

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation to determine whether BellSouth Telecommunications, Inc.'s tariff filing to restructure its late payment charge is in violation of Section 364.051, F.S.

DOCKET NO. 000733-TL
ORDER NO. PSC-01-0663-PCO-TL
ISSUED: March 16, 2001

ORDER GRANTING MOTION FOR TEMPORARY PROTECTIVE ORDER

On June 19, 2000, this docket was established to investigate whether BellSouth Telecommunications, Inc.'s (BellSouth) tariff filing to restructure its late payment charge is in violation of Section 364.051, Florida Statutes. By proposed agency action Order No. PSC-00-1357-PAA-TL, issued July 27, 2000, the Commission found BellSouth's July 9, 1999, tariff filings revising its Late Payment Charge in Section A2 of its General Subscriber Service Tariff and Section B2 of its Private Line Services Tariff in violation of Section 364.051(6)(a), Florida Statutes. The Commission also ordered that the tariffs remain in effect for 30 days from the issuance of the Order. If a timely protest of this Order was filed, then the tariffs were to remain in effect pending the outcome of a hearing with any revenues resulting from the tariff held subject to refund.

On August 17, 2000, BellSouth timely petitioned for a formal hearing. By Order No. PSC-00-2458-PSC-TL, issued December 20, 2000, the Office of Public Counsel's (OPC or Citizens) Notice of Intervention was acknowledged. By Order No. PSC-00-2279-PCO-TL, a hearing was set for April 18, 2001. On December 11, 2000, BellSouth and the OPC filed a Joint Motion to Amend Procedural Schedule, wherein the parties asked that the procedural order be amended to reflect that the case would proceed pursuant to Section 120.57(2), Florida Statutes, and that a briefing schedule was appropriate. By Order No. PSC-01-0228-PCO-TL, issued January 23, 2001, the Joint Motion was granted, and the procedure and schedule for filing briefs on the issues was established.

On January 26, 2001, BellSouth filed its Objections to the Citizens' First Request for Production of Documents. Along with its Objections, BellSouth filed a Motion for Protective Order. OPC did not respond to the Motion.

DOCUMENT NUMBER-DATE

03383 MAR 16 2001

FPSC-RECORDS/REPORTING

In its Motion for Protective Order, BellSouth asserts that some of the documents to be provided to the OPC for review pursuant to its discovery requests contain proprietary, confidential business information that should not be disclosed to the public. BellSouth explains that the documents at issue contain, among other things, confidential cost information. BellSouth emphasizes that such information is specifically included as proprietary, confidential business information under Section 364.183(3)(f), Florida Statutes. Therefore, BellSouth asks that a temporary protective order be issued exempting the documents provided to the OPC from Section 119.07, Florida Statutes. BellSouth adds that should any of this information be used by the OPC in the proceeding before the Commission, BellSouth will file a subsequent request for confidential treatment in accordance with Rule 25-22.006, Florida Administrative Code.

Upon preliminary review, it appears that BellSouth's responses to the Citizens' First Request for Production of Documents will contain information that should be protected in accordance with Section 364.183, Florida Statutes. Therefore, in accordance with Rule 25-22.006(6)(c), Florida Administrative Code, I hereby issue a temporary protective order exempting from Section 119.07(1), Florida Statutes, BellSouth's responses to Citizens' First Request for Production of Documents for the duration of this proceeding. While this information is protected by this Order, only Commission staff, BellSouth, and the OPC shall have access to the information.

Based upon the foregoing, it is therefore,

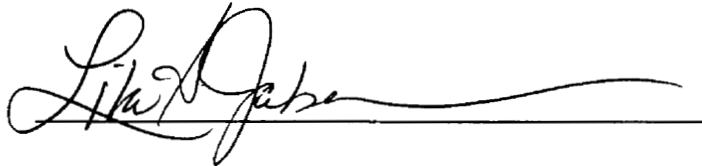
ORDERED by Commissioner Lila A. Jaber, as Prehearing Officer, that BellSouth Telecommunications, Inc.'s Motion for Temporary Protective Order is granted. It is further

ORDERED that BellSouth Telecommunications, Inc.'s responses to the Citizens' First Request for Production of Documents in this Docket are protected as set forth in the body of this Order. It is further

ORDERED that the provisions of this Temporary Protective Order shall govern the conduct of this proceeding unless otherwise modified by the Prehearing Officer or the Commission.

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By ORDER of Commissioner Lila A. Jaber as Prehearing Officer,
this 16th Day of March, 2001.

A handwritten signature in black ink, appearing to read "Lila A. Jaber", is written over a horizontal line. The signature is fluid and cursive.

LILA A. JABER
Commissioner and Prehearing Officer

(S E A L)

BK

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, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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

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Records and Reporting, 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.