Section 1 - Bureau of Records and Hearing Services Completes

031132-TP Date Docketed: Docket No.

Company:

12/31/2003

Title: Petition for suspension of or for stay of effective

date of BellSouth Telecommunications, Inc.'s 2004 Key Customer Promotional tariff filing of December 17, 2003, by Florida Digital Network, Inc. d/b/a FDN

BellSouth Telecommunications, Inc.

Florida Digital Network, Inc. d/b/a FDN Com

Communications, Inc.

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Where one Commissioner, a Hearing Examiner or a Staff Member is assigned the full Commission decides the case.

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Approved: ____

Date:

Section 1 - Bureau of Records and Hea

Services Completes

Docket No.

Company:

031132-TP

BellSouth Telecommunications, Inc.

Florida Digital Network, Inc. d/b/a FDN Com

Date Docketed: 12/31/2003 Title: Petition for suspension of or for stay of effective date of BellSouth Telecommunications, Inc.'s 2004 Key Customer Promotional tariff filing of December 17,

2003, by Florida Digital Network, Inc. d/b/a FDN

Communications, Inc.

Expiration: ____ Official Filing Date: Last Day to Suspend: (CMP) **ECR** EXT Referred to: CCA ("()" indicates OPR) X Time Schedule Section 2 - OPR Completes and returns to CCA in 10 workdays. WARNING: THIS SCHEDULE IS AN INTERNAL PLANNING DOCUMENT Program Module A4(b); A19 IT IS TENTATIVE AND SUBJECT TO REVISION. FOR UPDATES CONTACT THE RECORDS SECTION: (850) 413-6770 Staff Assignments Due Dates Current CASR revision level **Previous** Current OPR Staff M Barrett 01/20/2004 NONE 1. Response to Complaint Due 2. Close Docket or Revise CASR NONE 02/06/2004 3. 4. 5. 6. 7. F Banks, L Dodson 8. Staff Counsel 9. 10. 11. 0CRs 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. . 25. 26. 27. 28. 29. Recommended assignments for hearing 30. and/or deciding this case: 31. 32. $\begin{array}{ccc} \text{Full Commission} & \underline{X} & \text{Commission Panel} \\ \text{Hearing Examiner} & \underline{Staff} \end{array}$ 33. 34. 35. Date filed with CCA: 01/12/2004 36. 37. Initials: OPR 38. Staff Counsel 39.

Section 3 - Chairman Completes

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Approved: 86

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Section 1 - Bureau of Records and Hear J Services Completes

Docket No.

031132-TP

Date Docketed: 12/31/2003 Title: Petition for suspension of or for stay of effective

date of BellSouth Telecommunications, Inc.'s 2004 Key Customer Promotional tariff filing of December 17, 2003, by Florida Digital Network, Inc. d/b/a FDN

Communications, Inc.

BellSouth Telecommunications, Inc. Company:

Florida Digital Network, Inc. d/b/a FDN Com

Official Filing Date: Expiration: ____ Last Day to Suspend: Referred to: EXT ("()" indicates OPR) X Section 2 - OPR Completes and returns to CCA in 10 workdays. Time Schedule Program Module WARNING: THIS SCHEDULE IS AN INTERNAL PLANNING DOCUMENT A4(b); A19 IT IS TENTATIVE AND SUBJECT TO REVISION. FOR UPDATES CONTACT THE RECORDS SECTION: (850) 413-6770 Staff Assignments Due Dates OPR Staff M Barrett Current CASR revision level **Previous** Current 0 1. *Response to Complaint Due NONE 01/20/2004 2. Close Docket or Revise CASR NONE 02/06/2004 3. 4. 5. 6. 7. Staff Counsel F Banks, L Dodson 8. 9. 10 0CRs 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. Recommended assignments for hearing 30. and/or deciding this case: 31. 32. Full Commission \underline{X} Commission Panel Hearing Examiner \underline{X} Staff 33. 34. 35. Date filed with CCA: 01/12/2004 36. 37. Initials: OPR 38. Staff Counsel 39. 40 Section 3 - Chairman Completes Assignments are as follows:

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Section 1 - Bureau of Records and Hea _ 1 Services Completes

BellSouth Telecommunications, Inc.

