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June 14, 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 Nos. 981834-TP and 990321-TP (Generic Collocation)

Dear Ms. Bayó:

Enclosed please find the original and fifteen copies of BellSouth Telecommunications, Inc.'s Response to Florida Competitive Carriers Association's and AT&T Communications of the Southern States, Inc.'s Cross-Motion for Reconsideration, which we ask that you file in the above-referenced 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,

Michael P. Goggin

Michael P. Goggin

(2A)

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cc: All Parties of Record
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CERTIFICATE OF SERVICE
Docket No. 981834-TP and 990321-TP

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via

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(22)

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Carriers for Commission Action) Docket No. 981834-TP
To Support Local Competition)
In BellSouth's Service Territory)

In re: Petition of ACI Corp. d/b/a)
Accelerated Connections, Inc. for) Docket No. 990321-TP
Generic Investigation into Terms and)
Conditions of Physical Collocation)
_____) Filed: June 14, 2000

**BELLSOUTH TELECOMMUNICATIONS, INC.'s
RESPONSE TO FLORIDA COMPETITIVE CARRIERS ASSOCIATION'S AND
AT&T COMMUNICATIONS OF THE SOUTHERN STATES, INC.'S
CROSS-MOTION FOR RECONSIDERATION**

BellSouth Telecommunications, Inc. ("BellSouth"), hereby responds to the Florida Competitive Carriers Association's ("FCCA's") and AT&T Communications of the Southern States, Inc.'s ("AT&T's") Cross-Motion for Reconsideration of Order No. PSC-00-0941-FOF-TP ("Cross-Motion") filed June 7, 2000. For the reasons stated below, with the exception of the portion relating to the "first-come, first-served" rule,¹ the Cross-Motion should be denied.

In their Cross-Motion, FCCA and AT&T challenge the portion of the Commission's collocation order (Order No. PSC-00-0941-FOF-TP, or the "Order") in which the Commission expressly refused to require a central office tour when an ALEC is offered collocation space, but not as much as it had

¹ FCCA and AT&T also seek reconsideration of the Commission's holding that, in situations where collocation is denied due to the lack of available space, the ALEC should be placed on the waiting list in the order determined by the denial date, rather than the application date. Cross-Motion at 3-4. For the reasons stated in BellSouth's motion for reconsideration of the Order, BellSouth agrees that the Commission should reconsider this portion of its Order as inconsistent with the FCC's rule. See, BellSouth Telecommunications, Inc.'s Motion for Reconsideration and Clarification at 12-13 (Filed May 26, 2000).

demanded. Order at 88-94. This issue also was raised by Sprint in its Motion for Reconsideration, and, like Sprint, FCCA and AT&T tacitly admit that the standard for reconsideration has not been met with respect to this issue. Indeed, nowhere in their brief do FCCA or AT&T set forth the applicable standard.

In their Cross-Motion, FCCA and AT&T mistakenly assert that reconsideration is appropriate because “[t]he main basis for the Commission’s conclusion [with regard to partial denials of space requests] seems to be a misapprehension of the facts regarding what is required to happen in a partial exhaust situation.” Cross-Motion at 2. This claim arises from a “misapprehension” on the part of FCCA and AT&T as to the basis for this portion of the Commission’s Order. FCCA and AT&T seize on dicta in the Order in which the Commission observes that a waiver request, which would entitle ALECs to tour the central office, is likely to follow a partial denial of space. Order at 94, Cross-Motion at 2. This is not, however, the “main basis” for the Commission’s ruling.

The Commission ruled that an ALEC should not be able to obtain a mandated tour simply by demanding more space than is available in an ILEC central office. As the Commission explained, the “main basis” for this ruling is the plain language of FCC Order 99-48:

We are also not persuaded that an ALEC should be allowed to tour a CO if it is offered partial collocation space because of insufficient collocation space in a CO. We do not believe that the FCC order suggests that the ILECs should allow tours when partial collocation is provisioned; instead, an argument can be made that the FCC only anticipated CO tours in cases where collocation requests are denied. It appears that the ALECs’ proposed CO tours for partial collocation space are inconsistent with provisions of FCC Order 99-48, which reads, in part:

Specifically, we require the incumbent LEC to permit representatives of a requesting telecommunications carrier that has been denied collocation due to space constraints to tour the entire premises in question,

FCC Order 99-48 at Paragraph 57.

Order at 94.

In their Cross-Motion, FCCA and AT&T do not suggest that the Commission's reading of the FCC's order is erroneous or that it erred in basing its own Order on the FCC's order. Moreover, FCCA and AT&T do not identify any evidence that the Commission allegedly ignored or overlooked in making this ruling. Indeed, they could hardly have done so—the Commission clearly considered ALEC testimony in which witnesses made the same arguments that FCCA and AT&T make in their Cross-Motion. Order at 88-94. Like Sprint's motion for reconsideration, the Cross-Motion boils down to a simple request that the Commission change its mind. The Commission should decline the invitation to do so. FCCA and AT&T have failed to demonstrate that reconsideration of this portion of the Commission's Order is justified. Accordingly, with respect to this portion of the Commission's Order, the Cross-Motion for reconsideration should be denied.

For the reasons stated above, FCCA's and AT&T's Cross-Motion should be partially granted and partially denied. The Commission should grant reconsideration with respect to the "first-come, first-served" rule. The remainder of the Cross-Motion should be denied.

Respectfully submitted this 14th day of June, 2000.

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