

State of Florida



Public Service Commission

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

DATE: August 31, 2001
TO: Commissioner J. Terry Deason, Prehearing Officer
FROM: Division of Legal Services (Keating, Banks, Helton) *alt LNK*
 Division of Competitive Services (Logue, Marsh, King, Barrett, Fulwood) *SAS MCB*
 Division of Regulatory Oversight (Harvey, Vinson) *CSW*
RE: Docket No. 960786-TL - Consideration of BellSouth Telecommunications, Inc.'s entry into interLATA services pursuant to Section 271 of the Federal Telecommunications Act of 1996.

On June 28, 1996, the Commission opened this docket to begin to fulfill its consultative role on the eventual application of BellSouth Telecommunications, Inc. for authority to provide in-region interLATA service.

After an administrative hearing in September of 1997, having considered the record, by Order No. PSC-97-1459-FOF-TL, issued November 19, 1997, the Commission rendered findings on whether BellSouth had met the requirements of Section 271(c). Specifically, the Commission found that BellSouth was not eligible to proceed under Track B at that time, because it had received qualifying requests for interconnection that if implemented would meet the requirements of Section 271(c)(1)(A), also known as Track A.

The Commission's evaluation of the record on whether BellSouth met the requirements of Section 271(c)(1)(A) indicated that while there was a competitive alternative in the business market, there was not sufficient evidence to determine whether there was a competitive alternative in the residential market. Thus, based on the evidence in the record, the Commission found that BellSouth had not met all of the requirements of Section 271(c)(1)(A). The Commission found that BellSouth had met checklist items 3,4,8,9,10,11,12,13, and the majority of checklist item 7. BellSouth had not, however, met the requirements of checklist items 1,2,5,6, and 14. For those checklist items which the Commission determined that BellSouth had met, the Commission indicated BellSouth may not be required to relitigate those issues before us in a future proceeding. The Commission did find, however, that when BellSouth refiles its 271 case with us, it must provide the Commission with all documentation that it intends to file with the FCC in support of its application. Finally, the Commission found that it could not approve BellSouth's SGAT at that time.

On April 24, 2001, the prehearing officer conducted an Issues Identification Conference to discuss which issues need to be identified for resolution in this proceeding and to hear argument on any disputed issues. Subsequently, by Order No. PSC-01-1025-PCO-TL, issued April 25, 2001, the prehearing officer rendered his ruling on the disputed issues and identified the list of issues appropriate for resolution in this proceeding.

Thereafter, on May 2, 2001, FCCA and AT&T (FCCA/AT&T) filed a Motion for Reconsideration of the prehearing officer's Order. Therein, they argue that the prehearing officer erred by excluding certain issues proposed by FCCA/AT&T. That same day, MCI WorldCom, Inc., (WorldCom) also filed a Motion for Reconsideration. WorldCom also believes that the prehearing officer erred by excluding the issues proposed by FCCA/AT&T. On May 9, 2001, BellSouth filed

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its Responses to the Motions for Reconsideration. By Order No. PSC-01-1252-FOF-TL, issued June 5, 2001, the Commission denied the Motions for Reconsideration.

In accordance with the schedule set forth in the Order on Status Conference and Updating Procedure, Order No. PSC-01-0832-PCO-TL, issued March 30, 2001, testimony has now been filed in this Docket. However, on August 17, 2001, BellSouth filed a Motion to Strike Portions of Intervenor's Direct Testimony. Thereafter, on August 21, 2001, BellSouth filed a page/line summary of the testimony it believes should be stricken.

