

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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In re: Petition of ACI Corp. d/b/a Accelerated Connections, Inc. for Generic Investigation into Terms and Conditions Of Physical Collocation)

Docket No. 990321-TP

Filed: March 12, 1999

PETITION OF ACI CORP. FOR GENERIC INVESTIGATION INTO TERMS AND CONDITIONS OF PHYSICAL COLLOCATION

ACI Corp d/b/a Accelerated Connections Inc. ("ACI"), by and through its undersigned attorneys, hereby petitions the Florida Public Service Commission ("Commission") to initiate a generic proceeding to ensure that Florida's largest three incumbent local exchange carriers ("incumbents" or "ILECs"), BellSouth Telecommunications, Inc, GTE Florida, Incorporated, and Sprint-Florida, Incorporated, comply with their obligation to provide alternative local exchange carriers ("ALECs") with flexible, timely, and cost-efficient physical collocation. Unlike a complaint proceeding, a generic collocation policy proceeding will allow the Commission to examine a variety of broad issues associated with the provision of collocation. Moreover, by establishing a generic proceeding at this time, the Commission can build on the developments in the Commission's current examination of BellSouth's six petitions for waiver of its physical collocation obligations.¹ In support of this petition, ACI states:

I. PARTIES

1. ACI is certificated by the Commission as an ALEC. ACI's name and business address are:

ACI Corp.
7337 South Revere Parkway
Englewood, CO 33414

¹ Docket Nos. 980496-TL, 980497-TL, 980498-TL, 981011-TL, 981012-TL, and 981250-TL.

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2. ACI's representatives to receive notices, orders and other pleadings in this docket are:

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II. JURISDICTION AND STATUTES AUTHORIZING RELIEF

3. The Commission's authority to take the actions requested in this Petition is found in Section 364.01(4), Florida Statutes, Section 120.54, Florida Statutes, Section 120.80(13)(d), Florida Statutes, and Rules 25-22.012 and 25-22.036, Florida Administrative Code.

III. STATEMENT OF SUBSTANTIAL INTERESTS

4. ACI is a facilities-based ALEC that will provide high-speed data communications including high speed Internet access, through the deployment of digital subscriber line (“DSL”) services in Florida. Through its provision of DSL services, ACI will provide high-speed access to the Internet as well as telecommuting or “work-at-home” applications. In providing its DSL-based services, ACI will revolutionize how Florida consumers access telecommunications and information services in both their work and home environments. Through its services, ACI will make competition a reality for residential customers. In order for ACI, or any other carrier, to provide DSL services, however, it must be able to place equipment in the ILECs’ central office (“central office” or “COs”) at rates, terms and schedules that are nondiscriminatory. Unless the Commission acts to establish such nondiscriminatory rates, terms and conditions for collocation

for the three largest ILECs in Florida, ACI will be prevented from competing in Florida on a broad scale, to the detriment of Florida consumers.

IV. DISPUTED ISSUES OF MATERIAL FACT

5. The facts stated below are the ultimate facts that entitle ACI to relief. ACI expects that the ILECs will dispute many of these facts.

V. INTRODUCTION

6. The availability of physical collocation, provisioned in a timely manner and with flexible terms and arrangements, is crucial to the entry of new competitors into the local telecommunications market. ALECs must obtain nondiscriminatory access to the incumbents' interconnection equipment, typically, though not always, located in a CO, in order to offer consumers a choice in local telephone service as well as advanced high-speed telecommunications services. In order to guarantee such access to competitors, the Commission should adopt generic comprehensive rules for the assignment, provision and arrangement of collocation space. Generic rules are of vital importance at this time, as ALECs roll out their facilities to provide competitive service to Florida consumers.

7. Unfortunately, as the Commission is aware from BellSouth's collocation waiver petitions currently under consideration, physical collocation space is a scarce, finite resource. ACI and other ALECs are thus experiencing an increasing lack of available physical collocation space. ACI proposes that the Commission adopt the formal procedures described herein in order to deal fairly and expeditiously with future ILEC waiver petitions.

8. In addition, ACI suggests different collocation arrangement options that will assist the Commission and the ILECs in maximizing available space, thereby allowing the

greatest number of competitors to provide services to customers served by each central office. Many of these types of physical collocation provide not only a more efficient use of space but are more cost effective for both the incumbents and competitors. These alternatives to traditional physical collocation are presently used in other states to the benefit of their local telephone service customers and thus are commission-sanctioned.

9. Finally, as an overarching matter, the Commission should adopt rules that require incumbents to provide collocation space at reasonable intervals and terms in order best to implement Congress's mandate in the 1996 Act. The Commission should ensure that ALECs obtain collocation space in as short a timeframe as possible in order to facilitate their entry to the local market. Further, the Commission should require ILECs to spread the cost of preparing collocation, so-called "space preparation charges," to prevent one ALEC from bearing the entire brunt of what are often prohibitively high costs.

10. This Commission plays a decisive role in assisting carriers in entering the market and providing competitive local services to all consumers. ACI urges the Commission to adopt the following collocation rules and procedures requiring the provisioning of collocation at reasonable terms, condition, intervals and prices in order to facilitate the growth of competition and increased choice for Florida consumers in local services.

VI. ILECS MUST MAKE PHYSICAL COLLOCATION AVAILABLE WHEREVER POSSIBLE

11. This Commission must base its rulemaking on the premise that the Telecommunications Act of 1996² requires ILECs to provide physical collocation space wherever possible. The availability of physical collocation is absolutely essential to the ability

of ACI and other competitors to provide a reliable quality of service to Florida consumers, because it enables ACI to access and maintain its collocation equipment. Traditional virtual collocation cannot provide competitive carriers with access to equipment, thereby precluding these carriers from adopting their own maintenance and service quality standards. The Commission therefore must find that the ILECs' obligation to provide physical collocation is paramount and must be fulfilled except in extraordinary circumstances.

12. Further, the Commission should be aware that Congress's vision of physical collocation contemplated that more than the incumbents' central office would be available for placement of ALEC equipment. Section 251 of the Act describes collocation as the placement "of equipment necessary for interconnection or access to unbundled network elements at the *premises* of the local exchange carrier[.]" 47 U.S.C. § 251(c)(6)(emphasis added). The term "premises" clearly encompasses more than the ILECs' central offices. Therefore, ACI urges the Commission to consider all ILEC buildings and attached land as possible sites for physical collocation.³ In so doing, the Commission will have greatly alleviated the problem of CO space exhaustion, thereby facilitating competitor entry into the Florida market.

