

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

 :
 In the Matter of : DOCKET NO. 981834-TP
 :
 Petition of Competitive :
 Carriers for Commission :
 Action to support local :
 competition in BellSouth :
 Telecommunications, Inc.'s :
 service territory. :

Petition of ACI Corp. d/b/a : DOCKET NO. 990321-TP
 Accelerated Connections, Inc. :
 for generic investigation to :
 ensure the BellSouth :
 Telecommunications, Inc., :
 Sprint-Florida, Incorporated, :
 and GTE Florida Incorporated :
 comply with obligation to :
 provide alternative local :
 exchange carriers with :
 flexible, timely, and :
 cost-efficient physical :
 collocation. :



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VOLUME 5

Pages 680 through 822

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PROCEEDINGS: HEARING

BEFORE: COMMISSIONER J. TERRY DEASON
COMMISSIONER SUSAN F. CLARK
COMMISSIONER E. LEON JACOBS

DATE: Thursday, January 13, 2000

TIME: Commenced at 8:30 a.m.

LOCATION: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: JANE FAUROT, RPR
FPSC Division of Records and Reporting
Chief, Bureau of Reporting

APPEARANCES: (As heretofore noted.)

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2

(Transcript follows in sequence from Volume 4.)

3

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COMMISSIONER DEASON: Call the hearing back to order. Mr. Melson.

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MR. MELSON: Commissioner Deason, Mr. Williams, the Rhythms witness, it appears with four witnesses in front of him that we are unlikely to get to him today. I have talked with the witnesses in front of him, and they all want to be on today. Mr. Williams would prefer to come back at a continued date rather than run the risk that he doesn't get on today. He has got other commitments tomorrow and he needs to get out of town in a timely manner.

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If you agree that it appears we are unlikely to completely finish today, I would ask that he be excused and scheduled to come back at whatever continued date you all establish.

17

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COMMISSIONER DEASON: And he cannot be here today, correct?

19

20

21

22

MR. MELSON: Correct.

COMMISSIONER DEASON: Okay. Witness Williams cannot be here tomorrow and the four witnesses ahead of him want to maintain their order?

23

24

MR. MELSON: That is what I have been told, yes.

25

COMMISSIONER DEASON: Okay. Any other accommodations? Okay.

1 MR. KERKORIAN: I just didn't hear you. Did you
2 say we may go tomorrow?

3 COMMISSIONER DEASON: We may do anything, you
4 never know about us.

5 MR. KERKORIAN: If that is the case, my witness,
6 Andrew Levy, is unable to be here tomorrow.

7 COMMISSIONER DEASON: Okay. Witness Levy is
8 unable to be here tomorrow.

9 MR. BUECHELE: If we are going to come back
10 tomorrow, we are willing to let our witness drop down a
11 little bit for somebody else who can't be here tomorrow.

12 COMMISSIONER DEASON: So if we decide to go
13 tomorrow you are willing to make an accommodation, otherwise
14 you want to keep your order as it is?

15 MR. BUECHELE: Right.

16 MR. MELSON: And, Commissioner Deason, if you
17 would intend to go tomorrow, we would ask for the
18 accommodation that Mr. Williams be moved up to follow Mr.
19 Martinez.

20 COMMISSIONER DEASON: Well, I can tell you this,
21 we are not going to go tomorrow unless we have concluded
22 Williams and Levy. Neither of those witnesses can be with
23 us tomorrow, so we are not -- that is the only way that we
24 can continue until tomorrow is if those two witnesses finish
25 sometime today or tonight.

1 MR. MELSON: Yes, sir. And I guess in an attempt
2 to do that, would it be appropriate to plan to take Mr.
3 Williams and Mr. Levy as the next two witnesses after Mr.
4 Martinez?

5 COMMISSIONER DEASON: Well, I can't speak for the
6 others, but apparently they aren't willing to give up their
7 place in the queue.

8 MR. GOODPASTOR: That would be Covad's position;
9 Mr. Moscaritolo needs to go today.

10 MS. KEATING: Commissioner, could I just add in
11 one little thing, though? Perhaps if the parties knew when
12 the next potential hearing date was then they might be more
13 willing.

14 COMMISSIONER DEASON: Well, that is a little bit
15 out of our purview, because that would have to come from the
16 Chairman's office. We could continue this hearing until
17 tomorrow. I don't think that is -- because we have had a
18 cancellation of another hearing.

19 But, as far as rescheduling to sometime in the
20 future, that would have to come from the Chairman. But it
21 looks like a tentative possibility would be February the
22 16th to just give you a feel for it. So that is what, about
23 five weeks or so from now. So, it's not like it's five
24 months from now, but --

25 MS. KAUFMAN: Commissioner Deason, if we are

1 going to continue tomorrow, Mr. Gillan does not need to be
2 on the stand today. So I'm not sure where we are with all
3 the order now, but I just wanted to let you know that.

4 COMMISSIONER DEASON: I'm sorry, that he --

5 MS. KAUFMAN: If we are going to continue to
6 tomorrow, he can drop down and let some of the other
7 witnesses that are unavailable tomorrow go ahead.

8 COMMISSIONER DEASON: So he can be with us
9 tomorrow?

10 MS. KAUFMAN: Yes, he can.

11 COMMISSIONER DEASON: Well, the only thing we can
12 do now is just plow ahead, and we will take another
13 assessment. MCI, you may call your witness.

14 MR. MELSON: MCI WorldCom calls Ron Martinez.
15 Thereupon,

16 RONALD MARTINEZ

17 was called as a witness on behalf of MCI WorldCom, Inc.,
18 and, having been duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. MELSON:

21 Q Mr. Martinez, would you please state your name
22 and business address?

23 A My name is Ronald Martinez, and I work at
24 Concourse Corporate Center Six, Six Concourse Parkway, Suite
25 3200, Atlanta, Georgia 30328.

1 Q And by whom are you employed and in what
2 capacity?

3 A I am employed by MCI and I work in the Law and
4 Public Policy Department working with the business units.

5 Q And have you prefiled testimony of 23 pages in
6 this docket?

7 A Yes, I did.

8 Q Do you have any changes or corrections to that
9 testimony?

10 A Yes, I do. One minor change. On Page 6, Line 3,
11 insert the word no after the words sees and before the word
12 need. So the sentence at the end would read, "And,
13 therefore, sees no need for an alternate procedure."

14 Q And have you also prefiled rebuttal testimony
15 consisting of 7 pages?

16 A Yes, I have.

17 Q Do you have any changes or corrections to that
18 testimony?

19 A No, I do not.

20 Q And with the one correction to your direct
21 testimony, if I were to ask you the same questions today,
22 would your answers be the same?

23 A Yes, they would.

24 MR. MELSON: Mr. Chairman, I would ask that Mr.
25 Martinez' direct and rebuttal testimony be inserted into

1 record as though read.

2 COMMISSIONER DEASON: Without objection, it shall
3 be so inserted.

4 BY MR. MELSON:

5 Q And you had no exhibits with either piece of
6 testimony, is that correct?

7 A That is correct.

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1 **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

2 **PREFILED DIRECT TESTIMONY OF**

3 **RON MARTINEZ**

4 **ON BEHALF OF MCI WORLDCOM, INC.**

5 **DOCKET NOS. 981834-TP AND 990321-TP**

6 **October 28, 1999**

7
8 **Q: Please state your name and business address.**

9 A: My name is Ron Martinez. My address is MCI WorldCom, Inc., Concourse
10 Corporate Center Six, Six Concourse Parkway, Suite 3200, Atlanta, GA
11 30328.

12
13 **Q: By whom are you employed and in what capacity?**

14 A: I am employed by MCI WorldCom, Inc. in the Law and Public Policy Group
15 as an Executive Staff Member II. The responsibilities of my current position
16 include working with the MCI WorldCom business units to ensure timely
17 introduction of products and services. This position is a continuation of the
18 duties that I had with MCI Telecommunications Corporation prior to its merger
19 with WorldCom.

20
21 **Q: Please describe your education and employment experience.**

22 A: Prior to my current position, I managed the business relationships between the
23 former MCI and approximately 500 independent local exchange companies in
24 twenty-one states. I have experience in network engineering, administration

1 and planning; facilities engineering, management and planning; network sales;
2 and technical sales support. Prior to joining MCI, I was the Director of Labs
3 for Contel Executone for several years. Before that, I worked for sixteen years
4 in the Bell system in numerous engineering, sales, and sales support functions.
5 I have a Master of Science degree in Operations Research and a Bachelor of
6 Science Degree in Electrical Engineering from the University of New Haven.

7

8 **Q: Have you testified before this Commission before?**

9 A: Yes, I have previously appeared as a witness in several other proceedings
10 before this Commission. My most recent appearance before the Commission
11 was in Docket No. 981121-TP, regarding UNE combinations.

12

13 **Q: On whose behalf are you appearing in these proceedings?**

14 A: I am appearing on behalf of MCI WorldCom Communications, Inc. and
15 MCImetro Access Transmission Services, LLP which are the two subsidiaries
16 of MCI WorldCom, Inc. that provide alternative local exchange service in
17 Florida. MCI WorldCom Communications, Inc. includes the former
18 operations of MFS Communications, which was one of the first ALECs to
19 begin operations in Florida. For convenience, I will refer to these two ALECs
20 collectively as MCI WorldCom.

21

22 **Q: What is the purpose of your testimony?**

23 A: My testimony addresses what I consider to be the key issues identified by the
24 Commission in these dockets. In general, my testimony discusses various

1 standards and guidelines that should govern the incumbent local exchange
2 companies' (ILECs') obligation to provide timely physical collocation on
3 reasonable terms and conditions. These standards and guidelines are needed to
4 ensure that ALECs have reasonable access to the arrangements they need to
5 enter and begin to compete in the local markets in Florida. In my testimony I
6 will refer to collocation obligations created by the Telecommunications Act of
7 1996 ("Act"), the FCC's Rules, and various FCC Orders, including the First
8 Report and Order and Further Notice of Proposed Rulemaking released on
9 March 31, 1999 in CC Docket 98-147, FCC 99-48 (the "Advanced Services
10 Order"). I will also refer to a recent decision of the Public Utilities
11 Commission of Texas which imposed various requirements on SouthWestern
12 Bell Telephone Company ("SWBT") relating to physical collocation.
13 Investigation of SWBT's Entry Into the Texas InterLATA Telecommunications
14 Market, Project No. 16251, Order Nos. 52 and 54, including the Collocation
15 Tariffs Matrix and Supplemental Collocation Tariffs Matrix, respectively.

16
17 **Response to Collocation Application (Issues 1 and 2)**

18 **Q: When should an ILEC be required to respond to a complete and correct**
19 **application for collocation?**

20 **A:** Under the Advanced Services Order, an ILEC is required to respond to an
21 application for collocation within 10 days. MCI WorldCom is willing to
22 accept the Commission's ruling in the PAA Order in this docket that the ILEC
23 can provide the initial response within 15 calendar days from receipt of a
24 complete and correct application, provided that the initial response includes the

1 information necessary for the ALEC to place a firm order for collocation.

2

3 **Q. What information is necessary in the initial response in order for the**
4 **ALEC to make a decision to place a firm order?**

5 **A.** The initial response should indicate whether or not the requested space is
6 available. If space is available, the initial response should also include all the
7 following information:

- 8 • **PRICE QUOTE:** A firm price quote for the requested space (see Issue
9 13).
- 10 • **DIMENSIONS:** The physical size and shape of the space.
- 11 • **OBSTRUCTIONS:** The physical location of lighting, ventilation, power,
12 heat, air conditioning, and other environmental equipment for collocater's
13 space and equipment.
- 14 • **DIVERSITY:** The availability of dual fiber entrance to the central office.
15 Where dual entrance is available, the ILEC should provide all ingress and
16 egress dimensions for cabling to collocation space. This information
17 should be provided on telephone equipment drawings depicting the exact
18 path, with dimensions, for Outside Plant Fiber ingress and egress into
19 collocated space.
- 20 • **POWER CONSIDERATIONS:** The ILEC should provide power cabling
21 connectivity information including the sizes and number of power feeders
22 as well as footage of cables.
- 23 • **HAZARDS:** Environmental hazards present (e.g., asbestos).
- 24 • **ENGINEERING INFORMATION:** The target date for the release of

1 BellSouth engineering documents which should include, but not be limited
2 to, connector type, number and type of pairs, and naming convention.

3 • DUE DATE: The target commencement date, which is the date that the
4 collocator's equipment space will be turned up and operational.

5 As discussed under Issue 18, if there is some space available, but not
6 enough to fully satisfy the ALEC's request, the ILEC should provide
7 information on the amount of space that is available, and all the information
8 necessary for the ALEC to place a firm order for the smaller space if it so
9 chooses.

10
11 **Q: Should all of the information you have just listed be provided as part of**
12 **the initial 15-day response, or can some of it be furnished at a later time?**

13 A: I believe it all can and should be furnished as part of the initial response.
14 *However, if furnishing the Engineering Information and Due Date information*
15 *would delay the initial response, MCI WorldCom could agree to defer this*
16 *information for a short time.*

17

18 **Q: If the information provided by an ILEC in its initial response is**
19 **insufficient to place a firm order, when should the ILEC provide**
20 **information, or should an alternative procedure be implemented?**

21 A: MCI WorldCom agrees with the FCC, which said at paragraph 54 of the
22 *Advanced Services Order that "we encourage the state commissions to ensure*
23 *that incumbent LECs are given specific time intervals within which they must*
24 *respond to collocation requests." As stated above, it is important that the initial*

1 response include sufficient information for the ALEC to place a firm order for
 2 collocation space. MCI WorldCom does not believe that this requirement is
 3 overly burdensome, and therefore sees ^{no} need for an alternate procedure. The
 4 introduction of an alternative to a mandated date is, in my view, nothing more
 5 that a license to avoid the mandate.

6

7 **"On-Premises" and "Off-Premises" Physical Collocation (Issues 3 and 4)**

8 **Q: Has the FCC provided any guidance on how the term "premises" should**
 9 **be construed?**

10 A: Yes. In the FCC's First Report and Order in CC Docket No. 96-98, FCC 96-
 11 325 (Released August 8, 1996) (FCC Rcd 15499) (the "Local Competition
 12 Order"), the FCC at paragraph 573 concluded that:

13 In light of the 1996 Act's procompetitive purposes, we find
 14 that a broad definition of the term "premises" is appropriate in
 15 order to permit new entrants to locate at a broad range of
 16 points under the incumbent LEC's control. A broad definition
 17 will allow collocation at points other than those specified for
 18 collocation under the existing Expanded Interconnection
 19 requirements.

20 Thus, at paragraph 573 of the Local Competition Order the FCC specifically
 21 said:

22 We therefore interpret the term "premises" broadly to include
 23 LEC central offices, serving wire centers and tandem offices,
 24 as well as all buildings or similar structures owned or leased

1 by the incumbent LEC that house LEC network facilities. We
2 also treat as incumbent LEC premises any structures that
3 house LEC network facilities on public-rights-of way, such as
4 vaults containing loop concentrators or similar structures.

5 This broad definition of the term "premises" has been further reinforced by the
6 recent Advanced Services Order. In paragraphs 39 to 45 of this Order, the
7 FCC specifically authorized collocation in any available space inside or
8 outside of the central office.

9
10 **Q: What areas does MCI WorldCom believe should be considered as ILEC**
11 **"premises" for purpose of the ILEC's obligation to permit physical**
12 **collocation?**

13 **A: In MCI WorldCom's view, consideration of the term "premises" must begin**
14 **with the FCC's definition at 47 C.F.R. section 51.5:**

15 51.5 Terms and definitions

16 *Premises. Premises* refers to an incumbent LEC's central
17 offices and serving wire centers, as well as all buildings or
18 similar structures owned or leased by an incumbent LEC that
19 house its network facilities, and all structures that house
20 incumbent LEC facilities on public rights-of-way, including but
21 not limited to vaults containing loop concentrators or similar
22 structures.

23 MCI WorldCom also agrees with the Texas Commission that "when space is
24 legitimately exhausted in a particular LEC premises" (see Advanced Services

1 Order at paragraph 44), space in nearby ILEC buildings which house
 2 administrative functions should be available for physical collocation at the
 3 ALEC's option. In this regard, the Texas Commission applied a broad
 4 definition of premises to conclude:

5 The Commission also finds that, to the extent space in an
 6 Eligible Structure is "legitimately exhausted" and the SWBT
 7 property also has within close proximity an "administrative
 8 office" where network facilities could be housed, that space
 9 should be looked at as a possible adjacent on-site collocation
 10 location. (Texas Matrix at page 8)

11

12 **Q: Do the ILECs have any obligations to interconnect with ALEC physical**
 13 **collocation facilities located "off-premises"?**

14 **A.** Yes, in the Advanced Services Order at paragraph 45 the FCC said:

15 [W]e now conclude that the deployment by any incumbent LEC of
 16 a collocation arrangement gives rise to a rebuttable presumption in
 17 favor of a competitive LEC seeking collocation in any incumbent
 18 LEC premises that such an arrangement is technically feasible. . .
 19 We believe this "best practices" approach will promote
 20 competition.

21 The Texas Commission has concluded that the FCC's March 31, 1999 order
 22 did not restrict collocation to ILEC premises. The Texas Commission said:

23 The Commission finds that the tariff should be amended to
 24 include off-site adjacent collocation within the definition of

1 “Adjacent Structure.” The FCC’s March 31, 1999 Order does
2 not restrict collocation to the premises of the ILEC.
3 Specifically, the Order provides that collocation is authorized
4 “in adjacent controlled environmental vaults or similar
5 structures to the extent technically feasible.” FCC Order at ¶
6 44. The term “adjacent” is not defined or restricted to the
7 premises or property of the ILEC. This is a critical point
8 because SWBT may not have appropriate space on its property
9 adjacent to the Eligible Structure conducive to collocation,
10 while an adjacent non-SWBT property would provide an
11 opportunity for collocation. Limiting adjacent collocation to
12 SWBT property could therefore have the effect of precluding a
13 ALEC from collocating adjacent to an eligible structure.
14 (Texas Matrix at 7)

15 Under this method established in Texas, the ILEC’s UNEs would be
16 extended to the adjacent off-premises location. The ALEC would then provide
17 the collocation facilities and the power and HVAC necessary to operate these
18 facilities. While this Commission is not limited to the definition of adjacent
19 premises provided by the Texas Commission, it would appear that under the
20 “best practices” approach outlined in the Advanced Services Order, there is a
21 requirement for the incumbent to provide extend UNEs to adjacent “off-
22 premises” buildings.

23

24

1 **Converting Virtual Collocation to Physical Collocation (Issue 5)**

2 **Q: What terms and conditions should apply to converting virtual collocation**
3 **to physical collocation?**

4 A: An ALEC should have the option, but not an obligation, to convert virtual
5 collocation arrangements to physical collocation arrangements, including
6 either caged or cage-less physical collocation. Any request to change from one
7 form of collocation to another should be initiated by the ALEC. This will
8 greatly minimize the ability of the incumbent LEC to inconvenience the ALEC
9 and its customer base by requiring untimely and costly moves of equipment.
10 Of course, if the ALEC chose to convert a virtual collocation arrangement to a
11 cage-less arrangement, no equipment move would be required.

12 In addition, the ILEC should not impose any greater restrictions on the
13 ALEC's conversion than those that ordinarily apply to the collocation method
14 that the ALEC is migrating to. Further, a migration plan should be agreed to
15 and followed to ensure that there is minimum interruption to the ALEC's
16 services being migrated.

17

18 **Changes to Existing Collocation Space (Issue 6)**

19 **Q: What are the appropriate response and implementation intervals for**
20 **ALEC changes to existing collocation space?**

21 A: First and foremost, MCI WorldCom believes strongly that most changes made
22 by an ALEC *within* its collocation space do not warrant either implementation
23 intervals or additional applications or application fees. When an ALEC such
24 as MCI WorldCom submits its initial request for collocation, it provides the

1 ILEC with information about the ultimate power requirements and equipment
2 configuration for the collocation space. These represent the ALEC's best view
3 of equipment it intends to place in the collocation space, and the maximum
4 power that this location will use. So long as changes to the use of the space do
5 not cause the ALEC to exceed its initial forecast of space and power
6 requirements, there should be no obligation to obtain the ILEC's permission,
7 through subsequent applications and their associated fees, for the ALEC to
8 self-install equipment in its leased space. At most, the ALEC should be
9 required to make an informational notification to the ILEC to enable the ILEC
10 to update its records regarding the types of equipment actually installed.

11 In situations where an ALEC legitimately requires the space to be
12 modified with respect to space, power or HVAC, then the standard intervals
13 for collocation would apply. However, the subsequent request forms and their
14 associated fees would apply.

