

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-04-0066-PHO-TP
ISSUED: January 22, 2004

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code, a Prehearing Conference was held on January 15, 2004, in Tallahassee, Florida, before Commissioner J. Terry Deason, as Prehearing Officer.

APPEARANCES:

Nancy B. White, Esquire, and James Meza III, Esquire, c/o Nancy Sims, 150 South Monroe Street, Suite 400; Tallahassee, Florida 32301; and R. Douglas Lackey, Esquire, and J. Phillip Carver, Esquire, 675 W. Peachtree Street, NE, Suite 4300, Atlanta, Georgia 30375
On behalf of BellSouth Telecommunications, Inc. (BST).

Susan S. Masterton, Esquire, P.O. Box 2214, Tallahassee, Florida 32316-2214
On behalf of Sprint-Florida, Incorporated and Sprint Communications Company Limited Partnership (Sprint).

Catherine Kane Ronis, Esquire, and Daniel McCuaig, Esquire, Wilmer Cutler & Pickering, 2445 M Street, NW, Washington, DC 20037-1420; and Richard A. Chapkis, Esquire, One Tampa City Center, 201 North Franklin Street, Tampa, Florida 33601
On behalf of Verizon Florida, Inc. (Verizon).

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Tracy W. Hatch, Esquire, 101 North Monroe Street, Suite 700, Tallahassee, Florida 32302-1876; Floyd R. Self, Esquire, and Gary Early, Esquire, Messer Caparello & Self, P.A., Post Office Box 1876, Tallahassee, Florida 32302-1876
On behalf of AT&T Communications of the Southern States, LLC and TCG South Florida, Inc. (AT&T/TCG).

Vicki Gordon Kaufman, Esquire, McWhirter, Reeves, McGlothlin, Davidson, Decker, Kaufman & Arnold, P.A., 117 South Gadsden Street, Tallahassee, Florida 32301; and Charles E. (Gene) Watkins, Esquire, 1230 Peachtree Street, NE, 19th Floor, Atlanta, Georgia 30309
TCG South Florida, Inc., and DIECA Communications, Inc. d/b/a COVAD Communications Company (COVAD).

Scott Kassman, Esquire, 390 North Orange Avenue, Suite 2000, Orlando, Florida 32801
On behalf of Florida Digital Network (FDN).

Adam Teitzman, Esquire; Beth Keating, Esquire; and Jason Rojas, Esquire, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
On behalf of the Commission.

PREHEARING ORDER

I. CONDUCT OF PROCEEDINGS

Pursuant to Rule 28-106.211, Florida Administrative Code, this Order is issued to prevent delay and to promote the just, speedy, and inexpensive determination of all aspects of this case.

II. CASE BACKGROUND

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 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 the 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.

Subsequent to the issuance of Order No. PSC-03-0776-PCO-TP, conflicts with the Commission calendar required further modification of the procedural schedule. By Order No. PSC-03-1311-PCO-TP, issued November 17, 2003, the hearing date and corresponding controlling dates were modified.

III. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

A. Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the Commission and the parties as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending a formal ruling on such request by the Commission, or upon the return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been used in the proceeding, it shall be returned expeditiously to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of the proceeding, it shall be returned to the person providing the information within the time periods set forth in Section 364.183, Florida Statutes.

B. It is the policy of the Florida Public Service Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 364.183, Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding.

1. Any party intending to utilize confidential documents at hearing for which no ruling has been made, must be prepared to present their justifications at hearing, so that a ruling can be made at hearing.

2. In the event it becomes necessary to use confidential information during the hearing, the following procedures will be observed:

- a) Any party wishing to use any proprietary confidential business information, as that term is defined in Section 364.183, Florida Statutes, shall notify the Prehearing Officer and all parties of record by the time of the Prehearing Conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. The notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute.
- b) Failure of any party to comply with 1) above shall be grounds to deny the party the opportunity to present evidence which is proprietary confidential business information.
- c) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the Court Reporter, in envelopes clearly marked with the nature of the contents. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
- d) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise the confidential information. Therefore, confidential information should be presented by written exhibit when reasonably possible to do so.
- e) At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the

proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the Court Reporter shall be retained in the Division of the Commission Clerk and Administrative Services's confidential files.

