



ORIGINAL

January 2, 2004

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

via Overnight Mail

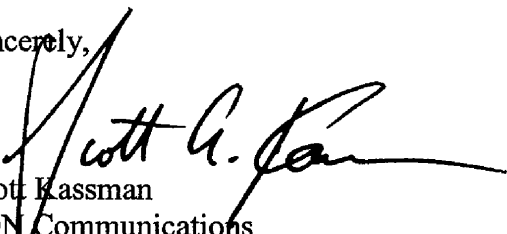
RE: Docket No. 981834-TP Petition of Competitive Carriers for Commission action to support local competition in BellSouth Telecommunications, Inc.'s service territory, and Docket No. 990321-TP Petition of ACI Corp. d/b/a Accelerated Connections, Inc. for generic investigation to ensure that BellSouth Telecommunications, Inc., Sprint-Florida, Incorporated, and GTE Florida Incorporated comply with obligation provide alternative local exchange carriers with flexible, timely, and cost-efficient physical collocation

Dear Ms. Bayo:

Enclosed please find an original and seven (7) copies of FDN Communications Motion for Leave to File Out-of-Time and Prehearing Statement.

If you have any questions regarding the enclosed, please call me at 407-447-6636.

Sincerely,


Scott Kassman
FDN Communications
Assistant General Counsel

AUS
CAF
CMP
COM 5
CTR
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OTH

LOCAL

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DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Competitive Carriers for)
Commission action to support local competition)
in BellSouth Telecommunications, Inc.'s service)
territory.)

Docket No. 981834-TP

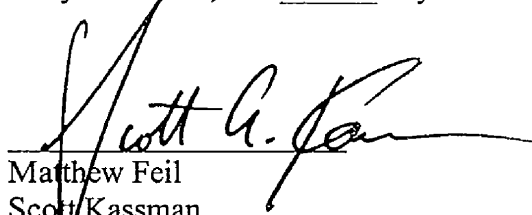
Petition of ACI Corp. d/b/a Accelerated)
Connections, Inc. for generic investigation to)
ensure that BellSouth Telecommunications, Inc.,)
Sprint-Florida, Incorporated, and GTE)
Florida Incorporated comply with obligation)
provide alternative local exchange)
carriers with flexible, timely, and cost-efficient)
physical collocation)

Docket No. 990321-TP

**FLORIDA DIGITAL NETWORK, INC.'S NOTICE OF SERVING ITS MOTION FOR
LEAVE TO FILE OUT-OF-TIME AND PREHEARING STATEMENT**

Florida Digital Network, Inc. d/b/a FDN Communications, ("FDN" or "Florida Digital")
hereby provides notice that it has served its Motion for Leave to File Out-of-Time, and FDN's
Prehearing Statement and copied same to staff and the parties to this docket.

Respectfully submitted, this 31st day of December, 2003.



Matthew Feil
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DOCUMENT NUMBER-DATE

00050 JAN-5 3

FPSC-COMMISSION CLERK

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

I hereby certify that a copy of the foregoing was sent by e-mail and regular mail to the persons listed below, other than those marked with an (*) who have been sent a copy via overnight mail, this 31st day of December, 2003.

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mbrinkle@psc.state.fl.us
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Competitive Carriers for)	
Commission action to support local competition)	Docket No. 981834-TP
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Petition of ACI Corp. d/b/a Accelerated)	
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Florida Incorporated comply with obligation)	
provide alternative local exchange)	
carriers with flexible, timely, and cost-efficient)	
physical collocation)	
_____)	

FLORIDA DIGITAL NETWORK, INC.
d/b/a FDN COMMUNICATIONS'
MOTION FOR LEAVE TO FILE OUT-OF-TIME

Florida Digital Network, Inc., d/b/a FDN Communications ("FDN") respectfully petitions the Commission for leave to file out-of-time its Revised Pre-Hearing Statement (Issues 9A-10) in the above-referenced dockets. In support of this Motion, FDN states as follows:

1. The Commission's Third Order Modifying Procedure, Order PSC-03-1311-PCO-TP, issued on November 17, 2003, modified the procedural schedule in the above-referenced dockets by ordering that Revised Pre-Hearing Statements (Issues 9A-10) be filed on December 30, 2003.

