

REQUIRES MONITORING
OR STAFF ACTION _____

COMMISSION DIRECTIVE

ADMINISTRATIVE MATTERS	<input type="checkbox"/>	DATE	<u>April 13, 2005</u>
MOTOR CARRIER MATTERS	<input type="checkbox"/>	DOCKET NO.	<u>2004-316-C</u>
UTILITIES MATTERS	<input checked="" type="checkbox"/>		_____

SUBJECT:

DOCKET NO. 2004-316-C – Petition of BellSouth Telecommunications, Inc. to Establish Generic Docket to Consider Amendments to Interconnection Agreements Resulting from Changes of Law. Oral Arguments held: March 10, 2005. Discuss this matter with the Commission.

COMMISSION ACTION:

This matter comes before the Commission on a Petition for Emergency Relief submitted by various CLECs on March 2-4, 2005, and a related letter from ITC\DeltaCom Communications, Inc. submitted to the Commission on February 23, 2005. The Petitioners ask this Commission to:

- (1) declare that the transitional provisions of the Triennial Review Remand Order (or TRRO) issued by the FCC on February 4, 2005, are not self-effectuating but rather are effective at such time as the Parties' existing interconnection agreements are superseded by the interconnection agreements resulting from their upcoming arbitration docket; and
- (2) declare that the Abeyance Agreement they entered with BellSouth Telecommunications, Inc. requires BellSouth to continue to honor the rates, terms and conditions of the Parties' existing interconnection agreements until such time as those agreements are superseded by the agreements resulting from the upcoming arbitration docket.

The Commission has carefully reviewed this docket including the filings of the parties, the oral argument presented, and the controlling law. Guided by our duties under state law, the express terms of the TRRO, its findings regarding public policy and the public interest, and based on our reading of the TRRO that the FCC envisioned that the changes of substantive law would be administered through an orderly process, under state commission supervision, I move that this Commission grant in part and deny in part the Petitioner's request for relief as follows:

- 1. after June 8, 2005, which is 90 days from the date of BellSouth's Carrier Notification letter dated March 8, 2005, CLECs can no longer order a UNE from BellSouth and pay the TELRIC rates for that item in regard to new customers seeking switching, high capacity loops in specified central offices as defined in the TRRO, dedicated transport between central offices having certain characteristics defined in the TRRO, and dark fiber. This 90 day period is provided only for orderly negotiation and service transition purposes, and will be subject to true-up back to March 11 based on the new contractual arrangements negotiated by the parties;
- 2) the transition of the embedded base of existing customers, including those existing customers who seek moves, changes and additions of newly delisted UNEs for such customer base at new and existing physical locations, shall occur with alacrity under the supervision of this Commission, prior to the FCC's absolute deadline of March 10, 2006 for provision of any such UNEs at TRRO transition plan rates (i.e., TELRIC rates + \$1 or 115% as applicable);
- 3) if a CLEC orders a high-capacity loop or transport UNE from BellSouth after March 11, 2005 and certifies that, based on a reasonably diligent inquiry and to the best of its knowledge, its request is consistent with the applicable requirement of the TRRO, BellSouth must immediately process the request. To the extent that BellSouth seeks to challenge any such UNEs, it subsequently can raise that issue through the dispute resolution procedures provided for in its interconnection agreements; and

4) that the scope of the parties' Abeyance Agreement does not reach the provisions of the TRRO that this Commission is called upon to interpret in the CLEC's Petition; therefore it is this Commission's determination that the Abeyance Agreement does not offer the Petitioners an alternative method of relief.

Where commercial agreements have been negotiated, they will take precedence over the relevant terms of this order. As emphasized by the FCC, this Commission notes that the parties "must negotiate in good faith" and that "the parties will not unreasonably delay implementation of the conclusions" of the TRRO, which clearly signaled an expectation that the parties will move expeditiously away from the specified UNE framework. Further, the FCC "encourage(d) the state commissions to monitor this area closely to ensure that parties do not engage in unnecessary delay." This Commission plans to do so, with the full expectation and goal that the parties will reach new agreements and have procedures in place to transition new and existing services well before the relevant deadlines recognized by this Commission and the FCC.

PRESIDING Mitchell

	MOTION	YES	NO	OTHER
CLYBURN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
FLEMING	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
HAMILTON	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
HOWARD	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
MITCHELL	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
MOSELEY	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
WRIGHT	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

- APPROVED
- APPROVED STC 30
- DAYS
- ACCEPTED FOR FILING
- DENIED
- AMENDED
- TRANSFERRED
- SUSPENDED
- CANCELED
- SET FOR HEARING
- ADVISED
- CARRIED OVER
- RECORDED BY JBS

Session: Regular

Time of Session 10:00 AM