

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

IN RE: DOCKET NO. 010098-TP - Petition by Florida
Digital Network, Inc. for arbitration of
certain terms and conditions of proposed
interconnection and resale agreement with
BellSouth Telecommunications, Inc. under the
Telecommunications Act of 1996.

BEFORE: CHAIRMAN LILA A. JABER
COMMISSIONER J. TERRY DEASON
COMMISSIONER MICHAEL A. PALECKI

PROCEEDINGS: AGENDA CONFERENCE

ITEM NUMBER: 25

DATE: Tuesday, October 1, 2002

PLACE: 4075 Esplanade Way, Room 148
Tallahassee, Florida

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PARTICIPANTS:

FELICIA BANKS and DAVID DOWDS, Florida Public Service Commission.

STAFF RECOMMENDATION

ISSUE 1: Should the Motion for Clarification or Reconsideration filed by Florida Digital Network, Inc. be granted?

RECOMMENDATION: No. FDN has not identified a point of fact or law which was overlooked or which the Commission failed to consider in rendering its decision. Therefore, the Motion for Clarification or Reconsideration should be denied.

ISSUE 2: Should the Motion for reconsideration or in the Alternative, Clarification filed by BellSouth Telecommunications, Inc. be granted?

RECOMMENDATION: BellSouth has not identified a point of fact or law which was overlooked or which the Commission failed to consider in rendering its decision. Therefore, the motion for reconsideration should be denied.

However, staff believes that the Commission envisioned that BellSouth's migration of its FastAccess Internet Service to an FDN customer would be seamless so that an FDN customer's service would not be altered. Consequently, staff recommends that the Commission clarify that BellSouth's migration of its FastAccess Internet Service to an FDN customer should be a seamless transition for a customer changing to FDN's voice service.

ISSUE 3: Should the Motion to Strike filed by BellSouth Telecommunications, Inc. be granted?

RECOMMENDATION: No. The Motion to Strike should be denied.

ISSUE 4: Should 2 cross-motion for reconsideration filed by Florida Digital Network, Inc. be granted?

RECOMMENDATION: If the Commission approves staff's recommendation on Issue 3, then the cross-motion should be denied. However, if the Commission denies staff on Issue 3, this issue is rendered moot.

ISSUE 5: Should this docket be closed?

RECOMMENDATION: No. If the Commission approves

staff's recommendation in Issues 1, 2, and 4, the parties should be required to file their final interconnection agreement within 30 days after the issuance of the order from this recommendation, conforming with Order No. PSC-02-0765-FOF-TP, in accordance with in Order No. PSC-02-0884-PCO-TP, Order Granting Extension of Time to File Interconnection Agreement. Thereafter, this docket should remain open pending approval by the Commission of the filed agreement.

PROCEEDINGS

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2 CHAIRMAN JABER: All right. The final
3 item, Commissioners, is Item 25, and that's a
4 panel, Jaber, Deason, Palecki. And internal
5 affairs will be immediately after this item.
6 Thank you, Commissioners.

7 Staff, do you have an introduction on 25?

8 MS. BANKS: Yes, Chairman. Item No. 25 is
9 staff's post-hearing revised recommendation
10 filed in Docket No. 0109098-TP, petition by
11 Florida Digital Network for arbitration of
12 certain terms and conditions of the proposed
13 interconnection agreement with BellSouth
14 Telecommunications. In this recommendation
15 staff addresses several motions for
16 reconsideration, a motion to strike, and a
17 cross-motion for reconsideration. The motions
18 were filed in regards to the issuance of the
19 final order on arbitration in this case.

20 In each instance, staff is recommending
21 that the motions be denied. However, staff is
22 recommending that that the Commission clarify
23 its decision as to how BellSouth's FastAccess
24 Internet Service would be provisioned in
25 connection with Issue 2 of staff's

1 recommendation.

