

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-04-0042-CFO-TP  
ISSUED: January 14, 2004

ORDER GRANTING BELLSOUTH'S REQUESTS FOR CONFIDENTIAL CLASSIFICATION OF DOCUMENT NOS. 06869-03; 09283-03; 09402-03 AND 00090-04

By Proposed Agency Action Order No. PSC-99-1744-PAA-TP, issued September 7, 1999, we 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 rovisioning 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 Action. Commission staff

DOCUMENT NUMBER-DATE

00588 JAN 14 8

FPSC-COMMISSION CLERK

conducted a conference call on October 6, 1999, with all of the 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. Therein, we addressed the following: 1) ILEC responses to an application for collocation; 2) the applicability of the term "premises"; 3) ILEC obligations regarding "off-premises" collocation; 4) the conversion of virtual to physical collocation; 5) response and implementation intervals for changes to existing space; 6) the division of responsibilities between ILECs and collocators for sharing and subleasing space between collocators and for cross-connects between collocators; 7) the provisioning interval for cageless collocation; 8) the demarcation point between ILEC and ALEC facilities; 9) the parameters for reserving space for future use; 10) whether generic parameters may be established for the use of administrative space; 11) equipment obligations; 12) the timing and detail of price quotes; 13) ALEC participation in price quote development; 14) the use of ILEC-certified contractors by ALECs; 15) the automatic extension of provisioning intervals; 16) allocation of costs between multiple carriers; 17) the provision of information regarding limited space availability; 18) the provision of information regarding post-waiver space availability; 19) forecasting requirements for CO expansions and additions; and 20) the application of the FCC's "first-come, first-served" Rule upon denial of waiver or modifications.

On May 26, 2000, Verizon filed a Petition for Reconsideration. BellSouth and Sprint also filed separate Motions for Reconsideration and Clarification of the Commission's Order. On June 7, 2000, Sprint filed its Response to Verizon and BellSouth's Motions for Reconsideration. BellSouth also filed its Response to Sprint's Motion for Reconsideration and/or Clarification.

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MCI/WorldCom and Rhythms Links also filed timely Responses to all three Motions for Reconsideration. In addition, that same day FCCA and AT&T filed a Joint Response to the Motions for Reconsideration and a Cross-Motion for Reconsideration. On June 14, 2000, BellSouth filed its Response to FCCA and AT&T's Cross-Motion for Reconsideration. By Order No. PSC-00-2190-PCO-TP, issued November 17, 2000, the 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. Phase I of the proceedings were concluded with the issuance of Order No. PSC-03-1358-FOF-TP, issued November 26, 2003.

By Order No. PSC-02-1513-PCO-TP, issued November 4, 2002, the procedural schedule and hearing dates were established for this phase of this proceeding in which we will address the remaining technical and pricing issues regarding collocation. On February 7, 2003, the Commission Staff filed a Motion to Revise Order Establishing Procedure.

By Order No. PSC-03-288-PCO-TP, issued March 4, 2003, Staff's Motion to Revise Order Establishing Procedure was granted. On May 15, 2003, pursuant to Rules 1.160 and 1.280 of the Florida Rules of Civil Procedure and Rule 28-106.204, Florida Administrative Code, Verizon and Sprint (Joint Movants) filed an Emergency Joint Motion to Strike, or in the Alternative for an Extension of Time (Joint Motion). By Order No. PSC-03-0702-FOF-TP, issued June 11, 2003 we approved the agreement reached between the parties and our staff to resolve the Joint Motion to Strike, or in the Alternative Grant an Extension of Time. By Order No. PSC-03-0776-PCO-TP, issued July 1, 2003, the procedural schedule was modified to reflect the agreement reached between the parties and our staff.

On July 29, 2003, BellSouth filed a request for confidential classification. In its request, BellSouth seeks confidential classification of its responses to Staff's Eight Request for Production of Documents (No. 89). (Document No. 06869-03). Attachment A contains an explanation of the proprietary information along with a list identifying the location of the information designated by BellSouth as confidential.

