

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for temporary  
waiver of physical collocation  
requirements in the Miami  
Palmetto Central Office by  
BellSouth Telecommunications,  
Inc.

DOCKET NO. 000376-TL  
ORDER NO. PSC-00-1314-FOF-TL  
ISSUED: July 20, 2000

The following Commissioners participated in the disposition of  
this matter:

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

FINAL ORDER APPROVING TEMPORARY WAIVER  
OF COLLOCATION REQUIREMENT

BY THE COMMISSION:

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 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

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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 Orders Nos. PSC-99-1744-PAA-TP and PSC-99-2393-FOF-TP, on March 28, 2000, BellSouth filed a Notice of Intent to Request Temporary Waiver of Physical Collocation Requirements in the Miami Palmetto central office. On April 11, 2000, BellSouth, Commission staff and two of the ALECs denied space, Maxcess, Inc. (Maxcess) and BlueStar Networks, Inc. (BlueStar), conducted a tour of this central office. Network Access Solutions, Inc. (NAS), the third ALEC denied space, did not participate in the tour.

BellSouth filed its Petition for Temporary Waiver of Physical Collocation Requirements in the Miami Palmetto Central Office on April 17, 2000. In accord with the above-mentioned orders, BellSouth filed its Post-Tour Report for this central office on May 1, 2000. Neither Maxcess nor BlueStar filed Post-Tour Reports.

## II. Discussion of the Issues

The issue before us is to determine whether BellSouth should be granted a Temporary Waiver of the Physical Collocation Requirements for the Miami Palmetto central office. We established procedures for handling physical collocation waiver requests in Orders Nos. PSC-99-1744-PAA-TP and PSC-99-2393-FOF-TP.

BellSouth states in its Notice of Intent that it is currently unable to provide collocation in the Miami Palmetto central office due to lack of space. It asserts that the space limitations it faces are the result of the space being used for existing BellSouth equipment, and the planned installation of additional equipment essential to the effective service of BellSouth customers. BellSouth advises that it has plans to complete a building addition to this central office by the end of the second quarter of 2002.

BellSouth states that the Miami Palmetto 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 Miami Palmetto 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 states that it used the following procedure to identify space currently available for physical collocation in the Miami Palmetto 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 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. BellSouth alleges in its petition that it lacks sufficient space in its Miami Palmetto 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 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." These procedures clearly outline the LEC, ALEC, and our 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 with us, within fifteen days of the application, a Notice of Intent to Request a Waiver of the Physical Collocation Requirements. 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(s) denied space, and our staff will conduct a tour of the central office within ten days of the filing of the Notice of Intent. While the LEC must allow both the ALEC(s) denied space and our 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, within twenty days of the tour, a post-tour report outlining their findings. Our staff will then use this information to evaluate whether the LEC's Petition for Waiver should be granted.

#### Post-Tour Report

Our staff has summarized the relevant information contained in BellSouth's post-tour report of the Miami Palmetto central office. Maxcess and BlueStar did not file post-tour reports.

BellSouth reports that the Miami Palmetto central office contains 24,398 gross square feet. There are 16,029.5 square feet occupied by BellSouth's equipment. There are 1,484 square feet of administrative space. BellSouth considers as administrative space any space not directly supporting the installation and repair of both telephone equipment and customer service. Examples include storerooms, lounges, shipping-receiving rooms and training areas. BellSouth also reports that there are 1,636 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 also reports that there is 578 square feet of unusable space necessary for grounding and exit aisles.

BellSouth further reports that there are 1,456 square feet of assigned physical collocation space in this office, and that there is also virtual collocator assigned space.

BellSouth reports that it has 3,214.5 square feet reserved for its own future use. There are 709 square feet reserved for the growth of its switching equipment, 1,975.5 square feet reserved for the growth of its circuit equipment, 285 square feet reserved for the growth of its frame equipment, and 245 square feet reserved for the growth of its power equipment. We note that the FCC allows 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)

Regarding 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 note that 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 our Order No. PSC-99-0060-FOF-TP, under which this waiver is requested. However, subsequent to BellSouth filing its Notice of Intent, Petition for Temporary Waiver and Post-Tour Report in this docket, we ruled at the April 18, 2000 Agenda Conference and in Order No. PSC-00-0941-FOF-TP, that eighteen (18) months is 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 Order No. PSC-00-0941-FOF-TP was issued 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 Miami Palmetto central office. BellSouth's estimated completion date for this addition is the end of the second quarter 2002. This addition will add 24,398 square feet to the central office and will

ORDER NO. PSC-00-1314-FOF-TL  
DOCKET NO. 000376-TL  
PAGE 7

serve switch, circuit, power and collocation requirements. BellSouth states that once this addition is complete, there will be sufficient space to provide requesting ALECs collocation in this office. Although a LEC is not required to lease or construct additional space to provide for physical collocation when existing space has been exhausted, when planning additions or renovations to central offices, LECs are obligated by the FCC to consider the projected demand for collocation. See 47 CFR §51.323(f)(1) and (3). It appears that BellSouth is complying with this FCC rule.

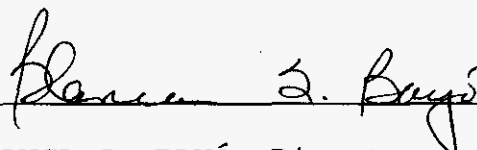
Based on the information provided, we believe that BellSouth's Petition for Temporary Waiver of the Physical Collocation Requirements in the Miami Palmetto Central Office is reasonable, and hereby grant BellSouth a temporary waiver of the physical collocation requirements for this central office until June 30, 2002. Pursuant to Section 251(c)(6) of the Act, however, BellSouth must continue to provide virtual collocation. We also find that the 3,214.5 square feet that BellSouth is reserving for its switch, circuit, power and frame equipment growth is reasonable, as BellSouth does have carrier of last resort responsibilities.

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 this Docket be closed.

By ORDER of the Florida Public Service Commission this 20th day of July, 2000.

  
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BLANCA S. BAYÓ, Director  
Division of Records and Reporting

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ORDER NO. PSC-00-1314-FOF-TL  
DOCKET NO. 000376-TL  
PAGE 8

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.