In its Motion, BellSouth contends that the testimony it has identified is testimony the Commission has determined is not appropriate to be addressed in the hearing phase of this proceeding; thus, BellSouth asks that it be stricken from the hearing track. AT&T Communications, AT&T Broadband, TCG South Florida, Covad, KMC Telecom, Nuvox, and XO Florida (hereinafter "ALECs") timely filed their joint Response in Opposition on August 27, 2001. Sprint timely filed its Reply on August 28, 2001. The ALECs contend that it would be impossible to address several of the checklist items, particularly Items 2 and 4, without the testimony identified by BellSouth. Furthermore, they contend that other testimony identified by BellSouth has nothing to do with OSS, but instead addresses the functioning of certain loops, as well as marketplace data they believe the Commission must consider in rendering its decision on the issues in the proceeding. Sprint argues that BellSouth's Motion should be denied because the Sprint testimony BellSouth seeks to strike is directly responsive to BellSouth testimony.

In reviewing the testimony filed in this proceeding, staff has developed some concerns of its own regarding testimony that has been filed. In this recommendation, staff addresses only that testimony not identified by BellSouth in its Motion to Strike.

Staff believes that the testimony identified in the matrix attached and incorporated into this recommendation as Attachment A should be removed from the hearing track of this docket. Specifically, staff believes that the testimony identified in Attachment A addresses aspects of OSS, such as pre-ordering, ordering, maintenance, and provisioning that are currently being addressed in the Third Party OSS Testing (TPT) being conducted by KPMG. The last column of the attachment provides a brief description of what the testimony addresses. Staff believes that the Commission has contemplated that the topics addressed in the identified portions of the testimony would be addressed in the TPT, as set forth in Order No. PSC-99-1568-PAA-TP, issued August 9, 1999, (Order on Third Party Testing) and consummated as a final order on September 2, 1999; Order No. PSC-00-0104-PAA-TP, issued January 11, 2000, (Order Approving Master Test Plan) and consummated as a final order on February 2, 2000; and Order No. PSC-00-0260-PAA-TL, issued February 8, 2000, (Order on Interim Metrics) and consummated as a final order on March 1, 2000. Furthermore, in reliance on those Orders, the prehearing officer has clearly defined the scope of the hearing track of this proceeding in his Order Regarding Issues to be Addressed at Hearing, Order No. PSC-01-1025-PCO-TL, issued April 25, 2001. Therein, the prehearing officer excluded issues addressing matters covered by the TPT, including issues pertaining to performance metrics. By Order No. PSC-01-1252-FOF-TL, issued June 5, 2001, the Commission denied the Motions for Reconsideration of the prehearing officer's decision.

Staff believes that inclusion of the testimony identified in Attachment A in this proceeding would be contrary to Order No. PSC-01-1025-PCO-TL and the Commission's prior determinations that the TPT is the appropriate forum to address OSS-related issues. As such, staff recommends that

the prehearing officer, on his own motion, strike the testimony identified in Attachment A from the hearing track of this proceeding. Staff recommends, however, that the parties should have the opportunity to refile the identified testimony as comments in the OSS Testing track, which we recommend is the most appropriate forum for the issues and concerns identified in the testimony to be addressed.

In addition to the testimony set forth in Attachment A, staff also believes that the following testimony should be stricken:

Access Integrated Networks witness Page testimony, page 4, line 9 - page 7, line 14
Nuvox witness Willis testimony, page 3, line 1 - page 4, line 17

The testimony identified above pertains to company-specific complaints that the Commission specifically stated in its Final Order on the prior hearing in this Docket was not appropriate for consideration and resolution in this proceeding. See PSC-97-1459-FOF-TL, issued November 19, 1997, at p. 14. With regard to witness Page's testimony, this testimony relates a complaint that Access Integrated has that BellSouth excluded Access Integrated's customers from the white pages, yellow pages, and directory assistance, and that BellSouth has generally misrepresented Access Integrated's service. As for witness Willis' testimony, this testimony addresses Nuvox's complaint that BellSouth's billing systems do not charge the appropriate rates for switched access or special access interconnection trunks. Therefore, staff recommends that the prehearing officer, on his own motion, strike this testimony. Because this testimony is not OSS-related, the parties should not be allowed to refile it in the OSS testing track of this Docket.

