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July 29, 1998

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RECORDS AND REPORTING

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

Re: Cox Florida Telcom's Response to Staff's Data Request in  
FPSC Special Project No. 980000B-SP, Customer Access to  
Competitive Telecommunications Services in Multi-Tenant  
Environments

Dear Ms. Bayo:

Enclosed are an original and 15 copies of Cox Florida Telcom,  
L.P.'s response to the Staff's data request in the above-mentioned  
special project. Cox looks forward to continued participation in  
this important project. Please acknowledge this submission by  
stamping the enclosed return copy and giving same to our runner for  
return to our office.

As always, thanks to you and your staff for your kind and  
professional assistance.

If you have any questions, please give me a call.

Cordially yours,

*Robert Scheffel Wright*  
Robert Scheffel Wright

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- APP \_\_\_\_\_
- CAF \_\_\_\_\_
- CC: 5 Enclosures
- CTR \_\_\_\_\_
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- LEG 2
- LIT \_\_\_\_\_
- JPC \_\_\_\_\_
- RCH 2
- SEC 1
- NAS \_\_\_\_\_
- JTH \_\_\_\_\_

Copies: Walter D'Haeseleer, Director, Division of Communications  
Cathy Bedell, Esquire, Division of Legal Services  
Mary Rose Sirianni, Communications Division  
Florida Public Service Commission

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FPSC-RECORDS/REPORTING

ORIGINAL

**Cox Florida Telcom, L.P. d/b/a Cox Communications**  
**Response to Staff Data Request**  
**FPSC Special Project No. 980000B-SP**  
**July 29, 1998**

- 1. In general, should telecommunications companies have direct access to customers in multi-tenant environments? Please explain. (Please address what need there may be for access and include discussion of broad policy considerations.)**

Yes. In general, with the exception of the customers for which the Commission has already found that no alternative provider is appropriate (such as in transient situations like hotels, nursing homes, etc.), telecommunications companies should all have direct access to end user customers in multi-tenant environments through minimum point of entry ("MPOE") cross connect facilities established at the most convenient point possible at the multi-tenant property.. This issue needs to be addressed in Florida and elsewhere, to carry out the intent of the federal Telecommunications Act of 1996, as well as the 1995 revisions to Chapter 364, Florida Statutes.

Historically, local exchange telephone service was provided by only one franchised carrier in any given geographic area. As such, the issue of access to buildings or multi-building continuous property by multiple carriers was not an issue for building owners. The incumbent local exchange carrier ("ILEC") was given access to the property and/or building(s) for the purpose of installing and maintaining the wiring to provide local exchange and other services for the tenants. If the building owner did not give the incumbent local exchange company access to the building, the building owner could not provide for any phone service, thus, the building, as a marketing entity, had a major disadvantage when it came to competing for tenants. The (one) telephone company was able to get access to the building, and building owners did not view the telephone company as a revenue source but rather as allowing them to neutralize telephone service as a marketing tool against them.

Today there are multiple providers of local telephone service, some of which are facilities-based providers such as Cox. However, in most buildings, the ILEC attempts to continue its control of the wiring between the entrance to the building (or the entrance to the property) and the customers (interbuilding and intrabuilding wiring). Further, building owners, while seeing the provision of telephone service as a profit center, do not treat all facilities-based providers equally. The result is that facilities-based CLECs are not able to obtain access to some multi-tenant buildings at all, and are requested to pay discriminatory compensation in others, making it difficult, if not impossible, to provide service to

customers in multi-tenant buildings or campus situations. This means that end users in multi-tenant buildings do not have the same opportunities to select a competitive local exchange company as do single-tenant building customers. Single-tenant building customers can change local service providers (either resellers or facilities-based providers), without being concerned about the need for the installation of multiple sets of telephone wiring in their premises.

This issue is a problem unique to facilities-based providers. Even where a facilities-based local service provider extends its network to a multi-tenant building, or group of buildings on continuous property at the request of the building owner, it cannot provide service unless the ILEC allows it to use the building wiring or the building owner allows it to retrofit the building and/or property with additional cabling. Cox's experience has shown that building owners frequently resist having multiple sets of wires, and ILECs are not inclined to allow the new entrant to use the existing building wiring, over which they allege control. This ILEC action has the effect of denying the tenants of multi-tenant buildings or of multiple buildings on continuous property the opportunity to use the services of competitive facilities-based ALI. Cox does not believe that this was the intent of the Florida legislature or of the Congress.