Docket No. 031132-TP Date Docketed:

Company:

12/31/2003

Title: Petition for suspension of or for stay of effective

date of BellSouth Telecommunications, Inc.'s 2004 Key Customer Promotional tariff filing of December 17, 2003, by Florida Digital Network, Inc. d/b/a FDN

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Approved: BB/rt Date:

02/05/2004

Section 1 - Bureau of Records Completes

Official Filing Date: _____

Docket No. 031132-TP Date Docketed: 12/31/2003 Title: Petition for suspension of or for stay of effective date of BellSouth Telecommunications, Inc.'s 2004 Key Customer Promotional tariff filing of December 17, 2003, by Florida

Digital Network, Inc. d/b/a FDN Communications, Inc.

BellSouth Telecommunications, Inc. Company:

Florida Digital Network, Inc. d/b/a

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Section 3 - Chairman Completes

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Where panels are assigned the senior Commissioner is Panel Chairman:

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Approved: Date:

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Section 1 - Bureau of Records Complet

Company:

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STATE OF FLORIDA

COMMISSIONERS: LILA A. JABER, CHAIRMAN J. TERRY DEASON BRAULIO L. BAEZ RUDOLPH "RUDY" BRADLEY CHARLES M. DAVIDSON



DIVISION OF THE COMMISSION CLERK & ADMINISTRATIVE SERVICES
BLANCA S. BAYÓ
DIRECTOR
(850) 413-6770 (CLERK)
(850) 413-6330 (ADMIN)

Hublic Service Commission

January 5, 2004

Matthew Feil, Esquire Florida Digital Network, Inc. 390 North Orange Avenue, Suite 2000 Orlando, Florida 32801

Re: Docket No. 031132-TP

Dear Mr. Feil:

This will acknowledge receipt of a petition for suspension of or for stay of effective date of BellSouth Telecommunications, Inc.'s 2004 Key Customer Promotional tariff filing of December 17, 2003, by Florida Digital Network, Inc. d/b/a FDN Communications, Inc., which was filed in this office on December 31, 2003, and assigned the above-referenced docket number. Appropriate staff members will be advised.

Mediation may be available to resolve any dispute in this docket. If mediation is conducted, it does not affect a substantially interested person's right to an administrative hearing. For more information, contact the Office of General Counsel at (850) 413-6248 or FAX (850) 413-7180.

Division of the Commission Clerk and Administrative Services Florida Public Service Commission

12583-05

Florida Cable Telecommunications Association

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Steve Wilkerson President

VIA FACSIMILE

COMMISSION CLERK

January 15, 2004

Ms. Blanca S. Bayo, Director Division of the Commission Clerk and Administrative Services Florida Public Service Commission 2540 Shumard Oak Blvd. Tallahassee, FL 32399-0850

RE: FPSC Docket No. 031132

Dear Ms. Bayo:

I am writing to request that the Florida Cable Telecommunications Association, Inc. ("FCTA") be placed on the mailing list of persons interested in monitoring the above-referenced docket. Please send all mailings to the following:

Michael A. Gross
Vice President, Regulatory Affairs & Regulatory Counsel
Florida Cable Telecommunications Association, Inc.
246 E. 6th Avenue, Suite 100
Tallahassee, FL 32303
850/681-1990 Tel.
850/681-9676 Fax

E-Mail Address: mgross@fcta.com.

Thank you for your assistance in this matter. Please contact me with any questions.

Sincerely

Michael A. Gross

Vice President, Regulatory Affairs

& Regulatory Counsel

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State of Florida





Hublic Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD 9

TALLAHASSEE, FLORIDA 32399-0850 3 18 ATT 9 29

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

CLERK

DATE:

February 18, 2004

TO:

Blanca S. Bayó, Commission Clerk and Administrative Services Director

MCB

FROM:

Michael C. Barrett, Regulatory Analyst III, Division of Competitive Markets &

Enforcement

RE:

Docket correspondence

Please file the attached 4 page letter dated February 16, 2004 from Nancy H. Sims to Beth W. Salak as correspondence in Docket No. 031132-TP.

