

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

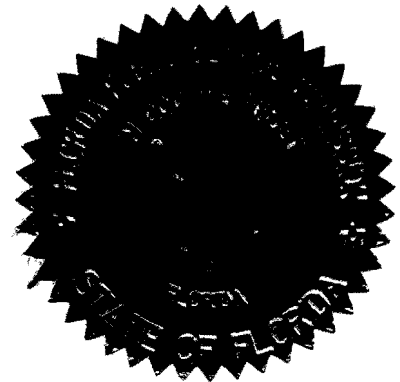
In the Matter of

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 TO PROVIDE
ALTERNATIVE LOCAL EXCHANGE CARRIERS
WITH FLEXIBLE, TIMELY, AND COST-
EFFICIENT PHYSICAL COLLOCATION.

DOCKET NO. 990321-TP



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THE .PDF VERSION INCLUDES PREFILED TESTIMONY.

PROCEEDINGS: PREHEARING CONFERENCE

BEFORE: J. TERRY DEASON,
 Prehearing Officer

DATE: Thursday, January 15, 2004

DOCUMENT NUMBER-DATE

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FLORIDA PUBLIC SERVICE COMMISSION

FPSC-COMMISSION CLERK

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TIME: Commenced at 9:30 a.m.
Concluded at 10:12 a.m.

PLACE: Betty Easley Conference Center
Room 152
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: JANE FAUROT, RPR
Chief, Office of Hearing Reporter Services
FPSC Division of Commission Clerk and
Administrative Services
(850) 413-6732

1 APPEARANCES:

2 PHILLIP CARVER, c/o Nancy H. Sims, BellSouth
3 Telecommunications, Inc., 150 South Monroe Street, Suite 400,
4 Tallahassee, Florida 32301-1556, appearing on behalf of
5 BellSouth Telecommunications, Inc.

6 GARY EARLY, ESQUIRE, and FLOYD SELF, Messer Law Firm,
7 P. O. Box 1876, Tallahassee, Florida 32302-1876 and TRACY W.
8 HATCH, ESQUIRE, 101 North Monroe Street, Suite 700,
9 Tallahassee, Florida 32302, appearing on behalf of AT&T/MCI.

10 SUSAN S. MASTERTON, ESQUIRE, Sprint Communications
11 Company Limited Partnership, P.O. Box 2214, MC: FLTLH00107,
12 Tallahassee, Florida 32316-2214, appearing on behalf of Sprint
13 Communications Company Limited Partnership and Spring-Florida,
14 Incorporated.

15 DANIEL McCUAIG, Wilmer Law Firm, 2445 M Street, N.W.,
16 Washington, DC 20037-1420, appearing on behalf of Verizon
17 Florida, Inc.

18 SCOTT KASSMAN, ESQUIRE, 390 North Orange Avenue,
19 Suite 2000, Orlando, Florida 32801, appearing on behalf of
20 Florida Digital Network.

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1 APPEARANCES CONTINUED:

2
3 CHARLES E. WATKINS, ESQUIRE, 1230 Peachtree Street,
4 NE, 19th Floor, Atlanta, Georgia, appearing on behalf of COVAD
5 Communications Company.

6 ADAM J. TEITZMAN, ESQUIRE, BETH KEATING, ESQUIRE and
7 JASON RAJOS, ESQUIRE, FPSC Office of General Counsel, 2540
8 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850,
9 appearing of behalf of the Florida Public Service Commission
10 Staff.

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P R O C E E D I N G S

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2 COMMISSIONER DEASON: Call the prehearing conference
3 to order. Could I have the notice read, please.

4 MR. TEITZMAN: Pursuant to notice issued January
5 5th, 2004, this time and place has been set for a prehearing
6 conference in Docket Nos. 981834-TP and 990321-TP.

7 COMMISSIONER DEASON: Thank you. Appearances.

8 MS. MASTERTON: Susan Masterton representing Sprint.

9 MR. CARVER: Phillip Carver on behalf of BellSouth.

10 MR. EARLY: Gary Early on behalf of AT&T. And I
11 would also like to make an appearance on behalf of Floyd Self
12 with Messer, Caparello and Self; I'm also with Messer,
13 Caparello and Self; and Tracy Hatch with AT&T.

14 MR. WATKINS: Gene Watkins with COVAD Communications.

15 MR. McCUAIG: Dan McCuaig for Verizon. I'm with
16 Wilmer Cutler & Pickering.

17 MR. KASSMAN: Scott Kassman representing FDN
18 Communications.

19 MR. TEITZMAN: Adam Teitzman, Beth Keating, and Jason
20 Rojas on behalf of the Florida Public Service Commission.

21 COMMISSIONER DEASON: Okay. Thank you. Preliminary
22 matters?

23 MR. TEITZMAN: Yes, Commissioner. Staff would like
24 to note that various motions for reconsideration and their
25 related responses have been filed addressing the final order

1 issued in the first phase of this proceeding, and that first
2 order covered the policy and technical issues. Staff is
3 currently reviewing these filings and intends to bring a
4 recommendation to a later scheduled agenda. Staff does note
5 further that disposition of the motions is not a necessary
6 precursor to the upcoming hearings on the remaining pricing
7 issue.

