

MEMORANDUM

February 18, 1999

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RECORDS AND
REPORTING

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (PEÑA) *KMP/WJC*

RE: DOCKET NO. 981713-TP - REQUEST BY BELLSOUTH
TELECOMMUNICATIONS, INC. FOR APPROVAL OF AMENDMENT TO
RESALE AGREEMENT WITH EMPIRE COMMUNICATIONS, INC.

99-0361-FOF-TP

Attached is an ORDER APPROVING AMENDMENT TO EXISTING RESALE AGREEMENT, with attachments, to be issued in the above-referenced docket. (Number of pages in order - 4)

KMP/anr
Attachment
cc: Division of Communications
I: 981713.kmp

ATTACHMENT(S) NOT ON-LINE

*RAR - mailed
2/23*

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request by BellSouth
Telecommunications, Inc. for
approval of amendment to resale
agreement with Empire
Communications, Inc.

DOCKET NO. 981713-TP
ORDER NO. PSC-99-0361-FOF-TP
ISSUED: February 22, 1999

The following Commissioners participated in the disposition of
this matter:

JOE GARCIA, Chairman
J. TERRY DEASON
SUSAN F. CLARK
JULIA L. JOHNSON
E. LEON JACOBS, JR.

ORDER APPROVING AMENDMENT TO EXISTING
RESALE AGREEMENT

BY THE COMMISSION:

On November 23, 1998, BellSouth Telecommunications, Inc. (BST) and Empire Communications, Inc. (Empire Communications) filed a request for approval of an amendment to their existing resale agreement under 47 U.S.C. §252(e) of the Telecommunications Act of 1996. The amendment to the existing agreement is attached to this Order as Attachment A and incorporated by reference herein.

Both the Act and Chapter 364, Florida Statutes, encourage parties to enter into negotiated agreements to bring about local exchange competition as quickly as possible. Under the requirements of 47 U.S.C. § 252(e), negotiated agreements must be submitted to the state commission for approval. Section 252(e)(4) requires the state to reject or approve the agreement within 90 days after submission or it shall be deemed approved.

The existing agreement governs the relationship between the companies regarding the resale of tariffed telecommunication services pursuant to 47 U.S.C. § 251. Upon review of the proposed

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amendment to the existing agreement, we believe that it complies with the Telecommunications Act of 1996; thus, we hereby approve it. BST and Empire Communications are also required to file any subsequent supplements or modifications to their agreement with the Commission for review under the provisions of 47 U.S.C. § 252(e). We note that Empire Communications does not currently hold a Florida certificate to provide alternative local exchange telecommunications service, and therefore, it cannot provide alternative local exchange telecommunications services under this agreement until it obtains a certificate from this Commission.

Based on the foregoing, it is

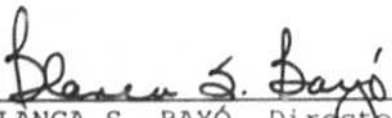
ORDERED by the Florida Public Service Commission that the amendment to the existing resale agreement between BellSouth Telecommunications, Inc. and Empire Communications, Inc., as set forth in Attachment A and incorporated by reference in this Order, is hereby approved. It is further

ORDERED that any supplements or modifications to this agreement must be filed with the Commission for review under the provisions of 47 U.S.C. § 252(e). It is further

ORDERED that Empire Communications, Inc. shall not provide alternative local exchange telecommunications services under this agreement until it obtains a certificate to provide alternative local exchange telecommunications services from this Commission. It is further

ORDERED that this Docket shall be closed.

By ORDER of the Florida Public Service Commission, this 22nd day of February, 1999.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

KMP

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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.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review in Federal district court pursuant to the Federal Telecommunications Act of 1996, 47 U.S.C. § 252(e)(6).

AMENDMENT TO
RESALE AGREEMENT BETWEEN
BELLSOUTH TELECOMMUNICATIONS, INC.
AND EMPIRE COMMUNICATIONS, INC.
DATED OCTOBER 2, 1998

Pursuant to this Agreement (the "Amendment"), BellSouth Telecommunications, Inc. ("BellSouth or Company") and Empire Communications, Inc. ("Empire") hereinafter referred to collectively as the "Parties" hereby agree to amend that certain Resale Agreement between the Parties dated October 2, 1998 ("Resale Agreement").

NOW THEREFORE, in consideration of the mutual provisions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, BellSouth and Empire hereby covenant and agree as follows:

1. The parties hereby agree that Section VIII.A of the Resale Agreement is amended by inserting the following sentence as Subsection 6 at the end of Section VIII.A

BellSouth may disconnect and reuse facilities when the facility is in a denied state and BellSouth has received an order to establish new service or transfer of service from a customer or a customer's CLEC at the same address served by the denied facility.

2. The Parties agree that all of the other provisions of the Resale Agreement, dated October 2, 1998, shall remain in full force and effect.
3. The Parties further agree that either or both of the Parties is authorized to submit this Amendment to the appropriate Commission or other regulatory body having jurisdiction over the subject matter of this Amendment, for approval subject to Section 252(e) of the Federal Telecommunications Act of 1996.

IN WITNESS WHEREOF, the Parties hereto have caused this Amendment to be executed by their respective duly authorized representatives on the date indicated below

BELLSOUTH TELECOMMUNICATIONS, INC.

By:


Jerry D. Hendrix - Director

DATE:

10/13/98

EMPIRE COMMUNICATIONS, INC.

By:


D. CHRIS CEDRONE - PRESIDENT

DATE:

10/19/98