

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition for waiver of Order PSC-96-0012-FOF-TL and request to establish modified price regulation categories by BellSouth Telecommunications, Inc. | DOCKET NO. 041213-TL
ORDER NO. PSC-05-0185-PAA-TL
ISSUED: February 17, 2005

The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ, Chairman
J. TERRY DEASON
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON
LISA POLAK EDGAR

NOTICE OF PROPOSED AGENCY ACTION ORDER GRANTING, IN PART,
BELLSOUTH TELECOMMUNICATIONS INC.'S PETITION FOR WAIVER
OF ORDER NO. PSC-96-0012-FOF-TL

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

I. Case Background

On October 19, 2004, BellSouth Telecommunications, Inc. (BellSouth or Company) filed a Petition seeking a waiver of Order No. PSC-96-0012-FOF-TL to reduce the number of non-basic service categories used under the statutorily sanctioned system of price regulation, from ten (10) to four (4). Pursuant to Section 364.051, Florida Statutes, incumbent local exchange companies (ILECs) have been able to elect price regulation since January 1, 1996. Section 364.051(5)(a), Florida Statutes, limits price increases for any non-basic service category to 6% or 20% within a 12-month period, depending on whether or not there is another carrier providing local telecommunications service in a given exchange. We established non-basic service categories in order to implement this statutory provision. The existing non-basic service categories were established in Docket No. 951159-TP, by the above referenced order, wherein we approved a proposed stipulation among some of the parties to that docket. Since BellSouth's Petition was filed on October 19, 2004, no other filings have been made in the current docket.

II. Decision

In its Petition, BellSouth explains that since the non-basic service categories first were established, the Company has made numerous tariff filings consistent with the above referenced order. The statutory limitation on rate increases does not apply to individual services, but rather

DOCUMENT NUMBER-DATE

01613 FEB 17 05

FPSC-COMMISSION OFFICE

to the average rate change (considering both increases and decreases) across all the services in a non-basic category, over a 12-month period. With each tariff filing, BellSouth submits a price-out for the affected non-basic service category, showing beginning of period and proposed revenue, to demonstrate that the overall rate increase is within the statutory limit. BellSouth takes the position that competition is increasingly limiting its ability to increase prices, which indicates that fewer non-basic service categories are needed. According to BellSouth, fewer categories also would be administratively simpler for the Company and the Commission.

The following chart depicts the present and BellSouth’s proposed non-basic service categories:

Present	BellSouth Proposed
Residence Non-Basic Exchange Access	Residential Non-Basic Service
Residential Optional Services	
Business Non-Basic Exchange Access	Business Non-Basic Service
Business Optional Services	
Local Directory Assistance and Directory Services	Optional
Toll Services	
Operator Services	
Transport Services	
Public and Semi-Public Telephone	
Miscellaneous Services	Miscellaneous Services

BellSouth states that this proposed category structure “better reflects the migration to a competitive environment in Florida and would better represent the various categories based on their respective level of competitiveness.” In addition, BellSouth believes that this structure will have minimal customer impact, while providing the Company the flexibility to compete. Finally, BellSouth explains that since the current 12-month period for monitoring rate increases varies by existing category, BellSouth proposes to migrate the revenue for each existing category to the appropriate new category, at the end of the applicable 12-month period.

We believe the size and structure of the non-basic service categories can directly influence BellSouth’s flexibility to adjust prices and be compliant with the statute. With a larger number of services included in a non-basic service category, BellSouth can increase some rates significantly if market conditions favor the Company, while lowering other rates to address competitive pressures. For this reason, we believe that the services in a non-basic category

should be subject to similar competitive and market conditions. Finally, a system of fewer, but larger, non-basic service categories inherently provides more pricing flexibility, although competitive and market conditions will dictate to what extent this flexibility is actually used.

The proposed category structure does seem to reflect, for the most part, differences in the competitive pressures facing BellSouth. Combining the existing Non-Basic Exchange Access and Optional Services categories for residential and business, respectively, makes sense since both types of services are provided by the end user's local telephone company. The state of competition in the local market should affect pricing of exchange access and optional local services in a similar manner.

We have some concern with BellSouth's request to combine Local Directory Assistance and Directory Services, Toll Services, Operator Services, and Transport Services.¹ Within the Local Directory Assistance and Directory Services category, there are various listing services (non-published, non-listed, additional listings) that are inherently the purview of the end user's local telephone company. These listing services do not face competitive pressures like those found with toll, operator, and transport services, where there are a plethora of alternatives. An argument could be made to include these listing services with the existing Non-Basic Exchange Access and Optional Services categories, or to keep Local Directory Assistance and Directory Services a separate category. We are hesitant to approve the first option, since this would require that an existing category, which was established by stipulation, be divided into two parts, with each part being combined with different existing categories. The second option seems more straightforward, yet we believe this approach might be more restrictive than is necessary. While BellSouth's listing services may not be subject to competitive pressures like those found in other areas, customer willingness to pay is a limiting factor whenever services are discretionary in nature.

We next consider whether BellSouth's rate increase history provides any indication of how BellSouth might utilize additional pricing flexibility, and how customers might be affected. In reviewing BellSouth's rate increase history for the various categories, we noticed that the only area in which BellSouth increased rates to nearly the full extent permitted by statute was the Local Directory Assistance and Directory Services category. This historical pattern suggests that any further pricing flexibility could lead to even higher rate increases, leading us to conclude that the Local Directory Assistance and Directory Services category should remain separate. In contrast, for the other non-basic service categories, BellSouth has used only a portion of the current pricing flexibility, which indicates that the additional pricing flexibility gained through consolidating categories is unlikely to lead to higher increases in the future.

Based on the above reasoning, we grant, in part, BellSouth's Petition for Waiver of Order No. PSC-96-0012-FOF-TL and reduce the number of non-basic service categories from ten (10) to five (5) for BellSouth as set forth below. The existing Local Directory Assistance and Directory Services category shall be maintained as a separate category. The chart shown below

¹ We concur with BellSouth that the Public and Semi-Public Telephone category is no longer applicable since these retail services have been deregulated.

provides a summary of the present, BellSouth proposed, and approved non-basic service categories.

Present	BellSouth Proposed	Approved
Residence Non-Basic Exchange Access	Residential Non-Basic Service	Residential Non-Basic Service
Residential Optional Services		
Business Non-Basic Exchange Access	Business Non-Basic Service	Business Non-Basic Service
Business Optional Services		
Local Directory Assistance and Directory Services	Optional	Local Directory Assistance and Directory Services
Toll Services		Other Optional
Operator Services		
Transport Services		
Public and Semi-Public Telephone		
Miscellaneous Services	Miscellaneous Services	Miscellaneous Services

Further, if no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket shall be closed upon the issuance of a consummating order.

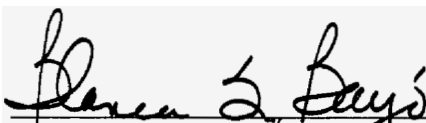
Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that BellSouth Telecommunications Inc.'s Petition for Waiver of No. PSC-96-0012-FOF-TL is granted, in part, as set forth in the body of this Order. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 17th day of February, 2005.



BLANCA S. BAYO, Director
Division of the Commission Clerk
and Administrative Services

(S E A L)

FRB

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 that is available under Section 120.57, 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 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.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on March 10, 2005.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.