

BELLSOUTH TELECOMMUNICATIONS, INC.,
Petitioner

APPLICATION: For approval to establish rates, terms and conditions for Physical Expanded Interconnection Service for the Access Services Tariff.

DOCKET 28089

ORDER

BY THE COMMISSION:

I. Introduction/Background

By filing received October 11, 2001, with a requested effective date of November 12, 2001, BellSouth Telecommunications, Inc. (BellSouth) petitioned the Commission for approval of revisions to its existing Tariff as set out herein.

ACCESS SERVICES TARIFF

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BellSouth noted that the proposed tariff revisions would establish rates, terms and conditions for the installation of collocator-owned equipment and facilities within leased floor space in BellSouth's central offices for the primary purpose of interconnecting with the Company's network and/or accessing the Company's unbundled network elements. BellSouth further noted that the provision of such space has traditionally required the negotiation of a physical collocation agreement. BellSouth represented that approval of the tariff revisions in question would eliminate that requirement and provide a more efficient means of processing such requests.

BellSouth lastly noted that the cost information supporting the rates proposed in the tariff under consideration was the subject of investigation in Docket 27821. Said Docket was indeed established by the Commission as a generic proceeding for purposes of establishing unbundled network element ("UNE") prices for BellSouth and Verizon South, Inc.

It should be noted that BellSouth previously submitted the tariff revisions proposed by its October 11, 2001 filing in a similar filing made on May 4, 2001. That May 4, 2001 filing resulted in the establishment of this Docket when said filing was suspended to and through September 3, 2001 pursuant to order entered in this cause on June 1, 2001. BellSouth subsequently withdrew its May 4, 2001 filing pursuant to notice dated July 19, 2001. Prior to said withdrawal, however, the investigation of BellSouth's May 4, 2001 filing was incorporated into Docket 28091, a proceeding established by the Commission to consider the terms and conditions for collocation arrangements in Alabama on a generic basis.

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Following an initial review of BellSouth's October 11, 2001 filing, the Commission held that the tariff revisions proposed therein required further study and investigation to determine whether or not their adoption was in the public interest. The filing was therefore suspended for a period of 120 days from the requested effective date to and through March 11, 2002 pursuant to Commission order entered on November 5, 2001. The November 5, 2001 Order of Suspension was inadvertently issued under Docket 28288 due to a scrivener's error. Upon discovery of said scrivener's error, a corrected Order of Suspension was entered under this Docket on December 11, 2001.

As noted above, the Commission had previously determined that its investigation and/or hearing of the tariff revisions proposed in BellSouth's October 11, 2001 filing would be conducted under Docket 28091, the generic proceeding established to consider the terms and conditions for collocation arrangements in Alabama. Pursuant to notice dated November 3, 2001, the hearing of Docket 28091 and BellSouth's October 11, 2001 proposed tariff revisions filed under this Docket was scheduled for January 10, 2002. No party specifically intervened in opposition to BellSouth's October 11, 2001 filing in this Docket, but the Commission did receive Petitions to Intervene in the proceedings in Docket 28091 from ITC DeltaCom Communications, Inc. (ITC DeltaCom) and Sprint Communications Company, LLP (Sprint).

In support of its October 11, 2001 tariff filing, BellSouth submitted the prefiled testimony of Mr. A. Wayne Gray, the Director of BellSouth's Regional Planning and Engineering Center in its Network and Support Organization. ITC DeltaCom did not prefile testimony but requested that the Commission take judicial notice of the collocation related testimony of ITC DeltaCom employee, Ms. Kristie Warren, in Docket 25835.¹ ITC DeltaCom's request was granted over the objection of BellSouth.²

ITC DeltaCom actively participated in the proceedings of January 10, 2002 through the cross-examination of BellSouth's witness, Mr. Gray. Sprint was represented in the proceedings but did not conduct cross-examination or attempt to introduce any testimony.

II. Findings and Conclusions

From our review of the record compiled in this cause, it is apparent that the primary issues between BellSouth and ITC DeltaCom concerning BellSouth's October 11, 2001 collocation tariff filing relate to the provisioning and/or application response intervals regarding CLEC collocation requests as well as the power options CLECs have concerning their collocation arrangements. DeltaCom appears most concerned about the application and provisioning intervals proposed by BellSouth for physical and virtual collocation. BellSouth maintains that the proposals in its October 11, 2001 filing will benefit CLECs through shorter physical collocation intervals and will serve to standardize the provisioning intervals in

¹ *Petition for Approval of the 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; APSC Docket No. 25835.*

² Judicial notice was taken of transcript pp. 1602-1789 of Volume II-B of the June 26, 2001 proceedings conducted in Docket 25835.