IV. POST-HEARING PROCEDURES

Each party shall file a post-hearing statement of issues and positions. A summary of each position of no more than 50 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of the prehearing order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 50 words, it must be reduced to no more than 50 words. If a party fails to file a post-hearing statement, that party shall have waived all issues and may be dismissed from the proceeding.

Pursuant to Rule 28-106.215, Florida Administrative Code, a party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 40 pages, and shall be filed at the same time.

V. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of all witnesses to be sponsored by the parties and Staff has been prefiled. All testimony which has been prefiled in this case will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to appropriate objections. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Summaries of testimony shall be limited to five minutes. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. After all parties and Staff have had the opportunity to object and cross-examine, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so

answered first, after which the witness may explain his or her answer.

The Commission frequently administers the testimonial oath to more than one witness at a time. Therefore, when a witness takes the stand to testify, the attorney calling the witness is directed to ask the witness to affirm whether he or she has been sworn.

VI. ORDER OF WITNESSES

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>DIRECT & REBUTTAL</u>		
** Edward Fox	Sprint	10
* James H. Vande Weide	Verizon	9B
***Anthony J. Flesch	Verizon	9B
* Terry Murray	AT&T	9A, 9B, 10
* Patricia S. Lee	Staff	9B
* Pete Lester	Staff	9B
W. Bernard Shell	BellSouth	9A, 9B, 10
Randy G. Farrar	Sprint	9A, 9B
Jimmy R. Davis	Sprint	9A, 9B, 10
<u>Verizon Panel:</u>		
Charles Bailey		
Barbara K. Ellis	Verizon	9A, 9B, 10
Steve Turner	AT&T	9A, 9B, 10
Rowland L. Curry	Staff	9A, 9B
David J. Gabel	Staff	9A, 9B

*Parties continue to discuss stipulation of these witnesses' testimonies into the hearing record and waiving cross-examination.

**Parties and staff have agreed to stipulate Witness Fox's testimony into the hearing record and waive cross-examination.

Witness Fox will be excused from the hearing if there are no questions from the hearing panel.

***Witness Flesch is adopting the Direct and Surrebuttal Testimonies of Mr. Allen Sovereign filed on February 4, 2003 and September 26, 2003 respectively.

VII. BASIC POSITIONS

BST: BellSouth has proposed an appropriate list of elements for collocation, and rates for those elements, as well as definitions and terms and conditions. In each instance, BellSouth's proposal is compliant with the previous Orders of this Commission, and should be approved by the Commission.

SPRINT: The commission should reject AT&T's suggestion to adopt a single cost model and a single set of inputs for BellSouth, Verizon and Sprint. Differences in scale and scope, as well as operational differences, result in different costs and different cost structures for the collocation offerings of each of the ILECs. Forcing Sprint to arbitrarily use another company's cost model and rate structure in Florida will create costly inefficiencies for both Sprint and CLECs alike. Sprint's cost studies and its prices derived from these cost studies comply with TELRIC and the Act and should be adopted by the Commission.

VERIZON: The purpose of this portion of this proceeding is to determine the appropriate rates, terms, and conditions to govern the provision of collocation in Florida. It is well established that the rates charged by incumbents for facilities and services should be based on the costs that *the respective incumbent* can expect to incur to provide those facilities and services.^{1/} AT&T's proposal to

^{1/} The Federal Communications Commission ("FCC") has never wavered from its original mandate that UNE cost proceedings produce "costs that incumbents actually expect to incur in making network elements available to new entrants." First Report and Order, *In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, 11 FCC Rcd 15499 ¶ 685 (1996). See Reply Brief for Petitioner Federal Communications Commission and the United

force BellSouth's cost inputs on Verizon, and thus to assign rates to Verizon based on *BellSouth's* costs rather than its own, is therefore legally meritless. In addition, because Verizon's accounting and billing systems are incompatible with BellSouth's Verizon *could not* use BellSouth's rate structure. Finally, AT&T's proposal that the Commission by regulatory fiat transform Verizon's Florida operations into a miniature version of BellSouth should be rejected for the following policy reasons: (1) it would *de-standardize* Florida from the rest of Verizon's footprint, which is contrary to what the CLECs have been arguing for in numerous other forums; (2) it would impose on Verizon the unreasonable burden of developing and supporting a Florida-only cost model; and (3) it would deny Verizon the flexibility required to take advantage of advances in cost modeling and to respond to regulatory and technical change.

