

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by BellSouth
Telecommunications, Inc. for
Section 252(b) arbitration of a
resale agreement with NOW
Communications, Inc.

DOCKET NO. 000262-TP
ORDER NO. PSC-00-1371-PCO-TP
ISSUED: July 31, 2000

ORDER ON DISPUTED ISSUES

On February 25, 2000, BellSouth Telecommunications, Inc. (BST) filed a petition for arbitration of an interconnection agreement with NOW Communications, Inc. (NOW) under Section 252(b) of the Federal Telecommunications Act of 1996. Accordingly, this matter has been set for an administrative hearing.

Order No. PSC-00-1128-PCO-TP, the Order Establishing Procedure, issued July 21, 2000, set forth the tentative list of issues which had been identified in this proceeding. The Order specifically indicated that the wording of Issues 7 and 10 was in dispute by the parties.

Based upon the parties' dispute, oral argument on the wording of the issues was scheduled for July 14, 2000. Prior to that date, the parties resolved their differences regarding the issues, and the oral argument was canceled. The parties have filed revised Issues 7(A) and (B) and Issue 10 which set forth language agreed upon by the parties. Accordingly, attached to this Order as Appendix "A" is the revised list of tentative issues to be considered in this docket, which includes revised Issues 7(A) and (B) and Issue 10.

Based upon the foregoing, it is

ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that the issues identified in Attachment A to this Order are the issues approved for consideration in this Docket.

DOCUMENT NUMBER-DATE

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ORDER NO. PSC-00-1371-PCO-TP
DOCKET NO. 000262-TP
PAGE 2

By ORDER of Commissioner J. Terry Deason as Prehearing Officer, this 31st day of July, 2000.



J. TERRY DEASON
Chairman 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 reconsideration shall be filed with the Director, Division of

ORDER NO. PSC-00-1371-PCO-TP
DOCKET NO. 000262-TP
PAGE 3

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.

ATTACHMENT A

- ISSUE 1: When should the terms, conditions and prices ultimately negotiated by the parties or ordered by the Commission through arbitration for inclusion in a new Agreement become effective?
- ISSUE 2A: Should there be a cancellation provision in the agreement in the event that the parties are unable to timely negotiate a new agreement or neither party has filed for arbitration?
- ISSUE 2B: If so, how should the parties continue to conduct business in the event of cancellation by one or both parties?
- ISSUE 3A: Should BellSouth be allowed to charge NOW for access to and use of the electronic and manual interfaces to BellSouth's operations support systems ("OSS") and functions?
- ISSUE 3B: If so, what should the rates be?
- ISSUE 4: When BellSouth or NOW receive subpoenas or court ordered requests regarding targeted telephone numbers belonging to end users of the other carrier, should the party receiving the subpoena or court order request advise the law enforcement agency initiating the request to redirect the subpoena or court ordered request to the appropriate custodian of the requested records?
- ISSUE 5: What limitation of liability language, if any, should be included in the Agreement?
- ISSUE 6: What language, if any, should the Agreement contain regarding the protection of the intellectual property rights of both parties?
- ISSUE 7A: Should the Agreement contain language defining the Commission's jurisdiction to resolve disputes arising thereunder?
- ISSUE 7B: If so, what should that language be?

ORDER NO. PSC-00-1371-PCO-TP
DOCKET NO. 000262-TP
PAGE 5

- ISSUE 8: Should the Agreement address the rights and obligations of the parties with respect to tax obligations?
- ISSUE 9: What provisions should govern the modification of the Agreement?
- ISSUE 10: What limitations, if any, to the rules of contract construction that otherwise would be applicable should be imposed for purposes of resolving agreement interpretation disputes?