15

16 **Subleasing or Sharing Collocation Space and Cross-Connections (Issue 7)**

17 **Q: What should be the obligations of the ALEC and the ILEC with respect to**
18 **the sharing or subleasing of a physical collocation space?**

19 **A:** The ALEC who initially leased the space should be responsible for notifying
20 the ILEC that it has agreed to sublease the space to, or share it with, another
21 ALEC. In addition, the initial ALEC is responsible for establishing the terms
22 and conditions upon which its sublessee can utilize the space, provided the
23 terms and conditions are not inconsistent with the Advanced Services Order or
24 the underlying arrangement with the ILEC.

1 The ILEC's obligation in these situations should be (i) to honor the
2 terms and conditions established by the two ALECs; (ii) to prorate the charges
3 for site conditioning and preparation undertaken by the ILEC to construct the
4 shared collocation space if such charges have not already been paid; (iii) to
5 permit each ALEC to order UNEs and provision service from that space,
6 regardless of which competitive ALEC was the original collocator; and (iv) not
7 to place unreasonable restrictions on a subsequent collocator's use of the space.

8

9 **Q: What should be the obligations of the ILEC and the ALEC with respect to**
10 **one collocator cross-connecting with another collocator?**

11 **A: If the ALEC chooses to install the cross-connections itself, as it is clearly**
12 **permitted to do under the Advanced Services Order, it should be required only**
13 **to notify the ILEC that it is performing the work. Since the ILEC is**
14 **performing no service and providing no additional facilities in this situation, it**
15 **should not be permitted to require an application or to charge any fees with**
16 **respect to the cross-connection.**

17 In this regard, FCC Rule 51.323 provides:

18 (h) An incumbent LEC shall permit a collocating
19 telecommunications carrier to interconnect its network with
20 that of another collocating telecommunications carrier at the
21 incumbent LEC's premises and to connect its collocated
22 equipment to the collocated equipment of another
23 telecommunications carrier within the same premises provided
24 that the collocated equipment is also used for interconnection

1 with the incumbent LEC or for access to the incumbent LEC's
2 unbundled network elements.

3 (1) An incumbent LEC shall provide, at the request of
4 a collocating telecommunications carrier, the connection
5 between the equipment in the collocated spaces of two or
6 more telecommunications carriers. *The incumbent LEC must*
7 *permit any collocating telecommunications carrier to*
8 *construct its own connection between the carrier's equipment*
9 *and that of one or more collocating carriers, if the*
10 *telecommunications carrier does not request the incumbent*
11 *LEC's construction of such facilities.* The incumbent LEC
12 must permit the requesting carrier to construct such facilities
13 using copper or optical fiber equipment.

14 (2) *An incumbent LEC shall permit collocating*
15 *telecommunications carriers to place their own connecting*
16 *transmission facilities within the incumbent LEC's premises*
17 *outside of the actual physical collocation space, subject only*
18 *to reasonable safety limitations.*

19 (Emphasis added.)
20

21 **Q: What has been BellSouth's position on this issue?**

22 A: BellSouth's position has been that if an ALEC wishes to make a connection to
23 another ALEC, it is required to submit a subsequent application request and
24 pay the associated fees. Based on BellSouth's ex parte filing dated March 8,

1 1999 in CC Docket No. 98-121, it appears that the subsequent application fee
2 would be \$1,600 or more. This type of fee would have the net effect of all but
3 eliminating the self-construction option for the ALEC community. Under this
4 pricing, it would not be cost-effective for an ALEC to exercise its right to
5 perform the cross-connection itself unless it required a substantial number of
6 connections to the other ALEC.

7 To avoid this unwarranted result, BellSouth should, as the FCC has
8 ordered, allow collocating ALECs construct (i.e. run cable) and interconnect
9 their equipment. The ALEC should, as a courtesy, be required to inform
10 BellSouth that this work will be done. As BellSouth is not required, in this
11 scenario, to perform any work functions whatsoever, BellSouth should not be
12 allowed to require a subsequent application or to charge an ALEC for the right
13 to perform its own cabling.

14

15 **Reservation of Space for Future Use (Issue 10)**

16 **Q: What are reasonable parameters for reserving space for future use?**

17 **A:** The ILECs and the ALECs should be at parity with respect to the ability to
18 reserve central office space for future use. The maximum time frame that
19 should be allowed for reservations is 2 years.

20 In addition, if modifications or additions are planned to a central office
21 to make additional space available (or if obsolete equipment is scheduled for
22 removal), any space designated by the ILEC for "future use" that extends
23 beyond the expected building relief date should be released for use by ALECs
24 who have a current need for the space.

1 **Parameters for Use of Administrative Space (Issue 11)**

2 **Q: What are reasonable parameters for reserving central office space for**
3 **administrative use by the ILEC?**

4 **A:** There is no need to restrict an ILEC's use of central office space for
5 administrative purposes so long as it is able to accommodate all requests for
6 physical collocation. When an ILEC claims that physical collocation space is
7 no longer available, MCI WorldCom believes that this comes down to a
8 question of what personnel are essential for the operation of the wire center.
9 A denial of physical collocation due solely to the presence of non-essential
10 personnel (i.e. personnel whose work functions have nothing to do with the
11 day-to-day operation of the wire center), would clearly be discriminatory in
12 that these personnel would be required to leave if the ILEC needed the space
13 for its own equipment needs.

14 With respect to the space requirements for essential personnel, MCI
15 WorldCom recommends that minimum office force, work area and floor space
16 guidelines should be identified for each class of wire center (i.e. manned,
17 unmanned, line size, etc). The ILEC should be required to have these
18 guidelines approved by the Commission and these minimum space
19 requirements should be clearly indicated on the floor plans for each central
20 office so as to avoid confusion in the future.

21 As long as space is available in a central office, the ILEC should be
22 allowed to allocate space for administrative functions which exceeds these
23 standards. However, if space becomes scarce then (i) non-essential personnel
24 would be required to find new quarters; and (ii) essential personnel would be

1 restricted to the guideline levels for wire center staffing.

2

3 **Equipment Permitted in Collocation Space (Issue 12)**

4 **Q: What types of equipment are the ILECs obligated to allow in a physical**
5 **collocation space?**

6 **A:** The FCC has addressed this issue, both in paragraph 28 of the Advanced
7 Services Order and in the rules adopted at 47 C.F.R. section 51.323(b),(c).
8 Under these rules and guidelines, the ILEC must permit the collocation of any
9 equipment that is "used and useful" for either interconnection or access to
10 unbundled network elements, regardless of the other functionalities inherent in
11 such equipment. The FCC Rules specifically include digital subscriber line
12 access multiplexers (DSLAMs), routers, asynchronous transfer mode (ATM)
13 multiplexers and remote switching modules on the list of permitted equipment.
14 (Rule 51.323(b)(3)) While the ILEC is not required to permit collocation of
15 equipment used *solely* for switching or to provide enhanced services, the ILEC
16 cannot place any limitations on the ALEC's ability to use all the features,
17 functions and capabilities of equipment that is used or useful for
18 interconnection or access to UNEs.

19 In addition, the ILEC cannot impose safety or engineering requirements
20 on ALEC equipment that are more stringent than the standards that the ILEC
21 applies to its own equipment located on the premises in question.

22

23 **Price Quotations (Issue 13)**

24 **Q: What obligation should an ILEC have to provide an ALEC with price**

1 **quotes prior to the ALEC's submittal of a firm order for collocation**
2 **space?**

3 A: An ILEC should be required to provide a firm price quote as part of its initial
4 response to an ALEC's application for collocation. An ALEC is making a
5 substantial business decision when it makes the determination to place a firm
6 order for collocation space. As such, the ILEC should provide a price quote
7 which represents a "Firm Price" for the space requested at the same time the
8 ILEC responds to the ALEC's request for space.

9

10 **Certified Contractors (Issue 15)**

11 **Q: Should an ALEC be permitted to hire an ILEC-certified contractor to**
12 **perform space preparation, racking and cabling, and power work?**

13 A: Yes. In addition, MCI WorldCom should have the right to train and obtain
14 certification for other contractors, and for MCI WorldCom employees, so as to
15 broaden the available work force. This work force should be able to perform
16 any function (i.e. site preparation, equipment installation, equipment
17 maintenance, etc.) that is required within the collocation space.

18

19 **Extension of Provisioning Intervals (Issue 16)**

20 **Q: Can you think of any reasons that the Commission-established**
21 **provisioning intervals should be extended without either an agreement by**
22 **the applicant or a filing by the ILEC of a request for extension of time?**

23 A: No. Other than a written agreement from the ALEC that the interval should be
24 extended, the interval for completing the collocation space should not be

1 changed without formal Commission action on an ILEC waiver request. As the
2 FCC recognized at paragraph 55 of the Advanced Services Order:

3 Even with a timely response to their applications, however,
4 new entrants cannot compete effectively unless they have
5 timely access to provisioned collocation space. We urge the
6 states to ensure that collocation space is available in a
7 timely and pro-competitive manner that gives new entrants
8 a full and fair opportunity to compete.

9

10 **Q. Do you agree with BellSouth's position that the time for provisioning**
11 **collocation should be tolled during the period of time it takes to obtain**
12 **building permits?**

13 **A:** No. It is MCI WorldCom's opinion that BellSouth should be held to meeting
14 the 90-day interval established by this Commission unless and until it proves
15 the need for an exception in a specific factual situation. An automatic
16 extension for the time required to obtain a building permit could encourage an
17 ILEC to be less than diligent in managing the permitting process. In cases
18 where there are legitimate delays that are not the fault of the ILEC, either the
19 applicant could agree to an extension, or the Commission could rule on a
20 waiver request.

21

22 **Allocation of Costs of Security Arrangements and Equipment Removal (Issue 17)**

23 **Q: How should the costs for security arrangements imposed by the ILEC be**
24 **allocated and recovered?**

1 A: The Advanced Services Order recognizes that reasonable security
2 arrangements to protect both the ILEC and the ALEC are important to
3 encourage the deployment of advanced services. (Paragraph 46) The Order
4 therefore permits an ILEC to "impose security arrangements that are as
5 stringent as the security arrangements that incumbent LECs maintain at their
6 own premises either for their own employees or for authorized contractors."
7 (Paragraph 47) Examples of the permitted security arrangements include
8 installation of security cameras or other monitoring systems, requiring ALECs
9 to use badges with computerized tracking systems, or requiring security
10 training. In general, the ILEC cannot impose any security requirements that
11 are more stringent than those it applies to its own employees or contractors.
12 (Paragraph 47)

13 In light of these security standards, there should rarely be any security
14 costs to be allocated among ALECs. The costs to install and maintain a
15 reasonable central office security system should have already been present and
16 included in a forward-looking cost model used to set collocation rates.

17 MCI WorldCom shares the concern expressed by the Texas
18 Commission that the ILECs may attempt to provide additional security
19 measures that are designed to protect the ILEC, not the ALEC. For example,
20 the Texas Commission specifically prohibited SWBT from charging
21 collocators for the cost of interior partitions around SWBT's equipment, unless
22 SWBT proved that cost of constructing such a partition was lower than the cost
23 of other reasonable security measures. In addition, the Texas Commission
24 stated that the burden of proof should rest with the ILEC to justify any security

1 system that the ILEC claims is required over and above the systems it already
2 has in place for their own employees and contractors.

3 MCI WorldCom believes that if any additional systems are found to be
4 justified, the costs for these additional requirements should be spread over both
5 the ILEC and the ALECs on a square foot basis. Further, any ALEC that may
6 have paid for security systems that are not required or permitted under the
7 Advanced Services Order (i.e. dedicated entrances) should be reimbursed for
8 those costs.

9

10 **Q. How should the cost of removing obsolete equipment be allocated?**

11 **A.** The entire cost of removing obsolete equipment should be borne by the ILEC.
12 That equipment will have to be removed eventually, and there is no
13 justification for using claims of "early removal" to shift costs to the ALECs. If
14 the ILEC were allowed to allocate such costs to ALECs, then the ILEC would
15 have the incentive to leave the equipment in place for as long as possible,
16 hoping that it would get a collocation request which would enable it to impose
17 its costs on some other party.

18

19 **Notification if Insufficient Space is Available (Issue 18)**

20 **Q:** If sufficient space is not available at the time of an ALEC request for
21 space to satisfy the entire request, should the ILEC be required to advise
22 the ALEC as to the amount of space that is available?

23 **A:** Yes. In addition, the ALEC should be provided the opportunity to modify its
24 request, without penalty, in order to obtain the space that is available.

1 **Notification of Space Availability (Issue 19)**

2 **Q: If space for physical collocation becomes available in a central office for**
3 **which an ILEC has previously been granted a waiver, when should**
4 **ALECs and the Commission be informed of the availability of space in**
5 **that office?**

6 **A:** The ALECs and the Commission should be notified of the availability of space
7 as soon as the ILEC knows the approximate date on which such space will
8 become available. As part of obtaining a waiver, the ILEC presumably will
9 have shown what its plans are for relieving the central office and will have
10 established some timetable for removing obsolete unused equipment,
11 constructing additional space, etc. Since all of this type of relief work will
12 have to start in advance, the ILEC should be able to provide estimated space
13 availability dates well before the date the space actually becomes available.

14 This notification should be handled by a letter to the Commission and
15 to all ALECs who have filed requests for collocation in the central office. In
16 addition, this information should be posted for viewing on the Internet as part
17 of the FCC-required document indicating which ILEC premises are full. As
18 the FCC stated in paragraph 59 of the Advanced Services Order, each new
19 entrant cannot be required to apply for collocation space in every central office
20 in order to find out if there is space available in that office, when such
21 information is readily available to the incumbent LEC that occupies that office.
22 In addition, at paragraph 58, the FCC requires the incumbent to maintain a
23 publicly available document, posted for viewing on the Internet, which
24 indicates which premises are full and must be updated within 10 days of the

1 date at which a premises runs out of physical collocation space. The
2 Commission should require Florida ILECs to update this report, as close to real
3 time as possible, when the ILEC determines the date on which a previously full
4 central office will have additional space available.

5

6 **"First-Come, First-Served" Rule (Issue 21)**

7 **Q: When space becomes available in a central office because a waiver request**
8 **is denied, or because modifications are made to a previously full central**
9 **office, how should the "first-come, first-served" rule be applied?**

10 **A:** MCI WorldCom believes that the ILECs should always maintain a list of "firm
11 orders" and the date on which they were received. When the need arises to
12 invoke the "first-come, first-served" rule, the ALECs with the oldest "firm
13 orders" for space should be given priority by the date in which those orders
14 were received. This prioritized list should be used as the basis for contacting
15 ALECs and offering them space when space becomes available in an office
16 where physical collocation had previously been denied. This process is
17 extremely important to ensure that each entity is treated fairly.

18

19 **Q. Should an ALEC that originally requested physical collocation but was**
20 **forced to accept virtual collocation keep its place in line?**

21 **A.** Yes. The first-come, first-served rule should continue to apply based on the
22 date that the ALEC's initial order for physical collocation was received. The
23 fact that the ALEC accepted virtual collocation should not affect its priority
24 when space for physical collocation becomes available.

1 **Q: Does that conclude your testimony?**

2 **A: Yes.**

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1 **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

2 **PREFILED REBUTTAL TESTIMONY OF**

3 **RON MARTINEZ**

4 **ON BEHALF OF MCI WORLDCOM, INC.**

5 **DOCKET NOS. 981834-TP AND 990321-TP**

6 **November 19, 1999**

7

8 **Q: Please state your name and business address.**

9 A: My name is Ron Martinez. My address is MCI WorldCom, Inc., Concourse
10 Corporate Center Six, Six Concourse Parkway, Suite 3222, Atlanta, GA 30328.

11

12 **Q: Have you previously filed direct testimony in this docket?**

13 A: Yes.

14

15 **Q: What is the purpose of your testimony?**

16 A: The purpose of my testimony is to rebut certain statements in the direct testimony of
17 other witnesses in this docket, primarily Mr. Hendrix and Mr. Milner for BellSouth
18 and Mr. Reis for GTE Florida.

19

20 **Q: Do you have any overall concern regarding the testimony of BellSouth's**
21 **witnesses?**

22 A: Yes. From my reading of the BellSouth testimony, it appears that BellSouth has
23 failed to correctly apply the Advanced Services Order and the FCC's new physical
24 collocation rules.

1 **Q: How has BellSouth incorrectly applied the Advanced Services Order and FCC**
2 **Rules?**

3 A: Mr. Milner starts his testimony with a general claim that BellSouth's collocation
4 policies are consistent with the requirements of the Advanced Services Order. (Page
5 6, lines 19-23). Yet Mr. Milner's later description of BellSouth's policy on "cageless"
6 collocation shows that BellSouth's policy does not fully implement the FCC's Order.

7 When Mr. Milner describes BellSouth's policy on cageless collocation, he
8 defines cageless collocation to mean an unenclosed arrangement that is not separated
9 by walls or other structures from the physical collocation arrangements of other
10 collocators (page 10, lines 3-6), but which is located in "the area designated for
11 physical collocation within the BellSouth premise." (Page 11, lines 3-6) Thus it
12 appears that Mr. Milner believes that BellSouth can continue to segregate all physical
13 collocation arrangements in a separate area in its central office.

14 This policy fails to give full effect to the Advanced Services Order. Paragraph
15 42 of that Order says that the ILEC must allow competitors to collocate without the
16 construction of a cage, room, or other enclosure. But that paragraph also says that
17 ILECs may not require competitors to collocate in a room or isolated space separate
18 from the incumbent's own equipment.

19 [A]n incumbent LEC must give competitors the option of
20 collocating equipment in any unused space within the
21 incumbent's premises, to the extent technically feasible, and
22 may not require competitors to collocate in a room or isolated
23 space separate from the incumbent's own equipment. The
24 incumbent LEC may take reasonable steps to protect its own
25 equipment, such as enclosing the equipment in its own cage,

1 and other reasonable security measures as discussed below.
2 The incumbent LEC may not, however require competitors to
3 use separate rooms or floors, which only serves to increase the
4 cost of collocation and decrease the amount of available
5 collocation space.

6 BellSouth's policy, as reflected in Mr. Milner's testimony, appears to allow
7 cageless collocation only in areas adjacent to the arrangements of other collocators.
8 If this is an accurate reflection of BellSouth's policy, it is a direct violation of the
9 FCC's requirements and a substantial barrier to the use of physical collocation.
10 BellSouth must be directed to abandon this policy and bring itself into full compliance
11 with the FCC's requirements.

12

13 **Q: Do you have any comments on BellSouth's and GTE's positions regarding**
14 **security measures?**

15 **A: Yes. Both Mr. Milner (page 10, lines 17-18) and Mr. Reis (page 6, lines 2-5) refer**
16 **to language in the FCC's Order regarding the ability of the incumbent LEC to enclose**
17 **its own equipment in a cage. While this is allowed by the FCC Order, the notion of**
18 **caging an ILEC's equipment prompted the Texas PUC to place the burden of proof**
19 **on the ILEC if it sought to recover any related costs from collocators. In addition,**
20 **the Texas PUC required that any security additions could not restrict the ALECs'**
21 **access to their collocated equipment, which could happen if cages were installed in**
22 **existing line-ups.**

23 To the extent that Florida ILECs choose to enclose their own equipment in
24 cages, the Commission should follow the lead of the Texas PUC and ensure that the

1 ILECs' bear the cost of the cages, and that such cages do not restrict the ALECs'
2 ability to collocate or to access their collocated equipment.

3

4 **Q: Mr. Milner states that BellSouth will designate the point(s) of interconnection**
5 **between the ALEC's equipment and/or network and BellSouth's network. (Page**
6 **24, lines 8-9) Do you agree?**

7 A: No. The FCC has determined that under Sections 251(c)(2) and 251(c)(3), the
8 requesting carrier may choose any method of interconnection or access to unbundled
9 elements that is technically feasible at a particular point. Local Competition Order,
10 ¶ 549. Thus the ALEC, not BellSouth, is permitted to designate the point of
11 interconnection. An ALEC has little or no leverage when negotiating a contract with
12 an ILEC such as BellSouth. The Commission should reject Mr. Milner's attempt to
13 reduce this leverage even further by laying claim to one of the few advantages that a
14 competing carrier has.

15

16 **Q: Do you agree with Mr. Milner's assertion that the time required for BellSouth**
17 **to obtain building permits should be excluded from the allowed provisioning**
18 **interval? (Page 44, lines 5-9)**

19 A: No. In Paragraph 55 of the Advanced Services Order the FCC urged state
20 commissions to ensure that collocation space will be available to competitive LECs
21 in a timely and pro-competitive manner. As such, elements essential to the timely
22 provision of collocation space, such as permits, should never be excluded from the
23 provisioning interval. Mr. Milner goes on to urge that "extraordinary circumstances"
24 or "extraordinary conditions" should also permit BellSouth to escape its responsibility
25 to provide collocation on a timely basis. Needless to say, this Commission should

1 reaffirm BellSouth's obligation to complete the provisioning of physical collocation
2 arrangements within ninety (90) days from the receipt of a firm order, unless
3 BellSouth obtains the ALEC's agreement, or demonstrates to the Commission, that
4 more time is required in a particular case.

