

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by AT&T  
Communications of the Southern  
States, Inc. and d/b/a Connect  
'N Save for modification of  
BellSouth Telecommunications,  
Inc.'s policies regarding  
porting of Direct-In-Dial (DID)  
Numbers.

DOCKET NO. 980770-TP  
ORDER NO. PSC-99-0277-PCO-TP  
ISSUED: February 11, 1999

ORDER APPROVING ISSUES AND REVISING  
PROCEDURE

On June 19, 1998, AT&T Communications of the Southern States, Inc. (AT&T) filed a petition asking us to modify BellSouth Telecommunications, Inc.'s (BellSouth) policies on porting Direct-In-Dial numbers. BellSouth responded on July 13, 1998. This matter was set for an administrative hearing on March 31, 1999.

In its original petition, AT&T complained that it was not being treated "fairly" by BellSouth, because BellSouth's existing policies did not allow ALECs to buy DID numbers in blocks of less than 20 numbers. AT&T explained that it was currently engaged in testing its AT&T Digital Link (ADL) service in Florida, and that part of that testing required some DID numbers to be ported from BellSouth's switch to an AT&T switch. AT&T learned, however, that BellSouth's A12.7.1 tariff only allowed DID numbers to be arranged in blocks of 20 numbers. AT&T asserted that this policy was improper, because it would require a customer to port more numbers to AT&T than the customer needed, and would also unnecessarily consume DID numbers. AT&T asserted that it discussed this concern with BellSouth, whereupon BellSouth agreed to sell DID numbers in blocks of less than 20. BellSouth indicated, however, that a \$630 nonrecurring charge would be assessed to AT&T, as well as an additional \$2.20 per number, with another additional \$.20 monthly charge assessed per number in the block. AT&T and BellSouth were unable to reach an agreement; therefore, AT&T filed this complaint.

The parties continued to negotiate. As a result of their negotiations, BellSouth filed revisions to its A12.7 tariff on December 17, 1998. The revised tariff allows the porting of numbers in blocks of less than 20 numbers, as well as the porting of non-consecutive numbers. Recurring and nonrecurring charges for porting these numbers are set forth in the tariff.

DOCUMENT NUMBER-DATE

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AT&T does not believe that BellSouth's revisions to its A12.7 tariff alleviate all of AT&T's concerns. Therefore, AT&T submitted the following two proposed issues to be addressed in this proceeding:

1. When a DID customer ports less than a block of twenty DID numbers to a CLEC, what are the appropriate nonrecurring charges for the DID numbers not ported?
2. When nonrecurring charges are assessed on unported DID numbers as a result of porting less than a full lock, who should be billed?

The parties and staff conducted a conference call on January 19, 1999, regarding the proposed issues, but the parties were unable to reach an agreement. The parties agreed to submit written briefs regarding the proposed issues by January 27, 1999. Oral argument was regarding the disputed issues was heard on February 1, 1999.

#### **I. Arguments on Proposed Issues**

BellSouth argues that its revisions to tariff A12.7 nullify AT&T's complaint. BellSouth asserts that AT&T's main complaint was that BellSouth would not allow porting of numbers in blocks of less than 20. BellSouth states that its revised tariff allows this. BellSouth adds that AT&T complained that BellSouth would assess special assembly charges in order to port numbers in blocks of less than 20. The company argues that its revised tariff eliminates this charge and establishes, instead, recurring and nonrecurring charges.

BellSouth also argues that AT&T's issues go beyond the scope of AT&T's original complaint. BellSouth argues that AT&T now wants us to decide what BellSouth should be allowed to charge end users, not what AT&T should pay. BellSouth asserts that not only are AT&T's proposed issues beyond the scope of AT&T's complaint, but that AT&T does not have standing to argue these issues. BellSouth states that, historically, end use customers have purchased consecutive DID numbers at tariffed rates. The only thing that has changed is that now the customer can purchase nonconsecutive DID numbers and choose what to do with the numbers, such as allowing the ALEC to port some numbers to another location. BellSouth argues that the numbers are still purchased by the end use customer; thus, BellSouth bills the end use customer. BellSouth

emphasizes that the contract for these DID numbers is between the end user and BellSouth, not AT&T and BellSouth.

