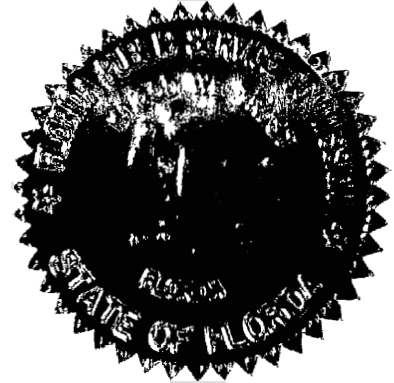


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 030300-TP

In the Matter of:

PETITION FOR EXPEDITED REVIEW OF
BELLSOUTH TELECOMMUNICATIONS, INC.'S
INTRASTATE TARIFFS FOR PAY TELEPHONE
ACCESS SERVICES (PTAS) RATE WITH
RESPECT TO RATES FOR PAYPHONE LINE ACCESS,
USAGE, AND FEATURES, BY FLORIDA PUBLIC
TELECOMMUNICATIONS ASSOCIATION.



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THE .PDF VERSION INCLUDES PREFILED TESTIMONY.

PROCEEDINGS: PREHEARING CONFERENCE

BEFORE: COMMISSIONER CHARLES M. DAVIDSON
Prehearing Officer

DATE: Monday, April 19, 2004

TIME: Commenced at 1:30 p.m.
Concluded at 1:45 p.m.

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: TRICIA DeMARTE, RPR
Official FPSC Reporter
(850) 413-6736

DOCUMENT NUMBER-CAT

FLORIDA PUBLIC SERVICE COMMISSION 04788 APR 22 3

FPSC-COMMISSION CLERK

1 APPEARANCES:

2 MEREDITH MAYS, ESQUIRE, BellSouth Telecommunications,
3 Inc., c/o Ms. Nancy H. Sims, 150 South Monroe, Suite 400,
4 Tallahassee, Florida 32301-1556, appearing on behalf of
5 BellSouth Telecommunications, Inc.

6 DAVID S. TOBIN, ESQUIRE, Tobin & Reyes, P.A., 7251
7 West Palmetto Park Road, Suite 205, Boca Raton, Florida 33433,
8 appearing on behalf of the Florida Public Telecommunications
9 Association.

10 SUZANNE F. SUMMERLIN, ESQUIRE, 2536 Capital Medical
11 Boulevard, Tallahassee, Florida 32309, appearing on behalf of
12 Davel Communications, Inc.

13 LEE FORDHAM, ESQUIRE, FPSC Office of General Counsel,
14 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850,
15 appearing of behalf of the Florida Public Service Commission
16 Staff.

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P R O C E E D I N G S

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COMMISSIONER DAVIDSON: Call the hearing to order.

Staff read the notice, please.

MR. FORDHAM: Pursuant to notice issued March 26th, 2003, this time and place has been set for a prehearing conference in Docket Number 030300-TP, in reference, petition for expedited review of BellSouth Telecommunications, Inc.'s intrastate tariffs for pay telephone access services rate with respect to rates for payphone line usage, access, and features, by Florida Public Telecommunications Association.

COMMISSIONER DAVIDSON: Take appearances.

MR. FORDHAM: Lee Fordham representing the Commission.

MS. MAYS: Meredith Mays on behalf of BellSouth.

MS. SUMMERLIN: Suzanne Summerlin on behalf of Davel Communications.

MR. TOBIN: David Tobin on behalf of the Florida Public Telecommunications Association.

COMMISSIONER DAVIDSON: Thank you. Anyone appearing telephonically?

MR. FORDHAM: Not that we're aware of. No one has made a request, Commissioner.

COMMISSIONER DAVIDSON: Thank you. Taking up preliminary matters. First item is Davel Communications' petition for leave to intervene, and just so I let parties and

1 staff know, I'm granting that petition. And staff will be
2 preparing an order reflecting that.

3 MR. FORDHAM: That's fine, Commissioner. I don't
4 think there's an objection from the parties as to the requested
5 language. Davel has notified staff that were that language
6 adopted, that they would not even desire intervention. So I
7 mention that as a possibility of just agreeing to the admitted
8 language.

9 MS. SUMMERLIN: If I may, Mr. Chairman. That's all
10 we're here for is just simply to get that wording to show that
11 any refunds would go to anybody that's a payphone service
12 provider, that if they qualify for that, but it would not just
13 be members of the FPTA. As I've told Mr. Fordham just a couple
14 of minutes ago, we're not wed to intervening except for that
15 one thing. And if -- my understanding is that --

16 COMMISSIONER DAVIDSON: Have the parties agreed to
17 that language?

18 MS. MAYS: I think what we had just talked about,
19 Commissioner Davidson, was changing just the word FPTA on both
20 of the two issues to payphone service providers. And BellSouth
21 is agreeable to that change.

