

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
ORDER NO. PSC-03-0894-PHO-TP
ISSUED: August 4, 2003

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code, a Prehearing Conference was held on July 14, 2003, in Tallahassee, Florida, before Commissioner J. Terry Deason, as Prehearing Officer.

APPEARANCES:

Nancy B. White, Esquire, and James Meza III, Esquire, c/o Nancy Sims, 150 South Monroe Street, Suite 400; Tallahassee, Florida 32301; and R. Douglas Lackey, Esquire, and J. Phillip Carver, Esquire, 675 W. Peachtree Street, NE, Suite 4300, Atlanta, Georgia 30375

On behalf of BellSouth Telecommunications, Inc. (BST).

Susan S. Masterton, Esquire, P.O. Box 2214, Tallahassee, Florida 32316-2214

On behalf of Sprint-Florida, Incorporated and Sprint Communications Company Limited Partnership (Sprint).

Catherine Kane Ronis, Esquire, and Daniel McCuaig, Esquire, Wilmer Cutler & Pickering, 2445 M Street, NW, Washington, DC 20037-1420; and Richard A. Chapkis, Esquire, One Tampa City Center, 201 North Franklin Street, Tampa, Florida 33601

On behalf of Verizon Florida, Inc. (Verizon).

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

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On behalf of AT&T Communications of the Southern States, LLC
(AT&T).¹

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TCG South Florida, Inc., and DIECA Communications, Inc. d/b/a
COVAD Communications Company (COVAD).

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On behalf of Florida Digital Network (FDN).

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Tallahassee, Florida 32302-1876; and Nanette S. Edwards,
Esquire, 4092 S. Memorial Parkway, Huntsville, Alabama 35802
On behalf of ITC^DeltaCom Communications, Inc. (ITC).

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Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
On behalf of the Commission.

¹A Joint Prehearing Statement was filed by AT&T Communications of the Southern States, LLC (AT&T), TCG South Florida, Inc., and DIECA Communications, Inc. d/b/a COVAD Communications Company and is hereinafter referred to as "AT&T/COVAD".

PREHEARING ORDER

I. CONDUCT OF PROCEEDINGS

Pursuant to Rule 28-106.211, Florida Administrative Code, this Order is issued to prevent delay and to promote the just, speedy, and inexpensive determination of all aspects of this case.

II. CASE BACKGROUND

By Proposed Agency Action Order No. PSC-99-1744-PAA-TP, issued September 7, 1999, we adopted a set of procedures and guidelines for collocation, focused largely on those situations in which an incumbent local exchange company (ILEC) believes there is no space for physical collocation. The guidelines addressed: A. initial response times to requests for collocation space; B. application fees; C. central office tours; D. petitions for waiver from the collocation requirements; E. post-tour reports; F. disposition of the petitions for waiver; G. extensions of time; and H. collocation provisioning time frames.

On September 28, 1999, BellSouth filed 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. Commission staff conducted a conference call on October 6, 1999, with all of the parties to discuss the motions filed by BellSouth and Rhythms, and to formulate additional issues for the generic proceeding to address the protested portions of Order No. PSC-99-1744-PAA-TP. By Order No. PSC-99-2393-FOF-TP, issued December 7, 1999, we approved proposed stipulations resulting from that call and identified the portions of the protested Order that could go into effect by operation of law.

Thereafter, we conducted an administrative hearing to address collocation issues beyond the issues addressed in the approved collocation guidelines. By Order No. PSC-00-0941-FOF-TP, issued May 11, 2000, we rendered our post-hearing decision on these additional issues. Therein, we addressed the following: 1) ILEC responses to an application for collocation; 2) the applicability of the term "premises"; 3) ILEC obligations regarding "off-

premises" collocation; 4) the conversion of virtual to physical collocation; 5) response and implementation intervals for changes to existing space; 6) the division of responsibilities between ILECs and collocators for sharing and subleasing space between collocators and for cross-connects between collocators; 7) the provisioning interval for cageless collocation; 8) the demarcation point between ILEC and ALEC facilities; 9) the parameters for reserving space for future use; 10) whether generic parameters may be established for the use of administrative space; 11) equipment obligations; 12) the timing and detail of price quotes; 13) ALEC participation in price quote development; 14) the use of ILEC-certified contractors by ALECs; 15) the automatic extension of provisioning intervals; 16) allocation of costs between multiple carriers; 17) the provision of information regarding limited space availability; 18) the provision of information regarding post-waiver space availability; 19) forecasting requirements for CO expansions and additions; and 20) the application of the FCC's "first-come, first-served" Rule upon denial of waiver or modifications.

On May 26, 2000, Verizon filed a Petition for Reconsideration. BellSouth and Sprint also filed separate Motions for Reconsideration and Clarification of the Commission's Order. On June 7, 2000, Sprint filed its Response to Verizon and BellSouth's Motions for Reconsideration. BellSouth also filed its Response to Sprint's Motion for Reconsideration and/or Clarification. MCI/WorldCom and Rhythms Links also filed timely Responses to all three Motions for Reconsideration. In addition, that same day FCCA and AT&T filed a Joint Response to the Motions for Reconsideration and a Cross-Motion for Reconsideration. On June 14, 2000, BellSouth filed its Response to FCCA and AT&T's Cross-Motion for Reconsideration. By Order No. PSC-00-2190-PCO-TP, issued November 17, 2000, the various motions for reconsideration and/or clarification were addressed by the Commission. By that Order, 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.

