

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 990649A-TP
ORDER NO. PSC-02-0138-PCO-TP
ISSUED: January 31, 2002

ORDER CONTINUING HEARING AND ESTABLISHING PROCEDURE AND FILING
DATES LIMITED TO BELL SOUTH TELECOMMUNICATIONS, INC. REVISED COST
STUDY FILING OF JANUARY 28, 2002

On May 25, 2001, this Commission issued its Final Order on Rates for Unbundled Network Elements Provided by BellSouth Telecommunications, Inc. (BellSouth) (Phases I and II), Order No. PSC-01-1181-FOF-TP. In that Order, among other things, we ordered BellSouth to refile, within 120 days of the issuance of the Order, revisions to its cost study addressing xDSL-capable loops, network interface devices, and cable engineering and installation. The parties to the proceeding were also ordered to refile within 120 days of the issuance of the Order, proposals addressing network reliability and security concerns as they pertain to access to subloop elements.

By Order No. PSC-01-1904-PCO-TP, issued September 24, 2001, the procedure for the hearing regarding BellSouth's 120-day filing was established. Order No. PSC-01-2123-PCO-TP, issued October 29, 2002, approved the issues to be heard by this Commission, and created sub-dockets to facilitate efficiency and clarity in this proceeding. Order No. PSC-01-2189-PCO-TP, issued November 8, 2002 refined the discovery requirements of our September 24, 2002 Order, in particular clearly stating that all discovery responses shall be due 15 days after service of the request, with no additional time for mailing.

On January 17, 2002, a prehearing was held to finalize each party's position on each issue. Prehearing Order No. PSC-02-0117-PHO-TP addressed issues raised at the Prehearing, the handling of confidential information, and post hearing procedures.

On January 28, 2002, a mere two days before the hearing in this proceeding, BellSouth filed a revised cost study and a revised BSTLM Loop Model. The revision at this late stage in the process has placed the other parties in this docket at a severe disadvantage. They, and our staff, have not had an opportunity to

DOCUMENT NUMBER-DATE

01178 JAN 31 02

FPSC-COMMISSION CLERK

ORDER NO. PSC-02-0138-PCO-TP
DOCKET NO. 990649A-TP
PAGE 2

digest the new filings, much less question BellSouth's on its new assertions and the resulting changes in the models. BellSouth claims that the changes in the cost study and the model lower the costs associated with certain elements.

While I am reluctant to reset the hearing dates in this matter, it is imperative that a complete record be developed. The decisions emanating from this docket will directly influence the ability of ALECs to compete within this state, and whether Florida citizens are provided with meaningful choice in the provisioning of telecommunications services.

Upon consideration, I find it necessary to re-establish the hearing dates in this docket as March 11-13, 2002. The parties shall be allowed an opportunity to respond in writing to BellSouth's changes, and as such shall file rebuttal to BellSouth's changes by February 11, 2002. Further discovery shall be limited to changes in the cost study and the BSTLM model, as well as affected elements. All discovery responses shall be due seven days after service of the request, with no additional time for mailing. Discovery shall end on March 1, 2002, without exception. All discovery requests shall be served by hard copy through overnight mail or hand delivery, with a copy of the request sent by email on the same day. Responses to interrogatories, and where practicable production of documents, shall also be served in the same manner. Commission staff shall be served with a copy of these and all other filings. Post-hearing briefs shall be due on April 3, 2002.

It is therefore

ORDERED by Chairman Lila A. Jaber, as Prehearing Officer that the hearing dates in this proceeding are modified as set forth in the body of this order. It is further

ORDERED that the discovery and procedural requirements set forth in Orders Nos. PSC-01-1904-PCO-TP, PSC-01-2189-PCO-TP, and PSC-02-0117-PHO-TP are supplemented as set forth in the body of this Order. It is further

ORDERED that Orders Nos. PSC-01-1904-PCO-TP, PSC-01-2189-PCO-TP, and PSC-02-0117-PHO-TP are affirmed in all other respects.

ORDER NO. PSC-02-0138-PCO-TP
DOCKET NO. 990649A-TP
PAGE 3

By ORDER of Chairman Lila A. Jaber, as Prehearing Officer,
this 31st Day of January, 2002.



LILA A. JABER
Chairman and Prehearing Officer

(S E A L)

WDK

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

ORDER NO. PSC-02-0138-PCO-TP
DOCKET NO. 990649A-TP
PAGE 4

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 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.