

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: May 12, 2008

CBEYOND, TWTC, AND DELTACOM'S COMPLAINT, REQUEST FOR AUDIT, AND REQUEST FOR STAY OF CLEC OSS-RELATED RELEASES

Cbeyond Communications, LLC (Cbeyond), Time Warner Telecom, LP (TWTC), and DeltaCom, Inc. (Deltacom) (jointly referred to herein as the CLECs, Petitioners, or the Parties), pursuant to rule 28-106.201, Florida Administrative Code, through their undersigned counsel, file this Complaint, Request for Audit, and Request for Stay of CLEC OSS-Related Releases against BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast (AT&T). As grounds therefore, the Parties state:

Introduction

1. The name and address of the affected agency is:

Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399

2. The names and addresses of Petitioners are:

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3. The names, addresses, and telephone numbers of Petitioners' representatives for purposes of service during the proceeding are:

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Statement of Substantial Interests

4. Cbeyond, TWTC, and Deltacom are CLECs certified to do business in Florida. The Parties serve business and residential customers in Florida. Cbeyond is a new market entrant. Cbeyond installed its first customer in Florida only four (4) months ago.

5. As explained more fully below, CLECs use 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 their business operations and ability to serve Florida customers. When AT&T's OSS systems are not functioning correctly, as described below, CLECs experience an inferior ability to bring on new customers, manage existing customers, and migrate moving customers – resulting in lost business, poor service, and most importantly, discriminatory treatment.

Background

6. 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 delineating its findings and performance requirements. The OSS Order described the three phases of the docket, with the third phase designated as a performance monitoring and evaluation

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

program.² This docket has remained open since that time to address issues and concerns arising from OSS performance.

7. The Commission recognized in its OSS Order that section 364.01(3), Florida Statutes, vests it with regulatory oversight necessary to ensure the development of fair and effective competition in the telecommunications industry.³ It further recognized that section 364.01(4)(g) requires it to ensure that all providers of telecommunication service are treating fairly by preventing anticompetitive behavior.⁴ Such responsibilities remain vested with the Commission and remain critical to the competitors of the incumbents and the consumers of Florida.

8. As described below, beginning on April 19, 2008, AT&T's OSS system failed in critical areas, resulting in CLECs' inability to utilize the necessary functionalities of the system to service their current customers and to bring new customers on line. As of today, many of the numerous problems detailed below have not been resolved nor has AT&T provided an explanation to CLECs as to what occurred and how it will be remedied to prevent future problems.⁵

AT&T OSS Failure

9. 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 OSS Order at 8.

³ *Id.*

⁴ *Id.*

⁵The updates of Type 1 outages associated with this OSS outage from http://wholesale.att.com/markets/lec/ccp/ccp_so_edi.html are attached hereto as Exhibit A. As those updates demonstrate, AT&T did not register the outage until April 24 and continues, as of May 8, to identify the resolution time as unknown ("no ETR").

10. Since April 19, 2008, Cbeyond, TWTC, Deltacom, and dozens of other CLECs, have experienced severe impact to their ability to interface with AT&T OSS. Specifically, the CLECs have not received Firm Order Commitment dates, requests for order clarification, disconnection notices, rejections or communications related to meetings at the customer premises for installations, among several other problems. While the CLECs and AT&T have endeavored to implement manual work-arounds and have managed some limited electronic interfaces, those corrective actions took over a week to even begin. Numerous problems persist to the date of this filing. In addition, manual processes increase CLECs' costs, degrade the customer experience, and invite numerous errors. Additionally, AT&T call center personnel were not properly trained on the new systems so as to be able to assist in corrective actions.

11. For electronic orders, AT&T's systems failed to generate Firm Order Confirmations, but did generate invalid clarifications that have been difficult to resolve. In many instances, CLECs did not receive an acknowledgment receipt after placing an order, leaving the CLEC in limbo as to whether AT&T's system accepted the order. The local number porting process, disconnection process, as well as the supplemental ordering process, also experienced significant delays after AT&T implemented the software upgrades that caused its systems to malfunction. On May 5, another outage of the OSS EDI gateway began at the start of business that day and the system remained down until approximately 3:30 p.m.

