

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for emergency
relief by Supra
Telecommunications & Information
Systems against BellSouth
Telecommunications, Inc.,
concerning collocation and
interconnection agreements.

DOCKET NO. 980800-TP
ORDER NO. PSC-99-0060-FOF-TP
ISSUED: January 6, 1999

The following Commissioners participated in the disposition
of this matter:

J. TERRY DEASON
SUSAN F. CLARK
E. LEON JACOBS, JR.

APPEARANCES:

Suzanne Fannon Summerlin, Esquire, 1311-b Paul Russell
Road, #201, Tallahassee, Florida 32301.
On behalf of Supra Telecommunications & Information
Systems, Inc.

Nancy B. White, Esquire, 150 South Monroe Street, Suite
400, Tallahassee, Florida 32301.
On behalf of BellSouth Telecommunications, Inc.

Beth Keating, Esquire, 2540 Shumard Oak Boulevard,
Tallahassee, Florida 32399-0850.
On behalf of Commission staff.

FINAL ORDER RESOLVING COMPLAINT
REGARDING PHYSICAL COLLOCATION

BY THE COMMISSION:

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

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LIST OF ACRONYMS

AIN	Advanced Intelligence Network
ALEC	Alternative Local Exchange Carrier
BellSouth	BellSouth Telecommunications, Inc
CO	Central Office
FCC	Federal Communications Commission
GGCO	Golden Glades Central Office
HVAC	Heating/Ventilation/Air Conditioning
ILEC	Incumbent Local Exchange Carrier
IXC	Interexchange Carrier
MCI	MCI Metro Access Transmission Services, Inc. & MCI Telecommunications Corporation
SCP	Signal Control Point
STP	Signaling Transfer Point
TCAP	Transaction Capability Application Part
UNE	Unbundled Network Element

I.

CASE BACKGROUND

On June 30, 1998, Supra Telecommunications & Information Systems (Supra) filed a Petition for Emergency Relief against BellSouth Telecommunications, Inc. (BellSouth). By its Petition, Supra asked that we require BellSouth to permit Supra to physically collocate in BellSouth's North Dade Golden Glades and West Palm Beach Gardens central offices. On July 20, 1998, BellSouth filed its Answer and Response to Supra's Petition.

Subsequent to Supra's Complaint, on August 7, 1998, BellSouth filed Petitions seeking waivers of the requirements of the Telecommunications Act of 1996 (Act), Section 251(c)(6), and paragraphs 602-607 of the Federal Communications Commission's First Report and Order (96-325) to provide physical collocation. By its Petitions, BellSouth claimed that it can no longer provide physical collocation in its West Palm Beach Gardens and North Dade Golden Glades central offices, because it no longer has sufficient space.

By Order No. PSC-98-1417-PCO-TP, issued October 22, 1998, we determined that Supra should have first priority in the North Dade Golden Glades and West Palm Beach Gardens central offices for purposes of pursuing its complaint in this Docket. We reasoned that Supra should have priority in this specific instance. Order at p. 10.

On October 21, 1998, we held a hearing in which we received testimony concerning space availability and interpretation of BellSouth's obligations under its collocation agreement with Supra. Set forth herein is our determination on the issues addressed at hearing.

II.

REQUIREMENT TO PROVIDE PHYSICAL COLLOCATION

First, we were asked to consider the threshold question of whether or not the parties' collocation agreement requires BellSouth to provide physical collocation when requested by Supra.

Supra witness Ramos argued that pursuant to the parties' Collocation Agreement and applicable laws, BellSouth is required to provide space to Supra for physical collocation. Witness Ramos did not, however, reference any clause in the agreement supporting his argument.

BellSouth witness Thierry testified that there is no provision in the collocation agreement that requires BellSouth to fulfill every request for collocation by Supra. The witness noted that the collocation agreement between BellSouth and Supra contains the following introductory provisions:

WHEREAS, Interconnector wishes the right to occupy the BellSouth Central Office(s) delineated herein for the purpose of interconnection to BellSouth's facilities; and

WHEREAS, BellSouth has space available in its Central Office(s) which Interconnector desires to utilize; and

WHEREAS, BellSouth is willing to make such space available to Interconnector with its Central Office(s) subject to all terms and conditions of this agreement.

See Transcript at p. 247; and Exhibit 25. BellSouth witness Thierry added that the agreement specifically contemplates space being available.

We note that Section I.E., Scope of the Agreement states that:

A collocation space will be provided to Interconnector at each Central Office identified at Exhibit B attached hereto, which Exhibit shall be updated from time to time as additional Central Offices are made subject to the terms of this Agreement.

Although this provision requires BellSouth to provide space for collocation to any and all Central Offices listed on Exhibit B to the Agreement if requested by Supra, review of Exhibit B indicates that there are no Central Offices listed. It appears that BellSouth did not commit specific space in any Central Office for Supra at the time the parties negotiated the agreement. Nevertheless, the portions of the Agreement referred to herein clearly contemplate that space will be provided, if it is available.

Upon consideration, we find that the agreement requires BellSouth to fill a request for physical collocation by Supra in accordance with the terms and conditions set forth in the agreement. BellSouth must, however, do so only if space is available in the requested central office.

III.

FACTORS

We also considered factors that would be used to determine whether space is available in the North Dade Golden Glades and West Palm Beach Gardens central offices to allow physical collocation. In this section, we have addressed the propriety of each factor separately. We have applied the factors that we determined are appropriate for these offices in Section IV. on Space Availability.

A. EXISTING BUILDING CONFIGURATION AND THE PROCESS
USED TO EVALUATE THE FACILITY FOR SPACE
AVAILABILITY

BellSouth witness Bloomer stated that BellSouth's evaluation of the existing building configuration included consideration of the location of doors, hallways, stairs, lounges, air handling, the building outline, and the physical capacity of the structure. Witness Bloomer explained that the following steps were used by BellSouth to evaluate these central offices for space availability:

- 1) The gross building space was determined;
- 2) Unavailable space (air handling rooms, pump rooms, transformer and cable vaults, restrooms, stair towers, janitor closets, main corridors, vestibules, and light shafts) was subtracted;
- 3) Occupied space (space occupied by equipment such as switches, transmission, frame and power equipment) was subtracted;
- 4) Space reserved for future equipment growth was subtracted;
- 5) Vacant space/unusable space (space unusable due to configuration problems, lack of exits, less than 100 square feet, etc.) was subtracted; and

6) The net space possibly available for collocation was then determined.

See Transcript at p. 457-458.

Regarding this evaluation process, Supra witness Nilson noted that:

While most of this [BellSouth's] procedure is fairly self-explanatory, the determination whether collocation space is available is made at the last step. All possible future needs of BellSouth, for an unspecified time in the future, are subtracted before the first square foot is allocated for collocation.

