

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into
appropriate methods to
compensate carriers for exchange
of traffic subject to Section
251 of the Telecommunications
Act of 1996.

DOCKET NO. 000075-TP
ORDER NO. PSC-00-2452-PCO-TP
ISSUED: December 20, 2000

ORDER GRANTING IN PART JOINT MOTION TO EXTEND FILING DATES,
BIFURCATE, AND REQUEST FOR ISSUE IDENTIFICATION/STATUS CONFERENCE

On January 21, 2000, this docket was established to investigate the appropriate methods to compensate carriers for exchange of traffic subject to Section 251 of the Telecommunications Act of 1996 (the Act). This matter is set for administrative hearing March 7 - 9, 2001. On November 22, 2000, Order Establishing Procedure No. PSC-00-2229-PCO-TP was issued. On December 7, 2000, Order PSC-00-2350-PCO-TP was issued adopting, incorporating, and supplementing Order No. PSC-00-2229-PCO-TP. On December 11, 2000, a Joint Motion to Extend Filing Dates, Bifurcate, and Required for Issue Identification/Status Conference (Motion) was filed. On December 15, 2000, Verizon Florida, Inc., BellSouth Telecommunications, Inc., and Sprint-Florida Incorporated (Joint Respondents) filed a Joint response.

Motion

The Motion was filed by Florida Competitive Carriers Association, AT&T Communications of the Southern States, Inc., Intermedia Communications, Inc., WorldCom, Inc., XO Communications, Inc., Time Warner Telecom of Florida, L.P., e.spire, the Florida Cable Telecommunications Association, Allegiance Telecom of Florida, Inc., Global Naps, Inc., US LEC of Florida, Inc., and Cox Florida Telcom, L.P. (ALECs) pursuant to Rule 28-106.204, Florida Administrative Code.

The ALECs state that the additional issues are regarded as significant and appreciate the Commission's willingness to investigate them on its own initiative. The ALECs state that it is important that the issues be considered in a manner that affords the parties an adequate opportunity to address them and ensures a record that will enable the Commission to make informed decisions.

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The ALECs regard new Issues 13 and 14 as closely related to those that have been the focus of the proceeding to this point. Moreover, the ALECs assert it is appropriate to include them with the issues that are scheduled for hearing March 7 - 9, 2001. However, the ALECs argue that even without the intervening holidays, the schedule established by the Supplemental Order affords parties only three weeks to prepare and file substantive testimony. The ALECs, therefore, request a modification of the deadline for prefiled testimony.

With respect to the remaining Issues nos. 10, 11, 12, 15, 16, and 17, the ALECs submit that the current procedural schedule is insufficient to enable them to prepare for a hearing adequately and would result in a correspondingly inadequate record. Rather than extend the entire schedule, which would delay a decision on the important issues that were contemplated by Order No. PSC-00-2350-PCO-TP, the ALECs respectfully request that the proceeding be bifurcated and a separate track established which would include a separate evidentiary hearing to consider Issues 10, 11, 12, 15, 16, and 17.

Finally, the ALECs request an issue identification meeting or status conference be held immediately to discuss this motion as well as the wording of the new issues. The ALECs assert time is of the essence and all parties need to clearly establish a common understanding of the issues as well as a workable time frame for the proceedings.

Response

The Joint Respondents agree that bifurcation is necessary to allow the Commission and the parties to consider the additional issues in a careful and thorough manner. The Joint Respondents agree with the ALECs in that the existing procedural schedule will not permit thoughtful and comprehensive testimony on these new issues. The Joint Respondents ask that the Commission address all of the new issues in a separate evidentiary proceeding, including Issues 13 and 14. The Joint Respondents disagree with the ALECs' contention that Issues 13 and 14 are more closely related to the originally identified issues than some of the new issues. The Joint Respondents assert that the parties themselves considered the appropriate scope of the docket and specifically did not ask for these issues to be included in this proceeding when the original

issues list was devised, so no one would be prejudiced by assigning all of the additional issues to a separate proceeding.

