

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-03-0766-PCO-TP
ISSUED: June 26, 2003

ORDER GRANTING INTERVENTION

By Petition, on April 29, 2003, AT&T Communications of the Southern States, LLC and TCG South Florida, Inc. (collectively "AT&T") requested permission to intervene in this proceeding. AT&T states that it is a telecommunications company that has been duly certificated by the Commission as an Alternative Local Exchange Company (ALEC). As such, AT&T is subject to the rules, regulations and orders of the Commission, and such rules, regulations and orders impact AT&T's ability to provide local exchange telecommunications service and intrastate interexchange telecommunications service. Further, AT&T asserts that as an ALEC, it must utilize the operation support systems and other facilities of incumbent local exchange companies in order to provide local exchange service. AT&T claims that its substantial interests will be affected by any action the Commission takes in this docket.

On May 7, 2003, BellSouth Telecommunications, Inc. (BellSouth) filed Opposition (or Response) to AT&T's Petition to Intervene. In its Response, BellSouth states that AT&T 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 FDN of select assets belonging to Mpower and what the appropriate process and charges should be for transferring assets.

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Subsequently, on May 14, 2003, AT&T filed a Response to BellSouth's Opposition to AT&T's Petition to Intervene. In its Response, AT&T states FDN's complaint in this docket reveals that BellSouth is requiring that FDN use only FDN's Access Customer Name Abbreviation (ACNA) code for the customer base that it acquires from Mpower. AT&T asserts that BellSouth intends to charge \$35-40 per UNE and impose other onerous conditions for the coding changes on the UNEs that are being transferred from Mpower to FDN. AT&T contends that it may be impacted by this proceeding because of the potential impact this docket may have on similar issues concerning the use of ACNA codes. AT&T explains that it has a current dispute with BellSouth that involves ACNA codes and related ordering and provisioning issues, which will be addressed in this proceeding. AT&T's main concern is that this docket may have broad application on issues involving ACNA codes. However, AT&T indicates that if this docket does not have broad application to the conditions and use of ACNA codes, then AT&T will withdraw its petition for intervention.

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 AT&T'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 AT&T as well. Therefore, the Petition shall be granted. Pursuant to Rule 25-22.039, Florida Administrative Code, AT&T Communications of the Southern States, LLC and TCG South Florida, Inc. takes the case as it finds it.

Therefore, it is

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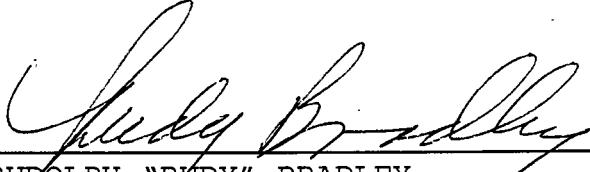
ORDERED by the Florida Public Service Commission that the Petition for Leave to Intervene filed by AT&T Communications of the Southern States, LLC and TCG South Florida, Inc., be and the same is hereby granted. It is further

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:

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



RUDOLPH "RUDY" BRADLEY
Commissioner and Prehearing Officer

(S E A L)

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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.