

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 12, 2009

RESPONSE IN OPPOSITION TO AT&T'S MOTION TO STRIKE

Cbeyond Communications, LLC, Deltacom, Inc., and NuVox Communications, Inc. ("Joint CLECs") file this Response in Opposition to AT&T's Motion to Strike. As grounds therefore, Joint CLECs state:

1. On January 9, 2009, AT&T filed a Request for Confidential Classification ("RCC") of substantial portions of an audit where Commission Staff reviewed issues arising in connection with 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.

2. On January 22, 2009, Joint CLECs filed an objection to AT&T's RCC of the audit.

3. On January 29, 2009, AT&T filed a pleading with the Commission wherein it declared Joint CLECs' objection served no legitimate purpose and was without any merit. AT&T requested that the Commission dismiss Joint CLECs' objection.

4. On February 3, 2009, Joint CLECs filed their Response in Opposition to AT&T's Request to Dismiss CLECs' Objection to AT&T Florida's Request for Confidential Classification. AT&T's moves to strike this filing.

5. A filing with the Commission requesting an order of dismissal is not a pleading arguing in support of a position. Rather, it requests a new, affirmative act of the Commission – in this case, dismissal of Joint CLECs' objection. Joint CLECs are entitled to respond to this request.

6. Further, AT&T's request for dismissal goes beyond an attempt to persuade the Commission as to the propriety of AT&T's confidentiality request. Instead, it attacks the legitimacy and merit of Joint CLECs' objection, and requests the Commission take affirmative action on the objection by dismissing the objection through an order. In doing so, AT&T has made a request for relief.

7. All requests for relief are by motion, and within seven days of service of a motion, other parties may file a response in opposition. Rule 28-106.204(1) F.A.C.

8. Because AT&T has made a request for relief in its January 29, 2009 filing, its filing is a motion, and Joint CLECs' may file a response. Joint CLECs' filed a response in opposition and served same on all parties within seven days of service of the subject motion. Therefore, Joint CLECs February 3rd filing is proper.

WHEREFORE, for the reasons stated above, Joint CLECs request that the Commission

deny AT&T's Motion to Strike.

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 February, 2009 to the following:

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