

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition of Florida Digital Network, }
Inc., for Arbitration of Certain Terms and } Docket No.010098-TP
Conditions of Proposed Interconnection and }
Resale Agreement with BellSouth Telecom- } Dated: July 18, 2001
munications, Inc. Under the Telecom- }
munications Act of 1996 }
_____ }

PREHEARING STATEMENT OF FLORIDA DIGITAL NETWORK, INC.

Pursuant to Order No. PSC-01-1273-PCO-TP, issued June 7, 2001, and Order No. PSC-01-1470-PCO-TP, issued July 13, 2001, Florida Digital Network, Inc., ("FDN") hereby files its Prehearing Statement in the captioned docket as follows:

A. Known Witnesses

FDN intends to call as a witness Michael P. Gallagher, its Chief Executive Officer. FDN prefiled direct and rebuttal testimony for Mr. Gallagher. That testimony addresses all outstanding issues in this case. At this time, FDN does not intend to call any other witnesses, but does reserve the right to call BellSouth personnel as adverse party witnesses pending review of BellSouth's Prehearing Statement and rebuttal testimony and deposition of BellSouth witnesses. Since some issues for which FDN submitted prefiled testimony have been withdrawn, FDN will agree to withdraw the associated prefiled testimony.

B. Known Exhibits

FDN intends to introduce into evidence the exhibits attached to the prefiled testimony of Michael P. Gallagher. Those exhibits are as follows:

| <u>Exhibit Identification</u> | <u>Exhibit Description</u> |
|--------------------------------------|--|
| <u>Direct Prefiled</u> | |
| MPG-1 | DLC Architecture Schematic |
| MPG-2 | Jan. – May 2001 BellSouth Caused Troubles Tickets |
| MPG-3 | FDN Order Notes for Troubles Tickets: F2 or F1 pair pulled or broken |
| MPG-4 | FDN Order Notes for Troubles Tickets: “No Trouble Found” examples |
| MPG-5 | Examples: Move Orders and Temporary Lines |
| MPG-6 | Examples: Bad Cuts |
| <u>Rebuttal Prefiled</u> | |
| MPG-7 | Trouble Ticket Proposal |

FDN reserves the right to identify and introduce additional exhibits during cross-examination of other parties’ witnesses and re-direct of its own and, to the extent permitted by Commission rules and the Florida Rules of Civil Procedure, to identify and introduce depositions of BellSouth personnel. Since Exhibits MPG-5 and MPG-6 relate to issues that FDN has withdrawn, FDN will agree to withdraw those exhibits.

C. Statement of Basic Position

All unresolved interconnection agreement issues between the parties should be resolved as FDN has proposed. At the forefront of these issues, and at the forefront of establishing competition for voice and data services for business and residential customers in BellSouth territory in Florida, is FDN's demand that BellSouth offer FDN for resale or as an unbundled network element (UNE) product the high frequency portion of access lines FDN uses to provide subscribers voice service. BellSouth's network architecture in Florida is unique. Over 60% of all BellSouth access lines in the State are foreclosed to CLECs desiring to offer voice and high-speed data services over the same line (as BellSouth may offer its own end-users), not because the line cannot support the data service, but because BellSouth refuses to allow CLECs meaningful opportunity to compete on a level playing field. BellSouth's refusal to offer FDN any of its requested high frequency options is fundamentally anticompetitive and unjustifiable in addition to being unlawful. With regard to BellSouth's trouble ticket services, FDN merely desires the interconnect agreement to validate the impropriety of BellSouth's charging for trouble tickets BellSouth closes as "no trouble found" where FDN can prove a trouble must have existed on BellSouth's facilities. FDN also maintains that it should be able to order a simple voice-grade loop from BellSouth without having to specify in advance that BellSouth must process the order one way or another because of BellSouth's own network design and without having to go through what amounts to a prequalification process to insure timely execution of FDN's orders.

D - F. Statement of Issues and Positions

Below is a list of issues listed included in FDN's Petition and Amended Petition and FDN's position on those issues. Of these, only Issues Nos. 1, 3A, 3B, and 10 remain pending. The others have either been resolved by the parties or voluntarily withdrawn by FDN.

Issue 1: **Should BellSouth be required to provide FDN just, reasonable and nondiscriminatory access to UNEs such that xDSL service over a UNE loop is available when a customer and number port to FDN local service?**

FDN: Yes. The Commission should require BellSouth to offer a UNE broadband product that includes high-speed transmission from the customer to the Digital Loop Carrier (DLC) at a remote terminal (RT), DSLAM functionality at the RT, transmission from the RT to the CO, and packet switching. In addition, BellSouth must be required to resell wholesale high-speed data services, pursuant to Section 251(c)(4) of the Act, that can be provided over the same loop as FDN's voice service to an end user. (FDN Witness Gallagher.)

