

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of MCI Metro  
Access Transmission Services,  
Inc. against BellSouth  
Telecommunications, Inc. for  
breach of approved  
interconnection agreement.

DOCKET NO. 980281-TP  
ORDER NO. PSC-99-0081-FOF-TP  
ISSUED: January 11, 1999

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman  
J. TERRY DEASON  
SUSAN F. CLARK  
JOE GARCIA  
E. LEON JACOBS, JR.

ORDER DENYING RECONSIDERATION,  
GRANTING CLARIFICATION AND  
GRANTING EXTENSIONS OF TIME IN PART

BACKGROUND

On February 23, 1998, MCI Metro Access Transmission Services, Inc. (MCI) filed a complaint against BellSouth Telecommunications, Inc. (BellSouth) for alleged violations of the Telecommunications Act of 1996, and for alleged breaches of the parties' Interconnection Agreement approved by this Commission on June 19, 1997. On March 16, 1998, BellSouth filed its answer and response to MCI's complaint.

On August 5, 1998, this Commission held a hearing in which it received testimony concerning MCI's claims that BellSouth failed to perform under the terms of the agreement and the Act. Thereafter, by Order No. PSC-98-1484-FOF-TP, issued November 5, 1998, the Commission made its determination on the terms of the agreement and required BellSouth to provide MCI with data and services pursuant to the agreement no later than December 5, 1998. On November 20, 1998, BellSouth filed a timely Motion for Reconsideration, for Clarification and for Extension of Time. MCI timely filed its response on November 30, 1998. This order addresses BellSouth's motion.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

REGIONAL STREET ADDRESS GUIDE (RSAG)

Reconsideration

BellSouth requested reconsideration, clarification and an extension of time related to RSAG data. BellSouth requested reconsideration of the determination that the RSAG data and updates should be provided to MCIm at no cost to MCIm. BellSouth argued that there is no basis or rationale for this decision and that it is contrary to Florida law and Section 252(d) of the Act. BellSouth also argued that our decision is unreasonable because there is a cost involved. MCIm responded that the contract provides for RSAG data at no cost, just as the contract provides for Metropolitan Street Address Guide (MSAG) data at no cost. MCIm further argued that BellSouth failed to explain how Florida law or Section 252(d) of the Act are violated by the contract terms.

Rule 25-22.060(1)(a), Florida Administrative Code, permits a party who is adversely affected by an order of the Commission to file a motion for reconsideration of that order. As argued in BellSouth's Motion, the standard for determining whether reconsideration is appropriate is set forth in Diamond Cab Co. Of Miami v. King, 146 So. 2d 889, 891 (Fla. 1962). In Diamond Cab, the Florida Supreme Court declared that the purpose of a petition for reconsideration is to bring to an agency's attention a point of law or fact which it overlooked or failed to consider when it rendered its order. In Stewart Bonded Warehouse, Inc. v. Bevis, 294 So. 2d 315, 317 (Fla. 1974), the Court found that the granting of a petition for reconsideration should be based on specific factual matters set forth in the record and susceptible to review.

We believe we have not overlooked or failed to consider any evidence. The evidence relied on was the contract itself. The terms of the contract clearly require BellSouth to provide RSAG data and updates to MCIm. The contract is silent as to any cost associated with the provision of this data or any charge to MCIm for the provision of the data. We do not disagree that there may be a cost associated with generating the download and updates of the RSAG data; however, BellSouth has failed to show that the Commission has overlooked any provision in the contract which provides for recovery of that cost. BellSouth failed to cite any specific Florida law it relies on for the argument that it is guaranteed cost recovery even where it has not contracted for such recovery. We are not aware of any Florida law that is violated when the parties to an interconnection agreement contract for the

provision of certain data without including a provision for the related cost. BellSouth also relied on Section 252(d) of the Act as grounds for reconsideration. Section 252(d) provides for pricing standards in arbitration proceedings. This is not an arbitration proceeding; it is a contract enforcement proceeding. We are not aware of any provision in the Act that guarantees BellSouth entitlement to costs well after a contract became effective where no such costs were agreed to by the parties and just because an enforcement action was brought against it. BellSouth has not shown us any fact that has been overlooked or that we have failed to consider. We have not found any law that is contrary to our decision, nor do we believe that the requirement to provide the data at no cost to MCI is unreasonable where MSAG data, as an example, has been contracted to be provided, and is provided, at no cost. Accordingly, BellSouth's request for reconsideration is denied.