2 Staff is available for questions.

3 CHAIRMAN JABER: Commissioners, questions
4 or a motion?

5 COMMISSIONER PALECKI: I have some
6 questions. With regard to the service -- let me
7 try to get this clear in my mind. When Florida
8 Digital is serving a customer with voice service
9 and BellSouth wishes to provide DSL service,
10 what is the technology that's used so that both
11 services can be provided over a single loop? It
12 was my understanding there was an additional
13 expense that was involved. Is that correct?

14 MR. DOWDS: May I restate your question?

15 COMMISSIONER PALECKI: Yes.

16 MR. DOWDS: To make sure I understand.
17 Okay. The scenario is FDN is the voice
18 provider, and presumably in that scenario FDN is
19 providing virtually all the services except for
20 an unbundled voice grade loop. And then your
21 second part was, I think, how would BellSouth
22 provision its FastAccess service over that
23 loop?

24 COMMISSIONER PALECKI: Well, I was using
25 the word DSL generically, but would it make a

1 difference if it's FastAccess other than just
2 some other --

3 MR. DOWDS: Well, I guess the -- obviously,
4 the key issue is who provides the DSL service.
5 The Commission ruled earlier that BellSouth was
6 to be forbidden from disconnecting its
7 FastAccess retail offering when a customer opted
8 to migrate to FDN as its voice provider. So, as
9 I understand the Commission vote, they ruled
10 that the disconnection cannot occur.

11 what was not clear from the record was what
12 does that mean in terms of provisioning,
13 because, strictly speaking, the FastAccess
14 presumably is not on the FDN UNE loop, or it may
15 not have been, if that makes sense. Presumably
16 if FDN wants to provide voice service, they're
17 going to order a UNE loop for customer X at a
18 given location. And what wasn't clear from the
19 record, as I recall, is, where that occurs is a
20 timing issue. Let's assume that a customer
21 already had FastAccess and he had more than one
22 voice line. Then it gets kind of iffy as to
23 what are we talking about in terms of which
24 line, for example, do you have to keep the
25 FastAccess on.

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Am I starting to confuse matters more?

COMMISSIONER PALECKI: Yes. I didn't think it was going to get that complicated. Let me ask the question another way. What if you have a Fast -- you're approaching this -- I thought there were two scenarios that we're looking at. One scenario is where we have FastAccess service and the customer wants voice service from Florida Digital. The other scenario is where we have an existing customer of Florida Digital, and that customer goes to BellSouth and says, "I want DSL service."

Can you explain if there are different considerations under those two scenarios? Because I think what at least -- I don't want to speak for my fellow Commissioners, but what I was attempting to do as a Commissioner when we made our decision was to encourage competition for voice service by allowing FDN to continue to be the service of voice customers or to become a new voice service provider, and at the same time, not do anything at all that would provide a chilling effect on BellSouth's decision to invest tremendous dollars into DSL. And I guess my question is, have we accomplished that? Do

1 we need to clarify something in order to
2 accomplish that?

3 MR. DOWDS: I'm not sure I know the answer
4 to the second part, but I think I know the
5 answer to the first part.

6 Our understanding of the Commission vote is
7 as follows: That BellSouth is forbidden from
8 disconnecting FastAccess when a customer
9 migrates to FDN as its voice provider. But the
10 Commission did not vote that BellSouth is
11 obligated to provide FastAccess service to any
12 FDN customer unless the customer migrated. This
13 is part of, I believe, FDN's reconsideration --

14 COMMISSIONER DEASON: I think that goes
15 directly to Issue 1.

16 MR. DOWDS: I'm sorry.

17 COMMISSIONER PALECKI: You take that a step
18 further. So we didn't rule that BellSouth is
19 required to provide FastAccess to an existing
20 Florida Digital voice customer; correct?

21 CHAIRMAN JABER: In all fairness, I don't
22 know that staff can answer that. Perhaps that's
23 a discussion we need to have.

24 COMMISSIONER PALECKI: Well, let me ask
25 you, is that your -- is that what you just

1 said? I thought that --

2 MR. DOWDS: That was my understanding,
3 but --

4 COMMISSIONER PALECKI: That was your
5 understanding.

6 MR. DOWDS: Obviously, the Chairman is
7 correct that that's a matter for the
8 Commissioners to resolve and to clarify.

