

State of Florida



# Public Service Commission

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**DATE:** FEBRUARY 17, 2000

**TO:** DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

**FROM:** DIVISION OF COMMUNICATIONS (FAVORS) *ERF*  
DIVISION OF LEGAL SERVICES (STERN) *HKS BK* *WQ*

**RE:** DOCKET NO. 991761-TL - REQUEST FOR WAIVER OF PHYSICAL COLLOCATION REQUIREMENTS IN THE MANDARIN-LORETTO CENTRAL OFFICE BY BELL SOUTH TELECOMMUNICATIONS, INC.

**AGENDA:** 02/29/00 - REGULAR AGENDA - FINAL AGENCY ACTION - PARTIES MAY PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\CMU\WP\991761.RCM

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## CASE BACKGROUND

On September 7, 1999, the Commission issued Proposed Agency Action (PAA) Order No. PSC-99-1744-TP, which established procedures by which incumbent local exchange companies (LECs) would process alternative local exchange companies' (ALECs) requests for collocation and also established procedures for demonstrating space depletion for physical collocation in LEC central offices. On September 28, 1999, BellSouth filed a 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. Because motions for clarification/conformity are not contemplated by the PAA process, the motions were treated as protests to the PAA Order. On December 7, 1999, the Commission issued Order No. PSC-99-2393-FOF-TP, the Final Order Approving Stipulated Modifications to Collocation Guidelines, Amendatory Order, and Consummating Order. These Orders established the procedures by which a LEC could request a waiver of the physical collocation requirements from this

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

DOCKET NO. 991761-~~3~~  
DATE: February 17, 2000

Commission. In establishing these procedures, the Commission set forth its belief that the handling of collocation waiver requests would be expedited, and the number and scope of collocation disputes might be limited because the Commission's expectations would be defined.

On October 27, 1999, BellSouth sent a letter to the Commission which stated that it had building additions underway in four of its central offices, including the Mandarin-Loretto central office. BellSouth stated in its letter that situations had arisen in which ALECs had applied for physical collocation in these offices, and that BellSouth would be unable to fulfill any requests until the building additions were complete. BellSouth also stated that it did not know if the Commission's collocation guidelines contemplated this scenario, and in an abundance of caution, was advising the Commission of this situation.

On November 15, 1999, the Commission responded to BellSouth's letter. The Commission in its letter stated that the procedures required a decision on whether the collocation waiver should be granted within 90 days of the receipt of the company's Notice of Intent, and since the building additions for three of the central offices were scheduled to be complete within 90 days of the date of BellSouth's letter, no waiver proceeding would be required. However, the Commission noted that the Mandarin-Loretto building addition was scheduled to be completed sometime in April 2000, well beyond 90 days of BellSouth's letter. For this reason, the Commission required BellSouth to file a Notice of Intent for Waiver of the Physical Collocation Requirements for its Mandarin-Loretto central office.

Pursuant to the Commission's letter and Order Nos. PSC-99-1744-PAA-TP and PSC-99-2393-FOF-TP, BellSouth filed a Notice of Intent to Request Waiver of the Physical Collocation Requirements for its Mandarin-Loretto central office on November 24, 1999. BellSouth, Commission staff and Florida Digital Network, Inc., one of the ALECs that had requested space for physical collocation, toured this central office on December 8, 1999.

BellSouth filed its Petition for Waiver of Physical Collocation Requirements in the Mandarin-Loretto central office on December 14, 1999. In accordance with the above-mentioned Orders, BellSouth filed its Post-Tour Report for this central office on December 22, 1999. Florida Digital Network, Inc., did not file a Post-Tour Report.

DOCKET NO. 991761  
DATE: February 17, 2000

On January 6, 2000, Covad Communications Company filed Objections to BellSouth's Petition for Extension of Time. On January 12, 2000, Covad filed a Request to Accept Filing of Objections Out of Time. On January 25, 2000, BellSouth filed a Motion to Strike, Deny Covad Communications Company's Request to Accept Objections, or In the Alternative, Opposition to Covad Communications Company's Objections.

Staff believes the following recommendations are appropriate.

DOCKET NO. 991761-~~4~~  
DATE: February 17, 2000

**ISSUE 1:** How should the Commission dispose of Covad's Request to Accept Late Filed Objections Out of Time, and BellSouth's Motion to Strike, Deny Covad Communication Company's Request to Accept Late Filed Objections, or in the Alternative, Opposition to Covad Communication Company's Objections?

