

LOUISIANA PUBLIC SERVICE COMMISSION

GENERAL ORDER

LOUISIANA PUBLIC SERVICE COMMISSION, EX PARTE

Docket No. U-20883-Subdocket C - In re: Louisiana Public Service Commission, ex parte. In Re: The development of rules and regulation applicable to the entry and operations of, and the providing of services by, competitive and alternate access providers in the local, intrastate and/or interexchange telecommunications market in Louisiana. (State Universal Service)

**(Decided at Business and Executive Session held May 18, 2005)
(Amends the General Order dated April 29, 2005)**

BACKGROUND

Staff's Final Recommendation in the above captioned docket was considered by the Commission at its March 23, 2005 Business and Executive Session. On motion of Commissioner Field, seconded by Commissioner Blossman, and unanimously adopted, the Commission voted to accept the Staff recommendation with the following additional provisions:

The interim LOS preservation plan shall remain in effect until this Order becomes executory, final, and non-appealable. In lieu of Section 4 of the Staff recommendation insert "In order to ensure the timeliness of the LOS data, all TSPs who offer LOS shall file with the Commission Staff in April of each year confidential reports indicating the LOS penetration rates and minutes of use for the Company during the previous 12 months. The confidential report shall be made available subject to an appropriate non-disclosure agreement on an aggregate basis to any TSP requesting same. This information will allow the Commission upon notice in a hearing an applicant consideration of all relevant LOS cost of service factors to 1) Make adjustments to the State Universal Service Fund if the data indicates a material change in LOS penetration and on minutes of use, and 2) order an adjustment in the draw of any TSP that is experiencing material change in LOS penetration rates and on minutes of use. Adjustments ordered by the Commission shall occur within 30 days of the Commission's Order. However, if the amount of the adjustment is substantial the Commission may, in order to accommodate long-term business planning decisions, allow the TSP to implement the adjustment in phases over an additional time period not to exceed two years from the date of the Commission Order.

In adopting the above recommendation, the Commission issued General Order dated April 29, 2005. On May 9, 2005, BellSouth filed a timely filed a Motion for Clarification, seeking clarification on the following ordering paragraph (ordering paragraph "2") of the April 29, 2005 General Order:

The interim LOS preservation plan established by Order U-23267 shall remain in effect until this Order becomes executory, final, and non-appealable.

BellSouth argued that, based on the above, it was unclear when the existing Interim LOS Preservation Fund would be replaced by a permanent state universal service fund.

COMMISSION CONSIDERATION OF BELLSOUTH'S MOTION FOR CLARIFICATION

BellSouth's Motion for Clarification was considered by the Commission at its May 18, 2005 Business and Executive Session. On motion of Commissioner Sittig, seconded by Commissioner Blossman, with Commissioner Field and Boissiere voting yes and Commissioner Campbell absent, the Commission voted to reconsider the General Order. Following the vote, Commission Sittig proposed the following motion:

I now move to revise paragraph 2 of the Ordering clause at page 8 of the General Order as follows:

The Interim LOS Preservation Plan established by Order No. U-23267 shall be converted to a state universal service fund pursuant to the terms of General Order dated April 29, 2005, as modified herein, by no later than August 31, 2005. In the event that General Order dated April 29, 2005, as modified herein, is appealed and its effectiveness stayed, then the Interim LOS Preservation Plan shall remain in place and effect until General Order dated April 29, 2005, as modified herein, becomes final, non-appealable and executory, or until further order of the Commission. In the unlikely event that General Order dated April 29, 2005, as modified herein, in whole or in part, is reversed, overturned, vacated or remanded by a court, then the Commission shall ensure that LOS continues by effectuating an appropriate remedy based on guidance by the court(s) and all stakeholders.

Commissioner Blossman seconded the above motion with Commissioners Field and Boissiere voting to adopt the motion and Commissioner Campbell absent.

IT IS THEREFORE ORDERED THAT:

1. Paragraph 2 of the ordering clause of the April 29, 2005 General Order is modified to read as follows: The Interim LOS Preservation Plan established by Order No. U-23267 shall be converted to a state universal service fund pursuant to the terms of General Order dated April 29, 2005, as modified herein, by no later than August 31, 2005. In the event that General Order dated April 29, 2005, as modified herein, is appealed and its effectiveness stayed, then the Interim LOS Preservation Plan shall remain in place and effect until General Order dated April 29, 2005, as modified herein, becomes final, non-appealable and executory, or until further order of the Commission. In the unlikely event that General Order dated April 29, 2005, as modified

herein, in whole or in part, is reversed, overturned, vacated or remanded by a court, then the Commission shall ensure that LOS continues by effectuating an appropriate remedy based on guidance by the court(s) and all stakeholders.

2. The General Order dated April 29, 2005, subject to the above clarification, remains in full force and effect.
3. This Order shall be effective immediately.

BY ORDER OF THE COMMISSION
BATON ROUGE, LOUISIANA
May 18, 2005

/S/ C. DALE SITTIG
DISTRICT IV
CHAIRMAN C. DALE SITTIG

/S/ JAMES M. FIELD
DISTRICT II
VICE CHAIRMAN JAMES M. FIELD

/S/ JACK "JAY" A. BLOSSMAN
DISTRICT I
COMMISSIONER JACK "JAY" A. BLOSSMAN

/S/ ABSENT
DISTRICT V
COMMISSIONER FOSTER L. CAMPBELL

LAWRENCE C. ST. BLANC
SECRETARY

/S/ LAMBERT C. BOISSIERE, III
DISTRICT III
COMMISSIONER LAMBERT C. BOISSIERE, III