

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Competitive Carriers for Commission action to support local competition in BellSouth Telecommunications, Inc.'s service territory.

DOCKET NO. 981834-TP

In re: 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.

DOCKET NO. 990321-TP

ORDER NO. PSC-03-0222-PCO-TP

ISSUED: February 14, 2003

PROTECTIVE ORDER GOVERNING
HANDLING OF CONFIDENTIAL INFORMATION

By Proposed Agency Action Order No. PSC-99-1744-PAA-TP, issued September 7, 1999, we consolidated Dockets Nos. 990321-TP and 981834-TP for purposes of conducting a generic proceeding on collocation issues, and adopted a set of procedures and guidelines for collocation, focused largely on those situations in which an incumbent local exchange company (ILEC) believes there is no space for physical collocation. The guidelines addressed: A. initial response times to requests for collocation space; B. application fees; C. central office tours; D. petitions for waiver from the collocation requirements; E. post-tour reports; F. disposition of the petitions for waiver; G. extensions of time; and H. collocation provisioning time frames.

On September 28, 1999, BellSouth filed Protest/Request for Clarification of Proposed Agency Action. That same day, Rhythms filed a Motion to Conform Order to Commission Decision or, in the Alternative, Petition on Proposed Agency Action. Commission staff

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conducted a conference call on October 6, 1999, with all of the parties to discuss the motions filed by BellSouth and Rhythms, and to formulate additional issues for the generic proceeding to address the protested portions of Order No. PSC-99-1744-PAA-TP. By Order No. PSC-99-2393-FOF-TP, issued December 7, 1999, we approved proposed stipulations resulting from that call and identified the portions of the protested Order that could go into effect by operation of law.

Thereafter, we conducted an administrative hearing to address collocation issues beyond the issues addressed in the approved collocation guidelines. By Order No. PSC-00-0941-FOF-TP, issued May 11, 2000, we rendered our post-hearing decision on these additional issues. By Order No. PSC-00-2190-PCO-TP, issued November 17, 2000, various motions for reconsideration and/or clarification were addressed by the Commission. By that Order, this Docket was left open to address pricing issues for collocation, which is one of the purposes of this proceeding upon which we now commence.

This Order is issued pursuant to the authority granted by Rule 28-106.211, Florida Administrative Code, which provides that the presiding officer before whom a case is pending may issue any orders necessary to effectuate discovery, prevent delay, and promote the just, speedy, and inexpensive determination of all aspects of the case.

In order to address the technical and pricing issues in this proceeding, it will be necessary for the exchange of quite a bit of confidential information among the parties, the Commission staff, and the Commission staff's expert witness team. It is anticipated that the ILECs, in particular, will be required to provide information about their collocation facilities that may include proprietary business information and customer account information. Although Florida law presumes that documents submitted to governmental agencies, or entities operating on the agency's behalf, shall be public records, the law provides for specific statutory exemptions. Pursuant to Section 364.183, Florida Statutes, proprietary confidential business information obtained by the Commission or on its behalf shall be protected. Pursuant to Section 364.24, Florida Statutes, customer account records are also

protected from disclosure unless authorized by the customer or as otherwise provided by law.

In view of the amount of confidential information likely to be used in this process and the complexity of handling such information, it is appropriate to issue a Protective Order governing the handling of confidential information in this proceeding, which shall include the following conditions:

1. The dissemination of any proprietary information to any party to this proceeding will be limited to parties' counsel of record, those persons otherwise authorized to review confidential information pursuant to protective agreements between the parties, the Commission staff's expert witness team, and Commission staff. Any proprietary information submitted to the Commission, to Commission staff, or its expert witness team shall be clearly identified as confidential. The Commission staff's expert witness team, as the Commission staff's contracted agent, shall protect any proprietary information obtained during the course of this proceeding as confidential information in accordance with Section 364.183, Florida Statutes.
2. Before any copies of confidential information are provided to the Commission staff's expert witness team, the copies shall be identified in accordance with Commission procedures for tracking confidential information. The Commission staff's expert witness team shall make no additional copies of confidential information. Upon conclusion of the hearing in this matter, Commission staff shall ensure that all confidential information provided to the staff's expert witness team is returned to the Commission.
3. The use of any proprietary information protected under this Order shall be limited to Dockets No. 981834-TP and 990321-TP;
4. The provisions of this Order will continue to govern all proprietary information until a final determination is made on specific items of information for which confidential treatment is requested or claimed, in accordance with Rule 25-22.006(4) or 25-22.006(5), Florida Administrative Code or until a court of competent jurisdiction determines that specific items of

information are non-confidential, at which time the Order will cease to apply to such non-confidential information, but will remain in effect as to the remainder of the information;

5. This Order will not apply to information already in the public domain.

6. This Order will supplement the procedure for use of confidential information set forth in the Prehearing Order and the Order Establishing Procedure issued in this Docket.

The outlined procedures comply with Rule 25-22.006(6), Florida Administrative Code, regarding protection of proprietary information in Commission proceedings. In view of the amount of confidential information that will likely be used at the hearing, and the complexity of handling such information, the requirements set forth are appropriate. I clarify, however, that this Order does not preclude Commission staff from reviewing the information protected by this Order. This Order will govern the handling of proprietary information in this docket until a final determination is made on specific items of information for which confidential treatment is requested. It should also be noted that parties filing claims for confidential treatment pursuant to Rule 25-22.006(5), Florida Administrative Code, must be mindful of the further requirements of Rule 25-22.006(8)(b), Florida Administrative Code, should such information ultimately be entered into the record of the proceeding.

It is, therefore

ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that the provisions of this Order shall govern the conduct of this proceeding unless otherwise modified by the prehearing officer or the Commission.

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By ORDER of Commissioner J. Terry Deason as Prehearing Officer, this 14th Day of February, 2003.



J. TERRY DEASON
Commissioner and Prehearing Officer

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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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

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 25-22.0376, 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 or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060,

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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.