In addition, the Joint Respondents concur with the ALECs in their request that all rebuttal testimony be filed on February 6, 2001, instead of January 10, 2001. This change may obviate the need for an additional round of testimony which would likely otherwise be necessary, assuming the FCC releases its reciprocal compensation order before the end of the year, as scheduled.

Finally, the Joint Respondents concur with the ALECs' request for an issue identification conference to allow the parties to discuss the wording of the new issues. The Joint Respondents note that if the proceeding were bifurcated, the urgency for an immediate meeting would be obviated.

Decision

The issues to be decided in this docket are of great concern to the telecommunications industry and this Commission. Their resolution will require a well-developed record and careful consideration. On the other hand, it is important for these issues to be timely decided. I must, therefore, balance these interests to bring the issues before the Commission for consideration in a timely manner while allowing the parties adequate time to fully prepare their cases. This balance will be accomplished if the proceeding is bifurcated to allow the hearing on the original Issues 1 through 9 to proceed as first established. The remaining Issues 10 through 17 will then be heard at a subsequent hearing scheduled for July 5 and 6, 2001.

The ALECs' contention that new Issues 13 and 14 are closely related to Issues 1 through 9 and therefore should be heard at the same time is not supported in the Motion. I agree with the Joint Respondents that had these issues been of such concern, the ALECs would have required their inclusion in the initial issues list. Not having done so leads me to conclude that these issues can wait to be heard at a later date. In any case, addressing these two issues during the second hearing affords the parties additional time to analyze and address the questions. Therefore, as stated above, Issues 13 and 14 will be heard at the July 5 and 6, 2001 hearing.

Because the issues to be decided at the March hearing have not been modified from those for which direct testimony and exhibits have already been filed, the ALECs' request to extend the date for

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which rebuttal testimony and exhibits are due is denied. Accordingly, Rebuttal Testimony and Exhibits for Issues 1 through 9 are due January 10, 2001, as provided in Order No. PSC-00-2350-PCO-TP.

Our staff shall expeditiously conduct an issue identification meeting as requested by the ALECs. This Order and staff's issue identification meeting may address all remaining concerns. As such, it is premature to grant the request for a status conference. Accordingly the request for a status conference is denied at this time.

Finally, because the number of issues for the March hearing is reduced, the page limit for the briefs for Issues 1 through 9 shall be no more than 40, the number of interrogatories, including all subparts shall be limited to 150 for all issues, and requests for production of documents, including all subparts, shall be limited to 150.

The procedural schedule for Issues 10 through 17 identified in Order No. PSC-00-2350-PCO-TP is vacated and a new schedule shall be set by separate Order after staff's issue identification meeting.

Based on the foregoing, it is

ORDERED by Commissioner Lila A. Jaber as Prehearing Officer, that the Joint Motion to Extend filing dates filed by Florida Competitive Carriers Association, AT&T Communications of the Southern States, Inc., Intermedia Communications, Inc., WorldCom, Inc., XO Communications, Inc., Time Warner Telecom of Florida, L.P., e.spire, the Florida Cable Telecommunications Association, Allegiance Telecom of Florida, Inc., Global Naps, Inc., US LEC of Florida, Inc., and Cox Florida Telcom, L.P. is denied as set forth in this Order. It is further

ORDERED that the Joint Motion to Bifurcate the proceedings is granted as set forth in this Order. It is further

ORDERED that the Joint Motion to include Issues 13 and 14 for consideration at the March 7 - 9, 2001 hearing is denied. It is further

ORDERED that the Joint Motion requesting an issue identification meeting is granted and the request for a status conference is denied. It is further

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ORDERED that Orders Nos. PSC-00-2229-PCO-TP and PSC-00-2350-PCO-TP are reaffirmed to the extent not modified by this Order.

By ORDER of Commissioner Lila A. Jaber as Prehearing Officer, this 20th Day of December, 2000.



LILA A. JABER
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 120.569(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

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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.

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