

FLORIDA PUBLIC SERVICE COMMISSION ORDERS
Addressing Issues Pertaining to Section 271 of the
Telecommunications Act of 1996*

BellSouth's Section 271 Application

Order No. PSC-97-1459-FOF-TP, issued November 19, 1997
Docket No. 960786-TP

- I. INTRODUCTION** - Several complaints were lodged against BellSouth during the FPSC's proceeding, but the commission stated that this proceeding was not the proper forum.
- II. BACKGROUND** - The commission found that BellSouth was not eligible to proceed under "Track B" at that time because it had received qualifying requests for interconnection that if implemented would meet the requirements of Section 271(c)(1)(A), also known as "Track A".

The commission found that BellSouth met checklist items 3,4,8,9,10,11,12 and 13, plus the majority of item 7. The commission stated that when BellSouth refiles its 271 case with the commission, "it must provide us with all documentation that it intends to file with the FCC in support of its of its application. Also, the FPSC did not approve BellSouth's SGAT.

- III. COMPLIANCE WITH SECTION 271(c)(1)(A)** - The commission found that BellSouth was satisfying a portion of Section 271(c)(1)(A) by providing access and interconnection to competing providers of business service either exclusively over their own facilities or predominately over their own facilities in combination with resale; however, the evidence did not demonstrate that BellSouth was providing access and interconnection for residential subscribers.
- IV. COMPLIANCE WITH SECTION 271 (c)(1)(B)** - To meet the requirements of this section, BellSouth must show that "no such provider" has requested the access and interconnection described in Section 271(c)(1)(A) before the date which is 3 months before the date the company makes its application under Section 271(d)(1). BellSouth must also show that an SGAT the

company generally offers has been approved by a state commission under Section 252(f). Thus, Track B enables a BOC to apply for entrance into the long distance market based on an approved SGAT.

Specifically, the SGAT must:

- 1) comply with Section 252(d), which requires nondiscriminatory cost based prices, and regulations for interconnection, network elements, transport and termination of traffic, and wholesale rates;
- 2) it must further comply with Section 251, which defines duties of interconnection, unbundled access, and resale.

The commission found that BellSouth had received requests from potential competitors for access and interconnection to BellSouth's network that, if implemented, will satisfy the requirements of Section 271(c)(1)(A). However, although BellSouth had submitted an SGAT, the SGAT had neither been approved nor permitted to take effect.

V. SECTION 271(c)(1)(A), SECTION 271(c)(1)(B), and the SGAT

The end result of the intervenors' interpretation appeared to be that BOCs could conceivably have operational competitors in their region, but not be granted interLATA authority simply because a checklist item was not contained in an interconnection agreement. It is possible that a BOC could never gain interLATA authority under this scenario even though actual competition existed and all of the checklist items were functionally available.

VI. CHECKLIST COMPLIANCE

A. Interconnection in Accordance with Sections 251(c)(2) and 252(d)(1), Pursuant to Section 271(c)(2)(B)(i)

Although evidence indicated that some ALECs were providing service to their customers over interconnection facilities, it was also found that BellSouth has yet to develop the ability to provide all facets of interconnection in a timely and efficient manner.

B. Nondiscriminatory Access to Network Elements in Accordance with Sections 251(c)(3) and 252(d)(1), Pursuant to 271(c)(2)(B)(ii)

The Act, the FCC's rules and orders, and the FPSC's arbitration order all require BellSouth to provide nondiscriminatory access to its operations support system functions (OSS). One way for BellSouth to demonstrate that its

competing carriers are receiving nondiscriminatory access is through the interfaces it provides. During this proceeding, BellSouth offered pre-ordering through the Local Exchange Navigation System (LENS) interface; ordering and provisioning through the Electronic Data Interchange (EDI), Exchange Access Control and Tracking System (EXACT), and LENS interfaces; maintenance and trouble reporting through the ALEC Trouble Analysis Facilitation Interface (TAFI) as well as the Electronic Bonding Interface (EBI or T1M1); and billing through the access to the Billing Daily Usage File. Carriers have the option of sending orders via facsimile.

The FPSC determined that BellSouth was not providing pre-ordering and ordering capabilities at parity with what it provides to itself. It also stated that BellSouth must provide a pre-ordering interface that is integrated with the EDI ordering interface and must correct certain LENS pre-ordering deficiencies.

The commission found there to be four characteristics necessary for an interface to be in compliance with the nondiscriminatory provisions of the Act:

- 1) electronic, with no more intervention than is necessarily involved for BellSouth to perform a similar transaction
- 2) must provide the capabilities necessary to perform functions with the same level of quality, efficiency, and effectiveness as BellSouth provides to itself
- 3) must have adequate documentation to allow an ALEC to develop and deploy systems and processes, and to provide adequate training to its employees
- 4) must be able to meet the ordering demand of all ALECs, with response times equal to that which BellSouth provides itself.

