

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition for arbitration of unresolved
negotiation of interconnection
agreement with **BellSouth**
Telecommunications, Inc. by ITC^DeltaCom
Communications, Inc. d/b/a ITC^DeltaCom.

DOCKET NO. 030137-TP
ORDER NO. PSC-04-0826-PCO-TP
ISSUED: August 23, 2004

ORDER GRANTING JOINT MOTION FOR
EXTENSION OF TIME FOR SUPPLEMENTAL BRIEFS

On February 7, 2003, ITC^DeltaCom Communications, Inc. (ITC) filed its Petition for Arbitration with BellSouth pursuant to the Telecommunications Act of 1996. On March 4, 2003, BellSouth Telecommunications, Inc. (BellSouth) filed its response to ITC's Petition. By Order No. PSC-03-0534-PCO-TP, issued April 23, 2003 (Order Establishing Procedure), the hearing date, prehearing date, and other key activities dates were established. An administrative hearing was held on September 3-4, 2003. The parties submitted post hearing briefs on October 17, 2003. At the parties' request, the post hearing procedures were held in abeyance.

On August 4, 2004, the parties filed a Joint Motion to Permit Supplemental Briefs to address the TRO, USTA II¹, the FCC's interim UNE rules, and the FCC's ongoing rulemaking proceeding. Order No. PSC-04-0784-PCO-TP, issued August 10, 2004, granted the Joint Motion. On August 17, 2004, the parties filed their Joint Motion for Extension of Time for Supplemental Briefs. In support of their Joint Motion, the parties state that as of the filing date of their motion, the FCC still had not issued its interim UNE rules. They contend that these rules have the potential to significantly impact the issues remaining for resolution in this proceeding. The parties assert that if the interim rules are not issued by August 20, 2004, they will have to further supplement their briefs since the interim rules are expected to materially impact the unresolved issues in this docket.

The parties contend that while the FCC's interim UNE rules are expected to be issued very soon, the actual date such rules will be issued remains unknown. They assert that to fulfill the intent of Order No. PSC-04-0784-PCO-TP, the interim rules should be addressed. Thus, the parties agree that the due date for the supplemental briefs should be 20 days after the release of the FCC's order noticing adoption of interim UNE rules. The parties state that this 20-day period would give them sufficient time to obtain, read, analyze, and address the impact of such rules on this proceeding.

¹ See, United States Telecom Ass'n v. FCC, 359 F.3d 554 (D.C. Cir. 2004) (and consolidated cases)(hereinafter USTA II).

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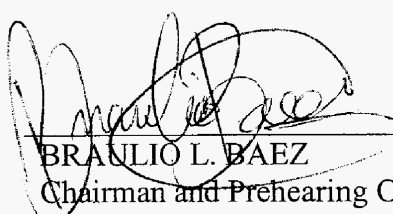
Based on the foregoing, I find it appropriate to grant the Joint Motion for Extension of Time for Supplemental Briefs. The parties shall file supplemental briefs 20 days after the release of the FCC's order noticing adoption of interim UNE rules.

Based on the foregoing, it is,

ORDERED by Chairman Braulio L. Baez, as Prehearing Officer, that ITC^DeltaCom Communications, Inc. and BellSouth Telecommunications, Inc.'s Joint Motion of BellSouth and ITC for Extension of Time for Supplemental Briefs is hereby granted. It is further

ORDERED that the parties shall file supplemental briefs 20 days after the release of the FCC's order noticing adoption of interim UNE rules.

By ORDER of Chairman Braulio L. Baez, as Prehearing Officer, this 23rd day of August, 2004



BRAULIO L. BAEZ
Chairman 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.

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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.