

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by BellSouth
Telecommunications, Inc. for
Section 252(b) arbitration of a
resale agreement with NOW
Communications, Inc.

DOCKET NO. 000262-TP
ORDER NO. PSC-00-1660-FOF-TP
ISSUED: September 18, 2000

The following Commissioners participated in the disposition of
this matter:

J. TERRY DEASON, Chairman
E. LEON JACOBS, JR.
LILA A. JABER

ORDER GRANTING MOTION FOR WITHDRAWAL OF PETITION FOR ARBITRATION

BY THE COMMISSION:

On February 25, 2000, BellSouth Telecommunications, Inc. (BellSouth) filed a petition for arbitration of an interconnection agreement with NOW Communications, Inc. (NOW) under Section 252(b) of the Federal Telecommunications Act of 1996. NOW filed its response to BellSouth's petition on March 21, 2000. On March 7, 2000, NOW filed a Motion to Dismiss BellSouth's petition. On May 3, 2000, NOW filed a Motion for Determination of Preliminary Matter and on May 5, 2000, a Motion for Leave to Submit Information Supplementary to its Motion for Determination of Preliminary Matter. BellSouth timely responded to these motions.

On June 21, 2000, Order No. PSC-00-1128-PCO-TP, establishing procedure was issued. The order noted that certain issues were in dispute. The parties resolved the disputed issues, and Order No. PSC-1371-PCO-TP, issued July 31, 2000, set forth the tentative list of issues for this proceeding.

On August 7, 2000, BellSouth filed a Motion for Withdrawal of Petition for Arbitration, stating that the parties had executed a new resale agreement on August 2, 2000, which effectively resolved all issues subject to arbitration. On August 16, 2000, NOW filed a Notice of Concurrence with the Motion of BellSouth Telecommunications, Inc. for Withdrawal of Petition for Arbitration as Clarified. NOW highlights BellSouth's use of the phrase

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"effectively resolving all issues which are the subject of this arbitration" at lines 7 and 8 of BellSouth's motion. NOW states that it understands the phrase to simply mean that as a result of the parties' new resale agreement, there are no longer unresolved issues between them which require arbitration at this time. Further, NOW states that it understands BellSouth's motion to remove from arbitration each one of the issues that has been presented for arbitration. With those clarifications and the understanding that this Commission will dismiss the petition for arbitration without prejudice, NOW concurs with BellSouth's motion. Based on the foregoing, we hereby grant BellSouth's Motion for Withdrawal of Petition for Arbitration, because BellSouth is withdrawing a petition it filed.

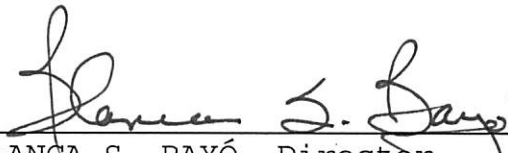
We note that on August 16, 2000, NOW filed notices of withdrawal of its motion for determination of preliminary matter and motion for leave to submit information supplementary to its previous motion. NOW did not file a notice of withdrawal of its motion to dismiss. We find that BellSouth's motion renders NOW's outstanding motion to dismiss.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that BellSouth Telecommunications, Inc.'s Motion for Withdrawal of Petition for Arbitration is hereby granted. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission this 18th day of September, 2000.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

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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.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review in Federal district court pursuant to the Federal Telecommunications Act of 1996, 47 U.S.C. § 252(e)(6).