22 COMMISSIONER DAVIDSON: Does that resolve the issue
23 for Davel?

24 MS. SUMMERLIN: Yes, it does.

25 COMMISSIONER DAVIDSON: Staff?

1 MR. FORDHAM: That's correct, Commissioner. Staff is
2 okay with that.

3 COMMISSIONER DAVIDSON: All right.

4 MR. TOBIN: We're okay with that also.

5 COMMISSIONER DAVIDSON: Then let's go with that
6 change.

7 MR. FORDHAM: Thank you.

8 COMMISSIONER DAVIDSON: And that will resolve that
9 issue.

10 MR. FORDHAM: Then perhaps if Ms. Summerlin would
11 like to withdraw the petition on the record.

12 MS. SUMMERLIN: Sure. With the understanding that
13 the issues will reflect that change that was just made, we will
14 be happy to withdraw the petition --

15 COMMISSIONER DAVIDSON: Perfect.

16 MS. SUMMERLIN: -- for intervention. And I will be
17 leaving. Thank you very much.

18 MR. FORDHAM: Commissioner, there were a couple of
19 other items briefly on preliminary matters. The FPTA has
20 requested to amend the wording of one of their positions on the
21 prehearing order. And since that's lifted directly from their
22 prehearing statement, it would be tantamount to an amendment to
23 the prehearing statement which I believe would need the
24 blessing of the Prehearing Officer. But I also understand
25 there's no objection to the change in wording from BellSouth.

1 It's simply a wording change.

2 COMMISSIONER DAVIDSON: Fine. Let's go ahead and do
3 whatever is necessary to adopt the wording change.

4 MR. FORDHAM: Thank you, Commissioner. And the final
5 item that staff has by way of preliminary matters, this would
6 be taken care of actually at the hearing, but just so the
7 Commissioner is aware, each party has -- will be requesting
8 that official notice, official recognition be taken of an order
9 from another state. We'll actually do that at the hearing. I
10 just wanted to make the Commissioner aware that there would be
11 those two requests.

12 COMMISSIONER DAVIDSON: Is there -- does that
13 require -- taking official notice, does that require sort of
14 full Commission action or action of the panel? Because my
15 preference would be to just take care of that administratively
16 sort of up front --

17 MR. FORDHAM: Commissioner, we will actually take
18 care of it at the hearing in the preliminary matters, but I
19 just wanted to make the Commissioner aware that that request
20 had been made, one from each party.

21 COMMISSIONER DAVIDSON: Well, let me ask -- and it
22 may just be my lack of familiarity with the specific rule
23 governing here -- if there's a request for official notice
24 that's been made, isn't that something that could be granted or
25 denied before the hearing?

1 MR. FORDHAM: That's a possibility also.

2 COMMISSIONER DAVIDSON: What rule governs this? And
3 what I'm getting at is if -- unless there's -- if there's no
4 reason not to grant that request prior to the hearing, I think
5 we ought to just move ahead and either grant or deny.

6 MR. FORDHAM: Neither party opposes the other party's
7 request, so there would be no reason to deny it. It's very
8 routine and is commonly done. And since there's no objection
9 from either party, it would just be routine to grant them both.

10 COMMISSIONER DAVIDSON: Is that something the
11 Prehearing Officer can just do?

12 MR. FORDHAM: Yes, I believe so, Commissioner.

13 MS. KEATING: Mr. Commissioner, I hate to jump in,
14 but I have a suggestion and maybe a further explanation. One
15 thing that you could do is list those two state orders in your
16 prehearing order under the section that we have normally
17 titled, "Cases That May Impact The Commission's Decision."
18 Those could be listed in that section. I think official
19 recognition is tantamount to judicial notice taken in a court
20 proceeding. Normally that's done as part of the transcript
21 that actually takes place at hearing. It's essentially the
22 same thing and it's provided for in Chapter 120. But that's
23 what Mr. Fordham is referring to, that it's normally done by
24 the Chairperson at the time of hearing. But we could certainly
25 reflect it in your prehearing order in that section.

1 COMMISSIONER DAVIDSON: And that's fine, and I have
2 no desire to grant or deny. My goal is to get as much taken
3 care of ahead of time as possible, and it seems that the
4 request for official notice is somewhat of a ministerial act
5 that has import. So my question was, is this something that is
6 reserved for the hearing and must be done by the Chair, or is
7 it something that can be done ahead of time? If it can be done
8 ahead of time, I would like to do that ahead of time. If it
9 can't, we can hold off. And I'm not wed to either outcome.

