

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into the establishment of operations support systems permanent performance measures for incumbent local exchange telecommunications companies.
(BELLSOUTH TRACK)

DOCKET NO. 000121A-TP
ORDER NO. PSC-03-1385-PCO-TP
ISSUED: December 9, 2003

ORDER GRANTING MOTION FOR LEAVE TO LATE FILE
RESPONSE IN OPPOSITION

I. Background

We opened Docket No. 000121-TP to develop permanent performance metrics for the ongoing evaluation of operations support systems (OSS) provided for alternative local exchange carriers' (ALECs) use by incumbent local exchange carriers (ILECs). A monitoring and enforcement program to ensure that the ALECs receive nondiscriminatory access to the ILEC's OSS is associated with the performance metrics. Performance monitoring is necessary to ensure that ILECs are meeting their obligation to provide unbundled access, interconnection and resale to ALECs in a nondiscriminatory manner. Additionally, it establishes a standard against which ALECs and this Commission can measure performance over time to detect and correct any degradation of service provided to ALECs.

Docket No. 000121-TP consists of three phases. Phase I began with workshops conducted by our staff with members of the ALEC and ILEC communities. These workshops were held on March 30, 2000, August 8, 2000, and December 13, 2000. The purpose of Phase I was to determine and resolve any policy and legal issues in this matter. Phase II involved establishing permanent metrics for BellSouth Telecommunications, Inc. (BellSouth), including a specific monitoring and enforcement program. With the completion of Phase II, we are currently in Phase III of this docket, which entails the establishment of performance metrics and a performance monitoring and evaluation program for the other Florida ILECs.

DOCUMENT NUMBER-DATI

12657 DEC-98

FPSC-COMMISSION CLERK

By Order No. PSC-01-1819-FOF-TP (Final Order), issued September 10, 2001, we established permanent performance measures and benchmarks as well as a voluntary self-executing enforcement mechanism (Performance Assessment Plan) for BellSouth. As part of Order No. PSC-01-1819-FOF-TP, the parties stipulated that, within the first two years of implementation, BellSouth would participate in six-month review cycles to discuss any proposed changes to the Performance Assessment Plan. By Order No. PSC-02-0187-FOF-TP, issued February 12, 2002, as amended by Order No. PSC-01-0187A-FOF-TP, issued March 13, 2002, BellSouth's Performance Assessment Plan was approved.

By Order No. PSC-02-0503-PCO-TP, issued April 11, 2002, Docket No. 000121-TP was divided into three subdockets: (1) 000121A-TP, in which filings directed toward the BellSouth track would be placed; (2) 000121B-TP, in which filings directed toward the Sprint track would be placed; and (3) 000121C-TP, in which filings directed toward the Verizon track would be placed.

By Order No. PSC-02-0989-PAA-TP, issued July 22, 2002, BellSouth was required to file a specific action plan designed to improve flow-through and adjust the Self Effectuating Enforcement Mechanism (SEEM) for the flow-through metric by July 30, 2002, for the August 2002 results. Additionally, BellSouth was ordered to establish defect correction metrics to be effective August 1, 2002, as part of the Service Quality Measures in Docket 000121A-TP.

On September 25-26, 2002 and October 17-18, 2002, our staff conducted the first six-month review workshops to gauge the effectiveness of BellSouth's permanent performance measures and to determine whether the current remedy structure is effective in driving BellSouth's performance toward the required standards. The six-month review process consisted of a collaborative work group, which included BellSouth, interested ALECs, and our staff. The group reviewed the Performance Assessment Plan for additions, deletions, and other modifications.

By Order No. PSC-03-0529-PAA-TP, issued April 22, 2003, made final by Consummating Order No. PSC-03-0603-CO-TP, issued May 15, 2003, we ruled that BellSouth was to make certain revisions to the Performance Assessment Plan. The changes to the plan included the

implementation of a penalty for measurement B-10, Percent Billing Errors Corrected in X days.

On November 7, 2003, BellSouth filed a Motion to Modify Order PSC-03-0529-PAA-TP, to modify the implementation deadline set forth for a penalty for measurement B-10. On November 20, 2003, AT&T Communications of the Southern States, LLC, DIECA Communications, Inc. d/b/a Covad Communications Company, ITC^DeltaCom, MCImetro Access Transmission Services, LLC and MCI WorldCom Communications, Inc., Network Telephone Corp., NuVox Communications, Inc. and Talk America, Inc. (CLEC Coalition) filed a Motion for Leave to Late File Response in Opposition to BellSouth's Motion to Modify Order, and attached its Response in Opposition.

II. Motion for Leave to Late File Response

The CLEC Coalition states BellSouth served its Motion by U.S. Mail on the members of the CLEC Coalition on November 7, 2003. Rule 28-106.204(1), Florida Administrative Code provides that a response to any motion may be filed within seven days of service of the Motion. Rule 28-106.103, Florida Administrative Code, provides that five days may be added to any time limit when service has been accomplished by U.S. Mail. The CLEC Coalition states that a response to BellSouth's Motion was due by November 19, 2003. However, due to unexpected and unavoidable problems in the computer and printer systems, the CLEC Coalition was unable to print and copy the response to BellSouth's Motion in time for it to be filed with the Commission by the close of business on November 19, 2003.

The CLEC Coalition filed its Motion on November 20, 2003. The CLEC Coalition asserts that no party to this proceeding will be prejudiced by our granting leave for the CLEC Coalition to file its response one day late. The CLEC coalition further asserts that its interest in ensuring that we have the benefit of a complete and accurate analysis of the issues prior to taking action will be prejudiced by the denial of leave to late file the response.

BellSouth has orally stated that it does not object to the one-day late filing of the CLEC Coalition response.

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Therefore, upon consideration, I hereby grant the CLEC Coalition's Motion for Leave to Late File Response in Opposition to BellSouth's Motion to Modify Order.

Based on the foregoing, it is

ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that AT&T Communications of the Southern States, LLC, DIECA Communications, Inc. d/b/a Covad Communications Company, ITC^DeltaCom, MCImetro Access Transmission Services, LLC and MCI WorldCom Communications, Inc., Network Telephone Corp., NuVox Communications, Inc. and Talk America, Inc.'s Motion for Leave to Late File Response in Opposition to BellSouth's Motion to Modify Order is granted.

By ORDER of Commissioner J. Terry Deason, as Prehearing Officer, this 9th Day of December, 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

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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.