

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint by Supra
Telecommunications and
Information Systems, Inc.
against BellSouth
Telecommunications, Inc.
regarding BellSouth's use
of carrier to carrier
information.

DOCKET NO. 030349-TP
ORDER NO. PSC-03-0721-PCO-TP
ISSUED: June 17, 2003

ORDER GRANTING MOTION TO AMEND PETITION

On April 18, 2003, Supra Telecommunications and Information Systems, Inc. (Supra) filed an Emergency Petition for Expedited Review and Cancellation of BellSouth Telecommunications, Inc.'s (BellSouth) \$75 Cash Back Promotion Tariffs (T-030132) and for Investigation into BellSouth's Promotional Pricing and Marketing Practices. On May 8, 2003 BellSouth filed its response to Supra's petition. On June 2, 2003, by Order No. PSC-03-0671-PCO-TP, Supra's request for expedited review was denied. An issue identification meeting was held on June 6, 2003.

Supra's original complaint alleged that BellSouth was in violation of 47 USC § 222, Section 364.01(4)(g), Florida Statutes and this Commission's policy, and that BellSouth's Cash Back Promotions were anti-competitive.

On June 9, 2003, Supra filed a Motion for Leave to Amend its petition. Supra states that the purpose of the amendment is to narrow the focus of its petition to issues involving violations of 47 USC § 222, Section 364.01(4)(g), Florida Statutes and Commission policy, removing the anti-competitive elements of its complaint. Counsel for BellSouth contacted staff and indicated that BellSouth does not oppose the motion.

Pursuant to Rule 28-106.202, Florida Administrative Code, the petitioner may amend its petition once the designation of presiding officer is made, only upon order of the presiding officer. Accordingly it appears that the presiding officer has the authority

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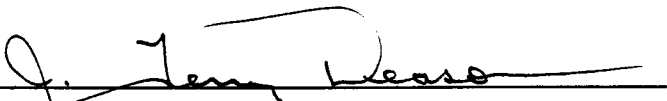
to render a decision on a motion to amend the petition. The longstanding policy in Florida, and of this Commission in particular, is to allow pleadings to be freely amended so that disputes may be resolved on their merits. See Adams v. Knabb Turpentine Co., 435 So. 2d 944, 946 (Fla. 1st DCA 1983). Further, in Docket No. 970730-TP, Order No. PSC-98-0332-PCO-TP, issued February 26, 1998. It was established that the Commission has broad discretion to allow amendment of pleadings. This order also established that the Commission should follow a policy of allowing pleadings to be freely amended, if the privilege to amend has not been abused, in order that disputes may be resolved by the parties.

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, BellSouth has communicated that it does not object to Supra's Motion. In keeping with judicial economy, I believe that granting Supra leave to amend its petition will allow the parties to more quickly resolve their dispute. Accordingly, Supra's Motion for Leave to Amend Petition is hereby granted.

Based on the foregoing, it is

ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that Supra Telecommunications and Information Systems, Inc.'s Motion for Leave to Amend its Petition, is hereby granted.

By ORDER of Commissioner J. Terry Deason as Prehearing Officer, this 17th day of June, 2003.



J. TERRY DEASON
Commissioner and Prehearing Officer

(S E A L)

LHD

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 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.