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June 25, 2003

Ms. Blanca S. Bayo, Director
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and Administrative Services
Florida Public Service Commission
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Re: Docket No. 981834-TP
Petition of Competitive Carriers for Commission Action to Support Local
Competition in BellSouth Telecommunications Inc.'s Service Territory

Docket No. 990321-TP
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

Dear Ms. Bayo:

Please find enclosed for filing an original and 15 copies of the Joint Motion of Verizon
Florida Inc. and Sprint-Florida, Incorporated To Strike the Revised Rebuttal Testimony
of Steven E. Turner and the Surrebuttal Testimony of Jeffrey A. King in the above
matters. Also enclosed is a diskette with a copy of the Joint Motion in Word format.
Service has been made as indicated on the Certificate of Service. If there are any
questions regarding this filing, please contact me at 813-483-1256.

Sincerely,

Richard Chapkis

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Enclosures

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Competitive Carriers for)	
Commission action to support local)	Docket No. 981834-TP
Competition in BellSouth Telecommunications)	Filed: June 25, 2003
Inc.'s service territory)	
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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)	Docket No. 990321-TP
Florida Incorporated comply with obligation to)	
provide alternative local exchange carriers)	
with flexible, timely, and cost-efficient physical)	
collocation)	
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**JOINT MOTION OF VERIZON FLORIDA INC. AND SPRINT-FLORIDA,
INCORPORATED TO STRIKE THE REVISED REBUTTAL TESTIMONY
OF STEVEN E. TURNER AND THE SURREBUTTAL
TESTIMONY OF JEFFREY A. KING**

Pursuant to Rules 1.160 and 1.280 of the Florida Rules of Civil Procedure and Rule 28-106.204 of the Florida Administrative Code, Verizon Florida Inc. ("Verizon") and Sprint-Florida, Incorporated ("Sprint") hereby request that the Commission strike the Revised Rebuttal Testimony submitted by Steven E. Turner and the Surrebuttal Testimony submitted by Jeffrey A. King on behalf of AT&T Communications of the Southern States, LLC ("AT&T").

INTRODUCTION

AT&T's two recent testimony submissions are an unauthorized, untimely, and unfair effort to manipulate the course of this proceeding. With only weeks to go before the non-cost (technical) issues are to be presented in hearings before this Commission, AT&T has abruptly attempted to reverse its position on Issues 6A and 6B (DC power charges) by filing wholesale revisions to the testimony of one of its witnesses (Mr. Turner) nearly two months after it was

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initially filed, and by filing unauthorized surrebuttal testimony of another of its witnesses (Mr. King) that completely reverses the position he took in testimony filed five months earlier. AT&T has made these untimely submissions with neither a basis for doing so in the Commission's rules nor permission from the Commission. And it has taken these steps notwithstanding that its actions, if allowed to stand, would leave the ILECs insufficient time to explore the merits of AT&T's new proposal in discovery before the August hearings on Issues 6A and 6B. AT&T's attempt to circumvent this Commission's rules — and the disingenuous reasons it has given for doing so — are completely inappropriate and should not be sanctioned by this Commission.

Accordingly, Mr. Turner's "revised" testimony and Mr. King's surrebuttal testimony should be stricken, and the Commission should make it clear that AT&T may not call Mr. Turner to testify at the August hearing on the issue of DC power metering. Only by taking these steps will the Commission rectify the unfairness and confusion that AT&T, through its untimely and unauthorized submissions, has introduced into this proceeding.

