

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Competitive Carriers for Commission ) Docket No. 981834-TP  
 Action to Support Local Competition in BellSouth )  
 Telecommunications Inc.'s Service Territory )  
 \_\_\_\_\_ )  
 Petition of ACI Corp. d/b/a Accelerated Connections, ) Docket No. 990321-TP  
 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 )  
 \_\_\_\_\_ )

PROTECTIVE AGREEMENT

WHEREAS, the parties to the above captioned proceedings may file or be requested to produce certain confidential information in these proceedings;

WHEREAS, the parties agree that some of the confidential information should be made available for review pursuant to an appropriate Protective Agreement; and,

WHEREAS, the parties agree that entering into a Protective Agreement will expedite the discovery of information by parties seeking to prepare for hearings and technical workshops; will afford the necessary protection to valuable, confidential and proprietary information; and will also protect the requesting party's attorneys and experts in these proceedings who might review the information and subsequently be requested to reveal its contents.

NOW, THEREFORE, the parties agree to enter into this Protective Agreement and agree as follows:

1. (a) Confidential Information. All documents, testimony, data, information, cost studies and other materials furnished pursuant to any discovery process in these proceedings that are claimed to be proprietary or confidential or contain secrets, confidential business information, and information subject to an evidentiary privilege or exempt from public disclosure under Florida Statutes, section 364.183(3)(e) or other Florida law shall be marked as confidential by the party providing the information by stamping them with a designation indicating their proprietary or confidential nature. Access to and review of Confidential information shall be strictly controlled by the terms of this Agreement.

*Manzante.* (b) Use of Confidential Information. All individuals who may be entitled to review, or who are afforded access to any Confidential information by reason of this

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Agreement shall neither use nor disclose the Confidential information for purposes of business or competition, or any purpose other than preparation for and conduct of these proceedings, and then solely as contemplated herein, and shall keep the Confidential information secure as confidential and proprietary in accordance with this Agreement.

(c) Persons Entitled to Review. Access to Confidential information shall be limited to the receiving party's designated experts and attorneys (and persons assisting such attorneys) who are working on matters related to these proceedings. Access shall only be provided after such person agrees to be bound by the terms of this Protective Agreement and who signify such Agreement by executing Attachment A, attached hereto. No Confidential Information shall be disclosed to anyone else without the producing parties' specific permission except as provided by this agreement. Under no circumstances will any person associated with marketing on behalf of the requesting party or any other entity be allowed to review the Confidential Information.

2. (a) Copies. In responding to discovery, the producing party shall provide one copy of non-voluminous Confidential Information to counsel for the requesting party. No additional copies or transcriptions of the Confidential Information shall be made except copies to be used by persons designated in paragraph 1(c) of this section or as may be necessary for receipt of evidence in these proceedings as set forth in Paragraph 7 of this Agreement. Each party shall maintain a log, recording the number of copies made of all Confidential Information, and the persons to whom the copies have been provided. Any note memorializing or recording of Confidential Information shall, immediately upon creation, become subject to all provisions of this Protective Agreement.

(b) Notes. Limited notes regarding the Confidential Information may be taken by the requesting party for the express purpose of preparing pleadings, testimony, examination of experts at hearings and technical workshops, briefs, comments, and argument in connection with these proceedings. No copies of such notes shall be made. These notes shall not be prepared with the intent of formalizing or perpetuating knowledge of the Confidential Information.

(c) Return. All notes and copies of the Confidential Information which have not been received into evidence shall be returned to counsel for the producing party within thirty (30) days after the completion of the proceeding, including any administrative or judicial review, or at any earlier time as appropriate.

3. Objections of Admissibility. The furnishing of any document or information pursuant to this Protective Agreement shall in no way limit the right of the producing party to object to its relevance or admissibility in proceedings before the Commission.

4. Initial Challenge to Confidentiality. This Agreement establishes a procedure for the expeditious handling of information that the producing party claims is confidential; it shall not be construed as an Agreement or ruling on the confidentiality of any document. Any party seeking to challenge the confidentiality of the Confidential

Information pursuant to this Agreement shall first contact opposing counsel and attempt to resolve any difference by informal stipulation.

5. Protective Order. In the event the parties are unable to resolve questions of confidentiality by informal stipulation, or in the event any party desires to use the Confidential Information in any manner which would require its disclosure on the public record or in a public forum, the parties agree to request by joint motion that the Commission enter a protective order which will incorporate the terms of this Agreement. If the parties cannot agree to this procedure, the party to which the Confidential Information belongs will itself seek a protective order under applicable Commission Rules. The motion for the protective order shall be filed with the Commission fifteen (15) days prior to the challenge of confidentiality or anticipated public use of the information in order to enable the producing party to seek a stay or other relief in the event the Commission declines to enter the protective order.

6. Formal Challenge to Confidentiality.

(a) Pleading. In the event that the parties cannot agree as to the character of the information challenged, a party shall challenge the confidentiality by appropriate pleading. This pleading shall:

(1) Designate the document or other material challenged in a manner that will specifically insulate the challenged material from the other material claimed as confidentiality; and,

(2) State with specificity the grounds upon which the information is claimed to be nonconfidential.

