

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition and Complaint) DOCKET NO. 931138-TL
of Florida Independent Directory) ORDER NO. PSC-96-1343-PCO-TL
Publishers to Amend Directory) ISSUED: November 13, 1996
Publishers Database Service)
Tariff of BellSouth)
Telecommunications, Inc. d/b/a)
Southern Bell Telephone and)
Telegraph Company)

ORDER DENYING MOTION TO STRIKE

On April 1, 1993, in Docket No. 921317-TL, the Commission issued Order No. PSC-93-0485-FOF-TL, approving the tariff filing of BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company (BellSouth) introducing Directory Assistance Database Service (DADS) and Directory Publishers Database Service (DPDS). On November 24, 1993, Florida Independent Directory Publishers (FIDP) filed a Petition and Complaint to Amend Directory Publishers Database Service Tariff of BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company. BellSouth filed a Motion to Dismiss the Petition and Complaint of Florida Independent Directory Publishers on December 20, 1993. On May 25, 1994, in Order No. PSC-94-0641-FOF-TL, the Commission denied BellSouth's Motion to Dismiss. On March 29, 1996, following the breakdown of negotiations between the parties, the Commission issued Order No. PSC-96-0446-FOF-TL, in which it required certain amendments to BellSouth's DPDS tariff requested by FIDP in its petition. On April 11, 1996, the Commission issued Order No. PSC-96-0446A-FOF-TL, in which it deleted as unnecessary the requirement that BellSouth amend its Weekly Business Activity Reports (WBARs) to include residential listings. FIDP filed a Petition on Proposed Agency Action on April 19, 1996. Thereupon, the matter was scheduled for hearing pursuant to Section 120.57(1), Florida Statutes, January 13, 1997.

On October 28, 1996, FIDP filed the direct testimony of Gerry Screven, FIDP's only witness, eight days after the due date for the testimony. In addition, Mr. Screven refers in his testimony to Exhibit GS-1, consisting of sample directories published by independent directory publishers, that FIDP represents in its covering letter it will separately file. On October 30, 1996, BellSouth filed a Motion to Strike. On November 6, 1996, FIDP filed its Response to Motion to Strike.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

BellSouth notes that direct testimony was originally required to be filed on August 26, 1996, and moves to strike the Screven testimony, including exhibits, on the grounds that the testimony was not filed in accordance with the revised procedural schedule.

FIDP, in its initial filing, explains that its filing was late because its witness was unavailable, and offers that no harm to BellSouth should result since in the Screven testimony there are no issues or positions not previously expressed. FIDP further offers that it would have no objection to an extension of time for rebuttal testimony. In its response, FIDP essentially adopts its initial explanation.

I agree with BellSouth that FIDP failed to properly request an extension of time prior to the filing date. However, because BellSouth has shown no prejudice in the filing of this testimony and because it represents the core of FIDP's case, the motion to strike is denied.

I hereby direct FIDP to file Exhibit GS-1 by the close of business on the day following the issuance of this Order. Furthermore, the time for filing rebuttal testimony to the Screven testimony shall be extended to November 25, 1996, and the time for filing prehearing statements, to December 2, 1996. The schedule for this proceeding shall otherwise remain unchanged.

Based on the foregoing, it is, therefore,

ORDERED that the Motion to Strike of BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company is denied. It is further

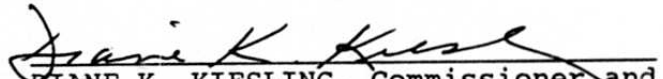
ORDERED that Florida Independent Directory Publishers shall file Exhibit GS-1 by the close of business on the day following the issuance of this Order. It is further

ORDERED that rebuttal testimony to the direct testimony of Gerry Screven in this proceeding shall be due on November 25, 1996. It is further

ORDERED that prehearing statements in this proceeding shall be due on December 2, 1996.

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By ORDER of Commissioner Diane K. Kiesling, as Prehearing Officer, this 13th day of November, 1996.


DIANE K. KIESLING, Commissioner and
Prehearing Officer

(S E A L)

CJP

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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.

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, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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 Records and Reporting, 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.