

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: November 8, 2006

TO: Director, Division of the Commission Clerk & Administrative Services (Bayó)

FROM: Division of Competitive Markets & Enforcement (Buys)
Office of the General Counsel (Tan)

RE: Docket No. 060603-TL – Petition to change demarcation point specified in Rule 25-4.0345(1)(b), F.A.C., at commercial office campus in Miami, by BellSouth Telecommunications, Inc.

AGENDA: 11/21/06 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\CMP\WP\060603.RCM.DOC

Case Background

On September 11, 2006, BellSouth Telecommunications, Inc. (BellSouth) filed its petition requesting permission to change the point of demarcation specified in Rule 25-4.0345(1)(b), Florida Administrative Code (F.A.C.), for non-residential basic local service provided to the commercial office campus located at 17777 Old Cutler Road, Miami, Florida, 33157.

The subject property is the former Burger King World Headquarters. The property is now owned by 17777 Old Cutler Road, LLC, (Old Cutler) and consists of three separate buildings. The property was purchased from Burger King Corporation and converted from a

single tenant into a multi-tenant office complex named Palmetto Bay Village Center. On July 17, 2006, Old Cutler notified BellSouth that it desires to establish a single point of demarcation for all tenants' services at the property's Minimum Point of Entry (MPOE). Specifically, Old Cutler requested that the demarcation point be located in the 3rd Floor meter room in Building A (18001 Old Cutler Road). Old Cutler's preferred location of the demarcation point is not specified in Rule 25-4.0345(1)(b), Florida Administrative Code (F.A.C.), causing BellSouth to seek Commission approval to establish the demarcation point at a location other than that specified in the rule.

The Commission is vested with jurisdiction over this matter pursuant to Sections 350.127(2), 364.01(4), and 364.03, Florida Statutes. Accordingly, staff believes the following recommendations are appropriate.

Discussion of Issues

Issue 1: Should the Commission approve the petition by BellSouth Telecommunications, Inc. to change the location of the demarcation point specified in Rule 25-4.0345(1)(b), Florida Administrative Code, for the provision of non-residential basic local service at the commercial office campus located at 17777 Old Cutler Road, Miami, Florida?

Recommendation: Yes, the Commission should approve the relocation of the demarcation point for the provision of non-residential basic local service to the Palmetto Bay Village Center located at 17777 Old Cutler Road, Miami, Florida to a single point of demarcation as determined by the property owner for all tenants' services at the office campus. **(Buys, Tan)**

Staff Analysis: Rule 25-4.0345, Customer Premises Equipment and Inside Wire, F.A.C., requires a local exchange company to provide and maintain the network facilities up to and including the demarcation point at each individual customers' premises. Specifically, Rule 25-4.0345(1)(b), F.A.C., states:

(b) "Demarcation Point." The point of physical interconnection (connecting block, terminal strip, jack, protector, optical network interface, or remote isolation device) between the telephone network and the customer's premises wiring. *Unless otherwise ordered by the Commission for good cause shown*, the location of this point is:

1. Single Line/Single Customer Building -- Either at the point of physical entry to the building or a junction point as close as practicable to the point of entry.
2. Single Line/Multi Customer Building -- Within the customer's premises at a point easily accessed by the customer.

3. Multi Line Systems/Single or Multi Customer Building -- At a point within the same room and within 25 feet of the FCC registered terminal equipment or cross connect field.
4. Temporary Accommodations Subscriber Premises with Inadequate Grounding (e.g., some mobile homes, trailers, houseboats, construction modules) -- On a permanent stake, pole, or structure with a suitable safety ground.
(Emphasis added)

As emphasized above, Rule 25-4.0345(1)(b), F.A.C., allows an exception to the required demarcation point as ordered by the Commission for good cause shown. BellSouth denotes in paragraph 11 on page 3 of its petition that it is requesting the approval for good cause, which is, *“in order to provide service to tenants at the Office Campus given Old Cutler’s requested demarcation point.”* In this case, the property owner requested that the demarcation point be established at a location other than that specified in Rule 25-4.0345(1)(b), F.A.C. Old Cutler requested that the demarcation point be located in the 3rd Floor meter room in Building A (18001 Old Cutler Road). For this situation, a single line/multi-customer building(s), the location of the demarcation point specified by the rule would be within each customer’s (tenants of the Palmetto Bay Village Center) premises at a point easily accessed by the customer. This is contrary to the location of the demarcation point requested by the property owner.

If the Commission approves BellSouth’s petition to interconnect at the point of demarcation determined by Old Cutler, BellSouth would not be responsible for maintaining the facilities between the requested point of demarcation and the tenants’ premises. Old Cutler acknowledged that it understands that the responsibility for this maintenance rests with the property owner and/or the tenants.

The precedent for the Commission to permit a local exchange company to provide service to a customer at a point of demarcation other than that specified in Rule 25-4.0345, F.A.C., has been previously established. In Docket No. 031114-TL, through Order No. PSC-04-0181-PAA-TL, issued February 23, 2004, the Commission found that BellSouth and the United States Navy met the burden “for good cause shown” as established by the rule and approved the request of BellSouth and the Navy for a waiver of the demarcation requirements of Rule 25-4.0345(1)(b), F.A.C. In that docket, the property owner (the Navy) requested that a single demarcation point be established to service non-residential customers on the Mayport Naval Station in Jacksonville, Florida. Thereafter, the Navy solicited bids from competing service providers to install and maintain the outside plant facilities to non-residential areas and customers located within the Naval Station.

Accordingly, staff recommends that the Commission should approve the relocation of the demarcation point for the provision of non-residential basic local service to the Palmetto Bay Village Center located at 17777 Old Cutler Road, Miami, Florida to a single point of demarcation as determined by the property owner for all tenants’ services at the office campus.

Issue 2: Should this docket be closed?

Recommendation: The Order issued from this recommendation will become final and effective upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest that identifies with specificity the issues in dispute, in the form provided by Rule 28-106.201, Florida Administrative Code, within 21 days of the issuance of the Proposed Agency Action Order. As provided by Section 120.80(13)(b), Florida Statutes, any issues not in dispute should be deemed stipulated. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order. **(Tan)**

Staff Analysis: Staff recommends that the Commission take action as set forth in the above staff recommendation.