

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Dispute between Dade ) DOCKET NO. 931033-TL  
County Aviation Department and ) ORDER NO. PSC-94-0123-FOF-TL  
BELLSOUTH TELECOMMUNICATIONS, ) ISSUED: February 1, 1994  
INC. d/b/a SOUTHERN BELL )  
TELEPHONE AND TELEGRAPH COMPANY )  
related to telephone serving )  
arrangements at airports in Dade )  
County. )  
\_\_\_\_\_ )

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman  
SUSAN F. CLARK  
JULIA L. JOHNSON  
DIANE K. KIESLING  
LUIS J. LAUREDO

NOTICE OF PROPOSED AGENCY ACTION

ORDER REGARDING ACCESS TO FACILITIES AT AIRPORTS

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding pursuant to Rule 25-22.029, Florida Administrative Code.

I. BACKGROUND

A dispute currently exists between the Dade County Aviation Department (DCAD) and BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company 2 (Southern Bell) over the appropriate telephone serving arrangements at airports operated by Dade County. This dispute has continued over the last several years. The dispute appears to have arisen from the entry of DCAD into the provision of telecommunications service in competition with Southern Bell. At present, Southern Bell and DCAD are cooperating under an interim working agreement. This temporary agreement leaves open the respective liabilities of the parties for the costs of constructing and relocating telephone facilities. The

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parties have agreed that the Commission's decision concerning this matter will be the basis for settlement of each party's financial obligation to the other.

The dispute concerns the location of Southern Bell's network point of demarcation on DCAD airport complexes, the extent to which DCAD must provide cable support structures for Southern Bell to reach its airport tenant customers, whether Southern Bell shall be responsible for the cost of additional support structures, and whether Southern Bell should be required to use DCAD installed cable to provide service at the airport. Also in dispute is whether DCAD should be able to dictate where Southern Bell's demarcation point should be in future installations.

Our Staff, to no avail, has attempted to mediate this dispute during the several years of its existence. Neither party has proposed a settlement agreeable to the other. After attempting mediation, touring each party's airport facilities, observing problem areas at the airport complex, analyzing each party's position, we propose the following resolution of the dispute.

## II. RESOLUTION OF THE DISPUTE

The Commission should order the Dade County Aviation Department to allow Southern Bell to have direct access to its customers at airport complexes. Southern Bell's network demarcation point should be within the premises of its customers. DCAD should ensure that Southern Bell is included in planning for new construction so that Southern Bell may reasonably forecast demand and install its own cable. However, Southern Bell should be ordered to utilize DCAD cable when a cable dedicated to Southern Bell's use is already available, if the cable meets appropriate technical standards and the cost of reasonable compensation to DCAD will not exceed Southern Bell's cost of installing its own cable. Southern Bell should have full access to its own network cable and to any DCAD cable which completes Southern Bell's network connections to its customers.

DCAD is the Dade County governmental entity charged with administration of Dade County Airports. DCAD provides service to more stations than the state's two smallest local exchange companies (LECs) combined. It has a multi-million dollar optical fiber backbone system installed at Miami International Airport which serves over 5,000 end user stations through a Northern Telecom switch. Its annual telecommunications operational budget is \$3,000,000.

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DCAD, as a result of the nature of its involvement in the provision of telecommunications services is providing shared tenant services (STS). Although DCAD is a shared tenant services provider, pursuant to Rule 25-24.580, Florida Administrative Code, it is generally exempt from the restrictions placed on other STS providers. Rule 25-24.580 provides as follows:

Airports shall be exempt from the other STS rules due to the necessity to ensure the safe and efficient transportation of passengers and freight through the airport facility. The airport shall obtain a certificate as a shared tenant service provider before it provides shared local services to facilities such as hotels, shopping malls and industrial parks. However, if the airport partitions its trunks, it shall be exempt from the other STS rules for service provided only to the airport facility.

However, we must also note that Section 364.339(4), Florida Statutes, provides:

The offering of shared tenant service shall not interfere with or preclude a commercial tenant's right to obtain direct access to the lines and services of the serving local exchange telecommunications company or the right of the serving local exchange telecommunications company to serve the commercial tenant directly under the terms and conditions of the commission approved tariffs.

This legislative requirement applies directly to DCAD and its telecommunications operations.

One portion of the dispute concerns the demarcation point. Southern Bell's tariffs include references to the Commission's rule designation of the point at which the LEC networks interface with a customer's inside wiring. This is called the demarcation point. The demarcation point is specified to clearly indicate where the LEC's responsibility ends for providing its tariffed services, including the charges and standards for trouble location, construction, safety, installation, maintenance, repair, rebate and transmission requirements.

