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November 8, 2011

The Honorable Jocelyn Boyd
Chief Clerk of the Commission
Public Service Commission of South Carolina
Post Office Drawer 11649
Columbia, South Carolina 29211

Re: Complaint and Petition for Relief of BellSouth Telecommunications, Inc. d/b/a AT&T Southeast d/b/a AT&T South Carolina v. Affordable Phone Services, Inc. d/b/a High Tech Communications, Dialtone & More, Inc., Tennessee Telephone Service, LLC d/b/a Freedom Communications USA, LLC, OneTone Telecom, Inc., dPi Teleconnect, LLC and Image Access, Inc., d/b/a New Phone
Docket No. 2010-14-C, Docket No. 2010-15-C, Docket No. 2010-16-C,
Docket No. 2010-17-C, Docket No. 2010-18-C, & Docket No. 2010-19-C

Dear Ms. Boyd:

Yesterday, the Resellers filed a letter asserting, among other things, that "the Louisiana Public Service Commission recently rejected a proposed decision adopting AT&T's positions, and remanded the case to the administrative law judge." AT&T South Carolina respectfully submits this short letter explaining why it disagrees with this characterization of the Louisiana Commission's vote.[1]

In the oral argument that immediately preceded the Louisiana Commission's vote, NewPhone (a reseller) argued among other things that the ALJ's Final Recommendation lacked any analysis or reasoning supporting its conclusions,[2] and the Staff argued that the Final Recommendation merely summarized the parties' positions and adopted AT&T's position.[3]

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[1] AT&T South Carolina obviously disagrees with the remainder of the arguments in the Resellers' letter but does not address them here because it has squarely addressed – and refuted – them in various filings in these dockets.

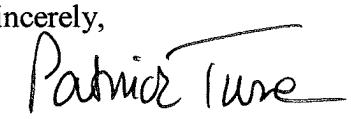
[2] *See* attached Excerpt of Transcript at 80, 99. *See also* Attached Newphone's Request for Oral Argument at p.2, ¶4.

[3] *Id.* at 98-99.

Immediately following oral argument, Commissioner Holloway made "a motion that we remand this to the ALJ,"[4] and Chairman Field added "[o]n the narrow issue of this formula methodology to be utilized."[5] Commissioner Boissiere then made a substitute motion to accept the ALJ's recommendation.[6] Commissioner Campbell seconded this substitute motion, and Commissioner Skrmetta voted no.[7] Commissioner Holloway abstained, stating that he "made the motion to remand it,"[8] and then Chairman Field stated "I would like to remand it so I'm going to vote no."[9]

Accordingly, two Commissioners voted to accept the ALJ's Final Recommendation adopting AT&T Louisiana's positions, one voted not to accept the ALJ's Final Recommendation, and one voted "no" for the express purpose of accommodating a remand to the ALJ "***for further consideration of the calculation methodology to be applied to cash back promotions***."[10] AT&T South Carolina respectfully submits that this is a far cry from the Resellers' erroneous characterization that "the Louisiana Commission recently rejected" the ALJ's Final Recommendation.

Sincerely,



Patrick W. Turner

PWT/nml
Attachments
cc: All Parties of Record
969125

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4 *Id.* at 124.
5 *Id.*
6 *Id.* at 124-25.
7 *Id.* at 125.
8 *Id.*
9 *Id.* at 126.
10 *See attached* Remand Order at 2 (emphasis added).

TRANSCRIPT OF THE LOUISIANA PUBLIC SERVICE COMMISSION BUSINESS AND EXECUTIVE OPEN SESSION HELD ON SEPTEMBER 7, 2011, IN BATON ROUGE, LOUISIANA. PRESENT WERE: CHAIRMAN JAMES FIELD, COMMISSIONER LAMBERT BOISSIERE, COMMISSIONER ERIC SKRMETTA, COMMISSIONER FOSTER CAMPBELL AND COMMISSIONER CLYDE HOLLOWAY.

