



Public Service Commission

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DATE: DECEMBER 26, 2001

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

FROM: DIVISION OF LEGAL SERVICES (BANKS) *PRB*
DIVISION OF COMPETITIVE SERVICES (HINTON) *CH*

RE: DOCKET NO. 990874-TP - REQUEST FOR ARBITRATION CONCERNING COMPLAINT OF US LEC OF FLORIDA INC. AGAINST BELLSOUTH TELECOMMUNICATIONS, INC. REGARDING BREACH OF TERMS OF INTERCONNECTION AGREEMENT AND REQUEST FOR RELIEF.

AGENDA: 01/08/02 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\LEG\WP\990874.RCM

CASE BACKGROUND

On July 2, 1999, US LEC of Florida, Inc. (US LEC) filed a Complaint against BellSouth Telecommunications, Inc. (BellSouth) alleging breach of the terms of an interconnection agreement between the parties. On July 22, 1999, BellSouth filed its Answer and Response to Complaint of US LEC of Florida, Inc. By Order No. PSC-99-2144-PCO-TP, Order on Procedure, issued November 1, 1999, the procedures were established and the controlling dates set.

On April 17, 2000, the parties filed a Consent Motion to Continue Hearing, wherein they stated that the interests of judicial economy would be served by continuing the case to enable them to litigate all issues in dispute in the course of a single hearing. Specifically, on March 30, 2000, US LEC requested in its Motion to Strike Portions of Pre-Filed Testimony or, in the Alternative, to Stay Portion of Pending Hearing that the portion of

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the hearing relating to the reciprocal compensation rate be stayed pending the Commission's ruling on the rate issue in a separate docket, Docket No. 991534-TP. By Order No. PSC-00-0952-PCO-TP, issued on May 15, 2000, the parties' Consent Motion to Continue Hearing was granted which rendered US LEC's March 30, 2000, filing moot.

On December 22, 2000, US LEC filed an Agreed Motion for Continuance. By Order No. PSC-01-0145-PCO-TP, issued January 18, 2001, the Agreed Motion for Continuance was granted. On September 18, 2001, US LEC filed a Motion for Leave to File Supplemental Direct and Rebuttal Testimony. Sometime after this motion was filed, counsel for US LEC advised staff that parties anticipated that an agreement would be reached in this docket. Thereafter, on October 24, 2001, US LEC filed a Notice of Withdrawal of Second Amended Complaint. This recommendation addresses the Notice of Withdrawal of Second Amended Complaint.

The Commission is vested with jurisdiction in this matter pursuant to Section 252 of the Telecommunications Act of 1996.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission acknowledge US LEC's Notice of Withdrawal of its Second Amended Complaint against BellSouth?

RECOMMENDATION: Yes. The Commission should acknowledge US LEC's Notice of Withdrawal of its Second Amended Complaint against BellSouth. (BANKS)

STAFF ANALYSIS: On October 24, 2001, US LEC filed a Notice of Voluntary Withdrawal of its Second Amended Complaint, wherein it withdrew its Complaint against BellSouth. Since there are no remaining issues in dispute between the parties in this docket, staff believes that it is appropriate for the Commission to acknowledge US LEC's withdrawal of its complaint against BellSouth. Further, staff also recommends that the Commission find that US LEC's Motion for Leave to File Supplemental Direct and Rebuttal

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Testimony, filed on September 18, 2001, is rendered moot by US LEC's voluntary dismissal.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. Since there are no further issues requiring action by the Commission, this docket should be closed. (BANKS)

STAFF ANALYSIS: US LEC's withdrawal of its complaint renders the issues raised by the complaint moot. As such, there are no further issues requiring Commission action, and this docket should be closed.