

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Global NAPS,
Inc. for arbitration of
interconnection rates, terms and
conditions and related relief of
proposed agreement with
BellSouth Telecommunications,
Inc.

DOCKET NO. 991220-TP
ORDER NO. PSC-01-1806-FOF-TP
ISSUED: September 7, 2001

The following Commissioners participated in the disposition of
this matter:

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

FINAL ORDER GRANTING EXTENSION OF TIME,
APPROVING ARBITRATED AGREEMENT, AND
CLOSING DOCKET

BY THE COMMISSION:

On August 26, 1999, Global NAPs, Inc. (GNAPs) filed a petition for arbitration of an interconnection agreement with BellSouth Telecommunications, Inc. (BellSouth) under Section 252(b) of the Telecommunications Act of 1996 (the "Act"). On September 20, 1999, BellSouth timely filed its Response to the petition. At the issue identification meeting, the parties identified 14 issues to be arbitrated.

An administrative hearing was held on June 7, 2000. Parties agreed to stipulate all testimony and exhibits, and the evidence was entered into the record without calling witnesses.

By Order No. PSC-00-1680-FOF-TP, issued September 19, 2000, we rendered our decision on the issues. Therein, we addressed the treatment of dial-up traffic to Internet service providers (ISPs), reciprocal compensation, the definition of local traffic, rates for unbundled network elements (UNEs), and collocation provisions.

On October 4, 2000, BellSouth filed a Motion for Reconsideration of our post-hearing decision. That same day, GNAPs

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also filed a Motion for Reconsideration and/or Clarification of our decision. On October 16, 2000, the parties filed their responses to the Motions. By Order No. PSC-01-0762-FOF-TP, issued March 26, 2001, we denied the Motions for Reconsideration and required that the final arbitrated agreement be filed within 30 days of the issuance of the Order. The agreement was, therefore, due to be filed on April 25, 2001.

On April 24, 2001, the parties filed a Joint Motion for Extension of Time to file their arbitrated agreement. Therein, they requested an extension of 30 days to allow them to file their final interconnection agreement on May 25, 2001. On May 25, 2001, BellSouth filed the final interconnection agreement along with a Statement of Disputed Issues. On that same day, GNAPs filed a letter requesting that we order the parties to adopt the final agreement with GNAPs' language, as opposed to BellSouth's. By Order No. PSC-01-1423-FOF-TP, issued July 2, 2001, we granted the Joint Motion for Extension of Time to file the arbitrated agreement. In this Order, we also declined to resolve the disputed language, rejected the incomplete agreement filed on May 25, 2001, and required parties to refile the final arbitrated agreement within 30 days.

On August 1, 2001, BellSouth filed a Joint Motion for Extension of Time of One Day to execute and file the final arbitrated agreement. On August 2, 2001, BellSouth filed the final arbitrated agreement.

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 reached 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 9 months after the date on which the local exchange carrier received the request under this section. In this case, however, the parties have explicitly waived the 9-month requirement set forth in the Act. Pursuant to Section 252(e)(5) of the Act, if the Commission refuses to act, then the FCC shall issue an order preempting the Commission's jurisdiction in the matter, and shall assume jurisdiction of the proceeding. Furthermore, Section 252(e) requires that arbitrated agreements be submitted for approval by the state Commission in accordance with the requirements of that subsection and applicable state law.

EXTENSION OF TIME

In their motion filed on August 1, 2001, the parties indicate that they need one additional day in which to gather the signatures for the final version of their final executed interconnection agreement. The parties both agree that this extension is necessary and that it will prejudice neither party. The Joint Motion for Extension of Time is, therefore, granted. We note that the agreement was filed on August 2, 2001.

FINAL AGREEMENT

Having reviewed the interconnection agreement, we find it complies with our Final Order on the parties' arbitration, Order No. PSC-00-1680-FOF-TP, and our decision on the Motions for Reconsideration, Order No. PSC-01-0762-FOF-TP. Furthermore, the interconnection agreement meets the standards set forth in Section 252(e) of the Telecommunications Act of 1996. Therefore, we hereby approve this agreement.

It is therefore

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ORDERED by the Florida Public Service Commission that the parties' Joint Motion for Extension of Time of One Day is granted. It is further

ORDERED that the final arbitrated agreement between Global NAPs, Inc. and BellSouth Telecommunications, Inc., filed on August 1, 2001, is hereby approved. It is further

ORDERED that this Docket shall be closed.

By ORDER of the Florida Public Service Commission this 7th Day of September, 2001.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records and Hearing
Services

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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 the Commission Clerk and Administrative Services, 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).