A. ILECs Have An Absolute Obligation To Provide ALECs With Collocation Facilities

13. The 1996 Act requires all incumbent local exchange carriers ("ILECs") to provide on rates, terms, and conditions that are just, reasonable, and nondiscriminatory, for physical collocation of equipment necessary for interconnection or access to unbundled network elements at the premises of the local exchange carrier. 47 U.S.C. § 251(c)(6) (emphasis added).

² Pub. L. No. 104-104, 110 Stat. 56 (1996) ("1996 Act").

³ ACI explains the adjacent collocation method of physical collocation at section IV. B., *infra*.

Under the plain language of the Act, ILECs have an absolute duty to provide physical collocation. This duty remains enforceable unless and until “the local exchange carrier demonstrates to the State Commission that physical collocation is not practical for technical reasons or because of space limitations.” *Id.*

14. An ILEC’s obligation to provide physical collocation is removed in only one narrow set of circumstances: where the ILEC proves – not alleges, avers or claims – that it is impossible for it to provide physical collocation space. According to the clear language of Section 251, the burden of proving “that physical collocation is not practical for technical reasons or because of space limitations” remains with the ILEC. Absent such proof, ILECs must provide physical collocation to any requesting ALEC.

15. Unfortunately, however, incumbents often have been unwilling to provide physical collocation space to competitors. As the Commission knows, BellSouth has, to date, filed six petitions, which the Commission is considering in separate dockets. Regardless of Congress’s mandate in 1996 Act, ILECs have a significant disincentive to providing physical collocation. This disincentive lies in the simple fact that the provision of physical collocation space enables competitors to enter the local market and win the ILEC’s customers. Because of this inherent tension surrounding provision of physical collocation, the Commission must provide clear rules to ensure that competitors obtain access to these crucial facilities.

B. Physical Collocation Provides The Best Means Of Network Access For Competitors

16. Traditional physical collocation is the optimal form of collocation for providers of advanced telecommunications services such as DSL services. This is true for two reasons. First, in order for ACI, or any other DSL provider, to offer its service, it must achieve copper

continuity from the end user's premises to its collocated equipment, such as a DSLAM.⁴ In addition, DSL is a distance-sensitive technology that is, to some degree, dependent on the length of the loop between the end user and the DSLAM.⁵ The ILECs' premises are usually located within the appropriate length from the end user.⁶ It is thus important that ACI be able to collocate its DSLAM on or near the incumbents' premises in order to meet this technological requirement.

17. Secondly, by physically collocating its equipment, ACI's technicians can access its equipment for repair and maintenance. ACI's service level obligations to its Florida customers require that ACI technicians have immediate access to collocated equipment. If ACI is unable to access its equipment and is forced to rely on ILEC or unaffiliated third-party technicians, who may not be sufficiently familiar with DSL equipment, ACI cannot be sure that its equipment will be properly repaired and maintained. Even more important, however, is that ACI must uphold its quality guarantee to its customers, which includes a guaranteed "up time." This "up time" guarantee requires ACI to identify and repair any fault within a very short time (for example, 30 minutes). No ILEC in the country, including those serving Florida, is willing to guarantee, even in return for payment, the time it will take to repair equipment in virtual collocation. Thus, were ACI barred from physical access to its equipment, its service level guarantee could not be maintained.

18. It is for this reason that traditional virtual collocation is not a viable option for DSL providers. In fact, the California Public Utility Commission recently found that "virtual

⁴ Digital Subscriber Line Access Multiplexer. A DSLAM is essentially a MUX for digital services.

⁵ While the exact length varies among carriers, most DSL providers must locate their DSLAMs within eighteen to twenty-two kilofeet of the end user's premises.

collocation is an inferior alternative to physical collocation.”⁷ The California Commission based its finding on the fact that to “the extent that [ALECs] are dependent upon virtual collocation, they may be unable to provide equipment and services that are superior to that of [the ILEC], limiting the competitive edge. With physical collocation [ALECs] are able to offer services which are not bound by [the ILEC’s] standards.” CPUC Opinion at 13. It is crucial to ACI’s business plan and customer service guarantees that it be able to adopt and maintain its own service standards, which are often superior to those of the ILEC. In order not to be bound by the ILEC’s standards, ACI requires physical collocation wherever possible. The availability of physical collocation is thus one means by which the benefits of competitive service will reach Florida consumers – in the form of improved quality of local service.

19. The Commission should further be aware that the 1996 Act, as well as the FCC’s rules, specifically provide for collocation at locations other than the ILECs’ central offices. Section 251 requires ILECs to provide physical collocation “at the *premises* of the local exchange carrier.” 47 U.S.C. § 251(c)(6)(emphasis added). Premises, as a term of art, is defined as “[l]and and tenements; an estate, including land and buildings thereon; the subject-matter of a conveyance.”⁸

20. The FCC interprets “premises” broadly to include all structures at which LEC facilities are housed and any location at which interconnection is technically feasible.⁹ More specifically, the FCC concluded that in “light of the 1996 Act’s procompetitive purposes . . . a

⁶ Because of the need for copper continuity within a certain length, certain types of physical collocation, such as “collocation hotels” that are available to traditional voice ALECs are not sufficient for providers of advanced DSL services. These “collocation hotels” are often located outside the length limit for DSL services.

⁷ California Public Utilities Commission Decision 98-12-068, December 17, 1998 (“CPUC Opinion”) at 13.

⁸ Black’s Law Dictionary at 1063, 5th Ed. (West 1979).

⁹ *First Report and Order*, 11 FCC Rcd. at 15,791.

broad definition of the term ‘premises’ is appropriate in order to permit new entrants to collocate at a broad range of points under the incumbent LEC's control. A broad definition will allow collocation at points other than those specified for collocation under the existing Expanded Interconnection requirements.”¹⁰ Thus, in defining the term “premises,” the FCC expanded the points of collocation beyond those specified in its prior *Expanded Interconnection Order*, which required LECs to provide competitors with interconnection “at or near the LEC central offices.”¹¹ The FCC therefore interprets

the term “premises” broadly to include LEC central offices, serving wire centers and tandem offices, as well as all buildings or similar structures owned or leased by the incumbent LEC that house LEC network facilities. We also treat as incumbent LEC premises any structures that house LEC network facilities on public rights-of-way, such as vaults containing loop concentrators or similar structures.”¹²

It is important to remember that this list is not exhaustive but merely provides examples of those locations where ILECs must provide collocation. Given the FCC’s findings on this issue, the Commission should adopt an inclusive interpretation of where the ILECs must provide physical collocation.