5

6 **Q: Mr. Hendrix states that in a collocation sharing or subleasing arrangement, the**
7 **"host" ALEC should be the sole interface for submitting applications for**
8 **equipment placements by the "guest" ALEC. (Page 11, line 24 to page 25, line**
9 **1) Do you agree?**

10 **A:** No. Paragraph 41 of the Advanced Services Order requires the incumbent to permit
11 each competitive LEC to order UNEs and to provision service from the shared
12 collocation space. In addition the ILEC must take each of the competitive LECs'
13 requirements into account in configuring the collocation space and allocating the
14 associated costs. It seems reasonable, then, that each of the competitive LECs would
15 be authorized to handle its own collocation applications and equipment placement
16 requests. As I noted in my direct testimony, where subsequent equipment placements
17 by a collocator do not require space or power that exceed the collocator's original
18 estimates, there should be no requirement for an additional application or request to
19 BellSouth, but only for a simple notification.

20

21 **Q: Do you have any comment on Mr. Hendrix position on cross-connections**
22 **established between two collocating ALECs? (Page 12, lines 15-22 and page 13,**
23 **lines 8-9)**

24 **A:** Mr. Hendrix states that an ALEC may generally cross-connect to other collocating
25 ALECs so long as the connection is made "in addition to, and not in lieu of, obtaining

1 interconnection with, or access to, BellSouth telecommunications services, unbundled
2 network elements, and facilities." It is unclear exactly what Mr. Hendrix means by
3 this statement. If he simply means that the ALEC's collocated equipment must be
4 used or useful for interconnection with, or access to unbundled network elements of,
5 BellSouth, then I do not have a problem with his statement. However, if he means
6 that an ALEC cannot cross-connect to another carrier's transport facilities in lieu of
7 using BellSouth transport facilities, then he is attempting to impose a requirement that
8 is inconsistent with the Act and the FCC's Rules.

9 In addition, Mr. Hendrix would impose a subsequent application fee on the
10 initiator of a request for cross connections, even though there may not be any work
11 for BellSouth to perform. As I stated in my direct testimony, no application fee is
12 justified in this situation, and such a fee could all but eliminate ALEC-provided cross-
13 connects as an economically viable option.

14

15 **Q: Do you agree with Mr. Hendrix (page 10, lines 11-23) and Mr. Reis (page 6,**
16 **lines 13-17) regarding intervals for changes to an ALEC's existing collocation**
17 **space?**

18 **A:** No. Mr. Hendrix would give BellSouth 30 days to respond to an application for a
19 change and up to 60 days to implement the change under "normal conditions"
20 which he defines in a way that does not appear to require any work by BellSouth.
21 Under those "normal" conditions, there is no reason for any response and
22 implementation interval, much less intervals that total 90 days. Similarly, Mr. Reis
23 does not distinguish situations in which no ILEC work is required, and simply
24 proposes to apply the standard provisioning intervals to all change requests. That
25 is equally inappropriate.

- 1 **Q: Mr. Hendrix (page 17, lines 12-21) and Mr. Reis (page 16, line 21 - page 17,**
2 **line 3) would not allow an ALEC or certified contractor to perform space**
3 **preparation, racking and cabling outside of the space dedicated to the**
4 **particular ALEC. Do you agree with this policy?**
- 5 **A:** No. The ALEC should retain the option to have any work -- either inside or
6 outside of its dedicated space -- performed by an ILEC-certified contractor, or by
7 certified ALEC personnel.
8
- 9 **Q: Do you agree with Mr. Hendrix' proposed recurring charge for the use by**
10 **collocators of security card readers (Page 20, line 23- page 21, line 3)?**
- 11 **A:** Not if BellSouth routinely uses a security card system for its own personnel. In
12 that case, the cost of this type of security arrangement should already have been
13 included in the rates for collocation, and a new separate charge would amount to a
14 double-recovery.
15
- 16 **Q: Various witnesses appear to rely on different events to trigger the application**
17 **of the FCC's "first-come, first-served" rule. Could you please clarify MCI**
18 **WorldCom's position on this issue?**
- 19 **A:** The ILEC should maintain a priority waiting list in any office where an ALEC is
20 denied physical collocation. The ALEC's place on the list should be determined by
21 the date of its firm order for space, or the date on which its application for space
22 was rejected, if that date is earlier.
23
- 24 **Q: Does that conclude your testimony?**
- 25 **A:** Yes.

1 BY MR. MELSON:

2 Q And could you please summarize your testimony for
3 the Commission, and you are a little hard to hear, so get
4 slightly closer to the mike.

5 A Good afternoon, Commissioners. My direct
6 testimony addresses the guidelines and standards that I
7 believe should be in place to ensure that the ILECs provide
8 collocation in a timely and efficient manner. The most
9 important guidelines are the ones that deal with intervals.
10 An ILEC must respond quickly to an application for
11 collocation with all the information that the ILEC needs to
12 make a business decision on whether to move or place a firm
13 order. I believe that 15 calendar days is a reasonable
14 period for this activity, and my testimony details the
15 information that should be contained in the ILEC's response.

16 Once a firm order is placed, an ILEC should
17 provision the space in a maximum of 90 days for caged
18 physical collocation or a maximum of 60 days for cageless or
19 virtual arrangement. There should be no exceptions to these
20 intervals unless the ALEC agrees to the extension or unless
21 this Commission reviews and grants the ILEC a waiver on a
22 case-by-case basis.

23 Shorter intervals and reduced application fees
24 should apply in conversion or augmentation situations where
25 the ILEC performs little or no work. For example, if an

1 ILEC wants to place equipment in its collocation space that
2 does not increase the HVAC or power requirements above what
3 it initially reserved, the ILEC has no work to perform, and
4 a simple notice procedure should apply.

5 With regard to reservation of space for future
6 use, ILECs and ALECs should be at parity with what they can
7 reserve. Based on industry practice, I believe that space
8 reservation for all parties should be based on a planning
9 horizon for the current year plus one.

10 Moreover, in space shortage situations, the ILECs
11 should not be able to reserve or use any central office
12 space for nonessential administrative personnel. It should
13 be required to move those nonessential personnel to new
14 quarters in order to free up space for collocation.

15 With regard to costs of security measures, I
16 encourage you to follow the lead of the Texas Commission and
17 put the burden on the ILECs to justify any new security
18 systems above and beyond the systems already in place for
19 its own employees and contractors. If they do justify
20 additional measures, the costs should be recovered on a pro
21 rata basis from all parties, including the ILEC.

22 After collocation has been denied in the central
23 office, the ILEC should be required to notify both the ALEC
24 and the Commission as soon as it knows that space will be
25 added or reclaimed, and the new space should be offered on a

1 first-come, first-served basis to ILECs (sic) who have
2 previously been denied physical collocation space.

3 Also, if space for physical collocation in a
4 central office is legitimately exhausted, the Commission,
5 again, should follow the lead of the Texas Commission and
6 require the ILECs to offer both adjacent on-site collocation
7 and adjacent off-site collocation. In either type of
8 adjacent collocation, the ILEC must permit interconnection
9 and access to UNEs on the same price, terms, and conditions
10 as if space were available inside the central office.

11 This concludes my summary.

12 MR. MELSON: Mr. Martinez is tendered for cross.

13 COMMISSIONER DEASON: Ms. White.

14 MS. WHITE: Thank you. I just turned it off.

15 CROSS EXAMINATION

16 BY MS. WHITE:

17 Q Mr. Martinez, Nancy White on behalf of BellSouth
18 Telecommunications.

19 In your direct testimony you state that the
20 Advanced Services Order requires an ILEC to respond to a
21 collocation application within ten days, is that correct?

22 A That is correct.

23 Q Can you tell me where in the order it states
24 that?

25 A Well, I take that back. I did state that, but it

1 urges that that be the date that it is established.

2 Q Can you tell me where it urges that?

3 A Yes, in the Advanced Services where it --

4 Q Do you have the order with you? I can get you a
5 copy if you need one.

6 A Okay.

7 MR. MELSON: We've got one. We're taking him
8 one, Nancy.

9 BY MS. WHITE:

10 Q If it will help, I will point you to Paragraph
11 55.

12 A I was looking at my notes on here to see which
13 one was --

14 Q Because I have forgotten my question, let me ask
15 you a new one. Does the FCC in its order, Advanced Services
16 Order require an ILEC to respond to a collocation
17 application within ten days?

18 A I know what the problem is, I don't have
19 Paragraph 55.

20 MS. WHITE: Okay, Mr. Melson.

21 A (Continuing) Here it is. It was out of
22 sequence. Yes, we view ten days as a reasonable time period
23 within which to inform the new entrant whether its
24 collocation application is accepted or denied.

25 Q And do you believe that is a requirement?

1 A With respect to a requirement, I believe that
2 that is a reasonable time frame that this Commission could
3 impose upon you.

4 Q Did the FCC order that ILECs must respond within
5 ten days to a collocation application?

6 A Not directly order, no.

7 Q Did they make that ten-day reasonable view a
8 rule, a federal regulation?

9 A No, they did not.

10 Q Now, it's your position that the ten-day response
11 that the FCC is discussing in Paragraph 55 was meant by the
12 FCC to include all of the information necessary for an ALEC
13 to place a firm order for collocation?

14 A Yes.

15 Q Now, where does it say that in the Advanced
16 Services Order?

17 A It does not specifically state that.

18 Q And would you agree that in the paragraph, in
19 Paragraph 55 and in Paragraph 54 they give examples of
20 carriers responding to physical collocation requests within
21 ten days by advising whether space is available or not?

22 A Yes, I would agree with that interpretation.

23 Q And when an ILEC tells an ALEC that space is
24 available or not, that doesn't contain -- that usually
25 doesn't contain all the information necessary for an ALEC to

1 place a firm order, would you agree?

2 A I am not familiar with the two respondees to that
3 that they use as an example. I would hope that it included
4 all information necessary for the ALEC to make a business
5 decision.

6 Q But you do agree that the FCC notes in here that
7 these carriers state that they respond to requests within
8 ten days by advising whether space is available or not?

9 A Yes.

10 Q Now, there are several pages in your direct
11 testimony where you cite Rule 51.5, which is the definition
12 of premises, and I believe Paragraph 573 of the first report
13 and order, and in your testimony, your direct testimony that
14 is pages -- well, it really starts on Page 6 and goes
15 through Page 9. Now, would you agree with me that the FCC
16 has defined premises as buildings or structures that house
17 ILEC network facilities?

18 A Repeat that again.

19 Q Yes. Would you agree with me that the FCC has
20 defined premises as buildings or structures that house ILEC
21 network facilities?

22 A I guess I would have to disagree only in that I
23 went through the process in Texas, and the Texas staff and
24 Commission came to the conclusion that it was broad enough a
25 definition whereby they could insert a concept such as an

1 off-site location.

2 Q And I understand --

3 A And if that were the case --

4 Q I'm sorry.

5 A And I think if that were the case, the Commission
6 couldn't have reached that conclusion.

7 Q So you would agree that any decision that a state
8 commission makes on a collocation arrangement would have to
9 be consistent with the FCC's Advanced Services Order, would
10 you agree with that?

11 A Yes, I would. Consistent in that the Commission
12 also was given the latitude to use and broadly define the
13 term premises.

14 Q I understand that. Well, I would like you to
15 look at Section 51.5 of the federal regulations and look at
16 the definition of premises.

17 A Excuse me, is that part of the document that you
18 handed out?

19 Q No, I'm sorry, this is in the 51.5 of the federal
20 rules. I would be happy to give you a copy. Yes, it is.
21 I'm sorry. Yes, 51.5. It's on Page 19 of that handout, the
22 middle of the left-hand column.

23 A I see the middle of the column, but I don't
24 remember what I was supposed to be looking for, sorry.

25 Q Premises.

1 We are both in really good shape this afternoon.

2 A It's in the center column, yes.

3 Q Okay. So premises, it says, refers to an
4 incumbent LEC's central offices and serving wire centers, as
5 well as all buildings or similar structures owned or leased
6 by an incumbent LEC that houses network facilities. Is that
7 a good reading, a correct reading of that?

8 A Yes, it is.

9 Q Now, when space is not exhausted, you would agree
10 that premises is where ALECs collocate?

11 A Yes.

12 Q Can collocate. And you would agree that
13 collocation, the FCC requires that the particular
14 collocation arrangement must be technically feasible?

15 A Yes.

16 Q Now, the FCC Advanced Services Order states that
17 when space is legitimately exhausted in a LEC premises then
18 collocation is permitted in adjacent controlled
19 environmental vault or similar structure to the extent
20 feasible, correct?

21 A Correct, that is a correct reading.

22 Q Now, the new entrant, the ALEC is the one who has
23 got to construct or obtain this adjacent structure such as
24 the CEV?

25 A Yes.

1 Q Now, say they are across the street from a
2 central office of BellSouth. BellSouth owns a parking
3 garage and it is across the street from the central office,
4 it is not part of the central office. And the sole purpose
5 of that parking garage is to house BellSouth trucks. Is
6 that a premises under the FCC definition of Section 51.5 of
7 the Code of Federal Regulations?

8 A Have you legitimately exhausted all space within
9 the building?

10 Q That's not what I asked you.

11 A So that is not a precondition? No, then I would
12 not view that parking garage --

13 Q Okay. So then you are stating that the
14 definition of premises changes based on whether there is a
15 space exhaustion in the central office or not?

16 A Yes. I believe that this Commission has the
17 ability to expand in those hopefully very limited
18 circumstances the definition of premises to ensure, one,
19 that the ILEC meets its obligation to provide collocation
20 and that the ALEC has the ability to do just that, connect
21 to UNES.

22 Q And are you basing this belief on the actions
23 that the Texas Commission has taken?

24 A Yes.

25 Q And the Texas Commission took these actions in

1 what, late 1999, do you recall?

2 A It went through all of '99.

3 Q All of '99. Do you know whether -- has there
4 been a final order rendered, an appealable order rendered in
5 the Texas Commission?

6 A The tariff has been filed by Southwestern Bell.

7 Q And do you know whether Southwestern Bell is
8 going to appeal that?

9 A No, I do not expect that they will appeal it as
10 these seem to be stipulations for their entrants that they
11 would abide by the decisions of the commission. But I can't
12 say that --

13 Q So in this particular docket where the Texas
14 Commission issued this off-premises collocation allowance,
15 that was a docket that involved only Southwestern Bell?

16 A Yes.

17 Q No other ILEC was a party to that docket?

18 A That is correct.

19 Q So under my scenario about the parking garage, if
20 space is not exhausted, would that parking garage constitute
21 a premises?

22 A Not in my mind it wouldn't.

23 Q Okay. And because it doesn't contain any kind of
24 network facilities, does it? It houses solely trucks?

25 A That's true, and I wouldn't want to put equipment

1 in there with all of those exhaust fumes.

2 Q Okay. Now, you're saying that if -- just because
3 the central office is across the street from the parking
4 garage, and that central office happens to be in a space
5 exhaust situation, that makes the parking garage open up for
6 what you call off-premises?

7 A It would if that were the space that the CLEC --
8 in the instance in Texas, the CLEC has the onerous duty of
9 getting the building permits and procuring the site that is
10 within reasonable distance that can house their equipment.
11 I doubt very much that a CLEC would select and seek to rent
12 space in your parking garage.

13 Q Okay. Would your answer change if the parking
14 garage was ten blocks down the street from the central
15 office?

16 A No.

17 Q Okay. What if it was three miles away from the
18 central office, that would still be an adjacent off-premises
19 collocation?

20 A No. I think I prefaced it by saying I would
21 never select your parking garage.

22 Q All right. Well, then let's try this. Say
23 across the street from the central office there is a
24 building that houses 500 service representatives, and that
25 is all that is in that building, and that is all that

1 building does is house service representatives, and they
2 take calls from customers. Is that a premises?

3 A Is there network equipment in there under your
4 definition?

5 Q No, there is no equipment that provides telephone
6 service. There are computers that the service reps use to
7 handle customer calls.

8 A Well, if they had customer calls, they would have
9 an ACD, the ACD would be part and parcel of your network, it
10 would be considered in my mind network equipment.

11 Q Okay. So the computers that the service reps use
12 you consider network facilities?

13 A Not the computers, but the ACD that would be tied
14 to it.

15 Q What is an ACD?

16 A An automatic call distributor. It's a device
17 that distributes the calls amongst your represents so that
18 they either answer the calls in some predetermined sequence.

19 Q And you consider that a network facility?

20 A Yes, in the case -- in the limited example you
21 gave.

22 Q Now, is there anywhere in the FCC's Advanced
23 Services Order that defines off-premises?

24 A No, there is not.

25 Q And under your interpretation of the FCC's order,

1 could an off-premises mean an MCI central office?

2 A If it was in what I would call a reasonable
3 adjacent area to your central office, yes.

4 Q Okay. What would be a reasonable adjacent area?

5 A The defined criteria in Texas which seemed
6 reasonable was the point at which no regeneration of a
7 copper signal, a copper cable would be required. That was
8 generally speaking within the city block. You could extend
9 the cable and not have to regenerate the signal that is on
10 it.

11 Q Now, what happened in Texas is that the Texas
12 Commission interpreted the FCC's order, correct?

13 A That's correct.

14 Q And the FCC has not said whether the Texas
15 Commission is correct or incorrect in that interpretation?

16 A I can't -- I can only give you my opinion. I
17 believe when they summarized in the Advanced Services Order
18 and added in that summary that I believe was shared on Page
19 8 where they included, or those locations approved by a
20 commission, that because they were referencing the
21 collaborative that had gone on for quite an extensive period
22 of time in Texas, that I believe that they were indirectly
23 referring to Texas.

24 Q And where is that in the Advanced Services Order,
25 I'm sorry?

1 A Paragraph 8.

2 Q 8?

3 A I will read it, if you wish. In the second
4 bullet under collocation. A collocation method used by one
5 incumbent LEC or mandated by a state commission is
6 presumptively technically feasible for any other incumbent
7 LEC.

8 Q Well, I'm confused. You are saying that implies
9 that what the Texas Commission ordered was correct?

10 A I believe that is why it was put in there, but I
11 can't speak for the FCC. They do quote the collaborative
12 with some -- in many of the instances here.

13 Q Well, the FCC's Advanced Services Order was
14 released on March 31st, 1999, correct?

15 A That is correct.

16 Q And the Texas Commission's orders have been all
17 throughout the year of 1999, correct?

18 A Yes. But the FCC, the DOJ, the -- there was a
19 number of other committees all came down and participated at
20 various times in that collaborative.

21 Q And that has not happened here, has it?

22 A No, it hasn't.

23 Q Now, I would like to talk a little bit about
24 converting virtual to physical collocation. Hypothetically,
25 you've got a virtual collocation arrangement, and so you've

1 got equipment in the central office. If that equipment
2 breaks down, does an alarm sound?

3 A Yes, it does.

4 Q And who would respond to that alarm?

5 A Under a virtual collocation?

6 Q Yes.

7 A You would, at parity with what you do for
8 yourself.

9 Q Okay. In a physical collocation situation, if
10 the equipment broke down and an alarm went off, who would
11 respond to that alarm?

12 A Well, I did hear the conversation -- I will
13 answer the question. I'm going to temper what the gentleman
14 from I think it was GTE said, there are two sets of alarms,
15 one is the remoting alarm, and that is the alarm that would
16 go off in our central location which would tell us that, in
17 fact, equipment was in trouble. However, there is an aisle
18 alarm, and that is an alarm that sits at the end of the
19 line-up. And in my -- I would not imagine that an ILEC
20 would disconnect that because they would want to know not
21 that they were going to dispatch to us, but that there was a
22 trouble in a particular line-up.

23 Q Okay. Well, wouldn't you have to make
24 arrangements -- if you converted that virtual to physical
25 collocation, wouldn't arrangements have to be made to

1 reroute that alarm?

2 A I believe that would be done by the ALEC at the
3 time that they took ownership of that equipment. Basically,
4 it is a dedicated line, you would basically disconnect, roll
5 up what they had, and connect yours. Leaving in place, in
6 my mind, the aisle alarm.

7 Q And do you know if that happens every time, every
8 time a conversion of virtual to physical?

9 A I don't know that -- I have never experienced
10 one. I'm simply saying from my experience this is what I
11 believe would happen.

12 Q Okay. Now, when we talk about conversion of
13 virtual from -- excuse me, conversion of collocation from
14 virtual to physical, are we talking about virtual
15 collocation that was placed because the ILEC denied space
16 was available?

17 A That is one scenario, yes.

18 Q Okay. Well, then let's talk about this
19 hypothetical. For example, say you've got a central office
20 and there is space available for physical collocation. And
21 the ALEC comes in and says, "I want virtual." And the
22 virtual collocation is provisioned. And then the ALEC says,
23 "No, I change my mind. I want physical." Is it your
24 opinion that there should be a conversion in place there?