The interfaces and processes offered by BellSouth did not permit an ALEC to perform an OSS function in substantially the same time and manner as BellSouth performs for itself. Since the SGAT offered the same interfaces and functions, it was deemed to have the same problems and was rendered non-compliant with the UNE portion of the checklist.

C. Nondiscriminatory Access to Poles, Ducts, Conduits, and Rights-of-Way in Accordance with Section 224, Pursuant to Section 271(c) (2) (B) (iii)

Since no request for access to these items have been made, BellSouth was required to demonstrate that it is capable of

providing such access if an ALEC or cable television company requested it. The Commission found no evidence to indicate that the procedures for providing access that had been in effect for cable companies would not work for telecommunications companies.

D. Unbundled Local Loop Transmission Between the Central Office and the Customer's Premises from Local Switching or Other Services Pursuant to Section 271(c)(2)(B)(iv)

Based on BellSouth's testimony and verification from parties that they have received this checklist item upon request, the FPSC concluded that BellSouth was in compliance with this item.

E. Unbundled Local Transport Pursuant to Section 271(c)(2)(B)(v)

This checklist item requires BellSouth to unbundle the local transport on the trunk side of a wire line from switching or other services. Paragraph 440 of the FCC's First Report and Order on Interconnection defines unbundled local transport to include shared and dedicated transmission facilities between end offices and the tandem switch and central offices, or between such offices and those of competing carriers.

The FPSC determined that BellSouth failed to meet this checklist item based on evidence in the record that BellSouth cannot bill for usage sensitive UNEs. The Commission had established that usage sensitive UNEs would be billed using the CABS billing system, or that the bills would be CABS-formatted; BellSouth had not complied with either requirement. The FPSC stated that therefore, it was unable to determine whether BellSouth had unbundled local transport for other services.

F. Unbundled Local Switching Pursuant to Section 271(c)(B)(vi)

This item requires BellSouth to unbundle local switching from local transport, local loop transmission, or other services.

The Commission found that BellSouth had not demonstrated that it could bill for unbundled local switching on a usage-sensitive basis and had not met the requirements for this checklist item.

G. Nondiscriminatory Access to 911 and E911 Services, Directory Assistance Services and Operator Call Completion Services Pursuant to Section 271(c)(2)(B)(vii)

Nondiscriminatory access to these services refers to access that is at least equal to that BellSouth receives.

The FPSC found that BellSouth provides nondiscriminatory access to 911/E911 and operator call completion services, but that it is not

providing all directory listings to requesting carriers at that time.

H. Provision of White Pages Directory Listings for Customers of Other Telecommunications Carrier's Telephone Exchange Service, Pursuant to Section 271(C) (2) (B) (viii)

The FPSC stated that BellSouth's compliance with this item is based on the requirements set forth in the Act and in FCC Rules 47 C.F.R. §51.319, §51.319, §51.311, and §51.5. The Commission found that BellSouth met the applicable FCC rule requirements.

I. Nondiscriminatory Access to Telephone Numbers for Assignment to the Other Telecommunications Carrier's Telephone Exchange Service Customers, Pursuant to Section 271(c) (2) (B) (ix)

The FPSC determined that BellSouth's proposed SGAT notes that BellSouth filed procedures for providing nondiscriminatory access to telephone numbers with the Commission, and that within the procedures it discusses numbering assignment guidelines. Therefore, the Commission determined that the proposed SGAT was sufficient to satisfy this checklist item.

J. Nondiscriminatory Access to Databases and Associated Signaling Necessary for Call Routing and Completion, Pursuant to Section 271(c) (2) (B) (x)

The FPSC found that the scope of this checklist item was limited to those databases necessary for call routing and completion, and associated signaling necessary for call routing and completion. Such databases include Line Information Database (LIDB), Toll-Free Number database, Automatic Location Identification/Data Management System (ALI/DMS) AIN database, and selective routing through AIN. BellSouth met the requirements for this item based on evidence in the record.

K. Provision of Number Portability Pursuant to Section 271(c) (2) (B) (xi)

This section required that until the FCC issued regulations pursuant to Section 251 requiring permanent number portability, the BOCs must provide interim number portability through remote call forwarding (RCF), direct inward dialing trunks (DID), or other comparable arrangements, with as little impairment of functioning, quality, reliability, and convenience as possible.

The FPSC found BellSouth to be in compliance with this item. In spite of problems associated with provisioning interim number portability, it appeared that such problems were addressed.

L. Provision of Local Dialing Parity Pursuant to Section 271(c) (2) (B) (xii)

This item requires BOCs to provide nondiscriminatory access to information or services in order to allow requesting carriers to implement local dialing parity in accordance with the requirements of section 251(b) (3).

BellSouth was found to be in compliance with this item. In addition to the fact that no parties provided testimony to rebut the BellSouth witness's testimony, Section XII of BellSouth's SGAT sufficiently addressed local dialing parity as it related to this issue.

