

State of Florida



Public Service Commission

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RECORDS AND REPORTING

DATE: APRIL 6, 2000

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYLOR)

FROM: DIVISION OF COMMUNICATIONS (FAVORS, ADDU, BARRETT, ILERI, FULWOOD, HINTON, WOLFE) *CRF*
DIVISION OF LEGAL SERVICES (B. KEATING, STERN) *AKS*

RE: DOCKET NO. 981834-TP - PETITION OF COMPETITIVE CARRIERS FOR COMMISSION ACTION TO SUPPORT LOCAL COMPETITION IN BELLSOUTH TELECOMMUNICATIONS, INC.'S SERVICE TERRITORY.

DOCKET NO. 990321-TP - PETITION OF ACI CORP. D/B/A ACCELERATED CONNECTIONS, INC. FOR GENERIC INVESTIGATION TO ENSURE THAT BELLSOUTH TELECOMMUNICATIONS, INC., SPRINT-FLORIDA, INCORPORATED, AND GTE FLORIDA INCORPORATED COMPLY WITH OBLIGATION TO PROVIDE ALTERNATIVE LOCAL EXCHANGE CARRIERS WITH FLEXIBLE, TIMELY, AND COST-EFFICIENT PHYSICAL COLLOCATION.

AGENDA: 04/18/00 - REGULAR AGENDA - POST HEARING DECISION - PARTICIPATION IS LIMITED TO COMMISSIONERS AND STAFF

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\981834.RCM

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

CASE BACKGROUND

On December 10, 1998, the Florida Competitive Carriers Association (FCCA), the Telecommunications Resellers, Inc. (TRA), AT&T Communications of the Southern States, Inc. (AT&T), MCImetro Access Transmission Services, LLC. (MCImetro), Worldcom Technologies, Inc. (Worldcom), the Competitive Telecommunications Association (Comptel), MGC Communications, Inc. (MGC), and Intermedia Communications Inc. (Intermedia) (collectively, "Competitive Carriers") filed their Petition of Competitive Carriers for Commission Action to Support Local Competition in BellSouth's Service Territory. In the Petition, the Competitive Carriers requested the following relief:

- (a) Establishment of a generic BellSouth Unbundled Network Element (UNE) pricing docket to address issues affecting local competition;
- (b) Establishment of a Competitive Forum to address BellSouth operations issues;
- (c) Establishment of third-party testing of BellSouth's Operations Support Systems (OSS);
- (d) Initiation of a rulemaking proceeding to establish expedited dispute resolution procedures applicable to all local exchange carriers (LECs); and
- (e) Provision of such other relief that the Commission deems just and proper.

On December 30, 1998, BellSouth Telecommunications, Inc. (BellSouth) filed a Motion to Dismiss the Competitive Carriers' Petition. On January 11, 1999, the Competitive Carriers filed their Response in Opposition to BellSouth's Motion to Dismiss.

At the March 30, 1999, Agenda Conference, the Commission denied BellSouth's Motion to Dismiss. See Order No. PSC-99-0769-FOF-TP, issued April 21, 1999. Subsequently, by Order No. PSC-99-1078-PCO-TP, issued May 26, 1999, the Commission indicated, among other things, that it would conduct a Section 120.57(1), Florida Statutes, formal administrative hearing to address collocation and access to loop issues as soon as possible following the UNE pricing and OSS operational proceedings.

On March 12, 1999, ACI Corp. d/b/a Accelerated Connections Inc., now known as Rhythms Links Inc., (Rhythms) filed a Petition

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for Generic Investigation into Terms and Conditions of Physical Collocation. On April 6, 1999, GTEFL and BellSouth filed responses to ACI's Petition. On April 7, 1999, Sprint filed its response to the Petition, along with a Motion to Accept Late-Filed Answer.

By Proposed Agency Action Order No. PSC-99-1744-PAA-TP, issued September 7, 1999, the Commission accepted Sprint's late-filed answer, consolidated Dockets Nos. 990321-TP and 981834-TP for purposes of conducting a generic proceeding on collocation issues, and adopted a set of procedures and guidelines for collocation, focused largely on those situations in which an ILEC believes there is no space for physical collocation. The guidelines addressed: A. initial response times to requests for collocation space; B. application fees; C. central office tours; D. petitions for waiver from the collocation requirements; E. post-tour reports; F. disposition of the petitions for waiver; G. extensions of time; and H. collocation provisioning time frames.

