

**IN RE: PROPOSED REVISIONS TO THE PRICE
REGULATION AND LOCAL COMPETITION
PLAN.**

DOCKET 28590

**ORDER ADOPTING STAFF PROPOSAL AND
ESTABLISHING WORKSHOP**

BY THE COMMISSION:

I. Introduction and Background

By Order entered in this cause on September 22, 2003, the Commission sought comments from interested parties concerning the revised Price Regulation Plans which had been submitted to the Commission for consideration by BellSouth Telecommunications, Inc. ("BellSouth") and certain of Alabama's Rural Incumbent Local Exchange Carriers (the "Rural LECs").¹ The Commission's September 22, 2003, Order also sought comment concerning a revised Price Regulation Plan which had been developed by the Commission staff. All three plans were appended to the Commission's September 22, 2003, Order seeking comment.

¹ The Rural LECs include Alltel Alabama, Inc.; Ardmore Telephone Company, Inc.; Blountsville Telephone Company; Butler Telephone Company, Inc.; Brindlee Mountain Telephone Company; Castleberry Telephone Company, Inc.; CenturyTel of Alabama, LLC; Farmers Telephone Cooperative, Inc.; GTC, Inc., d/b/a GT Com; Frontier Communications of Alabama; Frontier Communications of Lamar County; Frontier Communications of the South, Inc.; Graceba Total Communications, Inc.; Gulf Telephone Company; Hayneville Telephone Company, Inc.; Hopper Telecommunications Company, Inc.; Interstate Telephone Company; Millry Telephone Company, Inc.; Moncree Telephone Cooperative, Inc.; Moundville Telephone Company, Inc.; National Telephone of Alabama, Inc.; New Hope Telephone Company Cooperative, Inc.; Oakman Telephone Company, Inc.; Otelco Telephone, LLC (formerly Oneonta Telephone Company, Inc.); Peoples Telephone Company, Inc.; Pinebelt Telephone Company, Inc.; Ragland Telephone Company, Inc.; Roanoke Telephone Company, Inc.; Union Springs Telephone Company; and Valley Telephone Company.

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The September 22, 2003, Order of the Commission established October 31, 2003 as the original deadline for the filing of initial comments and November 21, 2003 as the original deadline for the filing of reply comments. Pursuant to Commission Notice entered on October 24, 2003, however, the Commission honored the request of the Office of the Attorney General of Alabama (the "AG") and extended the October 31, 2003, deadline for the filing of initial comments until November 21, 2003. On November 13, 2003, the Commission again honored a request for further extension by the Attorney General and entered a notice extending the deadline for the filing of initial comments until January 6, 2004. The Commission's November 13, 2003 Notice also extended the deadline for the filing of reply comments until January 27, 2004.

In response to the request for comments, the Commission received initial comments from BellSouth; the Rural LECs; the AG; MCI WorldCom Communications, Inc., and MCI Metro Access Transmission Services, LLC (collectively "MCI"); ITC DeltaCom Communications, Inc. ("DeltaCom"); and AT&T Communications of the South Central States, LLC ("AT&T"). Reply comments were received from BellSouth, the AG, AT&T and ITC DeltaCom. On February 24, 2004, the Commission also received a Petition to Intervene and Participate in the Proceedings in this cause from the Competitive Carriers of the South, Inc. ("CompSouth").²

After considering the aforementioned initial and reply comments, the Commission staff developed a revised plan to regulate the telecommunications industry in Alabama which the staff entitled the Alabama Telecommunications Regulation Plan (the "ATRP"). The ATRP was distributed to all interested parties for informational purposes pursuant to Commission Notice dated June 3, 2004.

² CompSouth represents that its 18 competitive local exchange carriers doing business in the Southeast include: ITC DeltaCom; MCI; Access Point, Inc.; LecStar; NewSouth Communications Corp.; AT&T; Nuvox Communications, Inc.; Access Integrated Networks, Inc.; Birch Telecom; Talk America; Cinergy Communications Company; Z-Tel Communications; Network Telephone Corp.; Momentum Business Solutions; Covad; KMC Telecom, LLC; and Xspedius Corp. CompSouth represents that its National Association members include the CompTel/Ascent Alliance and Promoting Active Competition Everywhere (PACE).