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13	**S-31838**	Claiborne Ward Nine Water System, Inc., ex parte	Passed
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TRANSCRIPT OF THE LOUISIANA PUBLIC SERVICE COMMISSION BUSINESS AND EXECUTIVE OPEN SESSION HELD ON SEPTEMBER 7, 2011, IN BATON ROUGE, LOUISIANA. PRESENT WERE: CHAIRMAN JAMES FIELD, COMMISSIONER LAMBERT BOISSIERE, COMMISSIONER ERIC SKRMETTA, COMMISSIONER FOSTER CAMPBELL AND COMMISSIONER CLYDE HOLLOWAY.

CHAIRMAN JAMES FIELD: The Commission will come to order. I will lead us in prayer and then Commissioner Holloway will lead us in the pledge.

(**CHAIRMAN FIELD** LEADS IN PRAYER)

(**COMMISSIONER HOLLOWAY** LEADS IN THE PLEDGE)

CHAIRMAN FIELD: General Counsel, you want to go ahead with the -- read the agenda?

MR. DENNIS WEBER: Commissioners, Exhibit Number 1 is announcements. We have 21 items on the agenda this morning. Items 13, 14, and 17, I have been advised will be passed. The next B & E is scheduled for October 13th in New Orleans, Louisiana.

CHAIRMAN FIELD: Where will it be? Will it be in the Monteleone?

MR. WEBER: No, sir. Commissioner Skrmetta has that information.

COMMISSIONER ERIC SKRMETTA: Mr. Chairman, the B & E will be held in the Chambers of the Louisiana state Supreme Court on the corner of St. Louis and Royal Street. Also anybody who needs information can talk to Ingrid

1 sat through it and your Staff made a recommendation that just says look, it's not
2 that complicated.
3 **CHAIRMAN FIELD**: Well, the ALJ didn't agree with Staff, so that's what
4 we're trying to resolve.
5 **MR. GUARISCO**: But it's perplexing from the ALJ's perspective, because the
6 ALJ doesn't have -- there's no reasoned analysis in the ALJ opinion at all. The
7 ALJ simply summarizes the Staff's position, summarizes AT&T's position and
8 summarizes the reseller's position. But she doesn't take issue with positions or
9 doesn't analyze issues.
10 **CHAIRMAN FIELD**: Commissioner Skrmetta, you have a question?
11 **COMMISSIONER SKRMETTA**: You know, I guess my question is more
12 along the lines of, you know, if the state through the LPSC has established the
13 profitability at 20.74% and the application of the discount or rebate. However
14 you look at it, that's actually altering the ultimate revenue, dollar for dollar versus
15 percentagewise that the CLECs recover, is that right?
16 **MR. GUARISCO**: If I understand correctly, I think what you're saying is, I think
17 it's correct if –
18 **COMMISSIONER SKRMETTA**: I mean we're looking at the first month too
19 because I do agree with Mr. Field that, you know, the issue for everybody is how
20 this thing plays out in the immediacy versus the long-term. But what I'm looking
21 at is, if we are looking at how the Telecom Act is reflected through Sanford on the
22 ultimate revenue for the CLEC. Then are we looking at it on a -- I'm looking at a
23 dollar recovery versus a percentage issue. And that originally it would have been

1 **COMMISSIONER BOISSIERE**: Was this argument made before the ALJ?
2 This particular argument?
3 **MR. GUARISCO**: This argument? Absolutely.
4 **COMMISSIONER BOISSIERE**: Or has this only come up since – this
5 particular argument was made before the ALJ.
6 **MR. FREY**: Yes. And in post hearing briefs and in the exceptions to the
7 recommendation that was filed and also through the testimony of Mr. Gallan as
8 the correction to the AT&T methodology.
9 **COMMISSIONER BOISSIERE**: So the ALJ had all this information and still
10 made the decision.
11 **MR. FREY**: Yes.
12 **MR. GUARISCO**: We had a witness, Mr. Joseph Gillan, who termed this
13 methodology as the AT&T method corrected for the math error.
14 **COMMISSIONER BOISSIERE**: And the ALJ heard all of that evidence and
15 testimony.
16 **MR. FREY**: Well –
17 **MR. GUARISCO**: Yes, the witness, Gillan, proposed – had a summary of his
18 testimony and we briefed it and he also put together an exhibit, Number Four, --
19 **MR. FREY**: Well, no, here's one point though and I think I get what you are
20 getting to there. Actually I am not sure that the ALJ did consider all of this and
21 the reason why I say that is, in the proposed recommendation, there is a summary
22 of the parties' positions and then a statement that basically AT&T position is
23 adopted. You would presume that those were considered. However in the

