

ORIGINAL

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Legal Department

NANCY B. WHITE
GENERAL COUNSEL-FLORIDA

CO JAN 25 PM 4:35

BellSouth Telecommunications, Inc.
150 South Monroe Street
Room 400
Tallahassee, Florida 32301
(305) 347-5558

RECORDS AND
REPORTING

January 25, 2000

Mrs. Blanca S. Bayó
Director, Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 991761-TL (MANDARIN-LORETTO CO)

Dear Ms. Bayó:

Enclosed is an original and fifteen copies of BellSouth Telecommunications, Inc.'s Motion to Strike, Deny Covad Communications Company's Request to Accept Objections, or In the Alternative, BellSouth Telecommunications, Inc.'s Opposition to Covad Communications Company's Objections which we ask that you file in the captioned matter.

A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return the copy to me. Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely,

Nancy B. White (12)

Nancy B. White

AFA _____
APP _____
CAE _____
CMU 1 NBW:jn
CTR _____
EAG _____
LEG 1
MAS _____
OPC _____
RRR _____
SEC 1
VAW _____
OTH _____

cc: All parties of record
Marshall M. Criser III
R. Douglas Lackey

RECEIVED & FILED
[Signature]
FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

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FPSC-RECORDS & REPORTING

CERTIFICATE OF SERVICE
Docket No. 991761-TL

I hereby certify that a true and correct copy of the foregoing has been served by U. S. mail this 25th day of January, 2000 to:

Mr. Walter D'Haeseleer
Florida Public Service
Commission
Division of Communications
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

ACI Corp.
Attn: Jim Cuckler
790 Old Spring Way
Sugar Hill, GA 30518
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Commission
Division of Legal Services
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Mr. John A. Farley
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Hamilton E. Russell III
State Communications, Inc.
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Tel. No. (864) 325-7148
Fax No. (864) 271-7810

David A. Bryson
JATO Operating Two Corp.
1099 18th Street
Suite 700
Denver, CO 80202
Tel. No. (303) 226-8398
Fax No. (303) 297-8905

Carol Lisowski
MGC Communications, Inc.
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Las Vegas, NV 89129
Tel. No. (702) 310-4246
Fax No. (702) 310-5689

Nancy B. White (cc)
Nancy B. White

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: BellSouth Telecommunications,) Docket No.: 991761-TL
Inc.'s Petition for Waiver of collocation)
In the Mandarin-Loretto Central Office)
_____) Filed: January 25, 2000

**BELLSOUTH TELECOMMUNICATIONS, INC.'S
MOTION TO STRIKE, DENY COVAD COMMUNICATION COMPANY'S
REQUEST TO ACCEPT OBJECTIONS, OR IN THE ALTERNATIVE,
OPPOSITION TO COVAD COMMUNICATION COMPANY'S OBJECTIONS**

Comes now, BellSouth Telecommunications, Inc. ("BellSouth"), and hereby requests that the Florida Public Service Commission ("Commission") strike the Objections of DIECA Communications d/b/a Covad Communications Company ("Covad") filed herein to BellSouth's Petition for Waiver of Collocation in the Mandarin-Loretto Central Office, and deny Covad's Request to Accept Filing of the Objections Out of Time. In the alternative, BellSouth herein files its opposition to the Objections filed by Covad. In support thereof, BellSouth states the following.

1. In Order No. PSC-99-1744-PAA-TP ("Order"), issued on September 7, 1999, the Commission established certain procedures and guidelines applicable to collocation. In Order No. PSC-99-2393-FOF-TP, issued on December 7, 1999, these guidelines and procedures were modified. For purposes of this motion, the pertinent guidelines are those requiring the submission of a Notice of Intent to Seek Waiver of physical Collocation Requirements if the ILEC intended to deny collocation, the requirement of a tour of the central office if collocation was denied for lack of space, the filing of a post tour report, and the requirements for a Petition for Waiver of the Collocation Requirements.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

2. On October 27, 1999, BellSouth advised the Commission that there were several Florida central offices, including Mandarin-Loretto, undergoing building additions. These additions were to be completed in early to mid 2000. A copy of this letter is attached hereto as Exhibit A. BellSouth advised the Commission that BellSouth would be unable to fill collocation applications until these additions were completed and that BellSouth was uncertain whether the Order contemplated this scenario.

3. On November 15, 1999, the commission advised BellSouth to follow the Order guidelines with respect to the Mandarin-Loretto central office. A copy of this letter is attached as Exhibit B. On November 24, 1999, BellSouth filed its Notice of Intent to Request Waiver of Collocation in the Mandarin-Loretto Central Office. On December 8, 1999, the Commission conducted a walk-through of the central office. The Commission notified Covad of this tour on December 6, 1999 and Covad made the decision not to attend. See footnote one of Covad's Objections.