The demarcation point is defined in Rule 25-4.0345(1)(b), Florida Administrative Code. The portion of the rule applicable to an airport complex depends on the respective tenant's telephone equipment. Rule 25-4.0345(1)(b) states:

"Demarcation point" is the point of physical interconnection (connecting block, terminal strip, jack, protector, optical network interface, or remote isolation device) between the telephone network and the customers premises wiring. Unless otherwise ordered by the Commission for good cause shown the location of this point is:

for Single Line/Multi customer building -  
Within the customer's premises at a point easily accessed by the customer.

for Multi Line Systems/Single or Multi Customer Building - At a point within the same room and within 25 feet of the FCC registered terminal equipment or cross connect field.

These provisions adequately establish the demarcation point for purposes of resolving this portion of the dispute.

A separate portion of the dispute concerns DCAD's desire to require Southern Bell to use DCAD's cable, or pay the full cost of any support structure construction that is otherwise required to provide access for Southern Bell to its airport customers. We note that there is currently no provision in statute or rule that allows a third party, such as DCAD, to provide and be responsible for any portion of a LEC's network. Likewise, there are no provisions for terminating a LEC's service at the location of a third party to be subsequently extended by that third party through non-network facilities to the LEC's customer. However, there is precedent for the LEC using a building owner's cable to gain access to tenants and to pay compensation to the building owner for use of its cable. Rule 25-24.575(11) provides:

If the LEC uses the STS provider's or the STS building owner's cable to gain access to the tenant, the LEC shall be required to provide reasonable compensation. Such compensation shall not exceed the amount it would have cost the LEC to serve the tenant through installation of its own cable. This cost must be calculated on a pro rata basis.

As part of any such arrangement the LEC is fully responsible for compliance with all applicable standards and has full access to the cable involved.

The scenario implicit in Rule 25-24.575(11) is different from the airport situation in that when building is constructed and

wired, the tenants are not yet identified and facilities requirements to meet demands for LEC service are unknown. However, with airports, LECs already have substantial investments in facilities. LECs also have an obligation to serve their customers.

With respect to the sharing of cable, it appears that there is excessive potential for problems involving shared responsibility for service and maintenance of shared cable. Under these circumstances, for Southern Bell to satisfactorily use DCAD cable, such cable must be fully dedicated to Southern Bell's use.

Accordingly, upon consideration of the foregoing, we find that Southern Bell should be informed of and allowed by DCAD to participate in the airport planning and construction process to ensure Southern Bell has a reasonable opportunity to forecast the need for facilities and to install them in an orderly fashion that is not disruptive to ongoing construction. We also find it appropriate to require DCAD to allow Southern Bell to have direct access to its customers at the airport complex. Southern Bell's network demarcation point shall be at a point consistent with Rule 25-4.0345(1)(b). However, Southern Bell shall utilize DCAD cable when Southern Bell cable is not available, if the DCAD cable is dedicated to Southern Bell's use, meets appropriate technical standards and the cost of reasonable compensation to DCAD will not exceed Southern Bell's cost of installing its own cable. DCAD shall provide Southern Bell full access to its own network cable and to any DCAD cable which completes Southern Bell's network connections to its customers.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company shall be informed of and allowed by the Dade County Aviation Department to participate in the airport planning and construction process as set forth in the body of this Order. It is further

ORDERED that DCAD shall allow Southern Bell to have direct access to its customers at the airport complex as set forth in the body of this Order. It is further

ORDERED that Southern Bell's network demarcation point shall be at a point consistent with Rule 25-4.0345(1)(b). It is further

ORDERED that Southern Bell shall utilize DCAD cable when Southern Bell cable is not available, if the DCAD cable is dedicated to Southern Bell's use, meets appropriate technical

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standards and the cost of reasonable compensation to DCAD will not exceed Southern Bell's cost of installing its own cable. It is further

ORDERED that when Southern Bell utilizes DCAD cable, such cable shall be fully dedicated to Southern Bell's use. It is further

ORDERED that DCAD shall provide Southern Bell full access to its own network cable and to any DCAD cable which completes Southern Bell's network connections to its customers. It is further

ORDERED that if no protest is timely filed according to the requirements set forth below, this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 1st day of February, 1994.

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Director  
Division of Records and Reporting

( S E A L )

TWH

by: Kay Flynn  
Chief, Bureau of Records

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule

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25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on February 22, 1994.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.