

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into  
pricing of unbundled network  
elements (BellSouth track).

DOCKET NO. 990649A-TP  
ORDER NO. PSC-01-2399-PCO-TP  
ISSUED: December 11, 2001

ORDER ON MOTION TO ALLOW SURREBUTTAL TESTIMONY  
AND MOTION FOR EXTENSION OF TIME

On November 20, 2001, BellSouth Telecommunications, Inc. (BellSouth), filed a Motion to Allow Surrebuttal Testimony, requesting that BellSouth be allowed to file surrebuttal testimony on or before December 21, 2001. In support of its motion, BellSouth states that the Commission's Final Order on Rates for Unbundled Network Elements provided by BellSouth issued May 25, 2001; Order No. PSC-01-1181-FOF-TP, required BellSouth to refile within 120 days of the issuance of the Order certain revisions to its cost study (BellSouth's 120-Day Filing). BellSouth further states that it re-filed its cost study in accordance with the Order on September 24, 2001. The prehearing order for this portion of the docket stated that the testimony of all parties would be due November 8, 2001, and that rebuttal testimony would be due on December 7, 2001. BellSouth filed its direct testimony on November 8, 2001, but no Alternative Local Exchange Telecommunications Company (ALEC) filed direct testimony on November 8, 2001. BellSouth was informed that certain ALECs planned to file rebuttal testimony on December 7, 2001. Since no ALEC filed direct testimony, BellSouth seeks an opportunity to file surrebuttal testimony as this would be its only opportunity to rebut ALEC testimony. BellSouth asserts that this is important given the ALEC's continued argument that BellSouth has the burden to prove that its UNE rates are reasonable. BellSouth points out that even the proposed schedule of MCI WorldCom and AT&T provided that BellSouth would file direct testimony, the ALECs would file rebuttal, and then BellSouth would file rebuttal to the ALEC's testimony.

BellSouth also asserts that the opportunity to file surrebuttal will not delay the hearing or prejudice any party. BellSouth states that it has conferred with counsel for the other parties in this docket with respect to this motion, and no one has objected to this motion.

DOCUMENT NUMBER-DATE

15443 DEC 11 2001

FPSC-COMMISSION CLERK

On December 7, 2001, MCI WorldCom, Inc. ("WorldCom") and AT&T Communications of the Southern States, Inc. (AT&T) filed a Joint Motion for Extension of Time, requesting that the time for filing their rebuttal testimony in this docket be extended from December 7, 2001, to December 14, 2001. In support of this motion, WorldCom/AT&T state their rebuttal testimony is based in large part on making adjustments to BellSouth's loop cost model (BSTLM) and recommending revised UNE costs based on those changes. WorldCom/AT&T assert that during the past two weeks, the WorldCom/AT&T consultants have experienced several model crashes while attempting to rerun BSTLM with changed inputs. As a result, claims WorldCom/AT&T, they have been unable to complete their analysis and review of the revised results. WorldCom/AT&T state that the additional time will enable the WorldCom/AT&T testimony to properly incorporate the revised model results and provide the best possible information to the Commission. WorldCom/AT&T note that they have consulted with counsel for BellSouth, and no objection to this motion has been raised, so long as BellSouth's request to file surrebuttal to WorldCom/AT&T's testimony, if granted, is similarly extended.

Upon consideration, I find it appropriate to grant both motions. Dealing with the latter motion first, I find that granting in part WorldCom/AT&T's Joint Motion for Extension of Time will allow them the best opportunity to present this Commission with the information necessary to give us a balanced perspective on the arguments of the parties. Our staff has confirmed that BellSouth will not be filing a response to this motion, and that BellSouth concurs with it to the extent that they would like a similar extension of time should their request to file surrebuttal be granted. While I am disheartened by WorldCom/AT&T's filing of this request on the day rebuttal testimony was due, I recognize that BellSouth has made changes to its cost study after its initial filing on September 24, 2001, and that these may have affected WorldCom/AT&T's ability to run the cost study. It is imperative that any problems in running the cost study be communicated to BellSouth and our staff in a timely manner. I would note that our staff has not had any problems running the cost study with the changes provided by BellSouth. As such, WorldCom/AT&T shall have until December 14, 2001, to file rebuttal testimony. On my own motion, these dates are extended to all parties in this docket.

ORDER NO. PSC-01-2399-PCO-TP  
DOCKET NO. 990649A-TP  
PAGE 3

Parties that have already filed rebuttal testimony may revise and amend their testimony consistent with the date above.

I find that allowing BellSouth an opportunity to file surrebuttal testimony will result in a more complete record upon which this Commission will make its determinations. It will also promote administrative efficiency by giving the parties the opportunity to fully evaluate their respective positions and find room for compromise, if possible. Moreover, I find that because no party objected to the motion and no one will be adversely affected, it is reasonable to allow BellSouth to file surrebuttal testimony. Finally, in light of WorldCom/AT&T's motion above, BellSouth's deadline for the filing of surrebuttal testimony shall be December 26, 2001.

Based on the foregoing it is

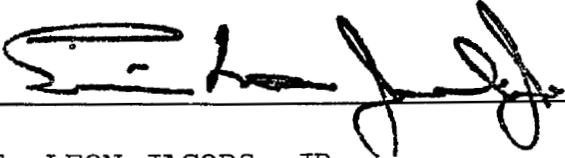
ORDERED by Chairman E. Leon Jacobs, Jr., as Prehearing Officer, that MCI WorldCom, Inc. and AT&T Communications of the Southern States, Inc.'s Joint Motion for Extension of Time is granted. WorldCom/AT&T shall have until December 14, 2001, to file rebuttal testimony. Requests to file supplemental testimony shall limit the due date of the supplemental testimony to December 14, 2001. On my own motion, these dates are extended to all parties in this docket. Parties that have already filed rebuttal testimony may revise and amend their testimony consistent with the dates above. It is further

ORDERED that BellSouth Telecommunications, Inc.'s Motion to Allow Surrebuttal Testimony is granted. BellSouth Telecommunications, Inc. shall file surrebuttal testimony on or before December 26, 2001. It is further

ORDERED that all other procedural dates of ORDER No. PSC-01-1904-PCO-TP remain in effect unless modified by the Commission.

ORDER NO. PSC-01-2399-PCO-TP  
DOCKET NO. 990649A-TP  
PAGE 4

By ORDER of Chairman E. Leon Jacobs, Jr. as Prehearing Officer, this 11th Day of December, 2001.



E. LEON JACOBS, JR.  
Chairman and Prehearing Officer

( S E A L )

WDK

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

ORDER NO. PSC-01-2399-PCO-TP

DOCKET NO. 990649A-TP

PAGE 5

reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, 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.