

State of Florida



Public Service Commission

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COMMISSION
CLERK

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DATE: APRIL 11, 2002

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

FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (GILCHRIST, FULWOOD, SIMMONS) *SAS*
OFFICE OF THE GENERAL COUNSEL (TEITZMAN, FUDGE) *DL*

RE: DOCKET NO. 020129-TL - JOINT PETITION OF US LEC OF FLORIDA, INC., TIME WARNER TELECOM OF FLORIDA, L.P. AND ITC^DELTACOM COMMUNICATIONS OBJECTING TO AND REQUESTING SUSPENSION OF PROPOSED CCS7 ACCESS ARRANGEMENT TARIFF (T-02-0063) FILED BY BELL SOUTH TELECOMMUNICATIONS, INC.

AGENDA: 04/23/2002 - REGULAR AGENDA - TARIFF FILING - PROPOSED AGENCY ACTION - ALL INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\020129.RCM

CASE BACKGROUND

On January 18, 2002, BellSouth Telecommunications, Inc. (BST) filed a tariff with this Commission introducing the CCS7 Access Arrangement. This tariff filing also restructures the offering for Commercial Mobile Radio Service (CMRS) providers, and directs them to the equivalent CCS7 Access Arrangement available in the Access Services Tariff. Further, as part of this filing, local switching rates are being reduced to reflect the introduction of charges for intrastate CCS7 usage. The tariff filing went into effect on February 17, 2002.

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On February 15, 2002, US LEC of Florida, Inc., Time Warner Telecom of Florida, L.P., and ITC^DeltaCom Communications (Petitioners) filed a Joint Petition objecting to and requesting suspension of the CCS7 Access Arrangement Tariff filed by BST, and requesting that the Commission schedule a formal administrative hearing to address the issues raised in its Petition. On March 22, 2002, BST filed its response to the Petition.

CCS7 provides signaling functionality for call routing and completion as well as access to various databases. BST explains that it previously was unable to monitor the messages it provides in relation to a particular carrier's non-local intrastate traffic; therefore, BST did not have an intrastate CCS7 tariff. However, BST currently has the ability to monitor the non-local intrastate messages it provides in relation to a particular carrier's traffic, and thus, has implemented its CCS7 tariff. Consequently, carriers using BST's CCS7 service in relation to non-local intrastate calls must pay the rates set forth in the CCS7 tariff, which is the subject of this Petition.

Based on our analysis of the information filed, this tariff would predominantly affect hubbing vendors using CCS7 for local and intrastate calls. A hubbing vendor is a third-party provider of network services. Since these vendors are not ALECs, they do not have local interconnection agreements with BST.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant the Joint Petition of US LEC of Florida, Inc., Time Warner Telecom of Florida, L.P., and ITC^DeltaCom Communications requesting suspension of proposed CCS7 Access Arrangement Tariff filed by BellSouth Telecommunications, Inc. and requesting a formal administrative hearing at this time?

RECOMMENDATION: No. Staff recommends that the Commission deny the Joint Petition of US LEC of Florida, Inc., Time Warner Telecom of Florida, L.P., and ITC^DeltaCom Communications requesting suspension of the proposed CCS7 Access Arrangement Tariff filed by BellSouth Telecommunications, Inc. and requesting a formal administrative hearing. Staff believes that the CCS7 Access Arrangement Tariff filed by BellSouth Telecommunications, Inc., violates the price cap provisions of Section 364.163, Florida Statutes, and is therefore invalid as filed. Consequently, the Commission should order that tariff filing T-02-0063 be canceled. If staff's recommendation is approved, a formal administrative hearing is not required on the matter at this time. **(GILCHRIST, FULWOOD, SIMMONS, TEITZMAN, FUDGE)**

STAFF ANALYSIS: On January 18, 2002, BST filed a tariff with this Commission introducing the CCS7 Access Arrangement. The tariff also restructures the offering for CMRS providers, and directs them to the equivalent CCS7 Access Arrangement available in the Access Services Tariff. Further, as a part of this filing, local switching rates in the Access Services Tariff are being reduced to reflect the introduction of charges for intrastate CCS7 usage. This tariff filing went into effect on February 17, 2002.

