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April 6, 1994

Ms. Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
101 East Gaines Street
Tallahassee, Florida 32399-0850

HAND DELIVERY

Re: Docket No. 921074-TP

Dear Ms. Bayo:

Enclosed herewith for filing in the above-referenced docket are the following documents:

1. Original and fifteen copies of Cross Motion for Reconsideration of Teleport Communications Group, Inc. and Response to Southern Bell's Motion for Reconsideration, for Clarification and for Stay and GTE Florida's Petition for Reconsideration and Petition for Stay of Order No. PSC-94-0285-FOF-TP; and

2. A disk in Word Perfect 5.1 containing a copy of the document entitled "Tcgrecon.doc."

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Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the same to me.

Thank you for your assistance with this filing.

Sincerely,

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Kenneth A. Hoffman

KAH/rl

cc: All Parties of Record

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

(ORIGINAL FILE COPY)

In re: Petition for expanded interconnection for alternate access vendors within local exchange company central offices by INTERMEDIA COMMUNICATIONS OF FLORIDA, INC.	Docket No. 921074-TP Filed: April 6, 1994

CROSS MOTION FOR RECONSIDERATION OF TELEPORT COMMUNICATIONS GROUP INC. AND RESPONSE TO SOUTHERN BELL'S MOTION FOR RECONSIDERATION, FOR CLARIFICATION AND FOR STAY AND GTE FLORIDA'S PETITION FOR RECONSIDERATION AND PETITION FOR STAY OF ORDER NO. PSC-94-0285-FOF-TP

Teleport Communications Group Inc. ("TCG") hereby respectfully submits, pursuant to Rule 25-22.060(1)(b), Florida Administrative Code, this cross motion for reconsideration and response to the motions for reconsideration and stay filed by BellSouth Telecommunications, Inc., d/b/a Southern Bell Telephone and Telegraph Company ("Southern Bell") and GTE Florida Incorporated ("GTE") of Order No. PSC-94-0285-FOF-TP ("Order"), filed March 25, 1994.

Specifically, TCG (1) requests reconsideration of the warehousing provision in the Order, (2) responds to Southern Bell's and GTE's request for reconsideration and stay of the constitutionality of the Commission's physical collocation requirement; (3) responds to Southern Bell's motion for reconsideration of Section XVII B.1.-Extending Expanded Interconnection to the DS0 Level, and (4) responds to Southern Bell's request for clarification of Section XVII.B.2.-Fresh Look.

Petition for Reconsideration

The Commission has ordered that local exchange carriers ("LECs") shall be allowed to implement a warehousing restriction in their tariffs mandating that an interconnector must use its designated collocation space within 60 days or forfeit the space and the application fee. Order at page 19. TCG asserts that this "eviction" provision is unnecessary and unreasonable.

First, the degree of use of an interconnector's collocation space is of no concern to the LECs as long as the interconnector is paying for the space. A public interest issue arises only if all of the collocation space in a central office is exhausted and the LEC is efficiently using the rest of the space, thereby rendering other potential interconnectors incapable of securing space. Any restriction should become effective only at this point. Moreover, the cost of a collocation arrangement -- most exceed $50,000 -- ensures that this is not something that someone would buy without intending to use it.

Second, the sixty day period is impractical and unfair given the problems that can be experienced in using a collocation space. For example, TCG has ordered collocation at a central office in California but, due to construction delays and other problems, has been unable to extend its network to that central office. The Commission's proposed rule would allow the LEC to force TCG to turn over that collocation space, even though the LEC does not need the space, TCG is paying the full monthly rental for the space, and no other interconnector is harmed. Moreover, it may take more than

sixty days for an interconnector to make a sale of services, coordinate the shift of services from the LEC to the collocator, and implement the new services. The "procurement cycle" on collocated facilities may be much longer than sixty days.

The only party benefitted by this sixty day requirement is the LEC. TCG believes that the real LEC motivation behind these "use it or lose it" requirements is the LEC's desire to force collocators to order cross connections so that pricing flexibility will be triggered. Collocators will have little choice but to play into the LEC's hand. Faced with the imminent threat of the loss of an expensive investment, collocators will have no alternative but to order useless LEC services from the LEC facility back into its own private office facilities so that the collocation space will be considered "used" by the LEC. The collocator will have to pay for these useless facilities, and the LEC will have to install them. Imposition of this sixty day requirement will simply force collocators and LECs to go through this pointless and expensive exercise.

The Commission's rule will also result in an unjust enrichment of the LEC. LECs charge extremely high construction charges for collocation -- $50,000 or more is typical. If they can evict customers under such circumstances, and then turn around and lease the same facility to another customer for another $50,000, they will receive a double recovery on their construction costs. Conversely, if the LEC tears down the collocation space (absent a compelling alternative need for the space at that time), it will

likely find itself constructing another collocation arrangement in the near future in that same office, an inefficient use of its resources.

