

VOTE SHEET

May 2, 2006

Docket No. 050194-TL - Complaint by Florida BellSouth customers who paid fees to BellSouth Telecommunications, Inc. related to Miami-Dade County Ordinance Section 21-44 ("Manhole Ordinance") and request that Florida Public Service Commission order BellSouth to comply with Section A.2.4.6 of General Subscriber Service Tariff and refund all fees collected in violation thereof.

Issue 1: Has BellSouth violated the terms of Section A.2.4.6 of its General Subscriber Service Tariff, with respect to the Manhole Ordinance Fee, for all or part of the period 1983 through 2005? If so, what action should the Commission take?

Recommendation: Staff recommends the Commission find that BellSouth violated the terms of Section A.2.4.6 of its General Subscriber Service Tariff, during all or part of the period 1998 through 2005. Given that the per line credit or refund would be less than \$.50, and since a significant number of affected customers may no longer be receiving service from BellSouth, staff recommends that no customer credit or refund be required.

Instead, staff recommends that the Commission set the cumulative overage in collections, with interest, as of year-end 2005 at \$469,176 and require that BellSouth consider this overage and any overage/underage for January 2006 through June 2006, in setting the Manhole Ordinance Fee to be assessed for the period July 2006 through December 2006. In addition, staff recommends the Commission find that, pursuant to existing Section A.2.4.6 of its General Subscriber Service Tariff, BellSouth is required to perform reconciliations for each future six-month period and to apply the overage/underage in collections as an accounting adjustment, to determine the appropriate fee. Finally, staff recommends that in the future, overhead loadings be computed using the same method in general use by BellSouth (i.e., the "original" method).

DEFERRED

The Commissioners unanimously approved the deferral of this item to the May 16, 2006 agenda conference.

COMMISSIONERS ASSIGNED: All Commissioners

COMMISSIONERS' SIGNATURES

MAJORITY

DISSENTING

Four horizontal lines for majority signatures.

Four horizontal lines for dissenting signatures.

REMARKS/DISSENTING COMMENTS:

Commissioner Arriaga participated in the conference by telephone. He agreed with/dissented from the majority vote and will sign the vote sheet upon return to the office.

DOCUMENT NUMBER-DATE

03872 MAY-28

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Issue 2: Should this docket be closed?

Recommendation: The Order issued from this recommendation will be a Proposed Agency Action. Thus, the Order will become final and effective upon issuance of a Consummating Order if no person whose substantial interests are affected timely files a protest within 21 days of issuance of this Order. With issuance of a Consummating Order, this docket should be closed.