On September 28, 1999, BellSouth filed a Protest/Request for Clarification of Proposed Agency Action. That same day, Rhythms filed a Motion to Conform Order to Commission Decision or, in the Alternative, Petition on Proposed Agency Action. Staff conducted a conference call on October 6, 1999, with all of the parties to discuss the motions filed by BellSouth and Rhythms, and to formulate additional issues for the generic proceeding to address the protested portions of Order No. PSC-99-1744-PAA-TP. By Order No. PSC-99-2393-FOF-TP, portions of PAA Order No. PSC-99-1744-PAA-TP were reinstated as a final order and stipulations on the other guidelines were accepted.

A hearing was held on the remaining issues in this docket on January 12-14, 2000. This is staff's recommendation on the remaining issues.

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LIST OF ACRONYMS USED IN GENERIC COLLOCATION RECOMMENDATION

ALEC	Alternative Local Exchange Carrier
AT&T	AT&T Communications of the Southern States, Inc.
CCA	Collocation Conversion Application
CDF	Conventional Distribution Frame
CEV	Controlled Environmental Vault
CFR	Code of Federal Regulations
CLEC	Competitive Local Exchange Carrier
CO	Central Office
DSn	Digital Signal n = level number (0-4)
DSX	Digital Signal Cross-Connect
DSL	Digital Subscriber Line
FCC	Federal Communications Commission
FCCA	Florida Competitive Carriers Association
FCTA	Florida Cable Telecommunications Association
GTEFL	GTE Florida, Inc.
HVAC	Heating Ventilation and Air Conditioning
ICB	Individual Case Basis
ILEC	Incumbent Local Exchange Carrier
MCI	MCI WorldCom, Inc.

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MDF	Main Distribution Frame
NEBs	Network Equipment and Building Specifications
NECA	National Exchange Carriers Association
NRC	Non-Recurring Charge
POT	Point of Termination
SWBT	Southwestern Bell Telephone Company
UNE	Unbundled Network Element

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ISSUE 1: When should an ILEC be required to respond to a complete and correct application for collocation and what information should be included in that response?

RECOMMENDATION: Staff recommends that ILECs be required to respond to a complete and correct application for collocation within 15 calendar days with all information necessary for an ALEC to place a firm order, including space availability and a price quote for the collocation requested. If an ALEC submits ten or more applications within ten calendar days, the ILEC should have additional time to respond. Staff recommends the following intervals:

Applications 1-9	15 calendar days from receipt of each application
Applications 10-19	Within 25 calendar days from receipt of the first application
Applications 20-29	Within 35 calendar days from receipt of the first application
Each 10 additional applications, or fraction thereof	10 additional calendar days from receipt of the first application

(HINTON)

POSITIONS OF THE PARTIES:

BELLSOUTH:

BellSouth will inform an ALEC within 15 calendar days of receipt of an application whether the application is accepted or denied as a result of space availability. BellSouth will also advise the applicant whether the application is complete and correct and, if not, the changes that must be made.

GTEFL:

Under GTE's tariffed approach, GTE will tell the ALEC within 15 days whether the requested space is available and provide a price quote for the collocation arrangement. GTE's response includes all the information necessary to place a firm order. The Commission should allow GTE to maintain this procedure, which no party has opposed.

ALLTEL:

Within 10 business days. The response should include the types of collocation that the ALEC may utilize, a preliminary price quote reflecting a reasonable estimate of costs to collocate in a given central office and other specifics associated with the space requested.

SPRINT:

An ILEC should respond within ten (10) calendar days of receipt of an application for collocation to inform the requesting carrier whether space is available or not.

SUPRA:

An ILEC should respond within 10 calendar days as to whether space is available and within 15 days with all information needed to place a firm order. If the application is not complete when received, the ILEC should notify the ALEC of the specific deficiencies within 5 calendar days.