If you have any questions, please call.

Mike BRARETT

BELLSOUTH

BellSouth Telecommunications, Inc. Regulatory Relations 150 South Monroe Street Suite 400 Tallahassee, FL 32301

COMPETITIVE SERVICES

Nancy H. Sims Director

850 222 1201 FAX 850 222 8640

nancy.sims@bellsouth.com

February 16, 2004

Ms. Beth W. Salak Director, Division of Communications Florida Public Service Commission 2540 Shumard Oak Boulevard Tallahassee, FL 32399-0850

Re: Docket No.: 031132-TP

Dear Ms. Salak:

The following are BellSouth's responses to the data requests filed by Staff in the above captioned matter on January 30, 2004:

- (1) At this time BellSouth is not planning to revise its 2004 Key Customer Tariff to include the definition of "special promotional rewards." If, however, the Commission desires such a revision, BellSouth will comply.
- (2) BellSouth is not planning to revise its 2004 Key Customer tariff regarding the specific level of service that must remain with BellSouth to avoid termination liability. As stated in our response to FDN's Complaint, BellSouth does not require that the billing telephone number remain with BellSouth to avoid termination liability. Both the Key Customer term election agreement and the 2004 Key Customer tariff require only that "some level of local regulated service" remain with BellSouth. Therefore, no revision is necessary. The only time termination liability will apply is if the entire account disconnects.
 - (3) Under the hypothetical transaction set forth, BellSouth's responses follow:
 - (A) No, termination liability would not apply between January 1 and January 10th. The term election agreement must be entered and completed in BellSouth's billing system before the charges apply. Once the term election agreement has completed or "accepted" into the billing system, termination liability begins at that point.

- (B) Yes, if the customer disconnected once the term election agreement was completed and accepted through BellSouth's billing system, then termination liability would apply. The term election agreement at that point is in effect.
- (C) Under the same date scenario above, the 36-month commitment begins on January 10th. The commitment will end 36 months later on January 5th.
- (4) In response to request 4 (A) and 4(B), please see the following chart:

Number of Days Prior to Expiration	Contact
180 Days	 Outbound Calling begins (Calling will continue until the term election agreement has expired) Bill Message to appear on customer's bill notifying them that the term election agreement will be expiring and that the term election agreement will automatically renew if BellSouth is not notified at least 60 days prior to expiration
150 Days	Direct Mail Letter notifying customer of term election agreement expiration and that the term election agreement will automatically renew if BellSouth is not notified at least 60 days prior to expiration.
120 Days	 Bill Message to appear on customer's bill notifying them that their term election agreement will be expiring.
90 Days	 2nd Direct Mail Letter notifying customer on term election agreement expiration and that the term election agreement will automatically renew if BellSouth is not notified at least 60 days prior to expiration.
60 Days	 Bill insert notifying customer that the existing term election agreement will be extended for an additional term.

Final Bill	Dill Massage notifying austament hat
I IIIai Diii	Bill Message notifying customer that
	the term election agreement has
	expired and this will be last reward
	received if they cancelled or notify
	them that the new term will begin
	on next bill.

- (C) There is no language in the 2004 Key Customer term election agreement regarding reminders. BellSouth is not planning to revise the term election agreement to include such language because the term election agreement specifically states that the customer is responsible for whether the term election agreement is renewed.
- (D) The customer must notify BellSouth in writing that he does not intend to renew for another like term. This notification must take place at least 60 days prior to expiration of the term election agreement.
- (E) No action is required from the customer in order to renew the initial term election agreement.
- (F) See responses to 4(D) and 4(E). An oral authorization is acceptable for renewal; it is not acceptable for purposes of not renewing the term election agreement.
- (G) If the term election agreement is renewed, it is treated as a second term with a new term election agreement. There is no "carry over" of termination liability from the initial term election agreement.
- (H) BellSouth is still in the process of drafting the notifications listed in the chart above in light of the fact that the renewal will not occur in the immediate future. The term election agreement does require a positive response to avert renewal as noted in the responses to 4(C) and (D).
- (5) (A) BellSouth wants the tariff citation to be read as broadly as possible and therefore, views it as a "dated by" date.
 - (B) BellSouth is not planning to revise the 2004 Key Customer Tariff because we do not believe it is necessary.
 - (C) The written notifications listed in the chart above will contain an address to which the notification should be sent. There are no special instructions; all that is required is a sentence indicating the customer does not wish to renew the term election agreement.

