

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into
pricing of unbundled network
elements.

DOCKET NO. 990649-TP
ORDER NO. PSC-00-1485-PCO-TP
ISSUED: August 18, 2000

ORDER ON MOTION FOR EXTENSION OF TIME

On December 10, 1998, in Docket No. 981834-TP, the Florida Competitive Carriers Association (FCCA), the Telecommunications Resellers, Inc. (TRA), AT&T Communications of the Southern States, Inc. (AT&T), MCIMetro Access Transmission Services, LLC and WorldCom Technologies, Inc. (MCI WorldCom), the Competitive Telecommunications Association (Comptel), MGC Communications, Inc. (MGC), Intermedia Communications Inc. (Intermedia), Supra Telecommunications and Information Systems (Supra), Florida Digital Network, Inc. (Florida Digital Network), and Northpoint Communications, Inc. (Northpoint) (collectively, "Competitive Carriers") filed their Petition of Competitive Carriers for Commission Action to Support Local Competition in BellSouth's Service Territory. Among other matters, the Competitive Carriers' Petition asked that this Commission set deaveraged unbundled network element (UNE) rates.

On May 26, 1999, this Commission issued Order No. PSC-99-1078-PCO-TP, granting in part and denying in part the Competitive Carriers' petition. Among other decisions, the Commission granted the request to open a generic UNE pricing docket for the three major incumbent local exchange providers, BellSouth Telecommunications, Inc. (BellSouth), Sprint-Florida, Incorporated (Sprint), and GTE Florida Incorporated (GTEFL). Accordingly, this docket was opened to address the deaveraged pricing of UNEs, as well as the pricing of UNE combinations and nonrecurring charges. An administrative hearing was held on July 17, 2000, on several of the issues identified in Order No. PSC-00-2015-PCO-TP, issued June 8, 2000. The remaining issues identified in the Second Revised Procedural Order No. PSC-00-0540-PCO-TP, issued March 16, 2000, will be considered at the September 19-22, 2000, hearing.

By Order No. PSC-00-1335-PCO-TP, issued July 24, 2000, BellSouth was granted leave to file revisions to its filings in this proceeding by August 16, 2000. On August 16, 2000, BellSouth filed a Motion for Extension of Time to file modifications to its direct testimony necessitated by changes made to its other filings in this proceeding. Parties were asked to file expedited responses to the motion.

DOCUMENT NUMBER-DATE

10108 AUG 18 2000

FILED UNDER REPORTING

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On August 17, 2000, Sprint filed its Response to BellSouth's Motion. That same day, FCCA also filed a response, and a Joint Response was filed by AT&T, Broadslate Networks, Cleartel Communications, Covad, FCTA, Florida Digital Network, MCI WorldCom, Rhythm Links, and Time Warner (Joint Respondents).

In its Motion, BellSouth contends that Order No. PSC-00-1335-PCO-TP indicated that BellSouth was required only to file changes to its cost studies by August 16, 2000. BellSouth argues that the Order did not specifically address the filing of any revised direct testimony that might be necessitated by the changes to the cost studies. Therefore, BellSouth maintains that it believes that changes to direct testimony were not due on August 16, 2000. BellSouth states that it has filed this motion because it has come to the company's attention that Order No. PSC-00-1335-PCO-TP is, however, being interpreted to require BellSouth to file any changes to its cost studies and the associated direct testimony by August 16, 2000. BellSouth asserts that it was not aware of this interpretation until August 16, 2000, and that its revisions to its direct testimony are not ready to be filed. As such, BellSouth asks that it be granted an extension of time to file its revised direct testimony by close of business on Friday, August 18, 2000.

In its response, Sprint states that it does not object to BellSouth's Motion. Sprint asks, however, that in view of the proposed extension, that the ALEC parties be given additional time to respond to the revisions, because the revisions will not be able to be distributed to the company subject matter experts until Monday, August 21, 2000. Therefore, Sprint asks that the date for filing ALEC supplemental rebuttal be extended to Monday, August 28, 2000.

In its response, the FCCA states that it does not oppose BellSouth's motion as long as it does not result in postponement of the September hearing dates. FCCA adds that while this case has experienced an unusual number of delays, the future of competition in Florida would be better served by keeping to the current schedule.

The Joint Respondents state that they do not object to BellSouth's motion, but add that in doing so, they do not address the issue of BellSouth's interpretation of the Commission's Order Modifying Procedure. The Joint Respondents emphasize, however, that having reviewed the summary report of the changes in BellSouth's proposed UNE rates as a result of its revised cost

studies and the general description of the changes to BellSouth's cost studies, the extent of the changes causes them some concern as to whether they will be able to file "meaningful" supplemental rebuttal testimony addressing BellSouth's revised cost studies in the short amount of time that is available under the present schedule modified by BellSouth's extension. The Joint Respondents add that it does not appear that BellSouth will file testimony describing in any detail all of the changes and the rationale for each change until it files its supplemental testimony on August 21, 2000. Therefore, the Joint Respondents ask that the date for filing ALEC supplemental rebuttal be extended to Monday, August 28, 2000. They contend that this extension will allow the Joint Respondents 10 days to review the new cost studies and a week to review BellSouth's narrative description of its revisions to the cost studies. The Joint Respondents also add that this extension should not impact the remaining schedule in this proceeding, including the hearing dates.

In addition, the Joint Respondents request that all parties continue to be required to serve their modified testimony by hand delivery, facsimile, or overnight courier, and by electronic service, where possible, pursuant to Order No. PSC-00-1335-PCO-TP, issued July 24, 2000.

