

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into
intraLATA presubscription.

DOCKET NO. 930330-TP
ORDER NO. PSC-97-1353-FOF-TP
ISSUED: October 27, 1997

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman
J. TERRY DEASON
SUSAN F. CLARK
DIANE K. KIESLING
JOE GARCIA

PROPOSED AGENCY ACTION
ORDER ON INTRALATA PRESUBSCRIPTION-RELATED
COSTS OF BELL SOUTH TELECOMMUNICATIONS, INC.

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.

On February 13, 1995, we issued Order No. PSC-95-0203-FOF-TP, in Docket No. 930330-TP. We found that intraLATA presubscription (ILP) is in the public interest and directed the four large local exchange companies (LECs) to implement ILP in Florida by year-end 1997. The four large LECs completed ILP implementation in April 1997. In the same proceeding, we ordered the LECs to file tariffs by July 1, 1995, instituting a rate element to recover ILP implementation costs. We concluded that the ILP implementation costs should be LEC-specific and that a rate element applicable to all originating interLATA Feature Group D access Minutes of Use should be developed. Our decision imposed the cost of implementation of intraLATA presubscription solely on the interexchange carriers (IXCs). We approved tariffs filed by BellSouth Telecommunications Inc. (BellSouth) and GTE Florida Inc. (GTEFL) by Order No. PSC-96-0692-FOF-TP, issued May 23, 1996. We

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also granted Sprint's request to waive the recovery of ILP implementation costs.

By Order No. PSC-96-1569-FOF-TP, issued on December 23, 1996, we found that BellSouth should be allowed to recover additional ILP costs associated with the "no-PIC," "free-PIC," and "two-for-one" options. The "no-PIC" option is available to a customer that has not selected a primary interexchange carrier (PIC) to handle his or her intraLATA toll calls. In this situation, the customer does not automatically remain with the incumbent LEC (ILEC), rather the customer dials an access code to place intraLATA calls. The "free-PIC" option allows customers the opportunity to designate their preferred intraLATA carrier once without incurring a PIC change charge. The "two-for-one" option requires the ILEC to charge a single PIC change charge when a customer changes to the same interLATA and intraLATA carrier at one time. Both the "free-PIC" and the "two-for-one" options are available for a period of 90 days from the date of conversion of each ILEC's last end-office switch to provide intraLATA equal access.

Prior to the issuance of Order No. PSC-96-1569-FOF-TP, Congress passed and the President signed into law the Telecommunications Act of 1996 (Act). Section 251 (b) (3) of the Act directs each LEC to provide dialing parity to competing providers of telephone exchange and telephone toll service. The Federal Communications Commission (FCC) subsequently formulated rules that addressed local and toll dialing parity, including implementation plans, schedules, and the recovery of dialing parity costs.

Due to concerns that the ILP recovery mechanism originally established in this docket was inconsistent with the FCC's rules, we determined that a recovery mechanism for the additional ILP costs would be established at a later time in a generic proceeding. Since then, however, the United States Court of Appeals for the Eighth Circuit Court has concluded that the FCC exceeded its jurisdiction in promulgating its dialing parity rules. On August 22, 1997, in Docket No. 96-3519, the Court vacated the FCC's dialing parity rules, 47 C.F.R. §§ 51.205-51.515, as they apply to intraLATA telecommunications. Therefore, since the FCC's rules have been vacated, we do not have the concerns we had previously. Accordingly, we believe it is appropriate to proceed under the provisions of Order No. PSC-96-1569-FOF-TP. We find that BellSouth may use the existing ILP cost recovery mechanism to recover its

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costs associated with the implementation of the "no-PIC," "free-PIC," and "two-for-one" options.

We note that by Order No. PSC-97-0709-FOF-TP, issued on June 13, 1997, in Docket No. 970526-TP, we held that the remaining ILECs could recover the costs associated with the implementation of the "no-PIC," "free-PIC," and "two-for-one" options. GTEFL, however, filed a protest to that Order. Thus, our decision today only addresses the appropriate recovery of the additional ILP costs associated with the "no-PIC," "free-PIC," and "two-for-one" options for BellSouth. The cost recovery of the additional ILP costs for the remaining ILECs will be considered during the hearing resulting from GTEFL's protest scheduled for February 23, 1998.

BellSouth's proposed cost associated with the "no-PIC" option is \$46,173, while its proposed combined cost for the "free-PIC" and "two-for-one" option is \$83,361.66. Upon review, we find it is appropriate for BST to include these costs with its remaining ILP implementation costs to determine one rate element for the cost recovery of ILP.

Based on the foregoing, BellSouth may recover its costs associated with the implementation of the "no-PIC," "free-PIC," and "two-for-one" options via the existing ILP cost recovery mechanism. Since BellSouth may recover the additional costs associated with the "no-PIC," "free-PIC," and "two-for-one" options, BellSouth, may if necessary, file a revised tariff on or before October 22, 1997, incorporating any additional costs into the current rate element to become effective on November 1, 1997. The revised tariff, however, should only reflect the changes discussed herein.

Therefore, it is

ORDERED by the Florida Public Service Commission that BellSouth Telecommunications, Inc. may recover its costs associated with the implementation of the "no-PIC," "free-PIC," and "two-for-one" options via the existing intraLATA Presubscription cost recovery mechanism as discussed in the body of this Order. It is further


ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee,

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Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. 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 27th day of October, 1997.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

MMB

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.

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The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on November 17, 1997.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party substantially affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.