4. On December 14, 1999, in accordance with the Order, BellSouth filed its Petition for Waiver. On December 22, 1999, in accordance with the Order, BellSouth filed its Post-Tour Report.¹

5. On January 5, 2000, Covad filed Objections to BellSouth's Petition for Waiver of Collocation in the Mandarin-Loretto Central Office.²

6. BellSouth asserts that Covad's Request to Accept Filing of Objections Out of Time should be denied by the Commission. Covad has not provided a valid basis upon which to excuse their delay in complying with the requirements of the Order. Even if

¹ It should be noted that the only ALEC present for the tour, Florida Digital Network, did not file a post-tour report.

one accepts Covad's Objections as constituting a Post-Tour Report, which BellSouth emphatically rejects, Covad has cited two reasons for its delay. First, Covad cites the holiday season. The tour was on December 8, 1999, more than two weeks prior to the Christmas holiday. The second reason cited is that Covad wanted to see what BellSouth said before it filed. This is flatly contrary to the Order requirement that the applicant carrier(s) and the ILEC have the same amount of time in which to file the Post-Tour Report. For these reasons, Covad's Request to Accept the Filing of Objections Out of Time should be rejected and the objections stricken.

7. If this Commission allows the filing of these Objections Out of Time, BellSouth moves to strike them on the basis that the Objections do not constitute a Post-Tour Report under the Order. The Order allows for the filing of a Post-Tour Report so that the applicant carrier(s) and the ILEC may outline their findings as a result of the tour. Order, p.12. Due to the fact that Covad did not attend the tour and therefore, cannot have made any findings, BellSouth asserts that Covad's Objections cannot possibly be construed as a Post-Tour Report. For this reason, Covad's Objections should be stricken.

8. If this Commission allows the filing of these Objections as a "Post-Tour Report", BellSouth opposes the Objections. Covad's first objection is that BellSouth failed to follow the Order's Requirements when it responded to Covad's application for physical collocation in the Mandarin-Loretto central office. Covad filed its application on July 16, 1999; the Order was not issued until September 7, 1999. On the date that

² Covad erroneously characterized BellSouth's Petition as one for an Extension of Time, rather than for a waiver.

Covad applied for collocation and BellSouth responded, the Order was not in effect. Moreover, BellSouth sought guidance from the Commission, as noted earlier, as to whether the Order applied to the central office in question. If Covad has a complaint about BellSouth's collocation responses, there are avenues available to Covad; this docket is not appropriate.

9. Second, Covad alleges that BellSouth has failed to comply with the Order requirement regarding the content of a petition for waiver. Specifically, Covad alleges that BellSouth did not provide a floor plan showing the intended use of reserved space and the forecasted use of space. This is patently false. BellSouth attached floor plans showing reserved space for switch and toll equipment to its Petition. Moreover, the floor plans attached to BellSouth's petition specifically delineated the building addition to relieve space exhaustion.

10. Covad then proceeds to critique BellSouth's Post-Tour Report. This should not be allowed. There is no provision in the Order for such a filing. Perhaps if Covad had attended the tour, some of its criticisms could have been answered. As it is, Covad is discussing an office they have not even seen.

11. Covad criticizes BellSouth for not providing information about the building addition. BellSouth is not required to build an addition to serve collocation nor is it required to advise Covad of its plans. Suffice it to say, that if Covad had been present for the tour, it could have seen the progress of the addition.

12. Lastly, Covad makes the incredible argument that because BellSouth will continue to offer virtual collocation in this office, it must have space for physical collocation. Section 252(c)(6) of the Telecommunications Act requires an ILEC to

provide for virtual collocation if physical collocation is not available because of space limitations. BellSouth can only assume that Covad is suggesting that BellSouth not comply with the Act. For all of the above reasons, Covad's objections should be rejected.

Wherefore, for the foregoing reasons, BellSouth requests that Covad's Motion to Accept Objections Out of Time be stricken or denied and that Covad's Objections be stricken or denied.

Respectfully submitted this 25th day of January, 2000.

BELLSOUTH TELECOMMUNICATIONS, INC.

