

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for temporary
waiver of physical collocation
requirements in the Lake Mary
Central Office by BellSouth
Telecommunications, Inc.

DOCKET NO. 000320-TL
ORDER NO. PSC-00-1181-FOF-TL
ISSUED: June 30, 2000

The following Commissioners participated in the disposition of
this matter:

JOE GARCIA, Chairman
J. TERRY DEASON
SUSAN F. CLARK
E. LEON JACOBS, JR.
LILA A. JABER

ORDER GRANTING TEMPORARY WAIVER OF
PHYSICAL COLLOCATION REQUIREMENTS IN THE
LAKE MARY CENTRAL OFFICE

BY THE COMMISSION:

I. BACKGROUND

On September 7, 1999, we issued Proposed Agency Action (PAA) Order No. PSC-99-1744-PAA-TP, which established procedures by which incumbent local exchange companies (LECs) would process alternative local exchange companies' (ALECs) requests for collocation and also established procedures for demonstrating space depletion for physical collocation in LEC central offices. On September 28, 1999, BellSouth Telecommunications, Inc. (BellSouth) filed a Protest/Request for Clarification of Proposed Agency Action. That same day, Rhythms Links, Inc. (Rhythms) filed a Motion to Conform Order to Commission Decision or, in the Alternative, Petition on Proposed Agency Action. Because motions for clarification/conformity are not contemplated by the PAA process, the motions were treated as protests to the PAA Order. On December 7, 1999, the Commission issued Order No. PSC-99-2393-FOF-TP, the Final Order Approving Stipulated Modifications to Collocation Guidelines, Amendatory Order, and Consummating Order. These Orders established the procedures by which a LEC could request a waiver of the physical collocation requirements from us. In establishing

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these procedures, we set forth our belief that the handling of collocation waiver requests would be expedited, and the number and scope of collocation disputes might be limited because the Commission's expectations would be defined.

Pursuant to Order Nos. PSC-99-1744-PAA-TP and PSC-99-2393-FOF-TP, BellSouth filed a Notice of Intent to Request Temporary Waiver of Physical Collocation Requirements in the Lake Mary Central Office on March 15, 2000. On March 22, 2000, BellSouth, AT&T Communications of the Southern States, Inc. (AT&T) and our staff conducted a tour of this central office.

BellSouth filed its Petition for Temporary Waiver of Physical Collocation Requirements in the Lake Mary Central Office on April 4, 2000. In accordance with the above-mentioned Orders, BellSouth timely filed their Post-Tour Report for this central office on April 11, 2000. AT&T filed post-tour comments on April 12, 2000

II. NOTICE AND PETITION

BellSouth states in its Notice of Intent that it is currently unable to provide collocation in the Lake Mary central office due to lack of space. BellSouth asserts in its petition that the space limitations it faces are the result of the space used for existing BellSouth equipment, and the planned installation of additional equipment essential to the effective service of BellSouth customers. Also, BellSouth contends that it expects to complete a building addition to this central office at the end of the second quarter of 2001.

BellSouth states that the Lake Mary central office building houses switches providing local dial tone. There is also circuit equipment located in this central office which consists of fiber optic terminals, digital cross-connect systems, multiplexers, digital channel banks, subscriber carrier terminals, and digital cross-connect panels. This central office also provides connectivity to other central offices and local customers. The above mentioned equipment is powered by rectifiers and battery strings.

BellSouth asserts that the area served by the Lake Mary central office is growing rapidly and, thus, the facility is under enormous space constraints. To meet the demand of the expanding customer base, BellSouth currently has on order from the manufacturer additional Toll/Circuit and Switching equipment.

