

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Joint application for approval of indirect transfer of control of telecommunications facilities resulting from agreement and plan of merger between AT&T Inc. (parent company of AT&T Communications of the Southern States, LLC, CLEC Cert. No. 4037, IXC Registration No. TJ615, and PATS Cert. No. 8019; TCG South Florida, IXC Registration No. TI327 and CLEC Cert. No. 3519; SBC Long Distance, LLC, CLEC Cert. No. 8452, and IXC Registration No. TI684; and SNET America, Inc., IXC Registration No. TI389) and BellSouth Corporation (parent company of BellSouth Telecommunications, Inc., ILEC Cert. No. 8 and CLEC Cert. No. 4455); and BellSouth Long Distance, Inc. (CLEC Cert. No. 5261 and IXC Registration No. TI554).

DOCKET NO. 060308-TP
ORDER NO. PSC-06-0531-PAA-TP
ISSUED: June 23, 2006

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman
J. TERRY DEASON
ISILIO ARRIAGA
MATTHEW M. CARTER II
KATRINA J. TEW

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING INDIRECT TRANSFER OF CONTROL

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

Case Background

On March 31, 2006, AT&T Inc., BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc. (collectively referred to as "Applicants") submitted a joint application for approval of indirect transfer of control of telecommunications facilities from

BellSouth Corporation to AT&T Inc. resulting from an Agreement and Plan of Merger jointly executed by the two companies.

The merger of AT&T Inc. and BellSouth Corporation is a holding company transaction. Upon completion of the merger, BellSouth Telecommunications, Inc. and BellSouth Long Distance, Inc. will become wholly owned subsidiaries of AT&T Inc., and thus, AT&T Inc. will indirectly control BellSouth Telecommunications, Inc. and BellSouth Long Distance, Inc.

AT&T Inc. is a Delaware corporation with its headquarters at 175 East Houston Street, San Antonio, Texas. AT&T Inc. is a holding company and does not directly provide any services in Florida. However, AT&T Inc. owns several subsidiaries that are currently providing services in Florida.

AT&T Inc. subsidiaries operating in Florida

AT&T Communications of the Southern States, LLC, holds the following certificates and registration:

- a. Competitive Local Exchange Company (CLEC) Certificate No. 4037, issued May 7, 1996,
- b. Pay Telephone Certificate No. 8019, issued February 1, 2002, and
- c. Interexchange Company (IXC) Registration No. TJ615, issued February 1, 2002.

TCG South Florida holds the following certificate and registration:

- a. Alternative Access Vendor (AAV) Certificate No. 3519, issued through transfer on July 21, 1995 – also authorizes the company to provide CLEC services, and
- b. IXC Registration No. TI327, issued July 27, 1995.

SBC Long Distance, LLC d/b/a AT&T Long Distance holds the following certificate and registration:

- a. CLEC Certificate No. 8452, issued May 4, 2002, and
- b. IXC Registration No. TI684, issued September 3, 1997.

SNET America, Inc. d/b/a SBC Long Distance East holds the following registration:

- a. IXC Registration No. TI389, issued July 27, 1995.

BellSouth Corporation is a Georgia corporation headquartered at 1155 Peachtree Street, N.E., Atlanta, Georgia. Like AT&T Inc., BellSouth Corporation is a holding company that does

not directly provide services in Florida. Through the following subsidiaries, BellSouth Corporation provides services in Florida.

BellSouth Corporation subsidiaries operating in Florida

BellSouth Telecommunications, Inc. holds the following certificates:

- a. Incumbent Local Exchange Company (ILEC) Certificate No. 8, issued January 17, 1955, and
- b. CLEC Certificate No. 4455, issued June 14, 1996.

BellSouth Long Distance, Inc. holds the following certificates and registration:

- a. CLEC Certificate No. 5261, issued November 18, 1997, and
- b. IXC Registration No. TI554, issued October 21, 1997.

According to the Applicants, the merger will have no effect on the rates, terms, and conditions of service that BellSouth Telecommunications, Inc. and BellSouth Long Distance, Inc. provide to their customers. There will not be a transfer of certificates, customer bases, or assets. Tariffs will not require amendments. Nor will any AT&T Inc. subsidiaries certificated in Florida require any changes.

The Federal Communications Commission (FCC) established a pleading cycle seeking comments or petitions on the joint application for transfer of control filed by AT&T Inc. and BellSouth Corporation (WC Docket No. 06-74). Currently, the FCC is seeking comments on the application and those comments are due by June 5, 2006. Responses to the comments are due on June 20, 2006. The FCC is tentatively scheduled to issue an Order on the AT&T Inc./BellSouth Corporation petition in October 2006. The Order will either grant the applications, grant the applications with conditions, or designate the applications for hearing.

We are vested with jurisdiction over this matter pursuant to sections 364.01, 364.33, and 364.335, Florida Statutes.

I. Jurisdiction

A. Section 364.33, Florida Statutes

We have authority under section 364.33, Florida Statutes, to approve an application for transfer of control. In the past, we have noted that this provision does not provide specific standards which we may follow in making our decision to approve a transfer of control. However, section 364.01, Florida Statutes, implies a public interest standard that we may follow when deciding whether to approve or deny transfers of control, among other transactions.

