

**MEMORANDUM**

SEPTEMBER 6, 1994

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FPSC-RECORDS/REPORTING

TO: DIVISION OF RECORDS AND REPORTING  
FROM: DIVISION OF LEGAL SERVICES (CANZANO) *TH*  
RE: DOCKET NO. 921074-TP - PETITION OF EXPANDED  
INTERCONNECTION FOR ALTERNATIVE ACCESS VENDORS WITHIN  
LOCAL EXCHANGE COMPANY CENTRAL OFFICES BY INTERMEDIA  
COMMUNICATIONS OF FLORIDA, INC.

*1102-FOF*

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Attached is an ORDER STAYING ORDER NO. PSC-94-0285-FOF-TP to be issued in the above-referenced docket. (Number of pages in Order - 4)

DLC/clp  
Attachment  
cc: Division of Communications  
I:921074or.dc

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for expanded ) DOCKET NO. 921074-TP  
interconnection for alternative ) ORDER NO. PSC-94-1102-FOF-TP  
access vendors within local ) ISSUED: September 7, 1994  
exchange company central offices )  
by INTERMEDIA COMMUNICATIONS OF )  
FLORIDA, INC. )

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK  
JULIA L. JOHNSON

ORDER STAYING ORDER NO. PSC-94-0285-FOF-TP

BY THE COMMISSION:

This matter came to hearing as a result of a Petition by Intermedia Communications of Florida, Inc. (Intermedia or ICI) to permit alternative access vendor (AAV) provision of authorized services through collocation arrangements in local exchange company (LEC) central offices. In order to address Intermedia's petition, broader questions regarding private line and special access expanded interconnection needed to be resolved. In turn, these broader issues raised larger questions regarding expanded interconnection of switched access. However, because the switched access issues did not need to be resolved prior to answering Intermedia's petition, only the matter of private line and special access was addressed during the hearing held September 13 and 14, 1993, which has become known as Phase I. Expanded interconnection of switched access will be addressed in Phase II of this docket.

By Order No. PSC-94-0285-FOF-TP, issued March 10, 1994, (hereinafter referred to as the Phase I Order), we decided various issues related to private line and special access interconnection. The parties have filed numerous motions regarding the final order of Phase I.

On June 29, 1994, BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company (Southern Bell) filed a Notice of Supplemental Authority and Motion for Additional Briefing. Pursuant to a noticed conference call by the Commission staff, the parties sought to file legal briefs to address the Bell Atlantic Telephone Companies v. FCC, No. 92-1619, 1994 WL 247134 (D.C. Cir., June 10, 1994) decision and to add an additional issue

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to Phase II to address the policy impact of the decision. Because the Bell Atlantic decision may have an impact on the testimony filed by the parties in Phase II, on June 23, 1994, by Order No. PSC-94-0777-PCO-TP, the Prehearing Officer for Phase II modified procedural dates to allow supplemental direct testimony and to extend time for rebuttal. On July 7, 1994, by Order No. PSC-94-0830-PCO-TP, the Prehearing Officer added an issue to Phase II, which was agreed to by the parties, as to whether the Commission should modify the Phase I order in light of the Bell Atlantic decision. On July 8, 1994, by Order No. PSC-94-0832-PCO-TP, the Prehearing Officer for Phase I issued an order allowing the parties until July 15, 1994 to file legal briefs to address the supplemental legal authority.

In the Phase I Order, we required the local exchange companies (LECs) to provide physical collocation to all interconnectors upon request as envisioned by the Federal Communications Commission (FCC) and also allowed the interconnectors to choose virtual collocation if desired. See Order No. PSC-94-0285-FOF-TP, issued March 10, 1994. We also ordered other requirements to implement our decision to mandate physical collocation. Although we were not bound by any interstate policy, our decision in Phase I was essentially consistent with the FCC's decision on most issues. (Order, page 5) We also found that unified plans would help prevent collocators from shopping between state and federal tariffs, and would remove incentives for misreporting the jurisdictional nature of the traffic. (Order, page 12)

Subsequently, the parties filed numerous motions in response to the Phase I Order. Motions for reconsideration or clarification regarding portions or all of Order No. PSC-94-0285-FOF-TP were filed by GTE Florida, Inc. (GTEFL), Southern Bell, Intermedia, Florida Cable Television Association, and Teleport Communications Group. Parties also filed numerous responses to such motions. In addition, several procedural motions were filed, including motions to strike responses. GTEFL and Southern Bell filed motions for stay of the Phase I Order.

On June 10, 1994, the United States Court of Appeals for the District of Columbia Circuit issued an order stating that it would vacate in part the first two of the FCC's expanded interconnection orders on the grounds that the FCC did not have express statutory authority under the Communications Act of 1934, as amended, to require the LECs to provide expanded interconnection through physical collocation. Bell Atlantic Telephone Companies v. FCC,

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No. 92-1619, 1994 WL 247134 (D.C. Cir., June 10, 1994). The court vacated the orders insofar as they required physical collocation; in all other respects, the orders were remanded to the FCC for further proceedings.

On July 14, 1994, the FCC adopted an order modifying its policy so that it is consistent with the Bell Atlantic decision. (Order No. FCC 94-190) The FCC required the LECs to provide expanded interconnection through virtual collocation unless the LEC chooses to offer physical collocation. If the LEC chooses to offer physical collocation, it is then exempted from the mandate to provide virtual collocation. However, once the physical space has been exhausted, the LEC then must offer virtual collocation.

The decisions in Phases I and II should be consistent. In addition, the parties and staff need time to analyze the Bell Atlantic decision as well as the policy implications of the FCC's July 14th order. Since the effects of these changes will be addressed in Phase II, we shall stay the Phase I Order until a decision has been made in Phase II. Accordingly, all outstanding motions for the Phase I Order shall be held in abeyance until a decision has been made in Phase II.

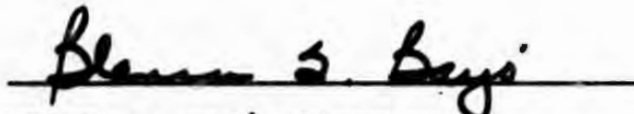
Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Order No. PSC-94-0285-FOF-TP shall be stayed until a decision has been made regarding expanded interconnection for switched access services in Phase II. It is further

ORDERED that all outstanding motions for Order No. PSC-94-0285-FOF-TP shall be held in abeyance until a decision has been made in Phase II. It is further

ORDERED that this docket shall remain open.

By ORDER of the Florida Public Service Commission, this 7th day of September, 1994.



BLANCA S. BAYÓ, Director  
Division of Records and Reporting

( S E A L )  
DLC

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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 this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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 or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.