

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Consideration of ) DOCKET NO. 960786-TL  
BellSouth Telecommunications, ) ORDER NO. PSC-96-1276-PCO-TL  
Inc.'s entry into InterLATA ) ISSUED: October 11, 1996  
services pursuant to Section 271 )  
of the Federal )  
Telecommunications Act of 1996. )  

---

ORDER DENYING THE FLORIDA INTEREXCHANGE  
CARRIER'S ASSOCIATION'S MOTION TO COMPEL

On August 5, 1996, BellSouth Telecommunications, Inc. (BellSouth) filed its objections to the Florida Interexchange Carrier Association's (FIXCA) Second Set of Interrogatories. FIXCA made an oral Motion to Compel answers to these interrogatories on August 7, 1996. By Order PSC-96-1041-FOF-TL, FIXCA's Motion to Compel was granted with respect to interrogatories 34(a) and (b), and 40 through 43. August 27, 1996, BellSouth filed its objections to FIXCA's Fourth Set of Interrogatories. On October 2, 1996, FIXCA made an oral Motion to Compel answers to its Second Set of Interrogatories, items 40 through 43 and its Fourth Set of Interrogatories during the weekly status conference call in this docket. Upon hearing the arguments of the parties my findings are set forth below.

I. SECOND SET OF INTERROGATORIES

A. Interrogatories 40, 41, 42, and 43

Interrogatory 40 requests information from BellSouth regarding the extent to which BellSouth plans to use its own network to provide interLATA toll service, if and when it obtains the requisite authority to do so. Further, Interrogatory 40 asks BellSouth for a description of its network components, or, alternatively, for a description of the actions taken and the actions that must be undertaken, including a time frame for completion and readiness, to implement BellSouth's interLATA network if not presently in place.

Interrogatory 41 requests information from BellSouth regarding the extent to which BellSouth plans to use its own billing system for interLATA toll service, if and when it obtains the requisite authority to do so. Further, Interrogatory 41 asks BellSouth if this system is presently in place, or, alternatively, for a description of the actions taken and the actions that must be undertaken, including a time frame for completion and readiness, to

DOCUMENT NUMBER-DATE

10914 OCT 11 96

FPSC-RECORDS/REPORTING

implement BellSouth's interLATA billing system if not presently in place.

Interrogatory 42 requests information from BellSouth regarding the extent to which BellSouth plans to use its own support and ordering systems to provide interLATA toll service, if and when it obtains the requisite authority to do so. Further, Interrogatory 42 asks BellSouth if these systems are presently in place, or, alternatively, for a description of the actions taken and the actions that must be undertaken, including a time frame for completion and readiness, to implement BellSouth's interLATA support and ordering systems if not presently in place.

Interrogatory 43 asks BellSouth to state the percentage of its network that will be owned by BellSouth and the percentage that will be leased or resold from other carriers, if and when BellSouth is permitted to provide in-region interLATA service to its local exchange customers.

In response to Interrogatories 40 through 43, BellSouth states that the Telecommunications Act of 1996 requires interLATA toll service be offered by a separate subsidiary and that it does not have the information necessary to respond on behalf of any such subsidiary. Further, BellSouth argues that it should not be required to obtain this information from a legally distinct subsidiary.

FIXCA argues that BellSouth is the entity that determines or will determine the extent to which its subsidiaries utilize the existing network, billing system, and support and ordering systems owned by BellSouth. FIXCA argues accordingly that BellSouth should possess or be able to obtain the information requested in Interrogatories 40, 41, 42, and 43.

Upon consideration, FIXCA's Motion to Compel is denied. BellSouth should not be ordered to provide information that it does not possess. If a subsidiary had requested network access and related items, then BellSouth would have been required to respond. This information would be relevant to nondiscriminatory access. However, as of October 2, 1996, the date of the status conference, BellSouth asserted that it had made a diligent effort to find out if any of these issues had been raised by representatives of the affiliate and that it could not find any information. Notwithstanding my ruling, I urge BellSouth to update its answers to interrogatories 40 through 43 should it find that it did have the information requested during the time frame for which it stated it would conduct a search and provide supplemental responses by August 26, 1996.

II. FOURTH SET OF INTERROGATORIES

B. Interrogatories 53 - 61

Interrogatory 53 asks BellSouth to describe in detail the interLATA network owned, operated, and controlled by BellSouth or its affiliates, which network is used by BellSouth for its internal "Official" interexchange calling. Interrogatory 54 asks BellSouth to state the construction cost, by component, of the interLATA network referenced in Interrogatory 53. Interrogatory 55 asks BellSouth to list, according to its most recent depreciation study, the depreciable life of each component of the interLATA network referenced in Interrogatory 53. Interrogatory 56 asks BellSouth to list, for each depreciation account of the interLATA network referenced in Interrogatory 53, the amount of the total value that has been depreciated and that remains to be depreciated. Interrogatory 57 asks BellSouth to list, for each depreciation account of the interLATA network referenced in Interrogatory 53, the life over which it was depreciated.

