



June 27, 2003

Ms. Blanca Bayó, Director
Division of the Commission Clerk
& Administrative Services
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

via Overnight Mail

COMMISSION
CLERK

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Re: Docket No. 981834-TP – Petition of Competitive Carriers for Commission action to support local competition in BellSouth Telecommunications, Inc.'s service territory

Re: Docket No. 990321-TP - Petition of ACI Corp. d/b/a Accelerated Connections, Inc. for generic investigation to insure that BellSouth Telecommunications, Inc., Sprint-Florida, Inc., and GTE Florida, inc. comply with obligation to provide alternative local exchange carriers with flexible, timely and cost-efficient physical collocation

Dear Ms. Bayó,

Please find enclosed for filing in the above dockets an original and seven (7) copies of Florida Digital Network, Inc. d/b/a FDN Communications' Prehearing Statement.

If you have any questions regarding this request, please call me at 407-835-0460.

Sincerely,

Matthew Feil
FDN Communications
General Counsel

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COMMISSION CLERK

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

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)
provide alternative local exchange)
carriers with flexible, timely, and cost-efficient)
physical collocation)
_____)

Docket No. 990321-TP

PREHEARING STATEMENT OF FLORIDA DIGITAL NETWORK, INC.
d/b/a FDN COMMUNICATIONS

Pursuant to Order No. PSC-02-1513-PCO-TP, issued November 4, 2002, as subsequently amended ("Order on Procedure"),¹ Florida Digital Network, Inc., d/b/a FDN Communications ("FDN") hereby files its Prehearing Statement in the captioned dockets as follows:

A. Known Witnesses

FDN has not prefiled testimony for Issues 1 – 8 as identified in the Order on Procedure for this phase of these dockets. At this time, FDN does reserve the right to call agents, officers and employees of BellSouth Telecommunications, Inc., ("BellSouth"),

¹ By Order No. PSC-03-0702-FOF-TP, issued June 11, 2003, the Commission approved the parties' agreement to proceed with the current hearing schedule for Issues 1 through 8, as identified in the Order on Procedure, and to reschedule proceedings as to Issues 9 through 10. Since separate a separate Prehearing Conference and Prehearing Statements are scheduled for Issues 9 through 10, this Prehearing Statement addresses only Issues Nos. 1 through 8.

Verizon Florida, Inc. (“Verizon”) and Sprint-Florida, Inc. (“Sprint”) as adverse party witnesses, pending review of the parties’ prehearing statements, rebuttal testimony and depositions, if any, and FDN reserves its right to cross examine the witnesses of any other party.

B. Known Exhibits

FDN did not prefile any exhibits for Issues 1 – 8 as identified in the Order on Procedure for this phase of these dockets. However, FDN reserves the right to identify and introduce additional exhibits during cross-examination of other parties’ witnesses and re-direct of its own, if any, and, to the extent permitted by Commission rules and the Florida Rules of Civil Procedure, to identify and introduce the depositions of other parties’ agents, officers and employees.

C. Statement of Basic Position

The Commission should require the ILECs to modify their collocation billing and other practices consistent with the recommendations of the ALECs in this phase of the proceeding. In particular, to promote competition and industry consolidation, the Commission should find that ALECs have the right to sell collocation assets, rights and interests to other ALECs without undue or unreasonable interference from ILECs. Further, the Commission should specify that where collocation power is not metered, the ILEC must not bill for a redundant power feed (back-up feed or B feed) the same way it bills for a primary power feed (A feed) because doing so causes the ALEC to pay for twice the amount of power that the collocated equipment can actually draw.

D – F. Statement of Issues and Positions

Below is a list of issues, as identified in the Commission's Order on Procedure and FDN's tentative positions on those issues.

ISSUE 1A: When should an ALEC be required to remit payment for non-recurring charges for collocation space?

FDN: Agree with AT&T witness King's prefiled as applied to all three ILECs.

ISSUE 1B: When should billing of monthly recurring charges begin?

FDN: Agree with AT&T witness King's prefiled as applied to all three ILECs.

ISSUE 1C: What cancellation charges should apply if an ALEC cancels its request for collocation space?

FDN: Agree with AT&T witness King's prefiled as applied to all three ILECs.

ISSUE 2A: Should an ALEC be required to justify its space reservation needs to the ILEC when an ILEC is forced to consider a building addition to accommodate future space requirements?