8 COMMISSIONER DEASON: Any questions concerning the
9 reconsideration matters? Very well. You may proceed.

10 MR. TEITZMAN: Staff would just note that the COVAD
11 motions that were still outstanding, an order has been signed
12 and that order will be sent to the parties via e-mail, and is
13 here for them if they need to take a look at that.

14 COMMISSIONER DEASON: This is concerning the
15 discovery, the motion to compel?

16 MR. TEITZMAN: Correct.

17 COMMISSIONER DEASON: Okay. Very well. Other
18 preliminary matters?

19 MR. TEITZMAN: Stipulated exhibits. As usual, staff
20 intends to offer a number of what we hope will be stipulated
21 exhibits. The exhibits will consist of the discovery staff has
22 conducted in the docket. As we discussed in the first phase
23 prehearing and hearing, because much of the subject matter of
24 this discovery crosses over between the issues taken up in
25 August and those which are taken up now, staff intends to offer

1 the same package of stipulated exhibits. Nonetheless, staff
2 will be providing a list to the parties of the exhibits it
3 intends to offer, and, of course, as always, we will work with
4 the parties to ensure that there is no confusion or any
5 disputes over those proposed exhibits.

6 COMMISSIONER DEASON: Any parties have any questions
7 concerning staff's proposed treatment of stipulated exhibits?
8 Very well.

9 Other preliminary matters?

10 MR. TEITZMAN: There are no other preliminary
11 matters, Commissioner.

12 COMMISSIONER DEASON: Do any of the parties have any
13 preliminary matters they need to bring forward at this time?

14 Hearing nothing, then we shall proceed.

15 I have the draft prehearing order in front of me. I
16 have two versions of that; one that I have reviewed, and then
17 an updated version. So bear with me, I may be referring back
18 and forth to some extent. Having said that, it is my intent to
19 proceed through the latest draft of the prehearing order. We
20 will do so in fairly rapid fashion. So if any of the parties
21 have any concerns, questions, clarifications, please speak up
22 and we will address those concerns accordingly.

23 Having said that, I will proceed section-by-section
24 through the draft prehearing order beginning with Section I,
25 the conduct of proceedings. Section II.

1 MR. TEITZMAN: Commissioner, if I may interrupt.
2 Mr. Early made an appearance this morning area, and I would
3 like to -- we are going to add him to the appearance section
4 with Tracy Hatch and Floyd Self.

5 COMMISSIONER DEASON: Very well. Section I, conduct
6 of proceedings. Section II, case background. Section III,
7 confidential information. Section IV, post-hearing procedures.
8 Section V, prefiled testimony and exhibits. And then Section
9 VI, the order of witnesses.

10 Mr. Teitzman, would it be beneficial to have some
11 time to address that with the parties or have you already
12 engaged in those discussions?

13 MR. TEITZMAN: We have had some preliminary
14 discussions, but I think possibly 15 or 20 minutes to discuss
15 it with the parties, including those on the phone would
16 certainly be beneficial to try to flesh out an order of
17 witnesses.

18 COMMISSIONER DEASON: Very well. That would probably
19 be helpful. We will stand in recess, give the parties an
20 opportunity to discuss that. We will reconvene at 10:00
21 o'clock.

22 (Recess.)

23 COMMISSIONER DEASON: Call the prehearing conference
24 back to order. Okay. Do we have a resolution on the order of
25 witnesses?

1 MR. TEITZMAN: Commissioner, yes, yes, we do. If you
2 would like, I can go through that order for you.

3 COMMISSIONER DEASON: Very well, that would be
4 helpful.

5 MR. TEITZMAN: All right. The first witness is
6 Edward Fox, and staff notes that the parties have agreed to
7 stipulate his testimony, and Sprint has requested that he be
8 excused. Staff would like to first check with the other
9 Commissioners to assure that they don't have questions for Mr.
10 Fox, but we will make a notation of that in the order.

11 COMMISSIONER DEASON: Very well. Please note that
12 accordingly.

13 MR. TEITZMAN: All right. Continuing with the order,
14 we have Vander Weide, Flesch, Murray, Lee, Lester, Shell,
15 Farrar, Davis, Ellis and Bailey, which are a Verizon panel,
16 Turner, Curry, and Gabel.

17 COMMISSIONER DEASON: Very well. Let me ask you a
18 question. The cost of capital witnesses, they are going to be
19 appearing, is that correct?

20 MR. TEITZMAN: We are still going to continue
21 discussion regarding those witnesses. We are close to a
22 possible stipulation of those witnesses, but at this point the
23 parties have not agreed.

24 COMMISSIONER DEASON: Very well.

25 MS. MASTERTON: I just wanted to make sure that I

1 was -- am I correct in my understanding that direct, and
2 rebuttal, and surrebuttal were all combined.

