

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by BellSouth Telecommunications, Inc. for waiver of Rules 25-4.107, 25-4.108, and 25-4.113, F.A.C., which require provision of basic telecommunications service to certain locations and persons.

DOCKET NO. 000028-TL
ORDER NO. PSC-02-0158-PCO-TL
ISSUED: February 1, 2002

ORDER DENYING MOTION FOR CONTINUANCE

Pursuant to Order No. PSC-00-2406-PCO-TL, Order Establishing Procedure, issued December 14, 2000, the above-referenced matter was scheduled for an administrative hearing on March 29, 2001. By Order No. PSC-01-0722-PHO-TL, Prehearing Order, issued March 23, 2001, the hearing date was modified to May 21, 2001. By Order No. PSC-01-1026-PHO-TL, issued April 26, 2001, the hearing was rescheduled again to June 15, 2001. By Order No. PSC-01-1284-PCO-TL, issued June 12, 2001, the hearing and brief filing dates were to be rescheduled. Accordingly, the hearing date and brief filing date were modified to December 20, 2001 and January 17, 2002 by Order No. PSC-01-1522-PCO-TL, issued July 23, 2001. The hearing date in the above-referenced docket was modified to February 4, 2002, by Order No. PSC-01-1771-PCO-TL, issued August 30, 2001.

On January 31, 2002, Mr. Anthony Parks sent a Motion to Continue the hearing in this matter. In support of his Motion, Mr. Parks alleges that this past weekend he received notice of the hearing on BellSouth's petition. Mr. Parks contends that he was out of town the previous week and did not see the notice, although the notice did arrive at his residence that week. Because he was out of town, he contends that he had less than 10 days notice. Mr. Park further contends that apparently in December 2001 BellSouth had requested a continuance and he did not object. He states that although BellSouth had made necessary arrangements at that time, he is requesting the same treatment. He further states that he did not receive the Order No. PSC-01-1771-PCO-TL, issued August 30, 2001, which also contained the February hearing date as indicated by staff counsel. Mr. Parks also alleges that he has another case that requires his appearance in Broward County this coming Monday. Mr. Parks argues that Tallahassee is over five hundred miles away and more reasonable time is needed for this type of travel since he

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must travel by air. He concludes that this is an appealable issue which should be addressed on this level and he requests that this matter be reset with more reasonable notice in the future. Mr. Meza, counsel for BellSouth, contacted staff counsel and stated that BellSouth strenuously objects to any further continuance of the hearing in this matter.

Mr. Parks has requested two prior continuances in this matter. BellSouth has requested one. Order No. PSC-01-1771-PCO-TL, which contains the February 4, 2002, hearing date states that "the parties are on notice that THERE SHALL BE NO FURTHER CONTINUANCES GRANTED IN THIS MATTER." (Emphasis in Order). The Notice of Hearing in this matter was issued on January 14, 2002. Further, Order No. PSC-01-1771-PCO-TL which contained the February 4, 2002, hearing date was issued August 30, 2001. It is Commission practice that the Division of the Commission Clerk and Administrative Services (CCA) sends copies of the orders and notices of hearing to the parties of record. In his Motion, Mr. Parks acknowledges receipt of the Notice of Hearing, although he claims he did not receive it until the middle of the week of January 21, 2002. Even though, Mr. Parks states that he did not receive a copy of Order No. PSC-01-1771-PCO-TL, the Order was sent to him by CCA as a party of record to the same address as the Notice of Hearing. Further, Mr. Parks did not attach to his Motion any documentation to support his claim that his attendance is required in Broward County.

Based on the foregoing, I find that Mr. Parks has had sufficient notice of the pending February 4, 2002, hearing date. Further, Mr. Parks has been on notice that no further continuance would be granted in this matter. Therefore, I find that Mr. Parks has failed to state good cause for continuing the hearing. Mr. Parks is reminded that should he fail to appear at the hearing, he may be deemed to have abandoned his protest.

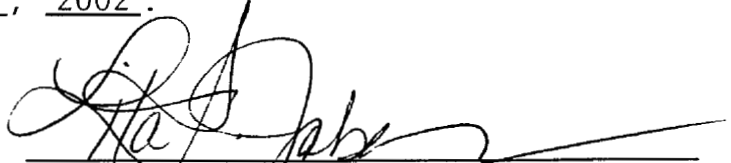
This Order is issued pursuant to the authority granted by Rule 28-106.211, Florida Administrative Code, which provides that the presiding officer before whom a case is pending may issue any orders necessary to effectuate discovery, prevent delay, and promote the just, speedy, and inexpensive determination of all aspects of the case.

Based on the foregoing, it is

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ORDERED by Chairman Lila A. Jaber, as Prehearing Officer, that Mr. Anthony Parks' Motion to Continue the hearing is hereby denied.

By ORDER of Chairman Lila A. Jaber, as Prehearing Officer, this 1st day of February, 2002.



LILA A. JABER
Chairman and Prehearing Officer

(S E A L)

PAC

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, in the form

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prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.