

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for temporary waiver of physical collocation requirements in the West Palm Beach Gardens Central Office by BellSouth Telecommunications, Inc.

DOCKET NO. 000290-TL
ORDER NO. PSC-00-2000-FOF-TL
ISSUED: June 6, 2000

The following Commissioners participated in the disposition of this matter:

JOE GARCIA, Chairman
J. TERRY DEASON
SUSAN F. CLARK
E. LEON JACOBS, JR.
LILA A. JABER

ORDER GRANTING TEMPORARY WAIVER OF
PHYSICAL COLLOCATION REQUIREMENTS IN
THE WEST PALM BEACH GARDENS CENTRAL OFFICE

BY THE COMMISSION:

I. BACKGROUND

On September 7, 1999, we issued Proposed Agency Action (PAA) Order No. PSC-99-1744-PAA-TP, which established procedures by which incumbent local exchange companies (LECs) would process alternative local exchange companies' (ALECs) requests for collocation and also established procedures for demonstrating space depletion for physical collocation in LEC central offices. On September 28, 1999, BellSouth filed a Protest/Request for Clarification of Proposed Agency Action. That same day, Rhythms filed a Motion to Conform Order to Commission Decision or, in the Alternative, Petition on Proposed Agency Action. Because motions for clarification/conformity are not contemplated by the PAA process, the motions were treated as protests to the PAA Order. On December 7, 1999, we issued Order No. PSC-99-2393-FOF-TP, the Final Order Approving Stipulated Modifications to Collocation Guidelines,

DOCUMENT NUMBER-DATE

06865 JUN-68

FPSC-RECORDS/REPORTING

Amendatory Order, and Consummating Order. These Orders established the procedures by which a LEC could request a waiver of the physical collocation requirements from us. In establishing these procedures, we set forth our belief that the handling of collocation waiver requests would be expedited, and the number and scope of collocation disputes might be limited because the Commission's expectations would be defined.

Pursuant to Orders Nos. PSC-99-1744-PAA-TP and PSC-99-2393-FOF-TP, BellSouth filed a Notice of Intent to Request Temporary Waiver of Physical Collocation Requirements in the West Palm Beach Gardens Central Office on March 6, 2000. On March 14, 2000, BellSouth and our staff conducted a tour of this central office. Network Access Solutions, the ALEC that was denied space for physical collocation, did not participate in this tour.

BellSouth filed its Petition for Temporary Waiver of Physical Collocation Requirements in the West Palm Beach Gardens Central Office on March 27, 2000. In accordance with the above-mentioned Orders, BellSouth filed its Post-Tour Report for this central office on April 3, 2000. Network Access Solutions did not file a Post-Tour Report.

II. ARGUMENT

BellSouth states in its Notice of Intent that it is currently unable to provide collocation in the West Palm Beach Gardens central office due to lack of space. BellSouth also states that it has plans to complete a building addition to this central office at the end of the first quarter of 2001.

BellSouth states that the West Palm Beach Gardens central office building houses switches providing local dial tone. It also states that circuit equipment located in this central office consists of fiber optic terminals, digital cross-connect systems, multiplexers, digital channel banks, subscriber carrier terminals, and digital cross-connect panels and provides connectivity to other central offices and local customers. All of the equipment is powered by rectifiers and battery strings.

BellSouth asserts that the area served by the West Palm Beach Gardens central office is growing rapidly and, thus, the facility is under enormous space constraints. It further argues that to meet the demand of the expanding customer base, BellSouth currently

has on order from the manufacturer additional Toll/Circuit and Switching equipment.

BellSouth states that it used the following procedure to identify space currently available for physical collocation in the West Palm Beach Gardens central office:

1. BellSouth determined the total square footage within the facility;
2. BellSouth determined the unavailable space (i.e., restrooms, hallways, stairs, etc.);
3. BellSouth determined assigned space currently occupied by the BellSouth switch, transmission, power and other equipment, as well as necessary administrative space;
4. BellSouth determined the space reserved for future defined uses necessary to adequately serve BellSouth customers, including consideration given to BellSouth's future switch growth plans;
5. BellSouth identified any unusable space (such as basements subject to flooding); and
6. BellSouth determined available collocation space by subtracting Items 2-5 from item 1.

The Telecommunications Act of 1996 (Act) places certain obligations on LECs. One such obligation is collocation. The Act provides:

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. (47 U.S.C. 251(c)(6))

Thus, the Act clearly acknowledges that state commissions will make the determination of whether there is sufficient space in a LEC's central office for physical collocation. BellSouth alleges in its Petition that it lacks sufficient space in its West Palm Beach Gardens central office to provide physical collocation.

In establishing procedures for handling a LEC's request for waiver of the physical collocation requirements for its central offices, we stated that by establishing these procedures, "the handling of collocation waiver requests will be expedited and the number and/or scope of collocation disputes may be limited because we have clearly defined our expectations." Order No. PSC-99-1744-PAA-TP, p. 17. These procedures clearly outline the LEC, ALEC, and Commission responsibilities in processing waiver requests.

In brief, these Orders require that once an ALEC files a completed application for physical collocation with a LEC, and the LEC does not believe that space is available in that particular central office for physical collocation, the LEC must file, within fifteen days of the application, a Notice of Intent to Request a Waiver of the Physical Collocation Requirements with us. The LEC will file its actual Petition for Waiver of the Physical Collocation Requirements for this central office within twenty days of filing its Notice of Intent. Further, the LEC, ALEC denied space, and the Commission staff will conduct a tour of the central office within ten days of the Notice of Intent. While the LEC must allow both the ALEC denied space and our staff to tour the premises, it is the ALEC's option to do so. Twenty days after the central office tour, the LEC must file a post-tour report containing certain specific information and other information that the parties believe to be relevant. The ALEC may also file a post-tour report to address the LEC's Petition for Waiver outlining their findings as a result of the tour within twenty days of the tour. This information will then be used to evaluate whether the LEC's Petition for Waiver should be granted.