The 60 day limitation is unreasonable and unsupported by the record. TCG therefore requests that the Commission reconsider its order implementing this provision. If the Commission finds it necessary to implement a warehouse restriction, it should be limited to a situation in which a collocation space is not being used and there is an unmet demand for collocation space in that office that cannot be satisfied due to lack of space. In that situation, the LEC could require the initial collocator to turn its collocation space over to the waiting customer, who must be required to reimburse the collocator for the construction costs billed by the LEC. This process will ensure that the LEC is not unjustly enriched, and that interconnectors are not exposed to an unnecessary threat of eviction unless there is a legitimate demand for collocation space in that office that cannot be met.

Response to Motion for Reconsideration

DSO Interconnection

Southern Bell argues that ordering collocation at the DS0 level in order to extend the benefits of competition is unnecessary. Bell states that since interconnection is required for only fiber facilities, there will be only limited demand for DSO interconnection since DS0 facilities are primarily copper. Southern Bell Motion at page 9.

Southern Bell is confusing the facilities used by the collocator with the facilities used by the LEC. The collocator uses fiber optic facilities to bring its network into the collocation space. Once the fiber is in the collocation space it is multiplexed down into lower transmission speeds and interconnected to the LEC network **using copper (or sometimes coaxial) facilities.**[1] TCG's national collocation experience is that it has successfully completed thousands of interconnections, at DS1 and DS0 levels, and few if any use fiber facilities. Our interconnections with the LEC typically use copper cross connections. And since the connections to the collocation space typically use copper, it is equally logical to use copper DS0 facilities in conjunction with collocation.

Nor is BellSouth correct in its assumption there will be no demand for DS0 interconnections. Pacific Telephone offers DS0 interconnections in its federal collocation tariff. New York Telephone offers DS0 interconnections in its state collocation offerings.

Accordingly, Southern Bell is incorrect in its statement that the Commission has required interconnection for only fiber DS0

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[1] At the hearing, GTE asked TCG's witness whether interconnection at the DS0 level would require interconnection of nonfiber facilities. TCG's witness correctly responded that TCG would be interconnecting to copper facilities. Transcript at 282. As explained here, the Order does not address the type of LEC technology to which an interconnector will connect its transmission equipment. See also FCC Expanded Interconnection Report and Order, CC Docket No. 91-141, 7 FCC Rcd 7369, 7415 (rel. Oct. 19, 1992) (discussing mandatory interconnection for non-fiber optic transmission systems installed by interconnectors).

facilities and not copper facilities. Indeed, Southern Bell steps around the next logical question of what sort of interconnection technology it will use for DS1 services, if it believes that only "fiber" is permitted. If Southern Bell expects to interconnect on a pure fiber basis for individual DS1 services -- the logical outgrowth of its position on DS0s -- then it is proposing a form of standard engineering that, to the best of TCG's knowledge, is unknown in the telecommunications industry today. In addressing interconnection of non-fiber optic technology, the Commission was referring to the transmission equipment placed in the collocation cage **by the interconnector**. For example, it addressed the use of microwave equipment by interconnectors as an example of the use of non-fiber optic technology. Order at pages 20-21. The Commission addressed technology to be used by interconnectors -- it did not and should not have addressed the type of LEC technology to which an interconnector would connect its transmission equipment. Therefore, the Order neither prohibits nor requires interconnection with a certain type of DS0. It simply orders interconnection for DS0 facilities of any type which it correctly determined to be in the public interest. Order at page 26.

Physical Collocation

Southern Bell and GTE argue that physical collocation constitutes an impermissible taking of local exchange company property. Southern Bell Motion at pages 1-4; GTE Motion at pages

2-7. TCG has stated in this docket and continues to believe that physical collocation does not constitute a taking. The Commission has authority pursuant to Chapter 364 to require collocation in return for fair compensation in order to ensure efficient telecommunications service in the state. See Order at page 6; Testimony of TCG Witness Kouroupas, Transcript at page 252.

