

FLORIDA PUBLIC SERVICE COMMISSION

VOTE SHEET

SEPTEMBER 5, 2000

RE: DOCKET NO. 981834-TP - Petition of Competitive Carriers for Commission action to support local competition in BellSouth Telecommunications, Inc.'s service territory.

DOCKET NO. 990321-TP - Petition of ACI Corp. d/b/a Accelerated Connections, Inc. for generic investigation to ensure that BellSouth Telecommunications, Inc., Sprint-Florida, Incorporated, and GTE Florida Incorporated comply with obligation to provide alternative local exchange carriers with flexible, timely, and cost-efficient physical collocation. (Deferred from the 8/1/00 Commission Conference.)

Issue 1: Should the Commission grant Sprint's Request for Oral Argument? Recommendation: No. The pleadings more than adequately address the legal and factual issues presented in Sprint's motion. As such, oral argument would not aid the Commission in rendering its decision.

DENIED

Oral argument is granted and shall include discussion of items 11, 14, and 18 in issue 2.

COMMISSIONERS ASSIGNED: DS JC

COMMISSIONERS' SIGNATURES

MAJORITY

DISSENTING

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REMARKS/DISSENTING COMMENTS:

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Issue 2: Should the Commission grant GTEFL's Petition for Reconsideration, BellSouth's Motion for Reconsideration and Clarification and Sprint's Motion for Reconsideration and Clarification?

Recommendation: Staff recommends that the Motions for Reconsideration and/or Clarification be granted, in part, and denied, in part, as follows:

I. Copper Entrance Facilities

Staff recommends that BellSouth's request for clarification regarding the Commission's determination on copper entrance facilities be granted. The Commission should clarify that the Commission's decision only addresses the use of copper entrance cabling within the context of collocation outside a central office (CO), but does not reach the issue of copper cabling in other situations. The Commission should also clarify that only collocation between an ALEC's controlled environmental vault (CEV) on an ILEC's property and an ILEC CO was considered in this decision, not interconnection between BellSouth's CO and the ALEC's CO.

II. Conversion of Virtual to Physical Collocation

Staff recommends that BellSouth and GTEFL's Motions for Reconsideration regarding conversion of virtual to physical collocation be granted. In view of the fact that a federal court has now rendered an interpretation of federal law that is directly contrary to this Commission's interpretation on this point, staff believes that the Commission's decision on this point may be considered in error. In conformance with the U.S. Court of Appeals for the D.C. Circuit's ruling (DC Circuit or Court), the Commission should determine that the ILEC, rather than the ALEC, may determine where the ALEC's physical collocation equipment should be placed within a central office, even in situations where the ALEC is converting from virtual to physical collocation.

III. Billing for Conversion

Staff recommends that BellSouth's request for clarification on this point be denied. This issue has been fully and clearly addressed in the Commission's Order. Furthermore, there is no evidence in the record to support BellSouth's requested clarification regarding a space preparation charge.

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IV. Cross-Connects between Collocators

Staff recommends that BellSouth's and GTEFL's Motions for Reconsideration regarding the Commission's decision on cross-connects between collocators be granted. The FCC's Order 99-48 and the FCC Rules upon which the Commission relied for its decision on this point have been vacated by the DC Circuit. In view of the fact that a federal court has now rendered an interpretation of federal law that is directly contrary to this Commission's interpretation on this point, staff believes that the Commission's decision on this point may be considered in error. In conformance with the Court's decision, the Commission should find that ILECs are not required to allow collocators to cross-connect within a CO. Staff recommends, however, that ILECs be encouraged to consider requests by ALECs for permission to cross-connect.

V. Reservation of Space

Staff recommends that BellSouth's and GTEFL's Motions for Reconsideration be denied as they pertain to reservation of space within a CO. Arguments regarding reservation of space were fully addressed in the Commission's Order. Therefore, BellSouth and GTEFL have failed to identify a mistake of fact or law made by the Commission in rendering its decision.

