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RECORDS AND REPORTING
June 7, 2000

Ms. Blanca S. Bayó, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Docket Nos. 981834-TP, 990321-TP Sprint's Response to
GTE's Petition for Reconsideration and BellSouth's Motion for
Reconsideration and Clarification

Dear Ms. Bayó:

Enclosed for filing are the original and fifteen (15) copies of Sprint's
Response to GTE's Petition for Reconsideration and BellSouth's Motion for
Reconsideration and Clarification.

Please acknowledge receipt and filing of the above by stamping the
duplicate copy of this letter and returning the same to this writer.

Sincerely,

Susan S. Masterton

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Susan S. Masterton

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06935 JUN-78

FPSC-RECORDS/REPORTING

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 the obligation to provide alternative local exchange carriers with flexible, timely, and cost-efficient physical collocation.

Docket No. 990321-TP

Filed: June 7, 2000

SPRINT'S RESPONSE TO GTE'S PETITION FOR RECONSIDERATION AND BELL SOUTH'S MOTION FOR RECONSIDERATION AND CLARIFICATION

Pursuant to Rule 25-22.060, F.A.C., Sprint-Florida Incorporated and Sprint Communications Company Limited Partnership ("Sprint") file this Response to GTE Florida Incorporated's ("GTE") Petition for Reconsideration and BellSouth Telecommunications, Inc.'s ("BellSouth") Motion for Reconsideration and Clarification of Order No. PSC-00-0941-FOF-TP ("Order") filed on May 26, 2000. Because the issues

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addressed by GTE and BellSouth overlap, Sprint is filing a single response to address both GTE's Petition and BellSouth's Motion.

The standard applicable to the Commission's determination of a motion for reconsideration is well established. For reconsideration to be granted, it must be demonstrated that the Commission overlooked or failed to consider applicable evidence or relevant law in rendering its decision. See, Diamond Cab Company v. King, 146 So. 2d 889 (Fla. 1962).

Several issues raised for reconsideration by GTE and BellSouth are based on a United States Court of Appeals, District of Columbia Circuit decision concerning a challenge to the FCC's First Report and Order in Docket No. 98-147 ("Advanced Services Order") that was decided on March 17, 2000, subsequent to the hearing in this docket. GTE v. FCC, 205 F.3d 416 (D.C. Circuit 2000). Sprint disagrees that the Commission must reverse portions of its Order because of the D.C. Circuit Court opinion. While the Court in that decision did question the foundation for certain policies promulgated by the FCC in its Advanced Services Order, these issues were remanded back to the FCC for further consideration, in view of the Circuit Court opinion. 205 F.3d at 426. The FCC has not completed its review of the remanded portions of the Advanced Services Order and Sprint believes it is premature for the Commission to change its decision based on speculation as to what the FCC might do.

In addition to any authority derived from the Federal Telecommunications Act and FCC rules, the Commission has the authority to develop generic collocation guidelines pursuant to state law. Historically, the Commission has adopted requirements for collocation for the purposes of expanded interconnection pursuant to its regulatory authority under ch. 364, F.S. See, In re: Expanded Interconnection Phase II and Local Transport Restructure, Order No. PSC-95-0034-FOF-TP.) Sections 364.16, 364.161, and 364.162, F.S., authorize the Commission to determine the appropriate prices, terms and conditions for local interconnection and access to unbundled network elements. Section 364.01 (4), F.S., directs the Commission to exercise its authority in a manner that facilitates competition in the telecommunications market.

The Commission made its decision in this docket based on a voluminous record developed through the formal hearing process set forth in s. 120.57, F.S. The fact that certain FCC guidelines referenced by the Commission in its Order have been questioned by the D.C. Circuit Court is not, by itself, sufficient to invalidate the Commission's actions. Sprint's responses to specific issues are set forth below.

I. Conversions from Virtual to Cageless Physical Collocation

GTE and BellSouth ask the Commission to reconsider its decision that ILECs cannot require ALECs to relocate their equipment when converting from virtual to physical collocation. BellSouth asserts that the D.C. Circuit Court recognized an ILEC's authority to determine exactly where virtual and physical collocation arrangements should be located, so that BellSouth would have the sole option of determining whether a

conversion from virtual to physical collocation would require relocation of the ALEC equipment. GTE asserts that the D.C. Circuit Court decision makes clear that the Federal Act allows ILECs to require segregated collocation areas for physical collocation, including cageless arrangements. In fact, the D.C. Circuit Court merely held that the FCC had not sufficiently explained the reasoning behind its determination that a prohibition on ILECs requiring that competitors' equipment be separated from the ILECs' equipment is authorized by the Federal Act. 205 F.3d at 426.

In contrast, the Commission based its decision that an ALEC wishing to convert from a virtual to a physical collocation arrangement cannot be required to relocate on specific evidence in the record that supports the anticompetitive effects of requiring relocation. Order at 28. The Commission recognized that to allow ILECs to require relocation of an ALEC's virtual collocation arrangements when the ALECs requests conversion to a cageless physical collocation would impose an anticompetitive cost burden on the ALEC, as well as involve potential anticompetitive disruptions in service. Id. The Commission's findings are amply supported in the record.

GTE's and BellSouth's argument that the D.C. Circuit decision invalidates the FCC rule relating to segregated collocation arrangements is an insufficient basis for the Commission to reconsider its well-reasoned and factually substantiated determinations, grounded in ch. 364, F.S., regarding conversions from virtual to physical collocation.

