory R. Follensbee

- COM _____
- ECR _____
- GCL 2 _____
- OPC _____
- RCP _____
- SSC _____
- SGA _____
- ADM _____
- CLK _____

DOCUMENT NUMBER-DATE

05869 JUN 11 8

FPSC-COMMISSION CLERK

CERTIFICATE OF SERVICE
Docket No. 000121A-TP

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

Electronic Mail and U.S. Mail the 11th day of June, 2009 to the following:

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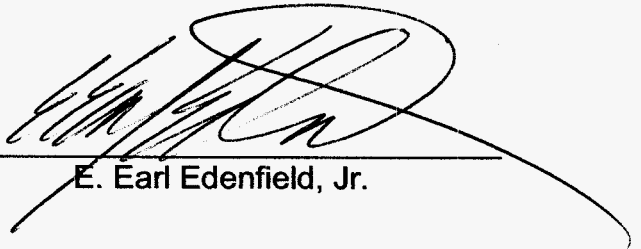
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E. Earl Edenfield, Jr.

(+) Signed Protective Agreement

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: June 11, 2009

**BELLSOUTH TELECOMMUNICATIONS, INC., d/b/a AT&T FLORIDA'S
PETITION FOR WAIVER**

BellSouth Telecommunications, Inc. d/b/a AT&T Florida ("AT&T Florida") submits this Petition for Waiver of the penalty associated with reposting SQM performance data pursuant to Rules 25-22.036, 28-106.201, Florida Administrative Code, and Section 4.5.3 of AT&T Florida's SEEM Plan. For the reasons set forth below, the Florida Public Service Commission should grant relief from a reposting penalty.

PARTIES

1. The name and address of the affected agency is the Florida Public Service Commission ("Commission"), 2540 Shumard Oak Blvd., Tallahassee, Florida 32399. The Commission's docket number for this proceeding is 090246-TP.

2. The name of the Petitioner is AT&T Florida. AT&T Florida is a Georgia corporation and its principal place of business is 675 W. Peachtree Street, NE, Atlanta, Georgia 30375.

3. AT&T Florida is an Incumbent Local Exchange Carrier under the Communications Act of 1934, as amended by the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 ("the Act").

DOCUMENT NUMBER-DATE

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4. All pleadings, notices and other documents filed in this proceeding should be directed to AT&T Florida's representatives as follows:

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Tracy W. Hatch
Manuel A. Gurdian
AT&T Florida
c/o Gregory R. Follensbee
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BACKGROUND

5. BellSouth Telecommunications, Inc. d/b/a AT&T Florida ("AT&T") recently discovered a mistake in certain performance data that has been posted as required by the SQM plan.¹ Specifically, an error in the coding that is used to post information caused certain activity for the Service Order Accuracy ("SOA") measurement to be posted under Resale results when it should have been posted under UNE results. Fortunately, the coding used to post SQM performance results is different from the coding used to calculate SEEM remedies, and the coding used to calculate SEEM remedies was correct at all times. Accordingly, all SEEM remedy obligations and SEEM liability calculations were correctly processed at all times, and all CLECs have received the appropriate payments under the SEEM Plan.

¹ See attached Affidavit of Ronald M. Pate, filed in support of this Petition.

6. The SQM Plan, however, requires AT&T to repost the corrected data.² Absent the relief AT&T is seeking in this Petition, this reporting would result in AT&T paying a penalty of approximately \$35,200 in Florida (and penalties of approximately \$316,800 in AT&T's nine-state Southeast region).³

7. AT&T respectfully submits that under the circumstances (which include no harm to CLECs and self-reporting by AT&T), a penalty of this magnitude is unduly punitive, excessive and inconsistent with the purposes of the reposting obligation. Anticipating situations like this, the SEEM Plan allows AT&T to "petition the Commission to consider relief based upon other circumstances."⁴

8. AT&T, therefore, respectfully requests that the Florida Public Service Commission ("Commission") enter an Order relieving AT&T of any obligation to pay the aforementioned reposting penalty.⁵

DISCUSSION

9. The SOA reposting obligation relates to coding changes made to correct the "bucketing" of local number portability ("LNP") transactions from Resale to UNE. Specifically, LNP activity for Service Order Accuracy (SOA)⁶ was mapped to the Resale disaggregation results in the SQM performance reports when the transactions should have been mapped to the UNE disaggregation results. Changes were properly made to the

² See Appendix D of the SQM Plan and Appendix F of the SEEM Plan.

³ See Section 2.6 of the SEEM Plan.

⁴ See Section 4.5.3 of the SEEM Plan.

⁵ AT&T intends to pay the reposting fine in accordance with the time frame set forth in Section 2.6 of the SEEM Plan. If the Commission grants AT&T's petition and that grant is after AT&T has processed payment, AT&T will recover the fine by offsetting the fine amount against future Tier II liabilities.

⁶ In general, SOA measures the accuracy and completeness of CLEC requests for service by comparing the CLEC's Local Service Request (LSR) to the completed service order after provisioning has been accomplished.

coding used to calculate SEEM remedies, but a corresponding correction was not contemporaneously made to the SQM code.