21. Thus, nothing in the Act or the FCC rules indicates that physical collocation outside the CO, which ACI calls “adjacent collocation,” is beyond the scope of ILEC collocation obligations. Rather, adjacent collocation is a method of physical collocation that should be required by this Commission as a viable form of collocation. Under this interpretation, the Commission retains a great deal of latitude in adopting collocation options that will best address the lack of space in ILEC facilities.

¹⁰ *Id.*

¹¹ *Expanded Interconnection with Local Telephone Company Facilities, Report and Order and Notice of Proposed Rulemaking*, 7 FCC Rcd. 7369, 7374 (1993) (“*Expanded Interconnection Order*”).

VII. THE COMMISSION SHOULD ADOPT COMPREHENSIVE RULES AND PROCEDURES GOVERNING THE ILECs' REQUIREMENTS FOR WAIVERS

22. In order to fulfill Congress's mandate that incumbents provide physical collocation space to their competitors, the Commission should take a pro-active role in determining the rules and procedures for ILEC provisioning of collocation space.

23. An increasingly important area in which state commissions must adopt collocation rules is in handling ILEC petitions for waiver of collocation obligations. Across the country, incumbents are submitting waiver petitions with greater frequency, claiming that space within a particular CO is exhausted, seeking relief from their obligation to provide physical collocation. In evaluating an ILEC's petition, commissions must consider whether an ILEC's alleged lack of space is substantiated by evidence that is sufficient to justify denying a competitor access to these key facilities. Unfortunately, such denial of space limits consumer choice of service for the consumers served by a particular CO.

24. Given the consequences, this Commission should set a high threshold of proof for an ILEC seeking a collocation waiver. ACI, and other competitors like ACI who are now rolling out advanced services across the country, will offer Florida consumers an expanded selection of exciting new high-speed telecommunications transmission services. To provide these advanced services, competitors must obtain physical collocation in a timely and efficient manner. Before granting an ILEC's request to deny competitors the ability to serve customers through physical collocation, the Commission should require ILECs to make a strong showing that a CO, as well as the additional land and buildings owned or controlled by the ILEC, is truly exhausted of all space.

¹² *Id.*

25. As a procedural matter, these rules should include a comprehensive procedure for the evaluation of ILEC petitions for waiver, providing for ALEC comment and testimony in response. In addition, the rules should look beyond the ILECs' narrow definition of physical collocation and contemplate other means of collocation, which often relieve ILEC space concerns altogether. The Commission should also adopt the practice of working with incumbents and competitors alike to find creative solutions to collocation difficulties. These actions will provide the greatest assurances that ALECs can obtain access to physical collocation facilities as Congress had envisioned.

A. The ILECs Retain The Burden Of Proving That Space On A Particular Premises Has Been Exhausted

26. It is essential to the success of facilities-based competition in Florida that the Commission require ILECs to demonstrate affirmatively and unequivocally that they have no space available for physical collocation before granting a collocation waiver. The Commission should not accept as dispositive an ILEC's mere assertion that it does not have sufficient collocation space in its COs. Rather, the ILEC must demonstrate, through submission of affidavits, floor plans and other evidence, that *all space* useful for the placement of equipment has been filled. The ILEC should be required to show that it has maximized the amount of space for collocation and that there are no other options available that would provide or create additional collocation space on the premises. For example, the Commission should not allow an ILEC to limit physical collocation to certain sections of its CO, such as the perimeter of the office, increasing the probability that "all space" will be exhausted. Incumbents must not be allowed unilaterally to minimize their statutory collocation obligations by providing access to only a limited area.

27. Further, ILECs must not limit the amount of available collocation space by pleading simply that security concerns require it. Although ACI recognizes and shares the ILECs' security concerns, ILECs should not be allowed to exploit the concern for security by limiting collocation. Incumbents can address their security concerns without restricting the availability of collocation space. ILECs themselves routinely rely on certified third-party contractors to repair and maintain their equipment located in ILEC COs. These ILECs have satisfied their legitimate security concerns by issuing these contractors passcards, which allow the ILECs to monitor both the identity and timing of anyone who enters a particular CO. Similar arrangements can be, and have been, arranged for competitive carriers.¹³

28. Therefore, in order for the ILEC to demonstrate that it has maximized collocation space, it must show that it has considered all available options. To meet this requirement, the ILEC should submit sufficient evidence indicating that the COs at issue, including the premises near the COs, are indeed out of *all available* space. As part of this evidence, the Commission should require Florida ILECs to prepare and submit their plans on the conversion and/or reclamation of "administrative, maintenance, equipment and storage space in relevant central offices," an approach taken by the Washington Utilities and Transportation Commission ("Washington Commission").¹⁴ As the Washington Commission held, requiring an ILEC to "reclaim central office equipment and space" is not only consistent with its obligations, it "is necessary to further competition by providing for physical collocation." *Washington Order* at 14.

¹³ Both USWest and Bell Atlantic have developed "key card collocation" with competitors.

¹⁴ Washington Utilities and Transportation Commission, Docket Nos. UT-960326, and UT 960337, Order at 11 (September 11, 1998) ("*Washington Order*").

29. The stakes involved in waiving an ILEC's collocation obligations are high. By granting a petition for waiver, the Commission in fact decides that Florida consumers served out of those COs will be denied the benefit of a competitive choice in telecommunications services. Therefore, the Commission should place the burden of proving space exhaustion squarely on the ILEC and refuse to grant a petition not adequately supported by evidence that the ILEC has taken the steps necessary to provide physical collocation space.

B. The Commission Should Establish Strict Procedural Requirements By Which ILECs Must Prove Exhaustion of Space

30. Equally important as substantive rules for collocation provisioning are procedural rules that allow all interested parties to participate in the waiver process. ACI proposes that the Commission adopt a review procedure that requires submission of pre-petition notices along with supporting evidence that space is unavailable. These rules should also permit ALECs to respond to ILEC petitions in the form of comments and rebuttal evidence. The Commission should use these procedures to amass as much evidence as possible when evaluating an ILEC's petition for waiver.