See Transcript at p. 134. Supra witness Ramos argued that the following factors should be used:

- 1) The proper amount of administrative space to be utilized by BellSouth for its own purposes;
- 2) The appropriate amount of space for BellSouth to reserve for its own future use; and
- 3) Whether BellSouth has utilized a design for the central offices that maximizes the opportunity for physical collocation by other telecommunications service providers such as Supra.

See Transcript at pgs. 43 - 44.

Upon consideration, we find that review of the existing building configuration provides an appropriate basis upon which to begin evaluating whether there is space available in these central offices for physical collocation.

Based upon the evidence and arguments presented, we also find that the process used by BellSouth to evaluate the facility for space availability is reasonable. We acknowledge that Supra objected to BellSouth's reservation of space in the central offices for its own future use prior to allocating space for physical collocation. The FCC has, however, stated in its First Report and Order that:

Incumbent LECs are allowed to retain a limited amount of floor space for defined future uses. Allowing competitive entrants to claim space that incumbent LECs had specifically planned to use could prevent incumbent LECs from serving their customers effectively.

See FCC Order 96-325 at ¶604. It is, therefore, appropriate for us to allow BellSouth to reserve space for its own future use prior to allocating space for physical collocation. We emphasize, however, that in reaching this conclusion, we are not making a determination at this time as to whether the amount of space reserved for future use by BellSouth is reasonable.

B. USAGE OF EXISTING SPACE, INCLUDING ADMINISTRATIVE SPACE

Supra also argued in its brief that we should consider whether BellSouth has designed its central offices to maximize the opportunity for physical collocation by other telecommunications service providers such as Supra. Supra witness Graham stated that BellSouth is using outdated arrangements of computer work stations, and that BellSouth could install computer work stations that are set up to monitor numerous switches, as opposed to having a separate work station for each switch. Witness Graham further explained that BellSouth has supply cabinets, file cabinets, and piles of various equipment and supplies scattered throughout these central offices in a disorganized fashion. Witness Graham indicated that BellSouth is using several areas of space as "staging" areas for current projects being done by vendors. He suggested that this equipment could be stored in a truck outside the central office.

Supra witness Nilson also indicated that BellSouth is using administrative space designs that are inefficient and outdated. He asserted that BellSouth is, effectively, warehousing space for its own future use.

In addition, Supra witness Ramos alleged that BellSouth had duplicated the administrative work space in order to crowd the central office. He also believed that BellSouth had installed unnecessary desks in various locations of the central office.

BellSouth witness Bloomer defined administrative space as:

Administrative space is any space NOT directly supporting the installation or repair of both telephone equipment and customer service. Examples of this space are storerooms, lounges, shipping-receiving rooms, and training areas.

See Transcript at p. 458. The witness explained that administrative space is necessary for code, life safety, or contractual reasons. Witness Bloomer also asserted that administrative space may also include any regular office space used by work groups performing company functions other than the equipment support.

BellSouth witness Bloomer contended that equipment relocations are made to consolidate service areas and maximize space usage. Witness Bloomer also stated that he evaluated the equipment layout in both the West Palm Beach Gardens and North Dade Golden Glades central offices and believed that the equipment was placed efficiently.

Upon consideration of the evidence and arguments presented, we agree with Supra that the administrative space in both central offices is used inefficiently. We also believe that the evidence supports Supra witness Graham's assertion that the technology is available to allow BellSouth to set up computer workstations that can monitor numerous switches, instead of requiring a separate workstation for each switch. The evidence is not, however, clear that this is a viable option for BellSouth, or what effect it may have on BellSouth's operations. As such, we simply encourage BellSouth to investigate this technology as a possible way to improve efficiency of space and operations.

C. SPACE RESERVED FOR FUTURE USE

Supra also disputed the amount of space that BellSouth indicated that it had reserved for its own future use. Witness Nilson compared the amount of space that BellSouth is currently reserving for its own future use with the amount that BellSouth reserved for itself in 1993 when it applied to the FCC for waivers for these same two central offices for the collocation requirements. He states that in 1993 BellSouth requested permission from the FCC to reserve 2,100 square feet and 1,000

square feet of space in the West Palm Beach Gardens and North Dade Golden Glades central offices, respectively. He noted that, in comparison, BellSouth is now reserving 3,544 square feet and 4,796 square feet of space in the West Palm Beach Gardens and North Dade Golden Glades central offices, respectively. As such, the witness believed that the reliability of BellSouth's growth figures was questionable. Supra witness Nilson also indicated that there is more space available in these central offices than BellSouth has indicated. Supra witness Nilson added that he believes that BellSouth is attempting to reserve space for the next five years' growth.

BellSouth witness Bloomer testified that there are 4,035 square feet and 3,197 square feet of space reserved for BellSouth's future use in the North Dade Golden Glades and West Palm Beach Gardens central offices, respectively. Witness Bloomer stated that BellSouth reserves space for forecasted needs of equipment growth for the next two years. BellSouth witness Milner agreed that BellSouth forecasts the provision of collocation equipment and terminations for the next two years.

BellSouth witness Bloomer further contended that:

It is only expected that the numbers have changed. Equipment forecasts and the proposed space allocations derived from these forecasts are snapshots in time. This means that the forecast is good only until the next forecast is completed.

See Transcript at p. 469.

Upon consideration, we find that space reserved for future use should be a factor in determining whether space is available for physical collocation in the North Dade Golden Glades and West Palm Beach Gardens central offices. We note that the FCC addressed this issue in its First Report and Order by stating:

Incumbent LECs are allowed to retain a limited amount of floor space for defined future uses. Allowing competitive entrants to claim space that incumbent LECs had specifically planned to use could prevent incumbent LECs from serving their customers effectively. Incumbent LECs may not, however, reserve space

for future use on terms more favorable than those that apply to other telecommunications carriers seeking to hold collocation space for their own future use.

See FCC Order 96-325 at ¶604.

We emphasize that Supra did not argue that BellSouth should not be allowed to reserve space for future use. Instead, Supra disputed the amount of space held by BellSouth for future use. BellSouth indicated that it reserves space for two years of forecasted equipment growth, and that it allows collocators to do the same. We find that this policy is reasonable. Nevertheless, there is evidence in the record indicating that BellSouth has space available in these central offices for its equipment growth beyond two years. We address this evidence in the subsequent section of this Order pertaining to Space Availability.

Supra also noted that there has been an increase in reserved space in these two central offices since BellSouth filed its petitions for waivers from the physical collocation requirements with the FCC in 1993. Based on the evidence and arguments presented, we believe that the removal and addition of equipment, and advancements in technology, as well as other factors, have contributed to the increase in space in these offices.

D. BUILDING CODE AND LOCAL REGULATIONS

BellSouth contended that building codes and local regulations are factors that should be considered when determining if space is available in a central office for physical collocation. Specifically, BellSouth witness Milner indicated that the National Fire Protection Act and the Southern Building Code are codes to which BellSouth must adhere.