Because many of Verizon's proposed rate elements remain unchallenged, and because the criticisms of those proposed rate elements that have been challenged are demonstrably meritless, the Commission should adopt the terms and conditions of Verizon's currently effective intrastate collocation tariff and the rates proposed in Exhibit BKE-1 to Charles Bailey and Barbara K. Ellis's Surrebuttal Testimony.

AT&T/TCG: Collocation of CLEC facilities in ILEC central offices is an essential prerequisite to facilities-based entry into the local market. It is absolutely critical that collocation be provided on a timely, efficient and economic basis. The Commission should adopt the practices, terms and conditions described below by AT&T regarding the recurring and non-recurring charges for collocation space, cancellation of collocation space, space reservation and reclamation, transfer of collocation space, copper entrance facilities, and the provision of electric power to collocation space. AT&T's positions are the most appropriate in fulfilling the

States, *Verizon Communications, Inc. v. FCC*, at 6 (2002) ("The costs measured by TELRIC are nonetheless those of the incumbent itself.") (emphasis added).

Commission's mandate to foster competition in the local exchange market.

COVAD: Covad supports the basic positions of AT&T Communications of the Southern States, LLC. (AT&T) and FDN Communications (FDN).

FDN: The Commission should approve the rates proposed by the ALECs in this phase of the proceeding. FDN, like the other ALECs, maintains that the cost studies and resulting rates proposed by the ILECs are not TELRIC compliant. Moreover, the rates proposed by Verizon and Sprint, in particular, are exorbitantly high - significantly above BellSouth's proposed rates and above the current Sprint and Verizon rates. Thus, aside from considering the ILEC cost studies' inconsistency with TELRIC principles and, as AT&T points out, the ILEC cost studies' needless inconsistency with one another, the Commission should consider that the current level of competition in Verizon and Sprint territory lags behind competition in BellSouth territory, and the Commission would do significant harm to UNE-L/facilities-based competition if the Commission were to increase collocation rates as Sprint and Verizon propose. The Commission should, instead, approve collocation rates lower than current collocation rates and thereby induce UNE-L/facilities-based competition.

STAFF: Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from

TESTIFYING STAFF POSITION: For each ILEC the Commission should establish collocation rate elements associated with the following general categories: Physical Collocation, Virtual Collocation, Adjacent Collocation, and Remote Terminal Collocation. Rates should be established that are consistent with the FCC's TELRIC pricing methodology and the previous decisions of the Florida Public Service Commission. Accordingly, the Commission should adopt the

recommendations of Dr. David Gabel and Mr. Rowland Curry regarding the efficient, forward-looking provision of the following collocation elements: floor space, collocation applications and engineering fees, security, collocation cages, premise space reports, cross connects, power, and grounding.

VIII. ISSUES AND POSITIONS

ISSUE 9A: For which collocation elements should rates be set for each ILEC?

POSITIONS:

BST: Rates should be set for those elements identified in the testimony of BellSouth witness, W. Bernard Shell. Generally, the collocation elements can be grouped into the following four types: 1) Physical Collocation, 2) Virtual Collocation, 3) Adjacent Collocation, and 4) Remote Terminal Collocation.

SPRINT: Rates for Sprint should be set for the collocation elements identified in Sprint's cost study. These rate elements are based on examinations of actual collocation arrangements in Sprint central office buildings, as well as FCC and FPSC requirements.

VERIZON: Rates should be set for Verizon for the collocation elements proposed in Exhibit BKE-1 to Charles Bailey and Barbara K. Ellis's Surrebuttal Testimony. Verizon takes no position on which collocation elements should be assigned rates for BellSouth or Sprint.

