

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of AT&T
Communications of the Southern
States, LLC for Suspension and
Cancellation of Switched Access
Contract Tariff No. FL2002-02
filed by BellSouth
Telecommunications, Inc.

DOCKET NO. 020738-TP
ORDER NO. PSC-02-1291-PCO-TP
ISSUED: September 23, 2002

ORDER GRANTING MOTION FOR LEAVE TO FILE AMENDED PETITION

On July 16, 2002, AT&T Communications of the Southern States, Inc. (AT&T), filed its initial Petition requesting that this Commission suspend and cancel the Switched Access Contract Tariff No. FL2002-02 filed by BellSouth Telecommunications, Inc. (BellSouth). Subsequently, on August 12, 2002, BellSouth filed its Answer to AT&T's Petition. In its Answer, BellSouth stated that its initial contract tariff memorialized an agreement with Sprint. BellSouth further stated that, to make its discount switched access tariff provisions generally available to every IXC, BellSouth was amending its intrastate Switched Access Services Tariff to include Section E27.

The amendment to BellSouth's Switched Access Services Tariff containing Section E27 was filed August 12, 2002. The provisions of Section E27 are virtually identical to the provisions of the Switched Access Contract Tariff that is the subject of AT&T's initial Petition. Therefore, the findings regarding Section E26 would likely be applicable also to Section E27.

MOTION

On September 13, 2002, AT&T filed its Motion for Leave to File Amended Petition. In its Motion, AT&T seeks to amend its Petition to include Section E27 of BellSouth's amended Switched Access Services Tariff. AT&T urges that Section E27 suffers from the same infirmities as does Section E26 referenced in its initial Petition. Accordingly, AT&T requests that its Motion for Leave to Amend Petition be granted. BellSouth filed no response to AT&T's Motion.

DOCUMENT NUMBER DATE

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FPSC-COMMISSION CLERK

DECISION

Rule 28-106.202, states that "[t]he petitioner may amend the petition after the designation of the presiding officer only upon order of the presiding officer." AT&T's Motion was filed subsequent to the designation of a presiding officer. The longstanding policy in Florida, and of this Commission in particular, is to allow pleadings to be freely amended so that disputes may be resolved on their merits. See Adams v. Knabb Turpentine Co., 435 So. 2d 944, 946 (Fla. 1st DCA 1983); see also Order No. PSC-98-0332-PCO-TP, issued February 26, 1998, in Docket No. 970730-TP.

This proceeding is still in its early stages, with only the filing of the original Petition and an Answer to the Petition. It does not appear that BellSouth will be unduly prejudiced by the amended Petition. Indeed, AT&T has asserted that it communicated with counsel for BellSouth and was told that BellSouth does not object to AT&T's Motion. Accordingly, AT&T's Motion to File Amended Petition is hereby granted. Any response to AT&T's amended Petition shall be filed within 20 days of the issuance date of this order.

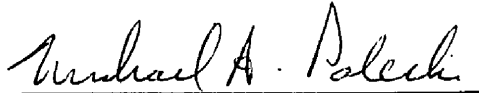
Based on the foregoing, it is

ORDERED by Commissioner Michael A. Palecki, as Prehearing Officer, that the Motion to File Amended Petition filed by AT&T Communications of the Southern States, Inc. is hereby granted. It is further

ORDERED that any response to the amended Petition filed by AT&T Communications of the Southern States, Inc. shall be filed within 20 days from the issuance date of this order.

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By ORDER of Commissioner Michael A. Palecki, as Prehearing Officer, this 23rd Day of September, 2002.



MICHAEL A. PALECKI
Commissioner and Prehearing Officer

(S E A L)

CLF

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

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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.