9 COMMISSIONER DEASON: I'll be glad to
10 share my point of view as to what we discussed.

11 CHAIRMAN JABER: Go ahead, Commissioner
12 Deason.

13 COMMISSIONER DEASON: My motivation was and
14 my decision-making process was to try to
15 eliminate a barrier to local competition, and I
16 thought the barrier was this: If there is an
17 existing BellSouth customer which also
18 subscribes to BellSouth's FastAccess service,
19 and that customer is persuaded to change voice
20 provider to FDN, that there should be -- it
21 should be an obligation on BellSouth's part, if
22 this customer chooses, to continue to provide
23 FastAccess service. I felt that it was impeding
24 competition for that customer to be told, "If
25 you change voice providers, you will lose your

1 FastAccess service," and that that would be a
2 barrier to competition.

3 I had no intentions of taking that a step
4 further and saying that if there is an existing
5 FDN customer who chooses to acquire FastAccess
6 service -- that's between the customer and the
7 FastAccess provider, and that's not a regulatory
8 matter, and that's not a hindrance, in my
9 opinion, to local competition. That is already
10 a customer of FDN.

11 And so that's what my motivation was, and
12 that was my understanding of the decision.

13 CHAIRMAN JABER: Yes, Commissioner Palecki,
14 I cannot say it better than that. I
15 wholeheartedly agree with the way Commissioner
16 Deason stated it. But I also think that's the
17 way staff states it in the clarification and in
18 the reconsideration issues.

19 You may recall, we even went a step further
20 and said this isn't about creating competition
21 in the DSL market, and I think we recognized --
22 I certainly thought I recognized what we could
23 and could not do as it related to speaking to
24 the issue of DSL. The impediment I saw related
25 to what existed, in my opinion, on the voice

1 market with respect to the current BellSouth
2 customer that wanted to migrate into the voice
3 market using FDN as a provider. So I was only
4 speaking to the current BellSouth customers. I
5 think staff has captured what I voted on.

6 COMMISSIONER PALECKI: I just -- I think I
7 agree with you.

8 CHAIRMAN JABER: Okay.

9 COMMISSIONER PALECKI: I would just like to
10 explore it one step further.

11 CHAIRMAN JABER: Go ahead.

12 COMMISSIONER PALECKI: I think that if an
13 existing FDN customer who goes to BellSouth and
14 says, "I would like to have FastAccess service,
15 and I'm an existing Florida Digital voice
16 customer," I don't believe that BellSouth should
17 be obligated to provide FastAccess. It's my
18 understanding that there would be additional
19 expense involved to provide that service.

20 But at the same time, I'm not sure there
21 wouldn't be some impediment to competition if
22 there was a message sent in that process where
23 the customer was told, "As long as you're a
24 Florida Digital customer, you cannot have
25 FastAccess." And I don't know if we addressed

1 that in our order. I don't know if that ever
2 was at issue. But I do have a concern.

3 CHAIRMAN JABER: Right. I know, again as
4 one Commissioner, I didn't address it, because I
5 don't think that was in front of us.

6 I would note, as staff has noted, there is
7 a petition, a more generic petition that was
8 filed by FCCA, maybe, that will come in front of
9 us. I would hope, just generally speaking in
10 the form of dicta, that that doesn't become the
11 next issue. I hope the spirit of what we were
12 trying to accomplish in this specific
13 arbitration is understood by the parties, that
14 for the reason we were trying to remove the
15 existence of this impediment, I could see those
16 reasons cropping up again in a different
17 fashion, and I would hope that all the parties
18 avoid that.

19 COMMISSIONER PALECKI: And without -- you
20 know, without going to the extent of
21 reconsideration, I certainly would hope that
22 BellSouth or any telecommunication provider that
23 is providing DSL service would continue to
24 provide that service to customers who are voice
25 customers of other competitors, as long as it's

1 profitable to do so, and that there not be a
2 policy reason or a policy decision made not to
3 provide service to these customers or provide
4 DSL to these customers.

