

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Notice of adoption of existing interconnection, unbundling, resale, and collocation agreement between BellSouth Telecommunications, Inc. and Network Telephone Corporation by Z-Tel Communications, Inc.

DOCKET NO. 040779-TP  
ORDER NO. PSC-05-0846-PCO-TP  
ISSUED: August 18, 2005

ORDER APPROVING PROCEDURAL STIPULATION

BY THE COMMISSION:

**I. Case Background**

Z-Tel Communications, Inc.'s (Z-Tel) existing interconnection agreement with BellSouth Telecommunications, Inc. (BellSouth) in Florida became effective on April 18, 2003 and expired on September 11, 2004. In the course of discussions between the parties for a successor agreement, Z-Tel opted to adopt a new agreement rather than renegotiate the terms of the existing agreement.

On July 23, 2004, Z-Tel filed its Notice of Adoption of the interconnection agreement between BellSouth and Network Telephone Corporation (Network). On August 5, 2004, BellSouth filed a letter in opposition to Z-Tel's Notice of Adoption. On August 25, 2004, Z-Tel filed a reply to BellSouth's letter in opposition in which they addressed the arguments raised by BellSouth. On September 2, 2004, BellSouth filed a letter accompanying a copy of the FCC's Interim Rules Order. On September 7, 2004, Z-Tel filed a response letter to BellSouth's letter and filing of the FCC's Interim Rules Order.

On February 9, 2005, this Commission accepted Z-Tel's Notice of Adoption in Order No. PSC-05-0158-PAA-TP. On March 2, 2005, BellSouth filed a petition protesting the decision and requesting a hearing pursuant to Section 120.57, Florida Statutes.

Staff has held a series of conference calls with the parties aimed at resolving the dispute. The parties have agreed to a stipulation of the facts in this matter and are in agreement that an abbreviated procedure consistent with Section 120.57(2), Florida Statutes, would be appropriate. In view of the parties' Joint Stipulation of Facts, an abbreviated schedule appears appropriate. As such, the parties' initial briefs will be filed on September 1, 2005. Reply briefs will be due on October 3, 2005. The parties' briefs shall address the following agreed upon issues:

DOCUMENT NUMBER-DATE

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1. Under what conditions, if any, can BellSouth challenge the adoption of an existing agreement?
2. Do any of the conditions in Issue 1 exist with respect to Z-Tel's proposed adoption of the Network Telephone/BellSouth Agreement? If not, is BellSouth obligated to allow Z-Tel's proposed adoption?
3. Should this docket be closed?


The parties' briefs shall be limited to 20 pages.

Based upon the foregoing, it is

ORDERED by Commissioner Lisa Polak Edgar, as Prehearing Officer, that the stipulations offered by the parties are approved as set forth in the body of this Order. It is further

ORDERED that the procedure set forth herein shall govern the conduct of this proceeding unless otherwise modified by the Commission or the Prehearing Officer.

By ORDER of Commissioner Lisa Polak Edgar, as Prehearing Officer, this 18th day of August, 2005.

  
LISA POLAK EDGAR  
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.