

ORIGINAL



January 3, 2002

Ms. Blanca Bayó, Director
Division of the Commission Clerk
& Administrative Services
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

via Overnight Mail

Re: Docket No. 990649A-TP – Investigation into Pricing of Unbundled Network Elements (BellSouth Track)

Dear Ms. Bayó,

Please find enclosed for filing in the above docket an original and seven (7) copies of Florida Digital Network, Inc.'s: (1) Prehearing Statement and (2) Motion to Accept Prehearing Statement. Also enclosed is a diskette containing a Word file of the foregoing.

If you have any questions regarding the enclosed, please call me at 407-835-0460.

Sincerely,

Matthew Feil
Florida Digital Network
General Counsel

Motion
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Prehearing Statement
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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into Pricing of)
Unbundled Network Elements)
_____)

Docket No. 990649A
Filed: January 4, 2002

PREHEARING STATEMENT OF FLORIDA DIGITAL NETWORK, INC.

Pursuant to Order No. PSC-01-1904-PCO-TP, issued September 24, 2001, Florida Digital Network, Inc., (“FDN”) hereby files its Prehearing Statement in the captioned docket as follows:

A. Known Witnesses

2. FDN intends to call as a witness Michael P. Gallagher, its Chief Executive Officer. FDN prefiled the rebuttal testimony of Mr. Gallagher. That testimony addresses Issues Nos. 1 and 5 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, surrebuttal testimony and deposition of BellSouth witnesses.

B. Known Exhibits

FDN intends to introduce into evidence the exhibit(s) attached to the prefiled testimony of Michael P. Gallagher as follows:

**Exhibit
Identification**

**Exhibit
Description**

Rebuttal Prefiled

MPG-1

Prefiled Direct Testimony
In Docket No. 010098

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.

C. Statement of Basic Position

The Commission must weigh anticompetitive factors when setting UNE rates. The Commission did not properly or adequately consider the anticompetitive impacts of the UNE rates it approved previously. The current UNE rate levels preclude meaningful competition, especially in the residential market. The new rate structure further impedes competition because Zone 1 wire centers, where lower UNE rates are available, are extremely limited in number – there are 40 fewer Zone 1 wire centers than under interim rates -- and Zone 2 rates are too high to promote competition.

BellSouth's rate proposal for a "hybrid copper/fiber xDSL capable loop" should be rejected. It is improper and impractical to require ALECs to purchase their own dedicated DSLAMs and DS1 feeders at every BellSouth remote. A modified offering for the subject loop should follow a shared-facilities model such that an ALEC may purchase on an unbundled basis an xDSL capable loop, whether copper or fiber fed, that includes packet switching. Such loops should be available and priced on a line-at-a-time basis.

D – F. Statement of Issues and Positions

Below is a list of issues, as identified in the Commission's Order Approving Issues and Creating Sub-Dockets, issued October 29, 2001, and FDN's positions on those issues:

Issue No. 1(a): Are the loop cost studies submitted in BellSouth's 120-day filing compliant with Order No. PSC-01-1181-FOF-TP?

FDN: Agree with AT&T, MCI and other ALECs.

(b) Should BellSouth's loop rate or rate structure, previously approved in Order No. PSC-01-2051-FOF-TP, be modified? If so, to what extent, if any, should the rates or rate structure be modified?

FDN: BellSouth's loop rates should be reduced to permit meaningful competition in both business and residential markets throughout Florida consistent with the legislative purpose of the Act. Further, a new rate structure should be devised where lower UNE rates are available in more than just a minimal number of BellSouth Zone 1 wire centers. (Gallagher.) Also, agree with AT&T, MCI and other ALECs.

2. (a) Are the ADUF and ODUF cost studies submitted in BellSouth's 120-day compliance filing appropriate?

FDN: Agree with AT&T, MCI and other ALECs.

(b) Should BellSouth's ADUF and ODUF rates or rate structure, previously approved in Order No. PSC-01-2051-FOF-TP, be modified? If so, to what extent, if any, should the rates or rate structure be modified?