25 A Yes. So long as there is -- you know, there is

1 one constraint; the equipment has to be self-contained and
2 nothing moved or anything. But, yes, what basically has
3 happened in my mind is that the ALEC has decided to take
4 over the maintenance responsibilities. And that can happen
5 for a couple of reasons. One, it is unique equipment that
6 they don't feel comfortable with the ILEC maintaining, or
7 they just have the personnel necessary at this time to start
8 doing that. But it is an option that they have obviously by
9 the virtual, and then now they have the option of converting
10 that. And in my mind it is a ownership issue. I transfer
11 to you the ownership so you could maintain it, you are going
12 to transfer it back to me.

13 Q Would another option be that the ALEC was simply
14 trying to get around the physical collocation pricing?

15 A I guess I don't understand that question.

16 Q Well, I mean, would you agree, and maybe this
17 can't be generalized. But is physical collocation -- say
18 you've got the same piece of equipment?

19 A Say I had what now?

20 Q The same piece of equipment?

21 A Yes.

22 Q Is physical collocation and virtual collocation
23 priced exactly the same?

24 A With respect to?

25 Q With respect to installation, implementation?

1 A Well, are we now talking physical in the sense of
2 cageless versus --

3 Q Well, say caged. Virtual and caged physical?

4 A No, I make a conscious decision to encase my
5 equipment around something for protection or whatever
6 reason, so it couldn't be the same.

7 Q Okay. So in the hypothetical I gave you, if the
8 ALEC has put virtual in a central office because they have
9 chosen virtual, and then decided, well, I want physical and
10 I want caged physical.

11 A Caged physical.

12 Q Right.

13 A Right.

14 Q Would it be your opinion that they should be
15 allowed to convert in place?

16 A In caged physical?

17 Q That is correct.

18 A No, I have very strong opinions on both sides
19 about putting cages in a confined area such as an aisle. I
20 mean, you only have a 2'4" working area. So even if you
21 caged your own equipment, you could block the access or
22 egress to that equipment for other people. So I would not
23 view that as a reasonable --

24 Q Okay. In your summary you said that --
25 essentially I think you said both ALECs and ILECs should be

1 able to reserve space for current year plus one, is that
2 right?

3 A That is correct.

4 Q Because that is parity, right?

5 A I'm sorry?

6 Q Because that is parity?

7 A I believe it is parity. I have yet to -- you
8 know, I understand now that parity may be 12 months with
9 respect to another ILEC, but it is only parity we are after.

10 Q Okay. I'm sorry, I'm on the wrong page. On Page
11 14 of your direct testimony you talk about the reservation
12 of space for future use. And I guess I'm not sure I
13 understand what your sentence means from Lines 20 to 24.
14 Does that mean that if -- what does it mean, let me just ask
15 you?

16 A Lines 20 to 24?

17 Q Uh-huh.

18 A In addition, if modifications or additions are
19 planned to a central office?

20 Q Right. I mean, are you saying in there that the
21 ILEC should give up space before the ALEC should have to
22 give up space?

23 A No, I'm not setting a precedent as to who goes
24 first or who goes second.

25 Q Okay. That's what I'm trying to -- now, you also

1 talk about administrative space. What is your definition of
2 administrative space?

3 A Administrative space is that space used for
4 functions -- and again in here I point that I'm not trying
5 to set that definition for you. I believe that that would
6 be best accomplished between yourselves and the Commission.
7 But to me administrative personnel are personnel, while
8 essential to the running of the business, are not essential
9 to running that particular office.

10 Q Okay. So is that how you would also define
11 nonessential personnel?

12 A I'm sorry, did I just reverse that on you?

13 Q Well, I'm not sure. We were talking about
14 administrative space.

15 A Yes. Nonessential personnel would fit in that
16 same category.

17 Q Okay. What is your basis for the belief that
18 nonessential personnel would have to be moved to allow room
19 for collocation?

20 A It is my personal belief that this is something
21 that you would do for yourself.

22 Q Is there any FCC order or rule that requires an
23 ILEC to move personnel to make room for collocation?

24 A Not to my knowledge.

25 Q And who do you believe should pay for the move?

1 A I think it should be prorated.

2 Q Okay. Now, you also believe that standards can
3 be made for administrative space, is that correct?

4 A For space within a central office for essential
5 personnel, whether they be administrative personnel for that
6 office.

7 Q So you are saying -- are you saying by that that
8 there should be bathrooms of X size, breakrooms of X size, a
9 certain number of maintenance stations? What do you mean by
10 that?

11 A Actually, I mean all of the above, because I
12 think I point to your basic guidelines, and if you are no
13 different than we had in my 18 years, we had a spec for
14 everything. Whether it dealt with a breakroom or the size
15 of a bathroom, you know, how many, how big it should be
16 based on personnel that were essential for that operation.

17 Q Well, are you saying that this Commission should
18 decide how big a bathroom should be in each BellSouth
19 central office in Florida?

20 A No, I don't believe I ever mentioned bathroom.
21 It is what it is, you are not going to tear it down.

22 Q So you're not expecting breakrooms or bathrooms
23 to be changed?

24 A No. Breakrooms are defined in the policies. If
25 the policy state that breakrooms are permitted so long as

1 the space isn't needed, then that should be the policy when
2 it goes forward with respect to collocation. No one is
3 trying to take away anything that you have established for
4 your people with respect to their quality of work life. We
5 would like to maintain that the same, but --

6 Q Well, maybe I -- I'm sorry.

7 A If there are nonessential -- if there are
8 nonessential personnel that you mutually agree, you know,
9 are basically not there -- are there because you are filling
10 space created by a -- typically it was created by the void
11 when we left the mechanical stage of step-by-step and
12 entered the digital age, we found ourselves with a lot of
13 space and rather than build buildings we moved
14 administrative personnel in there. But typically also it
15 was with the understanding that if we ever needed that
16 space, since my experience back in the Bell days, that we
17 would reclaim it.

18 Q So you are not recommending that this Commission
19 state that each office is allowed to have a certain number
20 of essential personnel?

21 A No.

22 Q In the first-come, first served situation, I
23 believe your recommendation is that the first-come,
24 first-served rule should be applied on the firm orders
25 rather than applications?

1 A Either is acceptable to MCI. It just needs to
2 have some specific time frame, if you would.

3 MS. WHITE: Thank you, Mr. Martinez. That is all
4 I have.

5 CROSS EXAMINATION

6 BY MS. CASWELL:

7 Q Good afternoon, Mr. Martinez. I would like to
8 talk a little bit more about your recommendation on use of
9 space for administrative or nonessential personnel, and I
10 want to make sure I understand your recommendation.

11 It looks to me like you are recommending that
12 there should be no nonessential personnel in the central
13 office even when there is not an exhaust situation, a space
14 exhaust situation. Would that be correct?

15 A No, that would not be a correct interpretation.

16 Q So you would recommend their movement only when
17 there would be a space exhaust situation?

18 A That is correct.

19 Q And you mentioned that payment, the ALEC would
20 pay but on a prorated basis to move those personnel, is that
21 right?

22 A That is correct. If I was requiring 100 square
23 feet, then I would expect that whatever the cost to relocate
24 the people out of that 100 square feet.

25 Q So if I had to relocate an entire work group, say

1 1,000 square feet, I would have to pick up the cost of that
2 additional 900 square feet, is that correct?

3 A Yes. In that instance you would be making a
4 decision to keep the group intact and do something. We are
5 not trying to say that is the group that you should move nor
6 anything else.

7 Q But would you agree that in some cases it would
8 be infeasible to relocate only part of a work group?

9 A I don't know that I could agree with that having
10 worked for MCI as long as I have. I have seen relocations
11 of individuals or whatever that suit the needs of the
12 business.

13 Q Do you think you would relocate two operators out
14 of a 100 operator group?

15 A We're talking about operator services now?

16 Q Yes. Say operator services. Would that be
17 practical in your mind?

18 A No.

19 Q Did I hear you say that you have never
20 experienced a conversion from virtual to physical cageless
21 collocation?

22 A That is correct.

23 Q So you would not necessarily know what was
24 involved in the physical reconfiguration of that equipment
25 to effect the virtual to physical collocation, would that be

1 true?

2 A No, I would disagree. In the number of years
3 that I have engineered, what I did when I responded was to
4 think of it in terms of an engineer, what I would have to
5 do. I doubt that there is any practical experience out
6 there, but basic engineering guidelines have always told you
7 never to take equipment down or do anything unless you
8 absolutely had to. So those -- and I think it was the GTE
9 gentleman that expressed those. And I will express in each
10 category that he mentioned, because I did consider each.

11 The first was transmission and test points. It
12 would be our anticipation that the existing test points
13 because we are part and parcel of the network, whether we
14 did it before or after would suffice. If I needed to do
15 loop backs, I would do it for my equipment. You would have
16 your normal test points.

17 With respect to battery, I totally disagree that
18 a battery change would be required. If the supposed fear is
19 that I am sharing some common source, there is two things I
20 would add to that. One, it is fused even on the DC side.
21 The second is there no such thing as a noncommon point for
22 battery or ground. I mean, you always have to go back to
23 some point where everything is distributed from, whether
24 that be a copper bus or the common ground that is going to
25 feed it. So I just do not understand how removal of a

1 battery because it is in the same fuse point as another
2 would ever be envisioned, ever be done.

3 Now, the last is the testing facilities. And as
4 I mentioned previously, I would assume that you would want
5 me to retain the aisle indicators off of those just for your
6 own personnel so that they know that there is an alarm. Not
7 that they are going to do anything about it, but there is an
8 alarm condition in their bay. In my mind they would want to
9 know that.

10 With respect to the dedicated access that this
11 represents not only to go to your equipment but vice versa
12 to mine, ownership has transpired. Yes, there is a time
13 period, a finite time period where your equipment would
14 still have that monitoring capability, but I would come in
15 hopefully at the time that we did the conversion and I would
16 remove those leads, wrap them up, put them up, and I would
17 connect my own so I am now attached to my own security
18 system however I wanted to do it. So I still don't see
19 where there is ever a requirement for any kind of work on
20 the part of the ILEC.

21 Q Aside from the presence of a cage, do you see any
22 inherent differences in caged and cageless collocation
23 arrangements?

24 A Any inherent difference between caged and
25 cageless?

1 Q Uh-huh.

2 A Yes, I see a number of inherent differences. Our
3 preference is caged. Our preference is that because of the
4 security that the cage affords us as best that it can.

5 Q But I'm not asking about what your preference is.
6 I guess my point is are there any, per se, differences
7 between caged and cage (sic) in terms of say the equipment
8 that is placed in either situation, or any other differences
9 other than the cage itself?

10 A Not in my mind. Cageless or virtual tended to be
11 transmission, but it didn't have been to be. It tended to
12 be because that was generally the pressing need to extend
13 something to a premise, but it could have been anything.

14 Q I thought I heard you just say cageless or
15 virtual tended to be transmission. Do you mean just virtual
16 since there --

17 A Virtual, yes. Cageless and virtual to me are
18 synonymous.

19 Q So do you think a cageless arrangement would tend
20 to be just transmission equipment?

21 A I think that in today's environment because the
22 option of cageless wasn't available, that if you looked at
23 your virtual and consider that to be the same, you know, as
24 cageless, you would find that it is transmission equipment.

25 Q But who was considering cageless to be the same

1 as virtual? That is your opinion?

2 A That is my opinion.

3 Q And there are no constraints on the equipment, I
4 mean, other than what the FCC said as to equipment for
5 collocation in general, there are no constraints as to
6 whether you can put anything other than transmission
7 equipment in a cageless scenario?

8 A That is correct.

9 Q So, again, there aren't any, per se, differences
10 between cageless and caged aside from the cage, correct?

11 A Aside from the cage.

12 Q I think you have indicated that if space is
13 exhausted in an ILEC's CO then space in nearby
14 administrative buildings should be available for
15 collocation, is that right? I think that is at 7 and 8 of
16 your direct testimony. It's on Page 8. Space in nearby
17 ILEC buildings which house administrative functions should
18 be available for physical collocation.

19 A Yes. That, again, is an interpretation from the
20 Texas Commission. It fell under the same basic construct
21 that they wanted to take a broad definition. But, again, it
22 had to be adjacent in the sense of those limitations that
23 they placed on it.

24 Q So what would you mean by nearby?

25 A Well, the way they defined it really was within,

1 you know, no generation -- regeneration of the copper signal
2 would be required. So if you had to regenerate the copper,
3 the signal on a copper facility then it was no longer
4 adjacent, and they generally applied it to one city block.

5 Q There is no FCC requirement for the ILEC to
6 permit collocation in administrative space, is there?

7 A No, there is not.

8 Q In your rebuttal testimony at Page 7, on Line 6
9 to 7 -- really Lines 5 to 7, you say the ALEC should retain
10 the option to have any work, either inside or outside of its
11 dedicated space, performed by an ILEC certified contractor
12 or by certified ALEC personnel. What do you mean by
13 certified ALEC personnel?

14 A Well, we should have the ability to certify our
15 installing personnel. And I truly believe while it doesn't
16 specify for installation, it specifies in another category.
17 If you do have requirements, some sort of standards or some
18 sort of training class that you run, that that be
19 incorporated into our normal training conditions so that we
20 can certify them and so show you through documentation that
21 they have attended those, if you would, certified classes
22 with your material, so it could be blended into our own
23 training.

24 Q So you're talking about some kind of
25 self-certification procedure rather than an ILEC certified

1 contractor, those would be two different things to you?

2 A Yes.

3 Q So this would go beyond anything that the FCC
4 requires, correct?

5 A I'm not sure. I do know that they allow
6 self-certification in the -- I think it was in the advanced
7 order on another -- on another venue where the ILEC could
8 not require that the CLEC attend their classes. That they
9 could also be made, the material made available. And I
10 think the same thing could apply here, because really what
11 we are talking about is safety around equipment, how do you
12 ground, which we cover intensively in our own training
13 classes, and knowledge of local building codes so that you
14 are familiar with any electric code which is pretty
15 standard.

16 Q But there is no such requirement in the FCC
17 order, is there?

18 A Not specifically.

19 Q Right. Do you think the ILEC's obligation to
20 provide you interconnection at any technically feasible
21 point means that you get direct access to the ILEC's network
22 at that point, as well?

23 A That is correct.

24 Q And do you know of any FCC or state
25 interpretation that is consistent with your interpretation

1 in that regard?

2 A Well, I believe it is the -- I think it is a
3 proper interpretation of any technically feasible point. A
4 technically feasible point has to be a feasible point that
5 can also serve as the demarc. So I can't cut into your
6 copper cable or your fiber cable in some other than a splice
7 point and just insert myself because it happened to be going
8 by. So it has to be an accessible point.

9 Q But do you understand there may be a difference
10 between interconnection obligations and obligations with
11 regard to establishment of a demarc point? Those are two
12 separate things, aren't they?

13 A I don't -- I think they blur, and I think they
14 come together, especially around the issue of collocation.
15 Because a demarc point and an interconnection point have the
16 same meaning. It is the point where the maintenance of my
17 equipment begins and also the point at which I start paying
18 you for something.

19 MS. CASWELL: Thank you, Mr. Martinez.

20 MS. MASTERTON: We have no questions.

21 COMMISSIONER DEASON: Staff.

22 MS. KEATING: Staff has no questions.

23 COMMISSIONER JACOBS: If I understood you, you
24 indicated that you would prefer caged collocation space, is
25 that correct?

1 THE WITNESS: That is correct. Our two options
2 would be virtual and caged, and then the conversion from
3 virtual. In other words, if they were out of physical space
4 we would go first to a virtual situation and then convert
5 that to caged when space became available.

6 COMMISSIONER JACOBS: Okay. So you wouldn't
7 convert from virtual to noncaged?

8 THE WITNESS: I will never say never. But from,
9 you know, our present operations position they prefer the
10 security of one company maintaining, whether that is the
11 ILEC, to which we have great relationships with and we know
12 that we can hold them accountable if something happens, and
13 to our own people because we know we can hold them
14 accountable. They prefer that physical separation. But
15 they have also stated that if push came to shove, and that
16 was all we could do, they would do it.

17 COMMISSIONER JACOBS: Is that consistent with,
18 regardless of the type of equipment you would want to
19 collocate? In other words, if you were just doing
20 transmission as opposed to putting a DSLAM in, you would
21 have the same position?

22 THE WITNESS: Yes, but if I were doing some form
23 of switching equipment, I doubt whether I would ever go
24 cageless. Even though the operations people have said under
25 those circumstances I would do it, I think I would draw the

1 line when they put a piece of switching equipment out there.

2 COMMISSIONER JACOBS: Earlier I believe it was
3 Mr. Milner indicated that he didn't think it likely that
4 there could be a cooperative approach by CLECs to figure out
5 how to do off-premises kinds of arrangements that would meet
6 their needs yet still get them the kind of connectivity that
7 they would like. Is that your view, as well?

8 THE WITNESS: No. Of course, I do the
9 negotiations for our contracts. I'm in the second round
10 now. I believe we can find common ground. The only time we
11 don't find common ground immediately is where there is some
12 difference of opinion as to whether they have to do it, and
13 this is where we beseech the Commission to follow Texas and
14 set that up. Because, again, it is an extreme condition,
15 you know, where legitimately they have no more space.

16 COMMISSIONER JACOBS: No, no, no. Understand my
17 question has to do not so much with how well you cooperate
18 with the ILEC. In my view, there would appear to be some
19 opportunity for cooperation among CLECs who have common
20 interests.

21 THE WITNESS: Yes.

22 COMMISSIONER JACOBS: In terms of acquiring
23 collocation space and then presenting a united front to the
24 ILEC. And that was what I thought Mr. Milner was speaking
25 to, but he didn't think that that would ever happen. That

1 they were always going to get piecemeal individual
2 applications from CLECs or ALECs. And so that, therefore,
3 it was always proper for them to look at each application on
4 a case-by-case basis.

5 And the thought occurs to me, and I guess perhaps
6 the approach has been attempted by GTE, is do some averaging
7 out there. I'm not endorsing that, but the thought occurs
8 to me that there will be an attempt somehow to begin to
9 figure out, okay, what is available from this company from
10 their offices, and either that company organize that and
11 present it to all of those who are willing to acquire that,
12 or all those companies who have common needs begin to
13 approach that company as opposed to just one-by-one
14 piecemeal approach. Does that seem reasonable to you?

15 THE WITNESS: It seems reasonable to me. It is
16 essentially what happened in Texas with the collaborative
17 sessions that we had out there. We really were negotiating
18 the issues as we went along.

19 COMMISSIONER JACOBS: Okay.

20 COMMISSIONER DEASON: Redirect?

21 MR. MELSON: No redirect. And I had no exhibits.

22 COMMISSIONER DEASON: Mr. Martinez, you may be
23 excused. And we are going to take ten minutes.

24 (Recess.)

25 COMMISSIONER DEASON: Call the hearing back to

1 order. During the break we have discussed the remaining
2 witnesses and the order of those witnesses. The plan is to
3 take Rhythms' witness next, followed then by Covad's
4 witness, followed by MGC's witness, followed by Supra's
5 witness. And that would be all of the witnesses for the
6 remainder of today and this evening. And the target time to
7 conclude those witnesses is 7:00 o'clock. And then the plan
8 is to reconvene tomorrow to take the remaining three
9 witnesses.

10 Now, if there is some objection to that
11 procedure, you need to speak now. Hearing no objection,
12 then that will be the plan. Realizing plans are subject to
13 change.

14 MR. MELSON: Subject to true-up at 5:00 o'clock.

15 COMMISSIONER DEASON: Mr. Melson, you may call
16 your witness.

17 MR. MELSON: Thank you. Rhythms calls Rob
18 Williams. I misplaced my questions to ask him what his name
19 is.

20 Thereupon,

21 ROBERT WILLIAMS

22 was called as a witness on behalf of Rhythms Links Inc. and,
23 having been duly sworn, testified as follows:

24 DIRECT EXAMINATION

25 BY MR. MELSON:

1 Q Could you state your name and address for the
2 record, please?

3 A My name is Robert Williams with Rhythms
4 Incorporated. The business address is 8605 Westwood Center
5 Drive, Vienna, Virginia.

6 Q And what is your position with Rhythms?

7 A My position is National Deployment Director for
8 the East Region.

9 Q Have you prefiled direct testimony in this docket
10 consisting of 17 pages?

11 A Yes, I did.

12 Q Do you have any changes or corrections to your
13 direct testimony?

14 A Yes, I have two. The first is on Page 8, Line
15 19. It is Page 8, Line 19, on the right-hand side. Strike
16 the five words, "Or to utilize security cameras."

17 Q And what is the second change?

18 A The second change is on the following page, Page
19 9, Line 3. After the word "incurred," add the words, "for
20 additional security measures." So that Line 3 would read
21 "incurred for additional security measures to competitors."