(b) The parties expect that a ruling on the confidentiality of the challenged information will be made by the Commission after proceedings in camera which shall be conducted under circumstances such that only those persons duly authorized hereunder to have access to such Confidential information shall be present.

(c) The parties expect that the record of the in camera hearing will be marked "CONFIDENTIAL; SUBJECT TO PROTECTIVE ORDER IN DOCKET NUMBERS 981834-TP and 990321-TP". Court reporter notes and/or tapes of such hearing shall be transcribed only upon agreement by the parties or order of the Commission and, in that event, shall be separately bound, sealed, and withheld from inspection by any person not bound by the terms of this Agreement.

(d) In the event the Commission rules that any information, document, or other material should be removed from the restrictions imposed by this order, no party shall disclose such information or use it in a manner that would result in its disclosure until ten (10) days after entry of the written ruling. This provision will enable the producing party to seek a stay or other relief from an order removing the claimed Confidential information from the ambit of this Agreement.

7. (a) Receipt into Evidence. Confidential Information shall be received into evidence in the following manner:

(1) At least seven (7) days prior to the use of or substantive reference to any Confidential Information, the party intending to use the Confidential Information shall make that intention known to the producing party.

(2) The parties shall make a good faith effort to reach an agreement so the information can be used in a manner which will not reveal its confidential or proprietary nature.

(3) If such efforts fail, the providing party shall separately identify which portions of the documents to be offered or referenced shall be placed in a sealed record.

(4) The copy of the document(s) to be placed in the sealed record shall be tendered by counsel for the producing party to the Commission and maintained in accordance with the terms of this Agreement.

(b) In Camera Hearing. The parties expect that any Confidential Information that must be orally disclosed will be placed in a sealed portion of the transcript in these proceedings and shall be offered at an in camera hearing, attended only by Commission Staff and persons authorized to have access to the information under this Agreement.

(c) Access to Record. Access to sealed records and information shall be limited to the Commission and the Commission Staff, unless such material is released from the restrictions of this Agreement either through an agreement of the parties or after notice to the parties and hearing, pursuant to the ruling of a Hearing Officer, Commission order and/or the final of a court having final jurisdiction.

(d) Appeal. Sealed portions of the record in these proceedings may be forwarded to any court of competent jurisdiction for purposes of judicial review, but under seal as designated herein for the information and use of the Court. If a portion of the record is forwarded to a court under seal for the purposes of judicial review, the producing party shall be notified which portion of the sealed record has been designated by the appealing party as necessary to the record on appeal.

8. Use in Pleadings. Where reference to the Confidential Information in the sealed record or with the custodian is required in pleadings, comments, argument or motions (except as provided in Paragraph 7), it shall, if possible, be by citation of title or exhibit numbers or by some description that will not disclose the substantive Confidential information contained therein. Any use of or substantive references to Confidential information shall be submitted to the Commission pursuant to a request for protective order, pursuant to the relevant Commission Rules governing confidential filings, and such Confidential Information shall not be disclosed publicly.

9. This Agreement may be modified only by written agreement signed by the parties.

10. This Protective Agreement shall become effective on the date it is fully executed.

11. With their signatures below, the parties to this Agreement certify that they have read it and agree to be bound by its terms.

VERIZON FLORIDA INC.

Richard A. Chapkis  
Richard A. Chapkis  
Post Office Box 110, FLTC0007  
Tampa, FL 33601

Attorney for  
Verizon Florida Inc.

Date: February 24, 2003

\_\_\_\_\_

Date: \_\_\_\_\_

AT&T Communications of the Southern States, LLC.

Tracy Hutchins  
Messer, Capriello & Self, PA  
P.O. Box 1876

Tallahassee, FL 32302-1876

Attorney for AT&T Communications of the Southern States, LLC

Date: 2/7/2003

\_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_

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VERIZON FLORIDA INC.

\_\_\_\_\_

Post Office Box 110, FLTC0007  
Tampa, FL 33601

Attorney for  
Verizon Florida Inc.

Date: \_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_

*AT&T Communications of the Southern  
States, LLC.*

*Tracey Hutch*  
\_\_\_\_\_

*Messer, Caparelli & Self, PA  
P.O. BOX 1876*

*Tallahassee, FL 32302-1876*

*Attorney for AT&T Communications  
of the Southern States, LLC*

Date: *2/7/2003*  
\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_

ATTACHMENT A

AGREEMENT CONCERNING CONFIDENTIAL INFORMATION  
IN DOCKET NOS. 981834-TP/990321-TP  
BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

I, \_\_\_\_\_, hereby agree to comply with and  
be bound by the Protective Agreement, and acknowledge that I have reviewed the  
Protective Agreement and fully understand its terms and conditions.

Signature: \_\_\_\_\_

Full Name: \_\_\_\_\_  
(Print)

Permanent Address  
and Employer: \_\_\_\_\_  
\_\_\_\_\_

Party With Whom  
Signatory Is Associated: \_\_\_\_\_

Date: \_\_\_\_\_