By Order No. PSC-02-1513-PCO-TP, issued November 4, 2002, the procedural schedule and hearing dates were established for this phase of this proceeding in which we will address the remaining technical and pricing issues regarding collocation. On February 7,

2003, the Commission Staff filed a Motion to Revise Order Establishing Procedure.

By Order No. PSC-03-288-PCO-TP, issued March, 4 2003, Staff's Motion to Revise Order Establishing Procedure was granted. On May 15, 2003, pursuant to Rules 1.160 and 1.280 of the Florida Rules of Civil Procedure and Rule 28-106.204, Florida Administrative Code, Verizon and Sprint (Joint Movants) filed an Emergency Joint Motion to Strike, or in the Alternative for an Extension of Time (Joint Motion). By Order No. PSC-03-0702-FOF-TP, issued June 11, 2003 we approved the agreement reached between the parties and the our staff to resolve the Joint Motion to Strike, or in the Alternative Grant an Extension of Time. By Order No. PSC-03-0776-PCO-TP, issued July 1, 2003, the procedural schedule was modified to reflect the agreement reached between the parties and our staff.

III. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

A. Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the Commission and the parties as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending a formal ruling on such request by the Commission, or upon the return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been used in the proceeding, it shall be returned expeditiously to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of the proceeding, it shall be returned to the person providing the information within the time periods set forth in Section 364.183, Florida Statutes.

B. It is the policy of the Florida Public Service Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 364.183, Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding.

1. Any party intending to utilize confidential documents at hearing for which no ruling has been made, must be prepared to

present their justifications at hearing, so that a ruling can be made at hearing.

2. In the event it becomes necessary to use confidential information during the hearing, the following procedures will be observed:

- a) Any party wishing to use any proprietary confidential business information, as that term is defined in Section 364.183, Florida Statutes, shall notify the Prehearing Officer and all parties of record by the time of the Prehearing Conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. The notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute.
- b) Failure of any party to comply with 1) above shall be grounds to deny the party the opportunity to present evidence which is proprietary confidential business information.
- c) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the Court Reporter, in envelopes clearly marked with the nature of the contents. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
- d) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise the confidential information. Therefore, confidential information should be presented by written exhibit when reasonably possible to do so.

- e) At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the Court Reporter shall be retained in the Division of the Commission Clerk and Administrative Services's confidential files. -

IV. POST-HEARING PROCEDURES

Each party shall file a post-hearing statement of issues and positions. A summary of each position of no more than 50 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of the prehearing order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 50 words, it must be reduced to no more than 50 words. If a party fails to file a post-hearing statement, that party shall have waived all issues and may be dismissed from the proceeding.

Pursuant to Rule 28-106.215, Florida Administrative Code, a party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 40 pages, and shall be filed at the same time.

V. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of all witnesses to be sponsored by the parties and Staff has been prefiled. All testimony which has been prefiled in this case will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to appropriate objections. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Summaries of testimony shall be limited to five minutes. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. After all parties and Staff have had the opportunity to object and cross-examine, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer.

The Commission frequently administers the testimonial oath to more than one witness at a time. Therefore, when a witness takes the stand to testify, the attorney calling the witness is directed to ask the witness to affirm whether he or she has been sworn.

VI. ORDER OF WITNESSES

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct and Rebuttal</u>		
A. Wayne Gray	BST	1A, 1B, 1C, 2A, 2B, 2C, 2D, 3
W. Keith Milner	BST	4, 5, 6A, 6B, 6C, 7, 8
Edward Fox	Sprint	1A, 1B, 2A, 2B, 2C, 2D, 3, 4, 6A, 7, 8
Jimmy R. Davis	Sprint	1A, 1B, 1C, 5, 6A, 6B, 6C
Charles Bailey ²	Verizon	1, 2, 3, 4, 5, 6, 7, 8
Jeff King	AT&T	1, 2, 3, 4, 5, 6, 7, 8

VII. BASIC POSITIONS

BST: The Commission should adopt each of the practices, terms and conditions regarding collocation that are described below in BellSouth's positions on the issues. BellSouth's positions are consistent with the FCC's Rules

²Witness Bailey is adopting the Direct and Rebuttal Testimony of Mr. John Ries filed on December 19, 2002 and January 21, 2003 respectively.

and Orders regarding collocation. These positions are both technically feasible and reasonable, and they will allow for collocation in a manner that is fair both to ILECs and ALECs.

SPRINT: Sprint is both an ILEC and an ALEC in Florida. Sprint's positions on the issues in this proceeding reflect a balance of the needs of ALECs and the legitimate concerns of ILECs relating to collocation implementation and cost recovery. Sprint's positions on the individually numbered issues in this docket are consistent with the Telecommunications Act of 1996 (the "Act") and the pertinent rulings of the Federal Communications Commission ("FCC") and this Commission. Each of Sprint's positions should be adopted by this Commission.

VERIZON: The purpose of this portion of this proceeding is to determine the appropriate terms and conditions that should govern the provision of collocation in Florida. Verizon's intrastate collocation tariff, which reflects the Company's longstanding experience with both interstate and intrastate collocation arrangements, has been in effect for approximately three years. Indeed, Verizon has provisioned over 250 collocation arrangements in Florida. Verizon has submitted extensive direct and rebuttal testimony and related exhibits and documentation supporting its collocation tariff and demonstrating why the opposing parties' criticisms of that tariff are meritless.

The Commission should therefore adopt the terms and conditions set forth in Verizon's intrastate collocation tariff.