PROCEDURAL HISTORY

On November 4, 2002, in Order No. PSC-02-1513-PCO-TP, the Commission identified 8 non-cost (technical) issues to be addressed in this proceeding and set forth a procedural schedule for addressing those issues. Issues 6A and 6B involve questions of whether ILECs' DC power rates should be based on fused capacity or to amperes used or ordered, and how those charges should be calculated and applied. Pursuant to the schedule established in the procedural order, Mr. King, on behalf of AT&T, John Ries, on behalf of Verizon, and Jimmy Davis, on behalf of Sprint, filed testimony on December 19, 2002, and rebuttal testimony on January 21, 2003, addressing non-cost (technical) issues, including the DC power rate application issue. In both his

direct and rebuttal testimony, Mr. King argued that billing according to the List 1 Drain^{1/} of the power equipment was a “*suitable proxy for actual usage* when determining collocation power.”^{2/} Because Verizon charges for DC power in such a way that the ALECs can opt to be billed based on the List 1 Drain of their telecommunications equipment,^{3/} Verizon filed rebuttal testimony by John Ries essentially agreeing with AT&T’s position on List 1 Drain. Verizon therefore believed this issue had been resolved.^{4/} The testimony of Sprint’s witness Jimmy Davis advocates billing ALECs for DC power consumption based on what the ALEC orders and is consistent with AT&T’s original position on the List 1 Drain of the ALECs’ telecommunications equipment.

Mr. Turner filed rebuttal testimony on behalf of AT&T on April 18, 2003 addressing Verizon’s and Sprint’s cost studies. Even though Mr. Turner’s testimony was supposed to be limited to cost issues, not the non-cost (technical) issues previously identified by the Commission, Mr. Turner’s testimony nevertheless addressed the non-cost (technical) issue regarding billing for DC power. Importantly, however, Mr. Turner’s April 18 testimony was entirely consistent with Mr. King’s previous testimony. It made clear that the “List 1 Drain” of

^{1/} “List 1 Drain” is the minimum amount of power that a fully loaded piece of telecommunications equipment will draw while in use. Ries Rebuttal at 15.

^{2/} King Direct at 10; King Rebuttal at 22 (emphasis added).

^{3/} Unlike Bell South, Verizon does not charge ALECs for power based on the *fused* amp capacity of their power feeds; rather, Verizon’s monthly recurring power rates in Florida, and throughout its service footprint, are based on the amount of power that the ALEC tells Verizon is necessary to run the ALEC’s equipment.

^{4/} Although Verizon did briefly address the issue of whether DC power should be metered in Mr. Ries’ rebuttal testimony, it did not (and, indeed, had no reason to) address the issue in detail because of AT&T’s alternative List 1 Drain position. Sprint addressed these issues in a similar way.

an ALEC's collocation equipment correlated with the actual amount of power that the equipment uses, and accordingly should be used as the basis for measuring that ALEC's DC power usage.^{5/} Mr. Turner also made clear that the fused capacity of the power feeds should not be used.^{6/} On that same date, Commission Staff witness Rowland L. Curry filed rebuttal testimony that, in relevant part, reiterated Verizon's DC power practices and concluded that those practices represented a "workable solution" and a "good" approach that the "Commission should make . . . available, at least as an alternative, for all three of the carriers in this proceeding."^{7/}

On June 3, 2003, the Commission convened a hearing in which it addressed the scheduling for the remaining phases of the case. At that hearing, AT&T gave no indication that it was about to file testimony by one of its cost witnesses addressing a non-cost (technical) issue. Nor did it notify the Commission and the parties that it would soon file unscheduled non-cost (technical) testimony that would be materially different from the testimony filed by the same witness months earlier. The parties and the Commission accordingly agreed to bifurcate the proceedings, with hearings on non-cost (technical) issues to take place in August, surrebuttal testimony on cost issues to be filed in late September, and hearings on cost issues to occur in early November.

On June 6, 2003 — almost two months after Mr. Turner filed his rebuttal testimony, and over five months after Mr. King first stated that billing for DC power based on the List 1 Drain

^{5/} See Turner Rebuttal at 31 ("List 1 Drain is the amperage that the equipment uses when the power plant is operating normally.").