The Petitioners assert that SS7, also referred to as CCS7 by BST, is an inherent function of the telephone network across the country. SS7 provides the signaling functionality for call routing, call completion, access to various databases, and is employed in network management. While Dual Tone Multi-Frequency (DTMF) signaling may still be employed in some networks, SS7 is clearly more efficient because, unlike DTMF, it checks to ensure that the end user's line is open before seizing the trunk. Due to the gains in trunk efficiency, SS7 is employed virtually with every call. (Petition, p.3) Staff notes that BST does not rebut the Petitioners' general assertions regarding SS7. (Response, p. 6) Staff believes that SS7 is an integral part of a reasonably

efficient switching network, and thus generally necessary for network access.

The Petitioners state the following objections to BST's tariff filing:

- BST intends to apply this intrastate access filing to local calls;
- Petitioners have not had the opportunity to review any supporting data to confirm that BST's tariff filing is revenue neutral;
- The tariff places an increased burden on the resources of Petitioners as CCS7 providers by requiring that they file an access tariff to recover this "new" per message charge for CCS7;
- The CCS7 message charges may have an impact on all non-BST ILECs and ALECs resulting in all affected carriers raising traffic sensitive rates to recover the additional costs imposed by BST under the tariff; and
- The imposition of the CCS7 message charges under the tariff may violate the price cap provision applicable to BST under Section 364.051(2), Florida Statutes, and the network access services provision of Section 364.163, Florida Statutes.

(Petition, p.4)

In response, BST admits that, generally, CCS7 provides signaling functionality for call routing and completion as well as access to various databases. According to BST, alternative local exchange carriers (ALECs), wireless carriers, interexchange carriers (IXCs), and other incumbent local exchange carriers (ILECs) operating in Florida have at least three options for obtaining this functionality in relation to calls placed by their end users. Carriers can either provide their own CCS7 functionality, obtain CCS7 service from various third-party hubbing vendors, or obtain CCS7 service from BST. (Response, pp. 1-2) A hubbing vendor is a third-party provider of network services, and in the context of this docket, a CCS7 provider.

BST explains that carriers choosing to obtain CCS7 service from BST can use the service in relation to three types of calls, which BST previously billed at the following rates: (1) local calls - the CCS7 rates set forth in approved local interconnection agreements with BST; (2) interstate calls - the CCS7 rates set forth in BST's federal tariff; and (3) non-local intrastate calls - no charge, since BST did not have an intrastate CCS7 tariff. Until recently, BST was unable to monitor the messages it provided in relation to a particular carrier's non-local intrastate traffic, and therefore, could not bill for the service it provided. (Response, p.2)

BST now has developed the ability to monitor the non-local intrastate messages it provides in relation to a particular carrier's non-local traffic, and thus, has implemented its CCS7 tariff. Consequently, carriers using BST's CCS7 service in relation to non-local intrastate calls must pay the rates set forth in the CCS7 tariff, which is the subject of this Petition. (Response, p. 3) In its Response, BST also denies the specific allegations stated by the Petitioners, and argues that the CCS7 tariff does not violate Sections 364.051(2) and 364.163, Florida Statutes. (Response, p.8)

BST indicates in the cover letter of its filing that it is treating the CCS7 Access Arrangement as a new service, since the intrastate offering was not tariffed previously. While BST's argument that this is a new service appears plausible, staff believes a different approach is warranted in this situation. From a provisioning perspective, BST admits that CCS7 signaling for non-local intrastate calls is not a new service. (Response, p.2) However, BST seems to believe that since no rate elements existed prior to this filing, in effect, these are new rate elements. Therefore, from BST's perspective, the non-local intrastate CCS7 signaling rates are not a modification, but the creation of new rate elements.

