

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of Florida  
Competitive Carriers Association  
against BellSouth  
Telecommunications, Inc.  
regarding BellSouth's practice  
of refusing to provide  
FastAccess Internet Service to  
customers who receive voice  
service from a competitive voice  
provider and request for  
expedited relief.

DOCKET NO. 020507-TL  
ORDER NO. PSC-02-0935-PCO-TL  
ISSUED: July 12, 2002

ORDER DENYING REQUEST FOR EXPEDITED RELIEF

On June 12, 2002, the Florida Competitive Carriers Association filed a Complaint against BellSouth Telecommunications, Inc. (BellSouth) and a Request for Expedited Relief. In its Complaint, FCCA indicates that it has followed the procedures for expedited processing set forth in the June 19, 2001, Commission memorandum from Noreen S. Davis, to then Chairman E. Leon Jacobs (Memorandum). While FCCA acknowledges that the procedure outlined in the June 19, 2001, Memorandum was only applicable to complaints arising from interconnection agreements, FCCA believes that the procedure is equally valuable in the context of its narrow complaint.

On July 3, 2002, BellSouth filed a Motion to Dismiss FCCA's Complaint and an Opposition to Request for Expedited Relief. In its Opposition, BellSouth states that the intent of the expedited process was to resolve disputes arising out of interconnection agreements and was limited to contract interpretation. BellSouth argues that the instant dispute is not contemplated by the expedited process and that FCCA's Complaint should be processed according to the Commission's normal procedure regarding requests for expedited treatment.

On July 9, 2002, FCCA filed its Response in Opposition to BellSouth's Motion to Dismiss and filed a Motion for Summary Final Order.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

RULING

FCCA and BellSouth point out that the expedited procedure outlined in the Memorandum was designed to address complaints arising from interconnection agreements and was limited to contract interpretation. However, the issue presented by FCCA - should BellSouth be prohibited from denying FastAccess service to customers who choose a competitive voice provider - is one of policy. A policy decision such as this, which has broad implications for the future of Florida's telecommunications marketplace, should be thoroughly examined.<sup>1</sup> Consequently, the Complaint is beyond the scope of the expedited process outlined in the Memorandum.

Moreover, it should be noted that there is a pending Motion to Dismiss and a Motion for Summary Final Order, either of which may be dispositive of the case. After those motions are ruled upon, the need for expedited processing will be reevaluated. Pending resolution of the outstanding motions, the Commission will continue to process this request, as it does with all requests, as expeditiously as possible.

Based on the foregoing, it is

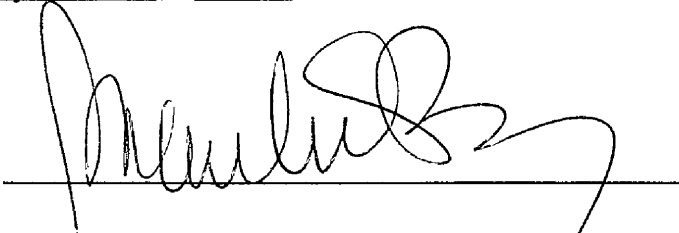
ORDERED by Braulio L. Baez, as Prehearing Officer, that the Florida Competitive Carriers Association's Request for Expedited Relief is hereby denied.

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<sup>1</sup>FCCA argues that this issue has already been addressed by Order No. PSC-02-0765-FOF-TP, issued June 5, 2002, in Docket No. 010098-TP and Order No. PSC-02-0878-FOF-TP, issued July 1, 2002, in Docket No. 001305-TP. However, Order No. PSC-02-0765-FOF-TP is subject to two motions for reconsideration or clarification and one cross-motion for reconsideration.

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By ORDER of Commissioner Braulio L. Baez, as Prehearing Officer, this 12th Day of July, 2002.



BRAULIO L. BAEZ  
Commissioner and Prehearing Officer

( S E A L )

JKF

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

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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.