1. The Commission Should Require ILECs To File Both A Notice Of Intent And A Formal Petition For Waiver Of Its Physical Collocation Obligations

31. As an initial matter, the Commission should require ILECs to file a notice of intent to file a petition for waiver before an ILEC files its formal petition. The notice should include a current floor plan with an affidavit signed by an ILEC officer affirming that the floor plan, in all particulars, accurately reflects all current and short-term future use of the CO and the surrounding buildings and land. This requirement is in keeping with the FCC's rule that "incumbent LECs provide the state commission with detailed floor plans or diagrams of any

premises where the incumbent alleges that there are space constraints.”¹⁵ The ILEC should serve this notice on all certificated ALECs as well as the local governments where the particular CO is located. This will allow interested parties, both competitors and the Florida citizens directly effected by the ILECs’ proposed action, to participate.

32. ACI urges the Commission to require ILECs to submit the notice as soon as they become aware that space is unavailable. ILECs should not wait for a ALEC collocation request before filing a notice of intent to seek a waiver for a particular CO. ALECs spend considerable resources in identifying and applying for collocation space. This is an expensive process for many smaller ALECs and it is inefficient for ALECs to spend their limited resources to investigate COs for which the ILEC knows they are going to deny applications for physical collocation. Moreover, requiring ILECs to file for exemptions earlier in the process will allow the Commission to initiate its review and reach resolution on the availability of collocation as soon as possible. It will also allow the Commission and ILECs to start, as soon as possible, on the processes necessary to increase space. In turn, this will facilitate and expedite the deployment process for ALECs seeking to enter the Florida market.

33. Within thirty days of filing the notice, the ILEC should file its formal petition for a temporary waiver. The petition should also include another copy of the detailed floor plan of the CO and premises in question. The purpose of providing a second floor plan is to account for any changes that have taken place in the previous thirty days. If no changes have taken place, or are newly scheduled for future action within those thirty days, the ILEC can submit the same floor plan. Moreover, a detailed floor plan is an essential piece of evidence that both the

¹⁵ *First Report and Order*, 11 FCC Rcd. at 15,805.

Commission and interested ALECs will need to evaluate an ILEC's petition.¹⁶ These requirements are consistent with the Washington Commission's recent order requiring US West to "identify the work performed in each central office area and provide spatial dimensions when submitting floor plans." *Washington Order* at 10.

2. Incumbents Should File Comprehensive Testimony To Demonstrate That They Have Exhausted All Available Collocation Space

34. As a complement to a formal petition for waiver, the ILEC should submit comprehensive sworn testimony supporting the floor plan and detailing both the equipment and the space on the premises in question. This testimony should describe or identify (1) all the equipment in the CO, (2) the equipment that is in actual use and its function, (3) the equipment being phased out, (4) and equipment not in use. In addition, when identifying the equipment being phased out, the ILEC should include equipment both currently scheduled to be phased out and equipment that it knows, or reasonably expects, to phase out or retire within the next two years. In addition, the ILEC should provide the expected retirement date or dates of such equipment.

35. It is critical to the Commission's evaluation that it be able to determine the degree to which an ILEC is utilizing the equipment in its COs. ILECs have both the incentive and the opportunity to maintain outdated and unnecessary equipment in their COs in order to deny their competitors access to these COs. As one state commission has found, an ILEC's underutilization of equipment could have the "anticompetitive effect of minimizing or eliminating available space

¹⁶ Moreover, the requirement of filing a floor plan is consistent with the FCC's tentative conclusions in its proceeding to investigate the provision of wireline advanced services. *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket No. 98-147, Memorandum Opinion and Order and Notice of Proposed Rulemaking, FCC 98-188 at ¶ 146 ("*Advanced Services Order*" and "*Advanced Services NPRM*," respectively).

for collocation by [competitors.]”¹⁷ By requiring this information, the Commission will be able to evaluate the ILEC’s use of equipment in relation to the strong need for collocation space.

36. It is crucial that the Commission focus on “reserved space,” because incumbents can prohibit collocation entirely by “reserving” all the space not already occupied by its own equipment. The Commission must be especially vigilant that scarce and highly valuable space on the premises, which competitors could use immediately, is not taken out of available space by being “reserved” for future use. Therefore, the incumbent’s supporting testimony should also describe any space reserved for itself or other carriers. Specifically, the testimony should describe or identify (1) administrative and other non-equipment space, (2) space reserved by the ILEC for future use—separated by future use within six months, after six months within two years and after two years, and (3) collocation space in use and collocation space reserved for future use (within six months and after six months). It is important that the testimony include information on the space not only in the incumbents’ CO, but space in or near the CO as well. Furthermore, for any space reserved for future use, the ILEC should include the date or dates on which the space was reserved and the use for which it is planned. If space is reserved for more than two years, the ILEC should describe and explain its timeframe for the space. These requirements will ensure that ILECs retain a minimum of unutilized space on their premises, thereby making the most efficient use of existing network infrastructure.

37. Similarly, the Commission should require incumbents to submit any plans for space rearrangement. The Commission should order ILECs to submit detailed plans for any rearrangement or expansion of the premises in question, including timelines of each project in

¹⁷ California Public Utilities Commission (“CPUC”) Decision 98-12-068, December 17, 1998 (“CPUC Opinion”) at 16.

the premises for which the exemption is requested. To the extent that an ILEC claims that space is unavailable due to security or access constraints, the ILEC must also submit an explanation of any efforts the ILEC has undertaken to overcome such constraints. All of the above-described information, which should be provided in the form of sworn testimony, will assist the Commission in determining whether the premises in question are truly out of space.

38. This information will also allow the Commission to determine whether adjustments could be made that would allow ALECs to place their network equipment in or near a particular CO. Requiring ILECs to file their plans for space reclamation and minimizing exhaust is not only appropriate and consistent with the FCC's tentative conclusions in the proceeding on advanced telecommunications services,¹⁸ but the lack of such plans should be grounds for denying an ILEC's petition. Under the 1996 Act and the FCC's regulations, ILECs have an affirmative duty to make "arrangements" for collocation available to ALECs.¹⁹ If an ILEC has not initiated these types of plans, it has violated its obligation. The Washington Commission has already made such a finding, stating that

[e]quipment and space reclamation is necessary to further competition by providing for physical collocation. The requirement that US West reclaim central office equipment and space pursuant to requests for physical collocation is not inconsistent with the Telecom Act or FCC regulations. *Washington Order* at 14.

