

Alabama Public Service Commission

Orders

BELLSOUTH TELECOMMUNICATIONS, INC.,

IN RE: Petition for approval of a Statement of Generally Available Terms and Conditions pursuant to '252(f) of the Telecommunications Act of 1996 and notification of intention to file a Petition for In-region InterLATA Authority with the FCC pursuant to '271 of the Telecommunications Act of 1996.

DOCKET 25835

ORDER

BY THE COMMISSION:

I. INTRODUCTION AND BACKGROUND

By Order entered on February 20, 1997, the Commission established this docket to consider BellSouth Telecommunications, Inc.'s (ABellSouth@ or APetitioner@) entry into the interLATA market in Alabama pursuant to '271 of the Telecommunications Act of 1996 (the >96 Act). Said order required BellSouth to file a notice with the Commission at least 90 days in advance of its filing of a Petition for In-region InterLATA authority in Alabama with the Federal Communications Commission (AFCC@) pursuant to '271. The February 20, 1997 Order of the Commission also required BellSouth to accompany said notice with certain information requested by the Commission and stated that the decision of whether to establish a public hearing to evaluate BellSouth's compliance with the requirements of '271 would be discretionary with the Commission.

On June 18, 1997, BellSouth filed with the Commission the required notice of the Company's intention to file a '271 Petition for In-region InterLATA authority with the FCC. Included with that notice was a draft Statement of Generally Available Terms and Conditions (ASGAT@) for which BellSouth sought approval and review pursuant to '252 (f) of the >96 Act. BellSouth noted that it was delaying the filing of its official SGAT for a short period in order to allow the Commission additional time to analyze the SGAT and render a decision thereon. BellSouth indicated, however, that the final, official SGAT would not be substantially different than the draft version submitted.

BellSouth also indicated in its June 18, 1997 filing that it sought a determination that its SGAT was compliant with the requirements of '271(c)(2)(B). BellSouth additionally requested a determination from the Commission that its entry into

the InterLATA market in Alabama will be in the public interest.

Following a preliminary review of BellSouth's initial filing, the Commission determined that the public interest would best be served by establishing public hearings to review BellSouth's SGAT pursuant to the provisions of '252(f) of the >96 Act and to evaluate BellSouth's compliance with the applicable provisions of '271(c) of the >96 Act. Those hearings were established for the week of August 18 - 22, 1997, pursuant to a corrected procedural notice issued by the Commission on June 30, 1997. The June 30, 1997, notice also established deadlines for the filing of direct testimony by all intervenors and rebuttal testimony by all parties.

The Commission received Petitions to Intervene in this cause from Sprint Communications Company, L.P. (ASprint@); the Telecommunications Resellers Association (ATRA@); MCI Telecommunications Corporation and MCImetro Access Transmission Services, Inc. (collectively AMCI@); the Communications Workers of America (ACWA@); American Communications Services, Inc. (AACSI@); AT&T Communications of the South Central States, Inc. (AAT&T@); DeltaCom, Inc. (ADeltaCom@); the Competitive Telecommunications Association (ACTA@); BellSouth Long Distance, Inc. (ABSLD@); the Alabama Interexchange Carriers Association (AAICA@); KMC Telecom, Inc. (AKMC@); Intermedia Communications, Inc. (AICI@); the Attorney General of Alabama (AAG@); and ICG Telecommunications Group, Inc. (AICG@). All of the aforementioned Petitions to Intervene were granted pursuant to a procedural ruling issued on August 14, 1997.

BellSouth presented substantial testimony in support of its petition, the overwhelming majority of which was prefiled with the Commission. BellSouth filed its formal SGAT with the Commission on August 8, 1997.

The intervenors, Sprint, BSLD, ACSI, AT&T, MCI, AICA, KMC, DeltaCom and ICI also submitted prefiled testimony and actively participated in the hearings which were held before the Commission on August 18 - 22, 1997. ICG and the AG were represented in the proceedings, but did not sponsor witnesses. The Commission staff was also represented and actively participated in the hearings through clarifying cross-examination.