22 Q And have you also prefiled 20 pages of rebuttal
23 testimony in this docket?

24 A Yes.

25 Q Do you have any changes or corrections to that

1 testimony?

2 A No.

3 Q With the two changes to your direct testimony, if
4 I were to ask you the same questions today in both your
5 direct and rebuttal, would your answers be the same?

6 A Yes.

7 MR. MELSON: Mr. Chairman, I would ask that Mr.
8 Williams' direct and rebuttal testimony be inserted into the
9 record as though read.

10 COMMISSIONER DEASON: Without objection it shall
11 be so inserted.

12 BY MR. MELSON:

13 Q And, Mr. Williams, did you have two exhibits, one
14 attached to your direct testimony identified as Exhibit RW-1
15 and a second attached to your rebuttal testimony identified
16 as RW-2?

17 A Yes.

18 Q And is the information contained on those
19 exhibits true and correct?

20 A Yes.

21 MR. MELSON: Mr. Chairman, I would ask that those
22 two exhibits be marked. I believe the next number is 20.

23 COMMISSIONER DEASON: That is correct. Do you
24 want a composite for both exhibits?

25 MR. MELSON: Yes, sir, that will be fine.

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COMMISSIONER DEASON: And that would be Exhibit

20.

(Composite Exhibit Number 20 marked for
identification.)

1 **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

2 **DIRECT TESTIMONY OF**

3 **ROBERT WILLIAMS**

4 **ON BEHALF OF RHYTHMS LINKS INC.**

5 **DOCKET NOS. 981834-TP and 990321-TP**

6 **October 28, 1999**

7

8 **I. INTRODUCTION**

9 **Q. PLEASE STATE YOUR NAME, TITLE AND BUSINESS ADDRESS.**

10 **A. My name is Robert Williams. My title is National Deployment Director, East**
11 **Region for Rhythms Links Inc., a wholly owned subsidiary of Rhythms**
12 **NetConnections Inc. (collectively "Rhythms"). My business address is 8605**
13 **Westwood Center Drive, Suite 300, Vienna, VA 22182.**

14 **Q. PLEASE STATE YOUR QUALIFICATIONS AND EXPERIENCE.**

15 **A. I am responsible for negotiation, management, and execution of interconnection**
16 **agreements and associated issues between Rhythms and ILEC phone companies**
17 **in the eastern third of the United States. I am also responsible for all physical**
18 **collocation issues between Rhythms and ILECs, including filing collocation**
19 **applications, scheduling collocation, exchanges of information, billing and turn-**
20 **over of collocation from ILECs to Rhythms. Further, I am responsible for**
21 **methods and procedures for ordering, provisioning, delivery, and maintenance**
22 **of unbundled network element loops between Rhythms and ILECs.**
23 **Specifically, I handle all of these matters for Rhythms in dealing with BellSouth,**
24 **Bell Atlantic, and Sprint.**

1 I have seventeen years of business and operations experience, mostly
 2 telecommunications, working as an Officer in the United States Navy, as well as
 3 for regulated telephone companies. On August 23, 1999, I began working for
 4 Rhythms. My qualifications and prior business experiences include:

- 5 ● Jan. 1999 – Aug. 1999: Senior Manager, Data Network
 6 Implementation, Global One, Reston, VA
- 7 ● Dec. 1996 – Dec. 1998: Senior Manager, Local Network
 8 Implementation, MCI, Reston, VA
- 9 ● Dec. 1995 – Dec. 1996: Manager, Global Project Implementation,
 10 MCI, Reston, VA
- 11 ● Feb. 1994 – Dec. 1995: Project Manager, Global Project
 12 Implementation, MCI, Reston, VA
- 13 ● June 1991 – Feb. 1994: Project Manager, Pfizer Inc., Parsippany,
 14 NJ
- 15 ● Dec. 1983 – June 1991: Officer, United States Navy

16
 17 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

18 **A.** The purposes of my testimony are:

- 19 ■ To respond to the issues presented for resolution by the Commission in
 20 this generic collocation proceeding.
- 21 ■ To discuss the importance of maximizing the physical collocation
 22 alternatives available for connecting to the ILECs' networks.
- 23 ■ To address the procedures necessary for notifying an ALEC of space
 24 availability at an ILEC's premises.

1 **Q. WHAT ARE YOUR RECOMMENDATIONS TO RESOLVE THE**
2 **ISSUES?**

3 **A.** As discussed below, my recommendations are for the Commission to adopt
4 procedures and guidelines for collocation that:

- 5 ▪ Never allow a unilateral extension of provisioning time without a formal
6 request or an agreement by both parties.
- 7 ▪ Include all information in a application response necessary for an ALEC
8 to place a firm order within the established interval of 15 calendar days.
- 9 ▪ Set forth terms and conditions to convert existing or pending virtual
10 collocation arrangements to physical cageless collocation in place.
- 11 ▪ Apply the provisioning interval for virtual collocation of 60 calendar
12 days to the provisioning of cageless collocation, which does not require
13 any time for building the cage.
- 14 ▪ Require the provision of physical collocation to ALECs at the ILECs'
15 premises, including on-site existing structures, off-site adjacent third
16 party buildings, any other building or similar structure owned or leased
17 by the ILECs to house network facilities, as well as any other technically
18 feasible point.
- 19 ▪ Clarify that a collocator sharing or subleasing space from another
20 collocator may interface directly with the ILECs for purposes of
21 provisioning and security requirements.
- 22 ▪ Ensure that the ILECs continue to run the necessary wiring directly from
23 their network to the collocators network, i.e., from the MDF to ALECs'
24 collocation spaces, without requiring the use of an intermediary frame.

- 1 ▪ Establish procedures for notifying the ALECs of the availability of space
2 currently at the ILECs' premises upon denial of a collocation request, at
3 various central offices upon request for a space availability report, and in
4 the future upon subsequent central office modification.

5

6 **II. RHYTHMS' NEED FOR COLLOCATION**

7 **Q. PLEASE DESCRIBE RHYTHMS' COLLOCATION EFFORTS IN**
8 **FLORIDA.**

9 A. As Rhythms plans to provide data services in entire metropolitan areas
10 (including the suburbs), Rhythms has already obtained or is in the process of
11 obtaining physical caged collocation arrangements in sixty-seven BellSouth
12 central offices, eight GTE central offices, one Sprint central office and cageless
13 physical collocation in seven BellSouth central offices and four GTE central
14 offices in Florida. This broad deployment allows Rhythms to serve both
15 business and residential customers with tailored high-speed data services in both
16 their homes and offices. In order to provide those services, Rhythms must
17 collocate and maintain equipment at BellSouth premises in a timely manner.
18 Therefore, the collocation intervals are extremely integral to Rhythms' ability to
19 service a new market.

20 **Q. DO YOU HAVE ANY CONCERNS ABOUT THE INTERVALS IN**
21 **WHICH BELL SOUTH WILL PROVISION COLLOCATION TO**
22 **RHYTHMS?**

23 [ADDRESSING ISSUE NOS. 1, 2, 13, 16.]

1 A. Yes. I commend the Commission in setting provisioning intervals of 60
2 calendar days for virtual collocation and 90 calendar days for physical
3 collocation, as well as an application response interval of 15 calendar days.
4 There should *never* be any reason to extend the provisioning intervals for
5 physical and virtual collocation without either an agreement by both parties or
6 an ILEC filing of a request for extension of time, as the procedures for
7 requesting an extension of time are in place for a reason. However, some
8 disparity remains in what the application response entails on the part of the
9 ILECs.

10 ILECs should be required to respond to a complete and correct
11 application for collocation within the 15 calendar day response time set by the
12 Commission. This application response should include all of the information the
13 ILEC requires ALECs, such as Rhythms, to submit in a firm order for
14 collocation. The information should include the amount of space available, the
15 estimated space preparation quotes, the estimated provisioning interval, power
16 requirements, and any other information the ILEC provides that it will
17 subsequently require an ALEC to include in its firm order. To the extent that the
18 ILEC's response includes anything less, the response itself would have no value
19 to Rhythms, and instead would introduce additional unwarranted delay into the
20 collocation provisioning process to the detriment of Rhythms and other ALECs.

21

22 **III. ALTERNATIVE COLLOCATION ARRANGEMENTS**

23 **Q. HAS RHYTHMS EVER BEEN DENIED SPACE IN A CENTRAL**
24 **OFFICE IN FLORIDA?**

1 A. Yes. Rhythms was previously denied physical caged collocation space in three
2 BellSouth central offices in Florida. BellSouth had previously indicated its
3 intentions to provide cageless physical collocation space to Rhythms in these
4 offices, as opposed to virtual collocation arrangements, in light of the FCC's
5 *Advanced Services Order* on March 31, 1999, and this Commission's actions
6 during the summer of 1999 on the BellSouth collocation waiver petitions. In the
7 past, when an ALEC has been denied physical space within a central office, as
8 initially requested, the ALEC was forced to accept virtual collocation
9 arrangements. That is why it is so imperative that ILECs redefine ALECs'
10 existing virtual collocation arrangements as physical cageless collocation
11 arrangements.

12 **Q. SHOULD ILECS BE REQUIRED TO REDEFINE VIRTUAL**
13 **COLLOCATION ARRANGEMENTS TO PHYSICAL CAGELESS**
14 **ARRANGEMENTS AT THE REQUEST OF ALECS?**
15 [ADDRESSING ISSUE NOS. 5, 8]

16 A. Yes. ILECs should be required to permit ALECs to convert existing or pending
17 virtual collocation arrangements to physical cageless collocation arrangements
18 in place at the discretion of the ALEC. Now that, under the *Advanced Services*
19 *Order*, cages may no longer be required by ILECs and that ILECs are no longer
20 allowed to require all physical collocation arrangements to be located in a
21 segregated collocation area, ILECs must allow competitors to utilize any unused
22 space at their premises for physical collocation. Prior to the *Advanced Services*
23 *Order* competitors could order only virtual collocation in some premises, as
24 space did not exist for the cages. With the institution of cageless collocation,

1 competitors are able to collocate equipment in areas previously reserved for
2 virtual collocation because the ILECs can no longer force competitors to place
3 cages around their arrangements or to collocate in segregated areas.

4 ILECs must now permit ALECs to obtain cageless physical collocation
5 space in any unused space in an ILEC premises, including unused space in the
6 ILEC's own lineups. Thus, space that exists in an ILEC's lineup previously
7 designated for virtual collocation arrangements only, now must be made
8 available to house cageless physical collocation arrangements. Consequently,
9 ALECs must be able to redefine any existing or pending virtual collocation
10 arrangements to cageless physical collocation arrangements in place. This
11 transition of a virtual collocation arrangement to a cageless arrangement merely
12 requires a competitor to buy the equipment back from the ILEC. Requiring
13 competitors to move the arrangements they seek to transition from virtual to
14 cageless collocation is an unquestionable attempt to segregate competitors'
15 collocation and disrupt the competitors' services, and therefore should not be
16 permitted by this Commission. Rather, the Commission should require ILECs
17 to permit ALECs to choose to redefine in place their virtual collocation
18 arrangements as cageless collocation arrangements.

19 This Commission, therefore, should require ILECs to provide for the
20 seamless transition of all virtual collocation arrangements to cageless
21 collocation arrangements in place at the choice of the ALEC. ILECs should
22 accomplish this transition without interruption of service to the competitor's
23 customers and without charge to the competitor. Title to the collocated
24 equipment will be transferred to the competitor upon tender by competitor of the

1 amount received from the ILEC for the equipment at the inception of the virtual
2 arrangement.

3 The ILECs should transition the equipment from cageless to virtual
4 within 60 days of the request for transition, which should also be the standard
5 interval for all cageless collocation arrangements. As previously explained,
6 cageless collocation arrangements differ from virtual collocation arrangements
7 merely in the ownership of the equipment. ALECs have title to the cageless
8 collocation equipment, whereas BellSouth, GTE or Sprint have title to the
9 virtual collocation equipment. The standard 60-day interval for provisioning
10 virtual collocation, therefore, should also apply to provisioning of cageless
11 collocation.

12 **Q. WHO SHOULD BEAR THE COST OF ANY ADDITIONAL SECURITY**
13 **MEASURES THE ILECS SEEK TO IMPLEMENT WHEN VIRTUAL**
14 **COLLOCATION ARRANGEMENTS ARE CONVERTED TO**
15 **CAGELESS PHYSICAL ARRANGEMENTS IN PLACE?**

16 **A.** If an ILEC chooses to install additional security measures, it should do so at its
17 own election and expense. The FCC has acknowledged the ILECs' right to
18 protect its own equipment within its premises subject to some limitations.
19 ILECs may elect to enclose their own equipment ~~or to utilize security cameras~~ at
20 their own expense, just as competitors would have to finance any additional
21 security measures that they opted to install. Forcing competitors to pay for an
22 ILEC's choice to enclose its equipment, however, would also be an
23 unreasonable segregation requirement imposing unnecessary additional costs on
24 competitors. For these reasons, this Commission should allow ILECs to install

1 reasonable security measures to secure their equipment located near others'
 2 cageless equipment, but must not permit ILECs to pass on the expenses so
 3 incurred to competitors. *for additional security measures*

4 **Q. WHAT OTHER TYPES OF ARRANGEMENTS HAS RHYTHMS USED**
 5 **TO COLLOCATE WITH THE NETWORKS OF ILECs IN OTHER**
 6 **STATES?**

7 [ADDRESSING ISSUE NOS. 3, 4]

8 A. Rhythms currently collocates with the networks of ILECs in other states using
 9 adjacent structures, including off-site adjacent collocation arrangements.
 10 Adjacent collocation exists as a solution to overcoming space exhaustion and as
 11 a solution to ALECs requiring access to copper loops where loops traverse
 12 digital loop carrier ("DLC") systems. ILECs, therefore, should allow
 13 competitors to either construct or obtain adjacent collocation in any adjacent
 14 structure at an ILEC premises. This includes all existing structures at the ILEC
 15 premises that house network facilities.

16 In order to collocate at the ILECs' premises, competitors should also be
 17 allowed to collocate in remote terminals, as these are structures owned or leased
 18 by the ILEC for housing network facilities. Competitors would be at an extreme
 19 competitive disadvantage if prohibited from collocating in the ILEC's remote
 20 terminals, especially with the ILECs' increasing use of fiber optics in the
 21 network. Specifically, where data ALECs, such as Rhythms, require access to
 22 copper loop plant, collocating at an ILEC remote terminal may be the only way
 23 to access the copper loop plant for loops that run over fiber loop feeder.

1 Additionally, some ILECs, such as GTE, provide Rhythms with off-site
2 adjacent collocation arrangements. BellSouth currently refuses to allow
3 competitors to collocate at off-site adjacent arrangements, claiming that off-site
4 adjacent arrangements are not collocation and prohibiting competitors from
5 running copper cross-connect facilities from an off-site adjacent collocation
6 arrangement into a BellSouth central office. I believe that off-site adjacent
7 collocation is a legitimate form of collocation and that Rhythms's off-site
8 arrangements with GTE in other states creates the rebuttable presumption that
9 off-site collocation is technically feasible. It is my understanding that in the
10 *Advanced Services Order* the FCC created a rebuttable presumption of a
11 collocation arrangement's technical feasibility upon the deployment of that type
12 of collocation arrangement by any ILEC.

13 Further, it is my understanding that the only limitations the FCC has
14 placed on adjacent arrangements are that the arrangements need to be
15 technically feasible and to meet all safety and maintenance requirements. As
16 GTE currently provides off-site adjacent collocation arrangements to Rhythms,
17 BellSouth must provide such arrangements to Rhythms or must affirmatively
18 rebut before this Commission the presumption that off-site adjacent collocation
19 is technically feasible. Absent any demonstration by BellSouth that off-site
20 adjacent collocation is not technically feasible or that competitors have not met
21 safety or maintenance requirements, the Commission should require BellSouth
22 to provide off-site adjacent collocation to all requesting competitors.

23 **Q. ARE THERE ANY OTHER COLLOCATION ARRANGEMENTS USED**
24 **BY RHYTHMS?**

1 [ADDRESSING ISSUE NO. 7A]

2 A. Yes. Rhythms also has established several shared collocation arrangements with
3 other competitive carriers in order to efficiently utilize the limited space at a
4 central office, when such space is almost at exhaust. Shared collocation is a
5 collocation arrangement where two or more competitors share collocation space
6 pursuant to terms and conditions agreed upon by the competitors. Shared
7 collocation arrangements provided by ILECs to competitors, however, should be
8 provisioned pursuant to terms and conditions set forth in Commission guidelines
9 and procedures.

10 Pursuant to the *Advanced Services Order*, upon request by an ALEC,
11 ILECs must provide shared caged collocation in any available collocation space.
12 Competitors need to be able to request that ILECs provide shared caged
13 collocation via (i) a new request for physical collocation space whereby the
14 competitor requesting such space allocates the requested space among the
15 number of competitors initially requesting such space ("New Shared
16 Collocation"), or (ii) a notice by a competitor that it has entered into a shared
17 collocation arrangement with another competitor for its existing physical
18 collocation arrangement ("Subleased Shared Collocation"). Each competitor in
19 a shared caged collocation arrangement may be referred to as a "Resident
20 Collocator." Each Resident Collocator must, under the terms of the *Advanced*
21 *Services Order*, be permitted to place facilities and network elements orders
22 directly with the ILEC.

23 Q. **WHAT ADDITIONAL GUIDELINES SHOULD APPLY TO NEW**
24 **SHARED COLLOCATION ARRANGEMENTS?**

- 1 A. New Shared Collocation should be available in size increments reasonably
2 necessary for the competitors' needs. Resident Collocators would request New
3 Shared Collocation from the ILEC jointly, in a single application. A request and
4 any subsequent orders for New Shared Collocation should be submitted by any
5 of the Resident Collocators. Each request for New Shared Collocation should
6 identify each Resident Collocator and the number of bays or percentage of space
7 allocated to each Resident Collocator. According to the *Advanced Services*
8 *Order*, when making New Shared Collocation available, ILECs must (i) not
9 increase the space preparation charges above the cost of provisioning a cage of
10 similar dimensions and materials to a single collocating carrier and (ii) prorate
11 the space preparation charges among the Resident Collocators utilizing the New
12 Shared Collocation space by allocating the charges to each Resident Collocator
13 based on the percentage of total space utilized by that competitor. The
14 percentage of total space divided among the Resident Collocators in a New
15 Shared Collocation space should equal one hundred percent (100%) of such
16 space preparation charges. Any additional or extraordinary charges incurred to
17 accommodate a Resident Collocator's specific instructions (e.g., unique power
18 arrangements, cabling, etc.) should not be prorated, but instead directly billed to
19 the requesting Resident Collocator. Each Resident Collocator should be solely
20 responsible for its compliance with the terms and conditions of its own
21 interconnection agreement with the ILEC.
- 22 **Q. WHAT ADDITIONAL GUIDELINES SHOULD BE ESTABLISHED TO**
23 **GOVERN SUBLEASED SHARED COLLOCATION?**

1 A. For Subleased Shared Collocation, if an ALEC is the initial Resident Collocator,
2 then the ALEC should require such other subsequent Resident Collocators to
3 execute a sublease agreement prior to the delivery date of the collocation space.
4 This sublease agreement would require compliance from any subsequent
5 Resident Collocators with the terms, conditions and restrictions relating to
6 collocation in compliance with the applicable laws, rules and regulations of
7 Florida and the FCC. Each Resident Collocator, however, should be solely
8 responsible for its compliance with the terms and conditions of its own
9 interconnection agreement with the ILEC.

10 **Q. WHERE IS THE POINT OF INTERCONNECTION FOR**
11 **COMPETITORS TO CONNECT THEIR COLLOCATED EQUIPMENT**
12 **TO THE ILEC'S NETWORK?**
13 [ADDRESSING ISSUE NO. 9]

14 A. The point of interconnection between the ILEC's network and the competitors'
15 facilities should be where the competitors determine is appropriate for their own
16 networks. When Rhythms collocated at BellSouth's premises, BellSouth
17 previously contracted with Rhythms to connect to its network at an intermediate
18 point of interconnection, such as a Point of Termination ("POT") Bay. The
19 FCC's *Advanced Services Order* prohibits the use of intermediate
20 interconnection arrangements, such as POT Bays, because such arrangements
21 increase the ALEC's costs of interconnecting to the ILEC's network.

22 BellSouth has agreed to eliminate the use of the POT Bay, as a result of
23 the FCC's *Advanced Services Order*. However, BellSouth now requires ALECs

1 connect to its Conventional Distribution Frames (“CDF”) located between the
2 Main Distribution Frame (“MDF”) and the collocation arrangement.

3 BellSouth’s requirement that Rhythms wire to the CDF actually
4 *increases* Rhythms’ costs to interconnect and provides no concomitant benefit to
5 BellSouth (other than the increased revenue BellSouth generates from
6 Rhythms). BellSouth insists that Rhythms must wire from its collocation space
7 to the CDF. BellSouth claims the CDF is not an “intermediate frame,” though it
8 is a frame located between the collocation arrangement and the MDF.

