

Ruth Nettles

From: Slaughter, Brenda [bs3843@att.com]
Sent: Tuesday, December 30, 2008 3:20 PM
To: Filings@psc.state.fl.us
Cc: Culpepper, Robert; Woods, Vickie; Eure, Micale; jp074a
Subject: Docket 000121A-TP Response to CLEC Objection (RCC)
Attachments: 000121A-TP Response to CLEC Objection to RCC.pdf

- A. Brenda Slaughter
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- B. Docket No. 000121A-TP: In Re: Investigation into the Establishment of Operations Support Systems Permanent Incumbent Local Exchange Telecommunications Companies.
- C. BellSouth Telecommunications, Inc.
on behalf of Robert A. Culpepper
- D. 7 pages total in PDF format (including letter, pleading and certificate of service)
- E. BellSouth Telecommunications, Inc. d/b/a AT&T Florida's Response to Objection of CLECs to RCC

<<000121A-TP Response to CLEC Objection to RCC.pdf>>

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December 30, 2008

Ms. Ann Cole
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 incumbent local exchange Telecommunications companies**

Dear Ms. Cole:

Enclosed is BellSouth Telecommunications, Inc. d/b/a AT&T Florida's ("AT&T Florida") response to DeltaCom's and Cbeyond's Objection to AT&T Florida's Request for Confidential Classification of the Commission Staff's April OSS Release Audit Report, which we ask that you file in the referenced docket.

A copy of the same is being provided to all parties as reflected in the attached certificate of service.

Sincerely,

Robert A. Culpepper

Enclosures
cc: All parties of record
Jerry D. Hendrix

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into the Establishment)	
of Operations Support System Permanent)	Docket No. 000121A-TP
Performance Measures for Incumbent)	
Local Exchange Telecommunications)	Filed: December 30, 2008
Companies (BellSouth Track))	
_____)	

**AT&T FLORIDA'S RESPONSE TO DELTACOM'S AND CBeyond'S
OBJECTION TO REQUEST FOR CONFIDENTIALITY OF THE
COMMISSION STAFF'S APRIL OSS RELEASE AUDIT REPORT**

BellSouth Telecommunications, Inc. d/b/a AT&T Florida ("AT&T") hereby responds to the "Objection To AT&T's Request for Confidential Classification of Entire Staff Audit and All Related Materials" ("Objection") filed by Cbeyond Communications, LLC and Deltacom, Inc. (collectively, "CLECs") on December 23, 2008. For the reasons set forth herein, the CLECs' Objection should be denied as premature.

1. The CLECs filed a complaint in this docket on May 12, 2008, seeking, *inter alia*, an audit of AT&T's April OSS software release ("April Release").
2. Pursuant to agreement between AT&T and the CLECs, the Staff of the Florida Public Service Commission ("Staff") conducted an audit of the April Release. See Commission Order No. PSC-08-0618-PAA-TP (accepting the CLECs and AT&T's agreement regarding the scope of an April Release audit conducted by Staff).
3. On November 26, 2008, the Staff auditors provided its initial draft of the audit report to AT&T for review. Staff auditors and AT&T met to discuss the initial draft audit report on December 16, 2008. In course of the meeting, AT&T identified certain instances in which AT&T believed the initial draft report contained errors. A final draft report was provided to AT&T on December 18, 2008 ("Final Draft Report"). By agreement with the

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Staff auditors, AT&T's comments regarding the Final Draft Report and its request for confidentiality are to be filed by January 9, 2009. However, out of an abundance of caution and before such agreement was finalized, AT&T made a filing to classify the entire Final Draft Report (including all audit work papers) as confidential in order to preserve its rights prior to the confidentiality filing AT&T intends to make on January 9, 2009.

4. Rule 25-22.006(3)(a)(2) Florida Administrative Code, governs the Commission's treatment of information that is asserted to be confidential in the context of a staff audit. Pursuant to this rule, when an audit is conducted by the Staff, information received by the Staff in the conduct of the audit is maintained as confidential if so requested by the company and as shown on the Staff's document request Form PSC/AFA 6-R. Throughout Staff's investigation, AT&T consistently maintained and asserted confidential treatment of the information provided to the Staff's auditors. As noted in Rule 25-22.006(3)(a)(2), continued confidential treatment is contingent on the filing of request for confidentiality within 21 days after the audit exit conference, or if the audit exit conference is waived by the company, within 21 days after the audit exit conference would have taken place. In short, Rule 25-22.006(a)(3)(2) provides that the time for filing a request for confidential classification is contingent on the date scheduled for the audit exit conference.

5. Notwithstanding AT&T's discussions with the Staff auditors, no date for an audit exit conference was or has been offered or established. Further, AT&T has not waived its right to an audit exit conference.

6. Prior to AT&T's meeting with the auditors on December 16, 2008, to discuss errors in the initial draft report; Staff and AT&T discussed the means by which to maintain the continued confidential status of the audit information. At that time, Staff indicated that it

did not believe an audit exit conference was necessary and did not offer to conduct one. Since the draft audit report was not yet final, AT&T agreed to provide a blanket confidential claim as an interim measure to preserve its rights while resolving any question as to confidentiality pending the filing of AT&T's formal request for confidentiality on January 9, 2009, that will address the Final Draft Report. Pursuant to that understanding, AT&T's interim request was filed on December 16, 2008.

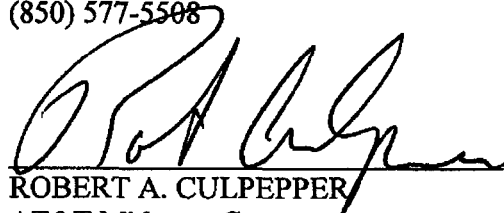
7. While an audit exit conference has not been offered pursuant to Rule 25-22.006(3)(a)(2) and thus the right and/or obligation to seek confidentiality has not been triggered; as a practical matter, AT&T's confidentially filing on January 9, 2009, will achieve the result contemplated by the Rule. Since the draft audit report was not final until December 18, 2008, it appears the earliest practical time at which an audit exit conference could have been held is December 19, 2008. Assuming that date as the audit exit conference, AT&T's request for confidentiality pursuant to Rule 25-22.006(3)(a)(2) would be due January 9, 2009, the date on which AT&T will file its more specific confidentiality request.

8. AT&T submits that the CLECs' Objection to AT&T's interim request is premature. As noted in the CLECs' Objection, AT&T will be filing its request for confidential classification on January 9, 2009. CLECs' cite to Rule 25-22.006(3)(b) as the basis for their Objection. This rule requires any objection to a request for confidentiality to be filed within 14 days after service of the request. The "request" referred to in this Rule has not yet been filed. As noted above, AT&T's request will not be filed until January 9, 2009. At that time AT&T will provide its full justification for the information included in the Final Draft Report which AT&T believes should be treated as confidential by the Commission. In the meantime CLECs' request should be denied as premature.

For the reasons set forth herein, the CLECs' Objection to AT&T's blanket, interim request for confidential treatment of the Final Draft Report, including all audit work papers, should be denied as premature.

Respectfully submitted this 30th day of December 2008.

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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 30th of December, 2008 to the following:

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