Staff does not view BST's CCS7 Access Arrangement as a **new** service, but rather as an **existing** service that BST did not previously charge for (or recovered associated costs through another element) due to the above-referenced monitoring difficulty. According to the tariff, the monthly recurring rate per 56 kbps facility for a CCS7 signaling connection effectively increased from \$0 to \$155, the CCS7 termination monthly recurring rate per

Signaling Transfer Point (STP) port effectively increased from \$0 to \$337.05, and the nonrecurring rate per 56 kbps facility for a CCS7 signaling connection charge effectively increased from \$0 to \$150. Additionally, the CCS7 signaling usage for call set-up, per message integrated services digital network user part (ISUP) rate effectively increased from \$0 to \$.000035, and the per message transaction capability application part (TCAP) rate effectively increased from \$0 to \$.00123. Staff notes that carriers are still required to pay the normal intrastate switched access charges applicable to interexchange calls, although BST did reduce the local switching rate from \$.00876 to \$.008661 for LS1 and LS2 and from \$.00874 to \$.008641 for LS3 and LS4, as part of this tariff filing. According to BST's filing, the combined effect of introducing the intrastate CCS7 charges and reducing the local switching rates in the Access Services Tariff is revenue neutral.

However, Chapter 364.163, Florida Statutes, states the following:

(1) Effective January 1, 1999, the rates for switched network access services of each company subject to this section shall be capped at the rates in effect on January 1, 1999, and shall remain capped until January 1, 2001. Upon the date of filing its election with the Commission, the network access service rates of a company that elects to become subject to this section shall be capped at the rates in effect on that date and shall remain capped for 5 years.

(2) After the termination of the caps imposed on rates by subsection(1) and after a local exchange telecommunications company's intrastate switched access rates reach parity with its interstate switched access rates, a company subject to this section may, on 30 days' notice, annually adjust any specific network access service rate in an amount not to exceed the cumulative change in inflation experienced after the date of the last adjustment, provided, however, that no such adjustment shall ever exceed 3 percent annually of the then-current prices . . .

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Since BST's intrastate switched access rates have not reached parity with its interstate switched access rates, Section 364.163(2), Florida Statutes, prohibits increasing any "specific network access service rate." Although this filing may be revenue neutral with respect to the intrastate Access Services Tariff, staff observes that this statute does not allow rate increases to be averaged with rate decreases.

In addition, BST has not made the argument in its tariff filing or Response that this tariff revision serves to unbundle CCS7 access from local switching. Staff does acknowledge that it is not clear whether a true unbundling scenario would be permissible under Section 364.163(2), Florida Statutes, prior to a company reaching parity between its intrastate and interstate switched access rates. In this instance, however, staff questions whether an unbundling argument could be made since the CCS7 queries might well be made at the access tandem, rather than at the end office.

In this instance, however, BST's filing appears to be a rate restructuring (rather than a true unbundling scenario) in which the local switching rates in the intrastate Access Services Tariff are being reduced concomitantly with imposing charges for intrastate CCS7 access, which staff believes constitutes a rate increase for an existing service. Until there is parity in BST's access rates, staff believes this statute precludes a rate restructuring of the sort filed by BST. Staff believes that the CCS7 Access Arrangement tariff filed by BST violates the price cap provisions of Section 364.163, Florida Statutes, and is therefore invalid as filed. Consequently, the Commission should order that tariff filing T-02-0063 be canceled. If staff's recommendation is approved, a formal administrative hearing is not required on the matter at this time.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: If no person whose substantial interests are affected files a protest within 21 days of the issuance date of the Order, the Order will become final upon the issuance of a Consummating Order, and the Docket should be closed. If a timely protest is filed, the Docket should remain open, and the tariff should remain in effect with any net increase in revenues collected in accordance with the tariff held subject to refund pending the outcome of further proceedings. Any net increase in revenues should be calculated on a customer-specific basis. **(TEITZMAN, FUDGE)**

STAFF ANALYSIS: If no person whose substantial interests are affected files a protest within 21 days of the issuance date of the Order, the Order will become final upon the issuance of a Consummating Order, and the Docket should be closed. If a timely protest is filed, the Docket should remain open, and the tariff should remain in effect with any net increase in revenues held subject to refund pending the outcome of further proceedings. Any net increase in revenues associated with imposing charges for intrastate CCS7 usage and reducing local switching rates in the intrastate Access Services Tariff, should be calculated on a customer-specific basis.