

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for temporary waiver of physical collocation requirements set forth in the 1996 Telecommunications Act and the FCC's First Report and Order, for the Daytona Beach Port Orange Central Office, by BellSouth Telecommunications, Inc.

DOCKET NO. 980946-TL

In re: Petition for waiver of physical collocation requirements set forth in the Telecommunications Act of 1996 and the FCC's First Report and Order, for the Boca Raton Boca Teeca Central Office, by BellSouth Telecommunications, Inc.

DOCKET NO. 980947-TL

In re: Petition for waiver of physical collocation requirements set forth in the 1996 Telecommunications Act and the FCC's First Report and Order, for the Miami Palmetto Central Office, by BellSouth Telecommunications, Inc.

DOCKET NO. 980948-TL

In re: Petition for waiver of physical collocation requirements set forth in the Telecommunications Act of 1996 and the FCC's First Report and Order, for the West Palm Beach Gardens Central Office, by BellSouth Telecommunications, Inc.

DOCKET NO. 981011-TL

DOCUMENT NUMBER-DATE

04793 APR 15 88

FPSC-RECORDS/REPORTING

ORDER NO. PSC-99-0720-PCO-TL
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In re: Petition for waiver of physical collocation requirements set forth in the Telecommunications Act of 1996 and the FCC's First Report and Order, for the North Dade Golden Glades Central Office, by BellSouth Telecommunications, Inc.

DOCKET NO. 981012-TL

In re: Petition for temporary waiver of physical collocation requirements set forth in the 1996 Telecommunications Act and the FCC's First Report and Order, for the Lake Mary Main Central Office, by BellSouth Telecommunications, Inc.

DOCKET NO. 981250-TL
ORDER NO. PSC-99-0720-PCO-TL
ISSUED: April 15, 1999

ORDER DENYING MOTION TO SHORTEN TIME
FOR RESPONSES TO DISCOVERY

I. CASE BACKGROUND

On July 27, 1998, BellSouth Telecommunications, Inc. (BellSouth) filed a Petition for Temporary Waiver and two Petitions for Waiver from provisions set forth in the Telecommunications Act of 1996 (Act) and the Federal Communication Commission's (FCC) First Report and Order, FCC Order 96-325, which require the company to allow ALECs to physically collocate in its central offices unless it

. . . demonstrates to the State commission that physical collocation is not practical for technical reasons or because of space limitations.

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47 U.S.C. § 251 (c)(6). On August 7, 1998, BellSouth filed two more Petitions for Waiver from the physical collocation requirements, Dockets No. 981011-TL and 981012-TL, and on October 1, 1998, BellSouth filed a sixth Petition for Temporary Waiver from the physical collocation requirements, Docket No. 981250-TL. The central offices at issue in these Dockets are the Daytona Beach Port Orange office, the Boca Raton Boca Teeca office, the Miami Palmetto office, the West Palm Beach Gardens office, the North Dade Golden Glades office, and the Lake Mary office, respectively.

Workshops were conducted regarding these Dockets on November 19, 1998, and February 19, 1999. In addition, BellSouth conducted walk-throughs of these central offices on January 29, 1999, and February 11-12, 1999, which our staff and the intervenors attended.

No resolution was reached regarding BellSouth's Petitions; therefore, these Dockets have been set for an administrative hearing on June 9-11, 1999. Because these Dockets address the same subject matter, these Dockets have been consolidated for hearing purposes by Order No. PSC-99-0476-PCO-TL, issued March 8, 1999.

On March 15, 1999, Intermedia Communications, Inc. (Intermedia) filed a Motion to Shorten Time for Response to Discovery. Therein, Intermedia asked that the time for filing responses to discovery be shortened to 20 days. On March 22, 1999, BellSouth filed its Response in Opposition to Intermedia's Motion.

II. PLEADINGS

On March 12, 1999, Intermedia served its First Request for Admissions, First Set of Interrogatories and First Requests for Production of Documents on BellSouth. In accordance with Order No. PSC-99-0476-PCO-TP, Florida Rules of Civil Procedure 1.340, 1.360, 1.370, and Rule 28-106.206, Florida Administrative Code, parties must respond to requests for discovery within 30 days. Intermedia notes that direct testimony is due in this proceeding on April 5, 1999, pursuant to Order No. PSC-99-0476-PCO-TL. Because BellSouth will have 30 days to respond to this discovery, Intermedia complains that it will not have the benefit of BellSouth's responses in preparing its direct testimony. Intermedia acknowledges that this is not the fault of BellSouth. Nevertheless, Intermedia argues that it would be expedient to shorten the time for responding to discovery so that Intermedia can use BellSouth's responses to prepare more thorough, informed

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testimony for use in this proceeding. Intermedia adds that shortening the time for responding to discovery will reduce the likelihood that Intermedia will have to ask for leave to file supplemental direct testimony.