AT&T/COVAD:

Collocation of CLEC facilities in ILEC central offices is an essential prerequisite to facilities-based entry into the local market. It is absolutely critical that collocation be provided on a timely, efficient and economic basis. The Commission should adopt the practices, terms and conditions described below by the Joint CLECs regarding the recurring and non-recurring charges for collocation space, cancellation of

collocation space, space reservation and reclamation, transfer of collocation space, copper entrance facilities, and the provision of electric power to collocation space. The Joint CLEC's positions are the most appropriate in fulfilling the Commission's mandate to foster competition in the local exchange market. -

FDN: 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.

ITC: Agree with AT&T's position.

SUPRA: *(Did not file Prehearing Statement.)*

STAFF: Staff's witness recommends an appropriate methodology for provisioning DC power to a CLEC's collocation space and the calculation and application of recurring and non-recurring power charges.

Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions stated herein.

VIII. ISSUES AND POSITIONS

(Parties and Staff are in discussions regarding proposed stipulations of those issues preceded by an asterisk (*).)

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

POSITIONS:

BST: BellSouth currently assesses nonrecurring charges for application fees, bona fide firm orders, cable installation, cable records, security access administration, access card or key replacement, a space availability report, and security escort service. Payment of these charges should be rendered promptly after billing by the ILEC. ALECs should be billed for application fees when the ILEC provides an Application Response. Non-recurring fees associated with the bona fide firm order, cable installation, cable records, and security access administration should be billed at the time the ALEC submits its bona fide order. Billing for the replacement of a security access card or key, the provision of space availability reports and/or security escort service should occur after the ILEC has provided the requested product or service to the ALEC.

SPRINT: The ALEC should pay the non-recurring application fee and space report fee up front. The ALEC should be required to remit 50% of the nonrecurring charges for all remaining elements at the time the firm order is placed and 50% upon acceptance of the collocation arrangement.

VERIZON: Once Verizon has confirmed that it will be able to satisfy an ALEC's collocation request, the ALEC should be required to remit payment of 50 percent of the non-recurring charges associated with the proposed collocation arrangement. Having the ALEC pay a portion of the nonrecurring charges up front ensures that the ALEC is committed to proceed with the requested collocation, and covers a portion of Verizon's upfront costs to prepare the space for collocation. The ALEC should be required to remit the remaining fifty percent

of the non-recurring charges at the time the collocation space is turned over to the ALEC.

AT&T/COVAD:

There are generally 3 categories of non-recurring charges associated with collocation space: (1) Application Fee; (2) Space Preparation - Firm Order Processing and (3) Other.

- (1) The non-recurring Application Fee should be billed within a 30-day billing cycle of the date which the ILEC notifies the CLEC of space availability.
- (2) The non-recurring charge for processing the firm order for collocation space preparation is billed within a 30-day billing cycle of the date which the ILEC confirms the CLEC's Firm Order for collocation.
- (3) The non-recurring charges for Other (e.g., Cable Installation, Cross-Connects, etc) are billed within a 30-day billing cycle of the date that the CLEC has accepted the requested collocation UNE (i.e., the date the CLEC has tested and interconnected its facilities to the ILEC).

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

ITC: Agree with AT&T's position.

STAFF: Staff has no position at this time.

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

POSITIONS:

BST: If an ALEC conducts an acceptance walk-through of the collocation space within 15 days of the Space Ready Date, the billing of monthly recurring charges should begin on

the date that the ALEC accepts the space. If an ALEC does not conduct an acceptance walk-through within a fifteen calendar day period, monthly recurring charges should begin on the Space Ready Date.

SPRINT: Billing of monthly recurring charges should begin at the earlier of either acceptance of the collocation space by the ALEC or 15 days after the ILEC notifies the ALEC that their space is ready for use.

VERIZON: Billing of monthly recurring charges should begin in the next billing cycle after the collocation space is turned over to the ALEC.

AT&T/COVAD:

Once the CLEC accepts the collocation space (i.e., cage acceptance) from the ILEC, the ILEC should bill the CLEC within a thirty (30) day billing cycle for the floor space. The remaining monthly recurring charges should be billed within a thirty (30) day billing cycle after the CLEC installs its equipment, tests and interconnects its equipment to the ILEC interoffice facilities and is provided power.

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

ITC: Agree with AT&T's position.

STAFF: Staff has no position at this time.

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

POSITIONS:

BST: If an ALEC cancels its order after the Bona Fide Firm Order, but prior to the date monthly recurring charges commence, cancellation charges should apply for any non-recoverable cost incurred by the ILEC for the work performed up to the date that the ALEC's written notice of cancellation is received and acknowledged by the ILEC.

SPRINT: Sprint interprets the term "cancellation" to include situations in which an ALEC cancels a request for space prior to acceptance and situations in which an ALEC withdraws from (i.e. "decommissions") a completed, accepted collocation agreement. When an ALEC cancels a request for collocation space prior to completion, the ALEC should reimburse the ILEC for any actual expenses incurred and not already paid. When an ALEC decommissions the use of collocation space, the ALEC should submit a new application requesting the decommissioning, along with the remittance of the appropriate application and project management fees.