#### Clarification

BellSouth requested clarification of that part of the Order requiring updates to the RSAG data on a daily basis. BellSouth stated that it provides itself RSAG updates within 24 hours of a change being made. BellSouth asked to clarify that it will provide daily updates by sending MCI the entire RSAG download daily. MCI argued that the request for clarification is itself unclear; first, because it is not clear why BellSouth would send updates to itself and second, because it is hard to believe that when it does transmit RSAG changes to itself that BellSouth downloads the entire database.

We grant the request for clarification. We reaffirm that the RSAG data updates should be provided within the same time frames and in the same manner that BellSouth provides to itself. We agree with MCI that it seems unlikely that BellSouth sends itself an entire database download everyday to capture changes in the RSAG database. Further, we note that the parties' agreement requires BellSouth to provide updates subsequent to the initial database download, not additional daily downloads of the entire database. Therefore, we conclude that BellSouth should provide MCI with daily updates to the RSAG database in the same time frames that BellSouth provides updates to itself.

Extension of Time

BellSouth requested an extension of time of thirty days from BellSouth's receipt of MCIm's specifications as to subsets to provide the download of the RSAG data and updates. The purpose of this extension is to allow time for the parties to negotiate the subsets of data to be delivered to MCIm and to allow for a reasonable period of time for implementation. MCIm did not object to this extension of time. This request for extension of time is reasonable and is hereby granted.

DUE DATE CALCULATION

By Order No. PSC-98-1484-FOF-TP, BellSouth was required to provide to MCIm the ability to calculate due dates for unbundled network elements (UNEs) in the inquiry mode of the Local Exchange Navigational System (LENS) by December 5, 1998. BellSouth requested an extension of time to July, 1999, to provide the due date calculation for UNEs in the Telecommunications Access Gateway (TAG) interface which will have LENS capabilities. BellSouth explained that the extension of time is necessary because of the complexity of the work, because there is no retail analog, and because of the prioritization of modifications to BellSouth's Operations Support Systems (OSS). MCIm argued that this request is an attempt by BellSouth to comply at its leisure and to limit the scope of the Order by promising to provide due date calculations for UNEs in TAG and LENS, but not in EDI TCP/IP/SSL3 which is the mode MCIm intends to use as its pre-ordering interface once it becomes available.

At the hearing, BellSouth's Witness Stacey testified that an electronic due date calculation function in the inquiry mode of LENS should be available by December 30, 1998. BellSouth made due date calculations for resold services available in the inquiry mode of LENS on November 14, 1998. The Commission also ordered BellSouth to provide MCIm with a due date calculation function for UNEs in LENS. BellSouth has not explained why the UNEs function cannot be timely implemented nor has BellSouth explained why MCIm must wait until the TAG interface is developed in order to be able to calculate due dates for UNEs. As MCIm noted in its response, the TAG interface is not even an interface MCIm plans to use when the national standard interfaces are developed. BellSouth has failed to sufficiently justify an extension of time for the due date calculation for UNES. Therefore, BellSouth's request for an extension of time for UNES is hereby denied.

ORDER NO. PSC-99-0081-FOF-TP  
DOCKET NO. 980281-TP  
PAGE 5

#### NUMBER RESERVATION

BellSouth requested an extension of time until February, 1999, to provide automatic telephone number assignment in LENS and an extension until March, 1999, to provide vacant NXX codes in TAG. MCIIm has no objection to this request. This request is reasonable and is hereby granted.