AT&T/TCG: Please refer to Exhibit SET-7 (Revised), Exhibit SET-8 (Revised), and Exhibit SET-9 (Revised) attached to Mr. Turner's Rebuttal Testimony for a comprehensive set of collocation elements for which rate should be set for BellSouth, Sprint, and Verizon, respectively.

COVAD: Covad supports the position of AT&T provided in its Prehearing Statement, with one caveat: Covad respectfully asks that the Commission separate the DC

portion of the power charge for power provided to a CLEC's collocation space from the infrastructure portion of the power charge and provide the infrastructure charge as either a Monthly Recurring Charge (MRC) or as an alternative Non-Recurring Charge (NRC).

FDN: Agree with AT&T and Covad.

STAFF: Staff has no position at this time.

STAFF WITNESS POSITION: For each ILEC the Commission should establish collocation rate elements associated with the following general categories: Physical Collocation, Virtual Collocation, Adjacent Collocation, and Remote Terminal Collocation. (Gabel, Curry)

ISSUE 9B: For those collocation elements for which rates should be set, what is the proper rate and the appropriate application of those rates?

POSITIONS:

BST: Proposed rates should be upon a forward looking cost study that adheres to the Total Element Long Run Incremental Cost (TELRIC) pricing rules and utilizes the cost study methodology previously approved by this Commission. Each of the rates proposed by BellSouth in the testimony of its witness, W. Bernard Shell, complies with these standards, and each should be approved.

SPRINT: Sprint's rates should be the recurring and nonrecurring charges submitted by Sprint a\in its cost study and associated testimony. Sprint's cost study complies with TELRIC principles in that it is forward looking with no inclusion of embedded costs. Nonrecurring charges (NRCs) were determined by applying common cost to the sum of labor, materials, sales tax and freight. Some collocation elements charged as NRCs have an accompanying monthly recurring charge (MRC) to cover the ongoing cost of maintenance and other applicable carrying charges. Rates for elements recovered strictly through MRCs were

determined by applying the appropriate annual charge factor (ACF) to the sum of labor, materials, sales tax and freight to determine the annual cost for the investment. The common cost factor was applied to the annual cost to determine the total MRC.

VERIZON: Rates should be set for Verizon's collocation elements as set forth in Exhibit BKE-1 to Charles Bailey and Barbara K. Ellis's Surrebuttal Testimony. Verizon takes no position on the appropriate rates for BellSouth's or Sprint's collocation elements.

AT&T/TCG: AT&T operates in all three of the incumbent territories in Florida who are participating in this matter. Currently, there is an extremely wide disparity in the rates for collocation found in these three territories and in the application of those rates. The rate elements associated with collocation such as the application process, DC power, interconnection arrangements, cage construction, and space within the central office should not have widely disparate costs in a TELRIC environment. The costs for these components should be very similar in that all three of the incumbents have the ability to purchase the underlying telecommunications assets at similar prices and operate them in a similarly efficient manner on a forward-looking basis. Given that the underlying investments should be similar, developing widely disparate costs and rates for collocation indicates that the results are inaccurate and inconsistent with cost-based TELRIC principles.

The most efficient approach to determine the costing of collocation elements would be to identify a single cost model for collocation. A single cost model would allow the Commission to focus on the important issues of the efficient, forward-looking investment inputs that are consistent with TELRIC principles that should go into the model for all three incumbents without being concerned with how three different models may convert the single input into widely disparate results. Further, a single cost model would allow the Commission to establish cost-based rates for the three incumbents in Florida that are

easily compared and would have more certainty that the resulting costs borne by CLECs for collocation would be consistent between the three Florida incumbents.

AT&T recommends the BellSouth Cost Model as the single cost model to use in this proceeding. The BellSouth Cost Calculator is flexible allowing the user to easily add new cost elements if necessary and it is auditable in that all of the internal calculations within the model can be exported to EXCEL spreadsheets to demonstrate how the calculations within the model are conducted. In short, the BellSouth Cost Calculator presents the best alternative for developing collocation costs among the models submitted in this proceeding and the Commission should use this model to establish a comprehensive and consistent set of collocation rates for Florida CLECs. The rates that AT&T would propose are contained in Exhibit SET-7 (Revised), Exhibit SET-8 (Revised), and Exhibit SET-9 (Revised) attached to the Rebuttal Testimony of Steven E. Turner.