^{6/} See, e.g., *id.* at 32 ("The List 1 Drain defines the cost that BellSouth will incur and the cost that the ALEC should bear."); see also *id.* ("[T]he rate element for DC power should . . . be based on 'load' or 'used' amps.").

^{7/} Curry Rebuttal at 3.

of the equipment was appropriate — AT&T sought to revise Mr. Turner’s rebuttal testimony to substitute “actual usage,” as measured by metering the ALEC’s equipment, for List 1 Drain as the standard by which ALECs should be billed for DC power. Twelve days later, ostensibly in response to Mr. Curry’s cost testimony, AT&T filed the surrebuttal testimony of Mr. King, even though, by AT&T’s own admission, the date for filing surrebuttal testimony had been moved by the Commission to September 23, 2003.^{8/} In that testimony, Mr. King criticized numerous aspects of both BellSouth’s and Verizon’s provisioning of DC power, and — contrary to his direct and rebuttal testimony — argued that where an ALEC elects not to meter its DC power usage, that ALEC “should have the option of resorting to a proxy of usage based charges such as List 1 adjusted downward appropriately to compensate for the disparity between List 1 drain and actual usage.”^{9/} That proxy, according to Mr. King, “should be in the 33 - 50% range of the manufacturer’s published List 1 drain.”^{10/} Mr. King provided no basis or evidence for this brand new proposal, nor did he attempt to explain why his new testimony differs from his previous position that List 1 Drain is a “suitable proxy” for actual DC power usage.

ARGUMENT

Through Mr. Turner’s revised rebuttal testimony and Mr. King’s surrebuttal testimony, AT&T has totally and inexplicably changed its position on the acceptability of using List 1 Drain as a basis for billing for DC power. Specifically, where AT&T once said that List 1 Drain was a “suitable proxy” for an ALEC’s DC power usage, it now argues that Verizon must either meter

^{8/} Letter from Tracy W. Hatch, Senior Attorney for Law and Government Affairs, AT&T, to Blanca Bayo, Florida PSC Director of Clerk and Administrative Services, June 18, 2003.

^{9/} King Surrebuttal at 10.

^{10/} *Id.*

ALECs' DC power usage, or must charge *less than half* of List 1 Drain to account for the supposed discrepancy between List 1 Drain and the ALEC's actual DC power usage. In adopting this fundamentally flawed proposal just weeks before the hearings on the issue, AT&T has effectively precluded the ILECs from reasonably conducting discovery to ascertain the basis for AT&T's changed position — discovery that would be essential to resolution of the issue, given that AT&T's stated positions on metering DC power usage are so incomplete and insufficiently supported in many respects. Putting aside the procedural improprieties of its approach, AT&T's metering proposal is a solution in search of a problem, given the availability of the alternative approach followed by Verizon and Sprint, which allows ALECs to be billed simply according to the amount of power they request.

As an initial matter, AT&T's purported justification for filing Mr. Turner's and Mr. King's new testimony is disingenuous. According to AT&T, it filed the "revised" testimony of Mr. Turner as mere housekeeping, intended only to "*make clear* that the appropriate measure for DC power to be used to calculate charges for power to be assessed to CLECs purchasing collocation from BellSouth, Verizon or Sprint is the actual amount of DC power used by the collocated equipment."^{11/} With respect to Mr. King's surrebuttal testimony, AT&T contends that it was filed in response to Commission Staff witness Mr. Curry's testimony.^{12/} AT&T's explanations are not forthright. Indeed, Mr. Turner acknowledges that AT&T *is* changing its position: "While List 1 Drain is the current that the equipment draws when it is operating at

^{11/} Letter from Tracy W. Hatch, Senior Attorney for Law and Government Affairs, AT&T, to Blanca Bayo, Florida PSC Director of Clerk and Administrative Services, June 6, 2003 (emphasis added).