12. AT&T's manual OSS processes are also introducing numerous errors into CLEC orders. For example, information contained on the Local Service Requests is being transposed when worked by AT&T, and certain fields on the orders are being changed by AT&T after the orders are submitted. Moreover, manual orders are reflected in the OSS as electronic ones, adding to the general confusion. At one point, AT&T issued a carrier notice revising the manual

ordering process to require that “special handling” be denoted in the remarks field. AT&T required that all of these previously submitted orders be supplemented or suffer “fatal error” status and be rejected. The retroactive application of the “supp” process created additional work for CLECs. AT&T also supplied an incorrect email address for CLECs to submit manual orders.

13. The Parties contacted AT&T repeatedly to attempt to resolve the myriad manual and electronic ordering problems, however, the orders frequently were not even visible to AT&T OSS representatives. Hundreds, and possibly thousands, of CLEC orders still await further OSS assistance from AT&T. In addition to the failures related to provisioning orders, disconnect orders are not being completed by the established due dates, which will affect customer billing and will create increased labor costs for CLECs to reconcile each of the affected accounts manually.

14. Over three hundred and fifty (350) Cbeyond orders have been impacted in Georgia and Florida. TWTC had over two hundred (200) orders impacted and their OSS vendor was told to “get in line” when they requested assistance. Deltacom has hundreds of orders impacted. Upon information and belief, thousands of CLEC orders in the State of Florida were adversely impacted by this OSS outage.

15. The difficulties described above in installing new customers is particularly damaging to Cbeyond as a brand new entrant into the Florida market.

16. Until an industry OSS call on Wednesday May 7, AT&T had been totally silent regarding any cause of the OSS failures. While AT&T has provided some minimal explanation for one aspect of the OSS failures since April 19 (inadequate testing), that explanation is totally inadequate to explain the myriad of problems CLECs continue to experience. Most troubling,

AT&T – fully three weeks into the outage – still cannot provide a date when such failures will cease.⁶

17. It is not an overstatement to describe this OSS outage as the most significant competitively damaging OSS failure in the State of Florida since the Telecommunications Act of 1996. Vigorous and immediate Commission action is warranted.

PMAP and SEEM Impacts

18. The AT&T (former BellSouth) Service Quality Measurement Plan (SQM) and the Self Effectuating Enforcement Mechanism (SEEM) Administrative Plan is designed to capture and compare the quality of service delivered to wholesale customers. Ordinarily AT&T's failure to achieve applicable compliance and benchmark measurements triggers SEEM enforcement mechanisms. However, the CLECs are concerned that the SQM and SEEM plans are not designed to capture failures of the magnitude and on-going length of the problems described above.

19. There are numerous reasons for the concern that SQM and SEEM will not capture the failures associated with this OSS outage. Some failed transactions will not be captured in the SQM metrics at all. For example, the Firm Order Confirmation (FOC) Timeliness metric (O-9) measures the interval for AT&T's return of a FOC to the CLECs. Due to system failures, AT&T did not return any FOCs to many CLECs. Without FOC notifications, CLECs are severely impaired and are unable to properly support their provisioning tasks. The FOC Timeliness metric will likely not capture the true failures because some orders were forced by programming staff over weekends and because some responses contain invalid data characters.

⁶ As of May 6, 2008, thirty-seven (37) defects have been identified and more will surely be uncovered.

20. Additionally, although some of the transactions may be captured, penalties may not be properly assessed because the metric is either not a Tier 1 metric or is not part of the SEEM plan at all. For example, the OSS Interface Availability metric (OSS-2) is structured to capture the percentage of time the OSS interface is functionally available. It is not a Tier 1 metric.

