

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition for approval to revise customer contact protocol by BellSouth Telecommunications, Inc. | DOCKET NO. 031038-TL
ORDER NO. PSC-04-0115-PAA-TL
ISSUED: January 30, 2004

The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ, Chairman
J. TERRY DEASON
LILA A. JABER
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

NOTICE OF PROPOSED AGENCY ACTION ORDER
APPROVING BELL SOUTH TELECOMMUNICATIONS, INC.,
REVISED CUSTOMER CONTACT PROTOCOL

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. CASE BACKGROUND

On November 7, 2003, BellSouth Telecommunications, Inc. (BellSouth), a local exchange company (ILEC), filed a petition with this Commission seeking relief from our required intraLATA toll customer contact protocols. Specifically, BellSouth is requesting it be allowed to recommend its intraLATA toll service to new customers. On November 13, 2003, the company filed a letter correcting a typographical error in the petition.

In Order No. PSC-95-0203-FOF-TP, issued on February 13, 1995, in Docket No. 930330-TP, this Commission found that intraLATA presubscription was in the public interest and was an important step toward full competition. As stated on page 22 of that Order, we concluded that dialing parity with interLATA calls would give carriers an incentive to provide new and innovative services.

DOCUMENT NUMBER-DATE

01397 JAN 30 5

FPSC-COMMISSION CLERK

BellSouth and the other three large local exchange carriers were required to complete the implementation of intraLATA presubscription in their respective service areas by December 31, 1997.

On December 23, 1996, in Docket No. 960658-TP, in Order No. PSC-96-1569-FOF-TP, this Commission required BellSouth to adopt a carrier-neutral business practice for communicating information to new customers regarding choices of available intraLATA carriers. The company was ordered to (1) advise new customers that they now had an option of selecting a long distance carrier for their local toll calls, (2) offer to read the list of available carriers, (3) read the list if requested, and (4) if the customer did not pick a carrier, repeat the process and inform the customer that dialing an access code would be required on all intraLATA calls until a presubscribed carrier was chosen. BellSouth was prohibited from marketing its own intraLATA service unless the customer introduced the subject.

In addition to requiring these customer contact protocols, we prohibited BellSouth from initiating marketing efforts designed to retain customers who decided to switch their intraLATA toll service from BellSouth to another carrier for a period of 18 months.

On May 22, 1998, in Docket No. 970526-TP, this Commission issued Order No. PSC-98-0710-FOF-TP which reaffirmed our prior ruling on customer contact protocols and found that the other ILECs would be required to use the same neutral customer contact protocols as BellSouth. We also allowed Sprint to use the phrase "in addition to us" when notifying customers of the availability of multiple intraLATA toll carriers.

On October 28, 1998, in Docket No. 971399-TP, we issued Order No. PSC-98-1469-FOF-TP in which this Commission found that because of interexchange company (IXC) marketing efforts, customers had become sufficiently informed to make educated choices despite any inherent advantage BellSouth had due to its gatekeeper status, being the first entity most consumers approach for phone service by virtue of it being an ILEC. We granted BellSouth limited relief from the customer contact protocols by revising the first step in the protocol. BellSouth was now allowed to advise customers that due to the newly competitive environment, customers had the option of selecting a carrier for their local toll calls "in addition to us." (Emphasis supplied)

In this instant petition, BellSouth now seeks the same relief that we granted Verizon Florida Inc. in Order No. PSC-02-0362-PAA-TL, Docket No. 011497-TL. BellSouth seeks permission to recommend its intraLATA toll service on new customer contacts after informing customers that they have a choice of toll providers and offering to read a list of available toll providers.

We are vested with jurisdiction in this matter pursuant to Section 364.01, Florida Statutes.

II. DISCUSSION OF ISSUES

This Commission permits BellSouth to recommend its own intraLATA toll service on new customer contacts after it informs customers that they have a choice of local toll providers, and offers to read a list of all available intraLATA toll providers. The purpose of the customer contact protocols was to allow the IXCs to gain market share and to increase customer awareness about competitive intraLATA toll services. According to BellSouth's petition, on all new service orders initiated in August and September 2003, only 18% chose BellSouth for intraLATA service.

The FCC has allowed an ILEC "to recommend its own long distance affiliate, as long as it contemporaneously states that other carriers also provide long distance service and offers to read a list of all available interexchange carriers in random order."¹ BellSouth states that this is the approach it follows for communicating interLATA choices to new customers, and for communicating intraLATA choices in other states. The company further contends that the current customer contact restriction puts BellSouth at a competitive disadvantage, especially with large IXCs like AT&T and MCI which can freely market their services.

Since calls from Florida residential consumers to BellSouth are answered by service representatives located in any of the nine states in which BellSouth operates, the company states it must train these representatives to use a script for new Florida customers for intraLATA service. The Florida script is different than that used for intraLATA service in other states, and is different from that used for interLATA service.

BellSouth is seeking the identical relief granted by this Commission to Verizon Florida Inc. by Order No. PSC-02-0362-PAA-TL, issued March 19, 2002, in Docket No. 011497-TL. In that Order, on page 8, we stated, "The increase in competition leads to our finding that our goals behind the customer contact protocols, to ensure that competition for intraLATA toll service developed and that customers are educated about intraLATA competition, have been met."

BellSouth maintains, this Commission agrees, that the information provided in BellSouth's petition shows that the objectives underlying the customer contact restrictions, assuring customer awareness of their intraLATA choices and allowing the IXCs to establish themselves in the intraLATA market, have been met.

Safeguards will remain in place to ensure consumer awareness of intraLATA toll competition remains high. Company representatives will still be required to inform customers

¹*Application of BellSouth Corp., et al. Pursuant to Section 271 of the Communications Act of 1934, as amended, to Provide In-Region, InterLATA Services in South Carolina*, Memorandum Op. & Order, FCC 97-418, at para. 237, issued December 24, 1997.

ORDER NO. PSC-04-0115-PAA-TL
DOCKET NO. 031038-TL
PAGE 4

that they are free to select the intraLATA toll carrier of their choosing, and BellSouth representatives must still offer to read a list of available intraLATA toll carriers to the customer before recommending BellSouth's own intraLATA toll service. As such, we find BellSouth's petition seeking relief from this Commission's intraLATA toll customer contact protocols be granted.

Based upon the foregoing, it is

ORDERED by the Florida Public Service Commission that BellSouth Telecommunications, Inc.'s petition seeking relief from this Commission's intraLATA toll customer contact protocols is granted. It is further

ORDERED by this Commission that safeguards will remain in place to ensure consumer awareness. BellSouth Telecommunications, Inc.'s representatives are therefore still required to inform customers that they are free to select the intraLATA toll carrier of their choosing. BellSouth Telecommunications, Inc. fulfill this requirement by making its representatives read a list of available intraLATA toll carriers to the customers before recommending its own intraLATA toll service. It is further

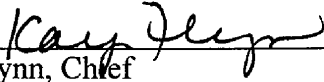
ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 30th day of January, 2004.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By:



Kay Flynn, Chief
Bureau of Records

(SEAL)

JLS

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 that is available under Section 120.57, 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 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.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on February 20, 2004.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

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