10 MR. FORDHAM: I certainly like Ms. Keating's
11 suggestion -- I had not thought of that -- to just list it in
12 decisions which may impact on this Commission's decision. We
13 have a section for that in the --

14 COMMISSIONER DAVIDSON: Well, I understand that.

15 MS. KEATING: Could I check into that, Commissioner?

16 COMMISSIONER DAVIDSON: Sure, absolutely.

17 MS. KEATING: My initial inclination is that it
18 really needs to be done at the hearing, although we could
19 certainly --

20 COMMISSIONER DAVIDSON: And you may be absolutely
21 right, and I'm totally fine with that. But again --

22 MS. KEATING: But let me just check on that.

23 COMMISSIONER DAVIDSON: Okay.

24 MS. KEATING: And then otherwise we'll incorporate it
25 in your prehearing order.

1 COMMISSIONER DAVIDSON: Perfect.

2 MR. FORDHAM: And staff has no further preliminary
3 matters, Commissioner.

4 MS. MAYS: Just one clarification. On Friday,
5 BellSouth had filed -- made a second request. And I know
6 Mr. Fordham had identified one by BellSouth and one by the
7 FPTA, and there's actually two from BellSouth in terms of
8 cases.

9 MR. FORDHAM: Same rule would apply though.

10 COMMISSIONER DAVIDSON: All right. Let's move
11 through the draft prehearing order. Sections I through
12 III, any corrections or concerns?

13 Section IV? I believe, staff, that we've covered
14 pending motions just in our -- I guess the only -- we've
15 covered pending motions and preliminary matters, and I'm
16 assuming that that would take care of the resolution so that we
17 actually have no motions presently pending.

18 MR. FORDHAM: That's correct, Commissioner.

19 COMMISSIONER DAVIDSON: Section V, any proposed
20 stipulations?

21 Section VI and VII, any corrections to these
22 sections?

23 Section VIII?

24 Sections IX and X, any changes to the order of
25 witnesses or the issues to be addressed by each?

1 Any change to exhibits, Section X?

2 MR. TOBIN: Yes, Commissioner. The FPTA's response
3 in opposition to BellSouth's motion to dismiss was not
4 included, and we would like to include that as an exhibit.

5 MR. FORDHAM: The pleading itself would be your
6 exhibit?

7 MR. TOBIN: Yes.

8 COMMISSIONER DAVIDSON: For which witnesses?

9 MR. TOBIN: Mr. Renard.

10 MR. FORDHAM: So that would be designated BWR-2?

11 MR. TOBIN: That's fine.

12 COMMISSIONER DAVIDSON: Any other changes to Item X,
13 exhibit list?

14 Sections XI and XII, positions of the parties, any
15 corrections or changes?

16 MR. FORDHAM: We'll reflect the one that we discussed
17 in preliminary matters, Commissioner.

18 COMMISSIONER DAVIDSON: Thank you.

19 MR. TOBIN: That's our rate?

20 MS. MAYS: The rate and the change to the payphone
21 service providers.

22 MR. TOBIN: Okay.

23 COMMISSIONER DAVIDSON: Any other corrections?
24 Section XIII I believe we've addressed. We'll add in the
25 reference to the two state decisions that the parties may rely

1 on. Any other changes to Section XIII?

2 Section XIV?

3 And Section XV, rulings? I note that mine has a typo
4 in the number.

5 MR. FORDHAM: Yes. We'll correct that, Commissioner.

6 COMMISSIONER DAVIDSON: Reminder as to critical
7 dates: Prehearing order, May 3rd; discovery cutoff, May 5th;
8 hearing, May 12th.

9 Any other matters, staff?

10 MR. FORDHAM: Nothing by staff.

11 COMMISSIONER DAVIDSON: Parties?

12 MS. MAYS: No, sir.

13 MR. TOBIN: No, sir.

14 COMMISSIONER DAVIDSON: Hearing adjourned.

15 (Prehearing conference concluded at 1:45 p.m.)

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1 STATE OF FLORIDA)
2 COUNTY OF LEON)

CERTIFICATE OF REPORTER

3
4 I, TRICIA DeMARTE, RPR, Official Commission Reporter,
5 do hereby certify that the foregoing proceeding was heard at
6 the time and place herein stated.

7 IT IS FURTHER CERTIFIED that I stenographically
8 reported the said proceedings; that the same has been
9 transcribed under my direct supervision; and that this
10 transcript constitutes a true transcription of my notes of said
11 proceedings.

12 I FURTHER CERTIFY that I am not a relative, employee,
13 attorney or counsel of any of the parties, nor am I a relative
14 or employee of any of the parties' attorneys or counsel
15 connected with the action, nor am I financially interested in
16 the action.

17 DATED THIS 22nd DAY OF APRIL, 2004.

18 *Tricia DeMarte*

19 _____
20 TRICIA DeMARTE, RPR
21 FPSC Official Commission Reporter
22 (850) 413-6736
23
24
25