



Public Service Commission  
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DATE: AUGUST 9, 2001

TO: DIRECTOR, DIVISION OF THE COMMISSION  
ADMINISTRATIVE SERVICES (BAYÓ)

FROM: DIVISION OF COMPETITIVE SERVICES (HINTON) CH  
DIVISION OF LEGAL SERVICES (KEATING) JK mad

RE: DOCKET NO. 991220-TP - PETITION BY GLOBAL NAPS, INC. FOR  
ARBITRATION OF INTERCONNECTION RATES, TERMS AND CONDITIONS  
AND RELATED RELIEF OF PROPOSED AGREEMENT WITH BELLSOUTH  
TELECOMMUNICATIONS, INC.

AGENDA: 08/14/01 - REGULAR AGENDA - POST HEARING DECISION -  
PARTICIPATION IS LIMITED TO COMMISSIONERS AND STAFF

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\991220.RCM

CASE BACKGROUND

On August 26, 1999, Global NAPs, Inc. (GNAPs) filed a petition for arbitration of an interconnection agreement with BellSouth Telecommunications, Inc. (BellSouth) under Section 252(b) of the Telecommunications Act of 1996 (the "Act"). On September 20, 1999, BellSouth timely filed its Response to the petition. At the issue identification meeting, the parties identified 14 issues to be arbitrated.

An administrative hearing was held on June 7, 2000. Parties agreed to stipulate all testimony and exhibits, entering them into the record without calling witnesses.

By Order No. PSC-00-1680-FOF-TP, issued September 19, 2000, the Commission rendered its decision on the issues. Therein, the Commission addressed the treatment of dial-up traffic to Internet

DOCUMENT NUMBER DATE

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service providers (ISPs), reciprocal compensation, the definition of local traffic, rates for unbundled network elements (UNEs), and collocation provisions.

On October 4, 2000, BellSouth filed a Motion for Reconsideration of the Commission's post-hearing decision. That same day, GNAPs also filed a Motion for Reconsideration and/or Clarification of the Commission's decision. On October 16, 2000, the parties filed their responses to the Motions. By Order No. PSC-01-0762-FOF-TP, issued March 26, 2001, the Commission denied the Motions for Reconsideration and required that the final arbitrated agreement be filed within 30 days of the issuance of the Order. The agreement was, therefore, due to be filed on April 25, 2001.

On April 24, 2001, the parties filed a Joint Motion for Extension of Time to file their arbitrated agreement. Therein, they requested an extension of 30 days to allow them to file their final interconnection agreement on May 25, 2001. On May 25, 2001, BellSouth filed the final interconnection agreement along with a Statement of Disputed Issues. On that same day, GNAPs filed a letter requesting that the Commission order the parties to adopt the final agreement with GNAPs' language, as opposed to BellSouth's. By Order No. PSC-01-1423-FOF-TP, issued July 2, 2001, the Commission granted the Joint Motion for Extension of Time to file the arbitrated agreement. In this Order, the Commission also declined to resolve the disputed language, rejected the incomplete agreement filed on May 25, 2001, and required parties to refile the final arbitrated agreement within 30 days.

On August 1, 2001, BellSouth filed a Joint Motion for Extension of Time of One Day to execute and file the final arbitrated agreement. On August 2, 2001, BellSouth filed the final arbitrated agreement. This is staff's recommendation addressing the Joint Motion for Extension of Time of One Day and the parties' final arbitrated agreement.

**JURISDICTION**

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

Section 252(b) addresses agreements reached through compulsory arbitration. Specifically, Section 252(b)(1) states:

(1) Arbitration. - During the period from the 135th to 160th day (inclusive) after the date on which an incumbent local exchange carrier receives a request for negotiation under this section, the carrier or any other party to the negotiation may petition a State commission to arbitrate any open issues.

Section 252(b)(4)(C) states that the State commission shall resolve each issue set forth in the petition and response, if any, by imposing the appropriate conditions as required. This section requires this Commission to conclude the resolution of any unresolved issues not later than 9 months after the date on which the local exchange carrier received the request under this section. In this case, however, the parties have explicitly waived the 9-month requirement set forth in the Act. Pursuant to Section 252(e)(5) of the Act, if the Commission refuses to act, then the FCC shall issue an order preempting the Commission's jurisdiction in the matter, and shall assume jurisdiction of the proceeding. Furthermore, Section 252(e) requires that arbitrated agreements be submitted for approval by the state Commission in accordance with the requirements of that subsection and applicable state law.

**DISCUSSION OF ISSUES**

**ISSUE 1:** Should the Commission grant the parties' Joint Motion For Extension of Time?

**RECOMMENDATION:** Yes. Allowing the parties an additional day to file their agreement will not prejudice any party to this proceeding. **(KEATING)**

**STAFF ANALYSIS:** In their motion filed on August 1, 2001, the parties indicate that they need one additional day in which to gather the signatures for the final version of their final executed interconnection agreement. The parties both agree that this extension is necessary and that it will prejudice neither party. Staff, therefore, recommends that the Joint Motion for Extension of Time be granted. Staff notes that the agreement was filed on August 2, 2001.

**ISSUE 2:** Should the Commission approve the interconnection agreement between BellSouth and Global NAPs filed on August 2, 2001?

**RECOMMENDATION:** Yes, the Commission should approve the interconnection agreement between BellSouth and Global NAPs filed on August 2, 2001. **(HINTON)**

**STAFF ANALYSIS:** Staff has reviewed the interconnection agreement and believes it complies with the Commission's final Order on the parties' arbitration, Order No. PSC-00-1680-FOF-TP, and the Commission's decision on the Motions for Reconsideration, Order No. PSC-01-0762-FOF-TP. Furthermore, staff believes the interconnection agreement meets the standards set forth in Section 252(e) of the Telecommunications Act of 1996. Therefore, staff recommends that the Commission approve this agreement.

DOCKET NO. 991220-TP  
DATE: August 9, 2001

**ISSUE 3:** Should this Docket be closed?

**RECOMMENDATION:** Yes. If the Commission approves staff's recommendations in Issues 1 and 2, this Docket should be closed.  
**(KEATING)**

**STAFF ANALYSIS:** Yes. If the Commission approves staff's recommendations in Issues 1 and 2, this Docket should be closed.

