

SCANNED

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Investigation into the establishment of operations support systems permanent performance measures for incumbent local exchange telecommunications companies. (BELLSOUTH TRACK)

DOCKET NO. 000121A-TP
ORDER NO. PSC-05-1020-FOF-TP
ISSUED: October 19, 2005

The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ, Chairman
J. TERRY DEASON
RUDOLPH "RUDY" BRADLEY
LISA POLAK EDGAR

ORDER ACKNOWLEDGING WITHDRAWAL OF PROTEST

BY THE COMMISSION:

By Order No. PSC-01-1819-FOF-TP, issued September 10, 2001, in Docket No. 000121A-TP, this Commission adopted a Performance Assessment Plan for purposes of monitoring performance levels of Operations Support Systems provided to Competitive Local Exchange Telecommunications Companies (CLECs). The Performance Assessment Plan is comprised of a Service Quality Measurement Plan (SQM) and a Self-Effectuating Enforcement Mechanism (SEEM) Administrative Plan. The SQM is a comprehensive and detailed description of BellSouth Telecommunications, Inc.'s (BellSouth) performance measurements. BellSouth's SQM Plan currently consists of 90 measurements with each related to a specific portion of BellSouth's Operations Support Systems. The SEEM Plan includes key measures to which remedy payments are applied if BellSouth fails to meet the performance standards as agreed by the parties and approved by this Commission.

In May 2004, BellSouth filed a motion for the establishment of a new Performance Assessment Plan in Florida that was subsequently withdrawn. In July 2004, this Commission initiated a second review of the current Performance Assessment Plan. A series of workshops and conference calls resulted in our staff proposing significant changes to the SQM and SEEM plans.

In January 2005, BellSouth and interested parties began negotiating on some of the more controversial aspects of the plan. On April 5, 2005, BellSouth and the CLECs entered into a Stipulated Agreement to execute changes to BellSouth's current Performance Assessment Plan.

On May 5, 2005, Order PSC-05-0488-PAA-TP was issued approving the parties' stipulated changes to BellSouth's Performance Assessment Plan for Florida. The Stipulated

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Agreement streamlined service quality measures and modified the remedy calculation approach from measurement-based to transaction-based. On May 26, 2005, Florida Digital Network, Inc. d/b/a FDN Communications (FDN) timely filed a Petition Protesting Proposed Agency Action Order No. PSC-05-0488-PAA-TP and Request for Formal Proceeding (Protest).

As a result of negotiations initiated by BellSouth and FDN, on August 30, 2005, FDN filed a letter advising of withdrawal of its Protest and acknowledging the Stipulated Agreement adopted in Order No. PSC-05-0488-PAA-TP. By letter dated August 31, 2005, BellSouth acknowledges FDN's withdrawal and advises of BellSouth's readiness to implement the Stipulated Agreement effective October 1, 2005.

Upon consideration, we hereby acknowledge FDN's withdrawal and find that PAA Order No. PSC-05-0488-PAA-TP shall be rendered final and effective as of August 30, 2005, with implementation of the Stipulated Agreement on October 1, 2005. Furthermore, this Docket shall remain open to continue annual reviews and the one-time six-month review pursuant to PAA Order No. PSC-05-0488-PAA-TP, and as specified in the Stipulated Agreement between the parties.

Based upon the foregoing, it is

ORDERED by the Florida Public Service Commission that Florida Digital Network, Inc. d/b/a FDN Communications' withdrawal of its Petition Protesting Proposed Agency Action Order No. PSC-05-0488-PAA-TP and Request for Formal Proceeding Petition is hereby acknowledged. It is further

ORDERED that PAA Order No. PSC-05-0488-PAA-TP shall be rendered final and effective as of August 30, 2005, with implementation of the Stipulated Agreement on October 1, 2005. It is further

ORDERED that this Docket shall remain open to continue annual reviews and the one-time six-month review pursuant to PAA Order No. PSC-05-0488-PAA-TP, and as specified in the Stipulated Agreement between the parties.

By ORDER of the Florida Public Service Commission this 19th day of October, 2005.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

(SEAL)

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request:

- 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or
- 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of the Commission Clerk and Administrative Services and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.