

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for arbitration concerning complaint of US LEC of Florida Inc. against BellSouth Telecommunications, Inc. regarding breach of terms of interconnection agreement and request for relief.

DOCKET NO. 990874-TP
ORDER NO. PSC-99-1781-PCO-TP
ISSUED: September 10, 1999

ORDER GRANTING MOTION FOR LEAVE TO FILE AMENDED COMPLAINT

On July 2, 1999, US LEC of Florida, Inc. (US LEC) filed a Complaint against BellSouth Telecommunications, Inc. (BellSouth) alleging breach of the terms of an interconnection agreement between the parties. On July 22, 1999, BellSouth filed its Answer and Response to Complaint of US LEC of Florida, Inc. On July 30, 1999, US LEC filed a Motion for Leave to File Amended Complaint (Motion). Also on July 30, US LEC filed its Amended Complaint.

US LEC files its Motion pursuant to Rule 28-106.202, Florida Administrative Code, which provides that "the petitioner may amend the petition after the designation of the presiding officer only upon order of the presiding officer." Rule 28-106.204, Florida Administrative Code, provides, in pertinent part, that "[w]hen the time allows, the other parties may, within 7 days of service of a written motion, file a response in opposition." BellSouth has not filed a response in opposition to the Motion, and the time for filing such has run. However, BellSouth has represented to staff counsel that it has no objection to the Motion.

In its Motion, US LEC states that it had inadvertently failed to edit Exhibit D of its Complaint "to assure that it included only materials relevant to this proceeding" prior to submission to the Commission. US LEC, therefore, requests that its Revised Exhibit D "be substituted for Exhibit D of the Complaint in its entirety and adopting by reference the Complaint in each and every other respect."

The Commission has broad discretion to allow amendment of pleadings, where the privilege to amend has not been abused, in order that disputes may be resolved on their merits. See Order No. PSC-98-0332-PCO-TP, issued February 26, 1998, in Docket No. 970730-

DOCUMENT NUMBER-DATE

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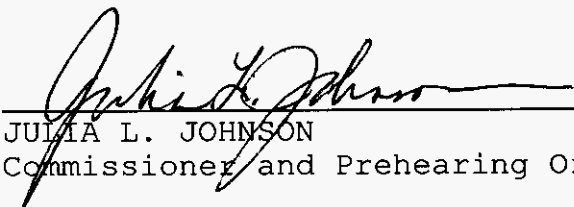
TP. In consideration of the above, US LEC's Motion for Leave to File Amended Complaint is granted.

Based on the foregoing, it is, therefore,

ORDERED by Commissioner Julia L. Johnson, as Prehearing Officer, that US LEC of Florida, Inc.'s Motion to for Leave to File Amended Complaint is hereby granted. It is further

ORDERED that this docket shall remain open pending the outcome of these proceedings.

By ORDER of Commissioner Julia L. Johnson, as Prehearing Officer, this 10th day of September, 1999.



JULIA L. JOHNSON
Commissioner and Prehearing Officer

(S E A L)

DMC

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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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.