#### UNIVERSAL ORDER CODES (USOCs)

BellSouth requested an extension until the end of December, 1998, within which to provide Field Identifiers and state validity information in the same comma-spaces value format that BellSouth provides to MCIIm for USOCs. MCIIm did not object to this request. This request is reasonable and is hereby granted.

#### CUSTOMER SERVICE RECORD (CSR) INFORMATION

BellSouth requests an extension of time until December 19, 1998, within which to provide pricing information on CSRs and a schema of the CSR. MCIIm did not object to this request. This request is reasonable and is hereby granted.

#### JEOPARDY NOTIFICATION

BellSouth requested an extension of time until December 19, 1998, within which to provide service jeopardy notifications for resold services and UNEs. MCIIm did not object to the extension of time to December 19, 1998, for the provision of service jeopardy notification for resold services and UNEs. The request for an extension of time to December 19, 1998, for the provision of service jeopardy notification for resold services and UNEs is reasonable and is hereby granted.

BellSouth also requested an extension of time until August, 1999, within which to make local number portability (LNP) service jeopardy notification available. As basis for its request BellSouth asserted that the additional time is needed because of the relatively low volumes of such jeopardies and the prioritization of various modifications to BellSouth's OSS systems. MCIIm objected to the extension of time to August, 1999. MCIIm argued that BellSouth has an obligation to provide the LNP service jeopardy notifications now and that BellSouth's request to the Commission to accommodate BellSouth's timetables and priorities should be denied. MCIIm further argued that it is not necessary for

BellSouth to wait until LNP service jeopardy notification is available in EDI in order to provide such notification. MCIIm also stated that the delay in providing this information is of particular concern because BellSouth already has LNP in place in its Metropolitan Statistical Areas (MSAs).

With LNP available in the MSAs, we believe that it is unfair and unreasonable for BellSouth to delay the provision of service jeopardy notification for LNP. We understand that it may be August until LNP service jeopardy notification is available through EDI; however, BellSouth has an obligation under its contract to provide the LNP service jeopardy notification to MCIIm in the meantime. BellSouth has not provided a sufficient basis for a delay of eight months for a service that has already been contracted for. Accordingly, we deny BellSouth's request for an extension of time.

FIRM ORDER CONFIRMATIONS (FOCs)

BellSouth requested an extension of time until February 15, 1999, to provide FOCs on off-net T-1s within 24 hours of a complete and accurate Access Service Request (ASR) faxed to the ICSC. The basis for this request for an extension of time was BellSouth's asserted need to insure the identification and implementation of process changes and the need to train personnel on those changes. MCIIm argued that BellSouth should be required to provide "true" FOCs without any further delay. However, what BellSouth is asking to provide to MCIIm as an FOC in February does not appear to be a true FOC. Based on BellSouth's motion, it appears that BellSouth is attempting to provide a date that it believes it can complete the order. BellSouth states that the FOC will contain a commitment date "based on BellSouth's standard intervals for unbundled network elements, without verification of available resources or facilities." (BellSouth Motion at 8, emphasis added) The agreement between the parties requires BellSouth to provide an FOC containing the following:

The FOC shall contain on a per line and/or trunk basis, where applicable, and enumeration of MCIIm's ordered unbundled Network Elements (and the specific BellSouth naming convention that applies to that element or combination), features, functions, resale services, options, physical interconnection, quantity, and BellSouth Committed Due Date for order

completion. (Agreement, Attachment VIII,  
Section 2.2.6.1, emphasis added)

The agreement requires BellSouth to provide a FOC with a committed order completion due date for a MCIm order. An FOC without a due date commitment is of no use to MCIm. In addition, we believe that MCIm cannot inform the customer when the service can be provided without firm commitment of order completion by BellSouth.

Therefore, based on the foregoing, the extension of time to February, 1999 is granted; however, the resulting FOC capability in February must comply with the terms of the parties' agreement.