39. Each of ACI's proposed petition requirements is consistent with the position that the ILEC retains the burden of proving a lack of physical collocation space before obtaining a waiver of its collocation obligations. An ILEC cannot satisfy this burden of proof unless it can show to the Commission, and to Florida's consumers, that it has investigated and considered all potential rearrangement and reclamation plans that would make more space available.

¹⁸ *Advanced Services NPRM* ¶ 147.

3. Competitors Must Be Able To Inspect All Premises For Which The ILEC Seeks Waiver

40. Because it is essential that both ALECs and the Commission have the opportunity to inspect any premises for which waivers will be sought, incumbents must allow competitors and the Commission to tour all premises in question. Tours of the premises are consistent with the FCC's tentative conclusions in the *Advanced Services* proceeding:

[A]n incumbent LEC that denies a request for physical collocation due to space limitations should . . . allow any competing provider that is seeking physical collocation at the LEC's premises to tour the premises. Allowing competing providers to walk through a LEC's premises will enable competing providers to identify space they believe could be used for physical collocation. If, after the tour of the premise, the incumbent LEC and competing provider disagree about whether space limitations at that premises make collocation impractical, both carriers could present their arguments to the state commission. We tentatively conclude that state commissions will be better able to evaluate whether a refusal to allow physical collocation is justified if competing providers can view the LEC's premises and present their arguments to the state commission. . . .²⁰

41. To avoid any unnecessary delay, the tours should be scheduled within thirty days of the date that the ILEC files its formal petition. Each tour should include a Commission representative, a Commission staff engineer and a representative from each ALEC with an interest in viewing the premises.

4. The Commission Should Provide ALECs The Opportunity To File Comments And Testimony Challenging The ILEC's Assertions That Collocation Space Is Unavailable

42. In addition, the Commission should allow ALECs the opportunity to file testimony both to challenge the ILEC's contentions as well as to suggest other collocation arrangements that could be made available. In the interest of avoiding delay, this testimony

¹⁹ *Advanced Services NPRM* ¶ 64.

²⁰ *Advanced Services NPRM* ¶ 146.

should be filed within 30 days of the ILEC's petition. At this point, each ALEC must indicate whether it intends to oppose the petition. If a ALEC fails to indicate its position either way, the Commission should assume that the ALEC does not oppose the petition.

43. The Commission should further order a brief period of discovery to allow the Commission and competitors to gather any additional information that may be needed to evaluate the ILEC petition. The Commission should adopt an expedited discovery period. At the conclusion of the discovery phase, the Commission should file a notice of an expedited hearing that will provide both the ILEC and the interested ALECs an opportunity to present their positions through testimony and cross-examination.

VIII. THE COMMISSION SHOULD REQUIRE ILECs TO PROVIDE ALTERNATIVE FORMS OF COLLOCATION REGARDLESS OF WHETHER COLLOCATION SPACE IS EXHAUSTED

44. The Commission should not limit its definition of physical collocation to the unilateral and narrowly tailored definition that the ILECs employ. Rather, the Commission should consider other means by which competitors can collocate their equipment. Given the incumbents' firm obligation to make physical collocation available, and the impact on consumers when ILECs foreclose competitors from physically collocating, the Commission should use a broad definition of what constitutes physical collocation.

45. An expansive view of physical collocation is consistent with the FCC's findings on the meaning of "premises." As explained above, the FCC has concluded that locations at which ILECs must make physical collocation available should be broadly defined to include "a broad range of points under the incumbent LEC's control."²¹

²¹ *First Report and Order*, 11 FCC Rcd. At 15, 791.

46. Requiring ILECs to offer creative collocation solutions is consistent with the FCC's conclusion that ILECs "have a statutory obligation to offer cost efficient and *flexible collocation arrangements*."²² "Flexible" collocation options retain the benefits of traditional physical collocation and will limit the instances when Florida consumers are denied a competitive choice in carriers because the CO serving their area is out of space. Therefore, the Commission should adopt as many different types of physical collocation arrangements as possible in order to maximize collocation space and thereby maximize the number of competitors able to serve Florida customers. Further, the Commission should declare affirmatively that each of these options is presumed to be technically feasible unless proven otherwise by the ILEC.

A. Traditional Virtual Collocation Is An Unacceptable Method Of Collocation And Should Not Be Sanctioned By This Commission As An Adequate Substitute For Physical Collocation

47. In traditional virtual collocation arrangements, a competitor sells its equipment to the ILEC for a nominal fee and the equipment is placed "in line" with the ILEC's equipment in the central office. Because the ALEC's equipment is not physically separated from the ILEC's equipment, incumbents preclude the competitor from accessing that equipment. As ACI has explained, this arrangement is unacceptable because it forces ACI to rely on ILEC or third-party technicians to maintain and operate ACI's equipment. Under these circumstances, ACI would be powerless to uphold its service guarantee to its Florida customers. In other words, no one, neither ALECs nor consumers, benefits from traditional virtual collocation. Therefore, the Commission should not sanction traditional virtual collocation as a satisfactory substitute when

²² *Advanced Services NPRM* ¶ 146 (emphasis added).

physical collocation space is exhausted. Rather, the Commission should require ILECs to make generally available various forms of physical collocation.

B. ALECs Should Be Able To Choose Among Different Types Of Collocation Arrangements That Permit Them Access To Their Equipment

48. The Commission should require the ILECs to make available various types of collocation that allow competitors to install and maintain their equipment in or near the CO. The Commission should evaluate these options on the basis of how many characteristics of traditional physical collocation they provide. That is to say, the Commission should ensure that any virtual collocation method it approves provides ALECs with access to equipment in as free and ubiquitous a manner as practicable. Other state commissions have approved different types of modified physical collocation arrangements to the satisfaction of both incumbents and competitors.

49. The following arrangements are presently in use and therefore should be presumed by this Commission to be technically feasible. ACI presents these arrangements as a list of “menu” options for carriers to select according to their needs. In other words, the Commission need not determine a rank order for these proposals and demand that the ILEC provide them accordingly. Rather, the Commission should adopt each of these forms of traditional physical collocation for selection by ALECs. Likewise, the Commission should require ILECs to make these types of physical collocation available at all premises.