II. OVERVIEW OF THE BELLSOUTH FILING

As noted previously, BellSouth's June 18, 1997, filing which commenced formal action in this docket, contained a three-pronged request for relief. More specifically, BellSouth requested that the Commission (1) approve its SGAT pursuant to '252(f) of the >96 Act; (2) render a finding that the SGAT satisfies the 14-point checklist of '271(c)(2)(B) of the >96 Act; and (3) render a finding that BellSouth's entry into the interLATA long distance market in Alabama is in the public interest. It is the first two prongs of BellSouth's request that we are concerned with at this juncture of the proceedings conducted in this cause. We do not attempt, in this Order, to address the issue of whether BellSouth's entry into the InterLATA long distance market is in the public interest.

A. The Commission's responsibilities pursuant to '252(f) of the Telecommunications Act of 1996.

'252(f) allows a BOC to, at any given point in time, prepare and file with a state Commission an SGAT for purposes of delineating the terms and conditions that such company generally offers within that state. State commissions are required to complete their review of properly submitted SGATs not later than 60 days after their filing unless the submitting BOC agrees to an extension of time. State commissions are allowed to continue to review SGATs beyond the 60-day time period established by the >96 Act, but must permit the SGAT being reviewed to go into effect following the sixtieth day unless the submitting BOC has agreed to an extension.

The criteria for reviewing an SGAT are well defined by the >96 Act. In rendering its decision, a state commission is precluded from approving an SGAT unless it complies with the requirements of '251 (and the regulations promulgated thereunder) and the pricing standards for interconnection, unbundled network elements, the transport and termination of traffic and resale established by '252(d).

B. The Commission's Responsibilities pursuant to '271 of the Telecommunications Act of 1996.

BellSouth's request for a determination that its SGAT complies with the 14-point competitive checklist of '271(c)(2)(B) requires the Commission to engage in the consultative responsibilities established by the >96

Act at '271(d)(2)(B). When BellSouth files its Petition for In-region InterLATA authority in Alabama with the FCC, '271(d)(2)(B) requires that the FCC consult with the Commission in order to verify the compliance of the Bell operating company with the requirements of Subsection(c) of '271 prior to rendering a determination on BellSouth's filing.

BellSouth's reliance on its SGAT to demonstrate that it meets the requirements of '271(c) requires BellSouth to demonstrate that it is generally offering access and interconnection in accordance with the applicable provisions of '251 and '252. In particular, '271(c)(2)(B) requires that BellSouth generally offer nondiscriminatory access to its: poles, ducts, and conduits, etc.; unbundled local loop; unbundled local transport; unbundled local switching; 911/E911, directory assistance services, and operator call completion services; white pages directory listings; telephone numbers; databases and associated signaling; and number portability. Additional obligations imposed by '271(c)(2)(B) require BellSouth to generally offer dialing parity, reciprocal compensation and resale service subject to the applicable requirements of '251 and '252.

C. The Commission's Process of Review

Due to the substantial overlap of the legal and technical obligations imposed on BellSouth by '252(f) and '271(c)(2)(B), we have attempted to fulfill our statutory responsibility of reviewing BellSouth's SGAT pursuant to '252(f) by conducting an analysis of the individual checklist requirements of '271(c)(2)(B). This is the approach which most effectively lends itself to rendering the determinations sought in this proceeding by BellSouth.

III. DISCUSSION AND CONCLUSIONS

The Commission staff has been working diligently to ensure that this Commission fulfills its statutory responsibilities in reviewing BellSouth's petition. We have closely monitored these proceedings and the work that has been performed by the staff to this point.

It has become increasingly apparent from our review that BellSouth's request for the Commission to approve its SGAT pursuant to '252(f) and to find that SGAT compliant with '271(c)(2)(B) is, at this juncture, premature. We recognize that BellSouth has made substantial progress towards meeting the Act's requirements to obtain In-Region InterLATA authority, but it nonetheless appears that BellSouth's petition is not yet timely.

Our conclusions herein are based primarily on two areas of concern. First, the rates BellSouth relies on in its SGAT have not been determined to be cost based as required by '252(d). We note, however, that the Commission has just recently completed public hearings concerning the establishment of cost-based rates for unbundled network elements in Docket 26029. A Commission decision establishing those rates will resolve the vast majority of our concerns regarding cost-based rates.

The second major area of concern the Commission has with rendering a decision regarding BellSouth's SGAT at this time relates to the access BellSouth currently provides to its Operational Support Systems (OSS). It appears to us that BellSouth's OSS interfaces must be further revised to provide nondiscriminatory access to BellSouth's OSS systems as required by '251(c)(3) of the '96 Act. We have concerns that such nondiscriminatory access is not currently being provided.

