

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition to change demarcation point specified in Rule 25-4.0345(1)(b), F.A.C., at commercial office campus in Miami, by BellSouth Telecommunications, Inc. | DOCKET NO. 060603-TL
ORDER NO. PSC-06-1025-PAA-TL
ISSUED: December 11, 2006

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman
J. TERRY DEASON
ISILIO ARRIAGA
MATTHEW M. CARTER II
KATRINA J. TEW

NOTICE OF PROPOSED AGENCY ACTION
ORDER GRANTING CHANGE OF DEMARCATION POINT

BY THE COMMISSION:

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 September 11, 2006, BellSouth Telecommunications, Inc. (BellSouth) filed its petition requesting permission to change the point of demarcation specified in Rule 25-4.0345(1)(b), Florida Administrative Code (F.A.C.), for non-residential basic local service provided to the commercial office campus located at 17777 Old Cutler Road, Miami, Florida, 33157.

The subject property is the former Burger King World Headquarters. The property is now owned by 17777 Old Cutler Road, LLC, (Old Cutler) and consists of three separate buildings. The property was purchased from Burger King Corporation and converted from a single tenant into a multi-tenant office complex named Palmetto Bay Village Center. On July 17, 2006, Old Cutler notified BellSouth that it desires to establish a single point of demarcation for all tenants' services at the property's Minimum Point of Entry (MPOE). Specifically, Old Cutler requested that the demarcation point be located in the 3rd Floor meter room in Building A (18001 Old Cutler Road). Old Cutler's preferred location of the demarcation point is not specified in Rule 25-4.0345(1)(b), Florida Administrative Code (F.A.C.), causing BellSouth to

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seek our approval to establish the demarcation point at a location other than that specified in the rule.

We are vested with jurisdiction over this matter pursuant to Sections 350.127(2), 364.01(4), and 364.03, Florida Statutes.

II. Analysis:

Rule 25-4.0345, F.A.C., Customer Premises Equipment and Inside Wire, requires a local exchange company to provide and maintain the network facilities up to and including the demarcation point at each individual customers' premises. Specifically, Rule 25-4.0345(1)(b), F.A.C., states:

(b) "Demarcation Point." The point of physical interconnection (connecting block, terminal strip, jack, protector, optical network interface, or remote isolation device) between the telephone network and the customer's premises wiring. ***Unless otherwise ordered by the Commission for good cause shown***, the location of this point is:

1. Single Line/Single Customer Building -- Either at the point of physical entry to the building or a junction point as close as practicable to the point of entry.
2. Single Line/Multi Customer Building -- Within the customer's premises at a point easily accessed by the customer.
3. Multi Line Systems/Single or Multi Customer Building -- At a point within the same room and within 25 feet of the FCC registered terminal equipment or cross connect field.
4. Temporary Accommodations Subscriber Premises with Inadequate Grounding (e.g., some mobile homes, trailers, houseboats, construction modules) -- On a permanent stake, pole, or structure with a suitable safety ground.
(Emphasis added)

In accordance with, Rule 25-4.0345(1)(b), F.A.C., BellSouth states as good cause for a change in demarcation point is, "*to provide service to tenants at the Office Campus given Old Cutler's requested demarcation point.*" In this case, the property owner requested that the demarcation point be established at a location other than that specified in Rule 25-4.0345(1)(b), F.A.C. Old Cutler requested that the demarcation point be located in the 3rd Floor meter room in Building A (18001 Old Cutler Road). For this situation, a single line/multi-customer building(s), the location of the demarcation point specified by the rule would be within each customer's (tenants of the Palmetto Bay Village Center) premises at a point easily accessed by the customer. This is contrary to the location of the demarcation point requested by the property owner.

If we approve BellSouth's petition to interconnect at the point of demarcation determined by Old Cutler, BellSouth would not be responsible for maintaining the facilities between the requested point of demarcation and the tenants' premises. Old Cutler acknowledged that it

understands that the responsibility for this maintenance rests with the property owner and/or the tenants.

We have previously permitted a local exchange company to provide service to a customer at a point of demarcation other than that specified in Rule 25-4.0345, F.A.C. In Docket No. 031114-TL, issued February 23, 2004, by Order No. PSC-04-0181-PAA-TL, we found that BellSouth and the United States Navy met the burden "for good cause shown" as established by the rule and approved the request of BellSouth and the Navy for a waiver of the demarcation requirements of Rule 25-4.0345(1)(b), F.A.C. In that docket, the property owner (the Navy) requested that a single demarcation point be established to service non-residential customers on the Mayport Naval Station in Jacksonville, Florida. Thereafter, the Navy solicited bids from competing service providers to install and maintain the outside plant facilities to non-residential areas and customers located within the Naval Station.

III. Decision:

Accordingly, we find it appropriate to approve the relocation of the demarcation point for the provision of non-residential basic local service to the Palmetto Bay Village Center located at 17777 Old Cutler Road, Miami, Florida to a single point of demarcation as determined by the property owner for all tenants' services at the office campus.

This Order issued shall become final and effective upon issuance of a Consummating Order, unless a person whose substantial interests are affected by this Commission's decision files a protest that identifies with specificity the issues in dispute, in the form provided by Rule 28-106.201, Florida Administrative Code, within 21 days of the issuance of the Proposed Agency Action Order. As provided by Section 120.80(13)(b), Florida Statutes, any issues not in dispute shall be deemed stipulated. 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 the relocation of the demarcation point for the provision of non-residential basic local service to the Palmetto Bay Village Center located at 17777 Old Cutler Road, Miami, Florida to a single point of demarcation as determined by the property owner for all tenants' services at the office campus, is hereby approved. 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 as provided by Section 120.80(13)(b), Florida Statutes, any issues not in dispute shall be deemed stipulated. 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 11th day of December, 2006.



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

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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 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 January 1, 2007.

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.