BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of Florida Digital Network, Inc. d/b/a FDN Communications against BellSouth Telecommunications, Inc. for resolution of certain billing disputes and enforcement of unbundled network element (UNE) orders and interconnection agreements.	DOCKET NO. 030829-TP ORDER NO. PSC-03-1391-PCO-TP ISSUED: December 10, 2003

ORDER GRANTING MOTION TO AMEND

On August 18, 2003, Florida Digital Network, Inc. d/b/a FDN Communications (FDN) filed a Complaint for Resolution of Certain Billing Disputes and Enforcement of UNE Orders and Interconnection Agreements with BellSouth Telecommunications, Inc. (BellSouth). FDN asserts that BellSouth has: (1) unfairly and wrongfully assessed FDN disconnect charges when BellSouth ports customers away from FDN upon winback; (2) violated this Commission's Orders in Docket No. 990649A-TP, Investigation Into the Pricing of Unbundled Network Elements; and (3) breached the parties' interconnection agreement(s).

On September 3, 2003, BellSouth filed its Answer and Counterclaim stating that FDN has breached its contractual obligations with BellSouth. On September 23, 2003, FDN filed its Answer to the counterclaim.

On November 21, 2003, FDN filed a Motion to Amend its petition because FDN's initial filing did not make clear that FDN disputed nonrecurring disconnect charges in all cases where BellSouth submits an order for a customer to leave FDN service, not just in cases of a BellSouth "winback." FDN states that this lack of clarity was discovered during the issue identification discussions.

FDN maintains that neither the parties nor this Commission will be prejudiced by the filing of an amended petition, since the due date for filing testimony in this docket is scheduled for February. Further, FDN states it has contacted BellSouth regarding the filing of this Motion and BellSouth has no objection.

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Therefore, upon consideration, I hereby grant FDN's Motion to Amend its petition.

Based on the foregoing, it is

ORDERED by Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, that Florida Digital Network, Inc. d/b/a FDN Communications' Motion to Amend its petition is granted.

By ORDER of Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, this 10th Day of December, 2003.

RUDOLPH "RUDY" BRADLEY
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.