**RECOMMENDATION:** The Commission should deny Covad's Request to Accept Late Filed Objections in which case BellSouth's Motion to Strike is rendered moot. The Commission should also reject BellSouth's comments in opposition to Covad's objections to the waiver. (STERN)

**STAFF ANALYSIS:** In support of its Request to Accept Late Filed Objections, Covad states that it was unable to attend the tour, and due to the pendency of the holiday season, was unable to file a report within 20 days, as required by the collocation procedures. More importantly, Covad maintains it needed to wait until BellSouth filed its post-tour report because it was the only document that provided sufficient information on which to make an evaluation of available office space. Covad notes that its objections were less than one week past the December 28, 1999, deadline for filing of post-tour reports.

BellSouth argues that Covad's late filing should not be accepted because Covad did not provide a valid reason for its failure to comply with the collocation procedures. First, BellSouth notes that the tour was on December 8, 1999, two weeks before the holiday season. Second, BellSouth argues that the collocation procedures grant the ILEC and the ALECs the same amount of time in which to file a post-tour report. BellSouth further argues that the guidelines do not envision that an ALEC be allowed to respond to an ILEC's post-tour report. Finally, BellSouth notes that the collocation procedures allow for the filing of a post-tour report so that the participants may state their findings from the tour. BellSouth contends that Covad's objections do not constitute a post-tour report because Covad never went on the tour.

Staff acknowledges that BellSouth's Notice of Intent was filed the day before Thanksgiving and the post-tour reports were due three days after Christmas. The timing of events was somewhat problematic. Nevertheless, the collocation procedures provide that a post-tour report shall be filed 20 days after a tour, and that the tour will be scheduled in response to the Notice of Intent to Request Waiver. We emphasize that the collocation procedures do not prevent a party unable to attend the tour from responding to the Petition for Waiver, which contains detailed information on space availability at the central office. The procedures do,

DOCKET NO. 991761-~~4~~  
DATE: February 17, 2000

however, contemplate that any comments, be they responsive to the tour or the Petition for Waiver, will be filed 20 days after the tour. Therefore, a party need not actually participate in the tour in order to file comments.

The procedures clearly do not contemplate any pleadings or comments filed subsequent to the post-tour reports or in response to the post-tour reports. Allowing "reply" briefs or comments would necessarily extend the time for processing the collocation waiver request. Staff believes this was clearly not intended by the collocation procedures. Therefore, staff recommends that Covad's Request to Accept Late Filed Objections be denied. In addition, staff recommends that BellSouth's Objections be rejected for the same reason that "reply" briefs were not contemplated. Also, if the Commission denies Covad's Motion to Accept Late Filed Objections, then BellSouth's Motion to Strike is rendered moot.

DOCKET NO. 991761  
DATE: February 17, 2000

**ISSUE 2:** Should BellSouth's Request for Waiver of Physical Collocation Requirements in the Mandarin-Loretto central office be granted?

**RECOMMENDATION:** Yes. The Commission should grant BellSouth a Waiver of Physical Collocation Requirements in the Mandarin-Loretto central office until April 30, 2000. If the building addition to the Mandarin-Loretto central office will not be complete by April 30, 2000, BellSouth must file for an extension of time with this Commission. **(FAVORS)**

**STAFF ANALYSIS:**

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

**BELLSOUTH**

BellSouth states in its Notice of Intent that it is currently unable to provide collocation in the Mandarin-Loretto central office due to lack of space. (Notice, p.1) However, BellSouth states that it has plans to complete a building addition to this central office some time in the second quarter of 2000. Once the addition is complete, there will be sufficient space to provide physical collocation. (Notice, p.1)

BellSouth states that the Mandarin-Loretto central office building houses a 5ESS switch providing local dial tone. BellSouth states that circuit equipment located in this central office consists of fiber optic terminals, digital cross-connect systems, multiplexers, digital channel banks, subscriber carrier terminals, and digital cross-connect panels, and provides connectivity to other central offices and local customers. (Petition, p.1)

BellSouth states in its Petition for Waiver that the area served by the Mandarin-Loretto central office is growing rapidly and; therefore, the facility is under enormous space constraints. It argues that the space limitations are the "result of the use of space by the amount of existing BellSouth equipment, and the planned installation of additional equipment essential to the effective service of BellSouth customers." (Petition, pp.2-3) BellSouth further argues that this central office currently serves

42,291 access lines and 8,880 T1 circuits. (Petition p.2) BellSouth points out that to meet the growing needs of its customers, it currently has projects planned such as incremental additions to the switching system, frame and transmission equipment. (Petition, p.4)

BellSouth states that it used the following procedure to identify space currently available for physical collocation in the Mandarin-Loretto central office.

