

FLORIDA PUBLIC SERVICE COMMISSION

VOTE SHEET

August 29, 2006

Docket No. 050119-TP – Joint petition by TDS Telecom d/b/a TDS Telecom/Quincy Telephone; ALLTEL Florida, Inc.; Northeast Florida Telephone Company d/b/a NEFCOM; GTC, Inc. d/b/a GT Com; Smart City Telecommunications, LLC d/b/a Smart City Telecom; ITS Telecommunications Systems, Inc.; and Frontier Communications of the South, LLC ["Joint Petitioners"] objecting to and requesting suspension and cancellation of proposed transit traffic service tariff filed by BellSouth Telecommunications, Inc.

Docket No. 050125-TP – Petition and complaint for suspension and cancellation of Transit Traffic Service Tariff No. FL2004-284 filed by BellSouth Telecommunications, Inc., by AT&T Communications of the Southern States, LLC.

Issue 1: Is BellSouth's Transit Service Tariff an appropriate mechanism to address transit service provided by BellSouth?

Recommendation: No. Staff believes that BellSouth's Transit Service Tariff is not an appropriate mechanism to address transit service in the absence of an interconnection agreement or transit arrangement because it is invalid under Florida law. Furthermore, staff recommends that the Commission require the parties to establish an interconnection agreement or transit arrangement containing the rates, terms and conditions for use of BellSouth's transit service. Accordingly, staff recommends that BellSouth's Transit Service Tariff be cancelled.

APPROVED

COMMISSIONERS ASSIGNED: All Commissioners

COMMISSIONERS' SIGNATURES

MAJORITY

DISSENTING

Handwritten signatures of three commissioners in the majority column.

Four empty horizontal lines in the dissenting column.

REMARKS/DISSENTING COMMENTS:

DOCUMENT NUMBER-DATE

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Issue 2: If an originating carrier utilizes the services of BellSouth as a tandem provider to switch and transport traffic to a third party not affiliated with BellSouth, what are the responsibilities of the originating carrier?

Recommendation: Staff recommends that the originating carrier should enter into a transit arrangement with BellSouth, and should compensate BellSouth for providing the transit service. Additionally, the originating carrier is responsible for delivering its traffic to BellSouth in such a manner that it can be identified, routed, and billed. The originating carrier is also responsible for compensating the terminating carrier for terminating the traffic to the end user.

APPROVED

Issue 3: Which carrier should be responsible for providing compensation to BellSouth for the provision of the transit transport and switching services?

Recommendation: This issue is subsumed in the recommendation for Issue 2 and no vote is necessary.

*Issue 3 was approved within
the decision in Issue 2.*

Issue 4: What is BellSouth's network arrangement for transit traffic and how is it typically routed from an originating party to a terminating third party?

Recommendation: No party disputed this issue; accordingly, BellSouth's current network arrangement for transit traffic and its typical routing from an originating party to a terminating third party is appropriate.

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Issue 5: Should the FPSC establish the terms and conditions that govern the relationship between an originating carrier and the terminating carrier, where BellSouth is providing transit service and the originating carrier is not interconnected with, and has no interconnection agreement with, the terminating carrier? If so, what are the appropriate terms and conditions that should be established?

Recommendation: No. The FPSC should not establish the terms and conditions governing the relationship between the originating carrier and the terminating carrier where BellSouth is providing transit service. The relationship should continue to be defined within bilateral interconnection agreements. Additionally, those situations involving Small LECs as originators and terminators utilizing BellSouth's transit service are best defined within bilateral transit arrangements.

APPROVED

Issue 6: Should the FPSC determine whether and at what traffic threshold level an originating carrier should be required to forego use of BellSouth's transit service and obtain direct interconnection with a terminating carrier? If so, at what traffic level should an originating carrier be required to obtain direct interconnection with a terminating carrier?

Recommendation: No. The FPSC should not set a traffic threshold level.

APPROVED

Issue 7: How should transit traffic be delivered to the Small LEC's networks?

Recommendation: Transit traffic should be delivered to the Small LECs' networks utilizing efficient network engineering developed through mutual agreement between BellSouth and the Small LECs.

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Issue 8: Should the FPSC establish the terms and conditions that govern the relationship between BellSouth and a terminating carrier, where BellSouth is providing transit service and the originating carrier is not interconnected with, and has no interconnection agreement with, the terminating carrier? If so, what are the appropriate terms and conditions that should be established?

Recommendation: This issue is subsumed in the recommendation for Issue 5 and no vote is necessary.

*Issue 8 was approved within
the decision in Issue 5.*

Issue 9: Should the FPSC establish the terms and conditions of transit traffic between the transit service provider and the Small LECs that originate and terminate transit traffic? If so, what are the terms and conditions?

Recommendation: This issue is subsumed in the recommendation for Issue 5 and no vote is necessary.