9 Moreover, BellSouth essentially refuses to allow competitors to
10 designate the point of interconnection between their collocation arrangements
11 and the BellSouth network. Competitors clearly should have the ability to
12 connect to the BellSouth network at any technically feasible point they choose,
13 because competitors have an incentive to make economically efficient decisions
14 about where to interconnect. BellSouth should not be allowed to hinder market
15 entry by requiring competitors to incur additional, unnecessary costs of
16 interconnecting with BellSouth’s network at inefficient and cost-prohibitive
17 points.

18 Even worse, BellSouth asserts that Rhythms *must* accept a contract
19 amendment agreeing to wire from Rhythms’ collocation space to the CDF in
20 order for BellSouth to provide cageless collocation to Rhythms. In an e-mail on
21 October 21, 1999, BellSouth informed Rhythms that BellSouth’s “offer” to
22 provide cageless collocation in three central offices in Florida “was contingent
23 upon each party signing a collocation amendment which incorporates the
24 requirements of the FCC Order 99-48 (‘706 Order’) one of which is the

1 elimination of the requirement of an intermediate device (POT Bay) in lieu of
2 direct connection to BellSouth's network." (See Exhibit ___ (RW-1)) Thus,
3 BellSouth insists that Rhythms waive some of its rights in order to receive the
4 remainder. Rhythms simply believes that it is entitled to all of the rights
5 provided to it by the *Advanced Services Order*, and is not willing to sacrifice
6 any of them. I refuse to believe that this is what the FCC or this Commission
7 intends.

8 **III. PROCEDURES FOR NOTIFICATION OF SPACE AVAILABILITY**

9 **Q. WHAT IS THE IMPORTANCE IN COMPETITORS KNOWING THE**
10 **AVAILABILITY OF SPACE AT AN ILEC'S PREMISES?**

11 **A.** Rhythms believes that ILECs must notify competitors of space availability at
12 their different premises in order to allow competitors to make expeditious
13 business decisions on how to serve a particular market. To make such decisions,
14 the market-entering competitor must be aware of whether collocation is
15 available at the particular ILEC premises, whether (1) through space being
16 available in the central office, (2) with other competitors through shared
17 collocation arrangements, or (3) in adjacent structures at the ILEC's premises.
18 Assuring competitors of access to the information necessary to make these
19 business decisions should dictate the types of procedures the ILECs must adhere
20 to in notifying competitors of space availability or exhaustion at a premises.

21 **Q. WHAT PROCEDURES ARE APPROPRIATE FOR ILECs TO NOTIFY**
22 **COMPETITORS OF THE AVAILABILITY OF SPACE AT AN ILEC**
23 **PREMISES?**

24 [ADDRESSING ISSUE NOS. 17, 18, 19]

1 A. The Commission's rules correctly require ILECs to post on their website a list of
2 central offices and whether there is space available in each. This website
3 posting of central office availability is an important mechanism for competitors
4 to utilize prior to planning in which central offices to collocate in a given
5 market.

6 Nearing the date of entry into a specific market, the competitors may
7 also need more detailed information on the space availability at the ILEC's
8 premises, including the amount of collocation space available, the number of
9 collocators, any modifications to the use of space and any plans to make
10 additional space available. For this type of information, the *Advanced Services*
11 *Order* allows a competitor to submit a request to the ILEC for a report detailing
12 the space availability at any of the ILEC's premises. The report must provide
13 the information, as previously listed, for all of the premises identified by a
14 competitor in its request. The cost for this report should be TELRIC-based.
15 Therefore, the ILECs must not be permitted to unilaterally determine the cost of
16 these reports without support, such as a cost study. Further, any costs imposed
17 by the ILECs should be subject to true-up once the ILECs justify their costs to
18 the Commission's satisfaction.

19 Furthermore, the Commission's rules should also explicitly provide for
20 the ILEC to affirmatively facilitate the ability for competitors to be aware of the
21 availability of space at the ILEC's premises by requiring certain notification
22 requirements. The ILECs should be required to notify competitors as to the
23 amount of space actually available at a premises upon the ILEC's denial of a
24 competitors' request for collocation due to insufficient space. The imminent

1 exhaustion of certain premises within a market serving key customer locations
2 may force competitors to adjust their plans for collocation at a particular
3 premises. In other words, while a competitor may plan to collocate in 100
4 square feet of a central office, upon notification that 100 square feet does not
5 exist in that central office, a competitor may be willing to settle for the
6 remaining 80 square feet available in a central office. A competitor cannot
7 make such a determination, though, unless the ILEC informs the competitor of
8 the remaining space available within the premises.

9 In turn, sometimes space becomes available in a central office where a
10 competitor has previously been denied space due to subsequent modifications at
11 the central office. To the extent that space becomes available at a previously
12 exhausted premises, an ILEC should be required to notify the competitors who
13 previously requested space at such premises, when space does become available
14 whether through removal of equipment, construction of a central office addition
15 or otherwise.

16 **Q. DOES THAT CONCLUDE YOUR TESTIMONY?**

17 **A.** Yes, it does.

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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION
REBUTTAL TESTIMONY OF
ROBERT WILLIAMS
ON BEHALF OF RHYTHMS LINKS INC.

Docket Nos. 981834-TP & 990321-TP

November 19, 1999

I. INTRODUCTION

Q. PLEASE STATE YOUR NAME, TITLE AND BUSINESS ADDRESS.

A. My name is Robert Williams. My title is National Deployment Director, East Region for Rhythms Links Inc. ("Rhythms"), a wholly owned subsidiary of Rhythms NetConnections Inc.. My business address is 8605 Westwood Center Drive, Suite 300, Vienna, VA 22182.

Q. HAVE YOU PREVIOUSLY TESTIFIED IN THIS PROCEEDING?

Yes, I filed direct testimony on behalf of Rhythms Links Inc. responding to the issues posed by the Commission in Order No. PSC-99-1991-PCO-TP. In this direct testimony, I recommended that the Commission (1) never allow a unilateral extension of provisioning time by an ILEC without a formal request or an agreement by both parties; (2) include all information in an application response necessary for an ALEC to place a firm order within the established interval of 15 calendar days; (3) set forth terms and conditions to convert existing or pending virtual collocation arrangements to physical cageless

1 collocation in place; (4) apply the provisioning interval for virtual collocation of
2 60 calendar days to the provisioning of cageless collocation, which does not
3 require any time for building the cage; (5) require the provision of physical
4 collocation to ALECs at the ILECs' premises, including on-site existing
5 structures, off-site adjacent third party buildings, any other building or similar
6 structure owned or leased by the ILECs to house network facilities, as well as
7 any other technically feasible point; (6) clarify that a collocator sharing or
8 subleasing space from another collocator may interface directly with the ILECs
9 for purposes of provisioning network elements and security requirements, (7)
10 ensure that the ILECs continue to run the necessary wiring directly from their
11 network to the collocators network, i.e., from the MDF to ALECs' collocation
12 spaces, without requiring the use of an intermediary frame; and (8) establish
13 procedures for notifying the ALECs of the availability of space currently at the
14 ILECs' premises upon denial of collocation request, at various central offices
15 upon request for space availability report, and in the future upon subsequent
16 central office modification.

17 **I. INTRODUCTION**

18 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

19 A. My rebuttal testimony responds to the various issues raised in the direct
20 testimony of the other witnesses. I will address particular points of contention I
21 have with the Direct Testimony of BellSouth's witnesses Keith Milner and Jerry
22 Hendrix, as well as the GTE witness, John Ries. The Direct Testimony of both
23 BellSouth and GTE clearly demonstrates the ILECs' intent with respect to the

1 FCC's *Advanced Services Order*—to delay implementation of its pro-
2 competitive mandates for as long as possible.

3 **Q. PLEASE SUMMARIZE YOUR REBUTTAL TESTIMONY.**

4 A. The positions of BellSouth and GTE on the implementation and provisioning of
5 collocation arrangements essentially result in the continued avoidance of their
6 obligations under state and federal law, thereby further delaying competition in
7 complete disregard for the promotion of competition. Specifically, the ILECs
8 would prefer to prolong competition by:

- 9 ▪ Requiring ALECs to relocate the collocation equipment and endure the
10 lengthy provisioning intervals merely to transfer the ownership of
11 virtually collocated equipment back to the ALEC.
- 12 ▪ Requesting excessive intervals for application responses, cageless
13 collocation provisioning, and "extraordinary" circumstances.
- 14 ▪ Attempting to provide collocation to the ALECs in a
15 discriminatory manner.
- 16 ▪ Refusing to provide ALECs with the variations of adjacent collocation.

17 My testimony explains why each of these ILEC positions are unnecessary and
18 inconsistent with state and federal law. Therefore, I recommend that the
19 Commission accept and implement the collocation guidelines presented in my
20 Direct Testimony.

21 **II. VIRTUAL TO CAGELESS COLLOCATION TRANSITIONS**

1 **Q. SHOULD THE COMMISSION ESTABLISH TERMS AND**
2 **CONDITIONS FOR CONVERTING VIRTUAL TO CAGELESS**
3 **COLLOCATION?**

4 A. Yes. Without terms and conditions to govern the transition, the ILECs can
5 prolong the transition indefinitely. BellSouth suggests that the Commission
6 refrain from setting specific regulations for the conversion, and prefers to
7 convert the collocation equipment on an “individual case basis.” Hendrix, p. 8,
8 line 11. In many cases, Rhythms has found that negotiating the provisioning
9 terms on an “individual case basis” normally means that Rhythms will receive
10 the collocation space whenever the ILEC decides to deliver the space. This
11 suggestion from BellSouth is an obvious attempt to continue to avoid providing
12 ALECs cageless collocation in conjunction with the Telecommunications Act of
13 1996 (“1996 Act”). To avoid delaying the ALECs' access to physical
14 collocation any longer, I recommend that the Commission set forth terms and
15 conditions to convert existing and pending virtual collocation arrangements to
16 physical cageless collocation in place.

17 **Q. SHOULD THE ILECs TRANSFER EXISTING OR PENDING**
18 **VIRTUAL COLLOCATION ARRANGEMENTS TO CAGELESS**
19 **COLLOCATION WITHOUT REQUIRING THE ALEC TO**
20 **RELOCATE ITS EQUIPMENT?**

21 Yes, virtual collocation can be, and should be, transitioned in place to cageless
22 collocation upon request by an ALEC. Relocating the equipment for a cageless

1 collocation arrangement is absolutely unnecessary in light of federal regulation,
2 and merely another attempt to delay ALECs interconnection with the network.
3 BellSouth and GTE both assert that the *Advanced Services Order* gives them the
4 absolute right to move the ALECs' equipment in order to build a cage around
5 their equipment for security reasons, because cages cannot be built if the
6 ALECs' equipment is commingled with the ILEC equipment. Hendrix, p. 8-9;
7 Milner, p. 16; Ries, p. 6. GTE states that "[p]hysically collocated equipment is
8 never commingled with GTE equipment because such an arrangement would
9 inhibit GTE's ability to cage off its equipment from that of the collocators."
10 Ries, p. 6, line 4-7. BellSouth goes even further, stating "unenclosed
11 arrangements will be located in the area designated for physical collocation
12 within the BellSouth premises." Milner, p. 11. The *Order*, however, does not
13 give the ILECs any assurance that they can build a cage around their equipment,
14 especially if it is not reasonable to do so.

15 While ILECs may enclose their equipment in their own cage at their
16 expense, this in no way relieves them of their obligation to provide ALECs with
17 the opportunity to collocate their equipment in any unused space at the ILEC's
18 premises. BellSouth, in fact, acknowledges the regulatory requirement to
19 provision collocation "without the requirement for a physical separation
20 between the collocator's equipment and the equipment of other collocators or
21 the equipment of the ILEC." Milner, p. 6. Section 51.323 of the FCC's rules
22 explicitly prohibits BellSouth or GTE from segregating or isolating the ALEC's
23 collocation equipment from their own equipment. The FCC explained that

1 “the incumbent LEC may not, however, require
2 competitors to use separate rooms or floors, which only
3 serves to increase the cost of collocation and decrease the
4 amount of available collocation space. The incumbent
5 LEC may not utilize unreasonable segregation
6 requirements to impose unnecessary additional costs on
7 competitors. . . In addition, an ILEC must give
8 competitors the option of collocating equipment in any
9 unused space within the ILEC’s premises, to the extent
10 technically feasible, and may not require competitors to
11 collocate in a room or isolated space separate from the
12 ILEC's own equipment.” *Advanced Services Order*, ¶ 42.

13
14 ILEC positions that they will never co-mingle equipment effectively
15 require that ALECs’ equipment be located in space distinct from where the
16 ILEC’s equipment is located. This violates the clear FCC requirement that
17 ILECs must not segregate ALEC collocation space.

18 Further, relocating the ALECs’ transferred collocation equipment is not a
19 reasonable security measure. Relocating equipment creates unnecessary
20 expenses and more importantly can cause ALEC service outages. If an ALEC
21 that is serving customers utilizing a virtual collocation arrangement wants to
22 convert that arrangement to a cageless arrangement, but is forced to locate the
23 cageless arrangement elsewhere at the ILEC’s premises, the ALEC has only two

1 unattractive options. *See* Hendrix, p. 9. Both options require to ALEC to pay
2 for a second collocation space at the ILEC premises.

3 First, the ALEC can obtain separate space for cageless collocation, stop
4 utilizing its virtually collocated equipment, repurchase the equipment and have
5 it moved as quickly as possible to the new cageless location, and then reconnect
6 the loops to its equipment. This approach, however requires that the ALEC take
7 all its customers served using the collocated equipment out of service for an
8 extended period of time.

9 Second, instead of moving the virtually collocated equipment to the
10 cageless space, the ALEC could purchase entirely new collocation equipment
11 and install this second set of equipment into the cageless space. Then, the
12 ALEC would need to cut over its existing customers from the virtually
13 collocated equipment to the cageless equipment. This would still result in
14 service downtime for ALEC customers.

15 Both approaches are particularly problematic for Rhythms as they both
16 require Rhythms take its customers out of service for a period of time. Rhythms
17 provides digital subscriber line (“DSL”) services to its customers. (For a
18 description of Rhythms’ business and the DSL services it offers, see section 2 of
19 the Rebuttal Testimony of Eric H. Geis on Behalf of Rhythms Links Inc. f/k/a
20 ACI Corp. (Sept. 10, 1999) which I adopted Docket No. 990649-TP and am
21 attaching at Exhibit ____ (RW-2).) As part of Rhythms’ provision of DSL
22 services, Rhythms guarantees its customers a very high percentage of “up-time.”
23 If Rhythms is forced to take its customers out of service for an extended period

1 of time to migrate from virtual to cageless collocation then Rhythms may be
2 unable to meet its service guarantees. Thus, not only are BellSouth's and GTE's
3 refusals to convert virtual to cageless collocation in place anti-competitive in
4 theory, but they are anti-competitive in practice as well.

5 The *Order* does, however, permits ILECs to utilize *reasonable* security
6 measures to protect their own equipment. *Advanced Services Order*, ¶ 41.
7 BellSouth and GTE have numerous options for securing their equipment, such
8 as installing security card reader systems and requiring ALEC representatives to
9 wear badges at all times on the ILEC's premises. Such measures enable ILECs
10 to protect their own equipment without imposing a significant detriment on
11 ALECs.

12 In fact, the New York Public Service Commission concluded exactly
13 this, stating that "spending time and effort to move a virtual arrangement from
14 one area . . . to another would be an unnecessary and time-consuming burden" in
15 light of the "security measures [available], such as cameras, monitors or badges
16 associated with monitoring equipment." N.Y. P.S.C. Case 99-C-0715 at 7.
17 Taking into account the undue delay caused by relocating the ALEC's
18 equipment and the other security options available, moving the ALEC
19 equipment in order to segregate the ILEC and ALEC equipment cannot be
20 considered a reasonable security measure.

21 For these reasons, BellSouth's and GTE's requiring the relocation of
22 ALEC equipment to protect their own equipment through segregation is not only
23 unreasonable, but in violation of federal law.

1 **Q. CAN ILECs REQUIRE ALECs TO SUBMIT COLLOCATION**
2 **REQUESTS AND ADHERE TO PROVISIONING**
3 **REQUIREMENTS FOR PHYSICAL COLLOCATION TO**
4 **TRANSFER EXISTING OR PENDING VIRTUAL**
5 **COLLOCATION ARRANGEMENTS TO CAGELESS**
6 **COLLOCATION?**

7 **A.** No. To require ALECs to initiate the expensive and lengthy application and
8 ordering procedures for obtaining physical collocation as if they were placing a
9 new request for caged physical collocation in order to transition a virtual
10 arrangement to a cageless arrangement is extremely anticompetitive in nature.
11 Initially, I recommend that the Commission not require any ALEC required to
12 virtually collocate after June 1, 1999 to pay for *any* fees the conversion. *See*
13 *Moscaritolo*, p. 10. If an ALEC wants to transfer virtual collocation existing
14 prior to June 1, 1999, the ALEC should only pay for the costs associated with
15 transfer, not for any additional security measures taken by the ILEC. *Williams*,
16 p. 8-9.

17 **Additionally, ILECs cannot apply regular caged collocation provisioning**
18 **intervals to the conversion of virtual collocation to cageless collocation. ILECs**
19 **have wrongly denied ALECs physical collocation since the enactment of the**
20 **1996 Act, and have specifically prevented ALECs from obtaining cageless**
21 **collocation since the *Advanced Services Order* six months ago. Now that the**
22 **time has finally arrived for the ILECs to provide collocation on a truly**
23 **nondiscriminatory basis, the ILECs propose to prolong the process further by**

1 forcing the ALECs to endure the entire 90 day provisioning interval in order to
2 transfer the ownership of the collocation equipment back to the ALECs. I agree
3 with Covad in that the “ILEC should be required to complete the conversion
4 within 10 calendar days of receiving an ALEC’s request for conversion.”
5 Moscaritolo, p. 10. Therefore I recommend that the collocation guidelines
6 require ILECs to perform the conversion within 10 calendar days of the request.

7 **III. REASONABLE INTERVALS**

8 **Q. PLEASE EXPLAIN RHYTHMS' POSITION ON THE**
9 **APPROPRIATE INTERVALS FOR APPLICATION RESPONSES**
10 **BY THE ILECs.**

11 A. As illustrated in my Direct Testimony, Rhythms supports an application
12 response interval of 15 calendar days, as long as that response includes all of the
13 information necessary for Rhythms to submit an order for collocation. The
14 ILECs prefer that this interval be pushed out significantly. For example,
15 BellSouth will respond in 42 calendar days for up to five orders, 50 calendar
16 days for six to ten orders, and 59 calendar days for eleven to fifteen applications,
17 and refuses to provide any interval if an ALEC submits more than fifteen
18 applications. Hendrix, Exhibit JDH-1, section 6.2. These additional weeks of
19 response time only allow the ILECs to delay the interconnection of the ALECs
20 to the ILEC network.

21 Covad has proposed a viable and feasible alternative, which allows the
22 ILECs to completely respond to the applications within 15 days, by eliminating
23 the ability of BellSouth, GTE and Sprint to delay collocation by not providing

1 ALECs with the information necessary to order collocation in a timely manner.
 2 The ILECs assert that they cannot produce a price quote for the buildout and
 3 engineering of the collocation space within the response interval. Hendrix, p. 3-
 4 7; Cloz, p. 4-7. Thus Covad suggests that the ILECs charge an estimated flat
 5 rate for the collocation preparation subject to true-up upon completion of a price
 6 quote. Moscaritolo, p. 5-9. GTE has also recently offered to provide a price
 7 quote based on a tariffed rate within the 15 day response time. Ries, p. 7.
 8 Therefore I support Covad's recommendation that the price quote can be done
 9 simultaneously with the provisioning of the collocation, instead of prolonging
 10 the provisioning for the completion of the price quote. Therefore, I recommend
 11 that the Commission fully adopt Covad's proposal of an estimated flat-rate price
 12 quote, subject to true-up.

13 **Q. SHOULD THE INTERVAL FOR PROVISIONING CAGELESS**
 14 **COLLOCATION REALLY BE SHORTER THAN THE**
 15 **PROVISIONING OF CAGED COLLOCATION?**

16 **A.** Absolutely. As cageless collocation arrangements essentially mirror virtual
 17 collocation arrangements, the provisioning interval for new cageless
 18 arrangements should also mirror the interval for virtual collocation. The
 19 provisioning interval for physical caged collocation is 30 calendar days longer
 20 than the provisioning interval for virtual collocation. The only significant
 21 difference between the caged collocation and virtual collocation, however, is the
 22 construction of the caged enclosure. Since cageless collocation does not require

1 the construction of any cage, the ILECs do not need an additional 30 days to
2 provision a cageless arrangement.