1 proposed recommendation, AT&T – the ALJ made a specific point of harping on
2 AT&T's comments in its post hearing brief, that what Staff proposed as a
3 calculation was a new calculation, could not be considered for that reason, so it is
4 possible that the ALJ did not put weight on Staff's recommendation – proposal.
5 And it was only in the post hearing exceptions where and it was stated, "Wait, this
6 is not a novel concept. This did come out in testimony." But AT&T did a good
7 job of discrediting Staff's post hearing filing to the ALJ.
8 **COMMISSIONER BOISSIERE**: So even though the evidence was raised
9 during the hearing before the ALJ, you think it might not have been considered
10 properly in the decision making.
11 **MR. FREY**: I can only speculate.
12 **COMMISSIONER BOISSIERE**: That is all I'm asking for. But you want us to
13 hear it without all of the weight of the evidence other than your opinions on it
14 after the fact. I'm just asking.
15 **MR. GUARISCO**: I think that we presented it – we presented it concisely to the
16 ALJ. It is our position that the ALJ's -- the ALJ's proposed and final
17 recommendation are devoid of any reasoning. I mean, the ALJ doesn't have –
18 there's no reasoning in that recommendation. Other than the fact that she
19 summarizes everybody's positions and then she makes a decision to adopt the
20 AT&T proposed methodology. What we proposed as Resale Exhibit Number
21 Four is a graphical representation of the Stanford position, of the Staff's position
22 and of what we have termed AT&T's position as corrected for the math error.
23 And that was presented before the ALJ and entered into the record of the hearing.

1 is the economic activity that does that, is something that is incorrect, so that is my
2 comment on that.
3 **COMMISSIONER CAMPBELL**: Mr. Chairman [INAUDIBLE - TOO FAR
4 FROM MIC] two. We have a motion. My situation is I'm hardly ever with
5 AT&T. Sometimes it is sort of hard for me to be with a big company. But the
6 problem here there is such a great difference between the prices -- I understand,
7 but nobody is wanting it. You know, Mr. Guarisco's clients didn't ask for rate
8 reduction. Now they come in here and said look, we have got a big difference
9 here. We would like to have a rate reduction. I could see it. They are not asking
10 for a rate reduction. There is a big gulf between what AT&T's charging and what
11 they are charging and I understand that, but philosophically I am just against it. I
12 have tried to outlaw payday loan companies in the State of Louisiana.
13 Philosophically I just don't like seeing there being that big a gulf between the
14 people – the have and have-nots because the guy can't pay his bills or whatever.
15 So anyway I'm ready to vote if somebody will make a motion.
16 **COMMISSIONER HOLLOWAY**: Mr. Chairman, I am going to make a
17 motion that we remand this to the ALJ.
18 **CHAIRMAN FIELD**: On the narrow issue of this formula methodology to be
19 utilized.
20 **COMMISSIONER BOISSIERE**: Mr. Chairman, I'd like to substitute a motion.
21 **SECRETARY GONZALEZ**: Wait, I don't think they picked you up,
22 Commissioner Boissiere.
23 **COMMISSIONER BOISSIERE**: Okay.

1 **CHAIRMAN FIELD**: Substitute motion by Commissioner Boissiere.

2 **COMMISSIONER BOISSIERE**: I move that we accept the ALJ's

3 recommendation on the issue.

4 **COMMISSIONER CAMPBELL**: I'll second it.

5 **CHAIRMAN FIELD**: It is been moved and seconded that we accept the ALJ's

6 recommendation. Is there any objection?

7 **COMMISSIONER SKRMETTA**: Yes.

8 **CHAIRMAN FIELD**: I'll call the roll. Commissioner Campbell?