5 I can move to deny reconsideration.

6 CHAIRMAN JABER: To deny reconsideration,
7 or is that --

8 COMMISSIONER DEASON: Can we take this
9 issue by issue, because I have some questions on
10 Issue 2.

11 CHAIRMAN JABER: Right. What you just said
12 is really a motion to grant staff on Issue 1,
13 isn't it, Commissioner Palecki?

14 COMMISSIONER PALECKI: Yes.

15 COMMISSIONER DEASON: I can second that.

16 CHAIRMAN JABER: There's a motion and a
17 second to grant staff's recommendation on Issue
18 1. All those in favor say aye.

19 (Simultaneous affirmative responses.)

20 CHAIRMAN JABER: Issue 1 is approved.
21 Issue 2, discussion on Issue 2.

22 COMMISSIONER DEASON: I have a question on
23 Issue 2. The question of how BellSouth
24 provisions the continued FastAccess service,
25 reading the recommendation, I take it that there

1 are two ways that could be done. There could be
2 the provision of another loop with a number that
3 identifies that, and that is consistent with the
4 current methodology of provisioning the service.
5 And if they provided it under the FDN loop, then
6 there would need to be some changes in the
7 methodology that they provision that. And I may
8 be explaining it at a very elementary level, but
9 is that basically correct?

10 MR. DOWDS: Pretty much. The difference is
11 between -- their OSS for retail offerings tracks
12 telephone numbers. It doesn't track what are
13 called circuit IDs. And my understanding is
14 that UNEs will be tracked as circuit IDs, not by
15 telephone numbers. So they don't know anything
16 about -- know the same data on UNE loops that
17 they would know about the retail offering.

18 COMMISSIONER DEASON: And there is some
19 question as to which is a more efficient way to
20 do that, and apparently it's BellSouth's
21 position that, at least from a cost standpoint,
22 that it is more cost-effective for them to
23 provision it through a separate loop that would
24 have a telephone identifying number as opposed
25 to trying to modify their systems of tracking

1 and trying to set up a system that would
2 identify the -- what is it? The circuit number
3 or whatever. And it's my understanding that
4 BellSouth prefers the ability to provision it
5 with the separate loop. Is that correct?

6 MR. DOWDS: Yes.

7 COMMISSIONER DEASON: Now, staff does not
8 agree with that. Is that also correct?

9 MR. DOWDS: The key question that we
10 struggle with is, the Commission's decision was
11 basically memorialized in one sentence, and
12 basically it said that it could not be
13 disconnected. So the issue was, what does that
14 mean? Does disconnect mean that from the
15 consumer's point of view, the change is
16 essentially transparent?

17 Bell's proposal is, in essence, to
18 establish -- for a pre-existing FastAccess
19 customer's present premise is to essentially
20 install a DSL-only line, so it would, quote,
21 appear different. We frankly struggled -- we
22 thought that the intent was that the transition
23 would be transparent, but the record is sparse,
24 to say the least.

25 CHAIRMAN JABER: Well, on that point, on

1 the record, if I could interject here,
2 Commissioner Deason, I struggled with the same
3 thing. The provisioning issue, how the seamless
4 transition could be accomplished I couldn't find
5 record evidence on. Is that -- do you agree
6 with that?

7 MR. DOWDS: We could find no discussion on
8 this issue.

9 Just to embellish, BellSouth's reason for
10 wanting to put in a DSL-only line is that --
11 there is record evidence from one or more of the
12 BellSouth witnesses that to make revisions to
13 its OSS, which are designed to track telephone
14 numbers, to in addition track circuit IDs for
15 UNE loops would be, I believe the phrase,
16 onerous and burdensome. So their proposal is,
17 to avoid doing that, which they know would be --
18 they have record evidence would be onerous and
19 presumably expensive, their alternative is the
20 DSL-only line, in essence, for a FastAccess
21 migration.

22 And we used the word "envision," because we
23 tried to construct, based upon the limited
24 record, what the Commission's probable intent
25 was, and that's why we're frankly back before

1 you.

