

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Joint petition by ITC^DeltaCom Communications, Inc. d/b/a ITC^DeltaCom d/b/a Grapevine; Birch Telecom of the South, Inc. d/b/a Birch Telecom and d/b/a Birch; DIECA Communications, Inc. d/b/a Covad Communications Company; Florida Digital Network, Inc.; LecStar Telecom, Inc.; MCI Communications, Inc.; and Network Telephone Corporation ("Joint CLECs") for generic proceeding to set rates, terms, and conditions for hot cuts and batch hot cuts for UNE-P to UNE-L conversions and for retail to UNE-L conversions in BellSouth Telecommunications, Inc. service area.

DOCKET NO. 041338-TP

In re: Complaint of Supra Telecommunications and Information Systems, Inc. against BellSouth Telecommunications, Inc.

DOCKET NO. 040301-TP
ORDER NO. PSC-05-0834-PCO-TP
ISSUED: August 18, 2005

ORDER FURTHER MODIFYING ORDER
ESTABLISHING PROCEDURE

On June 23, 2004, Supra Telecommunications and Information Systems, Inc. (Supra) filed its Amended Petition for Arbitration with BellSouth Telecommunications, Inc. (BellSouth). BellSouth filed its Answer and Response on July 21, 2004.

On November 29, 2004, BellSouth filed an Emergency Motion for Continuance of the hearing in Docket No. 040301-TP. In addition to asking the Commission for a continuance, BellSouth also requested that this docket be consolidated with Docket No. 041338-TP. BellSouth's Motion was granted in part, as to the request for continuance, by Order No. PSC-04-11-PCO-TP, issued on November 30, 2004.

On February 8, 2005, Order No. PSC-04-0157-PCO-TP was issued consolidating Docket Nos. 041338-TP and 040301-TP for purposes of hearing. On April 29, 2005, the Order Establishing Procedure was issued setting forth the procedural schedule and issues in this case. Among other things, this order provided that the issues would be addressed in two phases. Phase I issues are scheduled to be addressed in the hearing. Parties agreed to seek informal resolution of the issues in Phase II (line sharing and line splitting issues) and were granted 60 days, or until June 20, 2005, to resolve issues in Phase II.

DOCUMENT NUMBER-DATE

08015 AUG 18 05

FPSC-COMMISSION CLERK

On May 26, 2005, Dieca Communications, Inc. d/b/a Covad Communications Company and BellSouth Telecommunications Inc. filed a Joint Motion to Move Issue No. 17 from Phase I to Phase II of this proceeding. Subsequently, on June 20, 2005, Covad and BellSouth filed a letter requesting additional time to attempt to resolve issues in Phase II. By Order No. PSC-05-0746-PCO-TP, issued July 13, 2005, the parties' requests to move Issue No. 17 from Phase I to Phase II and for additional time to work on resolving issues in Phase II were granted.

On July 20, 2005, BellSouth, FDN and Supra filed a Joint Motion to Modify Order Establishing Procedure (Joint Motion). In their Joint Motion, the parties state that during the last month, the parties have been, and continue to be engaged in settlement negotiations that encompass nearly all of the pending issues in this proceeding. The parties assert that a short extension to the current procedural schedule will allow them time to conclude these settlement discussions, which, if successful, should shorten the amount of time needed for the hearing in this proceeding.

Having fully considered the rationale put forth, and noting that the Joint Motion was unopposed by our staff and other parties, the Joint Motion, filed on July 20, 2005, was granted and the parties were notified via e-mail that the Motion was granted. The procedural schedule was modified as follows:

| | |
|-------------------------------------------------------------|--------------------|
| Direct testimony (including exhibits and cost studies)(All) | August 2, 2005 |
| Rebuttal testimony and exhibits (All) | September 1, 2005 |
| Surrebuttal testimony | September 15, 2005 |
| Prehearing Statements | September 15, 2005 |

However, on August 1, 2005, BellSouth and FDN filed a Second Joint Motion to Modify Order Establishing Procedure (Second Joint Motion). As stated in their previous motion, the parties indicate that settlement negotiations are ongoing. Consequently, they request that the entire current schedule be modified again, that each procedural event indicated above be extended sixteen (16) additional days and that the hearing be rescheduled for the end of October 2005.

I note that BellSouth and FDN contacted all parties and indicated by e-mail that there is no general objection to their Second Joint Motion. However, Supra indicated that it has no objection to the Second Joint Motion provided the hearing takes place by mid-November. Having considered the Second Joint Motion, it appears appropriate to modify the schedule again. However, due to the time constraints placed on the Commission staff and the parties in this proceeding, only the direct testimony, rebuttal dates and prehearing conference dates will be changed. All other controlling dates, including the hearing dates, previously established will remain the same. Therefore, the direct testimony shall be filed on August 18, 2005, and the rebuttal testimony shall be filed on September 8, 2005.

Also, all discovery shall be completed and received by October 3, 2005. All responses to discovery shall be made within ten (10) days of service and requests for clarifications shall be made within 3 days of service. The hearing dates, October 11-13, 2005, will remain unchanged. However, the prehearing conference will be changed to October 5, 2005. Further, the Order Establishing Procedure, Order No. PSC-05-0433-PCO-TP, as amended by PSC-05-0433A-PCO-TP and PSC-05-0746-PCO-TP is affirmed in all other respects.


Based on the foregoing, it is

ORDERED by Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer that the Joint Motion to Modify Order Establishing Procedure filed by Florida Digital Networks Inc., d/b/a FDN Communications, Supra Information and Telecommunications Systems, Inc. and BellSouth Telecommunications, Inc. is granted. It is further

ORDERED that the Second Joint Motion to Modify Order Establishing Procedure, filed on August 1, 2005, by BellSouth Telecommunications, Inc. and Florida Digital Networks Inc., d/b/a FDN Communications, is granted, in part, as set forth in the body of this Order. It is further

ORDERED that the Order Establishing Procedure, Order No. PSC-05-0433-PCO-TP, as amended by PSC-05-0433A-PCO-TP, and PSC-05-0746-PCO-TP, is reaffirmed in all other respects.

By ORDER of Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, this
18th day of August, 2005.


RUDOLPH "RUDY" BRADLEY
Commissioner and Prehearing Officer

(SEAL)

FRB

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.