2. FDN inadvertently calendared the due date incorrectly, and upon discovering its mistake, moved to file the instant Motion forthwith.

3. FDN has contacted Commission staff and the parties regarding the Motion and reports that, as of December 31, 2003, neither Staff nor the parties have any objection to the instant filing.

4. A copy of FDN's Revised Pre-Hearing Statement is attached hereto.

RESPECTFULLY SUBMITTED, this 2nd day of January, 2004



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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Competitive Carriers for)	
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Florida Incorporated comply with obligation)	
provide alternative local exchange)	
carriers with flexible, timely, and cost-efficient)	
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PREHEARING STATEMENT OF FLORIDA DIGITAL NETWORK, INC.
d/b/a FDN COMMUNICATIONS

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

A. Known Witnesses

FDN has not prefiled testimony for Issues 9 – 10 as identified in the Order on Procedure for this phase of these dockets. At this time, FDN does reserve the right to call agents, officers and employees of BellSouth Telecommunications, Inc., ("BellSouth"), Verizon Florida, Inc. ("Verizon") and Sprint-Florida, Inc. ("Sprint") as adverse party witnesses, pending review of the parties' prehearing statements, rebuttal testimony and

depositions, if any, and FDN reserves its right to cross examine the witnesses of any other party.

B. Known Exhibits

FDN did not prefile any exhibits for Issues 9 – 10 as identified in the Order on Procedure for this phase of these dockets. However, FDN reserves the right to identify and introduce additional exhibits during cross-examination of other parties' witnesses and re-direct of its own, if any, and, to the extent permitted by Commission rules and the Florida Rules of Civil Procedure, to identify and introduce the depositions of other parties' agents, officers and employees.

C. Statement of Basic Position

The Commission should approve the rates proposed by the ALECs in this phase of the proceeding. FDN, like the other ALECs, maintains that the cost studies and resulting rates proposed by the ILECs are not TELRIC compliant. Moreover, the rates proposed by Verizon and Sprint, in particular, are exorbitantly high – significantly above BellSouth's proposed rates and the current Sprint and Verizon rates. Thus, aside from considering the ILEC cost studies' inconsistency with TELRIC principles and, as AT&T points out, the ILEC cost studies' needless inconsistency with one another, the Commission should consider that the current level of competition in Sprint territory is de minimus and the level of competition in Verizon territory lags behind competition in BellSouth territory, and the Commission would do significant harm to UNE-L / facilities-based competition if the Commission were to increase collocation rates as Sprint and Verizon propose. The Commission should, instead, approve collocation rates lower than current collocation rates and thereby induce UNE-L / facilities-based competition.

D – F. Statement of Issues and Positions

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

ISSUE 9A: For which collocation elements should rates be set for each ILEC?

FDN: Agree with AT&T and Covad.

ISSUE 9B: For those collocation elements for which rates should be set, what is the proper rate and the appropriate application of those rates?

FDN: Agree with AT&T and Covad. Further, to the extent this issue overlaps the prior phase of this proceeding, refer to FDN's positions in the prior phase of the proceeding.

ISSUE 9B: What are the appropriate definitions, and associated terms and conditions for the collocation elements to be determined by the Commission?

FDN: Agree with AT&T and Covad.

G. Stipulated Issues

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

H. Pending Motions

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

I. Pending Confidentiality Issues

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

J. Order Establishing Procedure Requirements

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

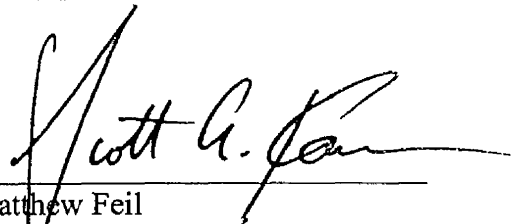
K. Decisions or Pending Decisions

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

L. Objections to Expert Qualifications

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

RESPECTFULLY SUBMITTED, this 31st day of December, 2003.


Matthew Feil
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