9 **COMMISSIONER CAMPBELL**: Yes.

10 **CHAIRMAN FIELD**: Commissioner Boissiere?

11 **COMMISSIONER BOISSIERE**: Yes.

12 **CHAIRMAN FIELD**: Commissioner Skrmetta?

13 **COMMISSIONER SKRMETTA**: No.

14 **CHAIRMAN FIELD**: Commissioner Holloway?

15 **COMMISSIONER HOLLOWAY**: I'm going to make a vote to remand. So no

16 vote.

17 **CHAIRMAN FIELD**: You vote present?

18 **COMMISSIONER HOLLOWAY**: Yes. I made the motion to remand it.

19 So....

20 **SECRETARY GONZALEZ**: No, you are voting on the motion to accept the

21 ALJ's recommendation.

22 **CHAIRMAN FIELD**: ALJ's recommendation, yes.

23 **COMMISSIONER HOLLOWAY**: I abstain.

1 **SECRETARY GONZALEZ**: You abstain?

2 **CHAIRMAN FIELD**: Commissioner Holloway abstains. And I really would
3 like to remand this but I don't know whether they're going to be able to shed
4 anything on it, so I would like to remand it so I'm going to vote no.

5 **SECRETARY GONZALEZ**: Two to two.

6 **COMMISSIONER CAMPBELL**: Two to two?

7 **COMMISSIONER BOISSIERE**: Yeah, it's two to two.

8 **COMMISSIONER CAMPBELL**: It's a tie.

9 **SECRETARY GONZALEZ**: You have to go back to the original….

10 **COMMISSIONER HOLLOWAY**: I'm going to change my vote since it is a tie,
11 so we will have it clear. And I'm going to vote no.

12 **SECRETARY GONZALEZ**: Okay, so now you have to go back to the original
13 motion and vote on that.

14 **CHAIRMAN FIELD**: To remand.

15 **SECRETARY GONZALEZ**: To remand. Go back to the original motion.

16 **CHAIRMAN FIELD**: Specific issue of the methodology utilized.
17 Commissioner Skrmetta?

18 **COMMISSIONER SKRMETTA**: Yes.

19 **COMMISSIONER BOISSIERE**: Jimmy, you could have been no opposition.

20 **CHAIRMAN FIELD**: Is there any opposition on the motion to remand?
21 Commissioner Skrmetta?

22 **COMMISSIONER SKRMETTA**: No.

23 **CHAIRMAN FIELD**: Commissioner Holloway?

1 **COMMISSIONER HOLLOWAY**: Yes.

2 **CHAIRMAN FIELD**: Chair votes yes. Commissioner Boissiere?

3 **COMMISSIONER BOISSIERE**: I vote yes.

4 **COMMISSIONER CAMPBELL**: This is to remand it?

5 **CHAIRMAN FIELD**: Remand.

6 **COMMISSIONER BOISSIERE**: To the ALJ.

7 **COMMISSIONER CAMPBELL**: No.

8 **CHAIRMAN FIELD**: No, it is two to two.

9 **COMMISSIONER HOLLOWAY**: Three to two.

10 **SECRETARY GONZALEZ**: No, it is three to two.

11 **CHAIRMAN FIELD**: Three to two? Okay. Motion passes to remand it to the

12 ALJ on the specific issue of the methodology.

13 **SECRETARY GONZALEZ**: Okay, so we are clarifying that the motion to

14 remand was voted yes, Commissioner Holloway, yes. Commissioner Campbell?

15 **COMMISSIONER CAMPBELL**: No.

16 **SECRETARY GONZALEZ**: I'm sorry. Yes Commissioner Holloway, yes

17 Commissioner Field, yes Commissioner Boissiere, no Commissioner Campbell

18 and no Commissioner Skrmetta. Okay.

19 **COMMISSIONER BOISSIERE**: Eric, what did you want? Do you want to

20 make a motion?

21 **COMMISSIONER SKRMETTA**: No.

22 **COMMISSIONER BOISSIERE**: Oh okay.