2 COMMISSIONER DEASON: Well, I understand
3 the language of the order, something to the
4 effect of "shall not disconnect." My personal
5 interpretation is that should not be interpreted
6 so literally. If it can be provisioned, if
7 BellSouth believes that it is a better
8 alternative to provision that DSL service over a
9 separate DSL-only line, and if that means
10 disconnecting one and then reconnecting another,
11 the same result is achieved, in that the
12 customer is able to switch voice providers, but
13 is still retained as a FastAccess service. They
14 still retain that service.

15 Now, there may be some period of time -- I
16 don't know if it's seconds or minutes or hours,
17 or maybe even a day that they would be without
18 their service while that new provisioning took
19 place, and I would hope that that would be
20 provisioned as seamless as possible. But I
21 would not put so much emphasis on the term
22 "shall not disconnect." I would not interpret
23 that to mean that that means that it's to the
24 exclusion of all other perhaps more effective
25 means of providing or more cost-effective means

1 of providing the service.

2 CHAIRMAN JABER: Commissioner Deason, I had
3 the same discussion with staff with respect to
4 do we even need to reach the decision of how the
5 service should be provisioned. But where I
6 still am stuck -- and, David, you're going to
7 have to help me get past this. If our intent
8 was, and mine was, to remove the impediment
9 involved with migrating a customer to another
10 voice carrier, I don't want the transitional
11 step to be the new impediment. And I'm having
12 trouble reconciling it.

13 And, David I know it's been a while since
14 we talked about this, but isn't it correct that
15 establishing the DSL, the second DSL loop is not
16 a seamless transition for the customer?

17 MR. DOWDS: There would be some period of
18 time where there -- there would be probably a
19 momentary, at a minimum, a momentary disruption
20 of service. I doubt it would be that
21 significant. But it would entail essentially
22 installing a second phone line. And --

23 CHAIRMAN JABER: Right. Now --

24 MR. DOWDS: I'm sorry.

25 CHAIRMAN JABER: The reason I got

1 comfortable with staff's recommendation, if we
2 think about this as a normal arbitration
3 proceeding, which is how we approached it, we
4 make decisions in arbitration and then say to
5 the parties, "Now go off and reach a decision
6 that's going to be consistent with our vote."
7 We don't tell them necessarily how to get to the
8 bottom line.

9 MR. DOWDS: Typically that's correct.

10 CHAIRMAN JABER: That's the first
11 thought. The second thought I had is just a
12 sincere discomfort with saying one method of
13 provision is adequate over another when the
14 record simply wasn't there to make an educated
15 guess.

16 And then finally, we've got that other
17 proceeding where these kinds of issues could be
18 explored on a more generic basis.

19 COMMISSIONER PALECKI: I agree with both of
20 you. I certainly think our intent was not to
21 state any kind of specific, or even to use the
22 word "seamless." We just wanted to make sure
23 that the voice service would be provided along
24 with the DSL service. At least that was my
25 intent, and I didn't mean to make any sort of

1 very specific focused decision to that extent.

2 COMMISSIONER DEASON: Let me find out this
3 question. If that is the way BellSouth chooses
4 to provision, does that create any tariff
5 problems or any additional charges to
6 customers? Because I can tell you that if it
7 involves additional charges to customers, I can
8 see where that would be an impediment to
9 competition.

10 MR. DOWDS: My recollection is that
11 BellSouth indicates in its petition for
12 reconsideration that although it would not
13 assess nonrecurring charges associated with the
14 installation of the second line, that at some
15 point in time, they will charge for that second
16 line.

17 Now, I don't think they're all that
18 specific in their petition as to whether that
19 would be an incremental charge on top of the
20 monthly charge for FastAccess, but I presume
21 that would be the case. That's the way it
22 reads, but it's not completely clear.

23 COMMISSIONER DEASON: Well, Commissioners,
24 if that's the case, then I think we're right
25 back to an impediment to competition, because if

1 a customer learns that if they migrate to a
2 different voice provider and if they choose to
3 retain FastAccess, there's a \$5 a month increase
4 in their FastAccess bill, that's an impediment
5 to switching their voice provider, it seems to
6 me.