1. BellSouth determined the total square footage within the facility;
2. BellSouth determined the unavailable space (i.e., restrooms, hallways, stairs, etc.);
3. BellSouth determined assigned space currently occupied by the BellSouth switch, transmission, power and other equipment, as well as necessary administrative space;
4. BellSouth determined the space reserved for future defined uses necessary to adequately serve BellSouth customers, including consideration given to BellSouth's future switch growth plans;
5. BellSouth identified any unusable space (such as basements subject to flooding); and
6. BellSouth determined available collocation space by subtracting Items 2-5 from item 1. (Petition, p.3)

#### STAFF'S ANALYSIS

The Telecommunications Act of 1996 (Act) places certain obligations on LECs. One such obligation is collocation. The Act reads:

COLLOCATION.-The duty to provide, on rates, terms, and conditions that are just, reasonable, and nondiscriminatory, for physical collocation of equipment necessary for interconnection or access to unbundled network elements at the premises of the local exchange carrier, except that the carrier may provide for virtual collocation if the local exchange carrier demonstrates to the State commission that physical collocation is not

practical for technical reasons or because of space limitations. (47 U.S.C. 251(c)(6))

Thus, the Act clearly acknowledges that state commissions will make the determination of whether there is sufficient space in a LEC central office for physical collocation. BellSouth alleges in its petition that it lacks sufficient space in its Mandarin-Loretto central office to provide physical collocation.

In establishing procedures for handling a LEC's request for waiver of the physical collocation requirements for its central offices, the Commission indicated its belief that by establishing these procedures, "the handling of collocation waiver requests will be expedited and the number and/or scope of collocation disputes may be limited because we have clearly defined our expectations." (Order No. PSC-99-1744-PAA-TP, p. 17) These procedures clearly outline the LEC, ALEC and Commission responsibilities in processing waiver requests. In brief, these Orders state that once an ALEC files a completed application for physical collocation with a LEC, and the LEC does not believe that space is available in that particular central office for physical collocation, the LEC must file, within fifteen days of the application, a Notice of Intent to Request a Waiver of the Physical Collocation Requirements with this Commission. The LEC will file its actual Petition for Waiver of the Physical Collocation Requirements for this central office within twenty days of filing its Notice of Intent. Further, the LEC, the ALEC(s) denied space and Commission staff will tour the central office within ten days after the Notice of Intent is filed with the Commission. Twenty days after the central office tour the LEC and ALEC(s) must file a post-tour report containing certain specific information and other information that the parties believe to be relevant. Commission staff will then use this information to evaluate whether the LEC's Petition for Waiver should be granted.

POST-TOUR REPORT

Staff will summarize the relevant information contained in BellSouth's post-tour report of the Mandarin-Loretto central office. Staff must note that the one ALEC that toured the central office with staff and BellSouth, Florida Digital Network, did not file a post-tour report.

BellSouth reports that the Mandarin-Loretto central office contains 8,680 gross square feet. There are 7,341 square feet occupied by BellSouth's equipment and 562 square feet of administrative space. (Post-Tour Report, Section II) BellSouth considers administrative space as any space not directly supporting



DOCKET NO. 991761  
DATE: February 17, 2000

the installation and repair of telephone equipment and customer service. Examples include storerooms, lounges, shipping-receiving rooms and training rooms. (Post-Tour Report, p.2) BellSouth also reports that there are 630 square feet of unavailable space in this central office. Unavailable space is defined as space assigned to building functions as required by code or national design standards, which include restrooms, air handler and chiller rooms, mechanical equipment such as pumps, controls, compressors, house service panel/electrical system distribution panels, stairs, elevator shafts and equipment rooms. (Post-Tour Report, Section II)

BellSouth also reports that it has 147 square feet reserved for its own future use. There are 66.5 square feet reserved for the growth of its switching equipment and 80.5 square feet reserved for the growth of its circuit equipment. (Post-Tour Report, Attachment 2) Staff notes that the FCC does allow a LEC to reserve space for its own future use:

