

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for arbitration concerning complaint of US LEC of Florida Inc. against BellSouth Telecommunications, Inc. regarding breach of terms of interconnection agreement and request for relief.

DOCKET NO. 990874-TP
ORDER NO. PSC-99-2511-PCO-TP
ISSUED: December 22, 1999

ORDER GRANTING SECOND MOTION FOR LEAVE TO FILE
AMENDED COMPLAINT, GRANTING CONSENTED MOTION TO EXTEND
TIME FOR FILING TESTIMONY, AND REVISING CONTROLLING DATES IN
ORDER NO. PSC-99-1781-PCO-TP (ORDER ON PROCEDURE)

On July 2, 1999, US LEC of Florida Inc. (US LEC) filed a Complaint against BellSouth Telecommunications, Inc. (BellSouth) alleging breach of the terms of an interconnection agreement between the parties. On July 22, 1999, BellSouth filed its Answer and Response to Complaint of US LEC of Florida Inc. On July 30, 1999, US LEC filed a Motion for Leave to File Amended Complaint and its Amended Complaint. BellSouth did not file a response in opposition to the Motion, and represented to staff counsel that it had no objection. By Order No. PSC-99-1781-PCO-TP, issued September 10, 1999, US LEC's Motion to file an amended complaint was granted.

Second Motion for Leave to File Amended Complaint

On November 12, 1999, US LEC filed its Second Motion for Leave to File Amended Complaint and its Second Amended Complaint. It states that on July 8, 1999, US LEC and BellSouth filed a notice of adoption of interconnection, unbundling and resale agreement and all amendments thereto entered into and between Intermedia Communications, Inc. and BellSouth as of June 30, 1999. It further states that by Order No. PSC-99-1538-TP, issued August 4, 1999, in Docket No. 990924-TP, we approved the adoption of the Intermedia Agreement. US LEC states in the motion:

Since US LEC filed its Complaint in this proceeding on July 2, 1999, based on BellSouth's breach of the reciprocal compensation provision of its Initial and Opt-In Agreements with US LEC, BellSouth has continued to refuse payment to US LEC for the transport and termination of local traffic and, thus, is now in further breach of the

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reciprocal compensation provisions of the
Intermedia agreement as well.

Motion at page 2.

On November 19, 1999, BellSouth filed its Response, stating that it does not object to the motion itself, but does object to "many of the allegations" contained in the motion. It further states that it intends to file an answer should the motion be granted.

The Commission has broad discretion to allow amendment of pleadings, where the privilege to amend has not been abused, in order that disputes may be resolved on their merits. See Order No. PSC-98-0332-PCO-TP, issued February 26, 1998, in Docket No. 970730-TP. It does not appear that US LEC has abused its privilege to amend. Therefore, in consideration of the above, US LEC's Second Motion for Leave to File Amended Complaint is hereby granted. Additionally, BellSouth may file an answer to US LEC's Second Amended Complaint if it so chooses.

Consented Motion to Extend Time for Filing Testimony

On December 10, 1999, the parties filed a Consented Motion to Extend Time for Filing Testimony. In their consented motion, the parties state that they are working together "to reach a stipulation of facts in order to limit the scope of the hearing or perhaps to avoid the need for hearing." Accordingly, in order that they may have additional time to pursue a stipulation, the parties request that the controlling dates in this docket be revised to reschedule the direct and rebuttal testimony filing dates to January 31, 2000 and February 18, 2000, respectively.

Upon consideration, the parties' request appears reasonable, and is therefore granted. Further, in an effort to alleviate scheduling difficulties, the Prehearing Conference and the Hearing, previously scheduled for February 14, 1999, and March 20, 1999, have been rescheduled to April 3 and April 17, 2000, respectively. The remaining dates, established in Order No. PSC-99-1781-PCO-TP, are also rescheduled to accommodate these changes.

Accordingly, the following controlling dates in this matter are revised as follows:

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| 1) Direct testimony and exhibits | January 31, 1999 |
| 2) Rebuttal testimony and exhibits | February 18, 2000 |
| 3) Prehearing Statements | March 20, 2000 |
| 4) Prehearing Conference | April 3, 2000 |
| 5) Hearing | April 17, 2000 |
| 6) Briefs | May 15, 2000 |

Based upon the foregoing, it is


ORDERED by Chairman Joe Garcia, as Prehearing Officer, that US LEC of Florida Inc.'s Second Motion for Leave to File Amended Complaint is granted. It is further

ORDERED that US LEC of Florida Inc.'s and BellSouth Telecommunications, Inc.'s Consented Motion to Extend Time for Filing Testimony is granted. It is further

ORDERED that the controlling dates in Order No. PSC-99-1781-PCO-TP are revised as set forth in the body of this Order. It is further

ORDERED that Order No. PSC-99-1781-PCO-TP is reaffirmed in all other respects.

By ORDER of Chairman Joe Garcia as Prehearing Officer, this 22nd day of December, 1999.



JOE GARCIA
Chairman and Prehearing Officer

(S E A L)

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

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

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 25-22.0376, 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.