On September 26, 2003, BellSouth filed a request for confidential classification. BellSouth seeks confidential classification of the Surrebuttal testimony of W. Bernard Shell, which included proprietary information regarding BellSouth's cost study. (Document No. 09283-03). Attachment B contains an explanation of the proprietary information along with a list identifying the location of the information designated by BellSouth as confidential.

On September 30, 2003, BellSouth filed a request for confidential classification. In its request, BellSouth seeks confidential classification of its responses to Covad Communications' First Request for Production of Documents (No. 1). (Document No. 09402-03). Attachment C contains an explanation of the proprietary information along with a list identifying the location of the information designated by BellSouth as confidential.

On January 5, 2004, BellSouth filed a request for confidential classification. In its request, BellSouth seeks confidential classification of its responses to AT&T's Seventh Request for Production of Documents (No. 88). (Document No. 00099-04). Attachment D contains an explanation of the proprietary information along with a list identifying the location of the information designated by BellSouth as confidential.

Florida law presumes that documents submitted to governmental agencies shall be public records. The only exceptions to this presumption are the specific statutory exemptions provided in the law and exemptions granted by governmental agencies pursuant to the specific terms of a statutory provision. This presumption is based on the concept that government should operate in the "sunshine." Rule 25-22.006(4)(c), Florida Administrative Code, provides that it is the Company's burden to demonstrate that the documents fall into one of the statutory examples set out in Section 364.183, Florida Statutes, or to demonstrate that the information is proprietary confidential information, the disclosure of which will cause the Company or its ratepayers harm.

Section 364.183(3), Florida Statutes, in pertinent part, provides:

The term "proprietary confidential business information" means information, regardless of form or characteristics, which is owned or controlled by the person or company, is intended to be and is treated by the person or company as private in that the disclosure of the information would cause harm to the ratepayers or the person's or company's business operations, and has not been disclosed unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or private agreement that provides that the information will not be released to the public.

Based on the definition of proprietary confidential business information in Section 364.183(3), Florida Statutes, it appears that the material described herein is proprietary business information in accordance with Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. Disclosure of this information would give its competitors an artificial competitive advantage, allowing them to successfully compete against BellSouth without the usual market trial and error. As such, BellSouth's Requests for Confidential Classification of Document Nos. 06869-03; 09283-03; 09402-03 are hereby granted.

Based on the foregoing, it is


ORDERED by J. Terry Deason, as Prehearing Officer, that BellSouth Telecommunications, Inc.'s Requests for Confidential Classification of Document Nos. 06869-03; 09283-03; 09402-03 and 00099-04 as set forth in Attachments A-D, which are attached and incorporated herein, are hereby granted. It is further

ORDERED that pursuant to Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, the confidentiality granted to the material specified herein shall expire eighteen (18) months from the date of the issuance of this Order, in the absence of a renewed request for confidentiality pursuant to Section 364.183, Florida Statutes. It is further

ORDERED that this Order will be the only notification by the Commission to the parties concerning the expiration of the confidentiality time period.

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By ORDER of Commissioner J. Terry Deason, as Prehearing Officer, this 14th Day of January, 2004.

  
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J. TERRY DEASON  
Commissioner and Prehearing Officer

( S E A L )

JPR

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, 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 the Commission Clerk and Administrative Services, in the form

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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.

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**BellSouth Telecommunications, Inc.**  
**FPSC Docket No. 981834-TP/990321-TP**  
**Request for Confidential Classification**  
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**07/29/03**

**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF BELLSOUTH'S  
RESPONSE TO STAFF'S 8<sup>TH</sup> REQUEST FOR PRODUCTION OF  
DOCUMENTS, REQUEST NO. 89, FILED JULY 9, 2003, IN FLORIDA  
DOCKET NOS. 981834-TP AND 990321-TP**

**Explanation of Proprietary Information**

1. The requested document contains vendor-specific pricing negotiated by BellSouth. Public disclosure of this information would impair BellSouth's ability to contract for goods and/or services on favorable terms. Pursuant to Section 364.183, Florida Statutes such information is classified as proprietary, confidential business information which is exempt from the Open Records Act.



