

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-02-0496-FOF-TP
ISSUED: April 10, 2002

ORDER DENYING MOTION FOR RECONSIDERATION

The background of this proceeding is set forth in Order No. PSC-02-0464-PCO-TP.

On April 1, 2002, Supra filed a Motion to Extend the Due Date for Filing Motion for Reconsideration of Final Order. By Order No. PSC-02-0464-PCO-TP, issued April 4, 2002, the Motion was denied. On April 8, 2002, Supra filed a Motion for Reconsideration of Commission Order No. PSC-02-0464-PCO-TP.

In its Motion, Supra relies on Rule 28-106.204, Florida Administrative Code, for the proposition that we have been granted express authority for the extension of time for all motions upon a showing of good cause. I disagree. In pertinent part, the Rule states that "Motions for extension of time shall be filed prior to the expiration of the deadline sought to be extended and shall state good cause for the request." Rule 28-106.204(5), Florida Administrative Code. The deadline sought to be extended must be one which this Commission has the authority to extend. The holding in City of Hollywood v. Public Employees Relations Commission, 432 So.2d 79 (Fla. 4th DCA 1983) clearly indicates that we lack the authority to extend this jurisdictional deadline. There, addressing the Public Employees Relations Commission (PERC) having granted the City of Hollywood an extension of time to file a motion for reconsideration, the Court stated that "There is no express authority either in the APA, PERC's rules, or in the Model Rules of Procedure for the extending of time of such a motion." Rule 28-106.204, Florida Administrative Code, does not broaden our authority such that we are able to extend the time for the filing of a motion for reconsideration as, contrary to Supra's position, the APA is not amended by the rules which construe it.

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It is therefore

ORDERED by Commissioner Michael A. Palecki, as Prehearing Officer, that Supra Telecommunications and Information Systems, Inc.'s Motion for Reconsideration of Commission Order No. PSC -02-0464-PCO-TP, is hereby denied.

By ORDER of Commissioner Michael A. Palecki, as Prehearing Officer, this 10th day of April, 2002.



MICHAEL A. PALECKI
Commissioner 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.

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

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25-22.060, Florida Administrative Code; or 2) 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 and/or wastewater utility by filing a notice of appeal with the Director, Division of the Commission Clerk and Administrative Services and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.