

RECEIVED-FPSC

Legal Department

NANCY B. WHITE
General Counsel-Florida

SEP 28 PM 4:26

BellSouth Telecommunications, Inc.
150 South Monroe Street
Room 400
Tallahassee, Florida 32301
(305) 347-5558

RECORDS AND
REPORTING

September 28, 1999

Mrs. Blanca S. Bayó
Director, Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket Nos. 981834-TP and 990321-TP

Dear Ms. Bayó:

Enclosed please find the original and fifteen copies of BellSouth Telecommunications, Inc.'s Protest/Request for Clarification of Proposed Agency Action, which we ask that you file in the above-referenced matter.

A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return the copy to me. Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely,

Nancy B. White
Nancy B. White (PW)

- AFA _____
- APP _____
- CAE _____
- CMU Summons
- CTR _____
- EAG _____
- LEG 2
- MAS 3
- OPC _____
- PAI _____
- SEC _____
- WAW _____
- OTH Henry

cc: All Parties of Record
Marshall M. Criser III
R. Douglas Lackey

Done 10/01/99

RECEIVED & FILED

FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

11709 SEP 28 99

FPSC-RECORDS/REPORTING

CERTIFICATE OF SERVICE
Docket No. 981834-TP and 990321-TP

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via

U. S. Mail this 28th day of September, 1999 to the following:

William Cox
Staff Counsel
Florida Public Service
Commission
Division of Legal Services
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
Tel. No. (850) 413-6204
Fax. No. (850) 413-6250

Joseph A. McGlothlin
Vicki Gordon Kaufman
McWhirter, Reeves, McGlothlin,
Davidson, Decker, Kaufman, Arnold,
& Steen, P.A.
117 South Gadsden Street
Tallahassee, FL 32301
Tel. No. (850) 222-2525
Fax. No. (850) 222-5606
Attys. For FCCA

Andrew O. Isar
Telecommunications Resellers Assoc.
4312 92nd Avenue, N.W.
Gig Harbor, WA 98335
Tel. No. (253) 265-3910
Fax. No. (253) 265-3912

Marsha Rule
Tracy Hatch
101 North Monroe Street
Suite 700
Tallahassee, FL 32301
Tel. No. (850) 425-6364
Fax. No. (850) 425-6343
Attys. for AT&T

Richard D. Melson
Hopping Green Sams & Smith, P.A.
Post Office 6526
123 South Calhoun Street
Tallahassee, FL 32314
Tel. No. (850) 222-7500
Fax. No. (850) 224-8551
Atty. For MCI & ACI

Dulaney L. O'Roark
MCI Telecommunications Corporation
6 Concourse Parkway
Suite 600
Atlanta, GA 30328
Tel. No. (770) 284-5498
Fax. No. (770) 284-5488

Floyd Self
Norman H. Horton, Jr.
Messer, Caparello & Self
Post Office Drawer 1876
215 South Monroe Street
Suite 701
Tallahassee, FL 32302-1876
Tel. No. (850) 222-0720
Fax. No. (850) 224-4359
Attys. for WorldCom

Terry Monroe
Vice President, State Affairs
Competitive Telecomm. Assoc.
1900 M Street, N.W.
Suite 800
Washington, D.C. 20036
Tel. No. (202) 296-6650
Fax. No. (202) 296-7585

**Susan Huther
Rick Heapter
MGC Communications, Inc.
3301 Worth Buffalo Drive
Las Vegas, Nevada 89129
Tel. No. (702) 310-4272
Fax. No. (702) 310-5689**

**Charlie Pellegrini
Patrick K. Wiggins
Wiggins & Villacorta, P.A.
2145 Delta Boulevard
Suite 200
Tallahassee, FL 32303
Tel. No. (850) 385-6007
Fax. No. (850) 385-6008
Attys. for Intermedia**

**Norman H. Horton, Jr.
Messer, Caparelo & Self
215 South Monroe Street
Suite 701
Tallahassee, FL 32301-1876
Tel. No. (850) 222-0720
Fax. No. (850) 224-4359
Attys. for e.spire**

**James C. Falvey, Esq.
e.spire Communications, Inc.
133 National Business Parkway
Suite 200
Annapolis Junction, Maryland 20701
Tel. No. (301) 361-4298
Fax. No. (301) 361-4277**

**Jeffrey Blumenfeld
Elise Kiely
Blumenfeld & Cohen
1625 Massachusetts Ave., N.W.
Suite 300
Washington, D.C. 20036
Tel. No. (202) 955-6300
Fax. No. (202) 955-6460**

**Kimberly Caswell
GTE Service Corporation
One Tampa City Center
201 North Franklin Street (33602)
Post Office Box 110, FLTC0007
Tampa, Florida 33601-0110
Tel. No. (813) 483-2606
Fax. No. (813) 204-8870**

**Peter M. Dunbar, Esq.
Barbara D. Auger, Esq.
Pennington, Moore, Wilkinson &
Dunbar, P.A.
Post Office Box 10095
Tallahassee, Florida 32302
Tel. No. (850) 222-3533
Fax. No. (850) 222-2126**