VERIZON: Verizon does not assess "cancellation charges" when an ALEC cancels a collocation request. Rather, depending on when the ALEC cancels its request, Verizon bills the ALEC for the costs Verizon has incurred in responding to the ALEC's collocation request. If the ALEC cancels its request when construction is in progress and prior to the ALEC's acceptance of the collocation space, Verizon retains the engineering and space augmentation fees submitted with the collocation application and assesses any other non-recurring charges necessary to cover Verizon's costs incurred on the project. As Verizon clarified in rebuttal testimony in response to concerns raised by AT&T, with respect to the space augmentation charge, Verizon will reimburse the ALEC for the portion of the 50 percent deposit that has not been used by Verizon, but Verizon should be entitled to keep that portion of the deposit that necessary to cover the expenses Verizon has in fact incurred in responding to the ALEC's request. If the ALEC cancels the request after the collocation arrangement has been completed, Verizon also will assess the applicable monthly recurring charges, unless the ALEC has provided written notice of cancellation 30 days prior to the scheduled completion date.

AT&T/COVAD: There should not be a cancellation charge (i.e., a separate fee for cancellation) imposed on the CLEC when collocation space is cancelled. If the CLEC cancels its request for collocation space within 20 days after the

application has been submitted to the ILEC, the application fees should be fully refundable to the CLEC. If a collocation request is cancelled before the preparation of the space is complete, the CLEC should be entitled to a return of the portion of the amounts already paid attributable to the work that will not be done as a result of the cancellation. To the extent that the collocation is not complete, the ILEC still will recoup its costs for the work performed as well as the benefit of the preparation of the space already accomplished.

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

ITC: Agree with AT&T's position.

STAFF: Staff has no position at this time.

*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?

POSITIONS:

BST: Yes. When a central office is at or near space exhaust, any ALEC collocated in that central office should be required to justify the need for any reserved, unused space, and to provide a timeline for occupation of the space. If the ALEC cannot provide justification, then the space should be returned to the ILECs' available space inventory.

SPRINT: Yes. Floor space is a valuable resource and its availability impacts all parties. Both parties have responsibility for efficient use of space and each party must be required to justify its space reservation requirements when the reservation of space is affecting space availability. This situation includes the need for a building addition, as well as when the ILEC must deny subsequent collocation requests.

VERIZON: An ILEC should not be required to consider a building addition to accommodate existing collocation requests or future demand. When an ALEC has reserved collocation space in a central office that is at or near space exhaustion, and another party (either another ALEC or the ILEC) also requests space, the ALEC should be required to justify the space reservation by showing (1) how it intends to use the space, and (2) when it intends to begin using it. This showing is similar to the one Verizon must make under its intrastate collocation tariff (see section 19.5.1) when it requests a waiver of collocation requirements due to space exhaustion. Requiring ALECs to make such a showing will help to ensure the efficient use of the limited space available. No party appears to have challenged this requirement.

AT&T/COVAD:

If an ILEC desires to reclaim unused space from a CLEC, the ILEC should be required to notify the CLEC in possession of the space in writing, sufficient to enable the CLEC to make a reasonable judgment as to the necessity for the reclamation. The CLEC should be allowed the opportunity to verify the ILEC's need through a site survey or other reasonable means. After the ILEC has demonstrated an immediate need for space reclamation, a CLEC should then be required to show that it has need of the space within a reasonable amount of time.

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

ITC: Agree with AT&T's position.

STAFF: Staff has no position at this time.

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

POSITIONS:

BST: An ILEC should be allowed to reclaim reserved unused collocation space from an ALEC if at any time during the 18 month reservation period, the central office is at or

near space exhaustion, and the ALEC cannot justify its plans for utilizing the space within the reservation period.

SPRINT: The ILEC should be allowed to reclaim unused collocation space when, without the space, the ILEC is forced to consider a building addition or a major renovation and the ALEC cannot adequately justify its future need for the space within the 18-month reservation period.

VERIZON: Under Verizon's intrastate collocation tariff, the ALEC must begin installing collocation equipment (e.g., equipment necessary for interconnection or access to unbundled network elements) within a reasonable period of time, not to exceed six months, from the date the ALEC accepts the collocation arrangement. Verizon may reclaim any space that is not being utilized within this time. These practices should remain in effect because they (1) help to ensure the timely and efficient use of the limited space available and (2) prevent ALECs from warehousing space to keep other competitors out of the market -- two beneficial outcomes that the Commission emphasized in its May 2000 Collocation Order, Order No. PSC-00-0941-FOF-TP, at pages 54-55. The parties appear to be in general agreement on this issue, although AT&T believes that ALECs should be given eighteen months, as opposed to six months, to begin installing collocation equipment.

AT&T/COVAD: The condition that would allow an ILEC to reclaim unused collocation space is when the ILEC has determined that their central office floor space is completely exhausted, has demonstrated an immediate need for the deployment of equipment necessary to provide service for its local customers, and the CLEC has no demonstrated need for the space.

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

ITC: Agree with AT&T's position.

STAFF: Staff has no position at this time.

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

POSITIONS:

BST: When a central office is at or near exhaustion, ALECs should be required to justify the need for their space reservation by providing supporting documentation such as (but not limited to) demand forecasts that include supporting historical data and collocation equipment orders.

SPRINT: Consistent with the Commission's Generic Collocation Order, the ALEC should provide the ILECs with two-year forecasts, on an annual basis, to assist the ILECs in coplanning. If it is determined that space may be reclaimed, the ALEC should review its space requirements with the ILEC to attempt to come to mutual agreement on the reservation of space. If mutual agreement cannot be reached, then the parties should resolve the issue with the Commission through the dispute resolution process.

