

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: November 21, 2006

TO: Director, Division of the Commission Clerk & Administrative Services (Bayó)

FROM: Division of Competitive Markets & Enforcement (Buys)
Office of the General Counsel (Tan)

RE: Docket No. 060571-TL – Petition to change demarcation point specified in Rule 25-4.0345(1)(b), F.A.C., at commercial office building in Boca Raton, by BellSouth Telecommunications, Inc.

AGENDA: 12/05/06 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\CMP\WP\060571.RCM.DOC

Case Background

On August 24, 2006, BellSouth Telecommunications, Inc. (BellSouth) filed its petition requesting permission to change the point of demarcation specified in Rule 25-4.0345(1)(b), Florida Administrative Code (F.A.C.), for basic local service provided to tenants at the commercial office building located at 1601 Clint Moore Road in Boca Raton, Florida. The building is owned by Boca Raton Medical & Surgical Specialists, LLC (Boca Raton Medical). On July 17, 2006, the President of Boca Raton Medical, Dr. Nathan Nachlas, M.D., notified BellSouth that he desires to establish a single point of demarcation for all tenants' services at the building's Minimum Point of Entry (MPOE). Boca Raton Medical's preferred location of the demarcation point is not specified in Rule 25-4.0345(1)(b), F.A.C., causing BellSouth to seek

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Commission approval to establish the demarcation point at a location other than that specified in the rule.

On September 12, 2006, BellSouth filed an Amended Petition to Change the Demarcation Point. The amended petition clarified a scrivener's error in the original petition submitted on August 24, 2006.

The Commission is vested with jurisdiction over this matter pursuant to Sections 350.127(2), 364.01(4), and 364.03, Florida Statutes. Accordingly, staff believes the following recommendations are appropriate.

Discussion of Issues

Issue 1: Should the Commission approve the petition by BellSouth Telecommunications, Inc. to change the location of the demarcation point specified in Rule 25-4.0345(1)(b), Florida Administrative Code, for the provision of non-residential basic local service at the commercial office building located at 1601 Clint Moore Road in Boca Raton, Florida?

Recommendation: Yes, the Commission should approve the relocation of the demarcation point for the provision of non-residential basic local service to the commercial office building located at 1601 Clint Moore Road in Boca Raton, Florida, to a single point of demarcation as determined by the property owner for all tenants' services at the office building. **(Buys, Tan)**

Staff Analysis: Rule 25-4.0345, Customer Premises Equipment and Inside Wire, F.A.C., requires a local exchange company to provide and maintain the network facilities up to and including the demarcation point at each individual customer's premises. Specifically, Rule 25-4.0345(1)(b), F.A.C., states:

(b) "Demarcation Point." The point of physical interconnection (connecting block, terminal strip, jack, protector, optical network interface, or remote isolation device) between the telephone network and the customer's premises wiring. *Unless otherwise ordered by the Commission for good cause shown*, the location of this point is:

1. Single Line/Single Customer Building -- Either at the point of physical entry to the building or a junction point as close as practicable to the point of entry.
 2. Single Line/Multi Customer Building -- Within the customer's premises at a point easily accessed by the customer.
 3. Multi Line Systems/Single or Multi Customer Building -- At a point within the same room and within 25 feet of the FCC registered terminal equipment or cross connect field.
 4. Temporary Accommodations Subscriber Premises with Inadequate Grounding (e.g., some mobile homes, trailers, houseboats, construction modules) -- On a permanent stake, pole, or structure with a suitable safety ground.
- (Emphasis added)**

As emphasized above, Rule 25-4.0345(1)(b), F.A.C., allows an exception to the required demarcation point as ordered by the Commission for good cause shown. BellSouth cites in paragraph 9 on page 2 of its petition that good cause is, *"in order to provide service to tenants at the Building given Boca Raton Medical's requested demarcation point."*

Before acquisition of the property located at 1601 Clint Moore Road by Boca Raton Medical, demarcation points were established for prior tenants in accordance with Commission rules, e.g., within each tenants' space at a point easily accessed by the tenant. To better understand the circumstances in this case, staff contacted Boca Raton Medical. Staff learned that Boca Raton Medical is owned by a group of physicians and these physicians will ultimately occupy the facility. Boca Raton Medical is currently renovating the facility and plans to install

networks that will be used to collectively serve the telecommunications and specialized data services needs of all the tenants. Because the demarcation points specified in the Commission's rule do not meet the needs of the tenants, Dr. Nathan E. Nachlas, M.D., President of Boca Raton Medical, submitted a signed letter to BellSouth requesting that BellSouth establish a single point of demarcation for all tenants' services at the commercial building. To provide telecommunications services in accordance with the customer's request and to remain compliant with the Commission's rules, BellSouth submitted this petition to change the location of the demarcation point.

If the Commission approves the petition to permit BellSouth to provide service at a single point of demarcation, BellSouth would not be responsible for maintaining the facilities between the single point of demarcation and the tenants' premises. Dr. Nachlas acknowledged that he understands that the responsibility for this maintenance rests with the owner of the building and/or the tenants. In this instance, the tenants, through their association with Boca Raton Medical, are the owners of the property.

The precedent for the Commission to permit a local exchange company to provide service to a customer at a point of demarcation other than that specified in Rule 25-4.0345, F.A.C., has been previously established. In Docket No. 031114-TL, through Order No. PSC-04-0181-PAA-TL, issued February 23, 2004, the Commission found that BellSouth and the United States Navy met the burden "for good cause shown" as established by the rule and approved the request of BellSouth and the Navy for a waiver of the demarcation requirements of Rule 25-4.0345(1)(b), F.A.C. In that docket, the property owner (the Navy) requested that a single demarcation point be established to service non-residential customers on the Mayport Naval Station in Jacksonville, Florida. Thereafter, the Navy solicited bids from competing service providers to install and maintain the outside plant facilities to non-residential areas and customers located within the Naval Station.

Accordingly, staff recommends that the Commission should approve the relocation of the demarcation point for the provision of non-residential basic local service to the commercial office building located at 1601 Clint Moore Road in Boca Raton, Florida, to a single point of demarcation as determined by the property owner for all tenants' services at the office building.

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Issue 2: Should this docket be closed?

Recommendation: The Order issued from this recommendation will become final and effective upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest that identifies with specificity the issues in dispute, in the form provided by Rule 28-106.201, Florida Administrative Code, within 21 days of the issuance of the Proposed Agency Action Order. As provided by Section 120.80(13)(b), Florida Statutes, any issues not in dispute should be deemed stipulated. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order. **(Tan)**

Staff Analysis: Staff recommends that the Commission take action as set forth in the above staff recommendation.