COVAD: Covad supports the position of AT&T provided in its Prehearing Statement. With regard to the separate infrastructure charge proposed by Covad, Covad respectfully requests that the ILECs be ordered to establish a credit toward the MRC or NRC for that portion of the infrastructure charge for which the ILECs have already been compensated in order to avoid a double recovery of the ILECs' infrastructure costs.

FDN: Agree with AT&T and Covad. Further, to the extent this issue overlaps the prior phase of this proceeding, refer to FDN's positions in the prior phase of the proceeding.

STAFF: Staff has no position at this time.

STAFF WITNESSES POSITION: Rates should be established that are consistent with the FCC's TELRIC pricing methodology and the previous decisions of the Florida Public Service Commission. Accordingly, the Commission should adopt the recommendations of Dr. David Gabel and Mr. Rowland Curry regarding the efficient, forward-looking provision of the

following collocation elements: floor space, collocation applications and engineering fees, security, collocation cages, premise space reports, cross connects, power, and grounding. (Gabel, Curry)

As for the appropriate depreciation life and salvage value inputs to use in this proceeding for Verizon, these are expressed in EXH PSL-4 provided by Ms. Patricia Lee. Furthermore, for pricing Verizon Florida's collocation services, the Commission should reject Verizon's proposed cost of capital input, as well as its recommended risk premium, and instead use 11.12% as the cost of capital input as recommended by Mr. Pete Lester. This 11.12% cost of capital reflects the risks associated with a competitive market. (Lee, Lester)

ISSUE 10: What are the appropriate definitions, and associated terms and conditions for the collocation elements to be determined by the Commission?

POSITIONS:

BST: The appropriate definitions, terms and conditions for the cost elements proposed by BellSouth are set forth in Exhibit WBS-3 to the testimony of BellSouth's witness W. Bernard Shell. The Commission should approve these definitions, terms and conditions.

SPRINT: The definitions applicable to Sprint's collocation elements should be those recommended by Sprint in its cost study and associated testimony. The terms and conditions for collocation should be set forth in the applicable interconnection agreement.

VERIZON: The appropriate definitions, terms, and conditions for Verizon's collocation elements are set forth in Verizon's currently effective intrastate collocation tariff. Verizon takes no position on the appropriate definitions, terms, or conditions for BellSouth's or Sprint's collocation elements.

AT&T/TCG: AT&T's position is that the appropriate definitions, and associated terms and conditions for the collocation elements should be established in a consistent manner between BellSouth, Sprint, and Verizon using the BellSouth collocation terms and conditions as a template consistent with AT&T's recommendation to use the BellSouth Cost Calculator to set collocation rates.

Moving to a single rate structure for collocation will simplify the interconnection process for CLECs within the state of Florida. Currently, CLECs have to work with three different rate structures with three different implementations of collocation arrangements. This is not necessary. Collocation is a very straightforward process of establishing space within a central office for collocation equipment and then establishing interconnection facilities and power to that equipment. There is no reason that a single set of terms and conditions for collocation along with a single rate structure for those collocation costs could not be implemented in Florida. Moreover, doing so would again lessen the overall cost of the regulatory process and facilitate the Commission ensuring that CLECs are treated in a nondiscriminatory manner between the three incumbents in Florida.

COVAD: Covad supports the position of AT&T provided in its Prehearing Statement.

FDN: Agree with AT&T and Covad

STAFF: Staff has no position at this time.

