

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by AT&T
Communications of the Southern
States, Inc. d/b/a AT&T for
arbitration of certain terms and
conditions of a proposed
agreement with BellSouth
Communications, Inc. pursuant to
47 U.S.C. Section 252.

DOCKET NO. 000731-TP
ORDER NO. PSC-00-1634-PCO-TP
ISSUED: September 13, 2000

ORDER ESTABLISHING PROCEDURE

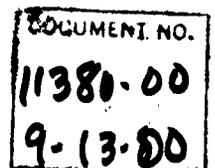
Pursuant to a petition by AT&T Communications of the Southern States, Inc. d/b/a AT&T (AT&T) for arbitration of unresolved issues in an agreement with BellSouth Telecommunications, Inc. (BellSouth), this matter is currently set for an administrative hearing.

Part II of the Federal Telecommunications Act of 1996 (Act) sets forth provisions regarding the development of competitive markets in the telecommunications industry. Section 251 of the Act regards interconnection with the incumbent local exchange carrier and Section 252 sets forth the procedures for negotiation, arbitration, and approval of agreements.

Section 252(b) addresses agreements arrived through compulsory arbitration. Specifically, Section 252(b)(1) states:

(1) Arbitration. - During the period from the 135th to 160th day (inclusive) after the date on which an incumbent local exchange carrier receives a request for negotiation under this section, the carrier or any other party to the negotiation may petition a State commission to arbitrate any open issues.

Section 252(b)(4)(C) states that the State commission shall resolve each issue set forth in the petition and response, if any, by imposing the appropriate conditions as required. This section requires this Commission to conclude the resolution of any unresolved issues not later than nine months after the date on which the local exchange carrier received the request under this section. The parties have, however, waived that requirement in this docket.



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This Order is issued pursuant to the authority granted by Rule 28-106.211, Florida Administrative Code, which provides that the presiding officer before whom a case is pending may issue any orders necessary to effectuate discovery, prevent delay, and promote the just, speedy, and inexpensive determination of all aspects of the case.

Section 252(b)(4)(A) provides that this Commission shall limit its consideration of any petition to the issues set forth in the petition and in the response, if any. The hearing will be conducted according to the provisions of Chapter 120, Florida Statutes, and all administrative rules applicable to this Commission.

The scope of this proceeding shall be based upon the issues raised by the parties and up to and during the prehearing conference, unless modified by the Commission.

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 ten days of service of the discovery request. This procedure is intended to reduce delay in resolving discovery disputes.

The hearing in this docket is set for January 25-26, 2001. Unless authorized by the Prehearing Officer for good cause shown, all discovery shall be completed by January 18, 2001. 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 75, and requests for production of documents, including all subparts, shall be limited to 75.

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(4), Florida Statutes.

Diskette Filings

See Rule 25-22.028(1), Florida Administrative Code, for the requirements of filing on diskette for certain utilities.

Prefiled Testimony and Exhibits

Each party shall prefile, in writing, all testimony that it intends to sponsor. Such testimony shall be typed on 8 ½ inch x 11 inch transcript-quality paper, double spaced, with 25 numbered lines, on consecutively numbered pages, with left margins sufficient to allow for binding (1.25 inches).

Each exhibit intended to support a witness' prefiled testimony shall be attached to that witness' testimony when filed, identified by his or her initials, and consecutively numbered beginning with 1. All other known exhibits shall be marked for identification at the prehearing conference. After an opportunity for opposing parties to object to introduction of the exhibits and to cross-examine the witness sponsoring them, exhibits may be offered into evidence at the hearing. Exhibits accepted into evidence at the hearing shall be numbered sequentially. The pages of each exhibit shall also be numbered sequentially prior to filing with the Commission.

An original and 15 copies of all testimony and exhibits shall be prefiled with the Director, Division of Records and Reporting, by the close of business, which is 5:00 p.m., on the date due. A copy of all prefiled testimony and exhibits shall be served by mail or hand delivery to all other parties and staff no later than the date filed with the Commission. Failure of a party to timely prefile exhibits and testimony from any witness in accordance with the foregoing requirements may bar admission of such exhibits and testimony.

Prehearing Statement

All parties in this docket shall file a prehearing statement. Staff will also file a prehearing statement. The original and 15 copies of each prehearing statement shall be prefiled with the Director of the Division of Records and Reporting by the close of business, which is 5:00 p.m., on the date due. A copy of the prehearing statement shall be served on all other parties and staff no later than the date it is filed with the Commission. Failure of a party to timely file a prehearing statement shall be a waiver of any issue not raised by other parties or by the Commission. In addition, such failure shall preclude the party from presenting testimony in support of its position. Such prehearing statements shall set forth the following information in the sequence listed below.