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Alabama with other states in the BellSouth region thereby furthering Congress' goal of promoting robust telecommunications competition.³

BellSouth's proposed standardized interval for the processing of collocation applications is thirty (30) calendar days. BellSouth contends that such an interval will in fact be shorter for processing caged collocation applications than the 23 business day default rate established by the FCC.⁴ DeltaCom apparently contends that BellSouth should benchmark to the shorter intervals established for caged physical collocation application processing in other jurisdiction in the BellSouth region such as the 15 day calendar interval established in Florida or the 20 day calendar interval established in Georgia.⁵

BellSouth represents that it is the Company's intention to benchmark to shorter intervals when it is "technically feasible" to do so.⁶ BellSouth represents, however, that such intervals are achievable only in states such as Florida and Georgia where 100% standardized collocation rates have been established. In such circumstances, BellSouth indicates that it is "doable" for the company to provide, within as little as 15 calendar days, a firm price quote. BellSouth contends, however, that without 100% standardized pricing, it is "humanly impossible" for BellSouth to benchmark to an interval of less than 30 days in volume situations.⁷ Even with 100% standardized pricing in place, BellSouth asserts that it cannot meet the shorter intervals when CLECs request individual case base (ICB) pricing.⁸

ITC DeltaCom also expressed concerns regarding BellSouth's proposed 90 day provisioning interval for caged physical collocation. ITC DeltaCom apparently seeks a shorter provisioning interval for caged physical collocation than the 90 day interval proposed by BellSouth. ITC DeltaCom appears to advocate that a 90 day provisioning interval for the provisioning of caged physical collocation is acceptable if that 90 day period is calculated from the date that a CLEC makes its initial application for the collocation space in question.⁹

In response to ITC DeltaCom's inquiries regarding its proposed provisioning intervals for caged physical collocation, BellSouth contends that the 90 day provisioning interval it advocates should not commence until BellSouth receives a bona fide firm order for caged physical collocation space from a CLEC.¹⁰ BellSouth contends that in order for it to provision a caged physical collocation request within 90 days of a CLEC's initial application for a price quote, preconditioning charges will have to be implemented to allow BellSouth to recoup any costs that it may incur in preparing the space inquired about in the event that no bona fide firm order is ultimately placed. BellSouth maintains that such charges would be necessary because it would have to begin conditioning collocation space prior to its receipt of a bona fide

³ Tr. p. 24 (*Gray*).

⁴ Tr. p. 158 (*Gray*).

⁵ Tr. p. 154 (*cross of Gray by counsel for ITC DeltaCom*).

⁶ Tr. p. 153 (*Gray*).

⁷ Tr. pp. 155, 157 (*Gray*).

⁸ *Id.*

⁹ Tr. p. 160 (*cross of Gray by counsel for ITC DeltaCom*).

¹⁰ Tr. p. 161 (*Gray*).

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firm order for such space in order to meet a 90 day provisioning interval calculated from a CLECs initial application/inquiry regarding space.¹¹

It is also apparent from the record that DeltaCom challenges BellSouth's position with regard to the power options that should be available to CLECs. ITC DeltaCom appears to advocate that CLECs be provided DC power to equipment located in spaces adjacent to central offices.¹² DeltaCom further expresses its desire to see standardized offerings in BellSouth's tariff allowing CLECs to reconfigure their cabling from BellSouth's main power board to a battery distribution fuse bay (BDFB) with the option of purchasing smaller increments of power. ITC DeltaCom advocates that BellSouth should waive any applicable application/reconfiguration charges in such scenarios.¹³

BellSouth contends that it currently allows CLECs to obtain collocation power from utilities and permits CLECs to reconfigure their cabling from BellSouth's main power board to the BDFB. BellSouth further asserts that CLECs utilizing the BDFB are only required to purchase the increments of power they need. BellSouth contends, however, that these matters should be individually negotiated and not tariffed.¹⁴