**Carolyn Marek
Vice President of Regulatory Affairs
Southeast Region
Time Warner Communications
233 Bramerton Court
Franklin, Tennessee 37069
Tel. No. (615) 376-6404
Fax. No. (615) 376-6405
Represented by Pennington Law Firm**

**David Dimlich, Legal Counsel
Supra Telecommunications &
Information Systems, Inc.
2620 S.W. 27th Avenue
Miami, FL 33133
Tel. No. (305) 476-4236
Fax. No. (305) 443-6638**

**Donna Canzano McNulty, Esq.
MCI WorldCom
325 John Knox Road
Suite 105
Tallahassee, FL 32303
Tel. No. (850) 422-1254
Fax. No. (850) 422-2586**

Michael A. Gross
VP Reg. Affairs & Reg. Counsel
Florida Cable Telecomm. Assoc.
310 North Monroe Street
Tallahassee, FL 32301
Tel. No. (850) 681-1990
Fax. No. (850) 681-9676

ACI Corp.
7337 S. Revere Parkway
Englewood, CO 80112
Tel. No. (303) 476-4200
Fax. No. (303) 476-4201

Florida Public Telecomm. Assoc.
Angela Green, General Counsel
125 South Gadsden Street
#200
Tallahassee, FL 32301-1525
Tel. No. (850) 222-5050
Fax. No. (850) 222-1355

Intermedia Communications, Inc.
Scott Sapperstein
3625 Queen Palm Drive
Tampa, FL 33619-1309
Tel. No. (813) 621-0011
Fax. No. (813) 829-4923
Represented by Wiggins Law Firm

TCG South Florida
c/o Rutledge Law Firm
Kenneth Hoffman
P.O. Box 551
Tallahassee, FL 32302-0551
Tel. No. (850) 681-6788
Fax. No. (850) 681-6515

Time Warner AxS of FL, L.P.
2301 Lucien Way
Suite 300
Maitland, FL 32751
Represented by Pennington Law Firm

Laura L. Gallagher
Laura L. Gallagher, P.A.
204 South Monroe Street
Suite 201
Tallahassee, FL 32301
Tel. No. (850) 224-2211
Fax. No. (850) 577-0385
Represents MediaOne

James P. Campbell
MediaOne
7800 Belfort Parkway
Suite 250
Jacksonville, FL 32256
Tel. No. (904) 619-5686
Fax. No. (904) 619-3629

Charles J. Beck
Deputy Public Counsel
Office of the Public Counsel
111 West Madison Street
Room 812
Tallahassee, FL 32399-1400

Susan S. Masterton
Charles J. Rehwinkel
Sprint Comm. Co. LLP
P.O. Box 2214
MC: FLTLHO0107
Tallahassee, FL 32316-2214

Accelerated Connections, Inc.
7337 South Revere Parkway
Englewood, CO 33414
Tel: 303-476-4200

GTE Florida Incorporated
Ms. Beverly Y. Menard
% Ms. Margo B. Hammar
106 East College Avenue, Suite 810
Tallahassee, FL 32301-7704
Tel: 813-483-2526
Fax: 813-223-4888

Hopping Law Firm
Gabriel E. Nieto
P.O. Box 6526
Tallahassee, FL 32314
Tel: 850-222-7500
Fax: 850-224-8551
Represents ACI Corp.

Pennington Law Firm
Peter M. Dunbar/Marc W. Dunbar
P.O. Box 10095
Tallahassee, FL 32302
Tel: 850-222-3533
Fax: 850-222-2126
Represents Time Warner

Sprint-Florida, Incorporated
Mr. F. B. (Ben) Poag
P.O. Box 2214 (MC FLTLHO0107)
Tallahassee, FL 32316-2214
Tel: 850-599-1027
Fax: 407-814-5700

Beth Keating
Staff Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
Tel. No. (850) 413-6199
Fax. No. (850) 413-6250

Jeffrey Blumenfeld
Elise Kiely
1625 Massachusetts Avenue, N.W.
Suite 300
Washington, D.C. 20036



Nancy B. White (for)

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition of Competitive)	
Carriers for Commission Action)	Docket No. 981834-TP
To Support Local Competition)	
In BellSouth's Service Territory)	

In re: Petition of ACI Corp. d/b/a)	
Accelerated Connections, Inc. for)	Docket No. 990321-TP
Generic Investigation into Terms and)	
Conditions of Physical Collocation)	

FILED: September 28, 1999

**BELLSOUTH TELECOMMUNICATION, INC.'S
PROTEST/REQUEST FOR CLARIFICATION OF
PROPOSED AGENCY ACTION**

BellSouth Telecommunications, Inc., ("BellSouth") hereby protests portions of Order No. PSC-99-1744-PAA-TP ("Order") issued on September 7, 1999, in which the Florida Public Service Commission ("Commission") set forth procedures and guidelines applicable to collocation. At the Agenda at which guidelines were discussed, BellSouth indicated that it supported these guidelines, however, certain issues have arisen that make this protest/request for clarification necessary. In support of its protest/request for clarification, BellSouth states:

