

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-03-0476-PCO-TL  
ISSUED: April 9, 2003

THIRD ORDER ON CONTINUANCE

On June 12, 2002, the Florida Competitive Carriers Association (FCCA) filed a Complaint against BellSouth Telecommunications, Inc. (BellSouth) and a Request for Expedited Relief seeking relief from BellSouth's practice of refusing to provide its FastAccess service to customers who receive voice service from an Alternative Local Exchange Carrier (ALEC).

On July 3, 2002, BellSouth filed a Motion to Dismiss FCCA's Complaint and an Opposition to Request for Expedited Relief. On July 9, 2002, FCCA filed its Response in Opposition to BellSouth's Motion to Dismiss and filed a Motion for Summary Final Order. By Order No. PSC-02-0935-PCO-TL, issued July 12, 2002, the request for expedited relief was denied. By Order No. PSC-02-1464-FOF-TL, issued October 23, 2002, BellSouth's Motion to Dismiss and FCCA's Motion for Summary Final Order without Prejudice were denied.

By Order No. PSC-02-1537-PCO-TL, issued November 12, 2002, the procedure was established for this proceeding. On January 6, 2003, the Prehearing Hearing was held and Order No. PSC-03-0152-PHO-TL, the Prehearing Order, was subsequently issued on January 29, 2003.

By Order No. PSC-03-0084-PCO-TL, issued January 10, 2003, BellSouth's Motion to Compel was granted in part and denied in part and FCCA's Motion for Protective Order was denied. On January 17, 2003, FCCA file its Motion for Reconsideration of Order No. PSC-03-

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FILED BY COMMISSION CLERK

0084-PCO-TL. On January 22, 2003, BellSouth filed its Response in Opposition to FCCA's motion. On January 17, 2003, BellSouth filed its Second Emergency Motion to Compel against FCCA. On January 24, 2003, FCCA filed its Response to BellSouth's Second Motion to Compel. By Order No. PSC-03-0180-PCO-TL, issued February 6, 2003, BellSouth's Second Motion to Compel was granted. FCCA thereafter also filed a Motion for Reconsideration of the second order compelling discovery on February 17, 2003. BellSouth filed its Response on February 24, 2003.

On January 22, 2003, BellSouth filed a Motion for Continuance of the Hearing scheduled January 30, 2003, due to the outstanding discovery dispute. On January 23, 2003, FCCA filed its Response to the Motion for Continuance. By Order No. PSC-03-0129-PCO-TL, issued January 23, 2003, the Hearing scheduled for January 30, 2003, was continued. By Order No. PSC-03-0177-PCO-TL, issued February 5, 2003, the hearing date was rescheduled to April 16, 2003, along with other key activities dates. By Order No. PSC-03-0201-PCO-TL, issued February 11, 2003, the hearing date was rescheduled due to a scheduling conflict to April 22, 2003.

MOTION FOR CONTINUANCE

On April 2, 2003, BellSouth and FCCA filed a Joint Motion for Continuance of the hearing date scheduled in this matter. In support of the motion, the parties state that they filed a Motion for Approval of Settlement Agreement on April 2, 2003. The parties indicated that if the Commission approves the Settlement Agreement, the parties' outstanding discovery dispute will be resolved.

The parties states that the Settlement Agreement provides, in part, that certain parties will be substituted for the FCCA and that the hearing currently scheduled for April 22, 2003, will be rescheduled at a time certain after receipt of discovery, but in no event later than June 30, 2003. Specifically, the Settlement Agreement state in Paragraph 7 that

[t]he Parties request that the hearing in this matter be held within 28 days of receipt of the outstanding discovery responses referred to in paragraph 5. If any additional time is needed for resolution of discovery matters, the Parties request that the hearing in this

matter be held within within 21 days after the resolution of such discovery issues, but no later than June 30, 2003.

The parties request that the parties be consulted regarding the selection of a new hearing date so as to avoid any potential conflicts with the Memorial Day holiday and previously scheduled commitments.

Upon consideration, the Parties' Joint Motion for Continuance shall be granted. I find it is appropriate to continue the hearing in this matter until after the Commission has the opportunity to address the Settlement Agreement regarding the parties' outstanding discovery dispute. However, due to the restrictions of the Commission calender, the Parties' request that the hearing be rescheduled prior to June 30, 2003, will not be accommodated. Accordingly, the hearing and key activities dates are modified as follows:

- |                          |                   |
|--------------------------|-------------------|
| 1) Discovery Cutoff Date | July 30, 2003     |
| 2) Hearing               | August 6, 2003    |
| 3) Briefs                | September 5, 2003 |

Further, since the hearing is being rescheduled to August, there will be no conflict with the Memorial Day holiday and there should be sufficient time to adjust schedules. Except as modified herein, Orders Nos. PSC-02-1537-PCO-TL, issued November 12, 2002 (the Order Establishing Procedure), and PSC-03-0152-PHO-TL, issued January 29, 2003 (the Prehearing Order), are reaffirmed in all other respects.

Based on the foregoing, it is

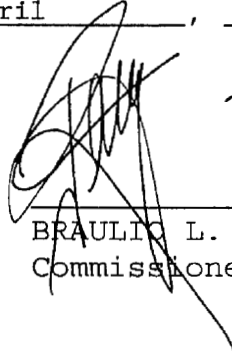
ORDERED by Commissioner Braulio L. Baez, as Prehearing Officer, that the Hearing and key activities dates are modified as set forth in the body of this Order. It is further

ORDERED that Orders Nos. PSC-02-1537-PCO-TL, issued November 12, 2002 (the Order Establishing Procedure), and PSC-03-0152-PHO-TL, issued January 29, 2003 (the Prehearing Order), are reaffirmed in all other respects. It is further

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ORDERED that this docket shall remain open pending further proceedings.

By ORDER of Commissioner Braulio L. Baez, as Prehearing Officer, this 9th day of April, 2003.

 for Commissioner Braulio L. Baez

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BRAULIO L. BAEZ  
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; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the

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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.