In claiming the Commission's Order to be unconstitutional, GTE and Southern Bell have requested a stay of the Order based upon the pending appeal of the FCC's special access collocation decision. GTE Motion at 8-13; Southern Bell Motion at 12. Bell Atlantic Telephone Companies et al. v. FCC, et. al., No. 92-1619 (D.C. Cir. filed Nov. 25, 1992).[2] As an initial matter, neither GTE nor Southern Bell have met the Commission's requirements for a stay under Rule 25-22.061(2), Florida Administrative Code. These LECs will not suffer irreparable harm with the implementation of the Commission's Order simply because they are already subject to the FCC's collocation policy which has been in effect since 1992. They have not demonstrated any harm due to compliance with this policy. In addition, if the Commission delays implementing this Order, the public interest will be ill-served. Florida is at the forefront of states like New York, Illinois and Texas which have determined expanded interconnection to be in the public interest and which now have interconnection policies in place. Florida should not now

[2]A key issue under consideration in that appeal is whether the FCC's enabling statute permits it to order physical collocation. This Commission operates under a different statute, and hence the determination made with respect to the FCC's action is not binding on this Commission.

stall the benefits of competition based on a speculative federal appeal.

While TCG believes the Court will find physical collocation to be constitutional, Florida can still implement a viable collocation policy on its own if physical collocation is determined to be unlawful.

The major public policy purpose of mandating central office interconnection is to permit interconnectors to provide access services in competition with the LEC so that all consumers will enjoy improved reliability, quality and price for critical telecommunications services. For this competition to be practical, fair and optimally beneficial to consumers, each carrier should have the greatest freedom, consistent with safety, security and other public interest regulations, to be as efficient as possible.

While physical collocation is the most consistent arrangement with this goal, TCG has also used virtual arrangements which have proven acceptable. As TCG's Witness Kouroupas explained in his direct testimony, the only distinction between physical collocation and a workable virtual collocation is ownership: in physical collocation the AAV owns the interconnection electronics and is able to enter the LEC central office to perform these provisioning and maintenance functions, whereas in virtual collocation the LEC leases the equipment to the AAV and performs provisioning and maintenance for the AAV under tariff while the AAV monitors and controls the equipment remotely. Transcript at 256. As long as the virtual arrangement is economically, technically and

operationally comparable to physical collocation, virtual collocation is a workable option. This is the standard used by the New York Commission, and can be applied by this Commission as well.

Mr. Kouroupas explained in his testimony that the same elements apply to both physical and virtual collocation arrangements -- interconnection cable, interconnection electronics and the cross connection facility. Transcript at 253-56. The Commission has already ordered tariffing of these elements. The record contains significant information on both virtual arrangements and the option of allowing interconnectors to negotiate individual arrangements. Therefore, while it is currently unnecessary and unwise to stay this Order or reverse its physical collocation requirement, the Commission can mandate a virtual interconnection policy should it become necessary to do so. Finally, if this Commission were to determine that physical collocation is not required, it must also reassess what regulatory flexibility -- if any -- should be accorded LECs, since they will not be subject to the same degree of competition that was intended by the Commission.

Fresh Look

Southern Bell requests a clarification that the Commission's fresh look policy applies only to special access services. Southern Bell Motion at 10-11. The Commission must deny this clarification request.

The Commission ordered expanded interconnection for special access and private line services. Order at page 33. It is

therefore reasonable to apply all of the provisions in the order equally to special access and private line services. Certainly Southern Bell has laid no evidentiary record to sustain a different course of treatment for private lines versus special access -- from a technological, market, operational and practical standpoint a special access service is a private line, and a private line is a special access service.

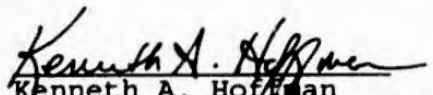
Lacking any record of its own to support a different treatment of private lines and special access, Southern Bell attempts to argue that TCG's witness stated that the Commission should adopt a fresh look provision for consumers in the "special access" market only. Southern Bell Motion at page 11.

Southern Bell is being excessively -- and ridiculously -- technical in parsing Mr. Kouroupas' reference to fresh look opportunities for customers in the "special access" market. Mr. Kouroupas referred interchangeably to special access and private line expanded interconnection throughout his testimony. See e.g., Transcript at pages 243, 262, 267, 269. That is because there is no difference. In any event, the purpose of the fresh look requirement is to ensure that customers receive the benefit of new competitive choices. The only **right** way to do that is to apply it equally to private line and special access customers -- to follow Southern Bell's convoluted approach is to deny rights to some customers while giving them to others. The Commission cannot tolerate such obvious and unreasonable discrimination. The Commission's fresh look requirement should apply to the services

for which the Commission has authorized interconnection.

WHEREFORE, for the reasons stated, TCG respectfully requests the entry of an order (1) reconsidering the 60-day warehousing provision; (2) denying Southern Bell's and GTE's request for reconsideration and stay of the physical collocation requirement; (3) denying Southern Bell's motion for reconsideration of interconnection at the DS0 level; and (4) denying Southern Bell's request for clarification of the fresh look provision.

Respectfully submitted,



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