10. While validating performance data for March 2009, AT&T identified a reposting obligation related to this data reporting issue. There are no additional SEEM remedy obligations as SEEM liability calculations, which rely on a different code set, were correctly processed at all times. In accordance with Appendix D, SQM Performance data will be reposted for a maximum of three months in arrears from the data month of detection, March 2009.

11. Without Commission relief, the SOA reposting will result in penalties far exceeding the significance of the administrative error, as AT&T has timely paid the correct SEEM payments to CLECs. The purpose of the reposting obligation is to encourage AT&T to correctly report data relied upon to calculate SEEM payments. In this case, where SEEM remedy payments were unaffected by the error and where AT&T has properly self-reported and arranged for the necessary coding corrections, payment of penalties exceeding a quarter of a million dollars in the Southeast region seems inconsistent with the intent of the plan.

12. Payment of the reposting penalty to the Florida Commission and to the other Commissions in AT&T's Southeast region will in no way benefit AT&T's wholesale customers. Under these circumstances the reposting fine would be unduly punitive and inconsistent with the intent of the reposting obligation. Accordingly, AT&T respectfully requests that the Commission relieve AT&T of any obligation to pay a reposting fine in connection with the SOA data reporting error.

DISPUTED ISSUES OF MATERIAL FACT

13. AT&T Florida is not aware of any disputed issues of material fact regarding the reposting of SQM performance data.

STATUTES AND RULES ENTITLING AT&T FLORIDA TO RELIEF

14. AT&T Florida is entitled to relief under Chapter 120 and 364, Florida Statutes and Chapters 25-22, 28-106, Florida Administrative Code and Section 4.5.3 of AT&T Florida's SEEM Plan .

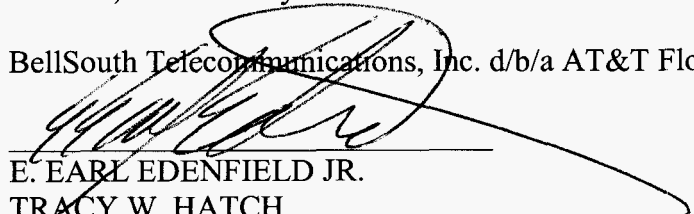
PRAYER FOR RELIEF

WHEREFORE, AT&T Florida respectfully requests that the Commission issue an Order:

- (1) Granting a waiver of the reposting penalty as described herein,
- (2) Granting such other and further relief as the Commission may deem just and proper.

Respectfully submitted, this 11th day of June 2009.

BellSouth Telecommunications, Inc. d/b/a AT&T Florida



E. EARL EDENFIELD JR.
TRACY W. HATCH
MANUEL A. GURDIAN
c/o Gregory R. Follensbee
150 South Monroe Street, Ste. 400
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(305) 347-5558

AFFIDAVIT

STATE OF GEORGIA)
)
COUNTY OF FULTON)

Before me, the undersigned authority, duly commissioned and qualified in and for the State and County aforesaid personally came and appeared Ronald M. Pate who, being by me first duly sworn, deposed and said that:

- 1. I, Ronald M. Pate, am employed by AT&T Operations, Inc. as Director – Network Regulatory.
- 2. I am submitting this affidavit in support of the Petition for Waiver filed by BellSouth Telecommunications, Inc. d/b/a AT&T Florida (“AT&T Florida) with the Florida Public Service Commission (“Commission”) on or about June 11, 2009.
- 3. I am familiar with the SEEM Plan and the SQM Plan, and I have personal knowledge of the facts set forth herein.
- 4. While validating performance data for March 2009, AT&T identified a reposting obligation related to the data reporting issue described in AT&T Florida’s Petition for Waiver.
- 5. As a result of a coding error, LNP activity for Service Order Accuracy (SOA)¹ was mapped to the Resale disaggregation results in the SQM performance reports when the transactions should have been mapped to the UNE disaggregation results.

¹ In general, SOA measures the accuracy and completeness of CLEC requests for service by comparing the CLEC’s Local Service Request (LSR) to the completed service order after provisioning has been accomplished.

6. The coding used to post SQM performance results is different from the coding used to calculate SEEM remedies, and the coding used to calculate SEEM remedies was correct at all times.

7. All SEEM remedy obligations and SEEM liability calculations were correctly processed at all times, and all CLECs have received the appropriate payments under the SEEM Plan.

7. AT&T has arranged for the necessary coding corrections to address the error that occurred.

8. There are no additional SEEM remedy obligations as SEEM liability calculations, which rely on a different code set, were correctly processed at all times.

9. Absent the relief AT&T is seeking in its Petition for Waiver, the reposting addressed in AT&T Florida's Petition for Waiver would result in AT&T paying a fine of approximately \$35,200 in Florida (and fines of approximately \$316,800 in AT&T's nine-state Southeast region).



AFFIANT

Sworn to and subscribed before me this 9th day of June, 2009.



NOTARY PUBLIC

My Commission Expires:
COLLEEN B. LEWIS
Notary Public, Gwinnett County, Georgia
My Commission Expires January 12, 2011

[SEAL]