In response to ITC DeltaCom's inquiries regarding the provision of DC power to adjacent collocation spaces, BellSouth argues that it is opposed to such arrangements because there are no approved National Electric Code standards which would allow the provision of such DC power.¹⁵ BellSouth concedes that it is required to provide DC power to adjacent collocation spaces in Georgia and North Carolina subject to technical feasibility. BellSouth contends, however, that even if such an arrangement is ultimately approved pursuant to the prevailing electrical codes, the cost of providing DC power to adjacent collocation spaces will be so astronomical as to be prohibitive.¹⁶

III. Conclusions

Our review of the record in this cause has led us to conclude that the application response and provisioning intervals proposed in BellSouth's October 11, 2001 filing are reasonable and should, except as noted below, be adopted. ITC DeltaCom failed to demonstrate to the contrary and provided little or no substantive evidence that would support the establishment of shorter intervals.

We note, however, that the record does support the establishment of a 30 day provisioning interval for cageless collocation requests in situations where BellSouth has preconditioned space available. We further note that the record demonstrates that BellSouth should be required to establish a 15 day calendar day physical collocation application response interval in the event that the Commission establishes completely standardized collocation rates in the future.

¹¹ Tr. pp. 164-165 (*Gray*).

¹² Tr. p. 180-181 (*cross of Gray by counsel for ITC DeltaCom*).

¹³ Tr. p. 184-185, 186 (*cross of Gray by counsel for ITC DeltaCom*).

¹⁴ Tr. p. 184-188 (*Gray*).

¹⁵ Tr. p. 182-183 (*Gray*).

¹⁶ Tr. p. 182-183 (*Gray*).

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We further clarify that all collocation provisioning intervals ordered and/or approved herein by the Commission do not commence until BellSouth receives a bona fide firm order for collocation space from a CLEC. There has previously been much confusion regarding the calculation of such provisioning intervals. Our declaration herein is intended to put an end to such disputes.

With regard to the provisioning of DC power to adjacent collocation spaces, we find that BellSouth should be required to provision such arrangements when they are demonstrated to be technically feasible. Our definition of technically feasible in this instance extends to compliance with all applicable electric safety standards. The pricing of any such adjacent DC power arrangements shall be on an individual case basis.

We lastly note our disagreement with BellSouth concerning the appropriateness of tariffing the options available to CLECs with respect to certain of their power arrangements. In particular, we find that BellSouth's collocation tariff should include a provision stating that CLECs have the option of obtaining power from an electric utility. We further specify that BellSouth shall include provisions in its collocation tariff which allow CLECs connected to BellSouth's main power board to reconfigure their power arrangements in order to receive power from the Battery Distribution Fuse Bay. We find that BellSouth should respond to such applications within seven days and waive any application fees.

We further note that the rates set forth in the BellSouth October 11, 2001 tariff filing and the information submitted in support of those rates are currently under consideration in Docket 27821, a proceeding that was specifically established for purposes of determining unbundled network element rates for BellSouth and Verizon. In light of the fact that a decision in Docket 27821 is anticipated in the near future, we find that the rates set forth in BellSouth's October 11, 2001 tariff filing will be acceptable on an interim basis. Said rates will, however, be subject to the Commission's final order in Docket 27821 and will, to the extent that they are modified in any way by said order, have to be trued up to the rates established by the final order in Docket 27821.

In conclusion we hereby approve the proposals set forth in BellSouth's October 11, 2001 tariff filing except as specifically noted herein to the contrary. However, because we do not approve said filing in its entirety, we, with this order, deny the October 11, 2001 filing of BellSouth and require BellSouth to refile said tariff with the modifications noted herein.

IT IS, THEREFORE ORDERED BY THE COMMISSION, That the October 11, 2001 filing of BellSouth Telecommunications, Inc. is for the reasons set forth above denied.

IT IS FURTHER ORDERED BY THE COMMISSION, That BellSouth shall be allowed to refile said tariff with the modifications set forth in detail above.

IT IS FURTHER ORDERED, That jurisdiction in this cause is hereby retained for the issuance of any further order or orders as may appear to be just and reasonable in the premises.

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

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DONE at Montgomery, Alabama, this 11th day of March, 2002.

ALABAMA PUBLIC SERVICE COMMISSION

Jim Sullivan, President

Jan Cook, Commissioner

George C. Wallace, Jr., Commissioner

ATTEST: A True Copy

Walter L. Thomas, Jr., Secretary