7 COMMISSIONER PALECKI: I agree.

8 COMMISSIONER DEASON: And we haven't
9 accomplished anything.

10 COMMISSIONER PALECKI: I agree completely.
11 I think we should not dictate to BellSouth how
12 they accomplish this task. I think we should
13 let them choose what is the least cost or the
14 most cost-effective alternative, the least cost
15 way, the most reliable way they want to
16 accomplish this. But certainly if we see an
17 additional charge being made as a result, I
18 think that is an impediment as well, and it
19 wasn't the intent of our order. So I would be
20 willing to at least clarify our order to that
21 extent.

22 COMMISSIONER DEASON: Let me be clear. I'm
23 not saying that we should dictate to BellSouth
24 what they charge for FastAccess. I'm not trying
25 to use this as a way to try to assert any

1 jurisdiction over FastAccess. That is not the
2 case at all.

3 I guess what my point is that there should
4 not be a separate charge different from a
5 similarly situated customer -- a similarly
6 situated customer should not have to pay more
7 simply because they choose to migrate to a
8 different voice provider. It should be the same
9 charge. BellSouth is free to charge what they
10 want, and the market will dictate, I would
11 assume, what they can charge. But I wouldn't
12 want two similarly situated customers, one
13 having voice service from FDN and another having
14 all services from BellSouth, and the FastAccess
15 charge is more for the customer who chooses to
16 obtain voice service from FDN. That seems to be
17 -- in fact probably maybe even could be
18 discriminatory.

19 CHAIRMAN JABER: I think staff's language
20 gets us there. I don't know that I want to --
21 this is so direct that I would like to give the
22 parties an opportunity to digest it, let
23 BellSouth think of the options that they have in
24 complying with the order. Let's give them an
25 opportunity to talk about it a little bit more.

1 I think what they really needed today was this
2 direction, and I don't know that we need to do
3 anything -- just as one Commissioner, I'm not
4 willing to do anything more than saying to make
5 it seamless, don't create a new impediment,
6 don't inadvertently create a new impediment, and
7 then we leave it to their good management
8 judgment. When I say your, I mean plural. You
9 know, FDN may have some ideas that they can
10 share with BellSouth.

11 COMMISSIONER DEASON: Let me clarify one
12 thing. I just thought about it right when I was
13 saying about the additional charge. If there
14 are discounts available to a BellSouth customer
15 who chooses to obtain all of their services from
16 BellSouth, that may be a justified reason to
17 have a package price or something like that.
18 But if there's a single identifiable price for
19 FastAccess for one customer that happens to have
20 voice service from BellSouth, and another
21 customer that just happens to have voice service
22 from FDN, I think unless there are legitimate
23 reasons, efficiencies from packaging things
24 together, that those prices for FastAccess
25 should be the same. Does that make sense?

1 MR. DOWDS: Yes. I think I -- I shouldn't
2 say -- I'm going to say it anyway. I'm going to
3 play devil's advocate and tell you BellSouth's
4 argument.

5 COMMISSIONER DEASON: Okay.

6 MR. DOWDS: And essentially their argument
7 is that the pricing of FastAccess is set at the
8 level it is because it is typically provided
9 solely to a BellSouth voice user. Essentially
10 what they're doing is, they're getting double
11 duty of the voice subscriber's loop, so there is
12 no cost recovery implicit in the FastAccess
13 service proper. And possibly this harkens to
14 why their proposed migration is to a stand-alone
15 loop, so they get recovery for the loop.

16 The counter to that might be that, well,
17 you're already selling them a UNE loop, so if
18 the UNE loop is compensatory, then unless
19 there's an identifiable cost increment that we
20 don't know about, you should be held harmless.

