

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: September 9, 2004

TO: Director, Division of the Commission Clerk & Administrative Services (Bayó)

FROM: Office of the General Counsel (Keating)
Division of Competitive Markets & Enforcement (Salak)

RE: Docket No. 040714-TL – Petition for waiver of requirements of Order Nos. 12765 and 13476 to permit use of "FCC authorized charge for network access" on customer bills, by BellSouth Telecommunications, Inc.

AGENDA: 09/21/04 – Regular Agenda – Proposed Agency Action - Interested Persons May Participate

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\GCL\WP\040714.RCM.DOC

Case Background

On July 9, 2004, BellSouth Telecommunications, Inc. (BellSouth) filed a Petition for Waiver of Order Nos. 12765 and 13476 to permit it to use the phrase "FCC authorized charge for network access" in its bills, instead of the other descriptions of the interstate end user charge that have been previously approved by the Commission.

Over the past year, BellSouth has determined, through discussions with Commission staff and concerned consumers, that changing the way it currently describes the end user charge will ultimately prove less confusing for customers. BellSouth believes that the requested modified description will alleviate concerns that customers believe the charge is either required by the FCC or is actually remitted to the FCC.

Discussion of Issues

Issue 1: Should the Commission grant BellSouth's request for a waiver of Order Nos. 12765 and 13476?

Recommendation: Yes. Staff recommends that BellSouth be granted a limited waiver from the referenced Orders to allow it to use the phrase "FCC authorized charge for network access." (KEATING, SALAK)

Staff Analysis: On December 9, 1983, the Commission issued Order No. 12765, wherein it required that all bills to customers refer to the interstate end user charge as the "FCC charge for interstate toll access." Subsequently, on July 3, 1984, the Commission issued Order No. 13476, which provided several alternatives that could be used: (1) "FCC interstate toll access charge;" (2) "FCC interstate (L)ong (D)istance access charge;" and (3) "FCC/toll access."

BellSouth explains that since 1998, it has used the phrase "FCC charge for network access." However, concerns were raised during the past year by concerned consumers that this phrase might lead customers to believe that either the identified charge is actually required by the FCC, or is remitted to the FCC -- neither of which is the case. After extensive discussions about an appropriate alternative, BellSouth believes that the phrase "FCC authorized charge for network access" is an appropriate alternative.

Staff agrees that the proposed phrase is appropriate and less likely to promote customer confusion. Thus, staff recommends that a limited waiver of Orders Nos. 12765 and 13476 be granted to allow BellSouth to use the phrase "FCC authorized charge for network access" in its bills. Staff believes the limited waiver still fulfills the purposes of the underlying Orders, which was to inform customers about the charge.

Staff notes that this is not the first request for a waiver of these Orders. In 1993, the Commission granted waivers to Centel, United, (now Sprint-Florida) and GTE Florida (now Verizon) to allow them to use other variations of the approved phrases.¹ In two of the three instances, the reason cited for the waiver was to reduce customer confusion.

¹ See Orders Nos. PSC-93-0154-FOF-TL; PSC-93-0445-FOF-TL; and PSC-93-0583-FOF-TL.

Docket No. 040714-TL
Date: September 9, 2004

ISSUE 2: Should this Docket be closed?

RECOMMENDATION: Yes. If no person whose substantial interests are affected by the Commission's Proposed Agency Action timely files a protest within 21 days of the issuance of the Order from this recommendation, this Docket should be closed upon issuance of a Consummating Order. (KEATING)

STAFF ANALYSIS: If no person whose substantial interests are affected by the Commission's Proposed Agency Action timely files a protest within 21 days of the issuance of the Order from this recommendation, this Docket should be closed upon issuance of a Consummating Order.