

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 22, 2005

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

FROM: Office of the General Counsel (Teitzman, Scott)
Division of Competitive Markets & Enforcement (Harvey, Hallenstein, Kennedy, Simmons)

RE: Docket No. 000121A-TP – Investigation into the establishment of operations support systems permanent performance measures for incumbent local exchange telecommunications companies. (BELLSOUTH TRACK)

AGENDA: 10/04/05 – Regular Agenda – Withdrawal of Protest on Proposed Agency Action Order

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Deason

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\GCL\WP\000121A.RCM.DOC

Case Background

By Order No. PSC-01-1819-FOF-TP, issued September 10, 2001, in Docket No. 000121A-TP, the 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 the 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BellSouth filed a motion for the establishment of a new Performance Assessment Plan in Florida that was subsequently withdrawn.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, the Commission initiated a second review of the current Performance Assessment Plan. A series of workshops and conference calls resulted in 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 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.

Discussion of Issues

ISSUE 1: Should the Commission acknowledge Florida Digital Network, Inc. d/b/a FDN Communications' withdrawal of its Petition of Proposed Agency Action (PAA) Order No. PSC-05-0488-PAA-TP and Request for Formal Proceeding (Protest)?

RECOMMENDATION: Yes. Staff recommends that the Commission acknowledge FDN's withdrawal. Staff also recommends that PAA Order No. PSC-05-0488-PAA-TP be rendered final and effective as of August 30, 2005, and that implementation of the Stipulated Agreement be October 1, 2005. **(Teitzman, Scott)**

STAFF ANALYSIS: As a result of negotiations between BellSouth and FDN, the dispute regarding PAA Order No. PSC-05-0488-PAA-TP has been settled. Staff recommends that the Commission acknowledge FDN's withdrawal of its Protest. Staff also recommends that PAA Order No. PSC-05-0488-PAA-TP be rendered final and effective as of August 30, 2005, and that implementation of the Stipulated Agreement be October 1, 2005.

ISSUE 2: Should this Docket be closed?

RECOMMENDATION: No. Staff believes that this Docket should remain open to continue annual reviews and the one-time six-month review pursuant to PAA Order Order No. PSC-05-0488-PAA-TP and as specified in the Stipulated Agreement between the parties. **(Teitzman, Scott)**

STAFF ANALYSIS: Staff believes that this Docket should 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.