21 I'm just trying to lay down the argument.

22 CHAIRMAN JABER: Isn't this even just
23 more --

24 MR. DOWDS: I don't know. The record is
25 scarce on this, of course.

1 CHAIRMAN JABER: Philosophically, David, I
2 guess I'm still up here with, in a competitive
3 market, all of those pricing structures change,
4 because the reality is, they may not be
5 compensated for the value of all of their
6 services. And I think Commissioner Deason
7 raises a very good point, anticipating a future
8 scenario where all companies are going to start
9 bundling their prices and their services, and,
10 you know, I don't know that it will be easily
11 identifiable anymore anyway.

12 I guess I'm not so concerned about whether
13 they're getting compensated for the loop in this
14 scenario. And we never got to that point.
15 That's not what the purpose of arbitrating this
16 issue was.

17 COMMISSIONER DEASON: And where I'm at is,
18 I would not want Bell's choice of provisioning
19 to be the sole reason that they charge more for
20 FastAccess service. They can have that option
21 to provision it that way, but there shouldn't be
22 an additional charge just for their choice if
23 that's the method of provisioning.

24 And I guess that's -- you know, in the
25 future there may be some situations that come to

1 our attention that we may have to address. I
2 would follow what the Chairman is saying, that I
3 think BellSouth -- I would think they understand
4 what we're trying to achieve and that they need
5 to be given some discretion and utilize their
6 good judgment in trying to achieve that. And I
7 guess if we have disputes in the future, we'll
8 just address them when they come.

9 COMMISSIONER PALECKI: With that said, does
10 that mean that we're granting a motion for
11 clarification consistent with the previous
12 dialogue?

13 CHAIRMAN JABER: Well, let me put it this
14 way. I could support staff's recommendation on
15 Issue 2. Commissioner Palecki, it involves
16 denying reconsideration, but clarifying -- if
17 you look at the last sentence, that's the part
18 that we're clarifying.

19 COMMISSIONER PALECKI: What page are you
20 on, Madam Chairman?

21 CHAIRMAN JABER: Page 9. Isn't page 9
22 Issue 2 on the recommendation statement?

23 COMMISSIONER DEASON: The last sentence of
24 the recommendation statement?

25 CHAIRMAN JABER: Right. I can support the

1 entire recommendation statement.

2 COMMISSIONER DEASON: I can agree with that
3 if you mean by that that the term "seamless"
4 does not exclude the option for BellSouth to
5 provision that through a separate DSL-only line.

6 CHAIRMAN JABER: Oh, that it doesn't
7 preclude it?

8 COMMISSIONER DEASON: Does preclude that.

9 CHAIRMAN JABER: I read this recommendation
10 to say precisely that, Commissioner Deason, but
11 it's worth getting staff's --

12 COMMISSIONER DEASON: I guess I need that
13 clarified then. I just want to make sure that
14 that's -- as long as it's understood that it
15 should be as seamless as possible, but that
16 there is the option to provision it over a
17 separate DSL-only line.

18 MR. DOWDS: May I -- one clarificatory
19 question. I believe I heard you say earlier
20 that the caveat to that is that there should be
21 no difference in the price for the end user for
22 the stand-alone FastAccess product, whether it's
23 on a UNE loop or on a separate loop?

24 COMMISSIONER DEASON: That's what -- I
25 would agree with that. I don't know if it's in

1 the motion or not, but I would agree with that.
2 And maybe we need to discuss that, whether that
3 needs to be part of the motion or not.

4 CHAIRMAN JABER: I could understand if you
5 want to make it part of the motion. I think we
6 need to be even more general than that, because
7 I don't want to limit -- I don't want them to
8 just focus on one thing as an option. I want
9 them to go back and think about all the options
10 that are available.

11 I thought staff really left it really open.
12 They say staff believes that the Commission
13 contemplated that BellSouth would provide its
14 FastAccess Internet Service in a seamless manner
15 so that the customer's service would not be
16 altered.

17 MR. DOWDS: Chairman Jaber, may I -- can I
18 refer you to page 19?

19 CHAIRMAN JABER: Yes, uh-huh.

20 MR. DOWDS: The last sentence of the
21 paragraph at the top of the page. As phrased
22 there, that envisions that a migration would
23 occur to the existing FDN voice UNE loop, not to
24 the second loop. If that's not the intent --
25 that's why I'm seeking clarification, to make

1 sure the order reflects your desires.