Nancy B. White (re)
NANCY B. WHITE
c/o Nancy Sims
150 South Monroe Street, #400
Tallahassee, Florida 32301
(305) 347-5555

R. Douglas Lackey (re)
R. DOUGLAS LACKEY
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Atlanta, Georgia 30375
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194300

EXHIBIT A

Legal Department

NANCY B. WHITE
General Counsel - Florida

BellSouth Telecommunications, Inc.
150 South Monroe Street
Room 400
Tallahassee, Florida 32301
(305) 347-5558

October 27, 1999

Mr. Walter D'Haeseleer
Director, Division of Communications
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Physical Collocation

Dear Mr. D'Haeseleer:

As you are aware, the Florida Public Service Commission adopted guidelines relating to physical collocation in Docket No. 981834-TP and Docket No. 990321-TP. The guidelines require waivers to be filed when BellSouth rejects an application for physical collocation due to lack of space and to provision physical collocation within 90 days. There are several BellSouth central offices in Florida that are in the process of undergoing building additions. These building additions are scheduled to be completed in early 2000. Specifically the following building additions are underway:

Mandarin - Loretto Central Office -
estimated completion date is April of 2000

Jacksonville - Beachwood Central Office
estimated completion date is February 28, 2000

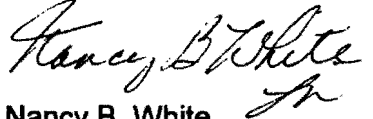
Royal Palm Beach Central Office
estimated completion date is November 16, 1999

Oveida Central Office
estimated completion date is January 31, 2000

Situations have arisen with regard to these specific offices in which an ALEC has applied for physical collocation and BellSouth is unable to fill the application as written until the building addition is completed. BellSouth is uncertain as to whether the collocation guidelines contemplate this scenario.

Therefore, in an abundance of caution, BellSouth is hereby advising the Commission of this situation. When the building additions are completed, BellSouth will fulfill the collocation applications for the above central offices.

Sincerely,

A handwritten signature in black ink that reads "Nancy B. White". The signature is written in a cursive style with a large initial "N" and a stylized "W".

Nancy B. White

NBW/vf

cc: Beth Keating

#184000

COMMISSIONERS:
JULIA L. JOHNSON, CHAIRMAN
SUSAN F. CLARK
J. TERRY DEASON
JOE GARCIA
E. LEON JACOBS



DIVISION OF
TELECOMMUNICATIONS
WALTER D'HAESELEER
DIRECTOR
(850) 413-6600

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NOV 15 1999

Public Service Commission

November 15, 1999

U.S. MAIL-REG. RELATIONS
TALLAHASSEE, FL

Ms. Nancy B. White
General Counsel-Florida
BellSouth Telecommunications, Inc.
150 South Monroe Street
Room 400
Tallahassee, FL 32301

Re: Response to Physical Collocation Inquiry

Dear Ms. White:

This letter is written in response to your letter dated October 27, 1999, regarding several BellSouth central offices that are in the process of undergoing building additions. We appreciate the abundance of caution shown by BellSouth in informing the Commission of this situation. The physical collocation guidelines referenced in your letter do not specifically mention requests for temporary waivers of the physical collocation requirements. However, the information necessary to determine whether temporary requests for waivers of the physical collocation requirements should be granted is the same as that required for permanent requests, and therefore, must follow the same procedures detailed in the guidelines.

You have referenced four BellSouth central offices that are undergoing building additions:

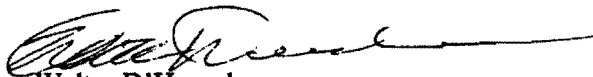
1. Mandarin - Loretto Central Office (estimated completion date April 2000)
2. Jacksonville - Beachwood Central Office (estimated completion date February 28, 2000)
3. Royal Palm Beach Central Office (estimated completion date November 16, 1999)
4. Oveida Central Office (estimated completion date January 31, 2000)

The guidelines for physical collocation require a decision from the Commission within ninety days of an incumbent local exchange carrier (ILEC) denying an alternative local exchange carrier's

(ALEC) request for physical collocation. Because the estimated completion date of the Jacksonville-Beachwood, Royal Palm Beach and Oveida central offices is either within or slightly beyond ninety days of the date of this letter, it would not be a good use of this Commission's resources to pursue a proceeding on these specific central offices. However, if it is determined that the completion dates for the additions to these central offices will substantially exceed the dates provided in your letter, the Commission may choose to reconsider its position. To this end, I am requiring that BellSouth provide me with written notification that the addition to the Royal Palm Beach central office is completed and also to provide me with a status report on the Oveida and Jacksonville - Beachwood central offices by January 7, 2000. In the meantime, BellSouth should continue working with the ALECs who have requested physical collocation in these central offices to ensure that their requests for physical collocation will be processed in a timely manner.

The Commission will conduct a proceeding pursuant to the collocation guidelines for the Mandarin - Loretto Central Office. Therefore, BellSouth must file a Notice of Intent to seek a temporary waiver with this Commission within ten calendar days of receipt of this letter. Further, a data request concerning these central offices is included with this letter. Please respond to this request by December 17, 1999.

Sincerely,

A handwritten signature in black ink, appearing to read 'Walter D'Haeseleer', written in a cursive style.

Walter D'Haeseleer

Director, Division of Telecommunications