

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint by ATNEX
Computer Corp. against BellSouth
Telecommunications, Inc.
regarding billing dispute.

DOCKET NO. 990193-TP
ORDER NO. PSC-99-0537-PCO-TP
ISSUED: March 23, 1999

The following Commissioners participated in the disposition of this matter:

JOE GARCIA, Chairman
J. TERRY DEASON
SUSAN F. CLARK
JULIA L. JOHNSON
E. LEON JACOBS, JR.

ORDER SETTING MATTER FOR HEARING AND
REQUIRING RESTORATION OF SERVICE

BY THE COMMISSION:

On October 2, 1998, Mr. Larry Goodman submitted a complaint with our Division of Consumer Affairs (CAF) against BellSouth Telecommunications, Inc. (BellSouth) on behalf of his company, Atnex Computer Corporation. Mr. Goodman asserted that he had contracted with BellSouth for a T-1 line to be installed for his business, ComputerEase Associates. He noted that ComputerEase merged with Atnex Computer Corporation on April 28, 1998, with the surviving company being Atnex.

Mr. Goodman claimed that the T-1 he ordered was not installed properly, and as a result, he was without service for six months. Mr. Goodman further claimed that he also requested service for three other accounts, Workforce, Federal Fabrication, and Lantana Peat, from BellSouth. He indicated that service was also unsatisfactory on these accounts due to improper installation. Mr. Goodman asserted that he complained about the service problems, but never received credit from BellSouth, even though he paid over \$40,000 to BellSouth. The customer's attorney added that Mr. Goodman's Club Account bills were "unintelligible." A billing dispute arose between Mr. Goodman and BellSouth. Thereafter, service was disconnected on one of Mr. Goodman's accounts on

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September 29, 1998. Mr. Goodman claimed that BellSouth did not send notice of the disconnection.

In its response, BellSouth stated that its records showed that the lines had been installed properly and were the circuit type and speed requested by the customer. BellSouth asserted that it discussed the billing concerns with Mr. Goodman and further informed him that he had to keep his accounts current in order to avoid disconnection. BellSouth indicated that Mr. Goodman held a number of accounts that were currently in dispute, but that its records did not indicate that Mr. Goodman had disputed any accounts that had already been disconnected. BellSouth further asserted that Mr. Goodman's original complaint only pertained to termination charges on the ComputerEase account; thus, only the termination charges relating to that account should be considered in dispute. As such, BellSouth believed it should be allowed to disconnect Mr. Goodman's service for any unpaid balance on his Club Account that were not considered to be in dispute in this complaint.

On January 29, 1999, an informal conference was held with the parties and a staff member of our Division of Consumer Affairs. The parties were unable to resolve this matter. In addition, it became apparent that the facts of this case are very unclear as to which accounts were disconnected, when they were disconnected, on what basis they were disconnected, what was the service quality, what charges were assessed on the accounts, when the accounts were disputed, and which accounts were disputed.

At the informal conference, our staff was informed that Mr. Goodman had paid a portion of the balance on his Club Account. Although our staff then proposed that Mr. Goodman's payment of \$6,714.95, should be considered an interim payment for all accounts in dispute, BellSouth indicated that Atnex had agreed to pay the remaining unpaid balance of the Club Account during the pendency of the dispute based on statements made by BellSouth and a letter dated January 18, 1999, which was signed by counsel for BellSouth and counsel for the customer. As such, BellSouth apparently disconnected Mr. Goodman's service on or about February 17, 1999.

It is evident that the facts in this case are disputed and convoluted in nature. At this point, we are unable to develop even a general time line of the events in this case. We shall, therefore, set this matter for hearing in accordance with Rule 25-22.032(8), Florida Administrative Code.

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Furthermore, pending the outcome of the proceedings in this Docket, we shall require BellSouth to restore service to Mr. Goodman under his Club Account immediately until this matter has been resolved. If Mr. Goodman fails, however, to remain current in his payments to BellSouth for service under the Club Account after his service is restored in accordance with this Order, BellSouth shall be allowed to take action as necessary in accordance with our rules. BellSouth must, however, notify us if such a situation arises in view of these proceedings.

Based on the foregoing, it is therefore

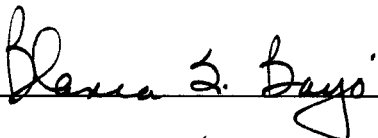
ORDERED by the Florida Public Service Commission that this matter shall be set for hearing. It is further

ORDERED that BellSouth Telecommunications, Inc. shall restore service to the customer under his Club Account upon issuance of this Order. It is further

ORDERED that BellSouth shall be allowed to take action in accordance with our rules if the customer does not remain current in his payments for service under the Club Account. It is further

ORDERED that BellSouth shall notify us prior to taking any action to disconnect the customer for failure to remain current in his payments on the Club Account for service rendered after the customer's service is restored in accordance with this Order.

By ORDER of the Florida Public Service Commission this 23rd day of March, 1999.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

BK

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.

Requisition for Photocopying and Mailing

Number of Originals 4 Date 7/1 / 2 / 99 Copies Per Original 14
Requested By Ruth hmr

Item Presented

Agenda For (Date) _____ Order No. 91-537 In Docket No. 770193
Notice of _____ For (Date) _____ In Docket No. _____
Other _____

Special Handling Instructions

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<u>14</u>	<u>Commission Offices</u>	<u>--</u>	_____
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Print Shop Verification

Job Number 20 Verified By Michael
Date and Time Completed 4/5 Job Checked For Correctness and Quality (initial) MI

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M E M O R A N D U M

March 23, 1999

TO: DIVISION OF RECORDS AND REPORTING
FROM: DIVISION OF LEGAL SERVICES (B. KEATING) *B/K MCB*
RE: DOCKET NO. 990193-TP - Complaint by ATNEX Computer Corp.
against BellSouth Telecommunications, Inc. regarding
billing dispute.

99-0537-PL0-TP

Attached is an ORDER SETTING MATTER FOR HEARING AND REQUIRING RESTORATION OF SERVICE, to be issued in the above-referenced docket. (Number of pages in order - 4)

BK/anr
Attachment
cc: Division of Communications
I: 990193o.bk

See 1

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RECEIVED-FPSC
99 MAR 23 AM 10:48
RECORDS AND
REPORTING