^{12/} Letter from Tracy W. Hatch, Senior Attorney for Law and Government Affairs, AT&T, to Blanca Bayo, Florida PSC Director of Clerk and Administrative Services, June 18, 2003.

normal voltages, the equipment will not always draw that current,” and “if the actual usage on the piece of [the ALEC’s collocation] equipment was metered, the actual usage would be less [than List 1 Drain] if the equipment was not being fully utilized.”^{13/} And where Mr. King argued in earlier rounds of testimony that List 1 Drain is a “suitable *proxy* for actual usage when determining collocation power,”^{14/} his surrebuttal testimony contends that charging based on List 1 Drain “results in excessive overcharges because of the difference between usage and List 1 drain.”^{15/} AT&T has therefore done much more than just clarify its testimony; it has sought to change its substance of an entire argument by contending that List 1 Drain is a wholly *unsuitable* measure of actual power usage.

AT&T’s claim that it filed Mr. King’s surrebuttal testimony to respond to Mr. Curry’s cost testimony is likewise disingenuous. Mr. Curry’s two sentences of testimony on how DC power should be billed merely restated and agreed with the Verizon position enunciated in Mr. Ries’s *non-cost direct* testimony: power metering is not plausible and is unnecessary as a billing mechanism if the ALEC has the option of paying for only the load amps it actually ordered. AT&T had the opportunity to rebut that position in Mr. King’s *rebuttal* testimony, filed this past January. Instead, it reiterated its position that List 1 Drain is a “suitable proxy for actual usage when determining collocation power.”^{16/} AT&T is thus misstating the facts when it implies that Mr. Curry’s cost testimony contained some new argument that necessitated the filing of Mr. King’s surrebuttal testimony in June. Indeed, the fact that AT&T filed Mr. King’s testimony on

^{13/} Turner Revised Rebuttal at 31-32.

^{14/} King Direct at 10; King Rebuttal at 22.

^{15/} King Surrebuttal at 8.

^{16/} King Rebuttal at 22.

June 18, 2003, even though this date had been moved to September 23, 2003, demonstrates that AT&T is improperly attempting to assert a new position on a non-cost (technical) position under the guise of responding to Mr. Curry's cost testimony.

AT&T's unauthorized filings must also be rejected because they introduce into the record clear inaccuracies about Verizon's method of provisioning DC power that the ILECs will not have time to properly investigate and rebut before the August hearings. For instance, Mr. King suggests that Verizon's claim that it "allows the ALECs to order power at whatever *'load'* that they desire, according to the drain specifications of the equipment," is a "gross misrepresentation."^{17/} Mr. King is wrong — Verizon indeed permits ALECs to order whatever load they desire, regardless of whether that load corresponds to the List 1 Drain of their equipment, the List 2 Drain of their equipment, or neither. In fact, Verizon's collocation application clearly advises ALECs that they are "responsible for the engineered power consumption of the collocation arrangement" and accordingly must "[i]ndicate the requested drain/load per feed and the fuse size per feed."^{18/} Similarly, Mr. King is dead wrong when he argues that Verizon "misuses the term" load amps "to mean published List 1 drain"; in fact, Mr. Ries's rebuttal testimony clearly stated that "Verizon Florida lets ALECs order power at whatever *load* they desire, so they can already order power *corresponding to the List 1 Drain* specifications of the equipment is that is what they want."^{19/} Likewise, Sprint's position is that

^{17/} King Surrebuttal at 7.

^{18/} See <http://www.verizon.com/wholesale/clecsupport/east/wholesale/resources/attachments/app-001-0822-03/doc> (last visited June 24, 2003).

^{19/} Ries Rebuttal at 16 (emphasis added).

the ALEC should be billed for DC power based on what they order.^{20/} Indeed, billing the ALEC for DC power in any amount less than what the ALEC orders will result in an underrecovery of cost for the ILEC. When an ALEC orders a specific amount of DC power, the ILEC will engineer the DC power plant to provide the amount of DC power ordered, thus incurring costs associated with the ALEC's request.

