

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Complaint of XO Florida, Inc. against
BellSouth Telecommunications, Inc. for
alleged refusal to convert circuits to UNEs; and
request for expedited processing.

DOCKET NO. 041114-TP
ORDER NO. PSC-05-0337-PCO-TP
ISSUED: March 25, 2005

ORDER ON MOTION TO AMEND ORDER ON PROCEDURE
AND PREHEARING ORDER

On September 22, 2004, XO Florida, Inc. filed a complaint against BellSouth Telecommunications, Inc. for alleged refusal to convert special access circuits to UNEs and request for expedited processing. By Order No. PSC-04-1068-PCO-TP, XO's request for expedited processing was denied. Subsequently, pursuant to Order No. PSC-04-1147-PCO-TP, this matter has been set for an administrative hearing.

On March 1, 2005, the parties filed a Joint Motion for Continuance. In the Motion, the parties requested that the Prehearing Officer grant them a continuance of the hearing date originally scheduled for March 3, 2005, until May 19, 2005, to allow the parties the opportunity to conduct limited discovery. In the Motion, the parties also requested permission to conduct discovery limited to the appropriate amount of a true-up, if any, and the circuits to which such a true-up should apply, if any. An order granting this motion was issued on March 14, 2005.

On March 18, 2005, the parties filed a Joint Motion to Amend Order on Procedure and Prehearing Order. In the Motion, the parties request clarification the issues in the proceeding at hand. The parties request that the following issue be added to the case as Issue 4, and that the parties be permitted to provide their positions on the issue by April 21, 2005:

If the Commission finds in favor of XO on Issue 1:

- a. Which circuits are eligible for conversion?
- b. What is the appropriate effective date of conversion for each eligible circuit?
- c. Is XO entitled to any billing credits as a result of such conversion, and if so, what is the amount of such credit(s)?

The parties further request that they be permitted to file additional testimony limited to the above issue on the following schedule:

Supplemental Direct Testimony: April 8, 2005

Supplemental Rebuttal Testimony: April 21, 2005

DOCUMENT NUMBER-DATE

02950 MAR 25 05

FPCO-COMMISSION CLERK

Additionally, it should be noted that the Order on Motion for Continuance sets the discovery cut-off date as May 10, 2005. As such, the Parties now request that any discovery limited to supplemental rebuttal testimony be answered on an expedited, 10-day basis.

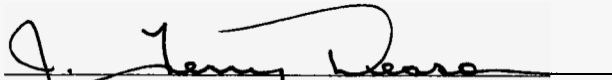
Upon consideration, it appears reasonable and appropriate to grant the modifications as requested by the parties. The modifications will aid this Commission by further clarifying the issues and allowing for a more complete record. Accordingly, the pertinent filing dates in this matter are set as detailed above, the issue proposed is added as Issue 4, and responses to discovery on the supplemental rebuttal testimony shall be provided within 10 calendar days of service of the request.

Based on the foregoing, it is

ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that the parties Joint Motion to Amend Order on Procedure and Prehearing Order is granted as set forth in the body of this order. It is further

ORDERED that Order Nos. PSC-04-1147-PCO-TP and PSC-05-0214-PHO-TP are otherwise affirmed in all other respects.

By ORDER of Commissioner J. Terry Deason, as Prehearing Officer, this 25th day of March, 2005.



J. TERRY DEASON
Commissioner and Prehearing Officer

(S E A L)

JPR

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.