

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into
pricing of unbundled network
elements (BellSouth track).

DOCKET NO. 990649A-TP
ORDER NO. PSC-02-0120-PCO-TP
ISSUED: January 25, 2002

ORDER COMPELLING DISCOVERY RESPONSES

On May 25, 2001, we issued our Final Order on Rates for Unbundled Network Elements Provided by BellSouth, Order No. PSC-01-1181-FOF-TP. On June 11, 2001, BellSouth filed its Motion for Reconsideration, requesting that we reconsider our decision in six respects. Also on June 11, 2001, MCI WorldCom, AT&T, Covad, and Z-Tel (Movants) filed a Motion for Reconsideration and Clarification of certain decisions in the Order. Thereafter, on June 26, 2001, BellSouth filed a Motion to Conform Staff Analysis and Cost Model Run to Order No. PSC-01-1181-FOF-TP. By Order No. PSC-01-2051-FOF-TP, issued October 18, 2001, we granted, in part, and denied, in part, BellSouth's Motion for Reconsideration. We also denied the Motion for Reconsideration and Clarification filed by MCI WorldCom, Inc., AT&T Communications of the Southern States, Inc., DIECA Communications, Inc. d/b/a Covad Communications Company, and Z-Tel Communications, Inc., as well as BellSouth's Motion to Conform the Staff's Analysis and Cost Model Runs to our decision. On our own motion, we conformed the Commission staff's analysis and cost model runs to our post-hearing decision in this matter.

This proceeding is currently set for hearing on January 30-31, 2002, for us to consider BellSouth's revisions to its cost study submitted as part of its required 120-day filing, and related matters. Order No. PSC-01-1904-PCO-TP, issued September 24, 2001, and Order No. PSC-01-2189-PCO-TP, issued November 8, 2001, and Order No. PSC-01-2399-PCO-TP, issued December 11, 2001, established the procedure for the hearing regarding BellSouth's 120-day filing.

It has come to my attention that certain parties to this proceeding are delinquent in providing discovery responses to Commission staff. Not only are these responses overdue, but they are now past the January 23, 2002, discovery deadline set forth in Order No. PSC-01-1904-PCO-TP, issued September 24, 2001. As it stands, this delinquency calls into question the current hearing schedule. Therefore, I hereby require that the following

DOCUMENT NUMBER-DATE

00966 JAN 25 02

FPSC-COMMISSION CLERK

ORDER NO. PSC-02-0120-PCO-TP
DOCKET NO. 990649A-TP
PAGE 2

outstanding discovery responses shall be provided to Commission staff by 9:00 a.m. EST, Monday, January 28, 2002:

Responses to Staff's First Request for Production of Documents to Florida Digital Network

Responses to Staff's First Set of Interrogatories to Florida Digital Network

Responses to Staff's First Request for Production of Documents to Z-Tel

BellSouth Late-Filed Deposition Exhibits to Deposition of Daonne Caldwell, Nos. 8 and 15

AT&T/MCI WorldCom Late-Filed Deposition Exhibits to Deposition of Greg Darnell (All exhibits)

AT&T/MCI WorldCom Late-Filed Deposition Exhibits to Deposition of John C. Donovan (All exhibits)

AT&T/MCI WorldCom Late-Filed Deposition Exhibits to Deposition of Brian F. Pitkin (All exhibits)

Florida Digital Network Late-Filed Deposition Exhibits to Deposition of Michael P. Gallagher (All exhibits)


Failure to provide these responses by the designated time will result in the imposition of punitive measures.

It is therefore

ORDERED by Chairman Lila A. Jaber, as Prehearing Officer, that the discovery response identified in the body of this Order shall be provided to Commission staff by 9:00 a.m. EST, Monday, January 28, 2002.

ORDER NO. PSC-02-0120-PCO-TP
DOCKET NO. 990649A-TP
PAGE 3

By ORDER of Commissioner Lila A. Jaber, as Prehearing Officer,
this 25th Day of January, 2002.



LILA A. JABER
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 Commission Clerk and Administrative Services, in the form

ORDER NO. PSC-02-0120-PCO-TP
DOCKET NO. 990649A-TP
PAGE 4

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.