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May 22, 2003

BY HAND DELIVERY

Ms. Blanca Bayó, Director
The Commission Clerk and Administrative Services
Room 110, Easley Building
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

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Re: Docket Nos. 981834-TP and 990321-TP

Dear Ms. Bayó:

Enclosed for filing are an original and fifteen copies of AT&T Communications of the Southern States, LLC's Response to Verizon Florida, Inc.'s and Sprint-Florida's Emergency Motion to Strike or In the Alternative For An Extension of Time.

Please acknowledge receipt of this letter by stamping the extra copy of this letter "filed" and returning the same to Lisa Riley in the enclosed stamped envelope.

Thank you for your assistance with this filing.

Sincerely yours,

Tracy W. Hatch

TWH/las
Enclosure
cc: Parties of Record

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Carriers for Commission Action)	Docket No. 981834-TP
To Support Local Competition)	
<u>In BellSouth's Service Territory</u>)	
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)	
<hr/>		Filed: May 22, 2003

**AT&T'S COMMUNICATIONS OF THE SOUTHERN STATES, LLC'S
RESPONSE TO EMERGENCY JOINT MOTION TO STRIKE OR IN THE
ALTERNATIVE FOR AN EXTENSION OF TIME**

AT&T Communication of the Southern States, LLC, ("AT&T"), pursuant to Rule 28-106.204, Florida Administrative Code, hereby responds to the Emergency Joint Motion to Strike, or in the Alternative for an Extension of time, filed by Sprint-Florida and Verizon Florida, Inc. (hereinafter "Joint Movants") on May 15, 2003.¹ Joint Movants Motion is without merit. The testimony of AT&T's witness Turner is clearly within the scope of the issues identified in this proceeding and appropriately in rebuttal to the direct testimony of the Joint Movant's witnesses in the instant proceeding. Joint Movants request for an extension of time is also without merit. Accordingly, Joint Movants Emergency Motion should be denied.

Joint Movants ask the Commission to strike the Testimony of AT&T's Witness Turner to the extent that it asks the Commission to utilize the BellSouth collocation cost model to establish the appropriate rates for collocation elements for both Verizon and Sprint. Joint Movants argue generally that the testimony is procedurally inappropriate and even if it is procedurally appropriate it should not be considered in this proceeding because it is

¹ BellSouth Telecommunications, Inc. responded to the Motion to Strike on May 19, 2003 supporting the Motion and taking no position on the request for extension of time. For discussion herein, AT&T includes BellSouth in its reference to 'Joint Movants' regarding the Motion to Strike.

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"complicated and far-reaching." Finally, Joint Movants argue that, if the testimony is not stricken, an extension of six months to file surrebuttal testimony should be granted to allow the conduct of additional discovery to aid in preparation of surrebuttal.

In support of their procedural arguments, Joint Movants essentially argue that Mr. Turner's rebuttal testimony advocating the use of BellSouth's collocation cost model as the appropriate methodology to set rates for Sprint and Verizon, as well as BellSouth, should not be considered because: 1) it is raised for the first time on rebuttal, 2) the subject of standardized UNE costing is the subject of an undocketed staff project for which there has been a staff workshop and 3) the "radical" change suggested by AT&T is improper due to lack of notice and opportunity to conduct discovery.

Second, Joint Movants argue that they were never put on notice that Commission might consider or that a party might advocate a single collocation cost model for establishment of collocation costs for each ILEC. They further argue that there was a common understanding that "each of the three ILECs would use its own cost methodologies and inputs to present costs for its own collocation rate structure" and that AT&T never argued that the ILECs should use a standard collocation cost methodology. Finally, Joint Movants argue that AT&T rebuttal is too late for AT&T to present a proposal that amounts to a new model and that such should have been made on direct.

Joint Movants procedural arguments completely miss the mark. The place to begin the analysis on any procedural question in this proceeding is Order No. PSC-02-1513-PCO-TP, which is the procedural order governing this phase of the Commission's collocation proceeding. The Order states that "this Docket was left open to address pricing issues for collocation, which is one of the purposes of this proceeding upon which we now commence."

Order No. 02-1513, p. 3. The Order further states, "The scope of this proceeding shall be based upon the issues raised by the parties and the Commission staff up to and during the prehearing conference, unless modified by the Commission." Order No. 02-1513, p. 4. The issues identified to date to be addressed in this portion of the proceeding are the cost methodology issues, which are:

Issue 9A: For which collocation elements should rates be set for each ILEC?

Issue 9B: for those collocation elements for which rates should be set, what is the proper rate and the appropriate application of those rates?

Issue 10: What are the appropriate definition, and associated terms and conditions for the collocation elements to be determined by the Commission?

Significantly, the Joint Movants never mention, let alone discuss, the Procedural Order or the scope of the proceeding or the scope of the issues in their laundry list of objections to Mr. Turner's testimony. The testimony of Mr. Turner indisputably falls within the scope of the proceeding as defined in Order 02-1513 and within the issues identified by the parties and appended to the Order. Mr. Turner reviewed the direct testimony of the three participating ILECs. In varying degrees, he does not agree with the rates and the methodologies advanced by the Joint Movants and in rebuttal he has proposed rates and elements that are different for each Joint Movant than each Joint Movant proposed for itself. This testimony is clearly within the scope the issues and the direct testimony of the Joint Movants. This makes it appropriate rebuttal. In support of those rates Mr. Turner has presented the methodology by which he determined the rates he advocates. This is also clearly appropriate rebuttal testimony.