BellSouth offers two additional arguments for reconsideration of the Order on this issue. First, BellSouth argues that the Commission's decision would preclude BellSouth from recovering certain costs related to provisioning virtual collocation arrangements. Second, BellSouth argues that requiring conversion in place of virtual collocation arrangements to cageless physical arrangements will encourage ALECs to circumvent the Commission's space reservation guidelines, because ILECs must release space reserved for future use to accommodate virtual collocation, but not physical collocation. The Commission thoroughly considered possible scenarios arising from conversions from virtual to physical collocation, from requests that required no physical changes to requests that might require reconfiguration and relocation. BellSouth does not offer any evidence or point of law that the Commission overlooked or failed to consider in reaching its decision that would justify reconsideration.

II. Collocator Cross-Connects

GTE and BellSouth request reconsideration of the Commission's determination that ILECs must allow collocated ALECs to cross-connect with each other's facilities, again based on the D.C. Circuit Court opinion in GTE v. FCC. The D.C. Circuit Court remanded this issue to the FCC for review in light of the Court's interpretation of the FCC's authority under the Federal Act. The FCC has not yet responded to the remand so any action based on what the FCC might ultimately do is premature.

While the Commission was guided by the Advanced Services Order in making its determination on the cross-connect issue, its analysis and decision were based on evidence in the record and can stand alone pending FCC action on the remand. Rather than change its well-reasoned ruling without knowing how the FCC will ultimately act, the Commission should reject the request for reconsideration of this issue and revisit its ruling only if it is later determined to conflict with the FCC's subsequent decisions.

II. Equipment Requirements

Based on the D.C. Circuit Court opinion, GTE requests the Commission to revisit its ruling concerning the types of equipment an ILEC must allow in a physical collocation arrangement. The D.C. Circuit Court ruled that the FCC did not sufficiently apply the "necessary" standard embodied in the Federal Act to its analysis of the equipment requirement, but instead based its decision on a "used and useful" standard that is inconsistent with the Act. The Court's based its determination of this issue on a similar ruling by the U.S. Supreme Court in AT&T Corp. v. Iowa Utilities Board, 525 U.S. 366 (1999), relating to the types of unbundled network elements that an ILEC must make available to a requesting ALEC. Similar to the actions of the U.S. Supreme Court in that case, the D.C. Circuit remanded the equipment rule back to the FCC for reevaluation in light of the U.S. Supreme Court's more stringent interpretation of the term "necessary."

The D.C. Circuit Court made no specific determination as to what types of equipment might be necessary for physical collocation. It is purely speculative at this point what the

FCC review of its ruling in light of the Court's decision might produce. In readopting its UNE rules in response to the U.S. Supreme Court remand, the FCC enumerated a substantially similar list of UNE's, after applying the stricter "necessary" standard. That is a potential outcome of the D.C. Circuit Court remand as well, making it premature for the Commission to alter its decision.

Sprint suggests that the Commission's Order needs clarification on this point, as noted in Sprint's Motion for Reconsideration and Clarification filed on May 26, 2000. Since the Order does not specifically identify the types of equipment that must be collocated in Florida, but describes the equipment through incorporation by reference of the FCC rules and orders, Sprint has requested that the Commission clarify the Order by eliminating references to the FCC rule and describing the types of equipment it intended to require.

III. Space Reservation

GTE asks the Commission to revisit its decision on the appropriate time frame for reservation of space for both ILECs and ALECs to allow a 4-year reservation window for switching equipment and no specific limitation on the reservation period for items which are critical to maintaining the central office, instead of the uniform 18 months provided in the Order. BellSouth also asks for reconsideration of the Commission's determination of this issue, requesting that the time frame be extended from 18 to 24 months. Neither GTE nor BellSouth offer any overlooked or misapprehended facts or application of law that would warrant reconsideration of the Commission's ruling. GTE's argument related to

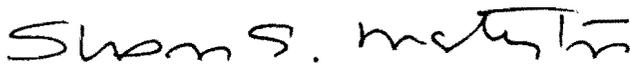
different types of equipment was plainly available to the Commission in making its determination and, in fact, was specifically noted in the Order. Order at 52. Likewise, BellSouth's recommendation for a 24-month reservation period was thoroughly considered by the Commission. Order at 54. Therefore, the requests for reconsideration on this issue do not meet the standards for reconsideration and should be rejected.

IV. Recovery of Costs

GTE requests that the Commission revisit its Order to provide a mechanism for an ILEC to recover its costs for space preparation if there is an insufficient number of collocators to recover the costs on a prorated basis. Again, GTE's arguments on this issue do not meet the standard for reconsideration. GTE has not raised any overlooked or misapprehended facts or interpretation of state or federal law to justify its request for reconsideration. Instead, GTE reiterates arguments and evidence it presented at the hearing that were considered and rejected by the Commission. In fact, the Commission discussed ILEC cost recovery at the Agenda Conference during which this Order was approved and declined to take any action on this matter. The issue of an ILEC's recovery of its collocation costs (i.e., pricing) was not an issue before the Commission in this docket and is not a proper subject for reconsideration by the Commission.

WHEREFORE, Sprint requests that the Commission deny GTE's Petition for Reconsideration and BellSouth's Motion for Reconsideration and for Clarification to the extent set forth above.

RESPECTFULLY SUBMITTED this 7th day of June 2000.



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CERTIFICATE OF SERVICE
DOCKET NOS. 981834-TP & 990321-TP

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by U.S. Mail this 7th day of June, 2000 to the following:

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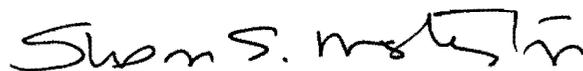
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