

ORIGINAL

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



PROTECTIVE AGREEMENT

WHEREAS, the parties to the above captioned proceeding may file or be requested to produce certain confidential information in these proceedings;

WHEREAS the Florida Public Service Commission staff has scheduled tours of certain Sprint central offices as part of this docket and such tours may result in the disclosure of certain confidential information of Sprint or its customers;

WHEREAS, the parties agree that some of the confidential information should be made available for review pursuant to an appropriate Protective Agreement; and,

WHEREAS, the parties agree that entering into a Protective Agreement will expedite the discovery of information by parties seeking to prepare for hearings; will afford the necessary protection to valuable, confidential and proprietary information; and will also protect the requesting party's attorneys and experts in these proceedings who might review the information and subsequently be requested to reveal its contents.

NOW, THEREFORE, the parties agree to enter into this Protective Agreement and agree as follows:

- AUS \_\_\_\_\_
- CAF \_\_\_\_\_
- CMP \_\_\_\_\_
- COM \_\_\_\_\_
- CTR \_\_\_\_\_
- ECR \_\_\_\_\_
- GCL \_\_\_\_\_
- OPC \_\_\_\_\_
- WMS \_\_\_\_\_
- SEC \_\_\_\_\_
- OTH \_\_\_\_\_

*copy to  
Marguerite*

1. (a) Confidential Information. All documents, testimony, data, information, cost studies and other materials furnished pursuant to any discovery process in these proceedings that are claimed to be proprietary or confidential or contain secrets, confidential business information, and information subject to an evidentiary privilege or exempt from public disclosure under Florida Statutes, section 364.183(3)(e) or other Florida law shall be marked as confidential by the party providing the information by stamping them with a designation indicating their

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proprietary or confidential nature. Access to and review of Confidential Information shall be strictly controlled by the terms of this Agreement.

(b) Collocation Tours. Any proprietary and confidential business information obtained during any tours of facilities of the parties pursuant to this proceeding, including the tours of Sprint's central offices scheduled by Florida Public Service Commission staff, shall be deemed Confidential Information, subject to access and review under the terms of this Agreement. Such Confidential Information includes, but is not limited to, information in written, oral or other tangible or intangible form, including information obtained during observation, that depicts, reflects, or constitutes the type, quantity, location and use or non-use of telecommunications equipment or facilities that Sprint or any other entity has placed on Sprint's property, or information concerning the number, identity or location of customers that Sprint or any other entity serves or anticipates serving from said telecommunications equipment or facilities.

(c) Use of Confidential Information. All individuals who may be entitled to review, or who are afforded access to, any Confidential Information by reason of this Agreement shall neither use nor disclose the Confidential Information for purposes of business or competition, or any purpose other than preparation for and conduct of these proceedings, and then solely as contemplated herein, and shall keep the Confidential Information secure as confidential and proprietary in accordance with this Agreement.

(d) Persons Entitled to Review. Access to Confidential Information shall be limited to the receiving party's designated experts and attorneys (and persons assisting such attorneys) who are working on matters related to these proceedings. Access shall only be provided after such person agrees to be bound by the terms of this Protective Agreement and who signify such Agreement by executing Attachment A, attached hereto. No Confidential Information shall be disclosed to anyone else without the producing parties' specific permission.

2. (a) Copies. No copies or notes of materials marked as Confidential Information may be made except copies or notes to be used by persons designated in paragraph 1(d) of this Agreement. Each party shall maintain a log, recording the number of copies made of all Confidential Information, and the persons to whom the copies have been provided. Any note memorializing or recording of Confidential Information shall, immediately upon creation, become subject to all provisions of this Protective Agreement.

(b) Notes. Limited notes regarding the Confidential Information may be taken by the requesting party for the express purpose of preparing pleadings, examination of experts at hearings and technical workshops, briefs, comments, and argument in connection with these proceedings. No copies of such notes shall be made. These notes shall not be prepared with the intent of formalizing or perpetuating knowledge of the Confidential Information.

(c) Return. Within ninety (90) days of termination of this Proceeding, including all appeals and petitions, all originals and reproductions of any Confidential Information, along with the log recording persons who received copies of such materials, shall be returned to the producing party. In addition, upon such termination, any notes or other work product, derived in whole or in-part from the Confidential Information shall be destroyed, and counsel of record for

the receiving party shall notify counsel for the party who produced the materials in writing that this has been completed upon written request of the producing party. If materials are destroyed rather than returned to the producing party, a written statement to that effect by counsel of record for the receiving party shall be provided to the producing party.

3. Objections of Admissibility. The furnishing of any document or information pursuant to this Protective Agreement shall in no way limit the right of the producing party to object to its relevance or admissibility in proceedings before the Commission.

4. Initial Challenge to Confidentiality. This Agreement establishes a procedure for the expeditious handling of information that the producing party claims is confidential; it shall not be construed as an Agreement or ruling on the confidentiality of any document. Any party seeking to challenge the confidentiality of the Confidential Information pursuant to this Agreement shall first contact opposing counsel and attempt to resolve any difference by informal stipulation.