1 **COMMISSIONER SKRMETTA**: The only motion I would make is going to be
2 irrelevant now.
3 **COMMISSIONER BOISSIERE**: I know, it's okay. I was just checking.
4 **COMMISSIONER CAMPBELL**: We going into executive session.
5 **COMMISSIONER BOISSIERE**: Yeah, let's go to our executive session.
6 **SECRETARY GONZALEZ**: You need to move. Wait, we need to move to go
7 --. First read the in re and Commissioner Skrmetta moves to go into executive
8 session.
9 **MR. WEBER**: Exhibit 21 – R-29380 Subdocket B, Louisiana Public Service
10 Commission, ex parte, an investigation into the ratemaking and generation
11 planning implications of US EPA Clear Air Interstate Rule -- possible executive
12 session pursuant to Louisiana Revised Statute 42:17 to discuss litigation strategy.
13 **CHAIRMAN FIELD**: Chair moves we go into executive session.
14 **COMMISSIONER HOLLOWAY**: I second it.
15 **CHAIRMAN FIELD**: Second by Commissioner Holloway. Is there any
16 objection? **(NONE VOICED)** Hearing none, it is so ordered.
17 **[EXECUTIVE SESSION BEGINS]**
18 **[EXECUTIVE SESSION ENDS]**
19 **CHAIRMAN FIELD**: Somebody moves we go back into regular session. Chair
20 seconds it.
21 **COMMISSIONER HOLLOWAY**: I make the motion we adjourn.
22 **COMMISSIONER BOISSIERE**: Thank you.

1 **CHAIRMAN FIELD**: Second by Commissioner Boissiere. Is there any
2 objection? **(NONE VOICED)** Hearing none, meeting adjourned.
3
4 **(WHEREUPON, THE MEETING WAS ADJOURNED)**
5
6
7
8

1 **I certify that the forgoing pages 1 through 129 are true and correct to the**
2 **best of my knowledge of the Open Session of the Business and Executive**
3 **Meeting held on September 7, 2011, in Baton Rouge, Louisiana.**
4
5 _____ **Date: September 13, 2011**
6 **Sandra Burgess, Administrative Assistant**
7
8 _____ **Date: September 13, 2011**
9 **Donna Cuquet, Administrative Assistant 3**
10
11 _____ **Date: September 13, 2011**
12 **Lisa Stevenson, Administrative Assistant 3**
13 ----------
14 **Proofed and finalized by:**
15
16 _____ **Date: September 14, 2011**
17 **Lisa Stevenson, Administrative Assistant 3**
18
19 _____ **Date: September 14, 2011**
20 **Sandra Burgess, Administrative Assistant 3**

2011 AUG 25 PM 2:42
LA PUBLIC SERVICE COMMISSION

BEFORE THE
LOUISIANA PUBLIC SERVICE COMMISSION

CONSOLIDATED DOCKET NO. U-31364

BELLSOUTH TELECOMMUNICATIONS, INC. D/B/A AT&T SOUTHEAST D/B/A AT&T LOUISIANA VS. IMAGE ACCESS, INC. D/B/A NEWPHONE	)	Docket No. U-31256
BELLSOUTH TELECOMMUNICATIONS, INC. D/B/A AT&T SOUTHEAST D/B/A AT&T LOUISIANA VS. BUDGET PREPAY, INC. D/B/A BUDGET PHONE F/K/A BUDGET PHONE, INC.	)	Docket No. U-31257
BELLSOUTH TELECOMMUNICATIONS, INC. D/B/A AT&T SOUTHEAST D/B/A AT&T LOUISIANA VS. BLC MANAGEMENT, LLC D/B/A ANGLES COMMUNICATIONS SOLUTIONS D/B/A MEXICALL COMMUNICATIONS	)	Docket No. U-31258
BELLSOUTH TELECOMMUNICATIONS, INC. D/B/A AT&T SOUTHEAST D/B/A AT&T LOUISIANA VS. dPi TELECONNECT, LLC	)	Docket No. U-31259
BELLSOUTH TELECOMMUNICATIONS, INC. D/B/A AT&T SOUTHEAST D/B/A AT&T LOUISIANA VS. TENNESSEE TELEPHONE SERVICE, INC. D/B/A FREEDOM TELECOMMUNICATIONS USA, LLC	)	Docket No. U-31260

