

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into
pricing of unbundled network
elements (Sprint/Verizon track).

DOCKET NO. 990649B-TP
ORDER NO. PSC-02-1838-PCO-TP
ISSUED: December 23, 2002

The following Commissioners participated in the disposition of this matter:

LILA A. JABER, Chairman
J. TERRY DEASON
BRAULIO L. BAEZ
MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY

ORDER ON MOTION TO STRIKE

BY THE COMMISSION:

On October 11, 2002, AT&T Communications of the Southern States, LLC (AT&T), MCI WorldCom, Inc. (WorldCom), and Florida Digital Network (FDN) (Collectively the "ALEC Coalition" or "Coalition") filed its Motion to Strike Verizon Comments on Staff Recommendation. The Motion seeks to strike Verizon's October 9, 2002, letter purporting to identify "errors" in the Commission staff's recommendation. The ALEC Coalition notes that Verizon expressly seeks to have the staff "modify its recommendation to reflect [Verizon's proposed] corrections before the Commission's vote, in order to avoid potential clarifications after the vote," and includes several computer spreadsheets prepared by Verizon.

The Coalition argues that Verizon fails to cite to a Commission rule or Order making it permissible to supplement the record or influence its consideration by the Commission or its staff. Permitting this filing severely prejudices the Coalition, it is argued, as it would unilaterally supplement the record without giving the Coalition an opportunity to review, analyze, and respond to Verizon's allegations. The Coalition believes the filing is at best a premature motion for reconsideration.

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Verizon, in its October 14, 2002, response to the Coalition's Motion to Strike, argues that it pointed out four specific errors in calculations reflected in the recommendation. While reiterating the perceived errors, Verizon maintains that it did not raise any policy disagreements in its letter, and the letter did not comment on staff's recommendation. As such, states Verizon, it sought to avoid the inefficiencies of seeking these corrections after issuance of the Order.

Upon consideration, we find that Verizon's October 9, 2002, letter goes beyond the mere correcting of scrivener errors, and addresses what are in fact disagreements with staff's methodologies in arriving at certain figures in its recommendation. Additionally, in its letter, Verizon states that it does not agree with any of staff's recommended changes to Verizon's inputs or its model run, but says this is not a "comment" on our staff's recommendation. We disagree, and note that it is improper for parties to file comments on staff recommendations. Thus, we find it appropriate to strike the letter from the record of this proceeding.

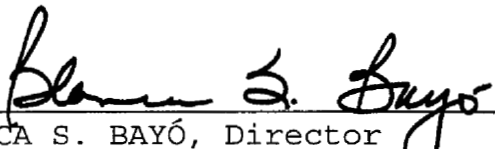
Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Motion to Strike Verizon Comments on Staff Recommendation, filed by AT&T of Communications of the Southern States, LLC, MCI WorldCom, Inc., and Florida Digital Network, is hereby granted. It is further

ORDERED that this docket shall remain open pending final resolution.

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By ORDER of the Florida Public Service Commission this 23rd
day of December, 2002.



BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

(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

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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 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.