## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Mpower
Communications Corp. and Florida
Digital Network, Inc. for
expedited temporary and
permanent relief against
BellSouth Telecommunications,
Inc. for alleged anticompetitive
conduct regarding Florida
Digital Network Inc.'s proposed
acquisition of assets and
customer base of Mpower
Communications Corp.

DOCKET NO. 030301-TP ORDER NO. PSC-03-0767-PCO-TP ISSÜED: June 26, 2003

## ORDER GRANTING INTERVENTION

By Petition, on April 23, 2003, Comcast Phone of Florida, LLC (Comcast) requested permission to intervene in this proceeding. Comcast states that it is a telecommunications company that has been duly certificated by the Commission as an Alternative Local Exchange Company (ALEC) and an Interexchange Company (IXC). such, Comcast is subject to the rules, regulations and orders of the Commission, and such rules, regulations and orders impact Comcast's ability to provide local exchange telecommunications service and intrastate interexchange telecommunications service. Further, Comcast asserts that as an ALEC, it must utilize BellSouth's operation support systems and other related BellSouth systems using various carrier identification information in order to provide local exchange services in Florida. Comcast claims that its substantial interests will be affected by any action the Commission takes in this docket regarding carrier identification information and BellSouth's obligations regarding the same.

On May 7, 2003, BellSouth Telecommunications, Inc. (BellSouth) filed Opposition (or Response) to Comcast's Petition to Intervene. In its Response, BellSouth states that Comcast has not made any attempt to demonstrate how its substantial interests will be affected by this proceeding. BellSouth asserts that the complaint filed by Florida Digital Network Inc. (FDN), in this docket addresses a very specific situation involving the acquisition by

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FDN of select assets belonging to Mpower and what the appropriate process and charges should be for transferring assets.

Subsequently, on May 14, 2003, Comcast filed a Response to BellSouth's Opposition to Comcast's Petition to Intervene. In its Response, Comcast states that BellSouth's reference in its Response to "industry standards" and the "Telecordia White Paper" regarding carrier codes demonstrates BellSouth's attempt to sweep "industry standards" into this proceeding. Comcast notes that there is a current dispute between BellSouth and Comcast and AT&T which involves BellSouth's obligations to process various Comcast and AT&T orders in Florida and Georgia (and related Access Customer Name Abbreviation (ACNAs)). Comcast explains this proceeding should resolve Mpower's ordering and provisioning dispute based on the specific facts that exist between Mpower and BellSouth. Further, Comcast indicates that if no "industry wide" impact will be established, there would be no need for the Commission to grant Comcast's Petition to Intervene. Therefore, Comcast requests its Petition to Intervene be granted, or in the alternative, the Commission issue an order that this proceeding will have no "industry wide" or other precedential impact upon Comcast.

Pursuant to Rule 25-22.039, Florida Administrative Code, persons seeking to intervene in a Commission proceeding must demonstrate that they are entitled to participate because they have a substantial interest that may be adversely affected by the outcome of the proceeding. This rule also requires that allegations be sufficient to show that the intervener is entitled to participate in the proceeding as a matter of constitutional or statutory right or pursuant to a Commission rule, or that substantial interests of the intervener are subject to determination or will be affected through the proceeding.

Having reviewed the Petition, it appears that Comcast's substantial interests may be affected by this proceeding because it is a telecommunications provider in Florida. In addition, the issues regarding ACNA codes that have been identified for this proceeding will potentially have an impact on Comcast as well. Therefore, the Petition shall be granted. Pursuant to Rule 25-22.039, Florida Administrative Code, Comcast Phone of Florida, LLC takes the case as it finds it.

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Therefore, it is

ORDERED by the Florida Public Service Commission that the Petition for Leave to Intervene filed by Comcast Phone of Florida, LLC, be and the same is hereby granted. It is further

ORDERED that all parties to this proceeding shall furnish copies of all testimony, exhibits, pleadings and other documents which may hereinafter be filed in this proceeding, to:

Loretta A. Cecil, Esq.
Womble, Carlyle, Sandridge & Rice, PLLC
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Atlanta, Georgia 30309
(404) 888-7437
E-mail: lcecil@wcsr.com

By ORDER of Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, this <u>26th</u> Day of <u>June</u>, <u>2003</u>.

RUDOLPH "RUDY" BRADLEY

Commissioner and Prehearing Officer

(SEAL)

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## NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.