



Public Service Commission

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RECORDS AND REPORTING

DATE: FEBRUARY 22, 2001

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

FROM: DIVISION OF COMPETITIVE SERVICES (LOGUE) *SAS forkL*
DIVISION OF LEGAL SERVICES (PEÑA, KEATING) *TKO*
EMP OV

RE: DOCKET NO. 000876-TP - REQUEST BY BELLSOUTH TELECOMMUNICATIONS, INC. FOR APPROVAL OF AMENDMENT TO EXISTING COLLOCATION AGREEMENT WITH PATHNET, INC. D/B/A PATHNET COMMUNICATIONS, INC.

AGENDA: 03/06/01 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\000876.RCM

CASE BACKGROUND

On July 17, 2000, BellSouth Telecommunications, Inc. (BellSouth) and Pathnet, Inc. d/b/a Pathnet Communications, Inc. (Pathnet) filed with this Commission a petition for approval of two amendments to their interconnection agreement. Since one of the amendments addressed physical collocation services and the other addressed interconnection, unbundling, and resale (IUR) terms, the docket title was amended to reflect that the amendments were for an existing interconnection, unbundling, resale and collocation agreement.

The docket was scheduled to be heard at the September 26, 2000, Agenda Conference. On this date, the Commission approved staff's recommendation to approve the amendments for collocation and IUR terms. However, after the Commission's vote, staff discovered an error within the filing. Specifically, staff

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determined that the only previously approved agreement between BellSouth and Pathnet was a collocation agreement.

Due to these circumstances, staff contacted BellSouth and advised them that only the collocation amendment was a proper amendment because the Commission had not previously approved an IUR agreement between the two parties, which was covered on the second amendment. BellSouth explained that the amendment governing IUR terms had been inadvertently filed prior to the agreement. Simultaneous with staff's discovery of the filing error, BellSouth filed the underlying IUR agreement and a separate docket was established. By Order No. PSC-00-2213-FOF-TP, issued November 21, 2000, the IUR agreement was approved in Docket No. 001364-TP.

Staff advised BellSouth that since the collocation amendment and the IUR amendment modified different agreements, the amendments could not be processed in the same docket. Therefore, on February 1, 2001, BellSouth requested that the amendment to the IUR agreement be withdrawn from this docket and handled in a separate docket. For this reason, this recommendation addresses the collocation amendment only. Staff notes that by letter dated October 10, 2000, BellSouth waived its right to have the proposed collocation amendment reviewed within the 90 day period specified by the Telecommunications Act of 1996.

Accordingly, staff believes that the following recommendations are appropriate. The Commission is vested with jurisdiction over this matter pursuant to Sections 251 and 252 of the Telecommunications Act of 1996.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission reconsider its vote at the September 26, 2000, Agenda Conference approving the interconnection, unbundling, and resale amendment submitted by BellSouth and, instead, approve only the amendment to the existing collocation agreement between BellSouth Telecommunications, Inc. and Pathnet, Inc. d/b/a Pathnet Communications, Inc.?

RECOMMENDATION: Yes. The Commission should reconsider its vote and approve only the amendment to the existing collocation agreement between BellSouth Telecommunications, Inc. And Pathnet, Inc. d/b/a Pathnet Communications, Inc.

STAFF ANALYSIS: As stated in the Case Background, the Commission approved this filing at the September 26, 2000, Agenda Conference. However, due to discrepancies with the timing of the filing, staff was not able to accurately reflect the action being sought. Therefore, staff is bringing it back before the Commission to reconsider its decision and recommends approval of the filing only as an amendment to the existing collocation agreement between BellSouth Telecommunications, Inc. and Pathnet, Inc. d/b/a Pathnet Communications, Inc. Staff believes that this amendment complies with the Telecommunications Act and should be approved.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If the Commission approves Issue #1, this docket should be closed upon issuance of the Commission's Order.

STAFF ANALYSIS: Since no further Commission action is necessary, this docket should be closed upon issuance of the Commission's Order.