

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for expedited review and cancellation of BellSouth Telecommunications, Inc.'s Key Customer promotional tariffs and for investigation of BellSouth's promotional pricing and marketing practices, by Florida Digital Network, Inc.

DOCKET NO. 020119-TP

In re: Petition for expedited review and cancellation of BellSouth Telecommunications, Inc.'s Key Customer promotional tariffs by Florida Competitive Carriers Association.

DOCKET NO. 020578-TP  
DATED: NOVEMBER 25, 2002

STAFF'S PREHEARING STATEMENT

Pursuant to Order No. PSC-02-1295-PCO-TP, issued September 23, 2002, as modified by Order No. PSC-02-1602-PCO-TP, issued November 19, 2002, the Staff of the Florida Public Service Commission files its Prehearing Statement.

a. All Known Witnesses

None.

b. All Known Exhibits

None.

c. Staff's Statement of Basic Position

Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions stated herein.

d. Staff's Position on the Issues

A. What is the Commission's jurisdiction in this matter?

- AUS \_\_\_\_\_
- CAF \_\_\_\_\_
- CMP \_\_\_\_\_
- COM 5 \_\_\_\_\_
- CTR \_\_\_\_\_
- ECR \_\_\_\_\_
- GCL \_\_\_\_\_
- OPC \_\_\_\_\_
- MMS \_\_\_\_\_
- SEC 1 \_\_\_\_\_
- OTH \_\_\_\_\_

DOCUMENT NUMBER-DATE

12928 NOV 25 02

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STAFF: Staff has no position at this time.

ISSUE 1: How should Section 364.01, Florida Statutes, be interpreted in evaluating a BellSouth promotional tariff for compliance with Chapter 364, Florida Statutes?

STAFF: Staff has no position at this time.

ISSUE 2: What criteria, if any, should be established to determine whether the pricing of a BellSouth promotional tariff offering is unfair, anticompetitive, or discriminatory?

i) Pursuant to the cost standard identified in Sections 364.051(5) and 364.3381, Florida Statutes.

ii) Pursuant to any other provisions of Chapter 364, Florida Statutes.

iii) How should the appropriate criteria identified in Issues 2(i) and 2(ii) be applied to a tariff under which varying customer configurations are possible?

iv) Is the BellSouth Key Customer tariff filing (Tariff Number T-020035) unfair, anticompetitive, or discriminatory under the criteria, if any, established pursuant to Issues 2(i), 2(ii) and 2(iii)?

v) Is the BellSouth Key Customer tariff filing (Tariff Number T-020595 or a subsequent tariff filing that extends the expiration date thereof) unfair, anticompetitive, or discriminatory under the criteria, if any, established pursuant to Issues 2(i), 2(ii) and 2(iii)?

STAFF: Staff has no position at this time.

ISSUE 3A: What criteria, if any, should be established to determine whether the termination liability terms and conditions of a BellSouth promotional tariff offering are unfair, anticompetitive, or discriminatory?

i) Is the BellSouth Key Customer tariff filing (Tariff Number T-020035) unfair, anticompetitive, or discriminatory under the criteria, if any, established pursuant to this issue?

ii) Is the BellSouth Key Customer tariff filing (Tariff Number T-020595 or a subsequent tariff filing that extends the expiration date thereof) unfair, anticompetitive, or discriminatory under the criteria, if any, established pursuant to this issue?

STAFF: Staff has no position at this time.

ISSUE 3B: What criteria, if any, should be established to determine whether the duration (term of individual contracts, length and succession of promotions) of a BellSouth promotional tariff offering is unfair, anticompetitive, or discriminatory?

i) Is the BellSouth Key Customer tariff filing (Tariff Number T-020035) unfair, anticompetitive, or discriminatory under the criteria, if any, established pursuant to this issue?

ii) Is the BellSouth Key Customer tariff filing (Tariff Number T-020595 or a subsequent tariff filing that extends the expiration date thereof) unfair, anticompetitive, or discriminatory under the criteria, if any, established pursuant to this issue?

STAFF: Staff has no position at this time.

