

Marguerite McLean

100022-TP

From: nicki.garcia@akerman.com
Sent: Thursday, May 13, 2010 10:53 AM
To: Filings@psc.state.fl.us
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Subject: Electronic Filing - Docket No. 100022-TP
Attachments: 20100513105054737.pdf

Attached is an electronic filing for the docket referenced below. If you have any questions, please contact either Matt Feil or Nicki Garcia at the numbers below. Thank you.

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Docket No. and Name: Docket No. 100022-TP - In Re: Complaint of BellSouth Telecommunications, Inc., d/b/a AT&T Florida Against Image Access, Inc. d/b/a NewPhone

Filed on behalf of: NewPhone

Total Number of Pages: 6

Description of Documents: Joint Motion on Procedural Issues

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May 13, 2010

VIA ELECTRONIC FILING

Ms. Ann Cole
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

- Re: Docket 100021-TP – Complaint of BellSouth Telecommunications, Inc., d/b/a AT&T
Florida Against LifeConnex Telecom, LLC f/k/a Swiftel, LLC**
- Re: Docket 100022-TP – Complaint of BellSouth Telecommunications, Inc., d/b/a AT&T
Florida Against Image Access, Inc. d/b/a NewPhone**

Dear Ms. Cole:

Attached for filing in the above-referenced dockets, please find a Joint Motion on Procedural Issues filed on behalf of the parties in the two dockets.

Your assistance in this matter is greatly appreciated. Should you have any questions, please do not hesitate to contact me.

Sincerely,

Matthew Feil
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Attachments

DOCUMENT NUMBER-DATE

04017 MAY 13 09

FPSC-COMMISSION CLERK

STATE OF FLORIDA
PUBLIC SERVICE COMMISSION

In Re: Complaint of BellSouth Telecomm-)
unications, Inc., d/b/a AT&T Florida)
Against LifeConnex Telecom, LLC f/k/a)
Swiftel, LLC)
_____)

Docket No. 100021-TP

In Re: Complaint of BellSouth Telecomm-)
unications, Inc., d/b/a AT&T Florida)
Against Image Access, Inc. d/b/a)
NewPhone)
_____)

Docket No. 100022-TP

JOINT MOTION ON PROCEDURAL ISSUES

Pursuant to Rule 28-106.204, Florida Administrative Code, LifeConnex Telecom, LLC f/k/a Swiftel, LLC ("LifeConnex"), Image Access, Inc. d/b/a NewPhone ("NewPhone") and BellSouth Telecommunications, Inc., d/b/a AT&T Florida ("AT&T") (the aforesaid named parties collectively referred to as "Joint Movants") hereby jointly move the Florida Public Service Commission ("Commission") to address pending motions and procedural issues in the captioned dockets as set forth in this Joint Motion. The two above-captioned proceedings are similar, not only to each other but to cases pending before the regulatory commissions of eight other states (the states of the former BellSouth region).¹ To promote the reasonable, efficient, and expeditious determination of these proceedings, the Parties respectfully submit the following Joint Motion concerning motions and procedural issues:

¹ This Joint Motion is also being filed in each of the other states.

The Parties respectfully request that the Commission:

1. Hold all other pending motions in abeyance; and
2. Convene a consolidated proceeding (Consolidated Phase), to which the Complainant and all Respondents are parties, to resolve the following issues:²

- (a) how cash back credits to the resellers should be calculated;
- (b) whether the word-of-mouth promotion is available for resale and, if so, how the credits to resellers should be calculated; and
- (c) how credits to resellers for waiver of the line connection charge should be calculated.

3. If the Commission approves this Joint Motion, the Parties will work in good faith to propose by June 11, 2010, a procedural schedule for a Consolidated Phase hearing in each of the nine states.³

4. Once the Commission has issued an order resolving the issues in the Consolidated Phase, the Parties will work in good faith to address or, if necessary, request the Commission to resolve, all remaining unresolved claims and counterclaims related to the Consolidated Phase and determine what, if any, dollar amounts are owed or

² The Parties are not asking the Commission to decide any other issues, including without limitation issues related to AT&T's announcement of its intent to change its formula for calculating cashback credits, in the Consolidated Phase. This Joint Motion, however, does not limit the *arguments* which may be made by any Party in the Consolidated Phase. Any Party may raise any arguments it believes are relevant to the Consolidated Phase, whether or not such arguments also relate to claims outside the Consolidated Phase. Similarly, AT&T may object to any arguments it believes are irrelevant or object for any other reason, but it will not object on the grounds that raising arguments related to other claims is inconsistent with this Joint Motion.

³ This is similar to the approach taken by pre-merger BellSouth and the parties to the Commission's dockets addressing the FCC's Triennial Review Remand Order ("TRRO") and its progeny. Those parties presented a coordinated, region-wide schedule that resulted in the expeditious resolution of those proceedings on a regional basis.

credits due each Party. As stated below, any individual Party may also seek to pursue in its respective docket, either concurrent with or following the Consolidated Phase, any issue, claim, or counterclaim, including related discovery, that is not addressed in the Consolidated Phase.

5. Nothing in this Joint Motion is intended, or shall be construed, as a waiver of any Party's pending motions, claims, counterclaims or defenses or any Party's right to amend and supplement its claims, counterclaims, or other pleadings, or to pursue any issue, claim, or counterclaim that is not addressed in the Consolidated Phase in each Party's respective docket, either concurrent with or following the Consolidated Phase, or to seek such other relief as a change in circumstances may warrant.

WHEREFORE, the Joint Movants request that this Motion be granted.

Respectfully submitted this 13th day of May, 2010.



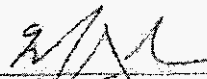
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Joint Motion on Procedural Issues
May 13, 2010

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served upon the following by email, and/or U.S. Mail this 13th day of May, 2010.

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By: 
Matthew Feil, Esq.