IX. EXHIBIT LIST

<u>WITNESS</u>	<u>PROFFERED BY</u>	<u>I.D. NO.</u>	<u>DESCRIPTION</u>
	<u>DIRECT & REBUTTAL</u>		
Fox	Sprint	_____ (EBF - 2)	C o l l o c a t i o n Attachment
Vander Weide	Verizon	_____ (JVW - 1)	Discounted Cash Flow Analysis of the S&P Industrials
Vander Weide	Verizon	_____ (JVW - 2)	Summary Chart of Discounted Cash Flow Analysis of the S&P Industrials
Vander Weide	Verizon	_____ (JVW - 1)	Updated Cost of Capital Analysis
Vander Weide	Verizon	_____ (JVW - 2)	Staff's Competitive Company Analysis Excluding Regulated Utilities
Vander Weide	Verizon	_____ (JVW - 3)	Staff's Competitive Company Analysis Using Earnings and Growth
Vander Weide	Verizon	_____ (JVW - 4)	Recent Market Capitalization of BellSouth, SBC, and Verizon
Vander Weide	Verizon	_____ (JVW - 5)	Staff's Cost of Capital Excluding Regulated Utilities

<u>WITNESS</u>	<u>PROFFERED BY</u>	<u>I.D. NO.</u>	<u>DESCRIPTION</u>
Vander Weide	Verizon	<u> </u> (JVW - 6)	Provisioned Terminated Collocation Arrangements in Florida
Flesch	Verizon	<u> </u> (AES - 1)	Comparison of Verizon Florida Inc.'s Recommended CAAP Depreciation Inputs with the FPSC's Ordered Depreciation Inputs in UNE Docket No. 990649B-TP
Flesch	Verizon	<u> </u> (AES - 2)	Benchmark Comparisons of Depreciated Inputs of Tele- communications Providers
Flesch	Verizon	<u> </u> (AES -)	Supplemental Testimony of Allen E. Sovereign on Behalf of Verizon Florida, Inc. filed September 25, 2003.
Murray	AT&T	<u> </u> (TLM - 1)	Curriculum Vitae of Terry L. Murray
Murray	AT&T	<u> </u> (TLM - 2)	2/24/03 Survey of Professional Forecasters
Murray	AT&T	<u> </u> (TLM - 3)	Weighted-Average Cost of Capital and Cost of Equity Calculations with Supporting Documents

<u>WITNESS</u>	<u>PROFFERED BY</u>	<u>I.D. NO.</u>	<u>DESCRIPTION</u>
Murray	AT&T	_____ (TLM - 4)	Yield-to-Maturity for Verizon's Publicly Traded Debt with Supporting Document
Lee	Staff	_____ (PSL - 1)	Society of Depreciation Professional: Forecasting
Lee	Staff	_____ (PSL - 2)	Percent Fiber in Feeder
Lee	Staff	_____ (PSL - 3)	Fiber as Percent of Household Lines
Lee	Staff	_____ (PSL - 4)	Comparison of Life Inputs and Salvage Values
Lee	Staff	_____ (PSL - 5)	Depreciation Ranges Adopted in CC Docket No. 98-137 - December 17, 1999
Lester	Staff	_____ (PL - 1)	Calculation of Cost of Equity and Proxy Group of Companies
Lester	Staff	_____ (PL - 2)	market Value of Equity for RBOCs
Lester	Staff	_____ (PL - 3)	Weighted Average Cost of Capital for Verizon
Shell	BellSouth	_____ (WSB - 1)	Collocation Cost Study (Revised)
Shell	BellSouth	_____ (WSB - 2)	Cost Summary (Revised)

<u>WITNESS</u>	<u>PROFFERED BY</u>	<u>I.D. NO.</u>	<u>DESCRIPTION</u>
Shell	BellSouth	_____ (WSB - 3)	Element Description
Shell	BellSouth	_____ (WSB - 4)	Investment Data for Element H.1.8
Shell	BellSouth	_____ (WSB - 5)	Investment Data for Element H.1.41
Farrar	Sprint	_____ (RGF - 1)	CONFIDENTIAL - Sprint Input Worksheet
Farrar	Sprint	_____ (RGF - 2)	Sprint's Commission Approved Cost Factors
Davis	Sprint	_____ (JRD - 2) REVISED	CONFIDENTIAL - Collocation Cost Study
Davis	Sprint	_____ (JRD - 3)	Sprint Collo 1
Davis	Sprint	_____ (JRD - 4)	Density and Economies of Scale Statistics
Davis	Sprint	_____ (JRD - 5)	Amperage Utilization
Davis	Sprint	_____ (JRD - 6)	CONFIDENTIAL - Abandoned and Decommissioned CLEC Collocations
Davis	Sprint	_____ (JRD - 7)	Building Investment per square foot
Davis	Sprint	_____ (JRD - 8)	S e c u r i t y Installation Bids
Davis	Sprint	_____ (JRD - 9)	Floor Space Factor