VERIZON: The obligations that should be placed on the ALEC are set forth in Verizon's intrastate tariff. Verizon's tariff requires that an ALEC begin to use its space within six months. It also provides that if there is not enough space to satisfy existing collocation requests, an ALEC may not house obsolete or unused equipment within its space and must document its plans for use of reserved space. These same obligations apply to Verizon in situations where space is exhausted. See Verizon Collocation Tariff § 19.5.1. These requirements are necessary to ensure the most efficient use of available space. No party has challenged these basic obligations.

AT&T/COVAD:

- 1) If the CLEC has future plans for their collocation space and provides written notification as such to the ILEC, then the ILEC has no authority to reclaim their collocation space.
- 2) If the CLEC has no future plans for the designated collocation space and provides written

documentation to the ILEC as such, then the ILEC should be allowed to reclaim the unused collocation space.

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

ITC: Agree with AT&T's position.

STAFF: Staff has no position at this time.

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

POSITIONS:

BST: When reclaiming space from ALECs in a central office that is at or near exhaustion, the ILEC should be obligated to notify all of the ALECs collocated in the central office that they must justify their space reservations, and provide the circumstances that necessitate this action. The ILEC should review documentation submitted by each ALEC as justification for its reserved unused space. Any space that an ALEC is unable to justify should be reclaimed and returned to the ILEC's available space inventory for reassignment.

SPRINT: Both parties should have similar obligations to justify space needs. The ILEC should justify the necessity of a building expansion or a major renovation. The ILEC should have the right, for good cause shown and upon 30 days prior notice to the ALEC, to request that the ALEC allow the ILEC to reclaim unused collocation space or any portion thereof in order for the ILEC to fulfill its common carrier obligations, to satisfy any order or rule of the commission or the FCC, or to fulfill the ILEC's carrier of last resort requirements. The party indicating the space reclamation process should be responsible for any costs incurred as a result of space reclamation.

VERIZON: The obligations that should be placed on the ILEC are also set forth in Verizon's intrastate tariff. The tariff provides that Verizon must justify and document

its existing use of space and its future needs for space before it may receive a waiver of collocation requirements at any particular site. See Verizon Collocation Tariff § 19.5.1. No party appears to have opposed these requirements.

AT&T/COVAD:

The ILEC must send formal written notification to the CLEC requesting reclamation of space. If the CLEC has no future plans for the collocation space, the ILEC can reclaim the space. Once the collocation space has been reclaimed, the ILEC must stop all monthly recurring billing charges to the CLEC and send formal notification to the CLEC of the stopped bill date.

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

ITC: Agree with AT&T's position.

STAFF: Staff has no position at this time.

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.

POSITIONS:

BST: An ALEC should be allowed to transfer collocation space to a second ALEC if the central office is not in space exhaust and the transfer of the collocation space is in conjunction with the ALECs' sale of in place collocation equipment to this second ALEC. If the central office is in space exhaust, an ALEC should only be allowed to transfer collocation space if the transfer is part of transfer of all (or substantially all) of the transferring ALECs' assets, and the Commission has approved the transfer in the space exhausted central office. This requirement is necessary to prevent ALECs from avoiding the space allocation procedures that would otherwise apply in a space exhaustion situation.

SPRINT: No. If the ALEC has accepted the space from the ILEC but is not going to use the space, the ALEC must relinquish that space and the ILEC will provide the space to the next ALEC on the waiting list for that site. If there is no waiting list, the ALEC should still relinquish to the ILEC any space it is not going to use. This approach prevents an ALEC from speculating in collocation space.

VERIZON: Although an ALEC should be permitted to sublease its collocation space to another party (pursuant to section 19.2.3 of Verizon's intrastate tariff), it should not be permitted to transfer the entire space to another ALEC once the contracting ALEC decides to vacate it. Verizon is responsible for the management and operation of its central offices, including collocation space, and a transfer of space to a third party without Verizon's input or knowledge would undermine Verizon's ability to control and maintain its premises.

In addition, requiring Verizon to permit ALECs to transfer space to each other would be directly contrary to the Commission's November 2000 ruling on post-waiver space availability, which allows ILECs to receive FCC waivers of physical collocation requirements where space is exhausted. Under the Commission's Order, ILECs must maintain waiting lists of ALECs that have been denied physical collocation for lack of space in a particular office. (See November 2000 Collocation Order at 20-21). Under this system, ALEC requests for space must be addressed in the order those requests are received, so that if space later becomes available, the first ALEC application received must be given the first opportunity to take the space. Allowing an ALEC to transfer space directly to another ALEC would circumvent the Commission's mandatory waiting list procedure, because the ALEC could transfer the newly available space to any other ALEC, regardless of its position on the ILEC's waiting list. For example, the ALEC could simply give the space to the highest bidder or use any other criterion it wished to allocate the space. This is exactly the kind of arbitrary and unfair result the Commission sought to prevent in its November 2000 Collocation Order. If the Commission considers allowing

direct ALEC-to-ALEC transfers of space, it will necessarily have to change its post-waiver space allocation policies.

AT&T/COVAD:

Yes. If a CLEC has accepted collocation space from an ILEC, and at that time, its requirements for collocation have changed, the CLEC should be allowed to transfer over this space to another CLEC that has expressed an interest. The contracted CLEC should submit an application for a collocation records change to the ILEC for said collocation space. The collocation provisioning intervals should not apply as the space has already been completed. Therefore, the CLEC should be granted immediate access to the designated collocation space.

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.

ITC:

Agree with AT&T's position.

STAFF:

Staff has no position at this time.