- (D) BellSouth does not believe the case entitled U.S. v. Waste Management is applicable to this docket for several reasons. First, the small business market in Florida is extremely competitive. Second, BellSouth uses the Key Customer Program to meet this competition. Third, the notification not to renew does not have to be sent by certified mail. Fourth, the customer does not have to give notice to BellSouth that he is going to a competitor and more importantly is not charged termination liability if some level of service remains with BellSouth thereby making it easy for a customer to switch providers. Fifth, the Commission has already found that BellSouth's Key Customer tariffs are not unreasonable or anticompetitive. Sixth, BellSouth's Key Customer termination liability provisions are not excessive or abusive. Finally, the United States Supreme Court case of Trinko may have applicability.
- No. A renewal term equal to the initial term is easy for customers to (E) understand and appreciate.

Requests for Documents

- See the Term Election Agreement and 2004 Key Customer Tariff previously (1)provided to Staff.
- The Term Election Agreement has previously been provided to Staff. (2)
- (3)BellSouth is still in the process of drafting the notifications and, therefore, has no documents responsive to this request.

Mancy H. Sims

Enclosures

cc: All Parties of Record Marshall M. Criser III R. Douglas Lackey Nancy B. White

526731

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD TALLAHASSEE, FLORIDA 32399-0850

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

DATE:

March 8, 2004

TO:

Blanca S. Bayó, Commission Clerk and Administrative Services Director

FROM:

Michael C. Barrett, Regulatory Analyst III, Division of Competitive Markets & MCB

Enforcement

RE:

Docket correspondence

Please file the attached items as correspondence in Docket No. 031132-TP:

- 1) A printed copy of the e-mail dated February 24, 2004 from Maryrose Sirianni to Michael Barrett;
- 2) A printed copy of the single-sheet attachment to the above-referenced e-mail. The sheet is entitled "BellSouth® Key Customer Program Subscriber Election Florida."

If you have any questions, please call.

CLERK

1 m

Michael Barrett

From: Sirianni, Maryrose [Maryrose.Sirianni@bellsouth.com]

Sent: Tuesday, February 24, 2004 4:03 PM

To: michael Barrett

Cc: Sirianni, Maryrose

Subject: 2004 key customer contract

Michael,

Attahced is a copy of the 2004 Key customer contract. Please let me know if you have further questions.

Thanks.

"The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential, proprietary, and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and delete the material from all computers."



BellSouth® Key Customer Program Subscriber Election - Florida The undersigned Subscriber desires to participate in the BellSouth Key Customer Program (the "Program"), and agrees to the following:

