

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Complaint of Dietrich) DOCKET NO. 961404-TL
Service Company against) ORDER NO. PSC-97-0014-FOF-TL
BellSouth Telecommunications,) ISSUED: January 6, 1997
Inc. regarding services and)
charges)
_____)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK, Chairman
J. TERRY DEASON
JOE GARCIA
JULIA L. JOHNSON
DIANE K. KIESLING

NOTICE OF PROPOSED AGENCY ACTION
ORDER DENYING COMPLAINT

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

On October 10, 1995, Mr. Paul Dietrich, owner of Dietrich Service Company (Mr. Dietrich), contacted the Division of Consumer Affairs and complained that he had been denied access to BellSouth's offices at 500 North Orange Street in Orlando. Mr. Dietrich had gone to BellSouth's office to review the company's tariff regarding Integrated Services Digital Network (ISDN) service. Mr. Dietrich also questioned why BellSouth charged him two installation charges of \$130 and \$56 for his ISDN service. He thought he was being unfairly charged for the terminating jacks at the point of demarcation. In order to resolve this complaint, Mr. Dietrich requested access to BellSouth's tariffs, an updated bill for his ISDN service, and resolution of his service complaint.

In subsequent calls to the Division of Consumer Affairs, Mr. Dietrich added an issue to his original complaint. He disputed a tax calculation for the billing adjustment that BellSouth was going to issue on his account. Mr. Dietrich emphasized his desire to have this matter resolved informally.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

A telephone conference was held December 21, 1995, with BellSouth representatives, Commission staff, and Mr. Dietrich participating. An informal conference was held February 8, 1996, at the Commission's Orlando District office. Participants included staff from the Division of Consumer Affairs and the Division of Communications, BellSouth's representatives, and Mr. Dietrich. A second informal conference was held August 9, 1996.

Mr. Dietrich initially complained to the Commission because a BellSouth technician would not hook the ISDN line that he had ordered to any of the termination blocks in the equipment room in his building.

Mr. Dietrich argued that while he agreed with BellSouth's tariff on the demarcation point, he disagreed with the way BellSouth was interpreting the tariff. He believed the demarcation point should be located in the equipment room. He disputed BellSouth's interpretation of Rule 25-4.0345, Florida Administrative Code, concerning multi-tenant buildings. Further, Mr. Dietrich believed that the minimum point of entry (MPOE) demarcation decision by the FCC in Docket 88-57 is a more appropriate determination of the correct point of demarcation than Rule 24-4.0345. In addition, he asserted that BellSouth has been using the building owner's wire. Mr. Dietrich maintains that the company is taking over the property rights of the building owner. He wants everything demarcated in the equipment room.

BellSouth claimed that Mr. Dietrich's building is a multi-customer building. As such, BellSouth asserted that if a customer in the building requests service, the company must fix the demarcation point of the service at the customer's premises, according to Rule 25-4.0345, Florida Administrative Code. BellSouth stated that the company runs its own lines, and does not use the building owner's wire.

We agree that Mr. Dietrich's building is a multi-customer building. Pursuant to Rule 25-4.0345(1)(b), 2 and 3, Florida Administrative Code, the following apply to multi-customer buildings:

2. Single Line/Multi-Customer Building - Within the customer's premises at a point easily accessed by the customer.
3. Multi Line Systems/Single or Multi Customer Building - At a point within the same room and within 25 feet of the FCC registered terminal equipment or cross connect field.

We find that a common equipment room is not an appropriate demarcation point in this case. BellSouth is required to establish all demarcation points within the customer's premise in a manner that meets the applicable requirements. We hold that BellSouth is in compliance with PSC Rule 25-4.0345(1)(b)3, Florida Administrative Code, for Multi Line Systems/Single or Multi Customer Building and that BellSouth physically interconnected customer-owned wiring with its network appropriately.

As of December 1, 1996, BellSouth reported that the company had disconnected all ISDN equipment at Mr. Dietrich's building, and had credited his account for the full amount of any charges associated with his ISDN service. BellSouth also maintained that it properly installed Mr. Dietrich's service on an RJ45 jack, which is a normal ISDN termination. We agree that the RJ45 jack is appropriate for terminating ISDN service.

BellSouth waived the jack charges and service charges related to the ISDN service from the date of installation on September 20, 1995, until October 3, 1995, when the installation was corrected. According to BellSouth's records, however, Mr. Dietrich still owes the company for local charges accruing after October 3, 1995. As of December 1, 1996, BellSouth has recorded \$379.54 on Mr. Dietrich's account for local charges for telephone service, and late charges associated with the past due amount.

We find that the amount Mr. Dietrich has been billed to cover local charges and late fees is appropriate. While BellSouth has credited Mr. Dietrich's account for all fees associated with installation of the ISDN line and ISDN service charges, Mr. Dietrich has accrued approximately \$28 a month in local charges. Since Mr. Dietrich did get the benefit of local service, we agree that the billed amount of \$379.54 is a correct assessment of the amount necessary to cover the service currently provided.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that BellSouth is in compliance with Rule 25-4.0345, Florida Administrative Code, Customer Premises Equipment and Inside Wire. It is further

ORDERED that the outstanding regular service charges, totalling \$379.54, BellSouth has billed to Mr. Dietrich are found to be appropriate. It is further

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ORDERED that, unless a person whose substantial interests are affected by the action proposed herein files a petition in the form and by the date specified in the Notice of Further Proceedings or Judicial Review, this Order shall become final and effective and this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 6th day of January, 1997.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

by: Kay Flynn
Chief, Bureau of Records

(S E A L)

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on January 27, 1997.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party substantially affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.