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DOCKET # 7892 8354
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Docket No. 7892

IN RE: Performance Measurements for Telecommunications Interconnection,
Unbundling and Resale

Docket No. 8354-U

IN RE: Docket No. 8354-U: Investigation into Development of Electronic
Interfaces for BellSouth's Operations Support Systems

ORDER ADOPTING HEARING OFFICER'S RECOMMENDED ORDER

On December 1, 2004, BellSouth Telecommunications, Inc. ("BellSouth") filed with the Georgia Public Service Commission ("Commission") its Preliminary Notification Report for the data month of February, 2005. Item Four of the Report provided as follows:

Where a CLEC enters into an agreement(s) with BellSouth for services not subject to the SQM plan, such services should not be reflected in the SQM data in accordance with the parties' agreement(s). BellSouth will implement coding changes to effect this change.

On December 21, 2005, the CLEC Coalition, consisting of AT&T Communications of the Southern States, LLC, DIECA Communications, Inc. d/b/a Covad Communications, Birch Telecom Inc, ITC^DeltaCom, Inc. and MCI metro Access Transmission Services, LLC and MCI WORLDCOM Communications, Inc., filed comments opposing BellSouth's proposed change.

On March 8, 2005, the Commission issued an order assigning the above matters to a Hearing Officer for oral argument. Specifically, the Commission in its Order stated:

The Commission does not dispute a party's right to opt out of SEEM payments. However, it is unclear whether BellSouth has the authority, under the Commission's order establishing the SQM, to discontinue reporting and payments under Tier 2 in which the penalties are paid into the State treasury for performance deficiencies relative to the industry as a whole. Because this matter is a question of law, the Commission assigns the matter to a hearing officer for oral argument.

Docket Nos. 7892-U and 8354-U

Commission Order

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(Order, p. 2).

On May 10, 2005, the Hearing Officer issued a Consent Procedural and Scheduling Order, setting forth dates upon which briefs were to be filed and oral argument to be conducted. Prior to the filing of any briefs in this docket, BellSouth notified the Hearing Officer that the parties had agreed to a stipulation in this matter (the "Stipulation").

The Stipulation includes the following provisions:

1. All DS0 wholesale platform circuits provided by BellSouth to a CLEC pursuant to a commercial agreement shall be removed from the SQM Reports; Tier 1 payments; and Tier 2 payments starting with May 2005 data.
2. The removal of DS0 wholesale platform circuits as specified above will occur region-wide.
3. All parties to this docket reserve the right to make any arguments regarding the removal of any items other than the DS0 wholesale platform circuits from SQM/SEEMs in Docket No. 19341-U to the extent specified in the approved issues list.

On May 24, 2005, the Hearing Officer issued a Recommended Order approving the terms of the settlement in its entirety. The Staff recommended that the Commission adopt the Hearing Officer's Recommendation. No party has objected to the Stipulation.

The Commission adopts the Hearing Officer's Recommended Order.

WHEREFORE IT IS ORDERED, that the Commission hereby accepts and adopts the Stipulation;


ORDERED FURTHER, that the terms of the attached Stipulation are hereby incorporated by reference and shall be regarded as an Order of this Commission;

ORDERED FURTHER that BellSouth and the members of the CLEC Coalition shall comply with all of the terms and conditions of the Stipulation;

ORDERED FURTHER that any motion for reconsideration, rehearing or oral argument or any other motion shall not stay the effective date of this Order, unless otherwise specified by the Commission; and


ORDER FURTHER that jurisdiction over this matter is expressly retained for the purpose of entering such further Order(s) as the Commission may deem just and proper.

The above by action of the Commission in its Administrative Session held on June 10, 2005.



REECE MCALISTER
EXECUTIVE SECRETARY

6.23.05
DATE



ANGELA ELIZABETH SPEIR
CHAIRMAN
6/23/05
DATE

Proposed Stipulation

On December 1, 2004, BellSouth filed its Preliminary Notification Report for the data month of February 2005. Item Four of the Report provided as follows:

Where a CLEC enters into an agreement(s) with BellSouth for services not subject to the SQM plan, such services should not be reflected in the SQM data in accordance with the parties' agreement(s). BellSouth will implement coding changes to effect this change.

Five CLECs opposed BellSouth's proposed change – AT&T, MCI, Covad, ITC^DeltaCom and Birch.

In February 2005, the Commission sent the issue to a hearing officer to determine, as a matter of law, what should happen with respect to Tier 2 payments.

In order to move forward on this matter, BellSouth and the five opposing CLECs agree to the following:¹

1. All DS0 wholesale platform circuits provided by BellSouth to a CLEC pursuant to a commercial agreement shall be removed from the SQM Reports; Tier 1 payments; and Tier 2 payments starting with May 2005 data.
2. The removal of DS0 wholesale platform circuits as specified above will occur region-wide.
3. All parties to this docket reserve the right to make any arguments regarding the removal of any items other than the DS0 wholesale platform circuits from SQM/SEEMs in Docket No. 19341-U to the extent specified in the approved issues list.

¹ AT&T, MCI, Covad and DeltaCom all affirmatively consented to the stipulation and Birch did not object.