A related problem can and does arise from the behavior of building owners themselves: in other states, some building owners have denied Cox the ability to serve customers in the building, or have demanded ridiculously high payments, in the form of large up front fees and a percent of all revenues (including non-telecommunications revenues) to do so. These requests for payments generally occur while the incumbent LEC is allowed to provide service with no such payments. Such behavior is discriminatory at best, has the effect of holding the customers hostage, and denies customers the benefits intended by federal and state telecommunications legislation.

**II. What must be considered in determining whether telecommunications companies should have direct access to customers in multi-tenant environments?**

- Whether policy decisions the Commission makes are consistent with the goals of providing consumers the substantial benefits of facilities-based competition, as intended by Chapter 384, Florida Statutes, and the federal Telecommunications Act. CLEC access to customers in multi-tenant buildings or on multi-building continuous property is integral to the growth of facilities-based competition. To accomplish this, the Commission should follow the FCC's directives that the MPOE should be used as the demarcation point, and that the MPOE should be as close to the property line as practical so that CLECs may connect without retrenching or adding wiring

to access the end user. This means that the remaining inter and intrabuilding wiring on the property is held out for competitive use without discrimination.

- Whether the Commission intends that all end users have their choice of telecommunications providers. In general, subject to specific exceptions where technical or operational factors render such choice impractical (e.g., service to end users in hospitals, nursing homes, dormitories, vacation rentals, and the like), the Commission should require that multi-tenant unit end users on single or continuous properties should have the same opportunities to obtain service from multiple competitive local service providers as do single building end users.
- The rights of property owners to be able to control their property, without fostering discrimination and unequal access.
- That in a shared tenant service environment, the Commission's current rule requires individual end users to be able to obtain service from the local exchange company individually. In a multiple service provider environment, the Commission should extend this policy to enable any individual tenant to obtain service from any certificated local exchange company -- either ALEC or CLEC.
- The impact on competition of building owners who stand in the way of customers being able to choose the local service provider of their choice, either by blocking access totally or by charging the consumer or provider unreasonable fees.

**A. How should "multi-tenant environment" be defined? That is, should it include residential, commercial, transient, call aggregators, condominiums, office buildings, new facilities, existing facilities, shared tenant services, other?**

Multi-tenant environment means a building or group of buildings on continuous property, which may be crossed by a public right of way, that is under common management or ownership, in which end users (separate from the owner or manager) may individually purchase telecommunications services. This includes commercial, residential, and mixed commercial and residential applications, including apartments and condominiums, and makes no differentiation between new and existing facilities.

From a customer perspective, transient facilities, and the types of exceptions identified in the Commission's Order No. 17111 regarding shared local exchange telephone service, should not be included in the definition of a multi-

tenant environment, in that there is no need in this proceeding, to change whether such individual end users in the Commission's already-existing exceptions may obtain local exchange service from a different provider.

However, from the perspective of a new entrant obtaining access, such "transient" applications should be included. This is because Florida's existing demarcation point rule gets in the way of a facilities-based new entrant's access to any building or group of buildings that have what is referred to as intrabuilding wiring or interbuilding wiring. For example, a nursing home with 50 units that is served by an ILEC, a PBX, or a centrex-type service today, may want to avail itself of the service offered by a CLEC. In this situation, with centrex or individual lines, the wiring to the individual units, under Florida's existing demarcation point rule, would not be available to the new entrant. So the nursing home itself could not easily choose to change local exchange carriers. Thus, the building access issue exists in multi-tenant buildings whether it is a transient application or not.

**B. What telecommunications services should be included in "direct access", i.e., basic local service (Section 364.02(2), F.S.), Internet access, video, data, satellite, other?**

Telecommunications service included in "direct access" should include local and intra/inter LATA long distance telephone services (both switched and nonswitched) under the jurisdiction of the Florida Public Service Commission. Video and Internet access provided by cable television companies, as well as satellite services, are under the jurisdiction of the FCC, and not under the purview of this Commission.

**C. In promoting a competitive market, what, if any, restrictions to direct access to customers in multi-tenant environments should be considered? In what instances, if any, would exclusionary contracts be appropriate and why?**

The only restrictions the Commission should allow for direct access to customers in a multi-tenant environment should be those "transient" exceptions already noted above. In general, if customers prior to the existence of local competition were able to obtain service individually from the ILEC, they should today be able to obtain service from any certificated CLEC that offers service to their building.

**D. How should "demarcation point" be defined, i.e., current PSC definition (Rule 25-4.0345, F.A.C.) or federal Minimum Point of Entry (MPOE)?**

The demarcation point should be defined consistent with the federal Minimum Point of Entry ("MPOE") definition, as defined in the FCC's Report and Order in CC Docket No. 86-57 RM-5643. That is, the MPOE should facilitate the existence of competition. To do otherwise disadvantages facilities-based providers--the very companies, who are investing in new facilities, that both federal and Florida legislation encourages.

