

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Joint petition of TDS Telecom d/b/a TDS Telecom/Quincy Telephone, Northeast Florida Telephone Company d/b/a NEFCOM, GTC, Inc. d/b/a GT Com, Smart City Telecommunications, LLC d/b/a Smart City Telecom, ITS Telecommunications Systems, Inc. and Frontier Communications of the South, LLC, for generic investigation of third-party transit traffic arising from transit traffic service tariff filed by BellSouth Telecommunications, Inc.

DOCKET NO. 050570-TP

In re: Joint petition by TDS Telecom d/b/a TDS Telecom/Quincy Telephone; ALLTEL Florida, Inc.; Northeast Florida Telephone Company d/b/a NEFCOM; GTC, Inc. d/b/a GT Com; Smart City Telecommunications, LLC d/b/a Smart City Telecom; ITS Telecommunications Systems, Inc.; and Frontier Communications of the South, LLC ["Joint Petitioners"] objecting to and requesting suspension and cancellation of proposed transit traffic service tariff filed by BellSouth Telecommunications, Inc.

DOCKET NO. 050119-TP

In re: Petition and complaint for suspension and cancellation of Transit Traffic Service Tariff No. FL2004-284 filed by BellSouth Telecommunications, Inc., by AT&T Communications of the Southern States, LLC.

DOCKET NO. 050125-TP
ORDER NO. PSC-05-1133-PCO-TP
ISSUED: November 10, 2005

The following Commissioners participated in the disposition of this matter:

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

DOCUMENT NUMBER-DATE

10894 NOV 10 05

FPSC-COMMISSION CLERK

ORDER DENYING PETITION FOR GENERIC INVESTIGATION INTO TRANSIT
TRAFFIC SERVICE

BY THE COMMISSION:

Case Background

On February 11, 2005, TDS Telecom d/b/a TDS Telecom/Quincy Telephone; ALLTEL Florida Inc.; Northeast Florida Telephone Company d/b/a NEFCOM; GTC, Inc., d/b/a GT Com; Smart City Telecom; ITS Telecommunications Systems Inc.; and Frontier Communications of the South, LLC (Joint Petitioners) filed a joint petition that objects to and requests suspension and cancellation of BellSouth Telecommunication Inc.'s (BellSouth) General Subscriber Services Tariff A16.1, Transit Traffic Service. Docket No. 050119-TP was established in response to the petition filed by the Joint Petitioners. On February 17, 2005, AT&T Communications of the Southern States, LLC, (AT&T) also filed a petition and complaint for suspension and cancellation of Transit Traffic Tariff No. FL 2004-284 filed by BellSouth. Docket No. 050125-TP was subsequently established in response to AT&T's petition.

BellSouth filed an answer to the Joint Petitioners in Docket No. 050119-TP, on March 3, 2005, and on March 4, 2005, filed an answer and motion in Docket No. 050125-TP to consolidate Docket No. 050119-TP with Docket No. 050125-TP. By Order No. PSC-05-0623-PAA-TP this Commission consolidated the two dockets, but denied the requests for suspension of the Transit Traffic Tariff.¹ However, we deemed it appropriate that revenues from the tariff be held by BellSouth subject to refund pending the outcome of the proceedings.

Due to the numerous issues that arose from the parties' issue identification conference, our staff recommended that this matter might be more properly addressed by a generic proceeding involving the major incumbent local exchange companies. On August 26, 2005, the Joint Petitioners filed a petition for a generic investigation into third-party transit traffic.

Transit traffic is traffic that originates on the network of one carrier, transits over BellSouth's network, then terminates on the network of a third carrier. BellSouth has filed a new tariff, General Subscriber Services Tariff § A.16.1, Transit Traffic Service, which sets forth certain rates, terms and conditions that apply when carriers receive transit service from BellSouth but have not entered into an agreement with BellSouth setting forth rates, terms and conditions for the provision of transit services. BellSouth's transit tariff does not apply to a party with whom BellSouth has an existing contractual relationship because the tariff, by its terms, applies as a default, only in the absence of an existing contractual agreement. These dockets involve a dispute over the appropriate rates, terms and conditions applicable to transit traffic

We are vested with jurisdiction over this matter pursuant to provisions of Sections 364.051(4), and 364.051(5), Florida Statutes.

¹ Transit Traffic Tariff No. FL 2004-284 is also known as BellSouth's General Subscriber Tariff A16.1, Transit Traffic Tariff.

We acknowledge that our resolution of the disputed issues of fact, law and policy arising from Joint Petitioners' challenge to BellSouth's Transit Tariff could impact third-party providers that are subject to the Transit Tariff and could lead to persuasive or precedential decisions relative to the other local exchange telecommunications companies. However, we find it inappropriate at this time to initiate a generic docket. Docket Nos. 050119-TP and 050125-TP include specific issues relating to the BellSouth Tariff. These BellSouth-specific Dockets would be the more appropriate vehicle for addressing the BellSouth Transit traffic issues. However, this should not be construed as a limitation on our ability to address any of the broad policy questions that could arise during the course of the proceedings in these two dockets.

Therefore, we find it inappropriate at this time to grant the petition for generic investigation into third-party transit traffic. Docket Nos. 050119- TP and 050125-TP shall remain open, pending resolution. However, Docket No. 050570-TP shall be closed.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that we find it inappropriate at this time to grant the petition for generic investigation into third-party transit traffic. It is further

ORDERED that Docket Nos. 050119-TP and 050125-TP shall remain open, pending resolution and Docket No. 050570-TP shall be closed.

By ORDER of the Florida Public Service Commission this 10th day of November, 2005.

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

By: Marcia Sharma
Marcia Sharma, Assistant Director
Division of the Commission Clerk
and Administrative Services

(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.