

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by AT&T
Communications of the Southern
States, Inc. to require carriers
to file interconnection
agreements, in compliance with
Section 252(a) of the
Telecommunications Act of 1996.

DOCKET NO. 960290-TP
ORDER NO. PSC-97-0760-FOF-TP
ISSUED: June 26, 1997

The following Commissioners participated in the disposition of
this matter:

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

NOTICE OF PROPOSED AGENCY ACTION ORDER
REGARDING THE FILING OF
ALL INTERCONNECTION AGREEMENTS

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 March 1, 1996, AT&T Communications of the Southern States,
Inc. (AT&T) requested that we require the filing of all existing
interconnection agreements between local exchange
telecommunications companies and other local exchange
telecommunications companies pursuant to Section 252(a)(1) of the
Telecommunications Act of 1996 (the Act).

On July 24, 1996, we issued Proposed Agency Action Order No.
PSC-96-0959-FOF-TP. Therein, we determined that Section 252(a)(1)
of the Telecommunications Act of 1996 requires the filing of
interconnection agreements between competitive carriers in the same
geographic markets entered into before or after the enactment of
the Act. We also required that existing interconnection agreements
between competitive carriers in the same geographic markets that
had not yet been filed had to be filed by the incumbent local

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PROPOSED AGENCY ACTION ORDER

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exchange company within 14 days from the issuance of that Order. On August 5, 1996, BellSouth Telecommunications, Inc. (BellSouth) filed its notice of compliance with Order NO. PSC-096-0959-FOF-TP.

On August 8, 1996, the Federal Communications Commission (FCC) released its First Report and Order (FCC Order), 96-325, in CC Docket No. 96-98. The FCC Order established the FCC's requirements for interconnection, unbundling, and resale based on its interpretation of the Act. We appealed certain portions of the FCC Order, and requested a stay of the order pending that appeal. The request for stay was granted by the Eighth Circuit Court of Appeals.

In Order 96-325, the FCC included a specific analysis of Section 252(a) of the Act in its Order. On August 13, 1996, MCI Telecommunications Corporation and MCImetro Access Transmission Services, Inc. (MCI) protested our Proposed Agency Action Order No. PSC-96-0959-FOF-TP. Thereafter, on August 14, 1996, AT&T also filed a protest of our order, and requested a hearing. Both MCI and AT&T argued that our interpretation of Section 252(a) was contrary to the Act. On September 28, 1996, the portions of FCC Order 96-325 that were not stayed became final. Among the portions of the FCC Order that were not stayed and became final on that date was the FCC's interpretation of Section 252(a) of the Act. The applicable portions of the FCC Order are, however, currently being reviewed by the Eighth Circuit.

FCC's Interpretation of Section 252(a)(1)

At paragraphs 165 through 171 of the FCC Order, the FCC specifically addresses Section 252(a) of the Act, and the requirement to file interconnection agreements. Therein, the FCC concludes that all interconnection agreements, including any agreement negotiated before the enactment of the Act, must be submitted to the state commission for approval under Section 252(e) of the Act. In addition, the FCC requires that all pre-Act agreements between Class A carriers must be filed by no later than June 30, 1997. The FCC states that the Act does not exempt certain categories of agreements from the requirements of 252(e). The FCC further notes its belief that the pro-competitive goals of the Act are best met by subjecting all agreements to review by the state commissions.

While it is the LECs' obligation, rather than this Commission's obligation, to comply with the FCC Order, we find it appropriate to issue an order conforming our position on the intent of 252(a) with that set forth by the FCC. Thus, we shall require the filing of all interconnection agreements with us for approval under Section 252(e) of the Act, in conformance with FCC Order 96-325. To prepare for the numerous agreements we expect to be filed, we shall also require all incumbent LECs to submit a list of all their interconnection agreements within 30 days from the issuance of this Order.

In view of the fact that the FCC's interpretation of 252(a) is the subject of an appeal, and since our first order on this issue, Order No. PSC-96-0959-FOF-TP, was issued as Proposed Agency Action, we find it appropriate to issue this subsequent order on the issue as Proposed Agency Action. In addition, we find that this Proposed Agency Action Order disposes of the issues raised in both MCI's and AT&T's protests. It is, therefore, no longer necessary to hold a hearing on AT&T's and MCI's protests of Order No. PSC-96-0959-FOF-TP. Furthermore, since the issue addressed herein is purely legal, any protest of this Order shall be set for an informal, Section 120.57(2), Florida Statutes, hearing.

Effect of Compliance With Order No. PSC-96-0959-FOF-TP

As previously stated, BellSouth filed notice of its compliance with Order No. PSC-96-0959-FOF-TP, on August 5, 1996. In compliance with that Order, BellSouth filed its interconnection agreements with carriers competing in the same geographic markets. FCC Order 96-325, however, clearly requires the filing of all interconnection agreements by June 30, 1997. Thus, this Order conforming our position with that set forth by the FCC shall require the filing of all interconnection agreements in accordance with FCC Order 96-325. BellSouth shall, therefore, be required take any additional steps necessary to comply with this Order.

We emphasize that we are not imposing additional requirements on BellSouth beyond those applied to all incumbent LECs. We intend only to clarify that while BellSouth notified us that BellSouth had filed its interconnection agreements in compliance with Order No. PSC-96-0959-FOF-TP, BellSouth must now make the additional filings necessary to comply with this Order.

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Based on the foregoing, it is therefore

ORDERED by the Florida Public Service Commission that all interconnection agreements shall be filed for approval under Section 252(e) of the Telecommunications Act of 1996, in conformance with FCC Order 96-325. It is further

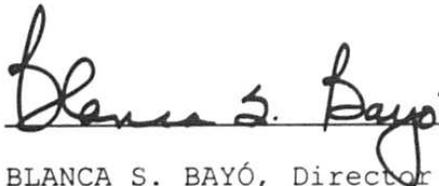
ORDERED that all incumbent LECs shall file a list of all their interconnection agreements within 30 days from the issuance of this Order. It is further

ORDERED that BellSouth Telecommunications, Inc. shall make any additional filings necessary to comply with this Order. It is further

ORDERED that the provisions of this Order, except for our decision that the protests of Order No. PSC-96-0959-FOF-TP shall not be set for hearing, are issued as proposed agency action, and shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that in the event this Order becomes final, this Docket shall be closed.

By ORDER of the Florida Public Service Commission, this 26th day of June, 1997.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

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 July 17, 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.

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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.