The primary point of contention between Supra and BellSouth regarding code requirements pertains to fire-rated walls. Regarding the North Dade Golden Glades and the West Palm Beach Gardens central offices, BellSouth witness Bloomer stated that the local building officials take the position that collocation is a leased multi-tenant occupancy requiring a full fire-rated wall from floor to ceiling, served by a fire-rated corridor to the two exit doors. Witness Bloomer asserted that this type of construction is impossible, because the wall must cross through all the overhead racking, ducts, and conduits. Supra's witness Nilson responded,

however, that Supra has requested physical collocation in an unenclosed space, and, therefore, fire-rated walls should not be necessary.

Upon consideration, we agree that BellSouth must adhere to all building codes and local regulations, and that these codes must be considered as factors when evaluating whether space is available in these central offices for physical collocation. It would not, however, be appropriate for us to make a decision concerning the specific requirement of the fire-rated wall. The local building code officials are charged with interpreting the local building codes and issuing construction permits. We note that BellSouth has obtained an opinion on this requirement from the Southern Building Code Congress International to assist in its efforts to have local building code officials review their interpretation of this code. We do encourage the parties to work together and with the local building code officials regarding future review and interpretation of this code requirement.

We add that we do not believe that the requirement of a fire-rated wall should preclude BellSouth from providing physical collocation in these two central offices. The evidence shows that BellSouth has provided physical collocation in its Miami Grande central office, which included fire-rated walls. This type of construction is, therefore, possible.

IV. SPACE AVAILABILITY AND ALLOCATION

The Act requires ILECs to provide physical collocation. The ILEC is relieved of this duty only when a State commission determines that space is unavailable or technically infeasible to provide. Specifically, Section 251(c)(6) states:

Collocation.-The duty to provide, on rates, terms, and conditions that are just, reasonable, and nondiscriminatory, for physical collocation of equipment necessary for interconnection or access to unbundled network elements at the premises of the local exchange carrier, except that the carrier may provide for virtual collocation if the local exchange carrier demonstrates to the State commission that physical collocation is not practical for technical reasons or because of space limitations.

In order to resolve Supra's Petition and to ensure compliance with the Act, we must determine whether or not there is sufficient space in both the North Dade Golden Glades and West Palm Beach Gardens central offices for Supra to physically collocate.

In this Section, we apply the factors identified in the previous Section of this Order. We also considered a substantial amount of evidence relating to the physical characteristics of these central offices, including diagrams of the floor layout for each office, and video tapes made when members of Supra, BellSouth, and our staff participated in visits to both central offices.

North Dade Golden Glades Central Office

Supra identified separate areas in the Golden Glades Central Office (Golden Glades CO) that it believes are areas suitable for physical collocation. All but two areas identified by Supra are being reserved by BellSouth for future use. The other two areas were designated as administrative space by BellSouth. Supra did not indicate why each of these areas are suitable for collocation. Supra did, however, identify, rank by choice, and discuss certain areas that it asserted are suitable. Below, we have applied each of the factors addressed in Section III to the Golden Glades CO.

A. EXISTING BUILDING CONFIGURATION AND THE PROCESS USED TO EVALUATE THE FACILITY

BellSouth witness Bloomer provided the following description of the Golden Glades CO:

The Golden Glades facility is a first and partial second-floor facility built on an irregular shaped site in northern Dade County. The building contains 26,225 gross square feet. It is a major switching center with a large interoffice trunking presence.

See Transcript at p. 461.

Supra questioned the amount of gross space in the Golden Glades CO. Supra contended that BellSouth had provided Supra with different figures on the amount of gross space in the office. Supra asserted that BellSouth had provided gross square footage numbers ranging from 23,115 square feet to 27,968 square feet in its responses to Supra's Requests for Production of Documents.

In response, BellSouth witness Bloomer stated that he did not know who made the square footage calculations when BellSouth requested the FCC collocation waiver, or who identified the number found on the space report form used in that application for the waiver. Witness Bloomer testified that there are 26,225 square feet in the Golden Glades CO. He explained that he calculated the amount of space himself. Witness Bloomer divided the gross space into categories and provided space assessments for each category. These space allocation assessments are shown below.

BELLSOUTH SPACE ALLOCATION ASSESSMENT
FOR THE GOLDEN GLADES CENTRAL OFFICE (SQUARE FEET)

Gross Space	Unavailable	Available	Occupied	Reserved	Unusable
26,225	2,812	23,443	18,989	4,035	389

We find it worthy of note that BellSouth provided different responses regarding the total amount of space in this central office. Nevertheless, witness Bloomer's assessment that there are 26,225 square feet in this office appears to be accurate.

BellSouth witness Rubin also provided testimony supporting the reservation of space in the Golden Glades CO. Witness Rubin determined that there were 3,596 square feet of reserved space in this CO. Witness Rubin explained that the difference in the BellSouth witnesses' calculations is due to the fact that his calculation is only for the actual equipment, including the space in front and behind the equipment. Witness Rubin noted that his number does not include space for the aisles that must be added as equipment is installed.

B. USE OF EXISTING SPACE INCLUDING
ADMINISTRATIVE SPACE

Witness Bloomer indicated that there are 1,710 square feet of administrative space in the Golden Glades CO. Witness Bloomer explained that administrative space falls under the category of occupied space, and consists of shipping, receiving, training, lounge, and a restoration center work area in the Golden Glades CO. Witness Bloomer asserted that administrative space is "any space not directly supporting the installation or repair of both telephone equipment and customer service." See Transcript at p. 458.

In particular, BellSouth has designated an area in the Golden Glades CO as administrative space and labeled it as a work/restoration center. The room consists of 341 square feet and contains six desks. Witness Bloomer indicated that this space was used by BellSouth during Hurricane Andrew, and is currently used by those who work in the building to prepare work reports. Witness Bloomer stated that there are three major uses for this area. Witness Bloomer explained that this area would be used in a natural disaster, a catastrophic service failure, or if there was a disaster in the building itself. Witness Bloomer added that this room will soon become a Property Inventory Control system (PICs) receiving center. BellSouth witness Rubin indicated that the work/restoration center is currently being utilized as a circuit pack storage area.

Supra witness Nilson asserted that this room is suitable for physical collocation, because it is already surrounded by walls. Witness Nilson was not certain if the walls were considered fire rated or not. Witness Nilson noted that BellSouth had changed the purpose of the room between the first and second visits made to the central office by the parties and our staff.

C. BUILDING CODE AND LOCAL REGULATIONS

As we have discussed herein, there are various building codes at the national, state, and local levels. BellSouth witness Bloomer asserted that Miami/Dade County is the local building authority for the Golden Glades CO. The witness asserted that code enforcement officials in Dade County take the position that collocation "is a leased multi-tenant occupancy requiring a full fire rated wall from floor to ceiling served by a fire rated corridor to the two exit doors." See Transcript at p. 463.

BellSouth witness Mayes stated that an application for a permit for non-fire wall collocation would be the proper way to proceed at this point. Witness Mayes indicated that he believed that BellSouth should approach the local code enforcement officials if the application for non-fire wall collocation is rejected by the local code officials.

