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January 22, 2004

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COMMISSION
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BY HAND DELIVERY

Ms. Blanca Bayó, Director
Commission Clerk and Administrative Services
Room 110, Easley Building
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

Re: Docket Nos. 981834-TP and 990321-TP

Dear Ms. Bayó:

Enclosed for filing on behalf of AT&T Communications of the Southern States, LLC are an original and fifteen (15) copies of AT&T's Motion to Allow Taking Deposition and Notice of Taking Deposition for the deposition of Bernard Shell.

Please acknowledge receipt of this document by stamping the extra copy of this letter "filed" and returning the same to me.

Thank you for your assistance with this filing.

Sincerely yours,



E. Gary Early

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Enclosures

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SEC 1 _____
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DOCUMENT NUMBER-CAT

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Competitive Carriers for)
Commission action to support local competition) Docket No. 981834-TP
in BellSouth Telecommunications, Inc.'s service)
territory.)
_____)

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) Filed: January 22, 2004
obligation to provide alternative local exchange)
carriers with flexible, timely, and cost-efficient)
physical collocation)
_____)

MOTION TO ALLOW TAKING DEPOSITION

AT&T Communications of the Southern States, LLC ("AT&T"), pursuant to Rules 28-106.204 and 28-106.206, Florida Administrative Code, requests that the Florida Public Service Commission ("PSC") or the prehearing officer enter an order allowing the deposition of BellSouth Telecommunications, Inc. ("BellSouth") witness Bernard Shell to proceed in accordance with the attached Notice, and as grounds therefore states:

1. On December 23, 2003, AT&T filed a notice of taking deposition duces tecum for BellSouth employee Steve Martin, with the date of the deposition scheduled for Thursday, January 8, 2004. On January 6, 2004, BellSouth filed Objections to the AT&T notice, among which was an objection based on the fact that the most knowledgeable BellSouth employee on cost investment issues was Bernard Shell. In its objection, BellSouth stated that "BellSouth objects, however, to AT&T's simply ignoring the deposition [of Mr. Shell] that has been scheduled, and randomly

selecting [another] BellSouth employee” The referenced deposition of Mr. Shell was that noticed by PSC Staff for January 21, 2004.

2. In accordance with accepted PSC practice, AT&T opted to participate in the scheduled Shell deposition, in lieu of pursuing the deposition of Mr. Martin or taking other steps to seek discovery from the designated witness, Mr. Shell. On January 20, 2004, PSC Staff, without warning or explanation, cancelled the deposition of Mr. Shell, and indicated that it would not be rescheduled by the PSC Staff.

3. On January 21, 2004, undersigned counsel spoke with counsel for BellSouth to arrange an alternate date for deposition. It was determined that notice issues precluded going forward with the Shell deposition at its previously scheduled time. BellSouth counsel indicated that he would check alternate dates prior to the commencement of the hearing in this docket on January 28, 2004. On January 22, BellSouth counsel indicated that Mr. Shell would be unavailable for deposition prior to the hearing.

4. Although the discovery deadline has passed, AT&T believes it to be necessary to the efficient conduct of this proceeding, as well as in the interests of a full and fair consideration of the issues by the Commission to allow for the deposition of Mr. Shell to proceed as indicated in the attached Notice. AT&T should not be prejudiced due to its reliance on a PSC Staff noticed deposition.

5. A copy of the Notice of Taking Deposition directed to BellSouth and Bernard Shell is attached hereto.

6. Counsel contacted BellSouth regarding the substance of this motion, but was only able to leave a voice-mail.

WHEREFORE, for the reasons set forth herein, AT&T requests that the Florida Public Service Commission or the prehearing officer enter an order allowing the deposition of BellSouth Telecommunications, Inc. witness Bernard Shell to proceed in accordance with the attached Notice.

Respectfully Submitted.

A handwritten signature in black ink, appearing to read "Floyd R. Self", is written over a horizontal line. The signature is fluid and cursive.

Floyd R. Self
E. Gary Early
MESSER, CAPARELLO & SELF, P. A.
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Tallahassee, FL 32301
(850) 222-0720

and

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AT&T Communications of the Southern States, LLC
101 N. Monroe Street, Suite 700
Tallahassee, FL 32301
(850) 425-6360

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

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

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)
obligation to provide alternative local exchange)
carriers with flexible, timely, and cost-efficient)
physical collocation)
_____)

Docket No. 990321-TP
Filed: January 22, 2004

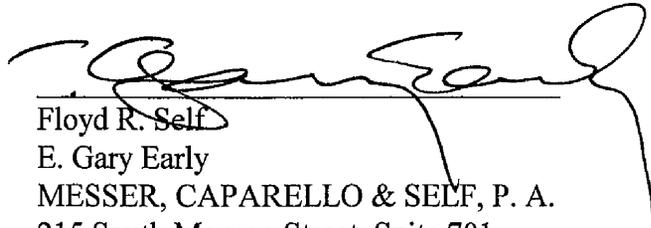
NOTICE OF TAKING DEPOSITION

TO: J. Philip Carver
Nancy B. White
c/o Nancy H. Sims
BellSouth Telecommunications, Inc.
150 South Monroe Street, Suite 400
Tallahassee, FL 32301

PLEASE TAKE NOTICE that AT&T Communications of the Southern States, LLC, by and through undersigned counsel, will take the deposition duces tecum of Bernard Shell, c/o BellSouth Telecommunications, Inc., 675 W. Peachtree Street, N.E., Suite 4300, BellSouth Center, Atlanta, GA 30375, on Monday, January 26, 2004, at 10:00 a.m. at the offices of Messer, Caparello & Self, P.A., 215 South Monroe Street, Suite 701, Tallahassee, FL 32301, or at such other time and place as may be mutually agreed upon by counsel, upon oral examination, before an official court reporter duly authorized by law to take depositions. The deposition is being taken for the purpose

of discovery, for use at trial, or both, or for such purposes as are permitted under the applicable and governing rules.

Respectfully Submitted.

A handwritten signature in black ink, appearing to read "E. Gary Early", is written over a horizontal line. The signature is fluid and cursive, with a long, sweeping tail that extends downwards and to the right.

Floyd R. Self
E. Gary Early
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(850) 425-6360

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served on the following parties by Hand Delivery (*) and/or U. S. Mail this 22nd day of January, 2004.

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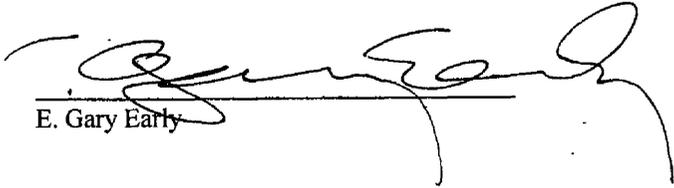
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