

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition and complaint) DOCKET NO. 951069-TL
of Harris Corporation against) ORDER NO. PSC-96-0984-PCO-TL
BellSouth Telecommunications,) ISSUED: August 1, 1996
Inc. concerning complex inside)
wiring.)
_____)

ORDER CANCELLING AUGUST 2, 1996, HEARING AND GRANTING
MOTION FOR INFORMAL PROCEEDING PURSUANT TO
SECTION 120.57(2), FLORIDA STATUTES

On August 1, 1996, Harris Corporation (Harris) and BellSouth Telecommunications, Inc., (BellSouth) filed a Joint Motion to Accept Stipulation of Facts and for Informal Hearing Pursuant to Section 120.57(2), Florida Statutes. See Attachment A. The parties state that the stipulation of all material facts obviates the need for the scheduled 120.57(1), Florida Statutes, formal hearing. The parties request the following briefing schedule: initial briefs due August 30, 1996; and reply briefs due September 9, 1996. Further the parties request acceptance of the stipulation of facts.

Based on the fact that the parties have reached agreement on the material facts, and with approval of the Chairman, it is appropriate to cancel the hearing scheduled for August 2, 1996, and approve the briefing schedule requested.

Accordingly, the parties shall file briefs of no more than sixty (60) pages by August 30, 1996 and reply briefs of no more than thirty (30) pages shall be filed on September 9, 1996. The arguments in the briefs shall be limited to following issues:

1. What is the proper legal characterization of the facilities in question?
2. Does/has BST's treatment of these facilities violate(d) any FCC and/or FPSC rules or orders or any federal or Florida statutes?
3. Is the Petitioner entitled to relief? If so, what relief should be granted to the Petitioner?

DOCUMENT NUMBER-DATE

08085 AUG-1 8

FPSC-RECORDS/REPORTING

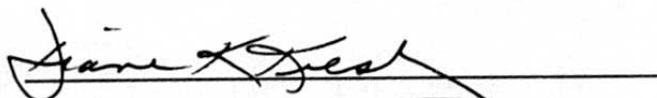
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It is, therefore,

ORDERED by Commissioner Diane K. Kiesling, as Prehearing Officer, that the Joint Motion to Accept Stipulation of Facts and for Informal Hearing Pursuant to Section 120.57(2), Florida Statutes is granted to the extent set forth in the body of this Order. It is further

ORDERED that the hearing scheduled for August 2, 1996 is cancelled.

By ORDER of Commissioner Diane K. Kiesling, as Prehearing Officer, this 1st day of August, 1996.



DIANE K. KIESLING, Commissioner
and Prehearing Officer

(S E A L)

MMB

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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.

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)

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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 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.

ATTACHMENT A

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition and Complaint)
of Harris Corporation Against) Docket No. 951069-TL
BellSouth Telecommunications, Inc.) Filed July 31, 1996
Concerning Complex Inside Wiring)

JOINT MOTION TO ACCEPT STIPULATION
OF FACTS AND FOR INFORMAL HEARING
PURSUANT TO SECTION 120.57(2) FLA. STAT.


The Complainant, Harris Corporation ("Harris"), and the Respondent, BellSouth Telecommunications, Inc. ("BST"), respectfully move that the Commission: 1) accept the attached Stipulation of Facts ("Stipulation") between the parties; 2) substitute said Stipulation in lieu of the factual record to be determined in the hearing currently scheduled for this matter on August 2, 1996; 3) treat the previously pre-filed testimony of the parties as withdrawn; and 4) modify the briefing schedule as set forth herein. As grounds for this motion, the parties show the following:


1. Harris and BST have agreed to the attached Stipulation as the factual record for this proceeding and desire to proceed under the informal procedures of Section 120.57(2) Fla. Stat. This section governs administrative proceedings where no material issue of fact is in dispute.

2. The parties submit that the Commission may fairly render its decision on the stipulated facts, and that both the pre-filed testimony and the hearing currently scheduled for August 2, 1996 are no longer necessary.

3. The current briefing schedule contemplates the filing of initial briefs on August 30, 1996, and reply briefs on September 5, 1996. The parties respectfully request that the date for the reply briefs be moved to September 9, 1996. This request is occasioned by the fact the Labor Day holiday falls within the already short reply brief cycle, and a delay of one business day, *i.e.*, until September 9, 1996, should not unduly delay the Commission's processes in this matter.

WHEREFORE, the undersigned parties respectfully request the Commission to accept the attached stipulation as the factual record in this proceeding in lieu of the currently scheduled hearing; to treat as withdrawn all pre-filed testimony in the matter; to proceed under Section 120.57(2) *P.A. STAT.* including the filing of briefs; and to modify the reply brief due date from September 6, 1996 to September 9, 1996.
Respectfully submitted,

by 
Eric R. Sims
BellSouth Telecommunications,
Inc.
150 South Monroe Street
Room 400
Tallahassee, FL 32301

by 
Kenneth A. Hoffman
Bryan J. Dickens, Jr.
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Kenneth A. Hoffman
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Attorneys for Harris
Corporation

PROPOSED STIPULATION OF FACTS

1. The "Harris Semiconductor Complex" is a campus consisting of approximately 13 buildings, located at 2401 Palm Bay Road, Palm Bay, Florida.
2. The facilities at issue are located on the Harris Semiconductor Complex, and were originally installed by BellSouth.
3. The demarcation point is in Building 53. All of the wiring at issue is on Harris' side of the demarcation point. At least some of the network terminating devices on the facilities at issue were installed in Building 53 during or after 1988.
4. The facilities at issue connect the PBX in Building 53 to telephone closets in Buildings 51, 54, 58, 58A, 59, 60, 61, 62 and 63. All facilities runs directly from Building 53 to telephone closets in those other buildings, except that the wiring for Building 61 runs from Building 53 into Building 60 and then back out of Building 60 to Building 61. Harris-owned, Harris-installed inside wiring connects the telephone closets to customer premises equipment (CPE) in the corresponding buildings.
5. None of the facilities at issue cross a public road. All of the facilities at issue run between the buildings identified above in Stipulation No. 4, and all are underground (except at the point of connection to the above-referenced buildings).
6. The facilities were installed at the time that the respective building in which each terminates was constructed. The first building was built and occupied in 1969. The last building was occupied in 1984.
7. BellSouth has recorded and continues to record the facilities at issue in Account 242.
8. BellSouth has charged for the facilities at issue as Series 2000 Channels (with USOC 1LVDE), pursuant to Section A113 of its Florida General Subscriber Services Tariff.
9. BellSouth states that these charges include private line service.
10. BellSouth has charged, and Harris has paid, \$172,080.14 (not including taxes) for the facilities from January 1, 1989 to January 1996.
11. Harris has continued to pay for the facilities at issue at the rate of approximately \$2,000 per month since then; these payments are not included in the \$172,080.14 total given above.

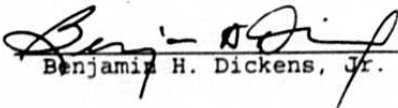
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Joint Motion To Accept Stipulation Of Facts and For Informal Hearing Pursuant To Section 120.57(2) Fla. Stat. has been sent by Federal Express on this 31st day of July, 1996 to the following party of record:

Monica Barone, Esq.
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Room 370
Gerald L. Gunter Building
Tallahassee, FL 32399-0850

By:


Benjamin H. Dickens, Jr.