NEWPHONE'S REQUEST FOR ORAL ARGUMENT

Pursuant to Rule 56(9)(a) of the Rules of Practice and Procedure of the Louisiana Public Service Commission ("LPSC" or "Commission"), Image Access, Inc. d/b/a NewPhone ("NewPhone") files this Request for Oral Argument to request the opportunity to present oral argument at the Commission's Open Session at which the Final Recommendation of the Administrative Law Judge ("ALJ") issued in the above-referenced Consolidated Docket will be

considered. NewPhone respectfully the opportunity to present oral argument on this matter for the following non-exclusive list of reasons:

1. The Final Recommendation of the ALJ fails to apply the Commission's avoided cost discount to the "effective retail rate" of telecommunications services offered with "cash-back" promotions by BellSouth Telecommunications, Inc. d/b/a AT&T Louisiana ("AT&T"), and is inconsistent with the LPSC Staff's Recommendation issued in this docket, the FCC's Local Competition Order, the orders and regulations of the Commission, and the Fourth Circuit Court of Appeals decision in *Sanford.*[1]

2. The ALJ's Final Recommendation fails to consider that its proposed method for calculating cash back credits creates a wholesale price which is greater than retail, in contravention of the underlying purpose of the federal Telecommunications Act of 1996 (the "Act").

3. The ALJ erred in determining that AT&T's proposed methodology for calculating the wholesale discount available to resellers is the proper methodology to be applied to AT&T cash-back promotions. As explained by LPSC Staff, the ALJ Final Recommendation fails to first calculate the effective retail rate created by the cash-back offering prior to applying the Commission's wholesale discount, thus placing resellers, such as NewPhone, at a competitive disadvantage to AT&T. This is particularly the case when applied in a negative, or credit scenario, as the AT&T methodology results in a greater credit to AT&T's retail customer than to the reseller.

4. The ALJ's Final Recommendation is devoid of any analysis, reasoning, finding and conclusions which provide support for the proposed recommendations contained therein, as required by Rule 56(a) of the Commission's Rules of Practice and Procedure.

[1] *BellSouth Telecommunications, Inc. v. Sanford*, 494 F.3d 439 (4th Cir. 2007).

WHEREFORE, Image Access, Inc. d/b/a NewPhone respectfully requests the opportunity to present oral argument at the Commission's Open Session at which the ALJ's Final Recommendation will be considered.

Respectfully submitted, this 25th day of August, 2011.

PHELPS DUNBAR LLP

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John O. Shirley (Bar Roll No. 18023)
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COUNSEL FOR IMAGE ACCESS, INC. D/B/A NEWPHONE

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing has this date been served via U.S. Mail, postage prepaid, or electronic mail to all parties listed on the Official Service List.

This 25th day of August, 2011.

Paul F. Guarisco

LOUISIANA PUBLIC SERVICE COMMISSION

ORDER NO. U-31364

BELLSOUTH TELECOMMUNICATIONS, INC. D/B/A AT&T SOUTHEAST D/B/A AT&T LOUISIANA VERSUS IMAGE ACCESS, INC. D/B/A NEW PHONE;

BUDGET PREPAY, INC. D/B/A BUDGET PHONE D/B/A BUDGET PHONE, INC.;

BLC MANAGEMENT, LLC D/B/A ANGLES COMMUNICATIONS SOLUTIONS D/B/A MEXICALL COMMUNICATIONS;

DPI TELECONNECT, LLC;
AND
TENNESSEE TELEPHONE SERVICE, INC. D/B/A FREEDOM COMMUNICATIONS USA, LLC

Docket U-31364 In re: Consolidated Proceeding to Address Certain Issues Common to Dockets U-31256, U-31257, U-31258, U-31259, and U-31260.

