

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Competitive Carriers for Commission action to support local competition in BellSouth Telecommunications, Inc.'s service territory.

DOCKET NO. 981834-TP

In re: Petition of ACI Corp. d/b/a Accelerated Connections, Inc. for generic investigation to ensure that BellSouth Telecommunications, Inc., Sprint-Florida, Incorporated, and GTE Florida Incorporated comply with obligation to provide alternative local exchange carriers with flexible, timely, and cost-efficient physical collocation.

DOCKET NO. 990321-TP  
ORDER NO. PSC-03-0818-CFO-TP  
ISSUED: JULY 15, 2003

ORDER GRANTING SPRINT'S REQUESTS FOR CONFIDENTIAL CLASSIFICATION  
OF DOCUMENT NOS. 01152-03 AND 01153-03

By Proposed Agency Action Order No. PSC-99-1744-PAA-TP, issued September 7, 1999, we adopted a set of procedures and guidelines for collocation, focused largely on those situations in which an incumbent local exchange company (ILEC) believes there is no space for physical collocation. The guidelines addressed: A. initial response times to requests for collocation space; B. application fees; C. central office tours; D. petitions for waiver from the collocation requirements; E. post-tour reports; F. disposition of the petitions for waiver; G. extensions of time; and H. collocation provisioning time frames.

On September 28, 1999, BellSouth filed 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. Commission staff conducted a conference call on October 6, 1999, with all of the

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parties to discuss the motions filed by BellSouth and Rhythms, and to formulate additional issues for the generic proceeding to address the protested portions of Order No. PSC-99-1744-PAA-TP. By Order No. PSC-99-2393-FOF-TP, issued December 7, 1999, we approved proposed stipulations resulting from that call and identified the portions of the protested Order that could go into effect by operation of law.

Thereafter, we conducted an administrative hearing to address collocation issues beyond the issues addressed in the approved collocation guidelines. By Order No. PSC-00-0941-FOF-TP, issued May 11, 2000, we rendered our post-hearing decision on these additional issues. Therein, we addressed the following: 1) ILEC responses to an application for collocation; 2) the applicability of the term "premises"; 3) ILEC obligations regarding "off-premises" collocation; 4) the conversion of virtual to physical collocation; 5) response and implementation intervals for changes to existing space; 6) the division of responsibilities between ILECs and collocators for sharing and subleasing space between collocators and for cross-connects between collocators; 7) the provisioning interval for cageless collocation; 8) the demarcation point between ILEC and ALEC facilities; 9) the parameters for reserving space for future use; 10) whether generic parameters may be established for the use of administrative space; 11) equipment obligations; 12) the timing and detail of price quotes; 13) ALEC participation in price quote development; 14) the use of ILEC-certified contractors by ALECs; 15) the automatic extension of provisioning intervals; 16) allocation of costs between multiple carriers; 17) the provision of information regarding limited space availability; 18) the provision of information regarding post-waiver space availability; 19) forecasting requirements for CO expansions and additions; and 20) the application of the FCC's "first-come, first-served" Rule upon denial of waiver or modifications.

On May 26, 2000, Verizon filed a Petition for Reconsideration. BellSouth and Sprint also filed separate Motions for Reconsideration and Clarification of the Commission's Order. On June 7, 2000, Sprint filed its Response to Verizon and BellSouth's Motions for Reconsideration. BellSouth also filed its Response to Sprint's Motion for Reconsideration and/or Clarification. MCI/WorldCom and Rhythms Links also filed timely Responses to all

three Motions for Reconsideration. In addition, that same day FCCA and AT&T filed a Joint Response to the Motions for Reconsideration and a Cross-Motion for Reconsideration. On June 14, 2000, BellSouth filed its Response to FCCA and AT&T's Cross-Motion for Reconsideration. By Order No. PSC-00-2190-PCO-TP, issued November 17, 2000, the various motions for reconsideration and/or clarification were addressed by the Commission. By that Order, this Docket was left open to address pricing issues for collocation, which is one of the purposes of this proceeding upon which we now commence.