BellSouth argues that Intermedia has not shown good cause for shortening the time for responding to discovery. BellSouth further argues that shortening the response time would prejudice BellSouth, because it would have to respond to Intermedia's numerous discovery requests in a short amount of time. BellSouth emphasizes that Intermedia has served BellSouth with a number of interrogatories and requests for production of documents. Including all subparts, the number of interrogatories amounts to 49 questions in each of the four sets served by Intermedia, for a total of 196 interrogatories. BellSouth asserts that Intermedia has not explained why Intermedia waited to serve BellSouth with these requests until 23 days prior to the date that direct testimony is due to be filed. BellSouth notes that these dockets have been open for several months. BellSouth adds that if Intermedia finds it necessary at some point to seek leave to file supplemental direct testimony, then the Commission can decide whether it is necessary to grant Intermedia relief. BellSouth contends, however, that the Commission should not require BellSouth to respond to this discovery within 20 days when Intermedia may not even find it necessary to file supplemental direct testimony otherwise.

III. DETERMINATION

Upon consideration, Intermedia's Motion to Shorten Time for Response to Discovery is denied. Intermedia has not demonstrated good cause for its request. If Intermedia finds it necessary to file supplemental direct at a later date, Intermedia may request leave to do so at that time.

Based on the foregoing, it is therefore

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer, that Intermedia Communications, Inc.'s Motion to Shorten Time for Response to Discovery is denied.

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By ORDER of Commissioner Susan F. Clark, as Prehearing
Officer, this 15th Day of April, 1999.



SUSAN F. CLARK
Commissioner and Prehearing Officer

(S E A L)

BK

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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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 or wastewater utility. A motion for

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reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

FLORIDA PUBLIC SERVICE COMMISSION - RECORDS AND REPORTING

Requisition for Photocopying and Mailing

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Item Presented
 Agenda For (Date) _____ Order No. 99-720 In Docket No. 920946
 Notice of _____ For (Date) _____ In Docket No. _____
 Other _____

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MEMORANDUM

April 14, 1999

RECORDS AND REPORTING

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (B. KEATING) *BK*

RE: DOCKET NO. 980946-TL - PETITION FOR TEMPORARY WAIVER OF PHYSICAL COLLOCATION REQUIREMENTS SET FORTH IN THE 1996 TELECOMMUNICATIONS ACT AND THE FCC'S FIRST REPORT AND ORDER, FOR THE DAYTONA BEACH PORT ORANGE CENTRAL OFFICE, BY BELLSOUTH TELECOMMUNICATIONS, INC.

DOCKET NO. 980947-TL - PETITION FOR WAIVER OF PHYSICAL COLLOCATION REQUIREMENTS SET FORTH IN THE TELECOMMUNICATIONS ACT OF 1996 AND THE FCC'S FIRST REPORT AND ORDER, FOR THE BOCA RATON BOCA TEECA CENTRAL OFFICE, BY BELLSOUTH TELECOMMUNICATIONS, INC.

*Faxed
waived - 16/12*

DOCKET NO. 980948-TL - PETITION FOR WAIVER OF PHYSICAL COLLOCATION REQUIREMENTS SET FORTH IN THE 1996 TELECOMMUNICATIONS ACT AND THE FCC'S FIRST REPORT AND ORDER, FOR THE MIAMI PALMETTO CENTRAL OFFICE, BY BELLSOUTH TELECOMMUNICATIONS, INC.

DOCKET NO. 981011-TL - PETITION FOR WAIVER OF PHYSICAL COLLOCATION REQUIREMENTS SET FORTH IN THE TELECOMMUNICATIONS ACT OF 1996 AND THE FCC'S FIRST REPORT AND ORDER, FOR THE WEST PALM BEACH GARDENS CENTRAL OFFICE, BY BELLSOUTH TELECOMMUNICATIONS, INC.

DOCKET NO. 981012-TL - PETITION FOR WAIVER OF PHYSICAL COLLOCATION REQUIREMENTS SET FORTH IN THE TELECOMMUNICATIONS ACT OF 1996 AND THE FCC'S FIRST REPORT AND ORDER, FOR THE NORTH DADE GOLDEN GLADES CENTRAL OFFICE, BY BELLSOUTH TELECOMMUNICATIONS, INC.

DOCKET NO. 981250-TL - PETITION FOR TEMPORARY WAIVER OF PHYSICAL COLLOCATION REQUIREMENTS SET FORTH IN THE 1996 TELECOMMUNICATIONS ACT AND THE FCC'S FIRST REPORT AND ORDER, FOR THE LAKE MARY MAIN CENTRAL OFFICE, BY BELLSOUTH TELECOMMUNICATIONS, INC.

99-0720-PCD

MUST GO TODAY

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Attached is an ORDER DENYING MOTION TO SHORTEN TIME FOR
RESPONSES TO DISCOVERY, to be issued in the above-referenced
docket. (Number of pages in order - 6)

BK/anr
Attachment
cc: Division of Communications
I: 980946sd.bk