VI. First-Come, First-Served Rule

Staff recommends that the Commission grant BellSouth and Sprint's Motions for Reconsideration regarding application of the FCC's first-come, first-served rule. The motions for reconsideration demonstrate a mistake made by the Commission in rendering its decision on this point. The Commission should determine that an applicant's place on the waiting list for collocation space should be based upon the date the ILEC received the applicant's collocation application.

VII. Implementation Date

Staff recommends that BellSouth's request for clarification regarding the implementation date of the Commission's Order be denied. The implementation date of the Commission's Order was the issuance date of that Order, May 11, 2000.

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VIII. Equipment

Staff recommends that the Commission grant GTEFL's Motion for Reconsideration regarding the Commission's decision on equipment that an ILEC must allow to be collocated, to the extent that the decision indicates that parties should rely upon the portions of FCC Order 99-48 that have now been vacated by the DC Circuit. The Commission's decision should, however, remain in place to the extent that it relies upon FCC Order 96-325 and the FCC rules promulgated prior to FCC Order 99-48. Staff further recommends that Sprint's request for clarification be denied.

IX. Site Preparation Cost Recovery

Staff recommends that the Commission deny GTEFL's Motion for Reconsideration as it pertains to site preparation cost recovery. GTEFL has not identified any mistake of fact or law made by the Commission in rendering its decision on this point.

X. Tour for Partial Collocation Space

Staff recommends that the Commission deny Sprint's Motion for Reconsideration regarding CO tours when an ILEC denies an ALEC part of the collocation space requested. The arguments presented by Sprint were fully addressed in the Commission's Order. Sprint has not identified any mistake of fact or law made by the Commission in rendering its decision on this point.

XI. Response to Application

Staff recommends that the Commission deny Sprint's Motion for Reconsideration as it applies to the Commission's decision on the timing of responses to applications for collocation space. Sprint has failed to identify any mistake of fact or law made by the Commission in rendering its decision on this point. The issue of collocation at remote sites was not raised at hearing in addressing this issue, even though it could have been.

XII. Demarcation Point

Staff recommends that the Commission grant Sprint's request for clarification regarding the appropriate demarcation point. The Commission should clarify that POT bays are permissible as demarcation points, but may not be required.

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XIII. Price Quotes

Staff recommends that Sprint's request for clarification regarding price quotes be denied. There is nothing in the record to support the requested clarification.

APPROVED

with the exception of items II, IV, and VIII which will be ~~discussed~~ discussed at oral argument

Issue 3: Should the Commission grant FCCA/AT&T's Cross-Motion for Reconsideration?

Recommendation: FCCA/AT&T's Cross-Motion raises identical points raised by the Motions for Reconsideration addressed in Issue 2, and merely indicates that FCCA/AT&T agree with the movants. As such, the Cross-Motion appears to be redundant, and therefore, inappropriate. If, however, the Commission wishes to rule upon the Cross-Motion for Reconsideration, the Cross-Motion should be granted, in part, and denied, in part, as follows:

Tour for Partial Collocation Space

Staff recommends that the Commission deny FCCA/AT&T's Cross-Motion for Reconsideration regarding CO tours when an ILEC denies an ALEC part of the collocation space requested. The arguments presented were fully addressed in the Commission's Order. FCCA/AT&T have not identified any mistake of fact or law made by the Commission in rendering its decision on this point.

First-Come, First-Served Rule

Staff recommends that the Commission grant FCCA/AT&T's Cross-Motion for Reconsideration regarding application of the FCC's first-come, first-served rule. The cross-motion for reconsideration demonstrates a mistake made by the Commission in rendering its decision on this point. The Commission should determine that an applicant's place on the waiting list for collocation space should be based upon the date of the ILEC's receipt of that applicant's collocation application.

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Staff's recommendations on Issue 3 are consistent with its recommendations for Issue 2 on these points. If, however, the Commission modifies or rejects staff's recommendations on Issue 2 with regard to these points, the Commission's decision on Issue 3 should be consistent with the Commission's decision on the same points in Issue 2.

APPROVED

Issue 4: Should these Dockets be closed?

Recommendation: No. Whether the Commission approves or rejects Staff's recommendations on Issues 1-3, these Dockets should remain open to address pricing for collocation in further proceedings.

APPROVED