2 CHAIRMAN JABER: I think the bottom line
3 decision we would like to make, David -- and,
4 Commissioners, you can correct me if I'm wrong
5 -- is to say to BellSouth, make the transition
6 of the voice customer as seamless as possible.
7 And I don't care how that gets done, but
8 increasing prices and cutting off service does
9 not equate to seamless.

10 COMMISSIONER PALECKI: I agree, Chairman
11 Jaber. I believe that BellSouth should be able
12 to accomplish this task in any manner they want,
13 over a single UNE loop, a second new loop.

14 CHAIRMAN JABER: Yes. I don't care.

15 COMMISSIONER PALECKI: If there's some new
16 technology, you know, however they want to do
17 it, whatever is most expedient for them, but it
18 should not include an additional charge to the
19 customer. It should be seamless or transparent.

20 CHAIRMAN JABER: If we can keep it as
21 general as that, I wholeheartedly agree.

22 COMMISSIONER DEASON: And I can agree with
23 that, with the understanding that when you say
24 no disruption of service, there may be some type
25 of a momentary disruption. I don't know if it's

1 seconds or minutes or what, but anytime -- there
2 may be that situation.

3 CHAIRMAN JABER: Right.

4 COMMISSIONER DEASON: With that, I can
5 agree.

6 CHAIRMAN JABER: Is that your motion?

7 COMMISSIONER PALECKI: Well, I'll second
8 Commissioner Deason's motion.

9 CHAIRMAN JABER: Commissioner Deason's
10 motion.

11 COMMISSIONER DEASON: I'll make the motion
12 as stated by the Chairman.

13 COMMISSIONER PALECKI: Second.

14 CHAIRMAN JABER: Okay. Okay. So there's a
15 motion and a second. All those in favor say
16 aye.

17 (Simultaneous affirmative responses.)

18 COMMISSIONER PALECKI: Issue 2 is approved
19 as clarified and discussed herein.

20 Issue 3. Issue 3.

21 COMMISSIONER DEASON: Move staff.

22 COMMISSIONER PALECKI: Second.

23 CHAIRMAN JABER: Motion and a second. All
24 those in favor say aye.

25 (Simultaneous affirmative responses.)

1 CHAIRMAN JABER: Issue 3 is approved.

2 And let's see. Since we approved Issue 3,
3 staff suggests that the cross-motion should be
4 denied, which would be moving staff on Issue 4.

5 COMMISSIONER DEASON: Move staff.

6 COMMISSIONER PALECKI: Second.

7 CHAIRMAN JABER: Motion and a second. All
8 those in favor say aye.

9 (Simultaneous affirmative responses.)

10 CHAIRMAN JABER: Issue 4 is approved.
11 Issue 5.

12 COMMISSIONER PALECKI: Move staff.

13 COMMISSIONER DEASON: Second.

14 CHAIRMAN JABER: All those in favor say
15 aye.

16 (Simultaneous affirmative responses.)

17 CHAIRMAN JABER: Issue 5 is approved. That
18 concludes this item, and we'll go immediately
19 into internal affairs. Thank you.

20 (Conclusion of consideration of Item 25.)


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2 CERTIFICATE OF REPORTER3
4 STATE OF FLORIDA)5 COUNTY OF LEON)
67 I, MARY ALLEN NEEL, do hereby certify that the
8 foregoing proceedings were taken before me at the time
9 and place therein designated; that my shorthand notes
10 were thereafter transcribed under my supervision; and
11 that the foregoing pages numbered 1 through 31 are a
12 true and correct transcription of my stenographic
13 notes.14 I FURTHER CERTIFY that I am not a relative,
15 employee, attorney or counsel of any of the parties,
16 or relative or employee of such attorney or counsel,
17 or financially interested in the action.18 DATED THIS 10th day of October, 2002.
19
2021 
22 _____
23 MARY ALLEN NEEL, RPR
24 100 Salem Court
25 Tallahassee, Florida 32301
(850) 878-2221