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

POSITIONS:

BST:

Generally, no. Consistent with the FCC's Rules in CC Dockets 96-98 and 91-141, ILECs are not required to accommodate requests for non-fiber optic facilities to be placed in the ILECs' entrance facilities unless the

Commission determines in a particular case that this placement is necessary.

SPRINT: Whether or not an ILEC provides copper entrance facilities within the context of a central office collocation should be at the discretion of the ILEC. -

VERIZON: No. ALECs should be permitted to bring fiber optic facilities into the ILEC's premises, but ILECs should not be forced to provide copper facilities to an ALEC. Copper facilities take up significantly more space within the ILEC manhole and conduit system than fiber facilities, and copper facilities cannot handle the same traffic volumes or bandwidth over a single fiber pair. Moreover, increasing conduit space to accommodate additional copper cable is a labor-intensive and costly exercise.³

In addition, copper entrance facilities, especially when maintained by ALECs without supervision by Verizon, present an increased safety risk. Copper cables are highly conductive and can convey foreign current and voltages into and through the central office. Fiber optic cables, in contrast, are non-conductive and therefore minimize the risks of electrocution, fire, and equipment failures.

AT&T/COVAD:

Yes. Copper technology, including copper entrance facilities, is still an integral part of the telecommunications industry. The ILECs still use copper technology within their networks to provide both basic and advanced services such as the ongoing deployment of DSL technology. A CLEC should be allowed the same opportunity to use copper plant within the context of a collocation inside the central office.

FDN: Yes.

³The sections of Verizon's intrastate tariff relating to this issue are 19.4.3.D and 19.4.3.E.

ITC: Yes.

STAFF: Staff has no position at this time.

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?

POSITIONS:

BST: Yes, an ILEC should be required to offer power in standardized increments. BellSouth proposes three options under which an ALEC may order power for its collocation space from BellSouth. First, an ALEC may request power from BellSouth's Battery Distribution Fuse Board ("BDFB") in all available power increments, which range from as low as 10 amps up to 100 amps. Second, the ALEC may install its own BDFB inside its collocation space in order to order power directly from BellSouth's main power board. A standard 225 amp power feed is required to connect the ALECs' BDFB to BellSouth's main power board. Third, the ALEC may install its own BDFB in its collocation space and request power from BellSouth's BDFB, again, in available power increments that range from 10 amps to 100 amps.

SPRINT: ILECs should offer power consumption on a load amp basis in single amp increments in an amount equal to what the ALEC orders. DC power connection charges can fairly and reasonably be offered in standardized increments. Sprint offers DC power cable connections for the fuse sizes of 30 amps and below, for fuse sizes between 36 and 60 amps, for fuse sizes between 70 and 100 amps, and for fuse sizes between 125 and 200 amps.

VERIZON: Verizon does not oppose allowing ALECs to order power in standardized increments, as long as ALECs order and maintain a specified minimum amperage. Verizon currently offers DC Power in per-amp increments, but requires a minimum of ten (10) amps for each ALEC arrangement. Ten amps is a reasonable minimum because a functioning collocation arrangement will require at least 10 amps of power. Moreover, the ten amp minimum requirement is

necessary for Verizon to recover its costs. First, power is not provisioned or grown at a single amp increment. Second, power rates must cover not only the costs specific to the particular arrangement (such as extending cabling from Verizon's power plant to a battery distribution fuse bay (BDFB); provisioning fusing; and extending cable to the collocation arrangement), but also the ongoing costs of maintaining and investing in power plant infrastructure adequate to satisfy collocators' needs. In sum, the minimum amperage requirement is consistent with the bulk nature of the costs of provisioning power, and it minimizes the threat of stranded investment.

AT&T/COVAD:

Power, as defined for purpose of charges "per amp", should be offered in one (1) amp increments. ILECs should be required to provision power in fuse size increments of 5, 10, 15, 20, 25, 30, 40, 50, 60, 70, 80, 90, 100, 120, 150, 180, 200, 225 amps, and above as available from the market. Fuse sizes of 70 amps or greater should be provisioned from the ILEC power distribution board if requested by the CLEC.

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

ITC: Agree with AT&T's position.

STAFF: Staff has no position at this time.

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?

POSITIONS:

BST: The per amp charge should apply to the fused capacity of the equipment an ALEC installs in its collocation space. BellSouth charges for DC power capacity based on the power requirements of the telecommunications equipment being served. Fuse type protection devices are sized at 1.5 times the anticipated drain to ensure that the

equipment can be operated at its full capacity without operating the protection device, while allowing the protection device to safely clear any false conditions that might occur. For purposes of billing, the recurring power rate assessed by BellSouth includes a 0.67 multiplier to reflect the fact that the ALEC would not normally use the full capacity of the protection device.

SPRINT: The most feasible method of billing for DC power consumption is to bill based on the amount of power the ALEC declares on its application that it needs to power its equipment in the collocation space. This ensures that the ILEC appropriately recovers its costs to provide the power requested by the ALEC. In addition, this approach equates to billing on the basis of amps "used" without the added cost for the ILEC to meter or otherwise estimate power usage on a monthly basis.

VERIZON: As set forth in Verizon's tariff, see section 19.4.2.C, the ILEC's per-amp rate should be based on what the ALEC orders. When an ALEC orders power, the ALEC must specify the load and the fused capacity (how much of a power spike the fuses should accommodate). Verizon charges for power on a per-load-amp basis, rather than charging for the total fused amps or a used amount. Because Verizon fuses each power feed based on the ALEC's application, if an ALEC abuses this pricing structure and consistently draws more power than it requested, Verizon should continue to have the ability to audit power usage and impose penalties for any abuses.⁴

AT&T/COVAD:
The ILEC's "per ampere" power rate should be based on the CLEC's actual usage.