By Order No. PSC-02-1513-PCO-TP, issued November 4, 2002, the procedural schedule and hearing dates were established for this phase of this proceeding in which we will address the remaining technical and pricing issues regarding collocation. On February 7, 2003, the Commission Staff filed a Motion to Revise Order Establishing Procedure.

By Order No. PSC-03-288-PCO-TP, issued March 4, 2003, Staff's Motion to Revise Order Establishing Procedure was granted. On May 15, 2003, pursuant to Rules 1.160 and 1.280 of the Florida Rules of Civil Procedure and Rule 28-106.204, Florida Administrative Code, Verizon and Sprint (Joint Movants) filed an Emergency Joint Motion to Strike, or in the Alternative for an Extension of Time (Joint Motion). By Order No. PSC-03-0702-FOF-TP, issued June 11, 2003 we approved the agreement reached between the parties and our staff to resolve the Joint Motion to Strike, or in the Alternative Grant an Extension of Time. By Order No. PSC-03-0776-PCO-TP, issued July 1, 2003, the procedural schedule was modified to reflect the agreement reached between the parties and our staff.

On February 4, 2003, Sprint filed a request for confidential classification. In its request, Sprint seeks confidential classification of specified information contained in its Collocation Cost Study, designated as Exhibit JRD-2 to Jimmy R. Davis's Direct Testimony. (Document Nos. 01152-03 and 01153-03). Attachment A contains an explanation of the proprietary information along with a list identifying the location of the information designated by Sprint as confidential.

ORDER NO. PSC-03-0818-CFO-TP  
DOCKETS NOS. 981834-TP, 990321-TP  
PAGE 4

Florida law presumes that documents submitted to governmental agencies shall be public records. The only exceptions to this presumption are the specific statutory exemptions provided in the law and exemptions granted by governmental agencies pursuant to the specific terms of a statutory provision. This presumption is based on the concept that government should operate in the "sunshine." Rule 25-22.006(4)(c), Florida Administrative Code, provides that it is the Company's burden to demonstrate that the documents fall into one of the statutory examples set out in Section 364.183, Florida Statutes, or to demonstrate that the information is proprietary confidential information, the disclosure of which will cause the Company or its ratepayers harm.

Section 364.183(3), Florida Statutes, in pertinent part, provides:

The term "proprietary confidential business information" means information, regardless of form or characteristics, which is owned or controlled by the person or company, is intended to be and is treated by the person or company as private in that the disclosure of the information would cause harm to the ratepayers or the person's or company's business operations, and has not been disclosed unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or private agreement that provides that the information will not be released to the public.

Based on the definition of proprietary confidential business information in Section 364.183(3), Florida Statutes, it appears that the material described herein is proprietary business information in accordance with Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. Disclosure of this information would give its competitors an artificial competitive advantage, allowing them to successfully compete against Sprint without the usual market trial and error. As such, Sprint's Requests for Confidential Classification of Document Nos. 01152-03 and 01153-03 are hereby granted.

Based on the foregoing, it is


ORDER NO. PSC-03-0818-CFO-TP  
DOCKETS NOS. 981834-TP, 990321-TP  
PAGE 5

ORDERED by J. Terry Deason, as Prehearing Officer, that Sprint-Florida, Inc.'s Requests for Confidential Classification of Document Nos. 01152-03 and 01153-03, as set forth in Attachment A, which is attached and incorporated herein, are hereby granted. It is further

ORDERED that pursuant to Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, the confidentiality granted to the material specified herein shall expire eighteen (18) months from the date of the issuance of this Order, in the absence of a renewed request for confidentiality pursuant to Section 364.183, Florida Statutes. It is further

ORDERED that this Order will be the only notification by the Commission to the parties concerning the expiration of the confidentiality time period.