In its Petition for Temporary Waiver, BellSouth states that it used the following procedure to identify space currently available for physical collocation in the Lake Mary central office:

1. BellSouth determined the total square footage within the facility;
2. BellSouth determined the unavailable space (i.e., restrooms, hallways, stairs, etc.);
3. BellSouth determined assigned space currently occupied by the BellSouth switch, transmission, power and other equipment, as well as necessary administrative space;
4. BellSouth determined the space reserved for future defined uses necessary to adequately serve BellSouth customers, including consideration given to BellSouth's future switch growth plans;
5. BellSouth identified any unusable space (such as basements subject to flooding); and
6. BellSouth determined available collocation space by subtracting Items 2-5 from item 1.

The Telecommunications Act of 1996 (Act) places certain obligations on LECs. One such obligation is collocation. The Act states:

COLLOCATION.-The duty to provide, on rates, terms, and conditions that are just, reasonable, and nondiscriminatory, for physical collocation of equipment necessary for interconnection or access to unbundled network elements at the premises of the local exchange carrier, except that the carrier may provide for virtual collocation if the local exchange carrier demonstrates to the State commission that physical collocation is not practical for technical reasons or because of space limitations. (47 U.S.C. 251(c)(6))

Thus, the Act clearly acknowledges that state commissions will make the determination of whether there is sufficient space in a LEC's

central office for physical collocation. BellSouth alleges in its petition that it lacks sufficient space in its Lake Mary central office to provide physical collocation.

In establishing procedures for handling a LEC's request for waiver of the physical collocation requirements for its central offices, we indicated our belief that by establishing these procedures, "the handling of collocation waiver requests will be expedited and the number and/or scope of collocation disputes may be limited because we have clearly defined our expectations." (Order No. PSC-99-1744-PAA-TP, p. 15) These procedures clearly outline the LEC, ALEC, and our responsibilities in processing waiver requests.

In brief, these Orders require that once an ALEC files a completed application for physical collocation with a LEC, and the LEC does not believe that space is available in that particular central office for physical collocation, the LEC must file, within fifteen days of the application, a Notice of Intent to Request a Waiver of the Physical Collocation Requirements with us. The LEC will file its actual Petition for Waiver of the Physical Collocation Requirements for this central office within twenty days of filing its Notice of Intent. Further, the LEC, ALEC(s) denied space, and our staff will conduct a tour of the central office within ten days of the Notice of Intent. While the LEC must allow both the ALEC(s) denied space and our staff to tour the premises, the ALEC(s) do so at their option. Twenty days after the central office tour the LEC must file a post-tour report containing certain specific information and other information that it believes to be relevant. The ALEC(s) may also file a post-tour report outlining their findings within twenty days of the tour. Our staff will then use this information to evaluate whether the LEC's Petition for Waiver should be granted.

III. POST-TOUR REPORT

The relevant information contained in BellSouth's post-tour report of the Lake Mary central office is summarized below.

BellSouth states that the Lake Mary central office contains 5195 gross square feet. There are 4090 square feet occupied by BellSouth's equipment. There are 50 square feet of administrative space. BellSouth considers administrative space as any space not directly supporting the installation and repair of both telephone equipment and customer service. BellSouth also reports that there

are 387 square feet of unavailable space in this central office. Unavailable space is defined as space assigned to building functions as required by code or national design standards. This type of space typically contains restrooms, air handling and chiller rooms, mechanical equipment such as pumps, controls, compressors, house service panel/electrical system distribution panels, stairs, elevator shafts, equipment rooms and exits. BellSouth further states that there are 185 square feet assigned to physical collocators in this office, and that there is one virtual collocator assigned space.

BellSouth also reports that it has 483 square feet reserved for its own future use. There are 281.5 square feet reserved for the growth of its switching equipment, 108.5 square feet reserved for the growth of its circuit equipment, and 93 square feet reserved for the growth of its frame equipment. We note that the FCC does allow a LEC to reserve space for its own future use:

Incumbent LECs are allowed to retain a limited amount of floor space for its own future uses. Allowing competitive entrants to claim space that incumbent LECs had specifically planned to use could prevent incumbent LECs from serving their customers effectively. Incumbent LECs may not, however, reserve space for future use on terms more favorable than those that apply to other telecommunications carriers seeking to hold collocation space for their own future use. (FCC 96-325, ¶604)

In regards to its policy of reserving space, BellSouth states:

Generally, reserved space is held for the various space usages described in step C with forecasted needs for the next 2-year shipping interval. There is one exception. There are several types and families of equipment requiring fixed layouts. That is, this equipment cannot be split up into several different locations in the central office without degrading service or capping the size or customer service levels for that type of equipment.