Supra witness Nilson asserted that Supra has requested open space, instead of enclosed space, for physical collocation in the Golden Glades CO. Supra witness Nilson questioned why BellSouth insisted that fire rated walls were necessary. He asserted BellSouth has already granted Supra an existing collocation space

without fire walls in another central office. Witness Nilson stated that BellSouth offered Supra an existing collocation space that is caged with chain link fencing in the Miami Palmetto central office. Witness Nilson added that the Miami Palmetto office is also located in Dade County; thus, the Dade County code officials' interpretation that collocation is a multi-tenant situation is applicable.

We are concerned about Supra's allegations that BellSouth allows caged collocation in one central office and requires fire wall construction in another, when both central offices are in the same county. The evidence in this proceeding is, however, inconclusive as to whether a building permit request for non-fire wall collocation would be denied for either of these two central offices.

As previously explained, we will not consider at this time the specific question of whether fire rated walls are a factor in determining space. If the local building code authorities determine that fire wall construction is required, Supra may make a determination at that time regarding whether physical collocation is financially reasonable for Supra.

D. SPACE RESERVED FOR FUTURE USE

BellSouth claimed that there are 4,035 square feet of space that are reserved for future use. BellSouth witness Bloomer stated that this space is being held for equipment that is currently forecasted to be shipped to the Golden Glades CO through the year 2000. Witness Bloomer categorized the reserved space as follows:

Category	Description	Square Feet
Switch	space for expansion of the local and tandem and operator services switches, the Signal Transfer Point (STP), and Signal Control Point machines.	1,877.5
Transmission	space for expansion of virtual collocation, and the circuit digital cross connect frame.	1,576.5

Category	Description	Square Feet
Frame		None
Power	space for expansion of the power plant/House Service Panel	142
Administrative		None
Other	new Air Handling room	439

See Transcript at p. 462.

Supra witness Nilson disagreed with BellSouth witness Bloomer's calculation of reserved space. Witness Nilson asserted that BellSouth witness Bloomer did not take into consideration the unused space in the power room. Witness Nilson estimated that there are 1,200 square feet available for power expansion in the room. Supra witness Nilson asserted that there is a total of 5,235 square feet available for physical collocation in the Golden Glades CO. BellSouth witness Rubin responded that the area identified in the power room is designated as a hazardous material storage area.

As mentioned above, Supra identified several areas that it believes are suitable for collocation in the Golden Glades CO that BellSouth has reserved for future use. Supra witness Nilson noted that there are a few areas that Supra prefers over the others. Witness Nilson indicated that Supra's preferred collocation location is an area consisting of 970 square feet that BellSouth has reserved for future transmission equipment. Witness Nilson stated that this area provides access to both the isolated and integrated grounding planes. Witness Nilson explained that this area would allow Supra to install both its switching and transmission equipment in one physically isolated region. Witness Nilson added that this area is close to the main distribution frame, where unbundled loops are provisioned. Witness Nilson also indicated that this area is near the corner of the central office, and, therefore, if construction of fire walls is necessary, this area is suited for such construction.

Witness Nilson also identified two areas in the Golden Glades CO as areas that Supra believed would be acceptable alternative collocation spaces. First, the witness identified a space consisting of 795 square feet reserved for tandem switch and

operator switch growth. Witness Nilson contended that BellSouth is attempting to reserve space for six to seven years for the tandem switch, and 25 years worth of space for the operator services switch. Witness Nilson testified that since the reservation time period is so long, it would be reasonable for BellSouth to permit collocation in this area. Witness Nilson also identified a piece of switching equipment that was no longer in service. Witness Nilson stated that 25 frames of the switch were removed from service. He stated that BellSouth informed him that the switch would not be removed for approximately six months. Witness Nilson asserted that the floor space occupied by this equipment exceeds the amount of space that Supra has requested for physical collocation.

The second alternative area identified by Supra consists of 337 square feet of future space reserved for virtual collocation. Witness Nilson stated that this area was chosen because it is suitable for collocation of transmission equipment and had been identified by BellSouth as one of the available virtual collocation spaces in the Golden Glades CO.

Supra witness Nilson also testified that Supra would find collocation acceptable in divided locations on the first and second floors of the central office. The witness explained that the space on the first floor could supply the integrated grounding plane for the transmission equipment, and the space on the second floor could supply the isolated grounding plane necessary for the switching equipment. The space on the first floor is the space identified by BellSouth as reserved for virtual collocation. The space on the second floor is space that BellSouth has reserved for growth of its DSO local switch. Witness Nilson stated that BellSouth is reserving future growth space for the DSO switch for four to five years. Witness Nilson added that the time period could be extended by the upgrades that are already in progress.

BellSouth witness Rubin stated that the area preferred by Supra is reserved for a new digital cross-connect system with a capacity of 2,048 DS1s. Witness Rubin further explained that half of the DS1 capacity is currently to be installed by December 31, 1998, with the remainder to be installed during the first quarter of 1999. Witness Rubin added that each digital cross-connect addition will also require four DSX1 cross-connect bays, or eight total bays in this area. Witness Rubin asserted that the area designated by Supra includes the fire exit aisle, where no equipment can be placed. We note that switching equipment is

located in an isolated grounding plane, and transmission equipment is located in an integrated grounding plane, as explained by BellSouth witness Bloomer.

BellSouth witness Rubin admitted that there are 25 years' worth of space for the 03T tandem switch in the space plan that he prepared. Witness Rubin stated, however, that his plan lists two aisles for growth of the 03T. Witness Rubin asserted that in this case, BellSouth is only reserving one aisle for growth. We note that witness Rubin testified at hearing that one aisle would not equal 12.5 years of growth. Instead, it would equal only six and a half years of growth. Witness Rubin reasoned that the 25 years of space for growth may have been based on the addition of one frame per year as opposed to two frames per year.

As for the divided location identified by Supra, BellSouth witness Rubin argued that there is not enough contiguous space in the reserved area on the second floor to accommodate physical collocation. Witness Rubin asserted that the DSO switch is growing at a rate of six frames per year. Witness Rubin also stated that there are some empty spaces in the body of the DSO switch. He asserted that in two years BellSouth will begin utilizing the space.

In addition, BellSouth witness Ream stated that, in addition to the fire walls, BellSouth would have to create a common space in order to provide physical collocation to Supra. The witness asserted that this common space would be for the placement of point-of-termination bays. In addition, witness Ream stated that separate walkways must be constructed so that the collocater can access its collocation space. BellSouth witness Bloomer added that the collocation floor space necessary must also accommodate POTS bays, DC power bays, "and other termination bay requirements needed to support the collocater's request." See Transcript at p. 479. Witness Ream explained that this is necessary because

The collocater has to have a separate entrance to get into his space separate from our equipment areas. They just can't walk down our aisle at 3:00 a.m. in the morning. . . amongst our equipment when it's an unmanned office to get to their area. So it forces us to set up aisles for them. . . . So that's why it requires much more space than the initial 200-foot requirement.