- (a) The name of all known witnesses that may be called by the party, and the subject matter of their testimony;
- (b) a description of all known exhibits that may be used by the party, whether they may be identified on a composite basis, and the witness sponsoring each;
- (c) a statement of basic position in the proceeding;
- (d) a statement of each question of fact the party considers at issue, the party's position on each such issue, and which of the party's witnesses will address the issue;
- (e) a statement of each question of law the party considers at issue and the party's position on each such issue;
- (f) a statement of each policy question the party considers at issue, the party's position on each such issue, and which of the party's witnesses will address the issue;
- (g) a statement of issues that have been stipulated to by the parties;

- (h) a statement of all pending motions or other matters the party seeks action upon;
- (I) a statement identifying the parties' pending requests or claims for confidentiality; and
- (j) a statement as to any requirement set forth in this order that cannot be complied with, and the reasons therefore.

Prehearing Conference

Pursuant to Rule 28-106.209, Florida Administrative Code, a prehearing conference will be held January 9, 2001 at the Betty Easley Conference Center, 4075 Esplanade Way, Tallahassee, Florida. Any party who fails to attend the prehearing conference, unless excused by the Prehearing Officer, will have waived all issues and positions raised in that party's prehearing statement.

Prehearing Procedure: Waiver of Issues

Any issue not raised by a party prior to the issuance of the prehearing order shall be waived by that party, except for good cause shown. A party seeking to raise a new issue after the issuance of the prehearing order shall demonstrate that: it was unable to identify the issue because of the complexity of the matter; discovery or other prehearing procedures were not adequate to fully develop the issue; due diligence was exercised to obtain facts touching on the issue; information obtained subsequent to the issuance of the prehearing order was not previously available to enable the party to identify the issue; and introduction of the issue could not be to the prejudice or surprise of any party. Specific reference shall be made to the information received, and how it enabled the party to identify the issue.

Unless a matter is not at issue for that party, each party shall diligently endeavor in good faith to take a position on each issue prior to issuance of the prehearing order. When a party is unable to take a position on an issue, it shall bring that fact to the attention of the Prehearing Officer. If the Prehearing Officer finds that the party has acted diligently and in good faith to take a position, and further finds that the party's failure to take a position will not prejudice other parties or confuse the proceeding, the party may maintain "no position at this time" prior to hearing and thereafter identify its position in a post-hearing

statement of issues. In the absence of such a finding by the Prehearing Officer, the party shall have waived the entire issue. When an issue and position have been properly identified, any party may adopt that issue and position in its post-hearing statement.

Document Identification

Each exhibit submitted shall have the following in the upper right-hand corner: the docket number, the witness's name, the word "Exhibit" followed by a blank line for the exhibit number and the title of the exhibit.

An example of the typical exhibit identification format is as follows:

Docket No. 12345-TL
J. Doe Exhibit No. _____
Cost Studies for Minutes of Use by Time of Day

Tentative Issues

Attached to this order as Appendix "A" is a tentative list of the issues which have been identified in this proceeding. Prefiled testimony and prehearing statements shall address the issues set forth in Appendix "A".

Controlling Dates

The following dates have been established to govern the key activities of this case.

- | | |
|------------------------------------|---------------------|
| 1) Direct testimony and exhibits | November 1, 2000 |
| 2) Rebuttal testimony and exhibits | December 1, 2000 |
| 3) Prehearing Statements | December 22, 2000 |
| 4) Prehearing Conference | January 9, 2001 |
| 5) Hearing | January 25-26, 2001 |
| 6) Briefs | February 15, 2001 |

Use of Confidential Information At Hearing

It is the policy of this Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 364.183(2), Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding. Any party wishing to use any proprietary confidential business information, as that term is defined in Section 364.183(3), Florida Statutes, shall notify the Prehearing Officer and all parties of record by the time of the Prehearing Conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. The notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute. Failure of any party to comply with the seven-day requirement described above shall be grounds to deny the party the opportunity to present evidence which is proprietary confidential business information.

When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the Court Reporter, in envelopes clearly marked with the nature of the contents. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material. Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise the confidential information. Therefore, confidential information should be presented by written exhibit when reasonably possible to do so. At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the Court Reporter shall be retained in the Division of Records and Reporting's confidential files.