#### OTHER EXTENSIONS OF TIME REQUESTED

BellSouth also requested extensions of time to December 15, 1998, for Network Blockage Information, and to December 31, 1998, for Recorded Usage Data. MCIm did not object to these extensions. These extensions are reasonable and are hereby granted.

#### CONCLUSION

In conclusion, BellSouth's Motion for Reconsideration, for Clarification and for Extension of Time is granted in part and denied in part. Reconsideration of the requirement to provide RSAG data and updates at no cost is denied. Daily updates of RSAG are clarified. An extension of time to provide RSAG should be granted. An extension of time to provide due dates in the inquiry mode of LENS is denied. An extension of time to February and March, 1999, for the automatic assignment of numbers and for providing vacant NXX codes is granted. An extension of time to December 31, 1998, to provide FIDs and state validity information for USOCs is granted. An extension of time to December 19, 1998, to provide the CSR schema and pricing information is granted. An extension of time to December 19, 1998, to provide missed appointment and service jeopardy notification for resold services via EDI is granted. An extension of time to August, 1999, to provide local number portability service jeopardy notifications via EDI is denied. An extension of time to February 15, 1999, to provide FOCs on offnet T-1s is granted, in part. Clarification on the provision of network blockage data is granted. An extension of time to December 14, 1998, to provide network blockage data is granted. An extension of time to December 14, 1998, to provide recorded usage data is granted. BellSouth shall have until

ORDER NO. PSC-99-0081-FOF-TP  
DOCKET NO. 980281-TP  
PAGE 8

March 15, 1999, to be in full compliance with Order No. PSC-98-1484-FOF-TP, issued November 5, 1998. Failure to comply without consent from MCI shall result in the initiation of show cause proceedings.

These extensions of time should be considered firm deadlines for compliance, not goals. This docket should remain open until BellSouth complies with the requirements of Order No. PSC-98-1484-FOF-TP.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that BellSouth Telecommunications, Inc.'s Motion for Reconsideration, for Clarification and for Extension of Time is hereby granted in part and denied in part. It is further

ORDERED that reconsideration of the requirement to provide Regional Street Address Guide data and updates at no cost is denied. Daily updates of Regional Street Address Guide are clarified. An extension of time to provide Regional Street Address Guide should be granted. An extension of time to July, 1999, to provide due dates in the inquiry mode of Local Exchange Navigational System is denied. An extension of time to February and March, 1999, for the automatic assignment of numbers and for providing vacant NXX codes is granted. An extension of time to December 31, 1998, to provide Field Identifiers and state validity information for universal service order codes is granted. An extension of time to December 19, 1998, to provide the customer service record schema and pricing information is granted. An extension of time to December 19, 1998, to provide missed appointment and service jeopardy notification for resold services via EDI is granted. An extension of time to August, 1999, to provide local number portability service jeopardy notifications via EDI is denied. An extension of time to February 15, 1999, to provide FOCs on offnet T-1s is granted, in part. Clarification on the provision of network blockage data is granted. An extension of time to December 14, 1998, to provide network blockage data is granted. An extension of time to December 14, 1998, to provide recorded usage data is granted. BellSouth Telecommunications, Inc., shall have until March 15, 1999, to be in full compliance with Order No. PSC-98-1484-FOF-TP, issued November 5, 1998. Failure to comply without consent from MCI Metro Access Transmission Services, Inc., shall result in the initiation of show




ORDER NO. PSC-99-0081-FOF-TP  
DOCKET NO. 980281-TP  
PAGE 9

cause proceedings. These extensions of time should be considered firm deadlines for compliance, not goals. It is further

ORDERED that this docket should remain open until BellSouth complies with the requirements of Order No. PSC-98-1484-FOF-TP.

By ORDER of the Florida Public Service Commission this 11th day of January, 1999.

  
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BLANCA S. BAYÓ, Director  
Division of Records and Reporting

( S E A L )  
CB

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.

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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, 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 and/or wastewater 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 Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.