<u>WITNESS</u>	<u>PROFFERED BY</u>	<u>I.D. NO.</u>	<u>DESCRIPTION</u>
Davis	Sprint	_____ (JRD - 10)	Florida Ground Bar Cost Summary
Davis	Sprint	_____ (JRD - 2) REVISED	CONFIDENTIAL - Collocation Cost Study
Davis	Sprint	_____ (JRD - 3)	Sprint Collo 1
Davis	Sprint	_____ (JRD - 4)	D e n s i t y a n d Economies of Scale Statistics
Davis	Sprint	_____ (JRD - 5)	Amperage Utilization
Davis	Sprint	_____ (JRD - 6)	CONFIDENTIAL - Abandoned a n d Decommissioned DLEC Collocations
Davis	Sprint	_____ (JRD - 7)	Building Investment per square foot
Davis	Sprint	_____ (JRD - 8)	S e c u r i t y Installation Bids
Davis	Sprint	_____ (JRD - 9)	Floor Space Factor
Davis	Sprint	_____ (JRD - 10)	Florida Ground Bar Cost Summary
<u>Verizon Panel:</u> Ellis/Bailey	Verizon	_____ (BKE - 1)	C o s t S t u d y Containing all Collocation Elements Except for Direct Transit Service Elements
<u>Verizon Panel:</u> Ellis/Bailey	Verizon	_____ (BKE - 2)	Direct Transit Service Cost Study

<u>WITNESS</u>	<u>PROFFERED BY</u>	<u>I.D. NO.</u>	<u>DESCRIPTION</u>
<u>Verizon Panel: Ellis/Bailey</u>	Verizon	_____ (BKE - 3)	Verizon's Proposed Rate Elements and Associated Rates
<u>Verizon Panel: Ellis/Bailey</u>	Verizon	_____ (BKE - 4)	Explanation of Verizon's Proposed Cost Elements, Rate Elements, and Associated Terms and Conditions
<u>Verizon Panel: Ellis/Bailey</u>	Verizon	_____ (BKE - 5)	Example of a Typical Florida Caged Collocation Arrangement
<u>Verizon Panel: Ellis/Bailey</u>	Verizon	_____ (BKE - 6)	Example of a Typical Florida Cageless Collocation Arrangement
<u>Verizon Panel: Ellis/Bailey</u>	Verizon	_____ (BKE - 7)	Example of a Typical florida virtual Collocation Arrangement
<u>Verizon Panel: Ellis/Bailey</u>	Verizon	_____ (BKE - 1)	Revised Cost Study
<u>Verizon Panel: Ellis/Bailey</u>	Verizon	_____ (BKE - 8)	Comments of Verizon Florida Inc. in the Undocketed Standardization of UNE Costing Proceeding

<u>WITNESS</u>	<u>PROFFERED BY</u>	<u>I.D. NO.</u>	<u>DESCRIPTION</u>
<u>Verizon Panel: Ellis/Bailey</u>	Verizon	_____ (BKE - 9)	Reply Comments of Verizon Florida, Inc. in the Undocketed Standardization of UNE Costing Proceeding
<u>Verizon Panel: Ellis/Bailey</u>	Verizon	_____ (BKE - 10)	Presentation of AT&T's Electric Cost per KWH in Florida
<u>Verizon Panel: Ellis/Bailey</u>	Verizon	_____ (BKE - 11)	Excerpt from the 2003 Edition of R.S. Means Building Construction Cost Data
Turner	AT&T	_____ (SET - 1)	Resume of Steve Turner
Turner	AT&T	_____ (SET - 2)	Investment per Amp used in BellSouth's Collocation Power Rate
Turner	AT&T	_____ (SET - 3)	Southwestern Bell's investment proposal
Turner	AT&T	_____ (SET - 4)	Texas PUC approved Investments for DC power rates