Post-Hearing Procedure

Each party shall file a post-hearing statement of issues and positions. A summary of each position of no more than 50 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of the prehearing order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 50 words, it must be reduced to no more than 50 words. If a

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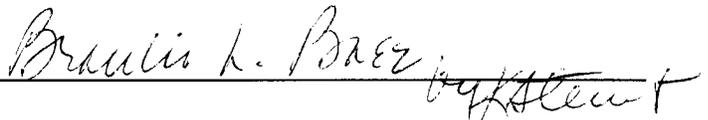
party fails to file a post-hearing statement in conformance with the rule, that party shall have waived all issues and may be dismissed from the proceeding.

Pursuant to Rule 28-106.215, Florida Administrative Code, a party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 40 pages, and shall be filed at the same time.

Based upon the foregoing, it is

ORDERED by Commissioner Braulio L. Baez, as Prehearing Officer, that the provisions of this Order shall govern this proceeding unless modified by the Commission.

By ORDER of Commissioner Braulio L. Baez, as Prehearing Officer, this 13th day of September, 2000.


BRAULIO L. BAEZ
Commissioner and Prehearing Officer

(S E A L)

CLF

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.

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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.

ATTACHMENT A - ISSUES

1. Should calls to Internet service providers be treated as local traffic for the purposes of reciprocal compensation? (Attachment 3, Section 6.1.2)
2. What are the appropriate performance measurements and enforcement mechanisms that BellSouth should implement? (Performance Measures, Attachment 9)
3. Should BellSouth be required to adopt validation and audit requirements which will enable AT&T to assure the accuracy and reliability of the performance data BellSouth provides to AT&T, and upon which the FPSC will ultimately rely when drawing conclusions about whether BellSouth meets its obligations under the Act? (Performance Measures, Attachment 9)
4. What does "currently combines" mean as that phrase is used in 47 C.F.R. §51.315(b)? (UNEs Attachment 2, Section 2.7.1)
5. Should BellSouth be permitted to charge AT&T a "glue charge" when BellSouth combines network elements?
6. Under what rates, terms, and conditions may AT&T purchase network elements or combinations to replace services currently purchased from BellSouth tariffs? (UNEs, Attachment 2, Section 2.11)
7. How should AT&T and BellSouth interconnect their networks in order to originate and complete calls to end-users? (Local Interconnection, Attachment 3)
8. What terms and conditions, and what separate rates if any, should apply for AT&T to gain access to and use BellSouth facilities to serve multi-unit installations? (UNEs, Attachment 2, Section 5.2.5)
9. Should BellSouth provide local circuit switching at UNE rates to allow AT&T to serve the first three lines provided to a customer located in Density Zone 1 as determined by NECA Tariff No. 4 in effect on January 1, 1999 ("Density Zone 1")?
10. Should BellSouth preclude AT&T from purchasing local circuit switching from BellSouth at UNE rates when a Density Zone 1

- existing AT&T customer with 1-3 lines increases its lines to 4 or more? (UNEs, Attachment 2, Section 6.3.1.3 and 6.3.1.4)
11. Should BellSouth be allowed to aggregate lines provided to multiple locations of a single customer to restrict AT&T's ability to purchase local circuit switching at UNE rates to serve any of the lines of that customer? (UNEs, Attachment 2, Section 6.3.1.3 and 6.3.1.4)
 12. Should AT&T be permitted to charge tandem rate elements when its switch serves a geographic area comparable to that served by BellSouth's tandem switch? (Local Interconnection, Attachment 3, Section 1.3)
 13. What are the appropriate means for BellSouth to provide unbundled local loops for provision of DSL service when such loops are provisioned on digital loop carrier facilities? (UNEs, Attachment 2, Section 3.11.2)
 14. What coordinated cut-over process should be implemented to ensure accurate, reliable and timely cut-overs when a customer changes local service from BellSouth to AT&T? (UNEs, Attachment 2, Section 3.8 et seq.)
 15. When a local call originates on the facilities of a CLEC and terminates to an AT&T customer served by a loop/port combination purchased by AT&T from BellSouth, who is responsible for paying for each element of the networks used to place and complete the call and which party, if any, is entitled to collect reciprocal compensation for the call?
 16. What is the appropriate treatment of outbound voice calls over Internet protocol ("IP") telephony, as it pertains to reciprocal compensation? (Local Interconnection, Attachment 3, Section 6.1.9)
 17. In calculating Percent Local Usage (PLU) for purposes of reciprocal compensation, should AT&T be allowed to report the Traffic on a monthly, rather than quarterly, basis? (Local Interconnection, Attachment 3, Section 6.1.11) - PARTIES HAVE SETTLED THIS ISSUE
 18. What are the appropriate intervals for the delivery of collocation space to AT&T? (Collocation, Attachment 4, Section 6.4).