*Issue 9 was approved within
the decision in Issue 5.*

Issue 10: What effect does transit service have on ISP-bound traffic?

Recommendation: Transiting ISP-bound traffic is no different than transiting voice traffic. In both cases, the intermediary carrier's facilities being used to route or transit the traffic to a third-party terminating carrier are the same. Therefore, transiting has no effect on ISP-bound traffic.

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Issue 11: How should charges for BellSouth's transit service be determined?

- (a) What is the appropriate rate for transit service?
- (b) What type of traffic do the rates identified in (a) apply?

Recommendation: BellSouth's transit charges should be calculated by applying the transit rate to the local usage transited between the carriers.

- (a) Staff recommends that an appropriate rate for transit service is no higher than \$0.0023 per MOU.
- (b) The transit rate is applicable to local traffic and local ISP-bound traffic that transits BellSouth's network to a third party.

DENIED

The parties should negotiate a rate for transit service.

Issue 12: Consistent with Order Nos. PSC-05-0517-PAA-TP and PSC-05-0623-CO-TP, have the parties to this docket ("parties") paid BellSouth for transit service provided on or after February 11, 2005? If not, what amounts if any are owed to BellSouth for transit service provided since February 11, 2005?

Recommendation: Yes. All parties have paid, and continue to pay, BellSouth for transit service provided on or after February 11, 2005. No amounts are owed to BellSouth for transit service provided on or after the Tariff effective date of February 11, 2005.

APPROVED

Issue 13: Have parties paid BellSouth for transit service provided before February 11, 2005? If not, should the parties pay BellSouth for transit service provided before February 11, 2005, and if so, what amounts, if any, are owed to BellSouth for transit service provided before February 11, 2005?

Recommendation: All parties except the Small LECs paid BellSouth for the provision of transit service prior to February 11, 2005. However, the Small LECs were not required to pay BellSouth for transit service prior to February 11, 2005, and thus no amounts are owed.

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Issue 14: What action, if any, should the FPSC undertake at this time to allow the Small LECs to recover the costs incurred or associated with BellSouth's provision of transit service?

Recommendation: None. Staff recommends that the Commission refrain from making a determination as to whether the imposition of a transit rate on the Small LECs constitutes a substantial change in circumstances under Section 364.051(4), Florida Statutes. Staff believes that this issue is not ripe and a determination at this time would be premature.

APPROVED

Issue 15: Should BellSouth issue an invoice for transit services and if so, in what detail and to whom?

Recommendation: No. BellSouth's current settlements system for transit service is appropriate. If applicable, carriers should follow the terms and conditions of current interconnection agreements to address invoicing for transit services.

APPROVED

Issue 16: Should BellSouth provide to the terminating carrier sufficiently detailed call records to accurately bill the originating carrier for call termination? If so, what information should be provided by BellSouth?

Recommendation: Yes. BellSouth should continue to provide to terminating carriers sufficiently detailed call records with as much information as it has available to it from originating carriers. Such call records should be delivered unaltered in the EMI Category 11 format. Nothing precludes individual parties from agreeing to other arrangements, and if applicable, carriers should follow the terms and conditions of current interconnection agreements that address the provision of call records.

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Issue 17: How should billing disputes concerning transit service be addressed?

Recommendation: Billing disputes concerning transit service should be addressed in one of two ways, based on how transit service was purchased: 1) for carriers that have IAs or contractual arrangements with BellSouth that contain billing dispute provisions, such provisions should be followed to resolve transit service billing disputes; and 2) for carriers that have purchased transit services from BellSouth pursuant to the Transit Tariff, the billing dispute provisions therein should govern the resolution of billing disputes. BellSouth's role in billing disputes between OCs and TCs should be to provide to such carriers the support material for traffic or records-related data it supplied.

APPROVED

Issue 18: Should these dockets be closed?

Recommendation: If the Commission approves staff's recommendation in Issue 1, then:

- (1) These dockets should remain open to allow parties in this proceeding who do not have rates, terms and conditions in place for BellSouth's transit service additional time to establish a transit arrangement prior to cancellation of the Tariff. Staff recommends that the Commission require BellSouth and any party without a transit arrangement to establish such an arrangement within 70 days of the issuance of the Final Order from this recommendation.
- (2) The Tariff should be cancelled on the 71st day after the issuance of the Final Order from this recommendation.
- (3) Staff recommends that BellSouth be required to issue a partial refund, including interest, to those parties who paid under BellSouth's Tariff during the period beginning February 11, 2005 and ending upon cancellation of the Tariff.
- (4) If the Commission does not approve staff's recommendation in Issue 1, then these dockets should be closed.

MODIFIED

Staff's recommendation was approved with the understanding ~~language~~ language will be included in the order that prohibits the blocking of transit service during the 70 days after issuance of the order and during the processing of a statutorily authorized arbitration if a negotiated settlement cannot be reached, and with the understanding Bell South can file an arbitration.