See Transcript at p. 447. Based on the evidence, it appears to us that requirement for separate egress corridors is, however, an internal BellSouth policy, not a requirement of local building authorities. BellSouth's desire to keep unauthorized personnel from wandering around its central offices is understandable. We note that BellSouth does provide security escorts for collocators. Thus, we do not believe that the lack of space to build caged or walled-off aisles is a reason for denying physical collocation.

Determination

Upon consideration of the evidence and arguments presented, it appears to us that there is adequate space to permit physical collocation in the Golden Glades CO. BellSouth has at least one area that it is reserving for what appears to be an excessively long period of time. This space is the 987 square feet for the O3T and O4T tandem switches and the STP. BellSouth witness Rubin stated that 393 square feet is solely for the equipment, with the remainder of the identified space reserved for required aisles. This area is being reserved to meet six years of growth requirements. By making this determination, we are not making a determination on the appropriate amount of time or space that BellSouth can reserve for its own future use. We have simply determined that, based on the evidence presented in this docket, BellSouth has enough space in the North Dade Golden Glades central office to allow Supra to collocate, and that space appears to be available in the 987 square feet held for the O3T and O4T tandem switches and the STP.

Based on the foregoing, we find that BellSouth has enough space in the North Dade Golden Glades central office to allow Supra to collocate. We shall not require BellSouth to provide Supra with physical collocation in a specific room or area discussed herein. It is appropriate for BellSouth to determine where in this central office Supra shall be allowed to physically collocate. Nevertheless, we emphasize that BellSouth shall be required to allow Supra to physically collocate as set forth herein.

Based on our determination that there is space in this office, we shall require BellSouth to allocate 200 square feet of space in the North Dade Golden Glades central office to Supra for collocation. We shall also require BellSouth to allocate space to Supra for the POT bays and other infrastructure equipment necessary for Supra to interconnect with BellSouth's network.

West Palm Beach Gardens Central Office

Supra identified two areas in this office where it would prefer to physically collocate. Both areas are places that BellSouth has reserved for its own future use. Supra also mentioned other possible areas in which it believed space could be made available for physical collocation. Below, we have applied each of the factors addressed in Section III to the West Palm Beach Gardens CO.

A. EXISTING BUILDING CONFIGURATION AND THE
PROCESS USED TO EVALUATE THE FACILITY

BellSouth witness Bloomer stated that the West Palm Beach Gardens central office facility is a single floor facility. He explained that it is built on a rectangular-shaped site and is located in southern Palm Beach County. He further explained that the building contains 20,314 gross square feet and is a major switching center with a large inter-office trunking presence.

Witness Bloomer noted that there are 2264 square feet of unavailable space in this office. He asserted that this unavailable space is composed of non-assignable areas, which include such things as the entrance lobbies, main corridors, hall spaces, inside stairways, fire towers, all toilet rooms, and any other space that is essential to building operations.

B. USE OF EXISTING SPACE, INCLUDING
ADMINISTRATIVE SPACE

Witness Bloomer explained that there were 644 square feet of administrative space in this office. He asserted that this space is used for shipping and receiving, a training room, and a lounge.

Regarding the shipping/receiving room, Supra witness Graham asserted that:

The West Palm Beach Gardens central office has an extremely large supply room with a very high ceiling that could easily be redesigned and reorganized to accommodate all of the supply storage needs of this central office. This reorganization and redesign would free up a significant amount of space in many areas of the central office.

See Transcript at p. 219. BellSouth witness Ream identified this same space as an uncrating and storage room.

Supra witness Nilson also explained that he believed that this shipping/receiving room is an area that could be used for physical collocation. Witness Nilson noted that the area already has walls in place and that it would be quite easy to add fire rated walls around the remainder of that area.

C. BUILDING CODE AND LOCAL REGULATIONS

As for the building codes and local regulations governing the West Palm Beach Gardens central office, witness Bloomer testified that both Palm Beach County and Palm Beach Gardens maintain that collocation is a leased multi-tenant occupancy requiring a full, fire rated wall from floor to ceiling. The witness also indicated that the local officials are of the view that any leased area must also be served by a fire rated corridor to the two exit doors. Supra offered no testimony disputing the witness's assertion.

D. SPACE RESERVED FOR FUTURE USE

The evidence demonstrates that there are several areas in the West Palm Beach Gardens central office where BellSouth has reserved space for future use. Among the areas discussed was 246 square feet reserved in the power area. BellSouth witness Ream stated that this space is reserved, because BellSouth will add a new 48 volt battery string next year. The witness noted that the remaining space will only support one more 48 volt battery string. Witness Ream explained that these additions were planned by BellSouth's power vendor to make sure that the office has sufficient reserves in case of a commercial power failure.

We note, however, that the document entitled West Palm Beach Gardens Central Office, Second Floor Planning Meeting, which was hearing Exhibit 17, demonstrates that the space reserved for growth of this equipment is not projected to exhaust until year-end 2003. Witness Ream agreed at hearing that this is correct.

Another area discussed was 68 square feet that is reserved for miscellaneous toll equipment that does not have to be placed next to each other or in close proximity to existing toll equipment. Witness Bloomer explained that this area is too small for collocation. We note that Supra requested 200 square feet.

In addition, Witness Ream stated that there are 143 square feet reserved for fiber optic frame growth. The witness indicated that this space is also too small for collocation, and referred to witness Bloomer's testimony, which outlined in greater detail why this area was unsuitable for physical collocation. Again, as we have noted, Supra has indicated it would need 200 square feet for collocation.

BellSouth's witness Ream also indicated that there are 403 square feet reserved for Signal Transfer Point (STP) and Signal Control Point (SCP) growth. On cross-examination by Supra, the witness did indicate that the West Palm Beach Gardens Central Office, Second Floor Planning Meeting document shows that space available for the growth of this equipment is not projected to exhaust until the year-end 2003 for the STP and year-end 2000 for the SCP.

As explained by witness Ream, there are also 686 square feet reserved for growth of the toll switch and the DSX1. Witness Ream noted that a virtual collocator is located in the middle of the space. The area is, therefore, divided into two parts, one part for the DSX1 and the other occupied by the Central Office Supervisor. Witness Ream also stated that BellSouth has recently placed two bays in this area for the DSX1 lineup. Upon cross-examination by Supra, the witness agreed that the West Palm Beach Gardens Central Office, Second Floor Planning Meeting document shows that the space available for this piece of equipment is projected to exhaust at year end 2000. Because this area will exhaust by year-end 2000, it does not appear suitable for physical collocation.

Still another area addressed at hearing was the 329 square feet that have been reserved for the TOPS DMS switch, which is used for Operator Services. Supra witness Nilson asserted that this area is suitable for physical collocation by Supra based on forecasting information that Supra received. Witness Nilson testified that there is sufficient capacity on this switch. Furthermore, as demonstrated by Exhibit 17, the space available for growth of this equipment is not projected to exhaust until year-end 2003. Witness Ream responded that this is the TOPS host for all of Florida and that the fire rated walls required for physical collocation in this office would block the air return for the office. The witness asserted that, consequently, there is not enough room available for physical collocation.