21. SEEM penalties are also not structured to address the severity of this outage. Certain Tier 1 mechanisms apply on a per transaction basis and will escalate based upon the number of consecutive months that fail for a particular element. For example, in connection with the FOC Timeliness metric (O-9), the return of a FOC that is delayed for two weeks is treated the same as FOC that is delayed for one day. Given the nature of this outage, more stringent measures are required.

22. Finally, there is no metric that collects data on supplemental orders. Some CLECs are experiencing total rejection of supplemental orders. These orders are being rejected at the outset and are not even recognized by AT&T's systems. Not only are CLECs unable to complete initial provisioning activities, they are also prevented from submitting supplemental orders to change FOC dates. Because of the possibility that SQM and SEEM will not capture several important aspects of this large outage, CLECs believe the Commission should review the appropriate penalties to be imposed.

Disputed Issues of Material Fact

23. CLECs are not aware that there are any material issues of disputed fact as to the outages that occurred on April 19 and continue to present. AT&T failed to appropriately implement and test its new OSS releases resulting in a flawed transition from legacy BellSouth

OSS to AT&T OSS. As a consequence, the functionalities described above were not available to CLECs for over three weeks and, for some, remain unavailable today.

24. However, issues which may be disputed include, but are not limited to:

a. Did AT&T follow the required Change Management Procedure in implementing the OSS changes? Specifically, did AT&T provide adequate and accurate notice of the OSS changes and follow OSS release procedures?

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 were the defects in the OSS release?

f. Why did the corrective actions by AT&T to fix those defects, in some instances, take weeks?

g. What were the impacts of those defects on Competitive Local Exchange Carriers and Florida consumers?

h. What requirements should be put in place to prevent similar problems with future OSS releases?

i. Did SQM and SEEM accurately measure the OSS failures?

j. If SQM and SEEM do not accurately measure the OSS failures, what action should be taken to ensure accurate measurement?

k. What penalties should be imposed on AT&T?

Ultimate Facts Alleged

25. Ultimate facts alleged include, but are not limited to:
- a. AT&T has failed to properly implement the new releases to its OSS system;
 - b. Its failure to do so has hindered CLECs' ability to service their existing customers and bring new customers on line, resulting in detriment to CLECs. AT&T's failure has produced a marketplace where AT&T provides itself with significantly better service than provided to CLECs in violation of sections 201, 202, 251 and 271 of the Telecommunications Act of 1996.

Statutes and Rules Entitling the CLECs to Relief

26. The statutes and rules entitling the CLECs to relief 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 28-106.201, Florida Administrative Code

Relief Requested

27. In its OSS Order, the Commission recognized the importance of audits in the context of OSS requirements.⁷ The Commission further recognized that BellSouth should bear the costs of such audits and that the auditor would be selected by BellSouth with input from the CLECs and confirmation by the Commission to ensure adherence to the general standards of the Institute of Internal Auditors.⁸ Therefore, a process is already in place to conduct an audit of this OSS failure.

⁷ OSS Order. at 190.

⁸ *Id.* at 191-192.

28. Thus, the Commission should commence the selection of an auditor and begin an independent audit of the events surrounding the OSS failure that began on April 19th. The cost of the audit should be borne by AT&T.⁹ With this petition, CLECs do not seek an audit of all OSS policies and procedures. Rather, CLECs request an independent audit narrowly focused on the OSS failures that are the subject of this Petition. Should the Commission conclude that this OSS outage evidences a need for a full audit of OSS policies and procedures, it may, of course, order such an audit in the future.

29. The Commission should also prohibit AT&T from implementing any further CLEC-impacting OSS releases until the completion of the audit and the appropriate testing and implementation of the audit recommendations.