Concerning BellSouth's policy for reserving space, we have previously ruled:

BellSouth indicated that it reserves space for two years of forecasted equipment growth, and that it allows collocators to do the same. We find that this policy is reasonable. (Order No. PSC-99-0060-FOF-TP, p.11)

We note that BellSouth is in compliance with our earlier order under which the waiver is requested. However, subsequent to BellSouth filing its Notice of Intent, Petition for Temporary Waiver and Post-Tour Report in this proceeding, we ruled at the April 18, 2000, Agenda Conference that eighteen (18) months was a reasonable period for both ALECs and incumbent LECs to reserve space. BellSouth states in its petition that "[T]here is space reserved for defined future use for BellSouth to meet the growing needs of its customers through the year 2001." Even though this ruling was made after BellSouth's filings, the end of year 2001 is roughly eighteen (18) months from this recommendation. It appears, therefore, that BellSouth is in compliance with our space reservation policy under either Order.

BellSouth states that a building addition is planned for the Lake Mary central office. BellSouth's estimated completion date for this addition is the end of the second quarter 2001. This addition will add 3100 square feet to the central office and will serve switch, circuit and collocation requirements. BellSouth notes that it is having great difficulty in obtaining both developer and zoning approval for the addition, and that while it should not be taken for granted that will obtain approval to build this addition to their facility, BellSouth is continuing with the design in good faith. BellSouth states that once this addition is complete, there will be sufficient space to provide requesting ALECs collocation in this office. We note that when planning additions or renovations to central offices, LECs are obligated by the FCC to consider requests for collocation. See 47 CFR §51.323(f)(3). It appears that BellSouth is complying with this FCC Rule.

AT&T filed a brief post-tour report on April 12, 2000, in which it stated that there appeared to be insufficient space in the Lake Mary facility to meet their needs at this time. AT&T indicated that it accepts its place on BellSouth's collocation

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waiting list and expects to be the first ALEC contacted by BellSouth when the planned building addition is completed.

IV. CONCLUSION

BellSouth is reserving square feet for its own future use. We acknowledge that according to the FCC Rules, a LEC may reserve space for its own future use. We find that this is important as a LEC such as BellSouth does have Carrier of Last Resort responsibilities. Further, we find that the 483 square feet that BellSouth is reserving for its switch, circuit, and frame equipment growth is reasonable.

We also note that during the tour of the Lake Mary central office, our staff did not observe any space that appeared to be wasted or inefficiently used. We again note that BellSouth is planning an addition to the Lake Mary central office that is scheduled for completion at the end of the second quarter 2001. Upon completion of this building addition, there will be additional space available for physical collocation by ALECs. Finally, we note that the requesting ALEC, AT&T, agrees with BellSouth's assessment that there is not enough space within the current facility to provide for collocation.

Based on the foregoing information, we find that BellSouth's request is reasonable and, therefore grant BellSouth a Temporary Waiver of Physical Collocation Requirements in the Lake Mary central office until December 31, 2001.

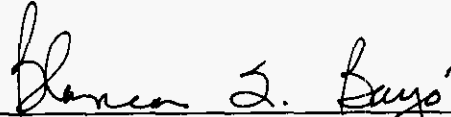
Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that BellSouth Telecommunication Inc.'s Request for Temporary Waiver of Physical Collocation Requirements in the Lake Mary Central Office shall be granted until December 31, 2001. It is further

ORDERED that this docket shall be closed.

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By ORDER of the Florida Public Service Commission this 30th
day of June, 2000.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

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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 or judicial review of Commission orders that is available under Sections 120.57 or 120.68, 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 or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of Records and reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.