

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of BellSouth
Telecommunications, Inc. to
remove interLATA access subsidy
received by St. Joseph Telephone
& Telegraph Company.

DOCKET NO. 970808-TL
ORDER NO. PSC-98-0481-PCO-TL
ISSUED: April 2, 1998

ORDER GRANTING MOTION TO HOLD
DUE DATE IN ABEYANCE

On July 1, 1997, BellSouth Telecommunications, Inc. (BellSouth) filed a Petition to Remove InterLATA Access Subsidy received by St. Joseph Telephone and Telegraph Company, now GTC, Inc. (GTC). On July 22, 1997, BellSouth filed a revised Petition. On August 11, 1997, St. Joseph filed an Answer in opposition to BellSouth's revised Petition. On February 16, 1998, the parties presented oral argument on this and other matters. By Order No. PSC-98-0300-PCO-TL, issued February 18, 1998, I granted, in part, and denied, in part, BellSouth's Motion to Compel. By that Order, I required GTC to file the compelled discovery responses by March 2, 1998.

On February 26, 1998, GTC filed a Motion to Hold Due Date for Interrogatory Responses in Abeyance. On February 27, 1998, GTC filed a Motion asking the Commission to reconsider my decision to partially grant BellSouth's Motion to Compel. On March 6, 1998, BellSouth filed Responses to both motions. The Commission is scheduled to consider GTC's Motion for Reconsideration at its March 24, 1998, Agenda Conference. In this Order, I address only GTC's Motion to Hold Due Date for Interrogatory Responses in Abeyance.

GTC

In its Motion, GTC stated that Order No. PSC-98-0300-PCO-TL was issued February 18, 1998. By that Order, it was required to submit interrogatory responses by March 2, 1998. GTC notes, however, that Rule 25-22.0376, Florida Administrative Code, provides that a motion for reconsideration of a non-final order may be filed within 10 days after issuance of the order. GTC stated that since Order No. PSC-98-0300-PCO-TL was filed February 18, 1998, the last day for submitting a motion for reconsideration was also the date that the discovery responses were ordered to be provided, March 2, 1998.

DOCUMENT NUMBER-DATE

03840 APR-28

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GTC argued that the Commission could not address a motion for reconsideration of Order No. PSC-98-0300-PCO-TL before March 2, 1998. GTC asks, therefore, that the March 2, 1998, due date for interrogatory responses be held in abeyance pending the Commission's decision on GTC's Motion for Reconsideration of Order No. PSC-98-0300-PCO-TL.

BellSouth

In its Response, BellSouth asks that GTC's Motion be denied. BellSouth argues that Order No. PSC-98-0300-PCO-TL clearly states that BellSouth's requests for earnings information is appropriate. In addition, BellSouth notes that by that Order, I encouraged the parties to work together to eliminate any unnecessary or duplicative requests. BellSouth argues that it complied with my directive, as evidenced by BellSouth's Exhibit A to its Response, a letter to the Commission dated February 23, 1998. Counsel for BellSouth states that when asked for a response to the February 23, 1998, letter, counsel for GTC indicated that GTC's Motions for reconsideration and to hold the interrogatory due date in abeyance were to be GTC's only response.

BellSouth also argues that the Order clearly allowed GTC to file specific objections as to the scope or burden of certain discovery requests; therefore, BellSouth argues that GTC could have complied with Order No. PSC-98-0300-PCO-TL.

In addition, BellSouth notes that since BellSouth's direct testimony was filed March 9, 1998, GTC has already deprived BellSouth of information that would have aided in the preparation of BellSouth's testimony. Furthermore, BellSouth asserts that GTC is simply trying to delay this case so that it can continue to receive the \$120,000 per month interlata access subsidy as long as possible. BellSouth argues that GTC should not be allowed to delay this matter any longer.

Determination

Upon consideration, GTC's Motion to Hold Due Date for Interrogatory Responses in Abeyance is granted, in view of the fact that GTC has a motion for reconsideration of Order No. 98-0300-PCO-TL pending before the Commission. It would be neither appropriate nor practical to require GTC to submit discovery responses which, ultimately, it may not be required to provide. I do, however, acknowledge BellSouth's concerns that further delays in the

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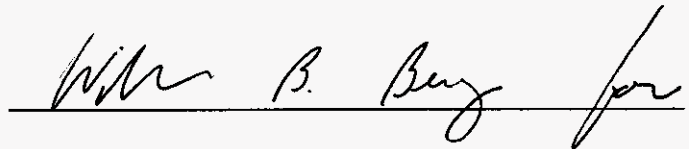
procedural schedule may necessitate changing the hearing date. Therefore, if the Commission denies GTC's Motion for Reconsideration of Order No. PSC-98-0300-PCO-TL, GTC's responses shall be provided by April 6, 1998.

Based on the foregoing, it is therefore

ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that the Motion to Hold Due Date for Interrogatory Responses in Abeyance filed by GTC, Inc. is hereby granted. It is further

ORDERED that if GTC's Motion for Reconsideration of Order No. PSC-98-0300-PCO-TL is denied, GTC shall provide the discovery requests compelled by the Order by April 6, 1998.

By ORDER of Commissioner J. Terry Deason, as Prehearing Officer, this 2nd Day of April, 1998.



J. TERRY DEASON
Commissioner and Prehearing Officer

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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.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: 1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; 2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or 3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.