Regulated C Frame Rela Services Ta Subscriber c month or the reward in an Subscriber v	Subscriber is an existing BellSouth Telecommunical Charges* (as defined in the applicable BellSouth tarily and MegaLink charges. Subscriber agrees to kee riff for a minimum of twenty-four (24) or thirty-six (36 commits to a term election and BellSouth accepts (use month following, or the billing cycle that BellSouth a amount equal to the applicable reward percentage will earn for each month of the term a reward for Hur Subscriber agrees to the following term and reward	ff) at each p local sel) months nless voic completes multiplied nting Servi	such location between \$75 and \$3,000 vices with BellSouth under its General if from the enrollment date in the Program led by BellSouth). Depending upon the the Subscriber's term election agreem by the Subscriber's Monthly Billed Bells ce equal to the applicable reward perce	excluding hunting, analog private line, ISDN PR Subscriber Services Tariff ("G.S.S.T.") or Private . Participation in the Program begins on the dat Subscriber's billing cycle, the term may begin in ent. Subscriber will earn for each such month of South Regulated Charges; in addition, if applicable	l, BIST1, Line e the the current the term a			
	Monthly Billed BellSouth Regulated Charges*	ОТ	wenty-Four (24) Month Term	☐ Thirty-six (36) Month Term	7			
	\$75 - \$3,000.00 Hunting Bonus Reward	-	10% 50%	20%				
,	The Monthly Billed BellSouth Regulated Charges of	onsist of e	nd-user monthly billed BellSouth regula	100% red charges at qualifying locations excluding: nor	 1-			
Program services, non-regulated charges, other fees or surcharges, taxes, late payment charges, charges billed pursuant to federal or state access service tariffs, charges collected on behalf of municipalities (including, but not limited to services for 911 service and dual party relay services), and charges for services provided by other companies.								
(Hunting is a	The Hunting Reward will apply to the Subscriber's rules defined as Rotary Line Service). Complete Cho	ice for Bu	siness customers are not eligible to rece	vive the hunting reward.				
4. s associated w	Subscribers who participate in the promotion and als with the service order. This will include the line conn	o subscrit ection cha	pe to new service during the promotiona arge (first and additional lines, line equiv	period will not be billed for the line connection calents and trunks).	harges			
period, usua applicable Bonot be applie Program for	The applied rewards for any given month will appear lly within one or two billing cycles. Subscriber will re ellSouth tariffs) for the respective month in each star ad for such locations. Should Subscriber's charges charges up to \$3,000. Unless the Subscriber takes y full tariffed charges. (Initial)	ceive the te while the exceed the	reward associated with Subscriber's Mo is term election is in effect. If such char a \$3,000 requirement, the Subscriber wi	nthly Billed BellSouth Regulated Charges* (as do ges fall below the minimum charges per month, I only receive the maximum reward allowed und	efined in the rewards will er this			
6. Unless the Subscriber notifies BellSouth in writing of its intent not to renew for another like term under the Program at least 60 days prior to expiration, then upon expiration of the initial term, the Agreement shall automatically renew for another term as initially selected(Initial)								
the number of OC&C section	n the event the Subscriber terminates the term elect of months remaining on the term, plus any special pr on. No charge will be assessed if the Subscriber ma hase the Subscriber from other previous amounts ow	omotional intains so	rewards received. These charges will me level of local regulated service with	appear on the Subscriber's final bill as a charge	in the			
	Monthly Billed BellSouth Regulated Charges*		ge to be multiplied by number of					
	\$75 - \$3,000	months	remaining on term \$30					
ψ, υ ψυ, υυυ								
8. In the event Subscriber changes service locations for business local service, Subscriber shall notify its BellSouth Small Business Office to advise of the change in service location.								
	n the event Subscriber is switched without authorizal Program once the improperly switched account has			Subscriber must call its BellSouth Small Business	Office to			
10. A this program.	The contract are a second of the contract are							
11. T time.	2							
12. I understand that my signature constitutes my company's (as set forth below) enrollment in the BellSouth Key Customer Program under this term election agreement and the applicable tariffs; I have authority to commit my company to this term election agreement.								
SUBSCRIE	BER:							
D	(Business Name on account)		(Business Address)					
By:(Signature)			City/State					
Print Name		(Business Telephone Numbe	•)					
Title		(Additional Business Telephone Number(s))						
Date			E-Mail Address (optional)					
Version 112	2503							
Representative Name			CUID					
Telephone	# for Questions							

Matilda Sanders

From:

Andrea Cowart

Sent:

Wednesday, June 15, 2005 4:08 PM CCA - Orders / Notices; Felicia Banks

To: Subject:

Order / Notice Submitted

Date and Time:

6/15/2005 4:07:00 PM

Docket Number: Filename / Path: 031132-TP

031132or.frb.doc

Hand Deliver Attachments Order Type:

Order Granting Motion and Approving Joint Stipulation

w/attachments - Order is 7 pages total

attack's not online.