⁴As Verizon explains in its Motion to Strike the testimony of Messrs. Turner and King, filed on June 25, 2003, AT&T has recently changed its position on this issue. In Mr. King's initial testimony, he agreed with Verizon's method of billing for DC power. For the reasons explained in Verizon's motion to strike, Verizon is not addressing AT&T's new proposal in this Prehearing Statement.

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.

ITC: Agree with AT&T's position. -

STAFF: Staff has no position at this time.

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?**

POSITIONS:

BST: The rate for DC power should be calculated and applied on a per-amp basis. The calculation of the charge by BellSouth should reflect the difference between fused capacity and rated capacity by using an adjustment factor of .67. This factor reflects the 1/1.5 relationship of fused capacity to rated capacity.

SPRINT: A monthly recurring charge representing the ILEC's cost to produce one load amp of DC power should be applied to load amps ordered. The cost of a load amp is comprised of two components: the cost of the DC power plant itself, including the cost of a generator for providing backup power and the cost of the commercial AC power, which is converted to DC power within the power plant.

VERIZON: As far as Verizon is concerned, the monthly recurring charge for DC Power should be calculated on a per-load-amp (as opposed to per-fused-amp) basis and should recover the following cost components: (1) investment in installed power plant infrastructure; (2) labor and material to extend cabling from power plant to Battery Distribution Fuse Bay (BDFB); (3) fuses and fuse panels on the BDFB; and (4) an allocated utility cost. The per-amp charge should be applied for each load amp ordered by the ALEC.

AT&T/COVAD:

Following cost-causation pricing principles and since the ILEC incurs its expense from its power supplier based on actual usage then the ILEC (as a secondary supplier of power) should charge its customers (i.e., CLECs) based on the actual amperage used by the CLEC's installed equipment. Any deviation, or attempt to charge on a "per fused" basis, introduces opportunities for significant over recovery of the ILEC's true cost.

There are two ways recommended, in priority order, to capture actual CLEC power usage: (1) metering and (2) using the List 1 Drain of installed equipment as provided by the equipment vendors adjusted downward appropriately to prevent over-recovery in the range of 50-67%.

The Joint CLECs believe the Commission should order the use of the adjusted List 1 Drain specifications as a suitable proxy for actual usage when determining collocation power charges if meters or measuring facilities are unavailable or not economically feasible at the PDB or BDFB, such as with virtual collocation.

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.

ITC:

Agree with AT&T's position.

STAFF:

Staff has no position at this time.

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

POSITIONS:

BST: Since DC power is assessed by BellSouth in recurring monthly charges, billing should begin as stated previously in response to Issue 1B. Specifically, if an ALEC conducts an acceptance walk-through of the collocation space within 15 calendar days of the Space Ready Date, monthly recurring charges should begin on the date the ALEC accepts the space. If the ALEC fails to conduct an acceptance walk-through within the 15 day period, then charges should begin on the Space Ready Date.

SPRINT: An ILEC should be allowed to begin billing an ALEC for power after acceptance of the collocation space, the same as for any other collocation element. On that date, the ALEC has the capability of drawing power. Beginning to bill at the time the space is accepted is consistent with how the costs have been incurred.

VERIZON: An ILEC should be permitted to begin billing the monthly recurring charges once the ALEC accepts the collocation space.

AT&T/COVAD: As also discussed in Issue 1B, a CLEC should be billed for power once power is being provided and used by the CLEC. Once equipment has been installed and activated by the CLEC the ILEC (or certified 3rd party representative) will perform a collocation site survey and record the metered power. Unless future augments occur to a collocation site metering surveys could occur quarterly.

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

ITC: Agree with AT&T's position.

STAFF: Staff has no position at this time.

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

POSITIONS:

BST: Yes, the ALEC should have the option of obtaining an AC power source in accordance with the requirements of the National Electric Code in those instances in which a local authority having jurisdiction permits this arrangement.

SPRINT: An ALEC should be allowed to use AC power only for equipment testing purposes.

VERIZON: No. Telecommunications equipment requires DC power, so the AC power from the electric utility must be converted into DC power to run the equipment. Although the ALEC may request additional AC power outlets to its collocation arrangement to operate various testing equipment or accommodate similar activities, the ALEC should not be permitted to request AC power feeds so that it can convert AC power to DC power within its collocation space.

AT&T/COVAD:

Yes, a CLEC should have the option of an AC power feed to its collocation space. This is essential to enable CLECs to place AC powered equipment in their collocation space. In addition, CLECs can also convert AC power to DC power if needed. Such conversion may also be more economical for a CLEC than purchasing DC power from the ILEC.

FDN: Yes.

ITC: Yes.

STAFF: Staff has no position at this time.

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?

POSITIONS:

BST: The ILEC should permit the collocation of any type of equipment necessary for interconnection to its network or for access to unbundled network elements in the provision of telecommunications services. If sufficient space exists within the DLC remote terminal, the ALEC should be allowed to collocate its equipment (including Digital Subscriber Line Access Multiplexer ("DSLAM") regardless of whether the ILEC has installed its own equipment at that remote terminal location. If sufficient space does not exist, and the ILEC has not installed its own DSLAM equipment at the DLC remote terminal location, then the ILEC should be allowed to deny the request and file a collocation waiver request with the Commission. If sufficient space does not exist within the DLC and the ILEC has installed its DSLAM equipment at that DLC remote terminal location, then the ILEC should take necessary action to augment the space so that the ALEC can install its own equipment, including a DSLAM, at the DLC remote terminal.

