

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of Supra  
Telecommunications & Information  
Systems, Inc. against BellSouth  
Telecommunications, Inc. for  
violation of the  
Telecommunications Act of 1996;  
petition for resolution of  
disputes as to implementation  
and interpretation, of  
interconnection, resale and  
collocation agreements; and  
petition for emergency relief.

DOCKET NO. 980119-TP  
ORDER NO. PSC-98-0583-PCO-TP  
ISSUED: April 27, 1998

ORDER DENYING MOTION TO STRIKE, ALLOWING ADDITIONAL  
TIME FOR REBUTTAL OF AMENDED TESTIMONY AND  
EXTENDING DISCOVERY DEADLINE

On January 23, 1998, Supra Telecommunications and Information Systems, Inc. (Supra) filed a Complaint against BellSouth Telecommunications, Inc. (BellSouth) for alleged violations of the Telecommunications Act of 1996 (Act) and Petition for resolution of certain disputes between BellSouth and Supra regarding interpretation of the Interconnection, Resale, and Collocation Agreements between Supra and BellSouth (Petition). Supra also requested relief on an emergency basis. On February 16, 1998, BellSouth filed its Answer and Response to Supra's Petition. This matter has been set for hearing on April 30, 1998.

Order No. PSC-98-0323-PCO-TP, issued February 24, 1998, set forth the procedural schedule for this docket. In accordance with that Order, Supra's direct testimony and exhibits were due March 19, 1998. On March 19, 1998, Supra filed a motion to extend testimony filing dates. By Order No. PSC-98-0417-PCO-TP, issued March 24, 1998, I granted Supra's Motion, and extended the date for filing its direct testimony to March 25, 1998. I also extended the date for filing rebuttal testimony to April 1, 1998.

On April 8, 1998, Supra filed a Motion for Leave to File Amended Testimony of Olukayode Ramos and John Reinke and Motion to Extend Date for Rebuttal Testimony. At the April 17, 1998, prehearing conference in this Docket, counsel for both parties indicated that the parties were in agreement regarding the Motion.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

Therefore, I granted Supra's April 8, 1998, Motion for Leave to File Amended Testimony of Olukayode Ramos and John Reinke and Motion to Extend Date for Rebuttal Testimony at the prehearing conference. Supra was allowed to submit the Amended Direct Testimony of Olukayode Ramos and John Reinke, and the date for filing rebuttal testimony was extended to April 15, 1998. I note that the amended testimony of these witnesses remains the subject of BellSouth's Motion to Strike Portions of Amended Direct Testimony, filed April 9, 1998.

On April 9, 1998, Supra filed a Motion for Leave to File the Amended Direct Testimony of Bradford Hamilton. On April 14, 1998, BellSouth filed a Motion to Strike this amended testimony.

In its April 14, 1998, Motion to Strike, BellSouth argues that it did not agree to the April 9, 1998, filing of witness Hamilton's amended direct testimony, although that could be inferred from Supra's Motion. BellSouth argues that it had only agreed to Supra's request to file amended testimony on April 8, 1998. BellSouth adds that witness Hamilton's amended direct testimony is nearly double the size of his original direct testimony. BellSouth argues, therefore, that the amended direct testimony of witness Hamilton should be stricken as out of time. In the alternative, BellSouth asks that the hearing date for this matter be extended.

It is noteworthy that Supra has asked for a number of procedural extensions in this matter. Counsel for Supra has, however, indicated that the amended testimony of witness Hamilton is crucial for Supra's case. In view of the fact that some time does remain prior to the April 30, 1998, hearing, and because it is preferable to retain sufficient evidence in this case upon which we can make our ultimate decision, I hereby deny BellSouth's Motion to Strike the Amended Direct Testimony of Bradford Hamilton. In the interest of fairness, however, I will allow BellSouth additional time to file rebuttal testimony specifically addressing the amended direct testimony of witness Hamilton. BellSouth shall file testimony rebutting witness Hamilton's amended direct testimony by April 24, 1998. In addition, I find that the number of procedural extensions in this docket necessitate an extension of the discovery deadline for this docket. Therefore, discovery shall be completed by April 29, 1998.

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Based on the foregoing, it is therefore

ORDERED by Commissioner E. Leon Jacobs, Jr., as Prehearing Officer, that the Motion to Strike the Amended Direct Testimony of Bradford Hamilton filed by BellSouth Telecommunications, Inc. is denied. It is further

ORDERED that BellSouth Telecommunications, Inc. shall be allowed to file testimony rebutting witness Hamilton's Amended Direct Testimony by April 24, 1998. It is further

ORDERED that the discovery deadline in this docket shall be extended to April 29, 1998.

By ORDER of Commissioner E. Leon Jacobs, Jr., as Prehearing Officer, this 27th Day of April, 1998.

  
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E. LEON JACOBS, JR.  
Commissioner 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 120.59(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.