The broad legislative intent in section 364.01, Florida Statutes, is clear: we are to exercise our jurisdiction in order to protect “the public health, safety, and welfare” as it relates to basic

local telecommunications services. Although there is little guidance on what constitutes the “public interest,” section 364.335, Florida Statutes, provides that “[r]evocation, suspension, transfer, or amendment of a certificate shall be subject to the provisions of this section” We reviewed the management, technical, and financial capability of the companies within the framework of sections 364.33 and 364.335, Florida Statutes.

II. Findings

Historically, a public interest test has been used to determine if a change of control under 364.33, Florida Statutes, should be approved. Our approach in this case is consistent with our past decisions. To determine if the change of control was in the public interest, we reviewed the financial, management, and technical capabilities of the Applicants to determine if these aspects of the operation would impact such items as customer rates, service quality, or the ability to invest in preparing and upgrading infrastructure as a result of the change of control.

A. Management Capability

The Applicants explain in their joint application that BellSouth Telecommunications, Inc. and BellSouth Long Distance, Inc. will continue to provide service in the same manner as the companies did prior to the transfer of control. The Applicants further state that the merger will not diminish the parties’ commitment to providing the necessary resources to support our regulation of intrastate services and that AT&T Inc. intends to utilize the services of the management and employees of BellSouth Corporation following the closing of the merger.¹ Hence, it appears that the management of BellSouth Telecommunications, Inc. and BellSouth Long Distance, Inc. will continue unchanged. As an Incumbent Local Exchange Company originally certificated in 1955, BellSouth Telecommunications, Inc. has demonstrated the managerial capability to operate a local exchange company within the framework of the public interest.

B. Technical Capability

The same networks that currently serve Florida customers will continue to serve them after the merger. BellSouth Telecommunications, Inc. will continue to provide service under its Service Guarantee Plan approved by the Commission in Order No. PSC-05-0440-PAA-TL, issued April 25, 2005, in Docket No. 050095-TL. The Applicants claim that the vertical integration of the AT&T Inc. backbone network and the BellSouth Telecommunications, Inc. local network will result in more efficient and reliable services.² Further, the Applicants claim that the merged networks will increase efficiency and reduce costs by avoiding the need for inter-networking traffic between companies, and ultimately, will result in better service and

¹ See Joint Application for Approval of Indirect Transfer of Control of Facilities, filed March 31, 2006, in Docket No. 060308-TI, page 11, ¶ 24.

² See Joint Application, page 18, ¶ 43.

reliability for consumers.³ Thus, the merger should not lessen the Applicants' capability to provide quality service to Florida consumers.

C. Financial Capability

The merger should not affect the Applicants' combined financial capability to continue to provide services in Florida. The Applicants' operations will remain intact while they project expense and capital expenditure synergies of about \$2 billion annually by 2008 as a result of duplicative corporate overhead, network and information technology consolidation and advertising savings.⁴

The merger may affect the combined companies' debt rating and cash flow. Moody's Investors Service placed the debt ratings of both AT&T Inc. and BellSouth Corporation under review for possible downgrade. In its Global Credit Research Rating Action, dated March 6, 2006, Moody's indicated that, while it "believes the acquisition is strategically appropriate, it is nevertheless concerned that cash flow measures of leverage will be higher in 2007 than originally expected by Moody's due to both the large share buyback program⁵ as well as the costs of integrating the two firms." Fitch Ratings also placed AT&T Inc. and BellSouth Corporation on Negative Rating Watch – reflecting Fitch's need to evaluate the financial implications of the merger on the companies' debt ratings.

In summary, the merger may slightly lower the companies' debt ratings, but should not impact BellSouth Telecommunications, Inc.'s financial capability to continue to provide local exchange services to Florida consumers. The combined market capitalization for AT&T Inc. and BellSouth Corporation would be approximately \$165 billion.⁶

III. Conclusion

We find that based upon the Applicants' management, technical, and financial capability, the transfer of control is in the public interest.

³ See Joint Application, page 18, ¶ 44.

⁴ AT&T/BS-FDR-1 000032, Assessing The Rating Implications of the AT&T Inc./BellSouth Corp. Merger, Standard & Poors, Credit FAQ, March 7, 2006.

⁵ AT&T plans to buy back up to \$10 billion of AT&T stock over the next 22 months.

⁶ The Economist, *Big is beautiful*, March 9, 2006.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that AT&T, Inc., BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc.'s Joint Application for Indirect Transfer of Control of BellSouth Telecommunications, Inc. and BellSouth Long Distance, Inc. from BellSouth Corporation to AT&T Inc. is hereby approved. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 23rd day of June, 2006.

/s/ Blanca S. Bayó

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

This is a facsimile copy. Go to the Commission's Web site, <http://www.floridapsc.com> or fax a request to 1-850-413-7118, for a copy of the order with signature.

(S E A L)

JKF

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 that is available under Section 120.57, 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 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.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on July 14, 2006.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.