1. The New York Public Service Commission Has Approved An Acceptable Alternative Collocation Arrangement That Permits ALECs To Access Their Equipment

50. The New York Public Service Commission (“NYPSC”) has developed a new collocation arrangement, called Secured Collocation Open Physical Environment (“SCOPE,”)

that retains the qualities of traditional physical collocation, yet requires less central office space to implement. The NYPSC has been one of the most aggressive commissions examining solutions to collocation difficulties. The NYPSC began, on its own motion, a proceeding to review methods of combining network elements for ALECs.²³ This proceeding explored, through party comments and an informal collaborative process, the most efficient and pro-competitive UNE combination solutions presently available.

51. The NYPSC examined possible collocation solutions under several criteria: (1) ubiquity of service; (2) cost; (3) timely provision; (4) service quality; (5) network reliability; (6) ease of competitor entry; (7) impact of service quality for end users; and (8) facilitation of customer migration between carriers. Pursuant to these criteria, the NYPSC approved SCOPE as a viable alternative to traditional physical collocation.

52. SCOPE is the NYPSC version of cageless collocation in which the ALEC remains responsible for the installation and maintenance of interconnection equipment.²⁴ SCOPE permits ALEC technicians to enter and maintain the ALEC's space. It requires a shared point of termination ("SPOT") via a bay that represents the demarcation point between ALEC and ILEC equipment. The advantage of SCOPE is that it requires significantly less space than traditional physical collocation: approximately 15 square feet as opposed to 100 square feet. The NYPSC further proposed nine possible security measures, identified within the collaborative process, that include ALEC installation of locked cabinets for their equipment, the identification of all technicians that require access to the shared space, and the maintenance of a sign-in log for all

²³ *Proceeding on Motion of the Commission to Examine Methods by Which Competitive Local Exchange Carriers can Obtain and Combine Unbundled Network Elements*, Opinion 98-18, Case No. 98-C-0690 (rel. Nov. 23, 1998) ("New York Order").

²⁴ *New York Order* at 17.

technicians permitted to enter the space.²⁵ The NYPSC adopted SCOPE because it provides “another physical collocation method entailing less space and investment than traditional physical collocation.”²⁶

53. SCOPE is precisely the type of physical collocation option that this Commission should include in its definition of “physical collocation” and require Florida incumbents to provide. Florida consumers are just as deserving as New York consumers of competitively available services. By making a SCOPE type of collocation available in Florida, the Commission will increase the amount of space available for collocation and thus the number of Florida consumers who will have access to competitive providers’ services.

2. “Adjacent” Collocation Is A Cost-Effective Way Of Providing Competitors With Network Access Without Using Central Office Space

54. “Adjacent” collocation is a form of physical collocation that allows the competitor to place its equipment in a structure on or near an ILEC’s premises and obtain interconnection via a direct trunk into the ILEC’s central office. This type of collocation provides a significant advantage because it requires absolutely no use of central office space by the ALEC. In addition, adjacent collocation solves any security concerns because the ALEC’s equipment remains segregated – even more so than with traditional collocation where competitors’ equipment is physically separated from the ILEC’s equipment. Adjacent collocation requires only that the incumbents provision a trunk from its CO to the ALEC’s site, for which it may of course require cost-based compensation from the ALEC.

²⁵ *New York Order* at 20.

²⁶ *New York Order* at 20.

55. Adjacent collocation should be adopted by this Commission as a means of traditional physical collocation. Because the Act speaks of ILEC “premises,” this type of collocation is mandated by Congress’s and the FCC’s initial collocation requirements. As explained herein, Section 251 requires ILECs to provide collocation facilities “at the premises.” Further, the FCC’s historical interpretation of collocation rules require that the land and buildings surrounding the LEC’s central office be eligible for physical coalition for interconnection “at a point or points as close as reasonably as possible to the central office.”²⁷ Since the FCC has already defined “premises” to extend beyond this historical interpretation, the Commission should require that ILECs permit competitors to place equipment in or near their COs in accordance with these mandates.

56. Further, adjacent collocation architectures are precisely the types of “other alternative physical collocation arrangements” that the FCC is seeking “to lower the cost of collocation and thereby facilitate competition in the advanced services marketplace.”²⁸ Quite simply, adjacent collocation provides all of the benefits of traditional collocation without imposing any spatial or financial burden on the ILEC whatsoever. By ordering the ILECs to make adjacent collocation available, the Commission would create a progressive regulatory environment that will facilitate competition in Florida for advanced and innovative telecommunications services such as DSL. ACI therefore urges the Commission to require incumbents to provide adjacent collocation arrangements to any requesting carrier.

²⁷ *Expanded Interconnection Order*, 7 FCC Rcd. at 7410.

²⁸ *Advanced Services NPRM* ¶ 142.

3. Non-Physical Collocation Is An Acceptable Collocation Arrangement If Other Options Are Demonstrably Infeasible And ALEC Access To Equipment Is Guaranteed

57. The NYPSC approved Identified Space Collocation (“ISC”), also known as “virtual with visitation,” as another alternative to traditional physical collocation. Although ISC is a form of virtual collocation, it permits ALECs unfettered access to their equipment in much the same manner as physical collocation does. Therefore, unlike traditional virtual collocation, ISC is an acceptable, albeit second best, form of collocation.

58. ISC involves placement of ALEC equipment among Bell Atlantic-New York’s equipment within the same space. As with the SCOPE method, in ISC competitors are responsible for the installation and maintenance of their equipment.²⁹ The ILEC assigns specific racks for each ALEC in order to identify their equipment. In addition, ISC has no minimum space requirements and requires ALECs to pay only a pro rata share of Bell Atlantic-New York’s CO rent.³⁰ Finally, security concerns are addressed by the provision of a Bell Atlantic escort for ALECs that require access to their equipment. The NYPSC approved ISC, with the supervision requirements, because it “effectively expands the menu of available collocation options.”³¹

59. Bell Atlantic also provides Collocation Line of Sight Escort (“CLOSE”) in New York. CLOSE is a form of virtual collocation that requires ALECs to use mutually-approved third-party vendors for installation of interconnection equipment at the carrier’s expense. Competitors may, however, use their own personnel for the repair and maintenance of that equipment. Bell Atlantic-New York will provide an escort to these personnel, also at the ALEC’s expense. Though not a preferred method of collocation, CLOSE retains the ALEC-

²⁹ *New York Order* at 21.

³⁰ *New York Order* at 22.

access characteristic that enables carriers to control and manage their own equipment. This Commission should adopt CLOSE as a form of collocation in Florida.