<u>WITNESS</u>	<u>PROFFERED BY</u>	<u>I.D. NO.</u>	<u>DESCRIPTION</u>
Turner	AT&T	_____ (SET - 5)	US Department of Energy Estimated U.S. Electric Utility Average Revenue per Kilowatt Hour to Ultimate Consumers by Sector, Census Division, and State, Year-to-Date (November) 2002 and 2001
Turner	AT&T	_____ (SET - 6)	The table showing the value used by BellSouth
Turner	AT&T	_____ (SET - 7) REVISED	Proposed collocation rates for BellSouth
Turner	AT&T	_____ (SET - 8) REVISED	Proposed collocation rates for Sprint
Turner	AT&T	_____ (SET - 9) REVISED	Proposed collocation rates for Verizon
Turner	AT&T	_____ (SET - 10)	Matrix outlining the modifications made to the underlying inputs in the BellSouth input worksheets to the BellSouth Cost Calculator
Curry	Staff	_____ (RLC - 1)	Resume of Roland Curry

<u>WITNESS</u>	<u>PROFFERED BY</u>	<u>I.D. NO.</u>	<u>DESCRIPTION</u>
Curry	Staff	_____ (RLC - 2)	BellSouth Power Construction for Collocation; Cost per Ampere
Gabel	Staff	_____ (DJG - 1)	Curriculum Vitae of Dr. David J. Gabel
Gabel	Staff	_____ (DJG - 2)	Workpapers - Sprint Shared Support and Growth Space Factor Calculations
Gabel	Staff	_____ (DJG - 3)	Application Time Work Processing Estimates
Gabel	Staff	_____ (DJG - 4)	Project Engineering Work Time Estimates

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

X. PROPOSED STIPULATIONS

There are no proposed stipulations at this time.

XI. PENDING MOTIONS

None.

XII. PENDING CONFIDENTIALITY MATTERS

None.

XIII. DECISIONS THAT MAY IMPACT COMMISSION'S RESOLUTION OF ISSUES

Parties have stated in their prehearing statements that the following decisions have a potential impact on our decision in this proceeding:

VERIZON:

1. Notice of Proposed Rulemaking, *Review of the Commission's Rules Regarding the Pricing of Unbundled Network Elements and the Resale of Service by Incumbent Local Exchange Carriers*, WC Docket No. 03-173, FCC 03-224 (rel. Sept. 15, 2003) ("*TELRIC NPRM*").
2. Report and Order and Order on Remand and Further notice of Proposed Rulemaking, *In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Deployment of Wireline Services Offering Advanced Telecommunications Capability*, 18 FCC Rcd 19020 (2003) ("*Triennial Review Order*").
3. First Report and Order, *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, 11 FCC Rcd 15499 (1996) ("*Local Competition Order*").
4. *Verizon Communications, Inc. v. FCC*, 535 U.S. 467 (2002).
5. *AT&T Corp. v. Iowa Utils. Bd.*, 525 U.S. 366 (1999).
6. *Michigan Bell Tel. Co. v. Engler*, 257 F.3d 587, 593 (6th Cir. 2001).
7. *Guaranty Nat'l Ins. Co. v. Gates*, 916 F.2d 508 (9th Cir. 1990).
8. *Calfarm Ins. Co. v. Deukmejian*, 771 P.2d 1247, 1254 (Cal. 1989).

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1. Order No. PSC-03-1358-FOF-TP on issues 1-8 in this docket, issued on November 26, 2003.

XIV. OPENING STATEMENTS

Parties have agreed to waive opening statements.

XV. RULINGS

None.

It is therefore,

ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner J. Terry Deason, as Prehearing Officer, this 22nd day of January, 2004.

A handwritten signature in black ink, appearing to read "J. Terry Deason", is written over a horizontal line.

J. TERRY DEASON
Commissioner and Prehearing Officer

(S E A L)

AJT

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; 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 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.