

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition to establish generic docket to consider amendments to interconnection agreements resulting from changes in law, by BellSouth Telecommunications, Inc.

DOCKET NO. 041269-TP
ORDER NO. PSC-05-0897-PCO-TP
ISSUED: September 8, 2005

ORDER GRANTING JOINT MOTION
FOR ENTRY OF PROTECTIVE ORDER

I. Case Background

On August 21, 2003, the Federal Communications Commission (FCC) released its *Triennial Review Order*¹ (*TRO*), which contained revised unbundling rules and responded to the D.C. Circuit Court of Appeals' remand decision in *USTA I*.²

On March 2, 2004, the D.C. Circuit Court of Appeals released its decision in *United States Telecom Ass'n v. FCC*³ (*USTA II*), which vacated and remanded certain provisions of the *TRO*. In particular, the D.C. Circuit held that the FCC's delegation of authority to state commissions to make impairment findings was unlawful, and further found that the national findings of impairment for mass market switching and high-capacity transport were improper.

The FCC released an *Order and Notice*⁴ (*Interim Order*) on August 20, 2004, requiring ILECs to continue providing unbundled access to mass market local circuit switching, high capacity loops and dedicated transport until the earlier of the effective date of final FCC unbundling rules or six months after publication of the *Interim Order* in the Federal Register. On February 4, 2005, the FCC released an *Order on Remand (TRRO)*, wherein the FCC's final unbundling rules were adopted with an effective date of March 11, 2005.

In response to the decisions handed down in *USTA II* and the FCC's *Interim Order*, BellSouth Telecommunications, Inc. (BellSouth) filed, on November 1, 2004, its Petition to establish a generic docket to consider amendments to interconnection agreements resulting from

¹ In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket Nos. 01-338, 96-98, 98-147, Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, rel. August 21, 2003 (*Triennial Review Order or TRO*).

² *United States Telecom Association v. FCC*, 290 F.3d 415 (D.C. Cir. 2002) (*USTA I*).

³ 359 F. 3d 554 (D.C. Cir. 2004) (*USTA II*), cert. denied, 160 L. Ed. 2d 223, 2004 U.S. LEXIS 671042 (October 12, 2004).

⁴ In the Matter of Unbundled Access to Network Elements, WC Docket No. 04-313; In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, CC Docket No. 01-338, Order and Notice of Proposed Rulemaking, FCC 04-179, rel. August 20, 2004 (*Interim Order*).

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changes of law. Specifically, BellSouth asked that we determine what changes are required in existing approved interconnection agreements between BellSouth and competitive local exchange carriers (CLECs) in Florida as a result of *USTA II* and the *Interim Order*.

On August 30, 2005, BellSouth and the Competitive Carriers of the South, Inc. (CompSouth), (collectively as the Parties), filed a Joint Motion for Entry of Protective Order (Joint Motion).

II. Joint Motion for Entry of Protective Order

The Parties' move this Commission to enter a Protective Order so that confidential and proprietary business information, including Customer Proprietary Network Information (CPNI), may be exchanged between the Parties in this docket. The Parties assert that a Protective Order is necessary to facilitate the exchange of responses to CPNI-related discovery requests, as well as other confidential and proprietary information, in an efficient and timely manner. Furthermore, the Parties seek a finding from this Commission that any confidential information subject to Section 222 of the Communications Act of 1934, as amended, is disclosed pursuant to the disclosure rights set forth in Section 222(d).

III. Decision

Having reviewed the Joint Motion, I find that it complies with Rule 25-22.006(6), Florida Administrative Code, regarding protection of proprietary information in Commission proceedings. Thus, I hereby grant the Parties' Joint Motion for Entry of Protective Order. This Order will govern the handling of confidential and proprietary information, including CPNI, in this docket until a final determination is made on specific items of information for which confidential treatment is requested.

Based on the foregoing, it is therefore

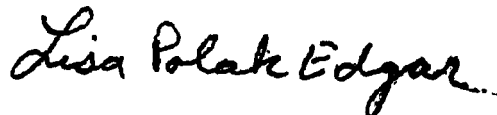
ORDERED by Commissioner Lisa Polak Edgar, as Prehearing Officer, that the Joint Motion for Entry of Protective Order filed by BellSouth Telecommunications, Inc. and the Competitive Carriers of the South, Inc. is hereby granted.

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By ORDER of Commissioner Lisa Polak Edgar, as Prehearing Officer, this 8th day of September, 2005.



LISA POLAK EDGAR
Commissioner and Prehearing Officer

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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.

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.