FDN: Agree with AT&T, MCI and other ALECs.

3. (a) Is the UCL-ND loop cost study submitted in BellSouth's 120-day filing compliant with Order No. PSC-01-1181-FOF-TP?

FDN: Agree with AT&T, MCI and other ALECs.

(b) What modifications, if any, are appropriate, and what should the rates be?

FDN: Agree with AT&T, MCI and other ALECs.

4. (a) What revisions, if any, should be made to NIDs in both the BSTLM and the stand-alone NID cost study?

FDN: Agree with AT&T, MCI and other ALECs.

(b) To what extent, if any, should the rates or rate structure be modified?

FDN: Agree with AT&T, MCI and other ALECs.

5. (a) What is a "hybrid copper/fiber xDSL-capable loop" offering, and is it technically feasible for BellSouth to provide it?

FDN: The loop offering BellSouth should be required to provide is an unbundled xDSL capable loop, whether copper or fiber fed, that includes packet switching. It is technically feasible for BellSouth to offer such loops. (Gallagher.)

(b) Is BellSouth's cost study contained in the 120-day compliance filing for the "hybrid copper/fiber xDSL-capable loop" offering appropriate?

FDN: No, BellSouth's filing must be rejected. It is improper and impractical to require ALECs to purchase their own dedicated DSLAMs and DS1 feeders at BellSouth remotes, as BellSouth's filing proposes. (Gallagher.)

(c) What should the rate structure and rates be?

FDN: BellSouth should be required to resubmit its cost study consistent with a shared-facilities, TELRIC-based methodology, rather than a dedicated facilities/network segment basis. (Gallagher.)

6. In the 120-day filing, has BellSouth accounted for the impact of inflation consistent with Order No. PSC-01-2051-FOF-TP?

FDN: Agree with AT&T, MCI and other ALECs.

7. Apart from Issues 1-6, is BellSouth's 120-day filing consistent with the Orders in this docket?

FDN: Agree with AT&T, MCI and other ALECs.

G. Stipulated Issues

FDN is unaware of any stipulated issues at the time of serving this filing.

H. Pending Motions

FDN has no pending motions at the time of serving this filing other than its Motion to Accept Prehearing Statement.

I. Pending Confidentiality Issues

FDN is not aware of any pending confidentiality issues at the time of serving this filing.

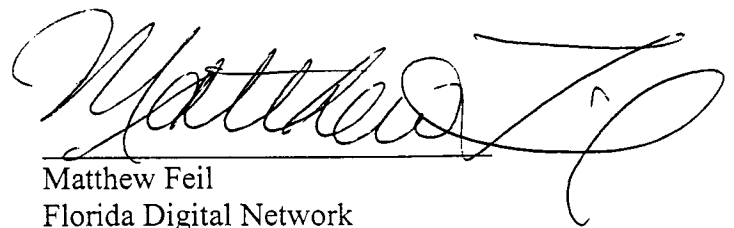
J. Order Establishing Procedure Requirements

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 the time of serving this filing, 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 3rd day of January, 2002.



Matthew Feil
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was furnished to the following parties by U.S. Mail or by overnight mail (if designated with a *) this 3rd day of January, 2002.

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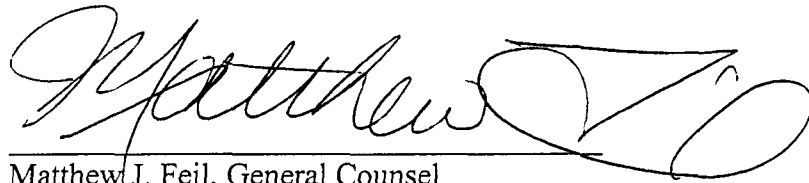
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A handwritten signature in black ink, appearing to read "Matthew J. Feil". The signature is fluid and cursive, with a large, stylized flourish at the end.

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