

FLORIDA PUBLIC SERVICE COMMISSION

VOTE SHEET

JULY 6, 2004

RE: Docket No. 031046-TP - Petition and complaint of AT&T Communications of the Southern States, LLC against BellSouth Telecommunications, Inc. and BellSouth Long Distance, Inc. for alleged anticompetitive pricing of long distance service.

Issue 1: Should the Commission grant BellSouth's motion to dismiss AT&T's Petition?

Recommendation: Yes. Staff recommends that BellSouth's Motion to Dismiss be granted. Staff further recommends that the Commission, on its own motion, dismiss with prejudice AT&T's request for reduction of BellSouth's access charges. In addition, staff recommends that AT&T be granted leave to amend its Petition within 20 days of issuance of the Commission's Order for the limited purposes of: (1) alleging specific facts and identifying specific violations that may constitute a cause of action arising under Sections 364.08, 364.09, and 364.10; and (2) alleging specific facts to support its assertion that BellSouth and BSLD are acting in concert to enable BellSouth to do that which it is otherwise prohibited by law from doing.

**MODIFIED**

The Commissioners acknowledged AT&T's voluntary withdrawal of its petition (without prejudice) and strongly recommended that staff and the parties work together to better understand and resolve the outstanding issues in this case.

COMMISSIONERS ASSIGNED: All Commissioners

COMMISSIONERS' SIGNATURES

MAJORITY

DISSENTING

*[Handwritten signatures in the Majority column]*

*[Empty lines in the Dissenting column]*

REMARKS/DISSENTING COMMENTS:

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CL FRK

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(Continued from previous page)

Issue 2: Should BSLD's and AT&T's Motions for Summary Final Order be granted?

Recommendation: If the Commission approves staff's recommendations in Issue 1, BSLD's and AT&T's separate motions for summary final order will be rendered moot and no further action will need to be taken. If the Commission denies staff's recommendation in Issue 1, BSLD's and AT&T's separate motions for summary final order should be denied as neither has met the legal standard for which Summary Final Order may be granted.

**MOOT**

Issue 3: Should this Docket be closed?

Recommendation: Yes. If the Commission approves staff's recommendations in Issues 1 and 2, and no amended petition is filed within 20 days from the issuance of the order, this Docket should be closed as no further action by the Commission will be required. If, however, the parties choose to file an amended petition within 20 days of the order, this docket should remain open for further proceedings.

**APPROVED**

*The docket will be closed.*