As for the 526 square feet reserved for the local DMS switch, Exhibit 17 demonstrates that the space available for the growth of this switch is not projected to exhaust until year-end 2002.

Witness Ream also discussed the 712 square feet that have been reserved for tandem switch growth. Supra indicated in Hearing Exhibit 14 that this is an area in which it would like to collocate. Supra witness Nilson testified that there have been three lineups worth of equipment reserved in this area. He noted that based on the growth rate of this equipment, the space equates to six years' growth. We note that Exhibit 17 shows that the space available for the growth of this tandem switch is not projected to exhaust until year-end 2003.

In addition, Supra witness Nilson identified an area where there are three workstations installed along a wall. Witness Nilson testified that he believed that the workstation in the middle was a duplicate, and, therefore, the area should be considered for physical collocation. Witness Nilson also indicated that there is a large area that holds equipment and administrative workspace, which appears to be used inefficiently and should be considered for physical collocation. BellSouth witness Ream responded, however, that this is currently being used as a new equipment staging area.

Evidence was presented at hearing, particularly through Exhibit 17, which demonstrated that BellSouth has space available for growth of BellSouth equipment beyond two years. On cross-examination, witness Ream read the following provision from BellSouth's Property Management and Physical Collocation Guidelines:

BellSouth is not required to relocate its own equipment or personnel within a facility in order to accommodate physical collocation. However, BellSouth is required to offer any space reserved for growth outside of a two year period. If at this point there is absolutely no space available, an exemption must be filed with the State, and the collocater may choose to enter into a virtual expanded interconnection service.

See Transcript at pgs. 429-430. Witness Ream emphasized, however, that the equipment that BellSouth expects to place in this central

office in the next two years will not leave enough space for physical collocation. While this may be accurate, it is nonetheless noteworthy that BellSouth will still benefit from an additional two to three years' worth of space to accommodate its own equipment growth.

It is also noteworthy that BellSouth has a planned addition scheduled for this building. Witnesses Bloomer and Ream did not know whether funding for the addition was approved. Regarding approval of the building expansion, BellSouth witness Cruit indicated, however, that the expansion would simply have to be done and would, eventually, be approved.

Determination

Upon consideration of the evidence and the arguments presented, we find that there is adequate space to permit physical collocation by Supra in the West Palm Beach Gardens central office. The evidence demonstrates that BellSouth has space available in this central office to accommodate up to five years of growth for some of its equipment. The evidence also demonstrates that there is an addition scheduled for this central office and that BellSouth will not exhaust all of the available space prior to the completion of this addition.

In particular, it appears that the administrative space used by BellSouth as its uncrating area and its equipment staging area is suitable for collocation. As Exhibit 31 demonstrates, the uncrating room contains 454 square feet. BellSouth witness Ream explained that this is an area where vendors uncrate equipment, especially when it rains. BellSouth did not indicate that this is a room that would be necessary for expansion of its own equipment. As further explained by BellSouth's witness, the room is simply used for uncrating of equipment prior to being installed on the central office floor and for some storage.

Supra witness Nilson noted there are already walls around this area that would facilitate meeting the fire rated wall requirement. This area is currently accessed by two doors, one that leads to the central office floor and the other to the outside. These doors make the location easily accessible and provide exits for any personnel who would need to access the collocation area. It appears that providing Supra with collocation space in this room, along with any additional space that would be required for

termination bays would still leave space for BellSouth to uncrate equipment.

The equipment staging area is directly adjacent to the uncrating room. BellSouth did not indicate that this is an area that would be necessary for the expansion of its own equipment. Witness Ream indicated that this area is used for staging of equipment and associated parts prior to being installed on the central office floor.

Based on the evidence presented, it appears to us that the functions of the uncrating area and the equipment staging area could be performed in an area smaller than BellSouth currently uses. Thus, it appears that some of this space could be allocated to Supra for physical collocation. We shall not require BellSouth to provide Supra with physical collocation in a specific room or area discussed herein. It is appropriate for BellSouth to determine where in this central office Supra shall be allowed to physically collocate. Nevertheless, we emphasize that BellSouth shall be required to allow Supra to physically collocate as set forth herein.

Based on our determination that there is space in this office, we shall require BellSouth to allocate 200 square feet of space in the West Palm Beach Gardens central office to Supra for collocation. We shall also require BellSouth to allocate space to Supra for the POT bays and other infrastructure equipment necessary for Supra to interconnect with BellSouth's network.

V. TIME REQUIREMENTS

We have also considered the amount of time in which BellSouth is required to provide physical collocation to Supra pursuant to the parties' Collocation Agreement. Section IV.F. of the agreement provides that:

BellSouth will make reasonable efforts to provide for occupancy of the collocation space on the negotiated date and will advise Interconnector of delays.

Supra witness Nilson testified that during joint interconnection planning meetings with BellSouth, BellSouth informed Supra that it would take six to eight months to install the first switch for Supra. Witness Nilson contended that Supra

cannot conduct its business with these uncertain time frames over which it has no control. Thus, witness Nilson stated that Supra requests that we determine that three months is a reasonable time frame for the provision of physical collocation, as we determined in the MCI/BellSouth arbitration.

Witness Ramos contended that BellSouth's contractors perform network construction work for BellSouth in two to four weeks, yet cannot provide physical collocation for Supra in three months. Supra witness Ramos alleged that BellSouth has not demonstrated to Supra why BellSouth cannot meet the three month time frame to provide physical collocation that was outlined in Order No. PSC-96-1579-FOF-TP, issued December 31, 1996, in Dockets Nos. 960833-TP, 960846-TP, and 960916-TP. In that Order, we stated that

. . . we conclude that maximum time periods for the establishment of physical collocation of three months and virtual collocation of two months are reasonable for ordinary conditions. If MCI and BellSouth cannot agree to the required time for a particular collocation request, BellSouth must demonstrate why additional time is necessary.

Order at p. 102.

Witness Ramos also argued that Supra should be permitted to select the contractor and participate in the process of acquiring the building permit. He indicated that Supra would be willing to relieve BellSouth of its duty to apply for the building permit, by taking full responsibility for applying and meeting the requirements necessary to acquire the building permit.

BellSouth witness Thierry responded that BellSouth individually negotiates the time interval for each specific collocation request. Witness Thierry asserted that BellSouth uses best efforts to complete collocation installations ". . . as soon as possible and, when feasible, within the three month interval prescribed in the Florida Commission's Order." See Transcript at p. 251. We note that BellSouth requested clarification of the three month time frame to complete physical collocation set forth in Order No. PSC-96-1579-FOF-TP. The Commission responded by stating:

The purpose of the three month time frame is to serve as a guideline of what we consider

reasonable. We find that our Order is clear as to our intent that the parties to a request for collocation would attempt to resolve any problems with that time frame on a case by case basis, and would only come to us if they were unable to resolve their problems.