FDN: Agree with AT&T witness King's prefiled as applied to all three ILECs.

ISSUE 2B: Under what conditions should an ILEC be allowed to reclaim unused collocation space?

FDN: Agree with AT&T witness King's prefiled as applied to all three ILECs.

ISSUE 2C: What obligations, if any, should be placed on the ALEC that contracted for the space?

FDN: Agree with AT&T witness King's prefiled as applied to all three ILECs.

ISSUE 2D: What obligations, if any, should be placed on the ILEC?

FDN: Agree with AT&T witness King's prefiled as applied to all three ILECs.

ISSUE 3: Should an ALEC have the option to transfer accepted collocation space to another ALEC? If so, what are the responsibilities of the ILEC and ALECs.

FDN: Yes. ALECs should be able to sell collocation assets, rights and interests to other ALECs without undue or unreasonable interference, or excessive charges, from the ILECs. To promote competition, the Commission must preserve and promote this right of ALECs; for if the ALECs' abilities are here impeded, industry consolidation, long-term sustainability, and competition are jeopardized. Since several issues associated with an ALEC sale is the subject of another pending docket, Docket No. 030301, the Commission should uphold the afore stated principles in this case while carefully not prejudging the merits of the other case.

ISSUE 4: Should the ILEC be required to provide copper entrance facilities within the context of a collocation inside the central office?

FDN: Yes.

ISSUE 5: Should an ILEC be required to offer, at a minimum, power in standardized increments? If so, what should the standardized power increments be?

FDN: Agree with AT&T witness King's prefiled as applied to all three ILECs.

ISSUE 6A: Should an ILEC's per ampere (amp) rate for the provisioning of DC power to an ALEC's collocation space apply to amps used or fused capacity?

FDN: Metering actual use should be an available option, where metering is technically and economically feasible. In the absence of metering, the rate should be based on amps used.

ISSUE 6B: If power is charged on a per-amp-used basis or on a fused capacity basis, how should the charge be calculated and applied?

FDN: ALECs should have the option of having power metered such that the ALEC is charged on actual power use. Where power is not metered, the ILEC must not be permitted to bill for a redundant power feed (back-up feed or B feed) the same way that the ILEC bills for a primary power feed (A feed) because this will cause the ALEC to pay for twice the power that the collocated equipment can actually draw and results in the ILEC significantly over collecting.

ISSUE 6C: When should an ILEC be allowed to begin billing an ALEC for power?

FDN: Agree with AT&T witness King's prefiled as applied to all three ILECs.

ISSUE 7: Should an ALEC have the option of an AC power feed to its collocation space?

FDN: Yes.

ISSUE 8: What are the responsibilities of the ILEC, if any, when an ALEC requests collocation space at a remote terminal where space is not available or space is nearing exhaustion?

FDN: Agree with AT&T witness King's prefiled as applied to all three ILECs.

G. Stipulated Issues

FDN is unaware of any stipulated issues at the time of serving this filing.

H. Pending Motions

FDN has no pending motions at the time of serving this filing.

I. Pending Confidentiality Issues

FDN is not aware of any pending confidentiality issues raised by FDN at the time of serving this filing.

J. Order Establishing Procedure Requirements

To FDN's knowledge, at the time of serving this filing, there are no requirements of the Order on Procedure that cannot be complied with.

K. Decisions or Pending Decisions

At the time of serving this filing, FDN is not aware of any decision or pending FCC or court decision that has or may preempt or otherwise impact the Commission's ability to resolve any of the above issues.

L. Objections to Expert Qualifications

Witnesses in this proceeding may have rendered opinions on what may be considered legal issues. In the past, the Commission has permitted non-lawyers to render opinions on legal matters, but the Commission has typically not accepted such opinions as those of legal experts. If the Commission accepts the legal opinions of these non-lawyers as expert legal opinions, then FDN would reserve its right to conduct voir dire of those witnesses as to those legal opinions. Otherwise, FDN would reserve its right to conduct cross examination of the witnesses on their opinions.

RESPECTFULLY SUBMITTED, this 27 day of June, 2003.



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(407) 835-0460

CERTIFICATE OF SERVICE
Docket No. 981834-TP and 990321-TP

I hereby certify that a copy of the foregoing was sent by e-mail and regular mail to the persons listed below, other than those marked with an (*) who have been sent a copy via overnight mail, this 27th day of June, 2003.

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