SPRINT: If Sprint owns or controls the property or easement upon which the remote terminal (RT) is collocated, the ALEC has the option of adjacent collocation. If space is not available on the property or easement, then the ALEC has the option to establish interconnection between the RT and an equipment location that the ALEC has separately procured.

VERIZON: The ILEC should not be required to construct additional space at a remote terminal to satisfy a collocation request. If there is no available space within the remote terminal, the ALEC should explore an adjacent solution, such as placing its own remote terminal adjacent to Verizon's terminal and establishing a network interface. This is the same procedure used to obtain collocation space at a central office.

AT&T/COVAD:

The ILEC should be responsible for notifying the CLEC community via its form of communications such as website postings or Carrier Notification Letters, of the remote terminal sites that are exhausted. For these sites pre-determined to be exhausted, the ILEC owes to the CLEC community, a plan of action as to when new construction of a remote terminal will be completed. If the ILEC has other plans in which to relieve the exhausted conditions of the remote terminal, again, the ILEC needs to provide notification to the CLEC's of those plans with time lines and dates of anticipated completion.

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

ITC: Agree with AT&T's position.

STAFF: Staff has no position at this time.

IX. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
<u>Direct</u>			
Bailey	Verizon	_____ ()	Direct Testimony of John Reis on behalf of Verizon Florida, Inc., filed December 19, 2002, and attached Exhibit No. JR-1
Bailey	Verizon	_____ ()	Rebuttal Testimony of John Reis on behalf of Verizon Florida, Inc., filed January 21, 2003

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
<u>Rebuttal</u>			
Davis	Sprint	_____ (JRD - 1)	Analysis of BellSouth's Fuse Amp Billing Versus Load Amp Billing

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

X. PROPOSED STIPULATIONS

The parties and staff are in discussions regarding proposed stipulations of issues 1A, 1B, 2A, 2B, 2C, 2D, and 6C.

XI. PENDING MOTIONS

None.

XII. PENDING CONFIDENTIALITY MATTERS

None.

XIII. DECISIONS THAT MAY IMPACT COMMISSION'S RESOLUTION OF ISSUES

Parties have stated in their prehearing statements that the following decisions have a potential impact on our decision in this proceeding:

Sprint:

1. *In the Matters of Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, First Report And Order, 14 FCC Rcd 476 1 (March 3 1,1999 Released)*
2. *In the Matters of Deployment of Wireline Services Offering Advanced Telecommunications Capability Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Order On Reconsideration, 15 FCC Rcd 17806 (August 10, 2000 Released)*

3. *In the Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability, Fourth Report And Order, 16 FCC Rcd 15435 (August 8, 2001 Released)*
4. *In the Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability, Order On Reconsideration Of Fourth Report And Order, And Fifth Report And Order, 17 FCC Rcd 16960 (September 4, 2002 Released)*
5. *GTE v. FCC, 205 F.3d 416 (D.C. Cir. 2000)*
6. *Verizon v. FCC, 292 F.3d 903 (D.C. Cir. 2002)*

Verizon: With the exception of the FCC's Report and Order and Further Notice of Proposed Rulemaking adopted on February 20, 2003, see Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; and Deployment of Wireline Services Offering Advanced Telecommunications Capability, Report and Order and Further Notice of Proposed Rulemaking, CC Docket Nos. 01-338, 96-98, and 98-147, Verizon is unaware of any decisions or pending decisions by the FCC or any Court that may preempt or impact the Commission's ability to resolve the issues presented or relief requested in this matter.

XIV. RULINGS

A. OPENING STATEMENTS

The parties have waived opening statements.

B. FDN'S NOTICE OF ADOPTION OF ITC^DELTACOM'S AND COVAD'S OBJECTIONS TO STAFF'S 1ST REQUEST FOR PODS (NO. 1), AND IF NECESSARY, MOTION TO ACCEPT LATE-FILED GENERAL OBJECTIONS FILED ON APRIL 4, 2003.

FDN's Motion to Accept Late-Filed General Objections is granted.

C. BELLSOUTH'S MOTION FOR EXTENSION OF TIME TO ANSWER INTERROGATORIES FILED ON APRIL 14, 2003.

BellSouth's Motion for Extension of Time to Answer Interrogatories is granted.

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D. AT&T'S MOTION FOR EXTENSION OF TIME TO RESPOND TO STAFF'S
1ST SET OF INTERROGATORIES FILED ON APRIL 18, 2003.

AT&T's Motion for Extension of Time is granted.

It is therefore,


ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

ORDERED that Florida Digital Network's Motion to Accept Late-Filed General Objections filed on April 4, 2003 is granted.

ORDERED that BellSouth Telecommunications, Inc.'s Motion for Extension of Time to Answer Interrogatories filed on April 14, 2003 is granted.

ORDERED that AT&T Communications of the Southern States, LLC's Motion for Extension of Time to Respond to Staff's 1st Set of Interrogatories filed on April 18, 2003 is granted.

By ORDER of Commissioner J. Terry Deason as Prehearing Officer, this 4th Day of August, 2003.



J. TERRY DEASON
Commissioner and Prehearing Officer

(S E A L)

BK/AJT/JPR

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.