In addition, BellSouth argues that the recurring and nonrecurring charges in its tariff reflect its costs for providing nonconsecutive DID numbers. BellSouth asserts that providing nonconsecutive numbers requires a separate transaction for each number while consecutive numbers require only one transaction. BellSouth argues, therefore, that the rates in its revised tariff are appropriate.

AT&T argues that while the revised tariff filed by BellSouth improves the situation identified in AT&T's complaint, the revised tariff does not completely address all of the problems identified. AT&T asserts that the nonrecurring charges assessed for the transaction are improper and emphasizes that the charges are assessed only because the customer ported some numbers to AT&T. AT&T argues that this is unfair and anticompetitive. AT&T adds that the issues that it has proposed are within the scope of its petition and are narrowly tailored to address AT&T's remaining concerns regarding this matter.

#### Determination

Upon consideration, the issues proposed by AT&T are approved for consideration in this Docket. The issues identified by AT&T clearly flow from AT&T's complaint and the actions taken by BellSouth in an effort to resolve the situation. In approving these issues, I emphasize that I do not find it necessary or appropriate at this time to address BellSouth's arguments regarding AT&T's standing to address these issues in this proceeding. BellSouth shall not be precluded from revisiting the issue of AT&T's standing, if it so chooses.

## **II. REVISED PROCEDURE**

As stated above, this matter was set for an administrative hearing on March 31, 1999. Due to the dispute regarding the issues, the filing dates established by Order No. PSC-98-1526-PCO-TI, issued November 19, 1998, are close at hand with only minimal time available to conduct discovery regarding these issues. It is, therefore, necessary to revise the filing dates and the hearing date established in Order No. PSC-98-1526-PCO-TI. In accordance with Rule 28-106.211, Florida Administrative Code, I find that it

is also appropriate to modify the discovery response times to effectuate discovery, prevent delay, and promote the just, speedy, and inexpensive determination of all aspects of this case. All other portions of Order No. PSC-98-1526-PCO-TI are reaffirmed.

#### Discovery

When discovery requests are served and the respondent intends to object to or ask for clarification of the discovery request, the objection or request for clarification shall be made within five days of service of the discovery request. This procedure is intended to reduce delay in resolving discovery disputes. In addition, responses to discovery requests shall be provided on an expedited basis. Responses shall be served within 20 days of service of the discovery request.

The hearing in this docket has been rescheduled for April 14, 1999. Unless authorized by the Prehearing Officer for good cause shown, all discovery shall be completed by April 7, 1999. All interrogatories, requests for admissions, and requests for production of documents shall be numbered sequentially in order to facilitate their identification. The discovery requests will be numbered sequentially within a set and any subsequent discovery requests will continue the sequential numbering system. Pursuant to Rule 28-106.206, Florida Administrative Code, unless subsequently modified by the Prehearing Officer, the following shall apply: interrogatories, including all subparts, shall be limited to 100, and requests for production of documents, including all subparts, shall be limited to 100.

Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the Commission and the parties as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending a formal ruling on such request by the Commission, or upon the return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been made a part of the evidentiary record in the proceeding, it shall be returned expeditiously to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of the proceeding, it shall be returned to the person providing the information within the time period set forth in Section 364.183, Florida Statutes.

Controlling Dates

The following revised dates will govern the key activities of this case.

- 1) Direct testimony and exhibits - February 16, 1999  
Petitioner and Respondent
- 2) Rebuttal testimony and exhibits - March 17, 1999  
Petitioner and Respondent
- 3) Prehearing Statements March 17, 1999
- 4) Prehearing Conference March 29, 1999
- 5) Hearing April 14, 1999
- 6) Briefs May 12, 1999

It is therefore

ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that the issues proposed by AT&T Communications of the Southern States, Inc. are approved for consideration in this proceeding. It is further

ORDERED that Order No. PSC-98-1526-PCO-TI is revised as set forth herein. It is further

ORDERED that Order No. PSC-98-1526-PCO-TI is reaffirmed in all other respects.

By ORDER of Commissioner J. Terry Deason as Prehearing Officer, this 11th Day of February, 1999.

  
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J. TERRY DEASON  
Commissioner and Prehearing Officer

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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, 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.