The Florida demarcation point definition in a multi tenant environment places the demarcation point at a point just inside the individual apartment (or office). Section 25-4.0345, Florida Administrative Code.

- (B) "Demarcation point" is 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 at 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 customers.
  3. Multi Line System/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.

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- (3) Network facilities up to and including the demarcation point are part of the telephone network, provided and maintained by the telecommunications company under tariff.

This definition was adopted at a time when the Commission was not aware that being denied access to building wiring would hinder the development of facilities-based competition. The primary emphasis, it appears, when this definition was adopted and later reviewed, was not putting a third (unregulated) party between an end user and the (regulated) telephone company. This gave building owners the opportunity to have wiring installation or maintenance provided competitively.

The federal Telecommunications Act gives competitive local exchange

companies three options for providing service: they can provide it over their own facilities (using their choice of technology), they can purchase unbundled network elements from the incumbent local exchange company, or they can resell the services of the local exchange company. These options give three viable ways that a new entrant can compete in the market.

These options do not exist when it comes to access to building wiring in an MDU situation. If the new entrant cannot use the existing wiring in a building or building complex, there generally are no other options because building owners do not approve of multiple and overlapping wiring installations.

In addition, there is the issue of business feasibility for the ALEC. If the ALEC is required (and permitted) to run a whole new set of telephone wires in order to serve some customers in a building, either the ALEC must totally wire the building to be able to provide service to any customer it is able to win from the ILEC, or it must wire the building one customer at a time -- neither of which makes good economic (or aesthetic) sense for either the CLEC or the building owner.

This becomes even more cost prohibitive in a campus-type environment with multiple buildings on a single piece of property. What Cox has encountered is that the ILEC will designate a demarcation point at the entrance to the property, which is consistent with the FCC's definition, but then it will also designate "secondary" demarcation points at each individual building. This leaves the interbuilding wiring, which should be turned over to the property owner for use by all competing service providers, still within the control of the ILEC.. Wiring on multi-unit property should be classified, or reclassified if necessary, in a manner that allows maximum and nondiscriminatory access to the customers it serves.

**E. With respect to actual, physical access to property, what are the rights, privileges, responsibilities or obligations of**

- 1) **landlords, owners, building managers, condominium associations**
- 2) **tenants, customers, end users**
- 3) **telecommunications companies**

**In answering the questions in Issues II.E., please address issues related to easements, cable in a building, cable to a building, space, equipment, lightning protections, service quality, maintenance, repair, liability, personnel, (price) discrimination, and other issues related to access.**

1) landlords, owners, building managers, condominium associations:

- have the obligation to allow facilities-based local exchange providers to obtain access to end user customers.
- have the obligation to provide reasonable conditioned space for equipment placement.

2) tenants, customers, end users:

- have the right to obtain service from any local exchange company willing to provide service to that customer
- have the obligations laid out in Florida's telecommunication rules, and any payment and use obligations imposed by their serving local exchange companies.

3) telecommunications companies:

- allow other facilities-based companies to cross connect to them to reach individual customers
- have the obligation to meet all safety standards, including providing lightning protection;
- must meet Commission maintenance expectations
- as common carriers, may not unduly discriminate in service and pricing to various customers.

**F. Based on your answer to Issue II.E., above, are there instances in which compensation should be required? If yes, by whom, to whom, for what and how is cost to be determined?**

The building owners should provide access to interbuilding wiring and intrabuilding wiring at no cost to the service providers. Access to phone service should be treated similarly to other utility services, which do not pay the owner to be able to provide service. If it is applied to all telecommunications service providers on a nondiscriminatory basis, a reasonable fee for equipment space rental (only) may be appropriate.

**G. What is necessary to preserve the integrity of E911?**

The issues surrounding 911 do not change because there are multiple local exchange providers. Both Section 364.337(2), Florida Statutes, and Commission Rule 25-24.840, F.A.C., already require all ALECs to ensure that 911 and E911 are fully functional for their customers. This is true in multi-tenant as well as single family environments.

**OTHER SUBJECTS:**

- **LANDLORD TENANT ACT:** Are landlords required to provide telephone service to tenants?

No. See Section 83.51, Florida Statutes. Cox believes that the landlord-tenant statutes (Chapter 83, Florida Statutes) should be amended to require that landlords must provide non-discriminatory access for all telecommunications service providers to provide service to tenants.