Order No. PSC-98-0595-PCO-TP at p. 7.

BellSouth witness Mayes noted that it is the contractor who obtains the building permit. Witness Mayes explained that BellSouth's involvement is limited to checking with the contractor on a weekly basis for a status report. Witness Mayes added that the permitting process is beyond the control of BellSouth and should be excluded from the provisioning time frame.

In response, Supra witness Ramos stated that if Supra can use a contractor of its choice that is approved by BellSouth, and can participate in the building permit process with the contractor, then Supra is more than willing to relieve BellSouth of the three month time line.

Conclusion

Upon consideration of the evidence presented, we find that the contract is silent on time frames for providing physical collocation. The agreement does, however, provide that the parties are to negotiate a completion date. We agree with Supra that BellSouth's estimate of six to eight months is excessive. BellSouth has not demonstrated why any of Supra's applications for physical collocation require six to eight months to complete. BellSouth did outline when permits are filed and when they are received. The range in days runs from as little as 22 days to as much as 106 days. BellSouth did not, however, provide any information on the duration of the actual construction phase for physical collocation.

Based on the arguments presented, we believe that three months is a reasonable time frame for the provision of physical collocation. The evidence does not suggest that it would take three months just to perform the construction work. Since Supra and BellSouth were unable to negotiate a mutually agreeable time frame, we shall require BellSouth to provide physical collocation

to Supra in three months, unless BellSouth can demonstrate to us why it is not technically feasible to do so.

In addition, we believe that Supra should be allowed to participate in the permitting process. While the parties' Collocation Agreement is silent on the process for obtaining the building permit, it does state that only contractors approved by BellSouth may be used. Therefore, we encourage BellSouth to provide any information on contractors and permitting that would allow Supra to become involved in the process of obtaining the building permit.

VI. EQUIPMENT

The final issue that we address pertains to the parties' dispute regarding the types of equipment that Supra can and cannot physically collocate in BellSouth's central offices. Only the disputed equipment was addressed by the parties. The pieces of equipment at issue are the Ascend TNT equipment and the Cisco Systems equipment, which are both referred to as remote access concentrators.

Both parties referred to the FCC's Memorandum Opinion and Order and Notice of Proposed Rulemaking, FCC Order 98-188, issued August 6, 1998. Therein, the FCC stated that it was issuing its Order and Notice in response to six petitions that had suggested to the FCC that it take certain actions in an effort to facilitate the deployment by wireline carriers of advanced services. One issue that the FCC indicated that it intends to address is equipment. The FCC stated:

In addition, we seek to facilitate the ability of competing carriers to offer advanced services on an equal footing with incumbent carriers and their affiliates. In particular, to provide advanced services, new entrants may need to collocate equipment on an incumbent LEC premises for interconnection and access to unbundled network elements, such as loops.

FCC Order 98-188 at Paragraph 14.

We also note that the parties' Collocation Agreement addresses equipment at Section III, Paragraph A, where it states, in part:

Nature of Use: BellSouth shall permit Interconnector to place, maintain and operate in the Collocation Space any equipment that Interconnector is authorized by BellSouth and by Federal or State regulators to place, maintain and operate in collocation space and that is used by Interconnector to provide services which Interconnector has the legal authority to provide.

See Transcript at pgs. 55-56.

BellSouth witness Milner indicated that the reason BellSouth has rejected Supra's request to collocate the Ascend TNT equipment and the Cisco equipment is that this equipment provides only enhanced services. The witness asserted that BellSouth is not required to provide for the collocation of equipment that can only provide enhanced services. Witness Milner further cited FCC Order 98-188 at Paragraph 132, where the FCC states that ". . . we tentatively conclude that we should continue to decline to require collocation of equipment used to provide enhanced services." See Transcript at p. 533. BellSouth witness Milner did add, however, that if the equipment serves both telecommunications and enhanced services or information services, and the ALEC is using it for both purposes, it may be collocated.

Supra witness Ramos argued, however, that the FCC only included this restriction to discourage pure enhanced service providers from collocating equipment in central offices. Witness Ramos referred to 47 C.F.R. § 51.100(b), which reads:

A telecommunications carrier that has interconnected or gained access under sections 251(a)(1), 251(c)(2), or 251(c)(3) of the Act, may offer information services through the same arrangement, so long as it is offering telecommunications services through the same arrangement as well.

Witness Ramos argued that this section supports Supra's argument that it should be able to collocate any equipment it believes it needs to collocate. Witness Ramos complained that BellSouth

narrowly construes 47 C.F.R. § 51.100(b) to require that each item of equipment placed in the central office must physically be able to perform basic telecommunications services. Witness Ramos contended that the Ascend TNT equipment provides both basic telecommunications services and enhanced services, and that the Ascend TNT will enable concentration of both voice and data.

Supra witness Nilson added that BellSouth should not prohibit Supra from collocating this equipment, because it is in the same equipment arrangement that Supra will use to provide basic telecommunications service in the future. Witness Nilson stated that the Ascend TNT is a remote switch that will be used in Supra's network for efficiency and optimization of trunks for voice, data, and advanced services. He asserted that the Cisco equipment is used for transmitting data traffic to data networks. Witness Nilson further explained that the equipment mounts modems that are interconnected. He indicated that the data that is produced from the modems can then be directed to specific pieces of equipment or forwarded to the appropriate data networks.

Witness Nilson further asserted that the Ascend TNT can switch calls in combination with the SS7 gateway. He was, however, unsure whether it provides dial tone. Witness Nilson explained that the Ascend TNT, in conjunction with the SS7 gateway, can store digits that a customer dials, translate the digits to be routed, and connect the call to an outgoing trunk. The witness did not know the number of customer lines that can be connected to the Ascend TNT. Witness Nilson also stated that the Ascend TNT generates call detail records for billing. He added that the Ascend TNT has the capability of switching both data and voice conversations, and that Supra will be using it to switch both. He also indicated, however, that "[t]he predominant purpose that this piece of equipment was designed for is to off load the public switch telephone network from congestion." See Transcript at p. 207.

In addition, witness Nilson argued that the Ascend TNT performs some of the same functions that BellSouth's Class 5 switches perform, such as supporting Transaction Capability Application Part (TCAP) and Advanced Intelligence Network (AIN) advanced services and routing voice, fax and data. Supra witness Graham further explained that remote access concentrators are used for billing provisioning, voice mail, and alarm monitoring. We note, however, that on cross-examination, he was asked if these were basic telecommunications services, and witness Graham replied that these were enhanced services. Supra witness Graham also

argued that FCC Order 98-188, paragraph 163, supports the collocation of this equipment. This section of the FCC's Order states, in part, that:

To facilitate competition in the local loop, we tentatively conclude that there should be uniform national standards for attachment of electronic equipment (such as modems and multiplexers) at the central office end of a loop by incumbent LECs and new entrants. The requirements would apply to both incumbent LEC and new entrant equipment. The requirements would serve the same role, for the attachment of equipment to the central office end of a loop, as do the Part 68- Connection or Terminal Equipment to the Telephone Network - rules for the attachment of customer premises equipment. Currently, each incumbent LEC sets its own requirements for central office equipment, and each has its own processes for certifying equipment before it can be connected to loop plant. . . .