30. In addition, the Commission should show cause AT&T and require it to explain in detail what caused the failure of its OSS release on April 19, 2008. In its OSS Order, the Commission recognized its authority to demand that BellSouth (now AT&T) show cause: if “. . . BellSouth’s service to ALECs had deteriorated severely, we could require a show cause proceeding to investigate the causes and potential remedies.”¹⁰ A total break down of OSS can certainly be described, at a minimum, as a severe deterioration of service.

WHEREFORE, Cbeyond, TWTC and Deltacom request that the Commission:

1. Commence an independent audit of AT&T’s most recent OSS releases at AT&T’s expense designed to answer the issues set forth in this Complaint;
2. Prohibit AT&T from implementing any further CLEC-impacting OSS releases until AT&T implements the recommendations of the independent audit;

⁹ *Id.* at 192.

¹⁰ *Id.* at 175.

3. Issue a show cause order to AT&T requiring it to explain in detail all the circumstances surrounding implementation of the OSS release and why it should not be penalized for its failure to appropriately implement the OSS release; and

4. Grant such other relief as necessary.

Respectfully submitted this 12th day of May 2008.

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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 May, 2008 to the following:

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Change Control Process - Type 1 System Outages - EDI

DISCLAIMER: THE TIMES ON THIS WEB PAGE REFLECT TIMES OF AN OUTAGE AS REPORTED TO EC SUPPORT. FURTHER ROOT CAUSE INVESTIGATION BY APPLICATION SUPPORT TEAMS MAY UNCOVER DIFFERENT TIMES THAN WERE ORIGINALLY REPORTED.

Date Title

MAY 2008

05/08/2008

ISSUE CONTINUED FROM 4/24/2008

On Thursday , April 24, 2008, the EDI/IA Application is experiencing a system problem. This was verified at 11:20 am cdt. Users may experience delays in receiving notifications. **STATUS UPDATE: Still under investigation with No ETR**

05/07/2008

ISSUE CONTINUED FROM 4/24/2008

On Thursday , April 24, 2008, the EDI/IA Application is experiencing a system problem. This was verified at 11:20 am cdt. Users may experience delays in receiving notifications. **SFP STATUS UPDATE: As of Wednesday, May 7, 2008, still under investigation with No ETR.**

05/06/2008

ISSUE CONTINUED FROM 4/24/2008

On Thursday , April 24, 2008, the EDI/IA Application is experiencing a system problem. This was verified at 11:20 am cdt. Users may experience delays in receiving notifications. **SFP STATUS UPDATE: As of Tuesday, May 6, 2008, still under investigation with No ETR.**

05/05/2008

We verified on Monday , May 05, 2008, the XML/IA Application is experiencing a system problem. This was verified at 05:30 am cdt. Currently under investigation with No ETR. **Determined to be a degraded service and issue was resolved with in 5 minutes.**

05/05/2008

ISSUE CONTINUED FROM 4/24/2008

On Thursday , April 24, 2008, the EDI/IA Application is experiencing a system problem. This was verified at 11:20 am cdt. Users may experience delays in receiving notifications. **SFP STATUS UPDATE: As of Monday, May 5, 2008, still under investigation with No ETR.**

05/02/2008

ISSUE CONTINUED FROM 4/24/2008

On Thursday , April 24, 2008, the EDI/IA Application is experiencing a system problem. This was verified at 11:20 am cdt. Users may experience delays in receiving notifications. **SFP STATUS UPDATE: As of Friday, May 2, 2008, still under investigation with No ETR. SFP**

05/01/2008

ISSUE CONTINUED FROM 4/24/2008

On Thursday , April 24, 2008, the EDI/IA Application is experiencing a system problem. This was verified at 11:20 am cdt. Users may experience delays in receiving notifications. **SFP STATUS UPDATE: As of Thursday, May 1, 2008, still under investigation with No ETR. SFP**

APRIL 2008

04/30/2008

ISSUE CONTINUED FROM 4/24/2008

On Thursday , April 24, 2008, the EDI/IA Application is experiencing a system problem. This was verified at 11:20 am cdt. Users may experience delays in receiving notifications. **SFP STATUS UPDATE: As of**

