

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request by BellSouth
Telecommunications, Inc. for
approval of amendment to
existing collocation agreement
with Pathnet, Inc. d/b/a Pathnet
Communications, Inc.

DOCKET NO. 000876-TP
ORDER NO. PSC-01-0651-FOF-TP
ISSUED: March 15, 2001

The following Commissioners participated in the disposition of
this matter:

E. LEON JACOBS, JR., Chairman
J. TERRY DEASON
LILA A. JABER
BRAULIO L. BAEZ
MICHAEL A. PALECKI

ORDER RECONSIDERING VOTE AND APPROVING
AMENDMENT TO EXISTING COLLOCATION AGREEMENT

BY THE COMMISSION:

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, we approved our staff's recommendation to approve the amendments for collocation and IUR terms. However, after our vote, our staff discovered an error within the filing. Specifically, they determined that the only previously approved agreement between BellSouth and Pathnet was a collocation agreement.

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Due to these circumstances, our 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 our 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.

Our 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 Therefore, on February 1, 2001, BellSouth requested that the amendment to the IUR agreement be withdrawn from this docket and handled in a separate docket. Therefore, we find it appropriate to reconsider our vote. We note 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.

The Act encourages parties to enter into negotiated agreements. Under the requirements of 47 U.S.C. § 252(e), negotiated agreements must be submitted to the state commission for approval. Section 252(e)(4) requires the state to reject or approve the agreement within 90 days after submission or it shall be deemed approved.

The existing agreement governs the relationship between the companies regarding physical collocation services under 47 U.S.C. § 251. The agreement states that collocation space will be provided for Pathnet Communications in BellSouth's Central Office. Rates for the collocation space and telecommunications services are set out in the schedules included in the agreement.

Upon review of the proposed amendment to the existing agreement, we believe that it complies with the Act; thus, we hereby approve it. The Commission's approval of this agreement should not be construed as a determination that BellSouth has met the requirements of Section 271 of the Act. BellSouth and Pathnet Communications are also required to file any subsequent supplements

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or modifications to their agreement with the Commission for review under the provisions of 47 U.S.C. § 252(e).

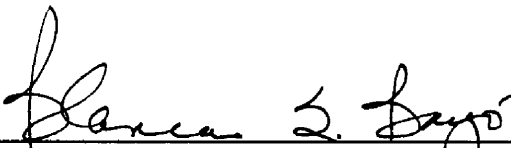
Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that we hereby reconsider our vote at the January 2, 2001, Agenda Conference and approve the amendment to the existing collocation agreement between BellSouth Telecommunications, Inc. and Pathnet, Inc. d/b/a Pathnet Communications, Inc., incorporated by reference in this Order. A copy of the amendment may be obtained as specified in the body of this Order. It is further

ORDERED that any supplements or modifications to this agreement must be filed with the Commission for review under the provisions of 47 U.S.C. § 252(e). It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 15th day of March, 2001.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

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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 in Federal district court pursuant to the Federal Telecommunications Act of 1996, 47 U.S.C. § 252(e)(6).