C. The Commission Should Order The ILECs To Permit Competitors To Sublease And Share Physical Collocation Space

60. Another method of solving the problem of space exhaustion is to require ILECs to permit ALECs to sublease and share physical collocation space. Subleasing here is meant in the same sense as subleasing an apartment: one ALEC will occupy a particular section of a CO from another during the period that the space is not in use. Sharing collocation space simply refers to the combined tenancy of two or more ALECs in a particular CO space. These options present a feasible collocation solution that greatly reduces the spatial demand between competitors in a given premises. Further, subleasing and sharing of collocation space will enable the greatest number of carriers to bring competitive service to the customers served out of each Florida central office.

61. Unfortunately, however, several ILECs, including Florida's incumbents, continue to prohibit collocation subleasing and sharing. This prohibition is in essence the ILECs' unilateral determination of the number of ALECs that can collocate in its region. There is no compelling technical or policy reason for this prohibition. Therefore, the Commission should order all three major Florida ILECs to permit competitors to share and sublease space within their central offices. This requirement should be deemed presumptively feasible unless proven otherwise by the ILEC. To this end, the Commission may impose upon ALECs whatever administrative burdens and liability it believes necessary for the maintenance of the ILECs' space, such as requiring all parties to install only industry standard equipment (as many ILECs

³¹ *New York Order* at 22.

already require) or indemnification of the ILEC for equipment malfunction not due to its negligence. In adopting this rule on subleasing and sharing, the Commission will, to a significant degree, further solve the pressing collocation space allocation problems that ALECs currently face.

IX. THE COMMISSION SHOULD DEVELOP A PROCEDURE FOR THE ASSIGNMENT OF NEW COLLOCATION SPACE

62. The Commission should establish a procedure for the assignment of space when “new” space becomes available through either the ILECs’ reclamation and/or conversion of space or the introduction of one of the types of physical collocation described above. Since demand for collocation space is high, whenever “new” space is made available, competitors, who had previously applied for and been denied space, will be anxious to get “in line” for that new space. Therefore, ACI proposes the following procedure for assigning this space.

63. The Commission should require ILECs to maintain, for five years, all applications for physical collocation that were denied. When new space becomes available at or near a particular CO, the ILEC should *immediately* provide written notification to the applicants who applied for, but were denied, physical collocation for those premises and make space available to them in the order in which they originally applied. In those instances in which the space is made available because another collocater has terminated its collocation arrangement, the ILEC should not be permitted to wait for the space to be cleared of the previous collocater’s equipment. Similarly, if the space is made available because the ILEC is executing a plan to remove equipment or convert space, the ILEC should not wait for the plan to be completed, but should inform the applicants as soon as it knows that the space is, or will become, available. This requirement is necessary to avoid any unnecessary delay in allowing a competitor to install its

own equipment in this new space. The collocator in the new space should be able to begin the procedural steps necessary in applying for space while the new space is being made ready.

64. Applicants that receive notification that space is available must affirmatively respond to the ILEC in writing within three business days of notification by the ILEC, or be deemed to have forfeited the space. Because there may be more applicants who respond to the notification than there is new space available, the ILEC should assign the space to the applicant whose original application was filed first. For example if ALEC-1 filed for physical collocation space in July 1998 and ALEC-2 filed for physical collocation in the same CO in September 1998 and both were denied space, ALEC-1 would be in line for any new space before ALEC-2.

65. In addition, an ILEC would not be able to assign new space to its own subsidiary ahead of other ALECs unless that subsidiary filed for physical application ahead of the ALECs. The Commission must not allow subsidiaries, which are required to be wholly separate entities, to enjoy better treatment from the incumbent than does a ALEC. This requirement must extend to all aspects of collocation provisioning, including intervals, pricing and the provision of alternative arrangements.

66. This proposal treats competitors fairly because ALECs would be eligible for new space depending on when they filed their original applications. By making new space available on a "first-come, first-served basis," this plan is consistent with the FCC's rules for space allocation.³² It also protects the ILEC from accusations that it assigned new space in a discriminatory manner. Therefore, this proposal treats both ALECs and ILECs fairly and equitably, while encouraging competition in local services, as envisioned by the 1996 Act.

³² "[A]n incumbent LEC shall make space available within or on its premises to requesting telecommunications carriers on a first-come, first-served basis[.]" 47 C.F.R. § 51.323(f)(1).

X. THE COMMISSION SHOULD REQUIRE INCUMBENTS TO PROVIDE COLLOCATION AT REASONABLE INTERVALS AND PRICES IN ORDER TO SPEED COMPETITOR ENTRY INTO THE LOCAL MARKET

67. Equally as important as the availability of collocation space is the amount of time and cost required to receive it. Incumbent LECs currently have absolute, unfettered control over the time intervals and price at which collocation is made available to ALECs. The Commission must adopt statewide rules requiring timely and cost-efficient collocation in order to encourage competitive entry into the local market.

A. The Commission Should Adopt Interim Collocation Intervals Requiring Access To Collocation Space Within 76 Business Days Of Receipt Of A ALEC Request For Space

68. Competitors face a significant obstacle in obtaining collocation in the form of the delivery intervals that the ILEC imposes for the build-out of space. At least one Florida incumbent is requiring up to 285 days to provision collocation space, the so-called “turn-over date,” marked from the day the incumbent receives a ALEC’s application. Furthermore, as a general matter when incumbents turnover space to the ALEC, the ALEC cannot commence service. Rather, “turn over” simply means that the ALEC can begin installing its own equipment in the central office. Elongated intervals will cause ALECs to suffer significant delays in commencing services to customers. Moreover, this delay is unnecessary and is often used as a means for incumbents to forestall even further their competitors’ ability to enter the market.

1. BellSouth's Collocation Intervals Will Delay The Development Of Facilities-Based Competition In Florida

69. In ACI's interconnection agreement with BellSouth,³³ BellSouth would only contractually commit to respond to ACI's application within 60 days of its receipt.³⁴ Attachment IV § 4.1.1.1. This is twice as long as it takes other incumbents to respond to applications. According to its tariff, Sprint will respond to applications for physical collocation within thirty (30) days.³⁵ Moreover, these time intervals are only "for central offices where a common area is constructed, where local building code allows an unenclosed arrangement, and space is available within the common area." Attachment IV § 4.1.1.1. For central offices where BellSouth determines that the common area construction is not complete or where no common area has been constructed, BellSouth will only contractually commit to respond to ACI's application within 90 days.³⁶ Attachment IV § 4.1.1.2. Thus, for these COs, BellSouth refuses to guarantee any response before 90 days, a full 3 months, after ACI submits its application. To put this time interval in perspective, Sprint has committed to complete construction of a ALEC's space within 90 days.³⁷ Thus, Sprint will turn over collocation space in the same time that it takes BellSouth to respond to an application.