(Decided at the Commission's September 7, 2011)

REMAND ORDER

BellSouth Telecommunications, Inc. d/b/a AT&T Louisiana ("AT&T") filed collection actions with the Louisiana Public Service Commission ("LPSC") against Image Access, Inc. d/b/a New Phone, Budget Prepay, Inc. d/b/a Budget Phone d/b/a Budget Phone, Inc., BLC Management, LLC d/b/a/ Angles Communications Solutions d/b/a Mexicall Communications, and dPi Teleconnect, LLC (collectively "Resellers"). On May 19, 2010, the collection dockets were consolidated for the limited purpose of addressing and resolving three issues identified in the joint motion, as well as any other common issues subsequently identified and approved for consolidation. The Parties also requested that all other pending motions in the proceedings be held in abeyance while the common issues were addressed.

The Parties, as outlined in the stipulations submitted at the time of the hearing, request a ruling on three basic issues that are to be decided in this consolidated docket, which are: Cashback Offerings, the Line Connection Charge Waiver ("LCCW") and Referral Marketing ("Word-of-Mouth"). A hearing was held on the consolidated issues on November 4 and 5, 2010. A Proposed Recommendation was issued in this matter on June 22, 2011. The Resellers filed Exceptions to the Proposed Recommendation on July 12, 2011. Staff also filed exceptions on July 12, 2011. While Staff agreed with the proposed recommendation concerning the LCCW and the Word-of Mouth promotion, Staff re-urged that the proper treatment of Cash Back Offerings is that proposed by Staff in its Post-Hearing Brief. AT&T Louisiana filed its Opposition Memorandum to Exceptions of Resellers and Staff on July 25, 2011. AT&T Louisiana supported the Proposed Recommendation, requesting it be issued as the Final

Recommendation. After consideration of those filings, the administrative law judge issued a Final Recommendation on August 18, 2011 adopting AT&T's position on all three issues.

The ALJ's Recommendation was considered by the Commission at its September 7, 2011 Business and Executive Session. Following Oral Argument from Staff, Resellers, and AT&T, Commissioner Holloway made a motion to remand this matter back to the ALJ. Commissioner Boissiere made a substitute motion to accept the ALJ Recommendation, which was seconded by Commissioner Campbell. Commissioners Field, Skrmetta and Holloway objected. Therefore the motion died for a lack of majority. Commissioner Holloway then re-urged his initial motion to remand the matter back to the ALJ for further consideration of the methodology to be applied to cash back promotions, with Commissioners Field, Boissiere and Skrmetta voting yes to remand and Commissioner Campbell voting no.

IT IS THEREFORE ORDERED THAT:

1. This matter shall be remanded to the Administrative Hearings Division for further consideration of the calculation methodology to be applied to cash back promotions.

2. This Order shall be effective immediately.

BY ORDER OF THE COMMISSION
BATON ROUGE, LOUISIANA

September 28, 2011

/S/ JAMES M. FIELD
DISTRICT II
CHAIRMAN JAMES M. FIELD

/S/ CLYDE C. HOLLOWAY
DISTRICT IV
VICE CHAIRMAN CLYDE C. HOLLOWAY

/S/ FOSTER L. CAMPBELL (NO)
DISTRICT V
COMMISSIONER FOSTER L. CAMPBELL

/S/ LAMBERT C. BOISSIERE
DISTRICT III
COMMISSIONER LAMBERT C. BOISSIERE, III

EVE KAHAO GONZALEZ
SECRETARY

/S/ ERIC F. SKRMETTA
DISTRICT I
COMMISSIONER ERIC F. SKRMETTA

STATE OF SOUTH CAROLINA	)	
	)	CERTIFICATE OF SERVICE
COUNTY OF RICHLAND	)	

The undersigned, Nyla M. Laney, hereby certifies that she is employed by the Legal Department for BellSouth Telecommunications, LLC d/b/a AT&T South Carolina ("AT&T") and that she has caused AT&T South Carolina's Letter dated November 8, 2011 in Docket Nos. 2010-14-C, 2010-15-C, 2010-16-C, 2010-17-C, 2010-18-C and 2010-19-C to be served upon the following on November 8, 2011:

John J. Pringle, Jr., Esquire
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