II. Discussion and Conclusions

After considering the initial and reply comments in this cause and the staff's proposed ATRP which was developed in response to said comments, the Commission has concluded that the staff's proposed ATRP should be adopted. However, the Commission further concludes that the ATRP should not be made effective until further proceedings in this cause are conducted to consider major unresolved issues in the telecommunications arena such as questions regarding intercarrier compensation and the uncertainty regarding unbundled network elements resulting from the decision of United States Court of Appeals for the District of Columbia Circuit in *United States Telecom Association v. FCC*; 359 F.3d 554 (D.C. Cir 2004). More specifically, the Commission concludes that the ATRP should not be made effective until industry-wide workshops are conducted and an initial and reply comment cycle is established and concluded. Any hearings which are requested and/or determined to be necessary following the workshops and/or comment cycle must also conclude before the ATRP will be made effective.³ The Commission will in fact consider proposed modifications to the ATRP which result from the foregoing proceedings and make any revisions to the ATRP deemed necessary in a subsequent implementation order.

To initiate the further proceedings deemed necessary by this Order, the Commission herein schedules an initial industry workshop in this cause for Tuesday, August 24, 2004, at 9:00 A.M. in the main hearing room of the Carl L. Evans Chief Administrative Law Judge Hearing Complex.⁴ From said workshop the Commission will develop a schedule for any additional workshops deemed necessary. Following the conclusion of said workshops, the Commission will establish an initial and reply comment cycle to be followed by the conduct of any hearings requested and/or deemed necessary.⁵

IT IS SO ORDERED BY THE COMMISSION.

³ This finding by the Commission is deemed to satisfy the June 25, 2004 Joint Motion of CompSouth, DeltaCom, AT&T and MCI for clarification concerning the effective date of the ATRP.

⁴ The Procedural Schedule and requirements for participation in the initial workshop of August 24, 2004, are reflected in Appendix A attached hereto.

⁵ Given the fact that future proceedings in this cause are scheduled herein, Rule 25 of the Commission's Rules of Practice governing Ex Parte Communications will be applicable to this Docket.

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IT IS FURTHER ORDERED BY THE COMMISSION, That the Petition of the Competitive Carriers of the South, Inc. to Intervene and Participate is hereby granted.

IT IS FURTHER ORDERED BY THE COMMISSION, 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.

DONE at Montgomery, Alabama, this 25th day of July, 2004.

ALABAMA PUBLIC SERVICE COMMISSION

Jim Sullivan, President

Jan Cook, Commissioner

George C. Wallace, Jr., Commissioner

ATTEST: A True Copy

Walter L. Thomas, Jr., Secretary

APPENDIX A

**Procedural Schedule/Requirements
for the Initial Workshop in Docket 28590**

All parties who seek to participate in the initial workshop in the above-styled cause scheduled for 9:30 A.M. in the main hearing room of the Carl L. Evans Chief Administrative Law Judge Hearing Complex on August 24, 2004, shall file written notice of their intention to participate along with names of all attendees with the Secretary of the Commission no later than August 17, 2004.

The following Procedural Schedule will to the extent possible, be adhered to with respect to the workshop of August 24, 2004:

- 9:00 A.M. Opening remarks by Commission Staff
- 9:10 A.M. Presentation by Commission Staff (Plan Overview)
- 9:45 A.M. Remarks by BellSouth
- 10:45 A.M. Break
- 11:00 A.M. Remarks from other ILECs
- 12:00 P.M. Lunch Break
- 1:30 P.M. Remarks from CLECs
- 2:30 P.M. Remarks from toll carriers/resellers
- 3:00 P.M. Break
- 3:15 P.M. Remarks from AG's Office
- 3:45 P.M. Open Forum Q&A with Commission Staff
- 4:45 P.M. Discussion of further Procedural Scheduling with Judge Garner

The parking deck code for the August 24, 2004 Workshop is 9041