



Public Service Commission

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DATE: MARCH 4, 1999

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF COMMUNICATIONS (BARRETT, SIMMONS)
DIVISION OF LEGAL SERVICES (M. BROWN) *MB*

RE: DOCKET NO. 990043-TP - PETITION TO REVIEW AND TO CANCEL BELL SOUTH TELECOMMUNICATIONS, INC.'S PROMOTIONAL TARIFF (T-98-1783) BY ARROW COMMUNICATIONS, INC.

AGENDA: MARCH 16, 1999 - REGULAR AGENDA - WITHDRAWAL OF PETITION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: IMMEDIATE ACTION REQUESTED

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\LEG\WP\990043b.RCM

CASE BACKGROUND

On December 31, 1998, BellSouth Telecommunications, Incorporated (BellSouth or the Company) filed a tariff (T-98-1783) to offer a promotion called "Three Free." The "Three Free" program was a ninety-day promotion targeted at small business customers in its service areas who were currently receiving telecommunication services from alternative local exchange companies (ALECs). The "Three Free" promotion offered the incentive of three (3) months of no-cost telecommunications services in exchange for a contractual commitment to remain with BellSouth for eighteen (18) months. The "Three Free" promotional period was scheduled to began January 14, 1999, and end April 9, 1999.

On January 13, 1999, Arrow Communications, Incorporated (Arrow or ACI), a certificated ALEC, filed a petition with the Commission to review and cancel BellSouth's promotional tariff. In its petition, Arrow alleged that BellSouth's tariff is discriminatory

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and anti-competitive, in violation of Sections 364.01(g), 364.09, and 364.10, Florida Statutes.

The Division of Communications received this petition on January 14, 1999, the date the proposed tariff became effective.

When Arrow's petition was received, staff reviewed the tariff in light of the petitioner's allegations. Staff believed that if the tariff remained effective while the Commission decided the merits of the petition, anti-competitive harm could occur during the pendency of the proceeding, which could not be adequately redressed at the conclusion of the case. For that reason, staff filed an emergency recommendation to "suspend" or postpone the effective date of the tariff, pending substantive review of the allegations in Arrow's petition.

The matter was addressed at the January 19, 1999 and February 2, 1999 Agenda Conferences. BellSouth objected strongly to staff's recommendation to "suspend" the tariff, and several parties expressed concern over the alleged discriminatory and anti-competitive nature of the tariff filing. There was considerable discussion of the Commission's authority to take any interim action to stay the effectiveness of the tariff pending the resolution of Arrow's petition. The Commission determined that the tariff should be "suspended."

On February 19, 1999, BellSouth filed a letter to withdraw the "Three Free" promotional tariff (T-98-1783).

On February 24, 1999, Arrow withdrew its Petition to Review and to Cancel Promotional Tariff of BellSouth Telecommunications, Inc.

Staff has administratively closed the tariff, pursuant to the letter of February 19, 1999. With this recommendation, staff wishes to cancel all scheduled events (pre-hearing, hearing, etc.) and close this docket.

DOCKET NO. 990043-11
DATE: January 26, 1999

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission accept the respective withdrawal letters from the parties of this docket, cancel all previously scheduled events, and close this docket?

RECOMMENDATION: Yes. The Commission should accept the respective withdrawal letters from the parties to this docket, cancel all previously scheduled events, and close this docket. (**Barrett, Simmons, Brown**)

STAFF ANALYSIS: Staff believes that the respective withdrawal letters filed by Petitioner (Arrow) and Company (BellSouth) effectively resolve the issues of this docket. Consequently, all Commission scheduled events associated with this docket may be canceled and this docket closed.