There are no limits either express or implied by Order 02-1513 or within the issues themselves that would limit consideration of an ILEC's collocation rates solely to the model

advocated by each Joint Movant. Indeed such a limitation would be a denial of due process. Moreover there is no merit to the contention that AT&T could have advocated the use of a consistent methodology for each ILEC only in direct testimony. The ILECs have the initial burden of producing information to support its desired rates. If AT&T disagrees with the ILECs initial showing, then it is AT&T's burden to produce information to contest the ILEC showing. This is the essence of a rebuttal case and this is exactly what AT&T presented in this case.

Finally, Joint Movants argument of lack of notice of AT&T's testimony is misguided. Joint Movants were clearly on notice as to the scope of the proceeding. AT&T's testimony is clearly within that scope. Any claim of lack of notice is without merit. Accordingly, Joint Movants arguments that Mr. Turner's testimony is somehow procedurally improper are simply wrong and the Joint Movants Motion to Strike must be denied on this issue.

Joint Movants argument that Mr. Turner's rebuttal testimony should be stricken because it is "complicated and potentially far-reaching" is equally without merit. The fact that Mr. Turner's rebuttal testimony may be complicated or far-reaching cannot legitimately be the basis for striking his testimony. Joint Movants offer no support in the law for any such proposition. It defies credulity to even suggest that, in the telecommunications arena, if testimony is complicated or far-reaching, it should be stricken.

In support of this argument Joint Movants argue in a scatter-gun fashion that :

AT&T hasn't offered any evidence that its proposed rates and methodology are appropriate for each of the ILECs;

AT&T is seeking to improperly "foist" the burden on Joint Movants to disprove Mr. Turner's proposal and that AT&T has offered no compelling reason to impose such an "extraordinary" burden on Verizon and Sprint;

There is no way in this proceeding that a one-size-fits-all model can be used to model each ILECs costs;

Joint Movants collocation practices and cost studies differ from BellSouth's;

Joint Movants respective collocation rate structures are different from BellSouth's;

To defend against Mr. Turner's testimony, Joint Movants would need to undertake significant discovery on BellSouth as well as AT&T.

The time for discovery has been unfairly shortened because AT&T's proposal is in its rebuttal;

It "may" be impossible to use BellSouth's model to account for Joint Movants costs without altering their provisioning of collocation.

Mr. Turner's proposal would require the ILECs to worry about more than one model in all their respective states; and

"If" the BellSouth model can not be altered to properly account for Joint Movants' costs then it may not be used to set rates for Joint Movants.

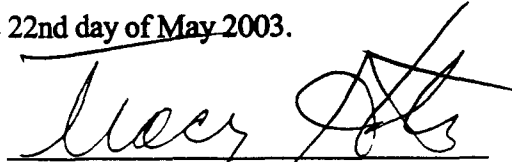
Each of Joint Movants arguments set forth above reflects unsubstantiated allegations as to the merits of Mr. Turner's testimony. Such allegation may be appropriate as surrebuttal testimony or in a brief based on the record yet to be compiled but they are not an appropriate basis upon which to base a motion to strike testimony.

Finally, Joint Movants get to the essence of their pleading and ask that the Commission "confirm that the scope of this proceeding is limited to considering the three ILEC cost studies, as contemplated from the outset of this proceeding" and accordingly strike Mr. Turner's testimony. As noted above, the scope of the proceeding is set forth in Order No. 02-1513. There is no limite as suggested by the Joint Movants in the Order. Nor can any such limitation be implied from the Order. The scope of the proceeding and the identified issues is clear. There is no limit to confirm. The Joint Movants' attempt to now limit the scope is inappropriate. For the Commission to limit the scope would constitute a substantive denial of

due process because it would be precluding the introduction and consideration of evidence directly relevant to the Joint Movants direct testimony that is offered in opposition to Joint Movants proffered evidence. For all the reasons discussed above, Joint Movants Motion to Strike must be denied.

Joint Movants alternative request for an extension of six months to file surrebuttal testimony is inappropriate and should be denied. Joint Movants claim that the additional time is needed to conduct discovery on BellSouth and AT&T to adequately prepare surrebuttal testimony. First, six months is far more than was allowed for AT&T to analyze and respond to the three ILEC models filed February 4, 2003. Second, Joint Movants have had BellSouth's cost model for as long as AT&T and have had the same opportunities to analyze the model and conduct discovery. Third, Joint Movants have had Mr. Turner's testimony since April 18, 2003. Since that time Verizon has served numerous discovery requests on AT&T directed to Mr. Turner's testimony. Sprint has also served discovery requests on AT&T regarding the testimony of Mr. Turner. After more than a month since receiving Mr. Turner's testimony, neither Joint Movant has yet served the first discovery request on BellSouth. This alone belies Joint Movants argument that discovery on BellSouth is critical to Joint Movants. The lack of action on the part of the Joint Movants in availing themselves of the discovery that they claim they need is alone sufficient to deny the request for extension. More importantly however, the Commission's calendar will shortly be tremendously affected by activities flowing from both the state and federal level. It is very likely that any extension granted here will likely result in a delay in this proceeding of far more than six months. For the foregoing reasons, the Motion for Extension of time should be denied.

RESPECTFULLY SUBMITTED this 22nd day of May 2003.

A handwritten signature in black ink, appearing to read "Tracy Hatch", written over a horizontal line.

TRACY W. HATCH, ESQ.
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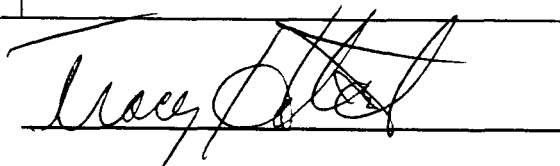
Attorney for AT&T Communications of the
Southern States, LLC

**CERTIFICATE OF SERVICE
DOCKET NOS. 981834 & 990321**

I HEREBY CERTIFY that a copy of the foregoing has been furnished via
U.S. Mail this 22nd day of May, 2003, to the following parties of record:

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