M. Provision of Reciprocal Compensation Arrangements Pursuant to Section 251(c) (2) (B) (xiii)

This section requires that reciprocal compensation arrangements be provided or generally offered in accordance with Section 252(d) (2).

Although there were disputes over ISP traffic, the FPSC noted that where interconnection facilities had been ordered and implemented, reciprocal compensation arrangements for the transport and termination of local traffic, including intermediary tandem switching, were being carried out in accordance with the Act. Therefore, BellSouth was found to be in compliance.

N. Provision of Telecommunications Services Available for Resale in Accordance with the Requirements of Sections 251(c) (4) and 252(d) (3) of the Telecommunications Act of 1996, Pursuant to Section 271(c) (2) (B) (xiv)

The FPSC stated that its determination of BellSouth's compliance with this item was based on the Act, FCC Rules and Orders, and the Commission's orders where appropriate.

BellSouth failed this checklist item. The FPSC noted several OSS-related problems, including the inability of intervenors to access or make changes to pending orders, similar to those found under Section 271(c) (2) (B) (ii), nondiscriminatory access to UNEs.

VII. PERFORMANCE STANDARDS FOR UNES AND RESALE

In the Ameritech Order, the FCC determined that the nondiscriminatory provisioning of UNEs, resale services, and access to OSS functions must be based on empirical evidence (actual operational data or data resulting from provisioning of analogous retail services).

BellSouth proposed the use of its negotiated measures with AT&T as

performance standards and measurements in this proceeding. The FPSC determined that BellSouth's performance standards and measurements were not adequate to demonstrate nondiscrimination. The Commission determined that BellSouth should provide statistically valid commercial usage data showing various measures such as the average installation intervals for resale and average installation intervals for loops.

VIII. INTRALATA TOLL DIALING PARITY

The FPSC found that BellSouth had been providing 1+ intraLATA toll presubscription in all of its end offices since the end of March 1997 and that BellSouth had met the requirements of Section 271(e) (2) (A) of the Act.

IX. BELLSOUTH'S STATEMENT OF GENERALLY AVAILABLE TERMS AND CONDITIONS

Section 252(f) (2) of the Act requires that the SGAT 1) must comply with Section 252(d), which requires nondiscriminatory cost based prices, and regulations for interconnection, network elements, transport and termination of traffic, and wholesale rates; and 2) must further comply with Section 251, which defines duties of interconnection, unbundled access, and resale. Section 252(f) (3) of the Act states that the state commissions where an SGAT is submitted must review it within 60 days. If the review is not complete within 60 days, the SGAT becomes effective.

The FPSC did not approve BellSouth's SGAT. The conclusions are consistent with those made with regards to each corresponding checklist item.

X. CONCLUSION

The FPSC stated that although it was unable to approve BellSouth's application, it believed that BellSouth had made significant progress in meeting the requirements of the Act at this time.

**FOR MORE INFORMATION REGARDING FPSC ORDERS ON SPECIFIC ISSUES SUCH AS INTERCONNECTION, NUMBER PORTABILITY, ETC., PLEASE REFER TO "THE TELECOMMUNICATIONS TRILOGY", INTERCONNECTION SECTION.*

Third Party Testing

Order No. PSC-99-1568-PAA-TP, issued August 9, 1999
Docket Nos. 981834-TP, Docket No. 960786-TL

In this Order, the FPSC denied the FCCA/AT&T Motion for Independent Third Party Testing of BellSouth's Operational Support Systems and ACI's Motion to Expand the Scope of Independent Third Party Testing. Instead, the Commission chose to proceed with staff's proposal for a two phase third party testing. BellSouth agreed to pay for Phase I, development of a test plan. It was also determined that if BellSouth's OSS systems pass the third-party testing in Florida, then BellSouth shall be considered to have remedied the OSS concerns the Commission identified in Order No. PSC-97-1459-FOF-TL for purposes of our recommendation to the FCC on any future application by BellSouth for interLATA authority in Florida. If only portions of BellSouth's OSS systems pass the third-party testing in Florida, then BellSouth shall not be required to make any further demonstration to us with regard to those portions.

Arbitration of Interconnection and Resale Rates, Terms and Conditions

Order No. PSC-98-0604-FOF-TP, issued April 29, 1998
Docket Nos. 960757-TP, 960833-TP, 960846-TP

This order is primarily the result of proceedings to establish recurring and non-recurring rates for certain unbundled network elements (UNEs). Parties included Metropolitan Fiber Systems of Florida, Inc. (MFS), AT&T, MCI and, of course, BellSouth.

Section V of the order states that although operational support systems (OSS) are considered UNEs, rates for OSS were not set in the proceedings. The Commission recognized that OSS costs, manual and electronic, may be recoverable costs incurred by BellSouth, but determined that BellSouth has a statutory obligation to negotiate or arbitrate such issues when requested by a CLEC.