3 COMMISSIONER DEASON: Usually if there is not an
4 objection, that is what we do, and so I guess that is a fair
5 question. Is there any objection by any of the parties to
6 taking direct and rebuttal testimony simultaneously? Hearing
7 no objection -- staff, do you have any objection?

8 MR. TEITZMAN: Staff has no objections.

9 COMMISSIONER DEASON: Very well. Just make that
10 notation in the order, as well, so it is clear.

11 MR. TEITZMAN: We will do that.

12 COMMISSIONER DEASON: Okay. We can proceed then to
13 Section VII, basic positions. Section VIII, issues and
14 positions, we will proceed issue-by-issue. Issue 9A. Issue
15 9B. Issue 10.

16 We can proceed then to Section IX, the exhibit list.
17 I have just a few questions concerning the exhibit list, and
18 let me look at the updated draft and see if it has been
19 addressed. The question I have concerned the Verizon
20 witnesses, and it appears that the description is not much of a
21 description, it's just simply reciting the fact that it is an
22 exhibit attached to the prefiled testimony, and it is given a
23 notation with the initials and a number.

24 Usually it is our custom to have some brief
25 description of exactly what is contained in the exhibit. And I

1 guess the question is directed to Verizon. Is there any
2 particular reason why there were no descriptions offered in
3 addition to the general description contained in the draft?

4 MR. McCUAIG: No reason other than that hadn't been
5 our practice before. Certainly we can forward brief
6 descriptions to staff to include in a draft order, if they want
7 to do a second revised.

8 COMMISSIONER DEASON: Well, it is just helpful to me
9 when reviewing this to have a brief understanding of what
10 exhibits -- the subject matter of the exhibit, which makes it
11 helpful for reference purposes in reviewing and preparing for
12 the hearing. And part of the purpose of this order is to
13 provide assistance to Commissioners preparing for hearing.
14 Staff, is this something that can be incorporated into the
15 final order?

16 MR. TEITZMAN: Certainly, of course.

17 COMMISSIONER DEASON: Very well. Verizon, I assume
18 this is something that could be done. It would not take a
19 great deal of effort to provide a brief description to staff to
20 include, is that correct?

21 MR. McCUAIG: That is correct.

22 COMMISSIONER DEASON: Very well. Okay. We can
23 proceed then to Section X, proposed stipulations. There are no
24 proposed stipulations at this time, correct?

25 MR. TEITZMAN: That is correct.

1 COMMISSIONER DEASON: But obviously there is going to
2 be -- staff is endeavoring to get the parties to agree to their
3 stipulated exhibits, which I guess is more of a procedural
4 matter than it is an actual stipulation.

5 MR. TEITZMAN: Yes. Usually this would refer to a
6 stipulation of issues.

7 COMMISSIONER DEASON: Very well. We can proceed to
8 Section XI, pending motions.

9 MR. TEITZMAN: Commissioner, staff would note that
10 the motions listed in the draft, that an order has now been
11 issued. So we will be removing the COVAD motion to compel
12 BellSouth and Verizon from this list, and it will be replaced
13 with none.

14 COMMISSIONER DEASON: Very well. And Section XII,
15 pending confidentiality matters. There are none, is that
16 correct? Have all the confidential matters been addressed?

17 MR. TEITZMAN: Yes.

18 COMMISSIONER DEASON: And then Section XIII.
19 Section XIV, rulings. We need to address opening
20 statements, is that correct?

21 MR. TEITZMAN: Yes, Commissioner. The parties have
22 agreed to waive opening statements.

23 COMMISSIONER DEASON: Very well. Please make that
24 notation in the order.

25 MR. TEITZMAN: We will do so.

1 COMMISSIONER DEASON: That concludes the review of
2 the draft prehearing order. Are there any other final matters
3 which need to come before the prehearing officer at this time?

4 Mr. Carver, you have been very silent today. You
5 don't have anything?

6 MR. CARVER: Everything is just going along smoothly.
7 Nothing to contribute.

8 COMMISSIONER DEASON: Very well. I'm always glad to
9 hear that as a prehearing officer. Do any of the parties by
10 telephone connection have any final matters to bring before the
11 prehearing officer? Hearing none -- staff, you have nothing?

12 MR. TEITZMAN: Nothing.

13 COMMISSIONER DEASON: Well, thank you all. Let me
14 just say I appreciate the way that this matter has proceeded
15 thus far, and the cooperative attitude which I see is out
16 there. And we, hopefully, look forward to a productive and
17 efficient hearing.

18 Having said that, the prehearing conference is
19 adjourned.

20 MR. TEITZMAN: Thank you, Commissioner.

21 (The prehearing concluded at 10:12 a.m.)
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STATE OF FLORIDA)

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CERTIFICATE OF REPORTER

COUNTY OF LEON)

I, JANE FAUROT, RPR, Chief, Office of Hearing Reporter Services, FPSC Division of Commission Clerk and Administrative Services, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 16th day of January, 2004.



JANE FAUROT, RPR
Chief, Office of Hearing Reporter Services
FPSC Division of Commission Clerk and
Administrative Services
(850) 413-6732