III. POST-TOUR REPORT

The relevant information contained in BellSouth's post-tour report of the West Palm Beach Gardens central office is summarized below. We note that the one ALEC, Network Access Solutions, that was denied space in this central office, did not attend the tour or file a post-tour report.

BellSouth reports that the West Palm Beach Gardens central office contains 20,314 gross square feet. There are 14,065.5 square feet occupied by BellSouth's equipment. There are 807 square feet of administrative space. BellSouth considers administrative space as any space not directly supporting the installation and repair of telephone equipment and customer service. Examples include lobbies, office cubicles, entries, and receiving rooms. BellSouth also reports that there are 2,264 square feet of unavailable space in this central office. Unavailable space is defined as space assigned to building functions as required by code or national design standards. This type of space typically contains restrooms, air handling and chiller rooms, mechanical equipment such as pumps, controls, compressors, house service panel/electrical system distribution panels, stairs, elevator shafts, equipment rooms, and exits. BellSouth further reports that collocators currently occupy 1,112 square feet of space.

BellSouth also reports that it has 2,065.5 square feet reserved for its own future use. There are 1,009.5 square feet reserved for the growth of its switching equipment, 326 square feet reserved for the growth of its circuit equipment, and 730 square feet reserved for the growth of its frame equipment. We note that the FCC does allow a LEC to reserve space for its own future use:

Incumbent LECs are allowed to retain a limited amount of floor space for its own 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. (FCC 96-325, ¶604)

In regards to its policy of reserving space, BellSouth states:

Generally, reserved space is held for the various space usages described in step C with forecasted needs for the next 2-year shipping interval. There is one exception. There are several types and families of equipment requiring fixed layouts. That is, this

equipment cannot be split up into several different locations in the central office without degrading service or capping the size or customer service levels for that type of equipment.

Concerning BellSouth's policy for reserving space, we have previously ruled:

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. Order No. PSC-99-0060-FOF-TP, p.13.

We believe that BellSouth is in compliance with the our earlier order under which the waiver is requested. However, subsequent to BellSouth filing its Notice of Intent, Petition for Temporary Waiver and Post-Tour Report in this proceeding, we ruled at the April 18, 2000, Agenda Conference that 18 months was a reasonable period for both ALECs and incumbent LECs to reserve space. BellSouth states in its petition that "[T]here is space reserved for defined future use for BellSouth to meet the growing needs of its customers through the year 2001." Even though this ruling was made after BellSouth's filings, the end of year 2001 is approximately 18 months from the date of this Order. It appears, therefore, that BellSouth is in compliance with our space reservation policy under either Order.

BellSouth states that a building addition is planned for the West Palm Beach Gardens central office. BellSouth's estimated completion date for this addition is the end of the first quarter 2001. This addition will add 22,908 square feet to the central office. BellSouth states that once this addition is complete, there will be sufficient space to provide requesting ALECs collocation in this office. We note that when planning additions or renovations to central offices, LECs are obligated by the FCC to consider requests for collocation. See 47 CFR §51.323(f)(3). It appears to us that BellSouth is complying with this FCC Rule.

IV. CONCLUSION

Based on the information provided, we find that BellSouth's Petition for Temporary Waiver of the Physical Collocation

Requirements in the West Palm Beach Gardens Central Office is reasonable to grant BellSouth a temporary waiver of the physical collocation requirements for its West Palm Beach Gardens central office until March 31, 2001. Pursuant to Section 251(c)(6) of the Act, however, BellSouth must continue to provide virtual collocation.

BellSouth is reserving 2,065.5 square feet for its own future use. We acknowledge that according to the FCC Rules, a LEC may reserve space for its own future use. We find that this is important as a LEC such as BellSouth has Carrier of Last Resort responsibilities. Further, we find that the 2,065.5 square feet that BellSouth is reserving for its switch, circuit, and frame equipment growth is reasonable.

We also note that during the tour of the West Palm Beach Gardens central office, our staff did not observe any space that appeared to be wasted or inefficiently used. Finally, we again note that BellSouth is planning an addition to the West Palm Beach Gardens central office that is scheduled for completion at the end of the first quarter 2001. Upon completion of this building addition, there will be additional space available for physical collocation by ALECs.

Based on the foregoing information, we find that BellSouth's request is reasonable and, therefore, grant BellSouth a Temporary Waiver of Physical Collocation Requirements in the West Palm Beach Gardens central office until March 31, 2001.

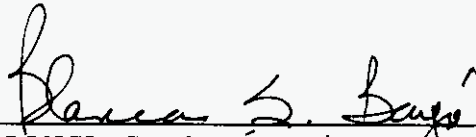
It is therefore,

ORDERED by the Florida Public Service Commission that BellSouth Telecommunications Company, Inc.'s Request for Temporary Waiver of Physical Collocation Requirements in the West Palm Beach Gardens central office shall be granted until March 31, 2001. It is further

ORDERED that this docket should be closed.

ORDER NO. PSC-00-2000-FOF-TL
DOCKET NO. 000290-TL
PAGE 8

By ORDER of the Florida Public Service Commission this 6th day
of June, 2000.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

DWC

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.