5. Protective Order. In the event the parties are unable to resolve questions of confidentiality by informal stipulation, or in the event any party desires to use the Confidential Information in any manner which would require its disclosure on the public record or in a public forum, the parties agree to request by joint motion that the Commission enter a protective order which will incorporate the terms of this Agreement. If the parties cannot agree to this procedure, the party to which the Confidential Information belongs will itself seek a protective order under applicable Commission Rules. The motion for the protective order shall be filed with the Commission fifteen (15) days prior to the challenge of confidentiality or anticipated public use of the information in order to enable the producing party to seek a stay or other relief in the event the Commission declines to enter the protective order.

6. Formal Challenge to Confidentiality.

(a) Pleading. In the event that the parties cannot agree as to the character of the information challenged, a party shall challenge the confidentiality by appropriate pleading. This pleading shall:

(1) Designate the document or other material challenged in a manner that will specifically insulate the challenged material from the other material claimed as confidential; and,

(2) State with specificity the grounds upon which the information is claimed to be nonconfidential.

(b) The parties expect that a ruling on the confidentiality of the challenged information will be made by the Commission after proceedings in camera which shall be conducted under circumstances such that only those persons duly authorized hereunder to have access to such Confidential information shall be present.

(c) The parties expect that the record of the in camera hearing will be marked "CONFIDENTIAL; SUBJECT TO PROTECTIVE ORDER IN DOCKET NUMBERS 981834-TP & 990321-TP". Court reporter notes and/or tapes of such hearing shall be transcribed only

upon agreement by the parties or order of the Commission and, in that event, shall be separately bound, sealed, and withheld from inspection by any person not bound by the terms of this Agreement.

(d) In the event the Commission rules that any information, document, or other material should be removed from the restrictions imposed by this order, no party shall disclose such information or use it in a manner that would result in its disclosure until ten (10) days after entry of the written ruling. This provision will enable the producing party to seek a stay or other relief from an order removing the claimed Confidential information from the ambit of this Agreement.

7. (a) Receipt into Evidence. Confidential Information shall be received into evidence in the following manner:

(1) At least seven (7) days prior to the use of or substantive reference to any Confidential Information, the party intending to use the Confidential Information shall make that intention known to the producing party.

(2) The parties shall make a good faith effort to reach an agreement so the information can be used in a manner which will not reveal its confidential or proprietary nature.

(3) If such efforts fail, the providing party shall separately identify which portions of the documents to be offered or referenced shall be placed in a sealed record.

(4) The copy of the document(s) to be placed in the sealed record shall be tendered by counsel for the producing party to the Commission and maintained in accordance with the terms of this Agreement.

(b) In Camera Hearing. The parties expect that any Confidential Information that must be orally disclosed will be placed in a sealed portion of the transcript in these proceedings and shall be offered at an in camera hearing, attended only by Commission Staff and persons authorized to have access to the information under this Agreement.

(c) Access to Record. Access to sealed records and information shall be limited to the Commission and the Commission Staff, unless such material is released from the restrictions of this Agreement either through an agreement of the parties or after notice to the parties and hearing, pursuant to the ruling of a Hearing Officer, Commission order and/or the final of a court having final jurisdiction.

(d) Appeal. Sealed portions of the record in these proceedings may be forwarded to any court of competent jurisdiction for purposes of judicial review, but under seal as designated herein for the information and use of the Court. If a portion of the record is forwarded to a court under seal for the purposes of judicial review, the producing party shall be notified which portion of the sealed record has been designated by the appealing party as necessary to the record on appeal.

8. Use in Pleadings. Where reference to the Confidential Information in the sealed record or with the custodian is required in pleadings, comments, argument or motions (except as provided in Paragraph 7), it shall, if possible, be by citation of title or exhibit numbers or by some description that will not disclose the substantive Confidential Information contained therein. Any use of or substantive references to Confidential information shall be submitted to the Commission pursuant to a request for protective order, pursuant to the relevant Commission Rules governing confidential filings, and such Confidential Information shall not be disclosed publicly.

9. This Agreement may be modified only by written agreement signed by the parties.

10. This Protective Agreement shall become effective on the date it is fully executed.

11. With their signatures below, the parties to this Agreement certify that they have read it and agree to be bound by its terms.

By: Susan S. Masterton

Susan S. Masterton  
(Print Name)

Company: Sprint

Title Attorney

Date: 4-22-03

By: Stan L. Greer

STAN L. GREER  
(Print Name)

Company: BellSouth

Title: Manager Regulatory Relations

Date: 4/17/03

David Christian 4/25/03  
David Christian  
Verizon

ATTACHMENT A

AGREEMENT CONCERNING CONFIDENTIAL INFORMATION  
IN DOCKET NOS. 981834-TP & 990321-TP  
BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

I, Stan L Green, hereby agree to comply with and be bound  
by the Protective Agreement, and acknowledge that I have reviewed the Protective Agreement  
and fully understand its terms and conditions.

Signature: Stan L Green

Full Name: STAN L. GREER  
(Print)

Permanent Address  
and Employer: 150 South MONROE ST.  
TALLAHASSEE, FL 32301

Party With Whom  
Signatory Is Associated: Bell South

Date: 4/17/03