

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for arbitration  
concerning complaint of TCG  
South Florida and Teleport  
Communications Group against  
BellSouth Telecommunications,  
Inc. for breach of terms of  
interconnection agreement.

DOCKET NO. 001810-TP  
DATED: MAY 23, 2001

STAFF'S PREHEARING STATEMENT

Pursuant to Order No. PSC -01-0833-PCO-TP, issued on March 30, 2001 (Order Establishing Procedure) and Order No. PSC-01-1002-PCO-TP, issued April 23, 2001 (Order Granting Motion for Extension of Time to File Direct Testimony and Revising Order Establishing Procedure) the Staff of the Florida Public Service Commission files its Prehearing Statement.

a. All Known Witnesses

None.

b. All Known Exhibits

None.

c. Staff's Statement of Basic Position

Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions stated herein.

d. Staff's Position on the Issues

ISSUE 1: What is the Commission's jurisdiction in this matter?

Position: Part II of the Federal Telecommunications Act of 1996 (Act) sets forth provisions regarding the development of

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competitive markets in the telecommunications industry. Section 251 of the Act regards interconnection with the incumbent local exchange carrier and Section 252 sets forth the procedures for negotiation, arbitration, and approval of agreements.

State Commissions retain primary authority to enforce the substantive terms of agreements they have approved pursuant to Sections 251 and 252 of the Act. Iowa Utilities Board v. Federal Communications Commission, 120 F. 3d 753,804 (8<sup>th</sup> Cir. 1997). A petition has been filed requesting the Commission's review of an agreement it previously approved to determine if the parties are in compliance with that agreement. Based on Iowa Utilities Board and Section 252 (c) (1), the Commission has the authority to review the complaint.

ISSUE 2: Under the BellSouth/TCG Agreement, are the parties required to compensate each other for delivery of traffic to ISP's?

Position: Staff has no position at this time.

ISSUE 3: What is the effect, if any, of Order No. PSC-98-1216-FOF-TP, issued December 15, 1998, in Docket No. 980184-TP, (TCG Order), interpreting the First Bell South/TCG Agreement requiring BellSouth to pay TCG for transport and termination of calls to ISPs, on the interpretation and application of the Second BellSouth/TCG Agreement?

Position: Staff has no position at this time.

ISSUE 4(a):

Has BellSouth breached the Second BellSouth/TCG Agreement by failing to pay TCG reciprocal compensation for transport and termination of Local Traffic as defined in the Second BellSouth/TCG Agreement for calls originated

by BellSouth's end-user customers and transported and terminated by TCG to ISPs?

Position: Staff has no position at this time.

ISSUE 4(b):

If so, what rates under the Second BellSouth/TCG Agreement should apply for the purpose of reciprocal compensation?

Position: Staff has no position at this time.

ISSUE 5(a):

Has BellSouth breached the Second BellSouth/TCG Agreement by failing to pay TCG switched access charges for telephone exchange service provided by TCG to BellSouth?

Position: Staff has no position at this time.

ISSUE 5(b):

If so, what rates under the Second BellSouth/TCG Agreement should apply for purposes of originating and terminating switched access charges for intraLATA toll traffic?

Position: Staff has no position at this time.

e. Issues Which Have Been Stipulated to by the Parties

Staff is not aware of any issues which have been stipulated to by the parties.

f. Pending Motions

TCG filed on May 18, 2001, "TCG South Florida and Teleport Communications Group's Motion for Continuance and

Rescheduling of Controlling Dates for Prehearing Statements, Prehearing Conference and Final Hearing".

g. Pending Confidentiality Claims or Requests

None.

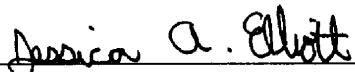
h. Compliance with Order No. PSC-01-0833-PCO-TP and Order No. PSC-01-1002-PCO-TP.

Staff has complied with all requirements of the Order Establishing Procedure and the Order Granting Motion for Extension of Time to File Direct Testimony and Revising Order Establishing Procedure entered in this docket.

i. FCC and Court Cases with Jurisdictional Impact

Beyond staff's stated position in Issue 1, staff is not aware of any pending cases that would impact the Commission's jurisdiction to interpret provisions of previously approved arbitrated agreements.

Respectfully submitted this 23<sup>rd</sup> day of May, 2001.

  
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JESSICA ELLIOTT, Staff Counsel

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Staff's  
Prehearing Statement has been furnished by U.S. Mail this 23rd day  
of May, 2001, to the following:

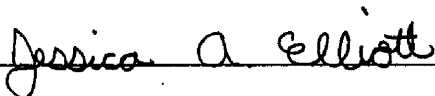
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Respectfully submitted this 23<sup>rd</sup> day of May, 2001.

  
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