1. BellSouth's official address for its Florida regulatory operations is:

BellSouth Telecommunications, Inc.
150 South Monroe Street
Suite 400
Tallahassee, Florida 32301

2. The names of BellSouth's representatives in this proceeding are:

Nancy B. White
150 West Flagler Street
Suite 1910
Miami, Florida 33130

E. Earl Edenfield Jr.
675 West Peachtree Street
Suite 4300
Atlanta, GA 30375

DOCUMENT NUMBER-DATE

11709 SEP 28 89

FPSC-RECORDS/REPORTING

3. BellSouth is a local exchange company providing local exchange and intraLATA toll service in Florida.

4. BellSouth protests the Commission's requirement to respond to a complete and correct application for collocation within 15 calendar days. BellSouth has been advised by some ALECs that this requirement is being interpreted by them to mean a response that includes not only whether space exists for collocation in the central office at issue, but also engineering and other technical details as well as price and cost estimates. It is BellSouth's interpretation that the response required is concerned solely with whether space exists for collocation.

5. BellSouth cannot provide a response, as envisioned by the ALECs, within 15 days. When BellSouth receives an application for collocation, it first determines whether space is available within the requested central office. If space is available and all information required for the processing of the application is received, BellSouth selects the location and configuration of the space and determines the central office infrastructure requirements. Central Office infrastructure requirements include power, air-conditioning, racking, etc. Based on the Central Office infrastructure requirements, a cost estimate is developed. This information is then used to respond to the ALEC. Fifteen days is insufficient time to accomplish these steps.

6. BellSouth protests the guideline requiring ILECs to identify space housing obsolete or retired equipment in any Petition for Waiver. BellSouth submits that the

word "retired" should be replaced with "unused". Paragraph 60 of FCC Order 99-48, adopted March 18, 1999, specifically uses the term "obsolete unused" and BellSouth avers this language should be used in the guideline.

7. BellSouth protests the guideline requiring ILECs to provision physical collocation within 90 days or virtual collocation within 60 days to the extent these provisioning intervals include the time spent obtaining any needed permits and to the extent the intervals apply to extraordinary situations or conditions.

8. The time required to secure a permit is out of BellSouth's control and should not be included in the provisioning interval. It is illegal for construction to begin prior to receiving a permit. There is no typical permit processing time because every project is unique and each building permit office has its own requirements. Thus, BellSouth believes the permitting process should not be counted as part of the provisioning intervals.

9. In addition, certain "extraordinary" situations may arise that make it impossible for BellSouth to comply with this guideline. Examples of extraordinary conditions can include the need for environmental abatement and major upgrades for power and air conditioning. Situations involving extraordinary conditions should not fall under the provisioning intervals of the guidelines; instead, the provisioning intervals for these situations should be negotiated between the ILECs and the ALECs.

10. BellSouth seeks clarification of various guidelines and their application to denials of collocation for "technically infeasible" reasons. The Commission's guideline is that if an ILEC intends to deny collocation, then it must file a Notice of Intent to Seek Waivers of Physical Collocation requirements and that notice must include a reason for the denial, i.e., technically infeasible or lack of space. What is unclear is whether the Commission's guidelines for filing a waiver, for tours, and for post-tour reports are applicable to a "technically infeasible" based denial. Also unclear is whether the definition of a "technically infeasible" includes a condition that exists within the central office that makes collocation technically infeasible or a condition that is technically infeasible because of the proposed collocation arrangement or both. BellSouth seeks clarification on these issues.

11. BellSouth notes for the record, that the guidelines that are the subject of Order No. PSC-99-1744-PAA-TP, were subject solely to the notice provided by the staff recommendation and the only comment allowed was that of the agenda process. BellSouth further notes that no rulemaking was had on these guidelines and that, therein, the Commission has affected the terms and conditions of existing, freely negotiated collocation agreements.

12. The substantial interests of BellSouth are affected by the Order in that BellSouth cannot comply with the requirements therein.

13. The only issue of material fact is whether BellSouth can comply with the requirements discussed herein.

14. BellSouth is entitled to relief under Chapter 120 and Chapter 364, Florida Statutes, and Chapter 25-22, Florida Administrative Code.

WHEREFORE, BellSouth protests those portions of the Order discussed herein, requests that a hearing pursuant to Section 120.57 be held on this issue, and requests that the Commission grant such other relief as is necessary and proper under the circumstances.

Respectfully submitted this 28th day of September, 1999.

BELLSOUTH TELECOMMUNICATIONS, INC.



NANCY B. WHITE
c/o Nancy H. Sims
150 South Monroe Street, Suite 400
Tallahassee, FL 32301
(305) 347-5558



E. EARL EDENFIELD JR. (Att)
Suite 4300
675 W. Peachtree St., NE
Atlanta, GA 30375
(404) 335-0763