Interrogatory 58 inquires whether BellSouth has transferred or plans to transfer all or any portion of its interLATA network to its long distance affiliate. Interrogatory 59 asks BellSouth, if its answer to Interrogatory 58 is yes, to describe (a) the assets that have been or will be transferred, (b) when the transfer will take place, and (c) how and in what amount BellSouth's affiliate will compensate BellSouth for the transferred assets.

Interrogatory 60 inquires whether BellSouth has transferred or will transfer any BellSouth personnel to its long distance affiliate. Interrogatory 61 asks BellSouth to provide information regarding personnel that would be transferred.

BellSouth objects to Interrogatories 53, 54, 55, 56, and 57, on the grounds that they seek information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence related to the issue of whether BellSouth has met or will be able to meet the requirements of Section 271 of the Telecommunications Act of 1996.

BellSouth objects to Interrogatories 58, 59, 60, and 61, on the grounds that they seek information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence related to the issue of whether BellSouth has met or will be able to meet the requirements of Section 271 of the Telecommunications Act of 1996. BellSouth further objects on the grounds that these interrogatories seek information regarding a long distance affiliate of BellSouth and prior objections to

providing such information were sustained by Order No. PSC-1041-FOF-TL, issued August 12, 1996.

BellSouth argues that the information requested in Interrogatories 53 through 61 does not relate to the criteria set forth in Section 271 of the Telecommunications Act of 1996. BellSouth further argues that these interrogatories request information that relate to the provision of interLATA services that may be offered by separate affiliates of BellSouth.

FIXCA argues that interrogatories 53 through 59 are in the same category of information sought in interrogatories 40 through 43 which were ruled relevant to the issue of nondiscriminatory access. With respect to interrogatories 60 and 61, FIXCA argues that they appropriately request information which bears on the public interest criterion of Section 271 of the Telecommunications Act of 1996. However, FIXCA acknowledges that they are similar to interrogatories 20 and 21 for which I denied its Motion to Compel.

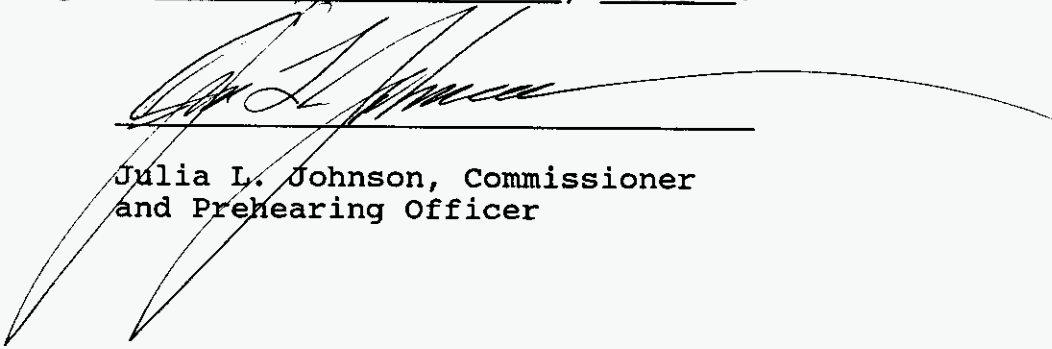
Upon consideration, FIXCA's Motion to Compel is denied. Interrogatories 53 through 59 request information regarding BellSouth's interLATA network. These items are not relevant to 47 U.S.C. § 271 which requires unbundling of BellSouth's local network. In contrast, items 40 through 41, for which I previously granted FIXCA's Motion to Compel, did not address BellSouth's interLATA network exclusively. With respect to interrogatories 60 and 61, as FIXCA has stated they are similar to interrogatories 20 and 21. I denied FIXCA's Motion to Compel answers to those items because they relate to 47 U.S.C. § 272 not § 271. I do not find FIXCA's public interest argument persuasive. Therefore, FIXCA's Motion to Compel is denied for the same reasons I denied its Motion to Compel answers to interrogatories 20 and 21 as set forth in Order No. PSC-96-1041-FOF-TL.

Based on the foregoing, it is

ORDERED by Commissioner Julia L. Johnson, as Prehearing Officer, that the Florida Interexchange Association's Motion To Compel is denied as outlined in the body of this Order.

ORDER NO. PSC-96-1276-PCO-TL  
DOCKET NO. 960786-TL  
PAGE 5

By ORDER of Commissioner Julia L. Johnson, as Prehearing Officer, this 11th day of October, 1996.



\_\_\_\_\_  
Julia L. Johnson, 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) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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 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.