

State of Florida
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ORIGINAL
Public Service Commission

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DATE: January 6, 2000
TO: Division of Records and Reporting (Bayo)
FROM: Division of Telecommunications (Favors) *CRF* *WA*
Division of Legal Services (Caldwell) *DWC* *BL*
RE: Docket No. 990750-TP; Issue 7

The attached Issue 7 was inadvertently omitted from the recommendation filed in Docket No. 990750-TP filed on January 4, 2000, for a Special Agenda to be held on January 11, 2000. Please include Issue 7 as an addendum to the recommendation submitted earlier and fax copies to the following:

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ISSUE 7: Until the Florida Public Service Commission and Federal Communications Commission make a decision regarding UNEs and UNE combinations, should BellSouth be required to continue providing those UNEs and combinations that it is currently providing to ITC^DeltaCom under the interconnection agreement previously approved by this Commission?

RECOMMENDATION: Yes. BellSouth should be required to continue providing those UNEs that it is currently providing to ITC^DeltaCom under the interconnection agreement previously approved by this Commission. See Issue 8 for recommendation regarding UNE combinations. (BROWN)

POSITIONS OF THE PARTIES:

ITC^DELTACOM:

Yes. The FCC has required that BellSouth continue six of the seven previous UNEs. All UNEs ordered by ITC^DeltaCom from BellSouth are included in the approved list. BellSouth must comply with FCC Rule 315(b), which prevents BellSouth from separating network elements that it "currently combines".

BELLSOUTH:

Until a new agreement is in effect, BellSouth will continue to comply with the expired interconnection agreement with DeltaCom. However, consistent with the 1996 Act and FCC rules, that expired agreement does not obligate BellSouth to combine network elements for DeltaCom or entitle DeltaCom to purchase combinations at cost-based rates.

STAFF ANALYSIS:

The issue before the Commission is to determine whether BellSouth should be required to continue providing those unbundled network elements(UNEs)and UNE combinations that it is currently providing to ITC^DeltaCom under the interconnection agreement previously approved by this Commission until a decision on UNEs or UNE combinations is made by the Florida Public Service Commission or the FCC.

When asked about which UNE combinations are in dispute, ITC^DeltaCom witness Hyde states that "for purposes of this contract, ITC^DeltaCom is more than willing to limit it to the extended loop." (TR 483) Thus, the only combination that appears to be in dispute here is the enhanced extended loop (EEL), which staff addresses in Issue 8.

Regarding UNES, witness Hyde contends that all ITC^DeltaCom is requesting is that the "status quo" be maintained until such time as an FCC order on UNES and any UNE combinations is issued. (TR 367) BellSouth witness Varner contends that BellSouth will continue to provide any individual UNE currently offered and notes that those elements are subject to change once the FCC completes its proceeding. (TR 692) Witness Varner reaffirms BellSouth's position and agrees with ITC^DeltaCom when he states:

Until that time, there is no minimum list of UNES that BellSouth is required to offer. However, BellSouth has agreed to continue providing UNES as listed in the now vacated Rule 51.319, until the new rulemaking is complete. (TR 672)

Both parties agree that the UNES being provided under their previously approved agreement will suffice until such time that new UNE rules are adopted by the FCC. (Hyde TR 367; Varner TR 692)

Since both parties appear to agree to continue the status quo with respect to individual UNES, staff recommends that BellSouth continue to provide those UNES that it currently provides to ITC^DeltaCom. Staff notes that the FCC has issued its order on Rule 51.319 remand, and although not part of the record, the parties' new agreement may need prospective modification(s) to comport with the remand order referenced above. (see FCC Order 99-238, CC Docket No. 96-98)

Conclusion

Staff recommends that BellSouth be required to continue to provide those UNES that it is currently providing to ITC^DeltaCom under the interconnection agreement previously approved by this Commission.