



Public Service Commission

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-M-E-M-O-R-A-N-D-U-M-

RECORDS & REPORTING
MAY 3 11:30 AM '01
SECRET

DATE: MAY 3, 2001

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

FROM: DIVISION OF COMPETITIVE SERVICES (FULWOOD) *WJ*
DIVISION OF LEGAL SERVICES (PEÑA/KEATING) *KMP*

RE: DOCKET NO. 010186-TP - REQUEST BY BELLSOUTH TELECOMMUNICATIONS, INC. FOR APPROVAL OF NEGOTIATED INTERIM INTERCONNECTION CROSS-CONNECT AGREEMENT WITH ITC^DELTA COM COMMUNICATIONS, INC. D/B/A ITC^DELTA COM.

AGENDA: 05/15/01 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\010186.RCM

CASE BACKGROUND

On February 8, 2001, BellSouth Telecommunications, Inc. filed with this Commission a request for approval of their negotiated interim interconnection cross-connect agreement with ITC^DeltaCom Communications, Inc. d/b/a ITC^DeltaCom. The Commission approved the agreement at the March 13, 2001, Agenda Conference. This agreement was to remain in effect until the companies executed a new agreement pursuant to a Commission order in the disposition of the pending arbitration proceedings. After the vote, however, it was brought to staff's attention that in the same Agenda Conference, the Commission approved a new agreement in the arbitration proceedings, Docket No. 990750-TP. Staff notes that after the Agenda, the parties were notified of this issue, but declined to withdraw the interim agreement.

Therefore, staff believes that the following recommendation is appropriate in the disposition of this matter.

DOCUMENT NUMBER DATE

05606 MAY-30

REC'D-RECORDS & REPORTING

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission reconsider the vote at the March 13, 2001, Agenda Conference approving its interim interconnection cross-connect agreement between BellSouth Telecommunications, Inc. and ITC^DeltaCom Communications, Inc. d/b/a ITC^DeltaCom and close this docket?

RECOMMENDATION: Yes. The Commission should reconsider its vote and close this docket, since the approval of the arbitrated agreement in Docket No. 990750-TP rendered the interim agreement moot. (**Fulwood, Peña/Keating**)

STAFF ANALYSIS: As stated in the background, BellSouth and ITC^DeltaCom filed their interim interconnection cross-connect agreement for approval by the Commission. Section 4 of the interim interconnection cross-connect agreement, Term of the Agreement, states:

4.1 This Agreement shall remain in effect until such time as the Parties execute a new agreement upon an effective order by the Commission resolving the disputes at issue in the pending arbitration proceeding.

4.2 This agreement shall terminate on the Effective Date of a new Agreement between the Parties.

By Order No. PSC-01-0717-FOF-TP, issued March 22, 2001, the Commission approved the new agreement in the arbitration proceedings. Further, the arbitrated agreement states:

THIS AGREEMENT IS made by and between BellSouth Telecommunications, Inc., ("BellSouth"), a Georgia corporation, and ITC^DeltaCom Communications, Inc., d/b/a ITC^DeltaCom, hereinafter referred to as ("ITC^DeltaCom") an Alabama corporation, and shall be deemed effective as of the date of the last signature of both Parties ("Effective Date").

Page 18 of the arbitrated agreement, General Terms and Conditions-Part A, reflects that both companies executed the agreement on February 9, 2001.

DOCKET NO. 010186-TP
DATE: MAY 3, 2001

Staff believes that Order No. PSC-01-0717-FOF-TP and the arbitrated agreement clearly met the termination requirements posed in the interim agreement to render it moot. Therefore, staff recommends that the Commission reconsider its vote at the March 13, 2001, Agenda Conference and close this docket.