

VOTE SHEET

July 17, 2012

Docket No. 110087-TP – Notice of adoption of existing interconnection, unbundling, resale, and collocation agreement between BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast and Image Access, Inc. d/b/a NewPhone, Inc. by Express Phone Service, Inc.

Issue 1: Is Express Phone's Notice of Adoption or AT&T Florida's denial of the adoption barred by the doctrines of equitable relief, including laches, estoppel and waiver?

Recommendation: The Commission has only those powers granted by statute expressly or by necessary implication and does not have authority to order equitable relief. Accordingly, it is not appropriate for the Commission to make a finding that the adoption is barred by the doctrines of equitable relief.

APPROVED

COMMISSIONERS

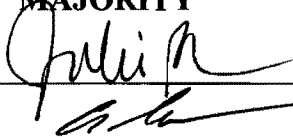
All Commissioners


ASSIGNED:

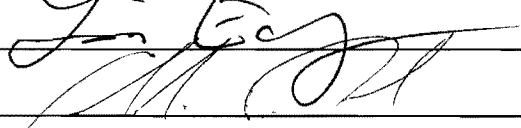
COMMISSIONERS' SIGNATURES

MAJORITY

DISSENTING







REMARKS/DISSENTING COMMENTS:

DOCUMENT NUMBER - DATE
04728 JUL 17 2012

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Issue 2: Is Express Phone permitted, under the applicable laws, to adopt the NewPhone Interconnection Agreement during the term of its existing agreement with AT&T Florida?

Recommendation: No. A telecommunications company should not be permitted to adopt an alternative interconnection agreement when it has failed to materially comply with its existing ICA. Express Phone failed to pay disputed amounts as required by its 2006 interconnection agreement with AT&T Florida and thus should not be eligible to adopt an alternative interconnection agreement until it is in compliance with the 2006 interconnection agreement.

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Issue 3: Is Express Phone permitted under the terms of the interconnection agreement with AT&T Florida to adopt the NewPhone Interconnection Agreement?

Recommendation: No. Express Phone is not permitted, under the terms of the interconnection agreement with AT&T Florida, to adopt the NewPhone Interconnection Agreement.

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Issue 4: If the NewPhone Interconnection Agreement is available for adoption by Express Phone, what is the effective date of the adoption?

Recommendation: If the Commission agrees with the recommendations in Issues 2 and 3 then this issue is moot. If the Commission determines in Issues 2 and 3 that the NewPhone Interconnection Agreement is available for adoption by Express Phone, the effective date should be March 29, 2011.

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Issue 5: Should this docket be closed?

Recommendation: Yes. If the Commission approves staff's recommendations in all issues this docket should be closed after the time for filing an appeal has run.

If the Commission denies staff's recommendation in Issues 2 and 3 and approves the adoption, this docket should remain open pending the filing of the signed adoption between the parties, which should occur no later than 7 days following the Commission's vote. This docket should be closed administratively after the time for filing an appeal has run and upon issuance of a memo by staff acknowledging the Adoption of the NewPhone Interconnection Agreement.

APPROVED