

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for expanded)
interconnection for alternate)
access vendors within local)
exchange company central offices)
by INTERMEDIA COMMUNICATIONS OF)
FLORIDA, INC.)

DOCKET NO. 921074-TP

FILED: 04/06/94

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**INTERMEDIA COMMUNICATIONS OF FLORIDA, INC.'S
RESPONSE TO
SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY'S
MOTION FOR RECONSIDERATION, CLARIFICATION AND STAY
OF ORDER NO. PSC-94-0285-FOF-TF**

Intermedia Communications of Florida, Inc., (Intermedia) pursuant to Rule 25-22.060, Florida Administrative Code, hereby files this Response to the Motion for Reconsideration, Clarification and Stay of Order No. PSC-94-0285-FOF-TP filed by Southern Bell Telephone and Telegraph Company (Southern Bell) on March 25, 1994.

1. In its Motion, Southern Bell requests reconsideration of four different sections of Order No. PSC-94-0285-FOF-TP and clarification of one additional section. This response addresses the items individually.

ACK
AEA
APP
CAF
CMI
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VTH

2. The purpose of a motion for reconsideration to afford the Commission the opportunity to consider an issue of law or fact that was either misapprehended or overlooked when it made its decision. State v. Green, 106 So. 2d 817 (Fla. 1st DCA 1958). Reconsideration is not meant to provide parties the opportunity to reargue the merits of the case or to point out areas of disagreement with the Commission's decision. Denial of Southern

Bell's motion is appropriate because the Commission has already considered and rejected the arguments.

VI. TAKING

3. Southern Bell asks the Commission to reconsider its decision that physical collocation does not constitute a taking of LEC property. However, in support of its position, Southern Bell raises issues that the Commission specifically took into account when it made its decision. It points to no issue of fact or law overlooked or misapprehended by the Commission.

4. In its motion, Southern Bell argues that the Commission "concede[d] virtually every element . . ." of its position. The Commission, however, reached a different conclusion than that urged by Southern Bell -- that is, it explicitly considered the company's arguments and rejected its position that physical collation constitutes a taking of property. Reconsideration is therefore improper.

XVI. E. EXPANSION

5. Southern Bell raises no issue of fact or law that the Commission either overlooked or apprehended when it made its decision to require collocation in a checkerboard arrangement -- rather, it believes that the Commission's decision is ill-advised. The motion does not raise sufficient grounds for reconsideration.

XVII. B. EXTENDING EXPAND[ED] INTERCONNECTION TO THE DSO LEVEL

6. As noted in Southern Bell's motion, the Commission considered and rejected the company's request to handle requests

for interconnection at the DSO level on a case-by-case basis. Reconsideration is neither necessary nor proper.

XVII. B. 2. FRESH LOOK

7. Southern Bell requests clarification of the Commission's decision to apply a fresh look policy to both special access and private line service. While Intermedia agrees that the order is internally inconsistent and that clarification is proper, it disagrees with the specific clarification requested by Southern Bell.

8. The Commission's discussion of the fresh look policy begins at page 27 of Order No. PSC-94-0285-FOF-TP. On page 28, the order states that "customers of LEC private line and special access services with terms equal to or greater than three years . . . shall be permitted to switch to competitive alternatives" Southern Bell correctly points out that the relevant ordering paragraph on page 37 grants a fresh look only to special access customers. Based on this inconsistency, Southern Bell incorrectly argues that the Commission intended to apply the fresh look provision only to special access service.

9. The Commission clearly intended to make the fresh look policy available to both LEC special access and private line customers. At page 129 of the January 6, 1994 recommendation in this docket, staff noted that the fresh look policy would "increase the possibilities for a competitive marketplace for special access and private line services to develop." At page 130, staff specifically recommended that the Commission apply the fresh look

policy to private line customers as well as special access customers. The Commission voted to accept the staff recommendation, and clearly intended the policy to apply to both groups of customers, despite the language included in the ordering paragraphs of Order No. PSC-94-0285-FOF-TL.

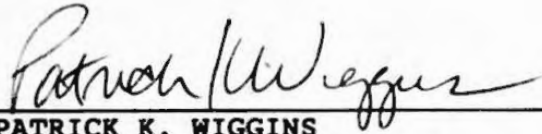
10. Southern Bell suggests that there is no evidence to support the application of the fresh look policy to LEC private line customers. The Commission, however, made a policy decision to apply the fresh look opportunity both to private line customers and special access customers based on its determination to increase the possibilities for a competitive marketplace. Southern Bell has presented no factual reason to differentiate between these two sets of customers.

MOTION FOR STAY

11. Southern Bell's request for a stay of the requirement to tariff checkerboarded collocation arrangements, a fresh look for private line service customers and interconnection at the DSO level should be denied. The only grounds cited for the stay is its pending motion for reconsideration and clarification. As discussed above, those requests are groundless and should be denied, as should the derivative request for stay.