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**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF BELLSOUTH'S  
RESPONSE TO STAFF'S 8<sup>TH</sup> REQUEST FOR PRODUCTION OF  
DOCUMENTS, REQUEST NO. 89 FILED JULY 9, 2003, IN FLORIDA  
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**PRODUCTION OF DOCUMENT REQUEST NO. 89**

<u>Location</u>	<u>Reason</u>
Entire Document	1

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BellSouth Telecommunications, Inc.  
 FPSC Docket No. 981834-TP/990321-TP  
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**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF REVISED EXHIBIT WBS-1  
 TO THE SURREBUTTAL TESTIMONY OF W. BERNARD SHELL FILED ON  
 SEPTEMBER 26, 2003 IN FLORIDA PUBLIC SERVICE  
 COMMISSION DOCKET 981834-TP/990321-TP**

**Explanation of Proprietary Information**

1. This information reflects vendor specific prices negotiated by BellSouth. Public disclosure of this information would impair BellSouth's ability to contract for goods and services on favorable terms. This information is valuable, it is used by BellSouth in conducting its business and BellSouth strives to keep it secret. Therefore, this information should be classified as proprietary, confidential business information pursuant to Section 364.183(3)(d) Florida Statutes and is exempt from the Open Records Act.

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000023, Lines 198-199, Column F	1
000023, Lines 203-204, Column F	1
000023, Lines 207-208, Column F	1
000023, Lines 214-215, Column F	1
000046, Line 17, Column E	1
000046, Line 19, Column E	1

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**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF REVISED EXHIBIT WBS-1  
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**BASIS FOR REQUEST**

**Proprietary CD Rom**

Files	
Flphycol.xls	1
Flasmbpt.xls	1
Fladjphc.xls	1
Fcollrt.xls	1
DS1_ds1_calc.xls	1
MDF_mdf_fund.xls	1
H.1.37.xls	1
H.1.42 & H.1.43.xls	1
H.1.8, H.1.71 and H.2.4.xls	1
H.6.2.xls	1

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**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF BELLSOUTH'S  
 RESPONSE TO COVAD'S 1<sup>st</sup> REQUEST FOR PRODUCTION OF  
 DOCUMENTS, REQUEST NO. 1 FILED SEPTEMBER 9, 2003, IN FLORIDA  
 DOCKET NOS. 981834-TP AND 990321-TP**

**Explanation of Proprietary Information**

1. The information contains vendor specific information, and/or, vendor specific prices negotiated by BellSouth. Public disclosure of this information would impair BellSouth's ability to contract for goods and services on favorable terms. Therefore, this information is entitled to confidential classification pursuant to Section 364.183(3) and (3)(d), Florida Statutes.

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**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF BELL SOUTH'S  
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Page 00007, Lines 1-4, Columns D-G	1
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Page 00007, Lines 6-7, Columns D-E	1
Page 00007, Lines 8-15, Column G	1
Page 00008, Lines 1-9, Columns D-G	1
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Page 00008, Lines 11-14, Column G	1
Page 00009, Lines 1-4, Columns D-G	1
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Page 00010, Lines 1-3, Columns D-G	1
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Page 00014, Lines 1-3, Columns B-F	1
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**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF BELLSOUTH'S  
RESPONSE TO AT&T's SEVENTH REQUEST FOR PRODUCTION, NO. 88,  
FILED DECEMBER 15, 2003, IN FLORIDA DOCKET NO. 981834-TP**

**Explanation of Proprietary Information**

1. This information contains competitive business information. The subject information includes internal methods and procedures, job aids, and force sizing models. This information is valuable, it is used by BellSouth in conducting its business and BellSouth strives to maintain the confidentiality of this information. Therefore, such information is a trade secret which should be classified as proprietary, confidential business information pursuant to Section 364.183(3)(e), Florida Statutes and is exempt from the Open Records Act.

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**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF BELLSOUTH'S  
RESPONSE TO AT&T's SEVENTH REQUEST FOR PRODUCTION, NO. 88,  
FILED DECEMBER 15, 2003, IN FLORIDA DOCKET NO. 981834-TP**

**POD NO. 88**

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