

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Consideration of  
BellSouth Telecommunications,  
Inc.'s entry into interLATA  
services pursuant to Section 271  
of the Federal  
Telecommunications Act of 1996.  
(Third Party OSS Testing)

DOCKET NO. 960786B-TL

In re: Petition of Competitive  
Carriers for Commission action  
to support local competition in  
BellSouth Telecommunications,  
Inc.'s service territory.

DOCKET NO. 981834-TP  
ORDER NO. PSC-01-2287-PCO-TL  
ISSUED: November 20, 2001

ORDER ON MOTION REQUESTING WORKSHOP IN OSS TESTING TRACK

I. Background

Part II of the Federal Telecommunications Act of 1996 (the Act), P.L. 104-104, 104th Congress 1996, provides for the development of competitive markets in the telecommunications industry. Part III of the Act establishes special provisions applicable to the Bell Operating Companies (BOCs). In particular, BOCs must apply to the FCC for authority to provide interLATA service within their in-region service areas. The FCC must consult with the Attorney General and the appropriate state commission before making a determination regarding a BOC's entry into the interLATA market. See Subsections 271(d)(2)(A) and (B). With respect to state commissions, the FCC is to consult with them to verify that the BOC has complied with the requirements of Section 271(c) of the Act.

On June 28, 1996, we opened this docket to begin to fulfill our consultative role on the eventual application of BellSouth Telecommunications, Inc. for authority to provide in-region interLATA service. After hearing, having considered the record, by Order No. PSC-97-1459-FOF-TL, issued November 19, 1997, we rendered findings on whether BellSouth had met the requirements of Section 271(c). Specifically, we found that BellSouth was not eligible to proceed under Track B at that time, because it had received qualifying requests for interconnection that if implemented would meet the requirements of Section 271(c)(1)(A), also known as Track A.

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On December 10, 1998, 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 (MCImetro), Worldcom Technologies, Inc. (Worldcom), the Competitive Telecommunications Association (Comptel), MGC Communications, Inc. (MGC), and Intermedia Communications Inc. (Intermedia) (collectively, "Competitive Carriers") filed their Petition of Competitive Carriers for Commission Action to Support Local Competition in BellSouth's Service Territory.

Thereafter, on December 30, 1998, BellSouth Telecommunications, Inc. (BellSouth) filed a Motion to Dismiss the Petition of the Competitive Carriers for Commission Action to Support Local Competition in BellSouth's Service Territory. BellSouth requested that we dismiss the Competitive Carriers' Petition with prejudice. On January 11, 1999, the Competitive Carriers filed their Response in Opposition to BellSouth's Motion to Dismiss.

By Order No. PSC-99-0769-FOF-TP, issued April 21, 1999, we denied BellSouth's Motion to Dismiss. In addition, the Commission denied the Competitive Carriers' request to initiate a rulemaking proceeding to establish expedited dispute resolution procedures for resolving interconnection agreement disputes. We also directed our staff to provide more specific information and rationale for its recommendation on the remainder of the Competitive Carriers' Petition. On May 26, 1999, we issued Order No. PSC-99-1078-PCO-TP, which granted, in part, and denied, in part, the petition of the Florida Competitive Carriers Association to support local competition in BellSouth's service territory.

On May 28, 1999, FCCA and AT&T filed a Motion for Independent Third-Party Testing of BellSouth's OSS. BellSouth filed its Response to this Motion by the FCCA and AT&T on June 16, 1999. That same day, FCCA and AT&T filed a Supplement to the Motion for Third-Party Testing. On June 17, 1999, ACI Corp. (ACI) filed a Motion to Expand the Scope of Independent Third-Party Testing. On June 28, 1999, BellSouth responded to the Supplement filed by FCCA and AT&T. On June 29, 1999, BellSouth responded to ACI's Motion to Expand the Scope of Independent Third-Party Testing. By Order No. PSC-99-1568-PAA-TP, issued August 9, 1999, we denied the motion.

Upon our own motion, we approved our staff's recommendation to proceed with Phase I of third-party testing of BellSouth's OSS. Phase I of third-party testing required a third party, in this case KPMG Consulting, Inc., to develop a Master Test Plan (MTP) that would identify the specific testing activities necessary to demonstrate nondiscriminatory access and parity of BellSouth's systems and processes.

By Order No. PSC-00-0104-PAA-TP, issued January 11, 2000, we approved the KPMG MTP and initiated Phase II of third-party testing of BellSouth's OSS. By Order No. PSC-01-1887-PHO-TL, issued September 21, 2001, this Docket was divided into sub-dockets A and B for processing the issues set for hearing and our Third-Party OSS Test, respectively.

On October 11, 2001, AT&T, Dieca Communications, Inc. d/b/a Covad Communications Company (Covad), and WorldCom, Inc. (WorldCom) (collectively "Petitioners") filed a Motion Requesting Workshop. Therein, they request that an additional workshop be scheduled to allow ALECs to present their "real world" experiences to the Commission. Currently, only one workshop is scheduled in this track, and that is to address the KPMG report. On October 17, 2001, BellSouth filed its Response to the Motion Requesting Workshop. Therein, BellSouth states that it does not object to the establishment of an additional workshop in this track, as long as certain criteria are met as further discussed herein.

