

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petitions by AT&T) DOCKET NO. 960833-TP
Communications of the Southern) DOCKET NO. 960846-TP
States, Inc., MCI) DOCKET NO. 960916-TP
Telecommunications Corporation,)
MCI Metro Access Transmission) ORDER NO. PSC-96-1232-PCO-TP
Services, Inc., American) ISSUED: October 2, 1996
Communications Services, Inc.)
and American Communications)
Services of Jacksonville, Inc.)
for arbitration of certain terms)
and conditions of a proposed)
agreement with BellSouth)
Telecommunications, Inc.)
concerning interconnection and)
resale under the)
Telecommunications Act of 1996.)

ORDER GRANTING MOTION FOR LEAVE TO FILE SUPPLEMENTAL TESTIMONY

On September 6, 1996, American Communications Services, Inc., and American Communications Services of Jacksonville, Inc. (collectively, ACSI), filed its Motion for Leave to File Supplemental Testimony (motion). On September 10, 1996, BellSouth Telecommunications, Inc. (BellSouth), filed its Response to American Communications Services, Inc.'s Motion for Leave to File Supplemental Testimony (response).

In its motion, ACSI stated that when, on August 13, 1996, it filed a Petition for Arbitration (petition) pursuant to Section 252(b) of the Telecommunications Act of 1996 (the Act) with the accompanying direct testimony of Dr. Marvin Kahn, F.C.C. Order No. 96-325, First Order and Report (F.C.C. Order), implementing Sections 251 and 252 of the Act had not been issued. According to ACSI, the purpose of Dr. Kahn's supplemental testimony at issue is to assess the effect of the F.C.C. Order on his direct testimony.

BellSouth, in its response, stated that it did not object "per se" to and did not see any value in opposing ACSI's filing. However, it pointed out that the F.C.C. Order was available on August 8, 1996, and that ACSI filed its motion nearly one month after its petition.

Although the basis for ACSI's motion is marginal, I find it appropriate, nevertheless to grant the motion, taking notice that

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BellSouth has declined to oppose the motion and concluding that no party's interests will be substantially prejudiced thereby. The F.C.C. Order was available prior to the time ACSI filed its petition, but perhaps without an adequate leadtime to be usefully comprehended in Dr. Kahn's direct testimony. However, requests for deviations from procedural deadlines are best raised before the deadlines are passed, and any further after-the-fact requests will be subject to a heightened scrutiny.

Based on the foregoing, it is, therefore,

ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that the Motion for Leave to File Supplemental Testimony of American Communications Services, Inc., and American Communication Services of Jacksonville, Inc., is granted.

By ORDER of Commissioner J. Terry Deason, as Prehearing Officer, this 2nd day of October, 1996.



J. TERRY DEASON, Commissioner and
Prehearing Officer

(S E A L)

CJP

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.

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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 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.