

State of Florida



Public Service Commission
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TALLAHASSEE, FLORIDA 32399-0850

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DATE: JANUARY 9, 2003

TO: DIRECTOR, DIVISION OF THE COMMISSION CLERK & ADMINISTRATIVE SERVICES (BAYÓ)

FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (PRUITT) *Y*
 DIVISION OF ECONOMIC REGULATION (LESTER) *PL*
 OFFICE OF THE GENERAL COUNSEL (CHRISTENSEN) *and bk JDJ*

RE: DOCKET NO. 021198-TI - PETITION FOR WAIVER OF BOND REQUIREMENT IN RULE 25-24.490(2), F.A.C., BY BELLSOUTH LONG DISTANCE, INC.

AGENDA: 01/21/03 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\021198.RCM

CASE BACKGROUND

On December 2, 2002, this Commission received a petition seeking a waiver of the bond requirements of Rule 25-24.490(2), Florida Administrative Code, from BellSouth Long Distance, Inc. The basis for seeking a waiver is set forth in the rule itself. The rule requires that a company maintain on file with the Commission a bond covering its current balance of deposits and advanced payments from its customers. In the alternative, the Commission may waive the bond requirement if the company demonstrates that it possesses the financial resources and income to provide assurance of continued operation under its certificate over the long run.

The Commission has addressed several bond waiver petitions in the past, and has approved or denied them based on the financial

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data provided by the petitioning interexchange telecommunications company (IXC).

There are no outstanding Regulatory Assessment Fees owed by BellSouth Long Distance, Inc. The Commission is vested with jurisdiction in this matter pursuant to Section 364.337, Florida Statutes.

DISCUSSION OF ISSUES

ISSUE 1: Should BellSouth Long Distance, Inc. (BSLD) be relieved of the bond requirements of Rule 25-24.490(2), Florida Administrative Code, as provided for in the rule?

RECOMMENDATION: Yes. The company should be relieved of the bond requirements of Rule 25-24.490(2), Florida Administrative Code, as provided in the rule. (Pruitt/Lester)

STAFF ANALYSIS: Rule 25-24.490(2), Florida Administrative Code, provides two alternatives for the protection of the consumers. The first alternative is a bond, and the second alternative, to be approved by the Commission, is a showing of fiscal responsibility. BSLD is requesting in this petition that the Commission approve the second alternative for them.

Rule 25-24.490(2), Florida Administrative Code, states as follows:

An IXC may require a deposit as a condition of service and may collect advanced payments for more than one month of service if it maintains on file with the Commission a bond covering its current balance of deposits and advanced payments (for more than one month's service). A company may apply to the Commission for a waiver of the bond requirement by demonstrating that it possesses the financial resources and income to provide assurance of continued operation under its certificate over the long term.

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In its petition, BellSouth Long Distance, Inc. stated that it was a wholly-owned subsidiary of BellSouth Corporation (BellSouth) and included the most recent Securities and Exchange Commission Form 10-K for its parent company and audited financial statements.

Staff's analysis of the financial statements indicates that BellSouth has adequate liquidity, ownership equity, interest coverage, and profitability. Staff believes BSLD has the financial means to guarantee the security of its customers' deposits. Accordingly, staff recommends that the bond requirement in Rule 25-24.490(2), Florida Administrative Code, be waived.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order. (Christensen)

STAFF ANALYSIS: At the conclusion of the protest period, if no protest is filed, this docket should be closed upon the issuance of a consummating order.