

VOTE SHEET

SEPTEMBER 16, 2003

RE: Docket No. 020919-TP - Request for arbitration concerning complaint of AT&T Communications of the Southern States, LLC, Teleport Communications Group, Inc., and TCG South Florida for enforcement of interconnection agreements with BellSouth Telecommunications, Inc.

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

RECOMMENDATION: Based on BellSouth Telecommunications, Inc., et al. v. MCIMetro Access Transmission Services, Inc., et al., 317 F.3d 1270 (11th Cir. January 2003) and Section 252(c)(1), the Commission has the authority to review a complaint based on an interconnection agreement approved by the Commission. Further, pursuant to Sections 364.01 and 364.162, Florida Statutes, the Commission has state authority to review a complaint regarding an interconnection agreement approved by the Commission.

APPROVED

COMMISSIONERS ASSIGNED: Deason, Bradley, Davidson

COMMISSIONERS' SIGNATURES

MAJORITY

DISSENTING

Charles M. Deason
J. Terry Deason
Rudy Bradley

J. Terry Deason

REMARKS/DISSENTING COMMENTS: Comm. Deason dissented from the majority decision on Issue 2.

DOCUMENT NUMBER-DATE
08775 SEP 16 8

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ISSUE 2: Does the term "Local Traffic" as used in the Second Interconnection Agreement identified in AT&T's complaint include all "LATAwide" calls, including all calls originated or terminated through switched access arrangements as established by the state commission or FCC?

RECOMMENDATION: Yes, in part. For purposes of this contract, all calls that have been traditionally treated as intraLATA toll traffic, that are originated or terminated over switched access facilities, should be excluded from the definition of LATAwide local traffic. All calls that have been traditionally treated as intraLATA toll traffic, that are originated or terminated over local interconnection facilities, should be compensated as local calls. Further, all calls that have been traditionally treated as local should be so treated under this contract, regardless of the facilities used.

APPROVED

*Commissioner Deason
dissented.*

ISSUE 3: Under the terms of the Second Interconnection Agreement, do reciprocal compensation rates and terms apply to calls originated or terminated through switched access arrangements as established by the state commission or FCC?

RECOMMENDATION: Yes, in part. Calls that have been traditionally treated as intraLATA toll traffic that are originated or terminated through switched access arrangements should be excluded from reciprocal compensation. All calls that have been traditionally treated as local should continue to be treated as local, regardless of the facilities used; therefore, reciprocal compensation should apply. Additionally, all calls that have been traditionally treated as intraLATA toll traffic that are originated or terminated through local interconnection facilities should be subject to reciprocal compensation.

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ISSUE 4: If the answer to Issue 3 is "yes," has BellSouth breached the Second Interconnection Agreement?

RECOMMENDATION: Yes. To the extent that BellSouth has treated local traffic that is originated or terminated over switched access facilities as switched access traffic, BellSouth has breached the Second Interconnection Agreement. AT&T should continue to provide BellSouth with PLU factors for separation of local traffic from switched access traffic.

APPROVED

ISSUE 5: If the answer to Issue 4 is "yes," what remedies are appropriate?

RECOMMENDATION: The remedies outlined in the Second Interconnection Agreement are appropriate to the extent that BellSouth has treated traffic that has traditionally been treated as local as switched access traffic and failed to make appropriate payments for reciprocal compensation to AT&T. AT&T should develop a PLU factor to separate out local traffic from intraLATA and other traffic that does not qualify for local treatment and submit it to BellSouth. If the parties are unable to agree on the revised traffic figures, they should file with this Commission the figures in dispute and the methodology used to calculate them, along with any supporting documentation, within 30 days of the issuance of the Order.

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ISSUE 6: Should this docket be closed?

RECOMMENDATION: Yes. Upon the expiration of the appellate period, and if no filings are received from the parties within 30 days of the issuance of the order, this docket should be closed.

APPROVED