We believe the most expeditious and effective method of ensuring that those OSS shortcomings are rectified in a timely manner is for the Commission to institute a further proceeding in this Docket wherein BellSouth must give a live demonstration of its OSS systems for the Commission, our staff and the intervenors in this cause. We believe that such a demonstration in a setting where the parties can engage in hands-on, give-and-take will be the most effective means of remedying the concerns we have with BellSouth's OSS interfaces. We further believe, however, that it is necessary for the Commission to establish performance standards in the OSS proceedings ordered herein so that BellSouth's provisioning of service to its competitors can be meaningfully compared to BellSouth's internal performance.

As was discussed on the record at our October 6, 1997 public meeting of the Commission, we believe that the measures discussed above are necessary steps in the process of bringing local and long distance competition to Alabama. We

view the process of reviewing BellSouth's SGAT for purposes of determining checklist compliance as a continuing one which will be most effective if there is a constructive dialogue between the affected parties. Our initial proceedings in this cause were merely the first step in the on-going process of ensuring that local and long distance competition develop in this State.

Our views in this regard are apparently shared by BellSouth. BellSouth, through its Alabama President of Operations, Mr. R. Neal Travis, concurred with our recommendation that BellSouth waive the 60-day deadline of '252(f) indefinitely so that the cost and OSS proceedings discussed above can be brought to fruition. We view BellSouth's willingness to waive the statutory deadline indefinitely so that the expressed concerns regarding SGAT rates and OSS access can be resolved as a good faith measure. BellSouth's actions in this regard demonstrate the Company's commitment to doing its part to ensure that competition comes to all of Alabama's telecommunications markets.

IV. ORDERING CLAUSES

IT IS, THEREFORE, ORDERED BY THE COMMISSION, That the deadline for this Commission's decision as to whether BellSouth Telecommunications, Inc.'s August 8, 1997 SGAT meets the requirements of '252(f) of the Telecommunications Act of 1996 and is compliant with the provisions of '271(c)(2)(B) of the Telecommunications Act of 1996 is, with the oral and written concurrence of BellSouth Telecommunications, Inc., hereby suspended indefinitely. The Commission will, however, endeavor to render its determinations in this regard as expeditiously as possible following the completion of the Operational Support Systems proceedings ordered herein and the cost proceedings being conducted under Commission Docket 26029.

IT IS FURTHER ORDERED BY THE COMMISSION, That BellSouth Telecommunications, Inc. shall conduct a live, public demonstration of the electronic interfaces allowing access to its Operational Support Systems for the Commission, the Commission staff, and the intervenors to this proceeding at 9:30 a.m., on December 18, 1997, in the Commission Hearing Room, Suite 900, 100 North Union Street, Montgomery, Alabama 36104. BellSouth shall be further prepared to demonstrate or explain in detail any manual interfacing requirements it currently has in place with regard to its Operational Support Systems.

IT IS FURTHER ORDERED BY THE COMMISSION, That the intervenors in this cause who desire to participate in the above-noted Operational Support Systems demonstration shall file documentation listing the electronic interfaces they envision utilizing in their provision of local service in Alabama and the purported deficiencies in those interfaces as proposed by BellSouth no later than November 14, 1997. Such filings shall include any performance measures proposed by the intervenors to the extent that they have not already been addressed on the record in this proceeding.

IT IS FURTHER ORDERED BY THE COMMISSION, That BellSouth Telecommunications, Inc. shall file its written responses to the claims of deficiencies in its Operational Support Systems interfaces and to any performance measures proposed by the intervenors no later than December 5, 1997.

IT IS FURTHER ORDERED BY THE COMMISSION, That jurisdiction in this cause is hereby retained for the issuance of any further order or orders that may be deemed just and reasonable in the premises.

IT IS FURTHER ORDERED, That this Order shall be effective as of the date hereof.

DONE at Montgomery, Alabama, this 16th day of October, 1997.

ALABAMA PUBLIC SERVICE COMMISSION

Jim Sullivan, President

Jan Cook, Commissioner

Charles B. Martin, Commissioner

ATTEST: A True Copy

Walter L. Thomas, Jr., Secretary

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