

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by BellSouth  
Telecommunications, Inc. for  
arbitration of certain issues in  
interconnection agreement with  
Supra Telecommunications and  
Information Systems, Inc.

DOCKET NO. 001305-TP  
ORDER NO. PSC-02-0464-PCO-TP  
ISSUED: April 4, 2002

ORDER DENYING MOTION FOR EXTENSION OF TIME

On September 1, 2000, BellSouth Telecommunications, Inc. (BellSouth) filed a petition for arbitration of certain issues in a new interconnection agreement with Supra Telecommunications and Information Systems, Inc. (Supra). BellSouth's petition raised fifteen disputed issues. Supra filed its response, and this matter was set for hearing. In its response Supra raised an additional fifty-one issues. Although some issues were settled between the parties, thirty-seven disputed issues were ultimately presented to us for resolution.

We held an administrative hearing in this matter on September 26-27, 2001. By Order No. PSC-02-0413-FOF-TP (Final Order), issued March 26, 2002, we resolved the substantive issues presented for our consideration, as well as several procedural motions filed by Supra on February 18, 21, and 27. A few minor scrivener's errors were corrected by Order No. PSC-02-0413A-FOF-TP, issued March 28, 2002. Pursuant to the Notice of Further Proceedings set forth in Order No. PSC-02-0413-FOF-TP and Rule 25-22.060, Florida Administrative Code, any motion for reconsideration of the Final Order is due on April 10, 2002.

On April 1, 2002, Supra filed a Motion to Extend the Due Date for Filing Motion for Reconsideration of Final Order. Therein, Supra argues that the arbitration was very complex and the Final Order itself is very long; therefore, in the interest of fairness and to allow Supra a meaningful opportunity to be heard, Supra believes an extension is warranted.<sup>1</sup>

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<sup>1</sup>Citing Rucker v. City of Ocala, 684 So.2d 836, 841 (1<sup>st</sup> DCA 1996) ("to qualify under due process standards, the opportunity to be heard must be meaningful, full and fair, and not merely colorable or illusive.") (emphasis added by Supra).

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

In addition, Supra contends that additional time should be allowed because it currently has a public records request pending before the Commission. Supra contends that this public records request may demonstrate that our staff engaged in misconduct involving this case. Because the majority of this public records request remains outstanding at this time, Supra believes that it should be allowed 30 days from the date the public records request is completed to file its Motion for Reconsideration of our Final Order.

To date, BellSouth has not provided a response to the Motion. Pursuant to Rule 28-106.303, Florida Administrative Code, parties may file a response to a motion within seven days of service if time allows. Because the date for filing a motion for reconsideration is close at hand, I find it appropriate to address this request for extension of time without a response from BellSouth. I acknowledge, however, that Supra noted in its Motion that it had conferred with counsel for BellSouth regarding this request and that BellSouth would be opposed to any extension of time.

Rule 25-22.060, Florida Administrative Code, requires that motions for reconsideration be filed no later than 15 days after issuance of the final order. The Courts have construed failure to timely file a motion for reconsideration as a waiver of the right to do so, and have also found that the time permitted for filing such a motion may not be extended by the administrative tribunal.<sup>2</sup> Thus, it is not within my authority to grant an extension of time. In accordance with Rule 25-22.060, Florida Administrative Code, any motion for reconsideration must be filed on or before April 10, 2002.

It is therefore

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<sup>2</sup>City of Hollywood v. Public Employee Relations Commission, 432 So.2d 79 (Fla. 4<sup>th</sup> DCA 1983) and Citizens of the State of Florida v. North Fort Meyers Utility, Inc. and Florida Public Service Commission, Case No. 95-1439 (Fla. 1<sup>st</sup> DCA, November 16, 1995).

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ORDERED by Commissioner Michael A. Palecki, as Prehearing Officer, that Supra Telecommunications and Information Systems, Inc.'s Motion to Extend the Due Date for Filing Motion for Reconsideration is hereby denied.

By ORDER of Commissioner Michael A. Palecki, as Prehearing Officer, this 4th Day of April, 2002.



MICHAEL A. PALECKI  
Commissioner and Prehearing Officer

( S E A L )

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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.

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)

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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 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.