

Diamond Williams

000121A-TP

From: Martha Johnson [marthaj@fcta.com]
Sent: Friday, May 07, 2010 4:23 PM
To: Filings@psc.state.fl.us
Cc: David Konuch; Adam Teitzman; Carolyn Ridley; gene.watkins@cbeyond.net; D. Anthony Mastando; de.oroark@one.verizon.com; Douglas Nelson; gdiamond@covad.com; Jerry Hallenstein; Katherine Mudge; Beth Keating; Lisa Harvey; matt.feil@akerman.com; Robert Culpepper ; Susan Berlin; Tracy Hatch; Vicki Kaufman; Greg Follensbee; maryrose.sirianni@att.com
Subject: Docket No. 000121A - FCTA's Letter to Staff re: Workshop Process
Attachments: 000121A - PSC Letter to Staff.pdf

Attached is an electronic filing for the docket referenced below. If you have any questions, please contact David Konuch at the number below. Thank you.

A. The person responsible for this electronic filing is:

David A. Konuch
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B. The docket title is: **In Re: Docket No. 000121** - Investigation into the establishment of operations support systems permanent performance measures for incumbent local exchange telecommunications companies. (AT&T FLORIDA TRACK)

C. This document is filed on behalf of the Florida Cable Telecommunications Association, Inc.

D. This document has a total of 5 pages.

E. Description of document: FCTA's Letter to Staff re: Workshop Process.

Thank you,

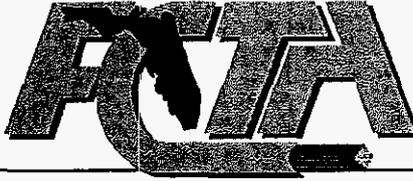
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May 7, 2010

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RE: Docket No. 00121A-TP

Dear Lisa and Jerry,

As you know, we attempted to perform a redline of the AT&T-CompSouth agreement as part of our comments in this docket to show FCTA's differences with that agreement. This proved to be no easy task. In particular, the edit process did not reflect reversals of many of the agreement's deletions. Creating that original redline was an awkward, labor-intensive process and proved ill-fated, as AT&T's counsel subsequently responded that they could not decipher parts of FCTA's redline of the AT&T-CompSouth agreement.

I asked our subject matter experts if they would try to submit a revised redline that showed more of the changes. However, as I have learned, it is very difficult to create a redline on top of a previous redline, *i.e.*, the AT&T-CompSouth agreement was a redline of another prior agreement text. Those difficulties are magnified given that FCTA members had provided no input for and did not participate in the creation of the original CompSouth-AT&T document. This fact also belies the 'settlement' styling of the agreement at hand, as there can be no 'settlement' among only two parties of what was a collaborative industry review. Rather, it represents at most a bi-lateral agreement between two parties, and one that is contingent upon further Commission action (removal of Tier II) at that.

Because of technical difficulties in creating it, and the large differences between the parties' positions, FCTA's redline, submitted with its comments, of the AT&T-CompSouth agreement was incomplete. That such a document was difficult to create provides a tangible illustration of the awkwardness and futility of having (at least) two 'competing' sets of Plan documents to debate. I say at least two because CBeyond and STS, as non-signers of the bi-lateral agreement between AT&T and Compsouth, could well generate their own, preferred versions. In practice, as we learned when trying to create the document, Cable's areas of disagreement with the CompSouth-AT&T agreement are too vast to make a redline meaningful, useful, or even legible. In contrast, the collaborative process enables all parties to work together and coalesce over a particular document, rather

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than each party to the docket submitting its own competing document.

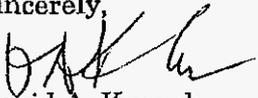
FCTA called for, and has remained consistent in its support of, the collaborative process as we believe it to be the very best method to obtain the very best end product. FCTA further believes the AT&T-CompSouth agreement - because it was exclusionary - greatly undermined that consensus generating process. FCTA's comments and the attachments that have accompanied them are focused on producing a comprehensive and fair agreement. Cable's exclusion can no doubt be traced to its fundamental unwillingness to 'deal' on Tier II. Indeed, one of the most pernicious aspects of the AT&T-CompSouth agreement is AT&T's overriding condition that no other agreed upon outcomes of the collaborative discussions to date will take effect if Tier II is not eradicated. That sort of all-or-nothing condition reads more like an attempt at an ultimatum than an agreement.

And there are other matters of importance to cable which are newly introduced, left unaddressed, or inadequately addressed. To the latter, the agreement's attempt at 'escalating' negative incentives against AT&T's repeated poor performance is insufficient to incent compliance, and therefore, unacceptable. Also, the four year moratorium had not been previously discussed by anyone before it appeared in the bi-lateral agreement. FCTA objects to the four year moratorium as counter to effective oversight. The willingness of a few market participants to withdraw from the oversight process should not render the process itself valueless. And finally, there remains the issue of metrics tied to AT&T's retail performance. We note that mostly only the metrics pertinent to non-facilities-based operations have been changed to numerical benchmarks, while those affecting facilities-based providers such as cable remained primarily unchanged.

With this explanation I would propose that parties' attention is better spent addressing the issues set forth in Appendices A and B (action items left unresolved) and the matrices AT&T provided on April 2, 2010 in response to FCTA's questions emanating from the Staff conference call on March 24th, rather than on a redline of the AT&T-CompSouth agreement. In FCTA's view these documents represent the most current and the only consensus documents the collaborative has produced thus far, and we do not believe the remaining issues are insurmountable. Our hope is to reconvene the collaborative and ultimately achieve a set of final, consensus SQM and SEEM plans. Guided thoughtfully by the Staff, and with participation of all the parties here, the workshops had been making meaningful progress toward an agreement before the AT&T-CompSouth negotiations unilaterally cut the workshops short. In FCTA's view, reconvening the collaborative will yield more productive results than merely exchanging ever more complex, awkward and time-consuming redlines.

We look forward to Staff's response, and once again, respectfully request that the Commission Staff re-start the workshop process.

Sincerely,



David A. Konuch

Senior Counsel for Regulatory Law & Technology

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Letter to PSC Staff has been served upon the following parties by Electronic Mail this 7th day of May, 2010:

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