See Transcript at p. 223, citing FCC Order 98-188 at Paragraph 163.

Determination

We have reviewed the evidence and arguments presented. In making our determination, we have separately addressed the following arguments made by Supra: 1. Supra's assertion that it should be allowed to collocate any type of equipment it needs to conduct its business, as long as Supra provides basic telecommunications service; 2. Supra's assertion that the Ascend TNT equipment is capable of providing both basic telecommunications service and enhanced telecommunications service; and 3. Supra's belief that BellSouth is not providing physical collocation at parity with BellSouth's affiliates.

First, Supra witness Ramos argued that FCC Order 98-188, ¶ 129, supports Supra's position. Here, the FCC states, in part:

We tentatively conclude that incumbent LECs should not be permitted to impede competing carriers from offering advanced services by imposing unnecessary restrictions on the type

of equipment that competing carriers may collocate.

See Transcript at p. 105, citing Order 98-188 at Paragraph 129. Relying upon the FCC's statement that incumbent LECs should not "impede competing carriers from offering advanced services," the witness alleged that BellSouth is imposing an unnecessary restriction on Supra by not allowing it to place its Ascend TNT and Cisco equipment in these BellSouth central offices.

It appears to us, however, that Paragraph 129, cited by witness Ramos, refers to equipment that may have switching functionality. We have reached this conclusion based on the following statements made by the FCC within that same Order:

With respect to switching equipment, however, the Commission recognized that "modern technology has tended to blur the line between switching equipment and multiplexing equipment." A current trend in manufacturing appears to be to integrate multiple functions into telecommunications equipment. . . . Because incumbent LECs are currently not required by our rules to permit collocation of switching equipment, competing providers argue that incumbent LECs may delay competitive entry by contesting, on a case-by-case basis, the functionality of a particular piece of equipment (which may perform switching functions in addition to its other functions) and whether it may be collocated.

See FCC Order 98-188 at Paragraph 128.

We note that BellSouth does currently allow the placement of switching equipment in physical collocation arrangements, as explained by witness Thierry, but BellSouth is not refusing to allow collocation of this particular equipment because it is switching equipment. Instead, witness Milner explained that BellSouth is refusing to collocate the equipment identified by Supra because the equipment can only be used to provide enhanced services. On this point, the FCC has clearly stated its position, as follows:

We did not require the LECs to permit collocation of enhanced services equipment because such equipment was not necessary to foster competition in the provision of basic transmission services. We also did not require LECs to allow for the collocation of switches.

See FCC Order 96-325 at Paragraph 576. The FCC further stated:

We do not find, however, that section 251(c)(6) requires collocation of equipment used to provide enhanced services, contrary to the arguments of the Association of Teleessaging Services International. We also decline to require incumbent LECs to allow collocation of equipment without restriction.

Id. at Paragraph 581. The FCC reaffirmed this position in its recently issued Memorandum Opinion and Order and Notice of Proposed Rulemaking where it stated that:

We further seek comment on whether carriers should be permitted to collocate other equipment on LEC premises. We tentatively conclude that we should continue to decline to require collocation of equipment used to provide enhanced services.

See FCC Order 98-188 at Paragraph 132. Although Supra believes that these statements were intended for enhanced service providers, the FCC did not make this distinction.

Supra witness Nilson explained to us that the Cisco equipment is used to transmit data traffic to data networks. The evidence does not, however, indicate that the Cisco equipment is capable of providing anything other than enhanced services. Based on the evidence and arguments presented, we find that Supra can physically collocate this equipment only if BellSouth allows Supra to do so. In this particular case, BellSouth does not. Thus, we shall not require BellSouth to allow Supra to physically collocate the Cisco equipment.

Supra next argued that the Ascend TNT provides both basic telecommunications and enhanced services, and, therefore, it should be allowed to collocate this equipment. In particular, we note that Supra witness Nilson stated that the Ascend TNT and the Cisco equipment are both modem based. Based on indications made by the FCC in FCC Order 98-188, it appears that the FCC may soon require the collocation of this type of equipment. The evidence presented in this case was not, however, sufficient to demonstrate that this equipment is capable of providing basic telecommunications service. Thus, we shall not require BellSouth to allow Supra to collocate this equipment.

Supra further argued in its brief that BellSouth is not providing physical collocation to Supra at parity with BellSouth's affiliates. In its brief, Supra indicated that BellSouth's subsidiaries provide enhanced services and Internet services that complement BellSouth's local exchange telecommunications services from BellSouth's central offices. At hearing, BellSouth witness Milner indicated that under Open Network Architecture, BellSouth provides enhanced services from its central offices. Supra witness Ramos responded that BellSouth is, therefore, not providing physical collocation to Supra at parity with BellSouth's affiliates. Witness Ramos further emphasized that the FCC has clearly indicated at Paragraph 11 of its Further Notice of Proposed Rulemaking, issued in FCC Docket No. 95-20, on January 30, 1998, that BellSouth must provide to all other service providers the same kinds of collocation arrangements or provisions that BellSouth provides to its affiliates.

Upon review, we do not agree with witness Ramos' interpretation of the FCC's statements in its Further Notice of Proposed Rulemaking, issued in CC Docket NO. 95-20. Paragraph 11 refers to Bell Operating Companies providing access to additional unbundled network elements and not for the placement of additional types of equipment. Furthermore, there is no evidence in this docket regarding the terms of the agreement that BellSouth has with its affiliates or that proves BellSouth is not compliant with the above stated rules. Supra has not offered any evidence to support its argument. Thus, there is no basis upon which to make a determination regarding Supra's allegations that BellSouth is not providing physical collocation to Supra at parity with the manner in which BellSouth provides physical collocation to its affiliates.

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For all of these reasons, we shall not require BellSouth to allow Supra to physically collocate the Ascend TNT and the Cisco equipment.

VIII. CONCLUSION

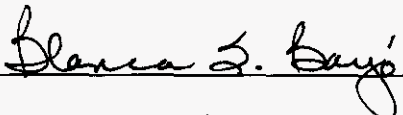
We have based our determination herein upon the evidence presented. We believe it is consistent with the agreements between the parties, which were approved by us pursuant to the Telecommunications Act of 1996, 47 U.S.C. §252(e).

Based on the foregoing, it is therefore

ORDERED by the Florida Public Service Commission that the Petition for Emergency Relief filed by Supra Telecommunications & Information Systems against BellSouth Telecommunications, Inc. is resolved as set forth in the body of this Order. It is further

ORDERED that this Docket shall be closed.

By ORDER of the Florida Public Service Commission this 6th day of January, 1999.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

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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.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) 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 and/or wastewater utility by filing a notice of appeal with the Director, Division of Records and reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.