Wednesday, April 30, 2008, still under investigation with No ETR. SFP

- 04/29/2008 **ISSUE CONTINUED FROM 4/24/2008**
On Thursday , April 24, 2008, the EDI/IA Application is experiencing a system problem. This was verified at 11:20 am cdt. Users may experience delays in receiving notifications. SFP **STATUS UPDATE: As of Tuesday, April 29, 2008, still under investigation with No ETR. SFP**
- 04/28/2008 **ISSUE CONTINUED FROM 4/24/2008**
On Thursday , April 24, 2008, the EDI/IA Application is experiencing a system problem. This was verified at 11:20 am cdt. Users may experience delays in receiving notifications. SFP **STATUS UPDATE: As of Monday, April 28, 2008, still under investigation with No ETR. SFP**
- 04/24/2008 On Thursday , April 24, 2008, the EDI/IA Application is experiencing a system problem. This was verified at 11:20 am cdt. Users may experience delays in receiving notifications. SFP

February 2008

- 02/26/2008 On Tuesday, February 26, 2008, the EDI/IA Application is experiencing a system problem. Outage 4165 was first reported at 4:30 pm cst. and verified at 5:02 pm cst. Users are reporting that they are not receiving responses. SFP STATUS UPDATE: Responses will be delayed due to a weather related power outage in the SE Region. SFP RESOLUTION: As of 8:19 pm cst queues have cleared; responses are flowing normally SFP

DECEMBER 2007

- 12/26/2007 On Wednesday December 26th, the EDI/IA application is experiencing a system outage. Outage #4145 was first reported at 09:41 cdt and verified at 13:50 cdt. EDI/IA users are getting no responses on firm order transactions. ks **After correcting a traffic flow issue with one of our trading partners at 15:42 cst, all trading partners should now be receiving responses.** ks
- 12/11/2007 On Tuesday, December 11, 2007, the EDI/IA application is currently experiencing a system problem. Outage 4137 was verified at 11:29 am cst Users are reporting that they are not receiving responses. An IA change was made over the weekend during Release 26.0.1. This change had an unforeseen impact. The changes made during this release are currently being backed out. EC Support will send out a notification when this has been successfully completed SFP RESOLUTION: The back out was successfully completed at 12:30 pm cst sfp

NOVEMBER 2007

- 11/02/2007 On Friday, November 2, 2007, the EDI-IA application is experiencing a system outage. Outage #4119 was first reported at 11:23am CDT and verified at 11:43am CDT. EDI-IA users are reporting that they are not receiving responses on Pre and Firm orders. DMC **Resolution: backend processes were restored to normal operations at 3:30p CDT. DMC**
- 11/02/2007 On Friday, November 2, 2007, the EDI-IA application is experiencing a system outage. Outage #4118 was first reported at 8:30am CDT and verified at 8:50am CDT. EDI-IA users are reporting that they are receiving 240 second timeouts (no responses) on Pre and Firm orders. DMC **Resolution: Restarted application servers at 9:18am CDT to restore normal operations**

OCTOBER 2007

- 10/26/2007 On Friday, October 26, the EDI-IA application is experiencing a system outage. Outage #4114 was first reported at 11:372am CDT and verified at 11:57am CDT. EDI-IA users are reporting that they are not receiving responses or slow responses. DMC **Resolution: At 12:08pm CDT, an application server was restarted to restore normal operations. DMC**
- 10/25/2007 On Thursday, October 25, the EDI-IA application is experiencing a system outage. Outage #4113 was first reported at 7:52am CDT and verified at 8:12am CDT. EDI-IA users are reporting that they are not receiving responses. SFP **Resolution: Application restarted at 9:45a CDT and normal operations have resumed. DMC**
- 10/24/2007 On Wednesday, October 24 the EDI-IA application is experiencing a system outage. Outage #4112 was