70. After receiving BellSouth's response, ACI is to file a Bona Fide Firm Order ("BFFO"), to indicate its intent to proceed with equipment installation and pay BST a cable installation fee, space enclosure construction fee, as applicable, and one-half (1/2) of the

³³ BellSouth filed the application for Commission approval of the ACI and BellSouth Interconnection Agreement on February 9, 1999.

³⁴ BellSouth agreed to use "its best efforts" to respond to ACI's applications "within 45 days, and in no event will take longer than 60 days. Attachment IV § 4.1.1.1.

³⁵ Sprint Tariff FCC No. 1 § 17.5(a).

³⁶ BellSouth agreed to use its "its best efforts" to respond to ACI's applications "within 60 days, and in no event will take longer than 90 days. Attachment IV § 4.1.1.2.

³⁷ Sprint Tariff FCC No. 1 § 17.5(c).

estimated space preparation fee. After receiving ACI's BFFO, BellSouth can take up to fifteen (15) days before acknowledging that the BFFO is accurate and complete. Attachment IV § 4.2.1.

71. At this point, what could be 105 days after ACI submits its application, BellSouth will commence construction of ACI's collocated space. The truncated process continues in that BellSouth will not commit to finishing construction until 120 days from the receipt of a complete and accurate BFFO. Again, this commitment hinges on BellSouth's finding that in the central office in question, a common area is constructed, local building codes allows an unenclosed arrangement, and space is available. Attachment IV § 4.3.1.1. For those applications for space in central office where BellSouth finds otherwise, BellSouth will not commit to finish construction until 180 days from the receipt of a complete and accurate bona fide firm order. This interval does not include the time it will take BellSouth to secure any necessary government permits. Attachment IV § 4.3.1.2. Thus, adding the 180 construction day interval to the 105 day response interval, BellSouth may take up to 285 days, over two-thirds of a year, from the date ACI's submits a physical collocation application until cage turn-over. Even in the best case scenarios, where BellSouth agrees that common area in a particular CO is constructed and an unenclosed arrangement is allowed, BellSouth will not commit to turning over a collocation space until 195 days after ACI submits an application. BellSouth's collocation intervals are clearly unreasonable.

72. These time intervals are wholly inconsistent with the procompetitive goals of both the 1996 Act and this Commission's efforts over the last two years. New entrants should not have to wait between 195 and 285 days before gaining access to collocation space. These delays create significant barriers to competitive entry. Moreover, while ACI waits for months for its collocation space, the ILEC will be able to tighten its control of the newly developing markets,

such as the advanced high-speed data transmission market. The discrepancy between BellSouth's and Sprint's collocation intervals highlights the artificial delay that BellSouth is imposing on ALECs.

73. The Commission should therefore investigate collocation delivery intervals and determine a statewide interval standard for all ILECs. Because many ALECs, including ACI, are facing this problem presently, the Commission should issue an interim interval standard that all incumbents must meet. ACI recommends that this interval be no longer than 76 business days, or 110 calendar days, marked from the ILEC's receipt of a competitor's request for space.

2. The Commission Should Require Florida ILECs To Process ALEC Physical Collocation Applications Within 76 Business Days

74. This 76-business day interval is reasonable and in keeping with present practice. In New York, Bell Atlantic provides collocation within 76 business days of receipt of a collocation request.³⁸ Bell Atlantic - New York's offered intervals evidence the fact that incumbents do not require several months for making collocation space available. The Commission should impose this 76-day interval while it investigates the capabilities of Florida ILECs. If this interval proves infeasible, the Commission should amend it in a formal decision. Pending a formal decision, the Commission should make the 76-business day collocation interval effective immediately for all ALECs. Further, the Commission should find that, in light of Bell Atlantic-New York's current practice, the 76-business day interval is presumed feasible unless proven otherwise by an ILEC.

³⁸ This interval is conditioned upon the ALEC's submission of proper space demand forecasting information with the collocation request.

B. The Commission Should Require The ILECs To Distribute The Costs Of Preparing Collocation Space Among All ALECs That Will Collocate There

75. The ILECs typically pass on the cost of preparing collocation space, the so-called “make-ready charge,” to the ALEC requesting the space. Exorbitant collocation costs, however, can be prohibitive to a small ALEC attempting to enter the local market. Incumbents have the power and the incentive to pass on outrageously high make-ready charges in order to prevent competitors from obtaining space altogether. Further, these charges are nearly always borne by the first ALEC to obtain space, although that ALEC will not occupy all of the prepared space.

76. For example, GTE applies an environmental conditioning charge that functions like a “make ready charge.” The environmental conditioning charge is designed to recover costs “incurred by [GTE] for the environmental conditioning of space within a wire center or access tandem when a [ALEC] chooses to collocate equipment in non-environmental conditioned space.”³⁹ The charge is calculated on an individual case basis and is applied “in full to the first [ALEC] in each wire center or access tandem.”⁴⁰ This ALEC is then reimbursed if and when other ALECs collocate equipment in that particular CO. This type of “first-in” system penalizes the most efficient and aggressive ALECs simply for being the first carrier to provide service from a particular CO. Competitors thus face a significant disincentive, if not an outright barrier, to market entry under this system.

77. Presently there are no standards or procedures for ILECs to allocate the costs of providing collocation among the carriers requesting space in a particular CO. Therefore, ACI urges the Commission to adopt rules detailing the proper methods for allocating make-ready

³⁹ GTE FCC No. § 17.9.1(B)(10).

⁴⁰ GTE FCC No. § 17.9.1(B)(10).

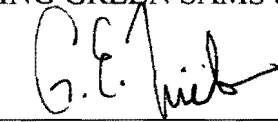
costs among competitors. The first-in system of passing on make-ready charges is a significant problem that requires Commission resolution.

WHEREFORE, for all of these reasons, ACI urges the Commission to establish a generic proceeding to address how Florida's largest three ILECs should comply with their obligation to provide ALECs with flexible, timely, and cost-efficient physical collocation.

RESPECTFULLY SUBMITTED this 12th day of March, 1999.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via U.S.

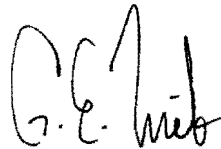
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