Upon consideration, BellSouth's request for an extension of time is granted, in part. BellSouth shall be required to file any revisions to its direct testimony and exhibits necessitated by the changes to its cost studies by 12:00 p.m., Friday, August 18, 2000. While the parties have indicated that the close of business on Friday is acceptable, I am concerned that any filings made at the close of business could not be distributed to the appropriate Commission staff assigned to this case prior to Monday, August 21, 2000. This would further hinder staff's ability to prepare for the hearing. Furthermore, the revisions shall be served electronically to the extent possible, as well as by express mail or hand delivery, upon all parties.

In view of this extension and the expected extent of the revisions to BellSouth's testimony, the date for ALEC supplemental rebuttal testimony responsive to BellSouth's revised filings shall be extended to Monday, August 28, 2000. The supplemental rebuttal testimony and exhibits must also be served electronically, as well as by express mail or hand delivery. To the extent possible, ALEC parties are asked to identify in their prehearing statements, due

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to be filed on August 21, 2000, which witnesses will be submitting supplemental rebuttal testimony.

In granting this request, however, I emphasize my extreme concern over BellSouth's apparent lack of diligence and coordination in this proceeding. While I acknowledge that Order No. PSC-00-1335-PCO-TP does not specifically use the terms "revised direct testimony" in stating what was to be filed on August 16, 2000, the Order clearly is not limited to the revisions of the cost studies themselves. In fact, the Order states at p. 3:

BellSouth has indicated that it will file all revisions of its filings in this proceeding no later than August 16, 2000. If there is any anticipated slippage in this date, BellSouth is to notify staff immediately; at such time, I will decide what actions are appropriate. [Emphasis added].

Furthermore, the Order indicates that the ALEC parties in this proceeding were to file any supplemental rebuttal testimony responsive to BellSouth's revisions by August 23, 2000. Under the filing schedule apparently contemplated by BellSouth, the ALECs would have had only two days to review the revisions to BellSouth's testimony and to prepare responsive rebuttal testimony. The ramifications of this interpretation, at a minimum, should have caused BellSouth to seek clarification of the filing date for the revised direct testimony prior to August 16, 2000.

These events occur within a particularly important and challenging docket, which has been complicated further by BellSouth's request to significantly revise its original filings. It is expected that all parties must exercise due diligence and attention to these proceedings to ensure their completion in as reasonable and timely a fashion as possible. If BellSouth fails to adhere to this standard of conduct, I will direct Commission staff to investigate the propriety of initiating show cause proceedings under Section 120.569(1)(e), Florida Statutes.

It is therefore

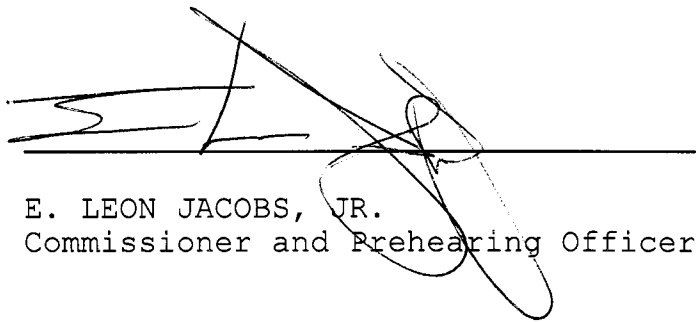
ORDERED by Commissioner E. Leon Jacobs, Jr., as Prehearing Officer, that BellSouth Telecommunications, Inc.'s Motion for Extension of Time is granted, in part, to the extent that the company may file any revisions to its direct testimony and exhibits

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that have been necessitated by the revisions to its cost studies by 12:00 p.m. on Friday, August 18, 2000. It is further

ORDERED that the date for filing ALEC supplemental rebuttal testimony is extended to Monday, August 28, 2000.

By ORDER of Commissioner E. Leon Jacobs, Jr. as Prehearing Officer, this 18th Day of August, 2000.



E. LEON JACOBS, JR.
Commissioner and Prehearing Officer

(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)

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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.

FLORIDA PUBLIC SERVICE COMMISSION - RECORDS AND REPORTING

Requisition for Photocopying and Mailing

Date 8 / 18 / 00
Number of Originals 6 Copies Per Original 16
Requested By Monte Kebab

Item Presented

Agenda For (Date) _____ Order No. 00-1485 In Docket No. 9906-19-TP
Notice of _____ For (Date) _____ In Docket No. _____
Other _____

Special Handling Instructions

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Number	Distributed/ Mailed To	Number	Distribution/Mailed To
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<u>32</u>	<u>Docket Mailing List - Faxed</u>	_____	_____

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Print Shop Verification

Job Number 194 Verified By Michael
Date and Time Completed 8/22 Job Checked For Correctness and Quality (Initial) "

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Date Mailed / Verified By /

M E M O R A N D U M

August 17, 2000

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AUG 17 PM 4:59

RECORDS AND
REPORTING

TO: DIVISION OF RECORDS AND REPORTING
FROM: DIVISION OF LEGAL SERVICES (B. KEATING) *BK*
RE: DOCKET NO. 990649-TP - INVESTIGATION INTO PRICING OF
UNBUNDLED NETWORK ELEMENTS.

1485-PCD

Attached is an ORDER ON MOTION FOR EXTENSION OF TIME, to be issued in the above-referenced docket. (Number of pages in order - 6)

PLEASE ISSUE ~~TODAY~~. THANK YOU.

ASAP

BK/anc
Attachment
cc: Division of Competitive Services (Ollila)
I: 990649ex.bk

MUST GO TODAY

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