ISSUE 3C: What criteria, if any, should be established to determine whether the billing conditions or restrictions of a BellSouth promotional tariff offering are unfair, anticompetitive, or discriminatory?

i) Is the BellSouth Key Customer tariff filing (Tariff Number T-020035) unfair, anticompetitive,

or discriminatory under the criteria, if any, established pursuant to this issue?

ii) Is the BellSouth Key Customer tariff filing (Tariff Number T-020595 or a subsequent tariff filing that extends the expiration date thereof) unfair, anticompetitive, or discriminatory under the criteria, if any, established pursuant to this issue?

STAFF: Staff has no position at this time.

ISSUE 3D: What criteria, if any, should be established to determine whether geographic targeting in a BellSouth promotional tariff is unfair, anticompetitive or discriminatory?

i) Pursuant to Section 364.051(5)(a), Florida Statutes, how should "meeting offerings by any competitive provider" be interpreted?

ii) Pursuant to Section 364.051(5)(a), Florida Statutes, how should "specific geographic market" be interpreted?

iii) Pursuant to Section 364.051(5)(a), and 364.08, Florida Statutes, how should "similarly situated" or "substantially similar" be interpreted?

iv) Is the BellSouth Key Customer tariff filing (Tariff Number T-020035) unfair, anticompetitive, or discriminatory under the criteria, if any, established pursuant to this issue?

v) Is the BellSouth Key Customer tariff filing (Tariff Number T-020595 or a subsequent tariff filing that extends the expiration date thereof) unfair, anticompetitive, or discriminatory under the criteria, if any, established pursuant to this issue?

STAFF: Staff has no position at this time.

ISSUE 3E: What criteria, if any, should be established to determine whether any other terms or conditions of a BellSouth promotional tariff offering are unfair, anticompetitive, or discriminatory?

i) Is the BellSouth Key Customer tariff filing (Tariff Number T-020035) unfair, anticompetitive, or discriminatory under the criteria, if any, established pursuant to this issue?

ii) Is the BellSouth Key Customer tariff filing (Tariff Number T-020595 or a subsequent tariff filing that extends the expiration date thereof) unfair, anticompetitive, or discriminatory under the criteria, if any, established pursuant to this issue?

STAFF: Staff has no position at this time.

ISSUE 4A: Under what terms and conditions should BellSouth promotional tariff offerings be made available for ALEC resale?

i) Does the BellSouth Key Customer tariff filing (Tariff Number T-020035) meet the resale terms and conditions established pursuant to this issue?

ii) Is the BellSouth Key Customer tariff filing (Tariff Number T-020595 or a subsequent tariff filing that extends the expiration date thereof) meet the resale terms and conditions established pursuant to this issue?

STAFF: Staff has no position at this time.

ISSUE 4B: What is the competitive impact, if any, of the resale of BellSouth promotional tariff offerings?

STAFF: Staff has no position at this time.

ISSUE 5A: In the context of marketing promotional tariffs, what waiting period or other restrictions, if any, should be applicable to BellSouth?

STAFF: Staff has no position at this time.

ISSUE 5B: In the context of marketing promotional tariffs, what restrictions, if any, should be placed on the sharing of information between BellSouth's wholesale and retail divisions?

STAFF: Staff has no position at this time.

ISSUE 6: If the Commission determines that a BellSouth promotional tariff is unlawful, what effect, if any, should this decision have on customers who have already contracted for service under the promotional tariff?

STAFF: Staff has no position at this time.

e. Pending Motions

None.

f. Pending Confidentiality Claims or Requests

None.

STAFF'S PREHEARING STATEMENT  
DOCKETS NOS. 020119-TP, 020578-TP  
PAGE 7

- g. Compliance with Order No. PSC-02-1295-PCO-TP, as modified by Order No. PSC-02-1602-PCO-TP

Staff has complied with all requirements of the Order Establishing Procedure, as modified by Order No. PSC-02-1602-PCO-TP, entered in this docket.

Respectfully submitted this \_\_\_\_\_ day of November, 2002.

*Felicia R. Banks*

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020578-TP  
FILED: NOVEMBER 25, 2002

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Staff's PREHEARING STATEMENT have been served via e-mail, facsimile and U.S. Mail, this 25<sup>TH</sup> day of November, 2002, to the following:

Florida Digital Network, Inc.  
Mr. Matthew Feil  
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Time Warner Telecom of Florida,  
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*Felicia R. Banks*

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