### Arguments

#### PETITIONERS

In their motion, the Petitioners explain that the "real world" experiences of the ALECs in dealing with BellSouth is information the FCC evaluates in making its determination on a BOC's application for interLATA authority pursuant to Section 271 of the Act. The Petitioners emphasize that the FCC has indicated that commercial usage information is particularly useful in determining whether the provisions of Section 271 have been met.

The Petitioners argue, however, that under the current OSS Testing schedule, there is no forum or provision by which the Commission will hear ALECs' real world experiences. They contend

that KPMG is only looking at ALEC data in the aggregate, which has been reported by BellSouth. They argue that not only does this preclude the Commission from hearing ALEC-specific problems with BellSouth's performance, it also is problematic because BellSouth's self-reported data is deficient. The Petitioners contend that, as such, the Third Party OSS Test Report will not provide the Commission with all of the information necessary to determine whether BellSouth is, in fact, meeting the 14-point checklist set forth in Section 271 of the Act.

For these reasons, the Petitioners request a second workshop be scheduled to allow the ALECs to provide this Commission with information regarding their experiences in dealing with BellSouth in the market. They further suggest that the workshop format be such that there is an opportunity for interactive dialogue on the issues raised by the ALECs, and that it be scheduled soon after KPMG's report is released.

#### BELLSOUTH

In its Response, BellSouth states that it opposes the Petitioners' Motion for several reasons. First, BellSouth contends that there is a "significant difference" between the "real world" experiences that ALECs wish to present to the Commission and commercial usage information. BellSouth notes that commercial volumes are already being reviewed by KPMG as part of the Third Party Test.

BellSouth also contends that one of the main reasons for choosing to implement the Third Party Testing process for BellSouth's OSS was to avoid the type of anecdotal evidence the ALECs now wish to present. BellSouth emphasizes that in Order No. PSC-99-1568-PAA-TP, the Order by which we implemented the Third Party Testing process, we stated that this process would likely "provide better, more accurate information about the status of BellSouth's systems than might be obtained through further administrative proceedings on this issue." Order at p. 10.

In addition, BellSouth argues that it has already been determined that such commercial experience information is not appropriate in Track A of this proceeding, because KPMG is already addressing any differences between the access to OSS functions that

BellSouth provides itself, and that which it provides to the ALECs. See Orders Nos. PSC-01-1025-PCO-TL and PSC-01-1252-FOF-TL. Furthermore, testimony addressing commercial experiences was removed from the Track A hearing for the same reasons. See Orders Nos. PSC-01-1830-PCO-TL and PSC-01-2021-FOF-TL. BellSouth notes that these Orders did provide that the ALECs would have the opportunity to file comments and/or affidavits in Track B regarding their commercial experiences with BellSouth.

In spite of its disagreement with the Petitioners' rationale for requesting a second workshop to address commercial experiences, BellSouth states that it does not oppose the establishment of such a workshop under the following conditions:

- 1) The workshop is held within two weeks of the conclusion of the Third Party Test.
- 2) The ALECs are required to provide BellSouth with the specifics of their experiences two weeks prior to the workshop to allow BellSouth the opportunity to investigate. BellSouth notes that the information provided should include, at a minimum, the end user's name, address, purchase order number, the pertinent dates, etc.
- 3) BellSouth should have equal time to respond to the ALECs.
- 4) The workshop should not delay the Commission's decision on BellSouth's compliance with Section 271 of the Act.

### Decision

While it appears that the Third Party Test and the testing process we have developed are comprehensive and thorough, I note that none of our prior decisions regarding the Third Party Test precludes us from receiving information regarding commercial experiences. Therefore, upon consideration, the Motion Requesting Workshop is hereby granted. A second workshop will be added to the current schedule to address commercial experiences.

I further find that at the workshop, BellSouth shall be allowed an equal opportunity to respond to concerns and issues raised by the ALECs. In addition, ALECs intending to present information regarding their experiences at this workshop shall provide pertinent information regarding the matters to be addressed at the workshop to BellSouth by February 4, 2002, two weeks prior to Workshop II.

Furthermore, while I acknowledge the parties' stated scheduling concerns, our Commission calendar currently allows for the scheduling of workshops and comments in this matter as follows:

- 1) Commission Workshop I      February 15, 2002  
(Workshop to Review KPMG's  
Report)
- 2) Commission Workshop II      February 18, 2002  
(Workshop on Commercial  
Experiences)
- 3) Comments from Workshop I      February 25, 2002

I note that it does not appear necessary to include a separate post-workshop comment period for Workshop II in view of the interactive dialogue contemplated by this workshop. I also note that these dates may need to be modified in the future should the conclusion of the Third Party Test be extended for any reason. Further information regarding the specifics of scheduling presentations and the time frames for such presentations will be provided at a later date in the Notices for these Workshops.

It is therefore

ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that the October 11, 2001, Motion Requesting Workshop is granted as set forth in the body of this Order. It is further

ORDERED that the schedule for workshops and comments in this track of this Docket shall be as set forth in the body of this Order.

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By ORDER of Commissioner J. Terry Deason as Prehearing Officer, this 20th Day of November, 2001.

A handwritten signature in black ink, appearing to read "J. Terry Deason", is written over a horizontal line.

J. TERRY DEASON  
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) 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 the

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Commission Clerk and Administrative Services, 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.