By ORDER of Commissioner J. Terry Deason as Prehearing Officer, this 15th Day of July, 2003.

  
J. TERRY DEASON  
Commissioner and Prehearing Officer

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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

ORDER NO. PSC-03-0818-CFO-TP  
DOCKETS NOS. 981834-TP, 990321-TP  
PAGE 6

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 reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, 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.

ATTACHMENT A

Page and line numbers of Exhibit JRD-2	Justification for Confidential Treatment
Page 75, lines 1-9 & 15, columns 4-9	Contains Sprint-Florida vendor specific pricing information, or information from which such information can be derived, which Sprint-Florida is required by the terms of the vendor contracts to keep confidential. Allowing competitors access to this information would compromise Sprint-Florida's relationship with the vendors, would adversely impact Sprint-Florida's ability to contract on favorable terms and would unfairly advantage competitors by allowing them to develop marketing and pricing plans without incurring the time and expense that a competitor would otherwise have to expend.
Page 77, lines 3 & 4 columns 4-9.	Contains Sprint-Florida vendor specific pricing information, or information from which such information can be derived, which Sprint-Florida is required by the terms of the vendor contracts to keep confidential. Allowing competitors access to this information would compromise Sprint-Florida's relationship with the vendors, would adversely impact Sprint-Florida's ability to contract on favorable terms and would unfairly advantage competitors by allowing them to develop marketing and pricing plans without incurring the time and expense that a competitor would otherwise have to expend.
Page 78, lines 3-7, columns 4-9	Contains Sprint-Florida vendor specific pricing information, or information from which such information can be derived, which Sprint-Florida is required by the terms of the vendor contracts to keep confidential. Allowing competitors access to this information would compromise Sprint-Florida's relationship with the vendors, would adversely impact Sprint-Florida's ability to contract on favorable terms and would unfairly advantage competitors by allowing them to develop marketing and pricing plans without incurring the time and expense that a competitor would otherwise have to expend.
Page 79, lines 3-5, columns 4-9	Contains Sprint-Florida vendor specific pricing information, or information from which such information can be derived, which Sprint-Florida is required by the terms of the vendor contracts to keep confidential. Allowing competitors access to this information would compromise Sprint-Florida's relationship with the vendors, would adversely impact Sprint-Florida's ability to contract on favorable terms and would unfairly advantage competitors by allowing them to develop marketing and pricing plans without incurring the time and expense that a competitor would otherwise have to expend.
Page 80, lines 2-6 & 8, columns 7-9	Contains Sprint-Florida vendor specific pricing information, or information from which such information can be derived, which Sprint-Florida is required by the terms of the vendor contracts to keep confidential. Allowing competitors access to this information would

	compromise Sprint-Florida's relationship with the vendors, would adversely impact Sprint-Florida's ability to contract on favorable terms and would unfairly advantage competitors by allowing them to develop marketing and pricing plans without incurring the time and expense that a competitor would otherwise have to expend.
Page 82, lines 3, 6-9 & 17, columns 4-9	Contains Sprint-Florida vendor specific information, or information from which such information can be derived. Allowing competitors access to this information would compromise Sprint-Florida's relationship with the vendors, would adversely impact Sprint-Florida's ability to contract on favorable terms and would unfairly advantage competitors by allowing them to develop marketing and pricing plans without incurring the time and expense that a competitor would otherwise have to expend.
Page 107, lines 17-33, columns 2 & 3	Contains Sprint-Florida vendor specific pricing information, or information from which such information can be derived, which Sprint-Florida is required by the terms of the vendor contracts to keep confidential. Allowing competitors access to this information would compromise Sprint-Florida's relationship with the vendors, would adversely impact Sprint-Florida's ability to contract on favorable terms and would unfairly advantage competitors by allowing them to develop marketing and pricing plans without incurring the time and expense that a competitor would otherwise have to expend.