

ORIGINAL

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August 5, 2003

Mrs. Blanca S. Bayó
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Florida Public Service Commission
2540 Shumard Oak Boulevard
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Re: Docket Nos. 981834-TP and 990321-TP (Generic Collocation)

Dear Ms. Bayó:

Enclosed are an original and fifteen copies of BellSouth Telecommunications, Inc.'s Response to AT&T's Motion for Modification of the Procedural Schedule, which we ask that you file in the captioned docket.

A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return the copy to me. Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely,



J. Phillip Carver (JA)

cc: All Parties of Record
Marshall M. Criser III
R. Douglas Lackey
Nancy B. White

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CERTIFICATE OF SERVICE
Docket No. 981834-TP and 990321-TP

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via Hand Delivery (#), First Class U.S. Mail and Electronic Mail this 5th day of August, 2003 to the following:

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(+) Signed Protective Agreement

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Competitive)
Carriers for Commission Action) Docket No. 981834-TP
To Support Local Competition)
In BellSouth's Service Territory)

In re: Petition of ACI Corp. d/b/a)
Accelerated Connections, Inc. for) Docket No. 990321-TP
Generic Investigation into Terms and)
Conditions of Physical Collocation)

) Filed: August 5, 2003

**BELLSOUTH'S RESPONSE TO AT&T'S MOTION
FOR MODIFICATION OF THE PROCEDURAL SCHEDULE**

BellSouth Telecommunications, Inc. ("BellSouth") hereby files its Response to AT&T's Motion for Modification of the Procedural Schedule, and states the following:

1. The current procedural schedule includes a bifurcated process in which there would be two separate hearings, sets of Briefs, Staff Recommendations and Orders. AT&T has requested that the procedural schedule be changed so that there would be a single brief filed by each party to cover both phases of the proceeding, followed by a single Staff Recommendation and a single Order. BellSouth does not believe that AT&T's argument that it will be prejudiced by the current procedure has any merit. BellSouth, however, does agree that having one set of Briefs, a single Staff Recommendation and a single Order would be more efficient. Accordingly, BellSouth does not oppose AT&T's request, provided that the Commission does not allow AT&T to use the requested procedural modification as the basis to file additional testimony as it has attempted to do in the past.

2. As originally composed, this proceeding included both technical issues (1-8) and cost issues (9-10), which were to be addressed in a single hearing.

The current bifurcated procedural schedule has come about as an attempt to remedy the prejudice that would otherwise have resulted from AT&T's procedural maneuvering in this case. Rather than filing the theory of its witness Steven Turner, -- that there should be a single cost model for all ILEC's -- in Direct Testimony, AT&T elected to make this proposal for the first time in Rebuttal Testimony. Further, AT&T did so in an apparent attempt to deprive adverse parties of the opportunity to respond (See, *AT&T's Response to Emergency Motion to Strike filed May 22, 2003, p. 3*). At the Commission's direction, the parties negotiated a procedure to remedy the prejudice that might otherwise have resulted from AT&T's filing testimony in this matter. This procedure involved separating the cost issues upon which Mr. Turner testified into a second hearing and allowing parties to file Surrebuttal Testimony shortly before this second hearing. This procedure was subsequently approved by the Commission (*Order Approving Agreement, p. 9*).

3. Thus, the current situation is entirely the result of strategic decisions that AT&T has made. Given the fact that the current bifurcation came about to mitigate any prejudice from AT&T's approach to filing testimony, AT&T should not be allowed to complain now that it would be prejudiced by this bifurcation. Further, AT&T would not, in fact, be prejudiced. In Mr. Turner's testimony, he states that the purpose of this testimony is to respond to witnesses, Bernard Shell, Jimmy R. Davis, Barbara K. Ellis, Allen E. Sovereign and James H. Vander Weide (*Turner Rebuttal, p. 2*). All of these witnesses have filed testimony solely on the cost issues. Thus, AT&T's assertion that Mr. Turner must be allowed to testify on the technical issues to avoid prejudice to AT&T is belied by Mr. Turner's own testimony. Clearly, the current procedural schedule would result in no prejudice to AT&T.

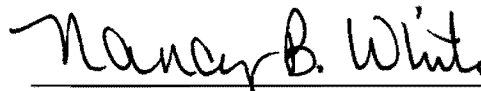
4. At the same time, BellSouth does not believe that there is any particular benefit to having two, separate, sets of briefs, Staff Recommendations and Orders. Instead, having only one of each would be more efficient. Therefore, BellSouth does not necessarily object to AT&T's proposal. The caveat to BellSouth's consent, however, is that AT&T's suggestion must not serve as the predicate to further procedural maneuverings and unauthorized filings.

5. To date, AT&T has not only made the filing that ultimately resulted in the current procedural separation (described above), it has also filed substantial changes to Mr. Turner's testimony well after the deadline for filing testimony, and it has filed unauthorized Surrebuttal Testimony by Mr. King on the "technical" issues, which was subsequently withdrawn. The last two unauthorized filings each related specifically to the electrical power issue. Now, AT&T has, in effect, given notice that it considers the power issue to be part of the second hearing (set for November) as well as the August hearing, and that it plans to interject this issue into both hearings. (*AT&T Motion, p. 3*) Given AT&T's stated intentions and its prior actions, BellSouth is concerned that AT&T's request that there be a single record in this proceeding that will encompass both hearings is merely the predicate to the next round of attempts by AT&T to modify, substitute or substantially add to its testimony on the power issue sometime between now and November. BellSouth, of course, strongly objects to any such attempt. At this juncture, the only testimony that remains to be filed in either phase of this proceeding is the Surrebuttal Testimony due in September, which is to address the Rebuttal Testimony already filed in the "cost" phase of the case. The filing of any additional testimony beyond this Surrebuttal should not be allowed.

6. Again, BellSouth does not believe that AT&T's argument that it will be prejudiced by the current procedural schedule has any merit. Nevertheless, BellSouth does not object to the modification requested by AT&T because it will be more efficient to have a single set of Briefs, Staff Recommendation and Order. BellSouth also requests, however, that the Commission clearly state in its Order on AT&T's motion that AT&T may not file additional testimony prior to the November hearing.¹

Respectfully submitted this 5th day of August 2003.

BELLSOUTH TELECOMMUNICATIONS, INC.



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¹ A single staff witness has filed rebuttal testimony, and AT&T may have a basis to file surrebuttal to that testimony. BellSouth's request is not intended to prevent any party from filing appropriate surrebuttal testimony, but is, instead, directed to the sort of unauthorized testimony that AT&T has previously filed in this case.