Moreover, to respond to AT&T's completely new proposal, Verizon and Sprint would need (and would be entitled to) additional discovery and testimony on the issue of metering DC power — an issue which, as Verizon witness John Ries noted in his direct testimony, is very significant and complex.^{21/} Among other things, the parties would need sufficient time to investigate and file testimony explaining: (1) the significant costs associated deploying the equipment necessary to meter ALEC power usage; (2) the costs associated with monitoring that usage on a monthly basis; (3) the need to deploy an entirely new Operational Support System (“OSS”) to collect the data; and (4) the need to comprehensively redesign their billing systems.

The metering of an ALEC's power usage also would also present significant operational and safety issues, as telephone company central offices are not designed (consistent with industry standards) to support the metering of ALECs' DC power consumption. It is for precisely this reason that Staff's witness, Rowland L. Curry, agreed with Verizon that “there does not appear to be an effective means by which actual usage can be precisely metered or monitored.”^{22/} In contrast, requiring collocators to order power in advance on their collocation applications and then billing them for what they order, as Verizon and Sprint do, gives collocators proper

^{20/} Davis Rebuttal at 12.

^{21/} Ries Direct at 13.

^{22/} Curry Rebuttal at 4.

incentives to forecast their needs reasonably accurately, enabling efficient and safe provisioning of power. And given that the power drain of telecommunications equipment remains at a “steady state” — a fact that Mr. King admitted in his direct testimony^{23/} — there is nothing that prevents an ALEC from actually using the same amount of power that it orders from Verizon. Thus, AT&T’s new metering proposal represents a drastic change from its previous proposal and raises critical operational, safety and cost issues. There is simply no time for the ILECs to conduct discovery and respond to AT&T’s proposals in time for the August hearings.

Finally, AT&T’s attempt to change the substance of its testimony on this important issue this late in the proceeding should also be rejected because its new filings confuse the cost and non-cost (technical) aspects of this case in a way that will only bring chaos and unfairness to the upcoming hearings. In the issue identification phase of this proceeding, the Commission staff and the parties purposefully separated the discussion of non-cost (technical) issues from the discussion of the specific pricing and cost issues and set earlier dates for filing testimony addressing the non-cost (technical) issues. The issue of how to bill for DC power was specifically included in the non-cost (technical) issues to be addressed in the earlier testimony. Thus, both Mr. Turner’s and Mr. King’s testimony amount to late-filed testimony on Issues 6A and 6B. The procedural order clearly states that testimony that is not filed within the timeframes set forth in the order may be barred from admission into the proceeding. While the Commission has the authority to grant a party permission to file revised or additional testimony after the dates set forth in the procedural order in extraordinary circumstances, AT&T has neither alleged such extraordinary circumstances nor requested the Commission’s permission for its revised and supplemental filings.

^{23/} King Direct at 11.


CONCLUSION

For these reasons, both Mr. Turner's "revised" testimony and Mr. King's surrebuttal testimony should be stricken as procedurally inappropriate. Because the issue of whether DC power should be based on metered usage is to be addressed at the non-cost (technical) hearings in August, allowing this testimony to become part of the record at this time would seriously violate Verizon's and Sprint's due process rights.


Respectfully submitted,

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Dated: June 25, 2003


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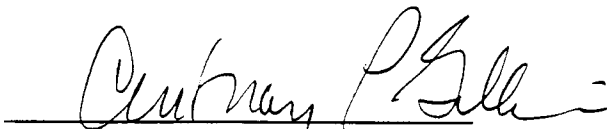
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of the Joint Motion of Verizon Florida Inc. and Sprint-Florida, Incorporated To Strike the Revised Rebuttal Testimony of Steven E. Turner and the Surrebuttal Testimony of Jeffrey A. King in Docket Nos. 981834-TP and 990321-TP were sent via U.S. mail and electronic mail on June 25, 2003 to the parties on the attached list.



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