

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for temporary
waiver of collocation
requirements in the North Dade
Golden Glades Central Office by
BellSouth Telecommunications,
Inc.

DOCKET NO. 000291-TL
ORDER NO. PSC-00-1124-PAA-TL
ISSUED: June 21, 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

NOTICE OF PROPOSED AGENCY ACTION ORDER
APPROVING TEMPORARY WAIVER OF COLLOCATION REQUIREMENT

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service
Commission that the action discussed herein is preliminary in
nature and will become final unless a person whose interests are
substantially affected files a petition for a formal proceeding,
pursuant to Rule 25-22.029, Florida Administrative Code.

I. Case 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 Telecommunications, Inc. (BellSouth) filed a
Protest/Request for Clarification of Proposed Agency Action. That
same day, Rhythms Links, Inc. (Rhythms) filed a Motion to Conform
Order to Commission Decision or, in the Alternative, Petition on
Proposed Agency Action. Because motions for clarification or
conformity are not contemplated by the PAA process, the motions
were treated as protests to the PAA Order. On December 7, 1999, we

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issued Order No. PSC-99-2393-FOF-TP, the Final Order Approving Stipulated Modifications to Collocation Guidelines, Amendatory Order, and Consummating Order. These Orders established the procedures by which a LEC could request a waiver of the physical collocation requirements from this Commission. In establishing procedures for handling a LEC's request for waiver of the physical collocation requirements for its central offices, we indicated our belief 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."

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

BellSouth filed its Petition for Temporary Waiver of Physical Collocation Requirements in the North Dade Golden Glades 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.

BellSouth states in its Notice of Intent that it is currently unable to provide collocation in the North Dade Golden Glades central office due to lack of space. It asserts that its space limitations are the result of the use of space for existing BellSouth equipment, and the planned installation of additional equipment essential to the effective service of BellSouth customers. BellSouth states, however, that it has plans to complete a building addition to this central office at the end of the third quarter of 2001.

BellSouth reports that the North Dade Golden Glades central office building houses switches providing local dial tone. There is also circuit equipment located in this central office which consists of fiber optic terminals, digital cross-connect systems, multiplexers, digital channel banks, subscriber carrier terminals, and digital cross-connect panels. This central office also provides connectivity to other central offices and local customers. All of the equipment is powered by rectifiers and battery strings.

In its Petition for Temporary Waiver, BellSouth states that the area served by the North Dade Golden Glades central office is growing rapidly and, thus, the facility is under enormous space constraints. To meet the demand of the expanding customer base, BellSouth currently has on order from the manufacturer, additional Toll/Circuit and Switching equipment.

BellSouth advises that it used the following procedure to identify space currently available for physical collocation in the North Dade Golden Glades 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. (Petition, p. 3)

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

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.

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 this Commission. 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, our procedures provide that the LEC, ALEC(s) denied space, and our 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(s) denied space and the Commission staff to tour the premises, the ALEC(s) do so at their option. Twenty days after the central office tour the LEC must file a post-tour report containing certain specific information and other information that it believes to be relevant. The ALEC(s) may also file a post-tour report outlining their findings. Commission staff will then use this information to evaluate whether the LEC's Petition for Waiver should be granted.

II. Post Tour Reports

Network Access Solutions did not file a Post-Tour Report.

BellSouth reports that the North Dade Golden Glades central office contains 27,762 gross square feet. There are 17,714.5 square feet occupied by BellSouth's equipment. There are 1,710 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 storerooms, lounges, training areas, and shipping and receiving rooms. BellSouth also reports that there

are 4,754 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 there are 362 square feet of occupied collocation space existing with an additional 726 square feet of designated space awaiting permits for physical collocators in this office. BellSouth states that there are virtual collocators utilizing space in this office.

BellSouth also reports that it has 2,040.5 square feet reserved for its own future use. There are 654 square feet reserved for the growth of its switching equipment, 647.5 square feet reserved for the growth of its circuit equipment, 612 square feet reserved for power and 127 square feet reserved for stairs that are required by code. 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. (Post-Tour Report, p.1)

III. Analysis and Determination

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 find that BellSouth is in compliance with 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 eighteen (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 roughly eighteen (18) months from this recommendation. 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 North Dade Golden Glades central office. BellSouth's estimated completion date for this addition is the end of the third quarter 2001. This addition will add 11,000 square feet to the central office. BellSouth states that this addition will serve switch, circuit, power, and collocation requirements. It advises 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). We find that BellSouth is complying with this FCC Rule.

BellSouth is reserving 2,040.5 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 believe that this is important because a LEC, such as BellSouth, does have Carrier of

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Last Resort responsibilities. Further, we believe that the 2,040.5 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 North Dade Golden Glades central office, our staff did not observe any space that appeared to be wasted or inefficiently used.

Based on the information provided, we find that BellSouth's Petition for Temporary Waiver of the Physical Collocation Requirements in the North Dade Golden Glades Central Office is reasonable, and we hereby grant BellSouth a temporary waiver of the physical collocation requirements for this central office until September 30, 2001. Pursuant to Section 251(c)(6) of the Act, however, BellSouth must continue to provide virtual collocation.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that BellSouth Telecommunications, Inc.'s Request for Temporary Waiver of Physical Collocation Requirements is hereby granted as set forth in the body of this Order. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that in the event this Order becomes final, this Docket shall be closed upon issuance of a Consummating Order.

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By ORDER of the Florida Public Service Commission this 21st
day of June, 2000.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

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CLF

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 that is available under Section 120.57, 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 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.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on July 12, 2000.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.