19. When AT&T and BellSouth have adjoining facilities in a building outside BellSouth's central office, should AT&T be able to purchase cross connect facilities to connect to BellSouth or other ALEC networks without having to collocate in BellSouth's portion of the building? (Collocation, Attachment 4, Section 1.6)
20. Is conducting a statewide investigation of criminal history records for each AT&T employee or agent being considered to work on a BellSouth premises a security measure that BellSouth may impose on AT&T? (Collocation, Attachment 4, Section 11.1, 11.2, 11.4, 11.5)
21. Unless otherwise specified, where Attachment 4 regarding collocation refers to days, should those days be calendar days or business days? (Collocation, Attachment 4) (AT&T anticipates that this issue will be settled based on the FPSC's Order on Collocation in Docket Nos. 981834-TP and 990321-TP.)
22. What are the appropriate recurring and non recurring charges for the collocation items for which charges have not been established or are not TELRIC compliant as listed in Exhibit A to Collocation, Attachment 4 of AT&T's Proposed Interconnection Agreement. (Collocation, Attachment 4 and Exhibit A)
23. Has BellSouth provided sufficient customized routing in accordance with State and Federal law to allow it to avoid providing Operator Services/Directory Assistance ("OS/DA") as a UNE?
24. Should BellSouth be required to electronically process and provision customer specific orders for OS/DA if AT&T orders an unbranded or AT&T branded platform? (Attachment 7, Sections 3.20-3.24) - PARTIES HAVE AGREED THAT THIS ISSUE HAS BEEN SUBSUMED AND INCORPORATED INTO ISSUE #25 (As a result, Issue #24 will not longer exist as a stand-alone issue.)
25. What procedure should be established for AT&T to obtain loop-port combinations (UNE-P) using both Infrastructure and Customer Specific Provisioning? (Attachment 7, Sections 3.20 - 3.24)

26. May the Interconnection Agreement contain conditions on the purchase of any BellSouth exchange? - PARTIES HAVE SETTLED THIS ISSUE
27. Should the Commission or a third party commercial arbitrator resolve disputes under the Interconnection Agreement?
28. What is the proper time frame for either party to render bills for overdue charges? (Billing & Recording, Attachment 6, Section 1.2.3) - PARTIES HAVE SETTLED THIS ISSUE
29. What are the proper parameters sufficient to prevent fraudulent billing for reciprocal compensation? (Local Interconnection, Attachment 3, Section 6.1.2) - PARTIES HAVE SETTLED THIS ISSUE
30. Should the Change Control Process be sufficiently comprehensive to ensure that there are processes to handle, at a minimum the following situations: (OSS, Attachment 7, Exhibit A)
 - a) introduction of new electronic interfaces?
 - b) retirement of existing interfaces?
 - c) exceptions to the process?
 - d) documentation, including training?
 - e) defect correction?
 - f) emergency changes (defect correction)?
 - g) an eight step cycle, repeated monthly?
 - h) a firm schedule for notifications associated with changes initiated by BellSouth?
 - i) a process for dispute resolution, including referral to state utility commissions or courts?
 - j) a process for the escalation of changes in process?
31. What should be the resolution of the following OSS issues currently pending in the change control process but not yet provided? (OSS, Attachment 7, Exhibit A)
 - a) parsed customer service records for pre-ordering?
 - b) ability to submit orders electronically for all services and elements?
 - c) electronic processing after electronic ordering, without subsequent manual processing by BellSouth personnel?

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32. Should BellSouth provide AT&T with the ability to access, via EBI/ECTA, the full functionality available to BellSouth from TAFI and WFA? (OSS, Attachment 7)
33. Should AT&T be allowed to share the spectrum on a local loop for voice and data when AT&T purchases a loop/port combination and if so, under what rates, terms, and conditions? (UNE's, Attachment 2, Section 3.10)
34. What are the appropriate rates and charges for unbundled network elements and combinations of network elements? (The parties anticipate that the rates and charges will be resolved in the generic UNE Cost docket, Docket No. 990649-TP.)