WHEREFORE, INTERMEDIA requests that this Commission deny the motion for reconsideration, clarification and stay filed by Southern Bell.

Respectfully submitted this 6th day of April, 1994.



PATRICK K. WIGGINS
WIGGINS & VILLACORTA, P.A.
501 E. Tennessee Street, Suite B
Post Office Drawer 1657
Tallahassee, Florida 32302
(904) 222-1534

Counsel for INTERMEDIA
COMMUNICATIONS OF FLORIDA, INC.

CERTIFICATE OF SERVICE

Docket No. 921074-TP

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by United States Mail this 6th day of April, 1994, to the following:

Charles Murphy
Division of Legal Services
Florida Public Service Commission
101 East Gaines Street
Tallahassee, Florida 32399-0850

Thomas R. Parker
Kimberly Caswell
GTE Florida Incorporated
P. O. Box 110, FLTC0007
Tampa, Florida 33601

C. Dean Kurtz
Central Telephone Company
of Florida
Post Office Box 2214
Tallahassee, Florida 32316

Peter M. Dunbar
David L. Swafford
Haben, Culpepper, Dunbar
& French, P.A.
Post Office Box 10095
Tallahassee, Florida 32302

Michael W. Tye
AT&T Communications
106 East College Avenue
Suite 1410
Tallahassee, Florida 32301

Daniel V. Gregory
Quincy Telephone Company
Post Office Box 189
Quincy, Florida 32351

Charles Beck
Office of Public Counsel
111 West Madison, Suite 812
Claude Pepper Building
Tallahassee, FL 32399-1400

Harris R. Anthony
J. Phillip Carver
c/o Marshall M. Criser, 111
150 South Monroe St., Ste. 400
Tallahassee, Florida 32301

Lee L. Willis
Macfarlane Ausley Ferguson
& McMullen
Post Office Box 391
Tallahassee, Florida 32302

Paul Jones
Time Warner Cable
Corporate Headquarters
300 First Stamford Place
Stamford, CT 06902-6732

Harriet Eudy
ALLTEL Florida, Inc.
Post Office Box 550
Live Oak, Florida 32060

David B. Erwin
Young, van Assenderp, Varandoe
& Benton, P.A.
Post Office Box 1833
Tallahassee, Florida 32303

Jeff McGehee
Southland Telephone Company
Post Office Box 37
Atmore, Alabama 36504

John A. Carroll, Jr.
Northeast Florida Telephone
Post Office Box 485
MacClenny, Florida 32063-0485

F. Ben Poag
United Telephone Company
of Florida
P.O. Box 154000
Altamonte Spings, Florida 32716

Charles Dennis
Indiantown Telephone System,
Inc.
Post Office Box 277
Indiantown, Florida 34956

Jodie L. Donovan
Regulatory Counsel
Teleport Communications Group,
Inc.
1 Teleport Drive, Suite 301
Staten Island, New York 10311

Carolyn Mason
Department of Management Serv.
Division of Communications
Roger Executive Center
Building #110
Tallahassee, Florida 32399

Beverly Menard
c/o Richard Fletcher
GTE Florida Incorporated
106 E. College Ave, #1440
Tallahassee, FL 32301-1740

Rachel Rothstein
c/o Wiley Law Firm
Interexchange Access Coalition
1776 K Street, NW
Washington, DC 20006

Kenneth Hoffman
Rutledge, Ecenia,
Underwood, Purnell &
Hoffman, P.A.
P. O. Box 551
Tallahassee, FL 32302-0551

Chanthina R. Bryant
Sprint
3065 Cumberland Circle
Atlanta, Georgia 30339

Vicki Gordon Kaufman
McWhirter, Grandoff & Reeves
315 South Calhoun Street
Suite 716
Tallahassee, Florida 32301

Benjamin H. Dickens, Jr.
Blooston, Mordkofsky,
Jackson & Dickens
2120 L. Street, N.W., Ste. 300
Washington, DC 20037-1527

Douglas S. Metcalf
Communciations Consultants, Inc.
P. O. Box 1148
Winter Park, FL 32790-1148

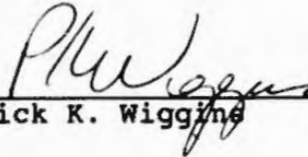
Everett Boyd
Ervin Varn Jacobs
Odom & Ervin
P. O. Drawer 1170
Tallahassee, FL 32302

Joseph Gillan
P. O. Box 547276
Orlando, FL 32854

Laura Wilson
FCTA
P. O. Box 10383
Tallahassee, FL 32302

Richard Melson
Hopping Boyd Green & Sams
P. O. Box 6526
Tallahassee, FL 32314

Michael Henry
MCI Telecommunications
780 Johnson Ferry Road, #700
Atlanta, GA 30342



Patrick K. Wiggins