

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Telephone
Company of Central Florida, Inc.
for resolution of items under
dispute in resale agreement with
BellSouth Telecommunications,
Inc.

DOCKET NO. 981052-TP
ORDER NO. PSC-00-0013-FOF-TP
ISSUED: January 5, 2000

The following Commissioners participated in the disposition of
this matter:

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

ORDER VACATING ORDER NO. PSC-99-1013-FOF-TP AND
ACKNOWLEDGING WITHDRAWAL OF PETITION

BY THE COMMISSION:

On August 20, 1998, Telephone Company of Central Florida, Inc. (TCCF), filed a petition for resolution of items under dispute in its resale agreement with BellSouth Telecommunications, Inc. (BellSouth). An evidentiary hearing was held on January 22, 1999, and continued on February 9, 1999. On May 20, 1999, the Commission issued Order No. PSC-99-1013-FOF-TP. On June 4, 1999, BellSouth filed a Motion for Reconsideration of the Order. TCCF filed its Response to BellSouth's Motion on June 16, 1999. TCCF then filed, on July 19, 1999, a request to withdraw pleadings and notice of intent to request that the Commission vacate its May 20, 1999, Order upon the Bankruptcy Court's approval of a settlement. TCCF also filed on August 30, 1999, a Motion to Dismiss Petition for Resolution. Finally on September 28, 1999, BellSouth and TCCF filed a Joint Motion to Vacate Commission's May 20, 1999, Order.

In their Joint Motion, BellSouth and TCCF (Movants) state that they have reached a settlement of the issues in dispute in this

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matter in a parallel action brought by TCCF in a proceeding in the United States Bankruptcy Court for the Middle District of Florida (BKY Case No. 98-04587-6BI, Adv. No. 98-420). The Bankruptcy Court approved that settlement by written order entered on July 15, 1999. The parties agreed to a new Resale Agreement, which was filed with this Commission on August 10, 1999, and was approved by Order No. PSC-99-2066-FOF-TP, issued October 21, 1999. The parties now wish to govern their relationship according to the terms of their Bankruptcy Court settlement and the new Resale Agreement, rather than the terms of the Commission's Order No. PSC-99-1013-FOF-TP. Therefore, the Movants request that the Order be vacated in its entirety.

In support of their motion, the Movants state that the Commission's Order No. PSC-99-1013-FOF-TP is not final because of the outstanding Motion for Reconsideration filed by BellSouth. The Movants request that the Commission defer any action on that Motion. The Movants argue that if the Commission grants the Joint Motion to Vacate, the Motion to Reconsider would be moot. Moreover, TCCF withdraws its Complaint in this matter. Finally, the Joint Movants emphasize that no party or other telecommunications carrier or customer would be prejudiced if the Order were vacated.

We agree that it is appropriate to grant the Joint Motion to Vacate Order No. PSC-99-1013-FOF-TP because, although final, it is still within our control and not deemed to be rendered for purposes of judicial review due to the outstanding Motion for Reconsideration. The purpose of this proceeding was to resolve a contract dispute between BellSouth and TCCF. If, in their course of business, the parties have resolved their differences and entered into a new contract, there is no purpose served by not vacating the Order. We believe that no one will be harmed if the Motion to Vacate Order No. PSC-99-1013-FOF-TP is granted. The Motion to Vacate shall, therefore, be granted. TCCF's withdrawal of its underlying petition is acknowledged.

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Finally, because we have granted the Joint Motion to Vacate, the outstanding Motion for Reconsideration filed by BellSouth and Motion to Dismiss filed by TCCF are moot.

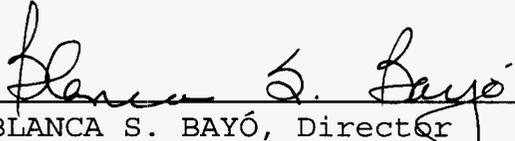
Therefore, it is

ORDERED by the Florida Public Service Commission that BellSouth Telecommunications, Inc.'s and the Telephone Company of Central Florida, Inc.'s Joint Motion to Vacate Commission's May 20, 1999, Order No. PSC-99-1013-FOF-TP is granted. It is further

ORDERED that Telephone Company of Central Florida, Inc.'s withdrawal of its underlying Petition is hereby acknowledged. The outstanding Motion for Reconsideration filed by BellSouth Telecommunications, Inc. and Motion to Dismiss filed by Telephone Company of Central Florida, Inc. are, therefore, moot. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission this 5th day of January, 2000.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

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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 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 and/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 after the issuance 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.