

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for Declaratory) DOCKET NO. 960191-TL
Statement, or Alternatively, for) ORDER NO. PSC-96-0569-FOF-TL
Waiver of Penalty Imposed for) ISSUED: May 1, 1996
Late Payment of Regulatory)
Assessment Fees by BellSouth)
Telecommunications, Inc.)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK, Chairman
J. TERRY DEASON
JOE GARCIA
JULIA L. JOHNSON
DIANE K. KIESLING

ORDER GRANTING WAIVER OF PENALTY

BY THE COMMISSION:

Pursuant to Sections 350.113(3) and 364.336, Florida Statutes, and Rule 25-4.0161(2), Florida Administrative Code, BellSouth Telecommunications, Inc.'s (BellSouth or the company's) regulatory assessment fee for the last six months of 1995 was due on January 30, 1996. However, BellSouth did not remit its fee to us until January 31, 1996, which was one day late. By letter dated February 5, 1996, we notified the company that since its regulatory assessment fee was late, penalty and interest in the amount of \$124,522.91 was due in accordance with Section 350.113(4), Florida Statutes. On February 16, 1996, pursuant to Rule 25-22.036, Florida Administrative Code, BellSouth filed a Petition for Declaratory Statement, or Alternatively, for Waiver of Penalty concerning its regulatory assessment fee.

According to the company, although a \$2,075,381.80 check was ready on January 30, the fee was not mailed or delivered due to "an unusually heavy workload" and "a number of illnesses that resulted in absences of office personnel." On the morning of January 31, 1996, when it was discovered that the fee had not been filed, it was hand delivered to the Commission.

Under the facts of this case, we find that BellSouth's late filing of its regulatory assessment fee constitutes excusable neglect. Accordingly, we grant the company's request to waive the

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

ORDER NO. PSC-96-0569-FOF-TL
DOCKET NO. 960191-TL
PAGE 2

penalty. In addition, we find our decision here renders the company's petition for a declaratory statement moot.

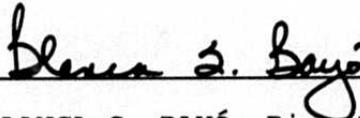
It is therefore

ORDERED by the Florida Public Service Commission that BellSouth Telecommunications, Inc.'s request for a Waiver of Penalty shall be granted as discussed above in the body of this order. It is further

ORDERED that our disposition of this matter renders BellSouth Telecommunications, Inc.'s Petition for a Declaratory Statement moot. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 1st day of May, 1996.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

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ORDER NO. PSC-96-0569-FOF-TL
DOCKET NO. 960191-TL
PAGE 3

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 the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) 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 sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.