Issue 2: **For the purposes of the new BellSouth/FDN interconnection agreement, should reciprocal compensation payments be made for ISP-bound traffic? If so, at what rates? (The parties have reached an agreement on this issue.)**

Issue 3A: **Should BellSouth be required to consult with FDN prior to closing a trouble ticket?**

FDN: Yes. (FDN Witness Gallagher.)

Issue 3B: **When FDN reports a trouble ticket, should BellSouth charge FDN for that trouble ticket when BellSouth reports "no trouble found" and the trouble is resolved while the ticket is open?**

FDN: No. The interconnection agreement should provide that where FDN can show through remote line diagnostic tests or otherwise that there was a BellSouth caused trouble on a ticket that BellSouth closed as "no trouble found," FDN should not be charged. (FDN Witness Gallagher.)

- Issue 4A:** Is the issue regarding due dates for move orders as stated in 4(B) below, a performance measure issue? If so, is it appropriate to arbitrate the issue in this proceeding? (Issue withdrawn by FDN.)
- Issue 4B:** For purposes of the new BellSouth/FDN interconnection agreement, in the event BellSouth misses a due date for a customer move order, should BellSouth be required to provide retail phone service to FDN at the new address at no charge until the move order is completed? (Issue withdrawn by FDN.)
- Issue 5:** For purposes of the new BellSouth/FDN interconnection agreement, should BellSouth be required to tag all FDN UNE loops at no charge? If so, where? (Issue withdrawn by FDN.)
- Issue 6:** For the purposes of the new BellSouth/FDN interconnection agreement, should BellSouth be required to test dial tone up to the NID on all UNE SL-1 and SL-2 loops without additional charge? (Issue withdrawn by FDN.)
- Issue 7:** For the purposes of the new interconnection agreement, should BellSouth be required to notify FDN of all loop modifications that involve a change in the circuit ID? (Issue withdrawn by FDN.)
- Issue 8A:** Is the issue regarding a FDN- dedicated BellSouth frame attendant, as stated in 8(B) below, a performance measure issue? If so, is it appropriate to arbitrate the issue in this proceeding? (Issue withdrawn by FDN.)
- Issue 8B:** For the purposes of the new BellSouth/FDN interconnection agreement, should BellSouth be required to allow FDN the option of a BellSouth frame attendant who works exclusively on FDN orders, if FDN agrees to fully fund this frame attendant? (Issue withdrawn by FDN.)
- Issue 9:** Should the Commission address any unresolved issues between BellSouth and FDN regarding rights-of-way, conduit and pole attachments? (The parties have reached an agreement on this issue.)
- Issue 10:** Should BellSouth be required to provide FDN a service order option for all voice-grade UNE loops (other than SL-1 and SL-2) whereby BellSouth will (1) design circuits served through an integrated subscriber loop carrier (SLC), where necessary and without additional requirements on FDN, (2) meet intervals at parity with retail service, (3) charge the SL-1 rate if there is no integrated SLC or the SL-2 rate if there is, and (4) offer the order coordination option?

FDN: Yes. (FDN Witness Gallagher.)

G. Stipulated Issues

As stated in the section above, FDN and BellSouth have reached agreement on Issues Nos. 2 and 9.

H. Pending Motions

BellSouth's July 12, 2001, Objection to Florida Digital Network, Inc.'s Request for New UNEs or Unbundled Packet Switching and Motion to Strike Testimony is pending at this time. FDN's response in opposition to that Motion is due to be filed on July 19, 2001.

I. Pending Confidentiality Issues

Staff had requested access to confidential discovery documents in the same format as FDN provided such to BellSouth. However, since FDN has withdrawn the underlying issue related to that discovery, FDN maintains staff's request is moot. Therefore, at this time, FDN is not aware of any pending confidentiality issues.

J. Order Establishing Procedure Requirements

To FDN's knowledge, at the time of serving this Prehearing Statement, there are no requirements of the Order Establishing Procedure that cannot be complied with.

K. Decisions or Pending Decisions

At this time, FDN is not aware of any decisions or pending agency or court decisions that may preempt or otherwise impact the Commission's ability to resolve any of the above issues other than as already stated in FDN's prefiled testimony.

RESPECTFULLY SUBMITTED, this 17th day of July, 2001.



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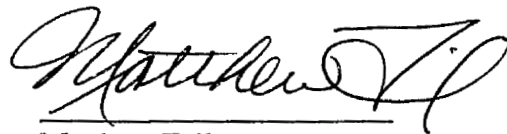
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Certificate of Service

I hereby certify that a true and complete copy of the foregoing was served on the following by overnight delivery this 17th day of July, 2001.

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