3 BellSouth and GTE assert that the provisioning interval for cageless
4 collocation should be the same as caged collocation. Hendrix, p. 13; Reis p. 12.
5 The ILECs' preference for a longer provisioning interval for cageless simply
6 delays the ALECs' ability to collocate with the ILECs' networks even further.
7 BellSouth and GTE claim to need the additional 30 days for administering the
8 appropriate cabling, power requirements and engineering of the collocation
9 space, as opposed to the construction of the cage. This perfunctory claim fails to
10 reflect the fact that the ILEC must perform the same types of cabling, power and
11 engineering functions for the virtual collocation arrangements. Sprint admits
12 that only 60 days are required to provision cageless collocation, since "the time
13 required to construct cages is not needed." Closz, p. 15. Since the ILECs can
14 complete the cabling, power and engineering functions within 60 days for their
15 own virtual arrangements and since the ILECs save time not constructing cages,
16 the Commission must also require Florida's ILECs to adhere to a 60 day interval
17 for provisioning cageless collocation to the ALECs.

18 **Q. WHAT IS RHTYHMS' POSITION ON PROVIDING ILECs WITH**
19 **AUTOMATIC EXTENSIONS TO PROVISIONING INTERVALS?**

20 **A.** Rhythms believes that the collocation guidelines cannot allow ILECs
21 automatically to extend the collocation provisioning intervals. The 1996 Act
22 clearly contradicts BellSouth's and GTE's notion that the Commission should
23 allow the ILECs to unilaterally extend the provisioning intervals upon certain

1 extenuating circumstances outside of their control. I would certainly expect that
2 the ILECs would never delay collocation due to circumstances *within* their
3 control. However, the 1996 Act and subsequent FCC regulations clearly limit
4 the circumstances outside of the ILECs' control in which the ILECs may delay
5 or otherwise fail to provide physical collocation to ALECs to two narrow
6 reasons— technical infeasibility and space limitations. 47 U.S.C.A. § 251(c)(6);
7 47 C.F.R. § 51.321(e-f). The Commission's recently adopted guidelines also
8 provide a mechanism for relief of the ILECs' obligations in such a situation—it
9 is called a waiver process.

10 By requesting relief under loosely-defined circumstances which are
11 "extraordinary" and "unusual," BellSouth and GTE attempt to evade the
12 carefully constructed waiver process. Milner, p. 35-44; Reis, p. 10. Without the
13 waiver process, the ILECs can again delay the turnover of ALECs' collocation
14 space indefinitely. The waiver process serves two pertinent functions: (1) to
15 provide Commission oversight when an ILEC denies or postpones collocation;
16 and (2) to alert other ALECs that collocation at a particular premises will be
17 delayed. Without Commission oversight there is no way to constrain the ILECs'
18 "incentive and capability to impede competition by reducing the amount of
19 space available for collocation by competitors." *Advanced Services Order*, ¶ 56.
20 Without the notification of potential technical infeasibility, the ALECs cannot
21 make the business decisions necessary to determine in which central offices
22 within a market the ALEC will plan to collocate. Actually, Sprint argues that
23 "the applicant carrier should have the opportunity to respond to the ILEC's

1 waiver request, and the Commission should rule upon the ILEC's request as a
2 procedural matter at an Agenda Conference." Closz, p. 26. I also recognize that
3 an ALEC may establish a mutual agreement with an ILEC to extend its own
4 provisioning interval. Therefore, I reiterate my previous recommendation that
5 the Commission never allow the ILECs to unilaterally extend the provisioning
6 interval without a formal waiver process or mutual agreement.

7 **IV. NONDISCRIMINATORY PROVISIONING OF COLLOCATION**

8 **Q. CAN ILECs DESIGNATE THE POINT OF INTERCONNECTION**
9 **BETWEEN THE ALEC AND THE ILEC NETWORKS?**

10 A. No. ALECs clearly have the privilege of determining the precise point at which
11 their network will interconnect with the ILEC's network. Therefore the
12 statement that "BellSouth will designate the point(s) of interconnection between
13 the ALEC's equipment and/or network and BellSouth's network," Milner, p. 24,
14 directly contradicts the established FCC rules. The FCC has already concluded
15 that:

16 "Section 251(c)(2) gives competing carriers the right to
17 deliver traffic terminating on an incumbent LEC's
18 network at any technically feasible point on that network,
19 rather than obligating such carriers to transport traffic to
20 less convenient or efficient interconnection points.

21 Section 251(c)(2) lowers barriers to competitive entry for
22 carriers that have not deployed ubiquitous networks by
23 permitting them to select the points in an incumbent

1 LEC's network at which they wish to deliver traffic.
2 Moreover, because competing carriers must usually
3 compensate incumbent LECs for the additional costs
4 incurred by providing interconnection, competitors have
5 an incentive to make economically efficient decisions
6 about where to interconnect." *Local Competition Order*, ¶
7 209.

8 For this reason, the collocation guidelines must allow ALECs to establish the
9 point of interconnection.

10 Additionally, BellSouth admits to requiring ALECs to use an
11 intermediate interconnection arrangement in violation of the *Advanced Services*
12 *Order*. The FCC based its decision to prohibit intermediate interconnection
13 arrangements on the grounds that such mechanisms "simply increase collocation
14 costs without a concomitant benefit to customers." *Advanced Services Order*, ¶
15 42. Although recognizing that the intent of the *Advanced Services Order* is to
16 decrease the cost and delay, Milner p. 7, BellSouth would prefer to violate the
17 *Order*, increase costs and prolong collocation by requiring the use of an
18 intermediate interconnection frame, called a Conventional Distribution Frame.
19 My recommendation, therefore, remains that the collocation guidelines should
20 ensure that the ILECs run the necessary wiring directly from their network to the
21 collocators network, i.e., from the MDF to ALECs' collocation spaces without
22 requiring the use of an intermediary frame.

1 **Q. DO ILECs' CURRENT PROVISIONING PRACTICES RESTRICT**
2 **THE ALECs' ABILITY TO PROVIDE**
3 **TELECOMMUNICATIONS SERVICES TO THEIR**
4 **CUSTOMERS?**

5 A. Yes, the provisioning practices of the ILECs, as explained in the BellSouth and
6 GTE Direct Testimony, impose unnecessary restrictions on both the shared and
7 adjacent collocation arrangements. For shared collocation, BellSouth and GTE
8 restrict the ALECs' ability to interface with the ILEC if the ALEC was not the
9 first ALEC within the shared arrangement. Hendrix, p. 11-12; Ries, Exhibit A,
10 p. 1. Both ILECs require one ALEC to be the sole interface and responsible to
11 the ILEC for all of the interaction with the other ALEC(s) sharing space within
12 the collocation arrangement. This requirement unduly burdens the primary
13 ALEC with additional responsibilities and unnecessarily limits the ability of the
14 sharing ALEC(s) by creating a bottleneck. As illustrated in my Direct
15 Testimony, requiring one ALEC to be the sole interface of the shared
16 arrangements is anticompetitive and in direct violation of the *Advanced Services*
17 *Order*.

18 **Q. ARE FLORIDA'S ILECS OFFERING ALL REQUIRED FORMS**
19 **OF ADJACENT COLLOCATION?**

20 A. No. Florida's ILECs unreasonably limit ALECs' adjacent collocation options.
21 BellSouth has limited its offering of adjacent collocation by quibbling over its
22 clear obligation to provide physical collocation anywhere at its premises in the
23 hopes of further delaying the ALECs' ability to obtain nondiscriminatory

1 collocation arrangements. Congress and the FCC have repeatedly made the
2 definition of premises clear, regardless of whether BellSouth wants to
3 acknowledge that definition. First, Section 251(c)(6) requires ILECs to
4 collocate "*at* the premises of the local exchange carrier." Congress could have
5 limited collocation to *in* the BellSouth central offices, but instead chose to
6 require BellSouth to collocate *at* their premises. This means that BellSouth is
7 required to collocate in or near their premises, which includes the property
8 surrounding the structures housing their network facilities and nearby structures
9 owned by third parties.

10 Second, the FCC has broadly defined the term "premises" as "an
11 incumbent LEC's central offices and serving wire centers, as well as all
12 buildings or similar structures owned or leased by an incumbent LEC that house
13 its network facilities." 47 C.F.R. 51.5. In its *UNE Remand Order*, the FCC
14 recently clarified that ILECs are required to permit ALECs to collocate their
15 equipment at any technically feasible point, including remote terminals.

16 "MGC asserts, and we agree, that our collocation rules, which we
17 recently clarified in the *Advanced Services First Report and*
18 *Order*, apply to collocation at any technically feasible point, from
19 the largest central office to the most compact [feeder distribution
20 interface]. That is because our collocation rules concern methods
21 and standards of obtaining interconnection and access to
22 unbundled network elements under section 251 of the Act, and
23 thus are not directed to any one type of facility. Although we

1 intend to make collocation available at all accessible terminals on
2 the loop, we acknowledge that the incumbent's network was not
3 designed to house additional equipment of competitors. Our
4 rules do not require incumbents to build additional space. Nor do
5 our rules, however, preclude requesting carriers from
6 constructing their own facilities adjacent to the incumbent's
7 equipment. Moreover, in some cases, technicians may not need
8 to enter the cabinet or vault at all because virtual collocation
9 arrangements will satisfy the needs of all parties. We note that,
10 prior to adoption of rules requiring incumbent LECs to offer
11 collocation to competitors, incumbent LECs raised similar doubts
12 as to whether collocation would be feasible at central offices. As
13 indicated by the number of collocation arrangements in place
14 today, these doubts were not well-founded." FCC 99-238, *UNE*
15 *Remand Order* ¶ 221.

16 Thus, regardless of BellSouth's claims to the contrary, ILECs must permit
17 ALECs to collocate in any premises at the ILECs' premises, including any
18 facility on property housing a central office.

19 BellSouth recognizes that off-premises adjacent collocation "is *in*
20 *proximity* to a BellSouth central office." Milner, p. 21. While adjacent
21 collocation arrangements are not *inside* the structure housing network facilities,
22 collocation arrangements most certainly are located *at* (or in proximity to) this
23 structure in the parking lot or in the adjacent building. As explained in my

1 Direct Testimony, adjacent collocation is technically feasible both in the ILEC
2 parking lot and third party adjacent structures. As I stated in my Direct
3 Testimony, Rhythms currently has off-site adjacent arrangements with GTE.
4 Further, the Michigan Public Service Commission on November 16, 1999
5 endorsed off-site, adjacent collocation in adopting the AT&T/MCI WorldCom
6 collocation cost model which expressly prices offsite adjacent collocation.

7 Finally, the FCC created a clear presumption that any existing
8 collocation arrangement is technically feasible.

9 "A previously successful method of obtaining interconnection or
10 access to unbundled network elements at a particular premises or
11 point on any incumbent LEC's network is substantial evidence
12 that such a method is technically feasible in the case of
13 substantially similar network premises or points. A requesting
14 telecommunications carrier seeking a particular collocation
15 arrangement, either physical or virtual, is entitled to a
16 presumption that such arrangement is technically feasible if any
17 LEC has deployed such collocation arrangement in any
18 incumbent LEC premises." 47 C.F.R. §51.321(e)

19 Thus, Rhythms believes that the fact that it has off-site adjacent collocation
20 arrangements with GTE means that off-site adjacent arrangements are
21 technically feasible. BellSouth must therefore provide such arrangements on the
22 request of an ALEC.

1 BellSouth also mistakenly claims that the FCC did not broaden its
2 obligation to provide collocation anywhere but inside their central office,
3 Milner, p. 18-19. The *Advanced Services Order* does however reiterate that
4 ILECs must collocate at their premises and only limits the provisioning of
5 adjacent collocation to instances that are safe and technically feasible.
6 BellSouth has recognized its obligation to "allow any other collocation
7 arrangement that has been made available by another ILEC unless [BellSouth]
8 rebutts before the State commission the presumption that such an arrangement is
9 technically feasible." Milner, p. 6. Without ever demonstrating the technical
10 infeasibility of any adjacent collocation arrangement to *any* state commission
11 BellSouth refuses to allow competitors to collocate at any location not inside of
12 a BellSouth central office. BellSouth's restrictive interpretation of premises still
13 does not relieve BellSouth from its obligation to provide adjacent collocation.
14 Therefore I recommend that the collocation guidelines ensure that ILECs
15 provide adjacent collocation in conjunction with the 1996 Act, the *Advanced*
16 *Services Order*, and the *UNE Remand Order*.

17 **Q. DOES THAT CONCLUDE YOUR TESTIMONY?**

18 **A.** Yes, it does.

19

20

21

22

23

1 BY MR. MELSON:

2 Q Mr. Williams, could you briefly summarize your
3 testimony?

4 A Yes. Good afternoon, Commissioners. My written
5 testimony addresses a number of issues in this case.
6 However, I will try to limit a summary to a couple of major
7 items that are important to me doing the day-to-day work of
8 deploying Rhythms' data network in Florida and the rest of
9 the east coast states.

10 First, let me please point out a couple of
11 pertinent facts about Rhythms. We are a DSL provider, and
12 as such we typically cannot provide service without
13 continuous copper connection from our equipment, called a
14 DSLAM, to our customers' premises. If we cannot collocate
15 our equipment and get access to unbundled copper loops, we
16 are shut out of providing service.

17 Also, please understand Rhythms preferred method
18 of collocation is cageless physical collocation. This is
19 more economic for us than caged collocation and gives us 24
20 by 7 access we need to our equipment so that we can meet
21 customer service guarantees.

22 Our first choice is to have contiguous cageless
23 physical collocation space for the several bays of equipment
24 we require. If space is tight in a central office, the
25 Commission should ensure that we are given access to

1 cageless physical collocation on a bay-by-bay basis in the
2 ILEC's equipment line-up. This type of physical arrangement
3 is currently being successfully provisioned in several
4 Florida COs where BellSouth had initially claimed that there
5 was no space available for physical collocation. Since the
6 ILECs now have a clear duty to provide cageless physical
7 collocation, there is never a reason that Rhythms should be
8 forced to accept virtual collocation.

9 Our first major area of concern relates to
10 application of provisioning intervals. Rhythms believes
11 that the ILECs can respond to an application for collocation
12 within 15 days with enough information, including price, to
13 enable us to place a firm order for space. We simply do not
14 believe that this process is as complicated as some ILECs
15 have made it out to be. While HVAC and power requirements
16 can be somewhat different depending on the particular
17 equipment to be installed, these variations are minor and
18 should not require more than 15 days for the ILEC to develop
19 a price quote.

20 If the Commission, nevertheless, decides that the
21 ILECs need more than the 15 days initially proposed in the
22 guidelines, the second best solution would be to require the
23 ILEC to begin the provisioning process and based upon a
24 TELRIC based Commission-approved standard collocation
25 charge.

1 The provisioning interval is equally important.
2 The work involved in provisioning cageless physical
3 collocation is not complicated. In a typical case it
4 involves running power leads from an existing power panel,
5 perhaps extending an HVAC duct, or perhaps adding a light,
6 and maybe installing some cable racking. This work is
7 something the ILEC should be able to finish in the same
8 60-day interval that the Commission has established for
9 virtual collocation. If there is a resource limitation, the
10 ILECs should be expected to devote necessary resources to
11 the task to meet demand.

12 Also on intervals, there is to reason to suspend
13 or toll the provisioning interval while the ILEC obtains
14 building permits. If there truly is a problem meeting the
15 required intervals, either the ALEC will understand it and
16 mutually agree to the extension or the ILEC can make its
17 case to the Commission in the expedited extension process
18 you have already approved. In no case should the ILEC be
19 permitted to unilaterally extend the interval for what it
20 considers to be extraordinary circumstances.

21 Our last major area of concern are what
22 alternatives are available if space for cageless physical
23 collocation in the central office is legitimately exhausted.
24 If there is no available space even on a bay-by-bay basis in
25 the ILEC's equipment line-ups, in that case Rhythms need to

1 have copper loops extended to its equipment which can be
2 located outside the CO building either in a controlled
3 environmental vault on the ILEC's property or in space
4 Rhythms may lease in an adjacent building owned by a third
5 party. Both Pac Bell and GTE give Rhythms this type of
6 off-premises adjacent collocation today in California and
7 GTE provides it in North Carolina.

8 Under the FCC's best practice rule there is a
9 presumption that this type of collocation arrangement is
10 technically feasible in Florida, and the Commission should
11 specifically order the Florida ILECs to make sure such
12 off-site adjacent collocation is available when all other
13 physical on-premises alternatives have been exhausted.

14 And I will be happy to answer questions on any
15 other points in my testimony. Thank you.

16 MR. MELSON: The witness is tendered for cross.

17 COMMISSIONER DEASON: Mr. Carver.

18 MR. CARVER: Thank you.

19 CROSS EXAMINATION

20 BY MR. CARVER:

21 Q Mr. Williams, my name is Phil Carver, and I
22 represent BellSouth. How are you this afternoon?

23 A Fine.

24 Q Good. Let me ask you, first of all, just a point
25 of clarification, let's assume that the space available for

1 collocation in the central office has not been exhausted.
2 Would you agree that in that particular instance adjacent
3 collocation need not be provided by the ILEC?

4 A We are not advocating that, no. We are not
5 advocating that if there is physical space in a collo that
6 adjacent must be offered.

7 Q Okay. One aspect of your testimony I would just
8 like to clarify, and this relates to Page 17, Lines 6
9 through 9. This on your direct testimony. You state --
10 well, actually you're talking about the definition of
11 premises. And you say this means that BellSouth is required
12 to collocate in or near their premises, which includes the
13 property surrounding the structures housing their network
14 facilities in nearby structures owned by third parties. Did
15 I read that correctly?

16 A Excuse me, which page are you referring to?

17 Q I'm on Page 17 of your direct testimony.

18 A Okay. That is the last page?

19 Q I think I have the page reference wrong, so why
20 don't we just skip to something else and I will come back to
21 that.

22 Actually I found the reference now. It's your
23 rebuttal testimony that I was looking at, I apologize.

24 A Oh. Page 17 of the rebuttal?

25 Q Yes. And it is the sentence that begins about

1 halfway through Line 6 and goes through the end of Line 9.
2 It begins with the word this.

3 A Uh-huh.

4 Q This means that BellSouth is required to
5 collocate in or near their premises, which includes the
6 property surrounding the structures housing their network
7 facilities and nearby structures owned by third parties.

8 A Uh-huh.

9 Q Is that your testimony?

10 A Yes.

11 Q I just would like for you to clarify. In that
12 sentence does everything beginning with the word which
13 modify premises? In other words, are you saying that nearby
14 structures owned by third parties are part of BellSouth's
15 premises?

16 A Am I saying that nearby structures owned by third
17 party are BellSouth premises?

18 Q Yes.

19 A I'm saying nearby structures owned by third
20 parties are at BellSouth premises.

21 Q But not part of their premises?

22 A Not necessarily, no.

23 Q Okay. Well, that is what I wanted to clarify,
24 because the structure of that sentence confused me a little
25 bit. So you would say that these nearby structures are

1 adjacent to BellSouth premises, but they are not part of
2 BellSouth premises?

3 A I don't think I said that.

4 Q Okay. I have some questions for you regarding
5 shared collocation space. And specifically what you refer
6 to in your testimony, on Pages 11 through 13 of your direct
7 testimony as subleased shared collocation.

8 A Uh-huh.

9 Q Generally, would you agree that subleased shared
10 collocation is a situation where a collocator leases space
11 then subleases a portion of that space to an additional
12 collocator at a later point, is that a fair definition?

13 A Yes.

14 Q Now, do you believe that -- well, BellSouth uses
15 the term host and guest. Is that acceptable to you? Can we
16 talk about those two that way, or are there other terms you
17 would prefer?

18 A Host and guest is acceptable for defining.

19 Q Do you believe that in a shared sublease
20 collocation arrangement that the host has the ability to
21 pick any guest collocator they want?

22 A Well, it depends. If that collocator has an
23 agreement to provide service with BellSouth, I mean, we
24 can't pick a Harley Davidson dealer or something to store
25 motorcycles in there, if that is what you are asking.

1 Q No, what I'm asking is a little more specific
2 than that. Let's assume that you have a collocation space,
3 and let's assume that Rhythms is the host, and Rhythms
4 chooses to share that space in a sublease arrangement with
5 some other collocator. You would be the sole party that
6 would decide who that collocator would be and what your
7 arrangement with them would be, correct?

8 A Yes.

9 Q The ILEC would have no input into that process at
10 all, correct?

11 A I don't know if I would say no input.

12 Q Well, what input would the ILEC have into that
13 process?

14 A It depends on do you get to look at the agreement
15 that we have with the collocator, I don't know if you would
16 require that where we are negotiating interconnection
17 agreement or not. But generally we would be the ones
18 working with the guest.

19 Q And that is what really my question goes to.
20 Under your proposal for sharing the subleased space, again,
21 if Rhythms were the host, you would decide who you would
22 collocate with, how the space would be divided, where the
23 equipment would go, and how the two parties would relate to
24 one another, correct?