Incumbent LECs are allowed to retain a limited amount of floor space for its own future uses. Allowing competitive entrants to claim space that incumbent LECs had specifically planned to use could prevent incumbent LECs from serving their customers effectively. Incumbent LECs may not, however, reserve space for future use on terms more favorable than those that apply to other telecommunications carriers seeking to hold collocation space for their own future use. (FCC 96-325, ¶604)

In regards to its policy of reserving space, BellSouth states:

Generally, reserved space is held for the various space usages described in step C with forecasted needs for the next 2-year shipping interval. There is one exception. There are several types and families of equipment requiring fixed layouts. That is, this equipment cannot be split up into several different locations in the central office without degrading service or capping the size or customer service levels for that type of equipment. (Post-Tour Report, p.1)

Concerning BellSouth's policy for reserving space, staff notes that the Commission previously ruled:

DOCKET NO. 991761-4  
DATE: February 17, 2000

BellSouth indicated that it reserves space for two years of forecasted equipment growth, and that it allows collocators to do the same. We find that this policy is reasonable. (Order No. PSC-99-0060-FOF-TP, p.13)

Staff notes that the issue of the appropriate parameters for reserving space for LEC and ALEC future use is at issue in a generic collocation proceeding currently before the Commission in Docket Nos. 981834-TP and 990321-TP; however, until the Commission examines the evidence and makes a ruling in that proceeding, staff believes that the two-year reservation policy is reasonable for purposes of ruling on BellSouth's Petition for Waiver.

BellSouth states that a building addition is planned for the Mandarin-Loretto central office. BellSouth's expected completion date for this addition is the second quarter of 2000. (Notice, p.1) This addition will add 6,148 square feet to the central office. (Post-Tour Report, Attachment 2) BellSouth states that once this addition is complete, there will be sufficient space to provide requesting ALECs collocation in this office. (Notice, p.1) Staff notes that when planning additions or renovations to central offices, LECs are obligated by the FCC to consider requests for collocation. See 47 CFR §51.323(f)(3). It appears to staff that BellSouth is complying with this FCC Rule.

However, staff notes that BellSouth has provided different dates for completion of this addition without any explanation. In its letter to the Commission advising the Commission of several planned building additions, BellSouth provides an estimated completion date of April 2000 for the Mandarin-Loretto central office, and in its Notice of Intent BellSouth provides an estimated completion date of "sometime in the second quarter of 2000." (Notice, p.1) Therefore, staff will use the April 2000, date provided by BellSouth in its letter to the Commission.

Based on the information provided, staff believes that BellSouth's Petition for Waiver of the Physical Collocation Requirements for its Mandarin-Loretto central office is reasonable, and the Commission should grant BellSouth a waiver of the physical collocation requirements for its Mandarin-Loretto central office until April 30, 2000. If the addition will not be complete by April 30, 2000, BellSouth must file for an extension of time with this Commission. Pursuant to Section 251(c)(6) of the Act, however, BellSouth must continue to provide virtual collocation.

DOCKET NO. 991761  
DATE: February 17, 2000

BellSouth is reserving 147 square feet for its own future use. Staff acknowledges that according to the FCC Rules, a LEC may reserve space for its own future use, and staff believes that this is important as a LEC such as BellSouth does have Carrier of Last Resort responsibilities. Further, staff believes that the 147 square feet that BellSouth is reserving for its switch and circuit equipment growth is reasonable.

Staff also notes that during the tour of the Mandarin-Loretto central office, staff did not observe any space that appeared to be wasted or inefficiently used.

Finally, staff again notes that BellSouth has an addition under construction at the Mandarin-Loretto central office. Upon completion of this building addition, there will be additional space available for physical collocation by ALECs.

#### Conclusion

Staff recommends that the Commission grant BellSouth a Waiver of Physical Collocation Requirements in the Mandarin-Loretto central office until April 30, 2000. If the building addition will not be complete by April 30, 2000, BellSouth must file for an extension of time with this Commission. Based on the foregoing information, staff believes that BellSouth's request is reasonable.

DOCKET NO. 991761  
DATE: February 17, 2000

**ISSUE 3:** Should this docket be closed?

**RECOMMENDATION:** Yes. If the Commission approves staff's recommendations in Issues 1 and 2, this docket should be closed.  
(STERN)

**STAFF ANALYSIS:** Yes. If the Commission approves staff's recommendations in Issues 1 and 2, this docket should be closed.