BK/anc

cc: All Parties of Record (via-e-mail)
All Interested Persons
Division of the Commission Clerk and Administrative Services

ATTACHMENT A

PARTY	WITNESS	TESTIMONY PROFERRED	PAGE(S) / LINE(S)	DESCRIPTION
BellSouth	Ainsworth	Surrebuttal	p. 6 line 9 through p. 19 line 25	Various OSS issues - Order status information, UNE-P migration, and processing of service requests
			p. 25 line 1 through p. 28 line 25	Various OSS issues - trouble reports, provisioning of UNEs and missed commitments
			p. 29 line 1 through p. 35 line 17	LCSC - submittance and routing of Orders, LSRs, jeopardy notices, clarification, etc.
	Cox	Surrebuttal	p. 32 line 20 through p. 33 line 9	Manual v. electronic interfaces
	Fields	Surrebuttal	p. 2 line 17 through p. 6 line 7	LCSC personnel training
			p. 6 line 9 through p. 7 line 20	Issuance of service orders

			p. 7 line 22 through p. 8 line 20	EBD indicator/D and N orders
	Harris	Surrebuttal	p. 7 line 9 through p. 11 line 6	Disconnect and New orders
	Latham	Direct	p. 12 line 24 through p. 14 line 15	Pre-ordering of XDSL capable loops & Obtaining manual LMU information
			p. 15 line 14 through p. 17 line 20	Ordering XDSL capable loops
	Milner	Direct	p. 41 line 19 through p. 43 line 4	Management terminal interface
			p. 74 line 1	Ordering & provisioning
			p. 75 line 10 through p. 76 line 8	Provisioning of NXX codes
			p. 60 lines 15 - 18	LMU Data
			p. 62 line 6 through p. 68 line 20	Hot Cuts
	Milner	Surrebuttal	p. 12 line 11 through p. 24 line 9	Hot Cuts

			P. 15 line 23 through P. 16 line 21	Ordering and FOC delays, provision of facility information, LFACs records
	Pate	Surrebuttal	All	OSS; Business rules; LENS; numerous OSS issues
	Scollard	Surrebuttal	p. 5 line 13 through page 8 line 24	BANs
	Varner	Surrebuttal	All	Performance measures
	Williams	Direct	p. 6 lines 2-20	Ordering & Provisioning of Line Sharing Splitter
			p. 7 line 14 through p. 8 line 15	Test of Line Sharing Procedures
			p. 11 line 20 through p. 12 line 2	LMU Info. from LENS or TAG
			p. 12 line 22 through p. 15 line 17	Ordering of line sharing
AT&T	Berger	Rebuttal	p. 3 line 12 through p. 12 line 10	Hot Cuts
			p. 15 line 5 through p. 16 line 24	Pre-FOC CFA checks

			p. 18 line 3 through p. 22 line 14	Disagreement over hot cuts start & stop times
	Bradbury	Rebuttal	p. 8 line 10 through p. 9 line 2	Provisioning and business rules
			p. 12 line 18 through p. 13 line 8	OLNS testing
	Seigler	Rebuttal	p. 6 lines 9 through 17	OSS test items
			p. 15 line 9 through p. 16 line 10	Order rejections (LENS)
			p. 19 line 15 through p. 21 line 10	Change in order procedures without notification
			p. 21 line 11 through p. 26 line 9	Billing number assignment
	Norris	Rebuttal	ALL	Performance measures and accuracy of performance measures data
Covad	Davis	Rebuttal	p. 2 line 17 through p. 17 line 4	Ongoing problems with access to loops (LCSC) and loop provisioning
			p. 17 line 10 through p. 19 line 18	Performance measures

KMC	Espin	Rebuttal	p. 3 line 15 through p. 8 line 20	Provisioning
			p. 9 line 10 through p. 10 line 9	Trouble within 30 days, trouble on circuits with prior troubles
Sprint	Felton	Rebuttal	p. 4 line 21 through p. 5 line 15	Additional electronic sources of LMU information
			p. 6 lines 7-22	Access to LMU information