25 A Yes.

1 Q Now, let's back up a little bit and say that you
2 are not sharing this space. In other words, that Rhythms
3 has this collocation space and there is no one else there.

4 A Uh-huh.

5 Q In that instance, Rhythms would be responsible
6 for abiding by the safety and security provisions of the
7 interconnection agreement, would they not?

8 A I didn't hear -- the security, and I didn't hear
9 the second part.

10 Q The safety and security provisions of the
11 interconnection agreement?

12 A Yes.

13 Q Now, in your view -- let's go one step forward,
14 you have now brought in a sublease tenant. In your view, if
15 that sublease tenant that you choose violates the same
16 safety and security standards, Rhythms would have no
17 responsibility whatsoever to the ILEC, is that correct?

18 A Generally, yes.

19 Q Are you familiar with the way sublease
20 arrangements work generally?

21 A Yes. I mean, I'm not a lease expert.

22 Q Well, let me just use a rough analogy here.
23 Let's assume that hypothetically you lease an apartment to
24 me. I'm your tenant, and then I sublease it to some other
25 party and that party damages the apartment, or fails to pay

1 the rent, or in some other way not to carry out their
2 obligations. Would you expect me as your tenant to be
3 liable for the damage that the subtenant does to your
4 property, to your apartment?

5 A It depends on the terms of the lease. I mean, I
6 don't know.

7 Q Okay. So as a landlord maybe you would expect me
8 to be responsible for what the person to whom I sublet did
9 and maybe you wouldn't?

10 A Well, generally my recollection of signing leases
11 had a sublet clause in there, and it depends on what that
12 is. That's what we are talking about here. What does that
13 clause say?

14 Q Well, based on your recollection, doesn't that
15 sublet clause generally say that when the tenant leases the
16 property to someone else they continue to be responsible for
17 the actions of the subtenant?

18 A No.

19 Q How many of these -- well, do you consider
20 yourself to be an expert in this area?

21 A No.

22 Q And what are you basing your opinion on that this
23 is not typically the way subleases are done?

24 A My personal recollection of the ones I have seen.

25 Q Okay. Now, I believe your testimony, and this is

1 covered generally on Page 13, is also that the Commission
2 should order that the second collocator or the guest would
3 have to execute a sublease to require them to comply with,
4 quoting from your testimony, the terms, conditions, and
5 restrictions relating to collocation in compliance with the
6 applicable laws, rules, and regulations of the FCC. Is this
7 correct?

8 A Are you referring to the top of Page 13?

9 Q Yes, I am.

10 A One second. Yes, that is what it says.

11 Q Okay. So to go back to my hypothetical, then,
12 let's say that you sublease your space to someone and that
13 collocator does something that violates the laws relating to
14 collocation. You believe that that collocator should be
15 responsible to you for the damage they do or for the results
16 of their actions, but you should have no responsibility to
17 the ILEC, is that correct?

18 A No. I don't understand the first part. They
19 should be responsible to us? It says here that the sublease
20 agreement would require compliance from the resident
21 collocators with the terms of all of the rules and
22 regulations. It didn't say that that means that they are --
23 I think you said responsible to us.

24 Q Okay. Well, the sublease agreement would be
25 entered into between Rhythms as the host and whoever you

1 sublet to, correct?

2 A Yes.

3 Q And what you stated here in your testimony is
4 under the terms of that contract, the sublessee would be
5 responsible to comply with all the applicable laws, rules,
6 and regulations, correct?

7 A Uh-huh.

8 Q So to the extent they violate that provision they
9 would be liable to you for whatever penalty they would be
10 liable for under the contract, correct?

11 A If there was a clause in the contract we had
12 between us that said if you do X you owe us Y, then I guess
13 that would be true. But if you are saying -- I don't
14 understand exactly what you are asking me there.

15 Q Well, it really is a question of what you are
16 asking for. Because here in this portion of your testimony
17 you say specifically that the sublease should have this
18 requirement. It should say that the sublessee should be
19 responsible --

20 A Right.

21 Q -- to comply with all the applicable laws?

22 A True.

23 Q Now, if the --

24 A Responsible with the ILEC.

25 Q Pardon me?

1 A With the ILEC is what it says, not us. It says
2 each resident collocator, however, should be solely
3 responsible for its compliance with the terms and conditions
4 of its own interconnection agreement with the ILEC.

5 Q Okay. So when you say the sublease agreement,
6 you are not talking about an agreement between Rhythms and
7 the host?

8 A Yes, that would be.

9 Q Okay. And in that same sentence that starts with
10 this sublease agreement would require compliance with
11 particular things that you set forth there, is that correct?

12 A Right.

13 Q So you would enter into an agreement between
14 Rhythms and whoever you sublease the space with, and under
15 that agreement they would be liable to comply with these
16 laws, correct?

17 A I don't know about liable. It says they would
18 can forced -- the agreement would say you comply with the
19 rules and regulations. Liable, I don't know what -- exactly
20 what that means.

21 Q Well, let me ask you this way. You propose that
22 there would be an agreement. If the sublessee breached this
23 agreement, would they have any responsibility to Rhythms?

24 A It depends on what they did.

25 Q Well, let's say they violated what you have

1 written right here. You refer to the applicable laws,
2 rules, and regulations. If they violate an applicable law
3 relating to collocation, would they be liable to Rhythms?

4 A I don't know.

5 Q Well, what is the point of entering into this
6 agreement with them?

7 A We don't have any of these agreements. We are
8 proposing that this sublease agreement would require
9 compliance of all the rules and regulations. Now, since we
10 haven't signed one, I can't say, well, yes, based upon that
11 they are liable for something.

12 Q What I'm trying to get to is what is the point of
13 your proposal? You would want to enter into an agreement
14 with them that would say they would have to do particular
15 things, so my question is under your proposal if they don't
16 do those things, do they have any responsibility to you, do
17 they have responsibility to the ILEC, how would that work?

18 A They would be responsible to the ILEC is how I
19 envision it.

20 Q Under their agreement with you?

21 A No, under the terms of their interconnection
22 agreement.

23 Q Again, I'm asking you about this sublease
24 agreement. Let me just see if I can get this straight. You
25 would have them enter into a sublease agreement --

1 A Right.

2 Q -- and it would require them to comply with the
3 terms, conditions, and restrictions relating to collocation.
4 But if they breach that agreement as far as you are
5 concerned they would have no responsibility to you
6 whatsoever?

7 A I don't know. I haven't seen one of these
8 agreements to say they would have absolutely no or complete.
9 I don't know.

10 Q Well, it's your proposal. Are you basically
11 saying that you haven't thought through this part of the
12 proposal?

13 A No, I'm not saying that. You are asking me to
14 talk about the terms of a sublease agreement which doesn't
15 exist. So I can't say exactly what a contract between a
16 party that we don't know who it is, and we don't know
17 exactly what the terms and conditions of this agreement are
18 going to be because we haven't even entered into
19 negotiations with them yet are going to say.

20 Q Well, I'm asking you to give us a little bit more
21 about the details of your proposal. So is it fair to say
22 that you really haven't thought through this particular part
23 of your proposal?

24 A No.

25 Q That is who the guest would be liable to?

1 A No.

2 Q So you have thought it through?

3 A I don't understand what you are asking me. I
4 mean, I have told you we are proposing this is how it would
5 work on a shared thing. It would be this sublease agreement
6 requiring compliance with the laws. Now, what does that
7 mean for liability if they break it and who owes who what, I
8 don't know. Would we propose something going into the
9 contract sublease negotiations? Yes. But we haven't done
10 that yet. We haven't talked to anybody yet, so it's
11 impossible for me to sit here and say, well, this is how it
12 is going to be, because negotiations are a two-way street.

13 Q So that part of the proposal you really haven't
14 thought through yet, how the liability aspect would work?

15 A I have my opinions. If you are asking me how is
16 it going to be, I don't know.

17 Q Here is the sticking point, I think. You have
18 made a proposal and I'm asking you about the details of your
19 proposal. And you can either provide me with the details or
20 you can't. So when you say --

21 A I said I don't know.

22 Q Let me finish my question, please. So when you
23 say when you have an opinion, does that mean that you can
24 provide us with more detail about this proposal or does it
25 mean that you really haven't thought it through any further?

1 A Well, I don't like answering you haven't thought
2 it through. If you are asking me to provide more details
3 then it's going to comply with -- and you asked me about the
4 liability piece, I said I don't have one, because we don't
5 have one of these subleases to quote from.

6 MR. CARVER: Okay. I think that answered my
7 question. Thank you. That's all I have.

8 CROSS EXAMINATION

9 BY MS. CASWELL:

10 Q Good afternoon, Mr. Williams. In your direct
11 testimony I think you acknowledge that the FCC gives the
12 ILECs the right to enclose their own equipment in cages, is
13 that right?

14 A I believe it says that. It also mentions -- it
15 gives them that right, not necessarily that that is one of
16 the reasonable security measures that it is talking about.

17 Q But doesn't the FCC call it a reasonable security
18 measure?

19 A No, not that I am aware of. It refers to
20 security badges, it refers to cameras and training.

21 Q Well, I'm going to read you from Paragraph 42 of
22 the Advanced Services Order. At the bottom of that
23 paragraph it says the incumbent LEC may take reasonable
24 steps to protect its own equipment, such as enclosing the
25 equipment in its own cage. Doesn't that indicate to you

1 that the FCC considers enclosing the ILEC's equipment in its
2 own cage a reasonable step to protect that equipment?

3 A Well, there is more said in the Advanced Services
4 Order than that.

5 Q Right. But I'm just asking you about that
6 particular sentence, and whether the FCC has indicated that
7 enclosure is a reasonable security measure?

8 A What was the cite, again?

9 Q It was Paragraph 42 of the Advanced Service
10 Order, and it's near the end of paragraph toward the bottom
11 of the Page 25.

12 A Again, there is other reference in the Advanced
13 Services Order.

14 Q But wouldn't you admit that the FCC has indeed
15 called the enclosure a reasonable step to protect its own
16 equipment? And I think you said that in your own testimony.

17 A I did? Where?

18 Q Let's see. Let's look at Page 8 of your direct
19 testimony. It says, "The FCC has acknowledged the ILECs'
20 right to protect its own equipment within its premises
21 subject to some limitations. ILECs may elect to enclose
22 their own equipment."

23 A It doesn't say that that -- it says ILECs may
24 elect, it doesn't say it is a reasonable security measure.

25 Q But you also say the FCC has acknowledged --

1 A No, I didn't say that.

2 Q Okay. Let's move on. Do you have any cageless
3 collocation arrangements in Florida?

4 A Cageless?

5 Q Uh-huh.

6 A Let me see if we have any active. We don't have
7 any currently active. There is numerous ones in progress
8 due soon.

9 Q Okay. In your direct testimony I believe you
10 stated that cageless collocation arrangements essentially
11 mirror virtual collocation arrangements. Would that be your
12 view?

13 A Yes.

14 Q And have you done any kind of analysis comparing
15 virtual arrangements to cageless arrangements?

16 A Yes, we have cageless elsewhere in other ILECs.
17 The difference is ownership and title.

18 Q Right, I understand that. And there is also a
19 difference, of course, in that -- well, strike that.

20 Would you expect cageless collocation
21 arrangements to be different in terms of the equipment
22 collocated than in a virtual collocation arrangement?

23 A For us in particular, no.

24 Q Just in general.

25 A I can't speak to what other phone companies

1 install. From what we install, no.

2 Q Do you have any virtual collocation arrangements
3 in Florida?

4 A Do we have any what?

5 Q Any virtual collocation arrangements in Florida?

6 A No.

7 Q And you don't have any cageless arrangements,
8 correct?

9 A No, we have numerous COs in progress by the ILECs
10 in Florida that are cageless. We had three that were to be
11 virtual from BellSouth, which based upon some Commission
12 action have been changed to in-place cageless or
13 rack-by-rack.

14 Q Do you have any caged arrangements in Florida?

15 A Yes.

16 Q And as between the caged and cageless
17 arrangements, would you say it is the same general types of
18 equipment that is being collocated?

19 A For us, yes.

20 Q I would like to talk a little bit about the
21 copper conductivity arrangement you have, I think, in North
22 Carolina you said with GTE --

23 A Yes, in California.

24 Q -- and possibly also California? Was that done
25 under any kind of Commission order or was that voluntary on

1 GTE's part?

2 A It was voluntary.

3 Q And do you know if GTE considers that to be a
4 quote, off-site or off-premises collocation, or whether GTE
5 considers that to be an interconnection arrangement?

6 A From my understanding, talking to my counterparts
7 in the company, it is off-site adjacent collocation. They
8 just provided us copper connectivity just as if they were
9 wiring inside a CO.

10 Q And the building to which the copper runs isn't
11 owned by GTE, right?

12 A No.

13 Q And did doesn't house GTE's facilities, is that
14 correct?

15 A Correct.

16 Q And would you agree that there has to be adequate
17 conduit space for an arrangement like that to work?

18 A Yes. I mean, there needs to be -- and this is
19 something we would determine prior to leasing and installing
20 our equipment, conduit space and availability. But people
21 act as if this copper conduit is going to be an oil
22 pipeline. It's not. It's just 600 pair and there is
23 typically room.

24 Q But copper is bigger than fiber generally?

25 A True. But, again, it's not 1,000 times bigger.

1 The impression was given at one point yesterday that this is
2 this huge pipe that is going to choke off the entire access
3 portal or the entrance facilities, which is just a little
4 bit of an exaggeration.

5 Q Okay. Do I understand your position correctly to
6 be that the ILEC has an obligation to direct bill all
7 resident collocators for power and other nontelecom services
8 in a shared or subleased collocation arrangement?

9 A So we would direct bill the two host guests as
10 you say?

11 Q Well, all of the collocators in a shared or
12 subleased arrangement, and I'm talking now about nontelecom
13 services, I'm not talking about the UNEs or interconnection
14 arrangements. Do you think the ILEC has an obligation to
15 direct bill for those nontelecom services?

16 A I'm not quite -- you mean electricity?

17 Q Yes. Power, things like that.

18 A Yes.

19 Q Can you tell me where -- can you point to that
20 obligation in the FCC order or in any order of this
21 Commission?

22 A No.

23 Q Or is it just a recommendation on your part?

24 A It's a recommendation.

25 Q And would you agree that in certain

1 circumstances, in say a shared arrangement one of the
2 collocators, we will call them a resident collocator, one of
3 them might drop out, one or more might drop out of the
4 original arrangement.

5 A Uh-huh.

6 Q And then one or more might be added to that
7 arrangement, correct?

8 A True. It's following the subleasing process.
9 But yesterday there was this impression, I think the term
10 skip town was used several times, as if CLECs just flop in
11 overnight and then disappear. I mean, you know, CLECs are
12 investing a lot of money into this and signing contracts
13 with both the phone company, both the person you would be
14 subleasing with, the hardware company you are buying or
15 leasing equipment from, and customers. So it's not as if
16 this is going to be a weekly or monthly occurrence that
17 people or just zipping in and out of collos.

18 Q Okay. And I think I'm trying to get a different
19 point, actually. And that would be under your
20 recommendation if those things happened, ALECs come, ALECs
21 go, the ILEC would have to keep track of all of that in its
22 billing system so that we are billing the correct person or
23 correct entity and that we are allocating the shares
24 correctly, is that right?

25 A Uh-huh.

1 Q And the ILEC would also have to have some
2 knowledge of the sublease agreement to make sure that it
3 wasn't violating any of those terms, it wasn't affecting
4 that in a way that it shouldn't be, is that right?

5 A I would agree that the ILEC can see the sublease
6 agreement, yes.

7 Q So you would have the ILEC reviewing all of those
8 ALEC sublease agreements, is that right?

9 A I don't know about review. It depends on what
10 review means.

11 Q Well, if the ILEC did something that --
12 unknowingly did something that violated that agreement, who
13 would be liable in a situation where it was supposed to
14 direct bill everybody?

15 A Well, I think it is reasonable to say that a
16 sublessor would not be signing sublease agreements that the
17 ILEC violently opposes some aspect of it, yes. But review
18 for approval, it depends on what that means.

19 Q Is your concern about the segregation of ALEC
20 equipment from ILEC equipment tied partly to cost
21 considerations?

22 A Yes.

23 Q And wouldn't a tariff obviate those costs
24 considerations, because you've got an average price no
25 matter where you are in the office, why would the

1 segregation of equipment be a concern for you in that case?

2 A Well, you're saying the tariff would have a rate
3 for cageless whether it is rack-by-rack, whether it is
4 combined?

5 Q Well, as I understood your testimony your
6 position is that the ILEC can never separate the ALEC
7 equipment from its own in terms of, say, being in the ILEC's
8 line-up. You believe that the ALEC equipment -- the ILEC is
9 required to have the equipment in its line-up, is that
10 correct, if there is no --

11 A Yes.

12 Q And is that concern tied partly to cost, your
13 concern about segregation of the equipment tied partly to
14 cost, that is my question?

15 A Well, I think, if I understand what you are
16 asking, the concern we have is that rack-by-rack cageless,
17 that the ILEC would therefore say we want to impose -- put
18 big cages up around our -- so you would have all of these
19 little cages. And, oh, by the way, we are expecting you to
20 pay for them. So, therefore, the cost for rack-by-rack
21 would be higher than if we were in this separate area. That
22 is our concern.

23 Q Yes. And that is not the assumption I'm asking
24 you to make. I'm not asking you to assume that we are
25 asking you to pay for cages around our equipment. I'm

1 asking you about why you are concerned about the ILEC
2 segregating, as you put it, segregating your equipment from
3 the ILEC's equipment. Why would you be concerned about
4 where that equipment is placed in a central office?

5 A I'm not quite sure where I'm showing that I am
6 concerned about that.

7 Q Let me look at your rebuttal testimony. It is
8 your view, and this is on Page 5, Lines 22 and 23, that the
9 FCC's rules prohibit BellSouth or GTE from segregating the
10 ALEC's collocation equipment from their own equipment. What
11 do you mean by segregating there? And can you point me
12 exactly to the FCC reference where it says we can't
13 segregate our equipment, considering the fact that you have
14 already admitted that we can enclose our equipment?

15 A I have done what? You just said considering I
16 did what?

17 Q You have said that we have the right to enclose
18 our own equipment in cages.

19 A Well, I said you could enclose it, it's just I
20 don't believe you can charge us for it.

21 Q Right. And I'm not getting into that at
22 all. And my question, again, is what is your concern, what
23 is the basis of your concern about segregation? Is it a
24 cost consideration?

25 A Cost.

1 Q And, again, if I have a tariff and it is going to
2 cost you the same no matter where you are in the office,
3 doesn't that eliminate your concern about segregation?

4 A I haven't seen the tariff, but if the tariff is
5 here is what it costs to collocate cageless in a GTE CO, and
6 it is no different if you have three, four, or five bays
7 together or two here, then generally, yes. But, again, that
8 would be a TELRIC-based tariff that doesn't presume in it
9 that we are getting somehow billed for these cages in the
10 average cost.

11 Q I understand you would need to look at the tariff
12 price.

13 MS. CASWELL: That's all I've got. Thank you.

14 MS. MASTERTON: Sprint has no questions.

15 COMMISSIONER DEASON: Staff.

16 MS. KEATING: Staff has no questions.

17 COMMISSIONER DEASON: Commissioners? Redirect.

18 REDIRECT EXAMINATION

19 BY MR. MELSON:

20 Q With regard to some terminology in the
21 Telecommunications Act, Mr. Williams, are you sitting at the
22 table here on the left-hand side of the room?

23 A Yes. I'm sitting at the table, not on the table.

24 Q And you are not sitting in it?

25 A I'm sorry?

1 Q Not sitting in it, either?

2 A I'm not sitting in it.

3 MR. MELSON: Thank you. No further questions.

4 And I would move Exhibit 20.

5 COMMISSIONER DEASON: Without objection, Exhibit
6 20 is admitted.

7 (Exhibit 20 admitted into evidence.)

8 Mr. Williams, you may be excused.

9 (Transcript continues in sequence with Volume 6.)

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1 STATE OF FLORIDA)
2 COUNTY OF LEON)

CERTIFICATE OF REPORTER

3 I, JANE FAUROT, RPR, Chief, FPSC Bureau of
4 Reporting FPSC Commission Reporter,

5 DO HEREBY CERTIFY that the hearing in Docket
6 No. 991834-TP and 990321-TP was heard by the Florida
Public Service Commission at the time and place herein
stated; it is further

7 CERTIFIED that I stenographically reported
8 the said proceedings; that the same has been
9 transcribed by me; and that this transcript, Volume
10 5, pages 680 through 822, constitutes a true
transcription of my notes of said proceedings
and the insertion of the prescribed prefiled
testimony of the witnesses.

11 DATED this 18th day of January, 2000.

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JANE FAUROT, RPR
FPSC Division of Records & Reporting
Chief, Bureau of Reporting