JOINT STATEMENT (FCCA, AT&T, COVAD, FCTA, INTERMEDIA, MCI, MGC, MEDIAONE, and RHYTHMS):

An ILEC should respond within 10 calendar days as to whether space is available and within 15 days with all information needed to place a firm order. If the application is not complete when received, the ILEC should notify the ALEC of the specific deficiencies within 5 calendar days.

STAFF ANALYSIS:

The issue before the Commission is to determine the appropriate response interval by an ILEC following the receipt of a complete and correct application for collocation, and what information should be included in the response. Since the recommendation for Issue 2 in this docket is predicated upon Issue 1, staff will combine the discussion and analysis for Issues 1 and 2 within the following analysis for Issue 1. Testimony on these issues is varied, covering a wide spectrum of possible conclusions. As a result, staff will present the positions of parties without categorizing them as belonging to either Issue 1 or Issue 2, but rather as one issue regarding response intervals following an application for collocation.

Covad witness Moscaritolo asserts that "[A]n ILEC should be required to respond to a complete and correct application within ten (10) calendar days of its receipt of the application." (TR 834) Witness Moscaritolo states that this initial response should

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contain all necessary information for an ALEC to place a firm order for collocation, including a price quote for the collocation space. (TR 834) In support of his position, witness Moscaritolo cites paragraph 55 of the FCC's Advanced Services Order dated March 31, 1999, FCC Order 99-48, which reads in part, "[W]e view ten days as a reasonable time period within which to inform a new entrant whether its collocation application is accepted or denied." (TR 834)

MGC witness Levy similarly states that ILECs should respond to a complete and correct application within 10 business days. Witness Levy contends that this response should include space availability and price quotes for the type of collocation requested. (TR 899) Witness Levy argues that "[T]he ILEC should always provide sufficient information in their response to an application to enable the ALEC to submit a FOC with the knowledge of exactly what charges will be incurred." (TR 902) Witness Levy also suggests that a more detailed breakdown of prices should be provided within 10 additional business days, upon request by the ALEC. (TR 899)

Intermedia and Supra both support a 2-tier response interval. Intermedia witness Jackson states, "[F]or cageless physical collocation, Intermedia requests the Commission to prescribe the ten (10) day response interval as prescribed by the FCC Collocation Order which is the interval the ILEC has for determining if space is available." (TR 1110) Witness Jackson also states that BellSouth's Application Response intervals of 30 business days for physical and 20 business days for virtual collocation are reasonable. (TR 1123) Witness Jackson further contends:

GTE should be required to provide an initial response to the ALEC within 10 calendar days of the request. GTE should then submit a complete response (*i.e.*, containing detailed information, including but not limited to, cost estimates, target dates, etc.) to the ALEC within 30 calendar days of the request. (TR 1134-1135)

Similarly, Supra witness Nilson urges the Commission to require an initial response advising whether space is available or not within 10 calendar days of an application. (TR 951) Witness Nilson goes on to explain that "[I]f the ten-day frame for a response is adopted by the Commission, all additional information necessary to submit a firm order should be provided by the ILEC within twenty calendar days of the ALEC's application." (TR 952-953)

AT&T witness Mills contends that the Commission should require ILECs to respond with space availability within 10 calendar days, followed by a complete response sufficient to enable the ALEC to place a firm order for collocation within 15 calendar days of a complete and correct application. (TR 1173) Witness Mills explains that AT&T requires the following information in the complete response: an architecture floor plan, exact location of collocation space, location of BellSouth network demarcation main distributing frame, relay rack information, joint implementation meeting dates, restatement of the central office address, date of application response sent to AT&T, estimated space ready due date, and proposed point of demarcation. (TR 1174)

While the above parties have argued for a 10 calendar day initial response, other parties to this proceeding have suggested a later initial response time. MCI witness Martinez states:

Under the Advance Services Order, an ILEC is required to respond to an application for collocation within 10 days. MCI WorldCom is willing to accept the Commission's ruling in the PAA Order in this docket that the ILEC can provide the initial response within 15 calendar days from receipt of a complete and correct application, provided that the initial response includes the information necessary for the ALEC to place a firm order for collocation. (TR 692-693)

Witness Martinez further explains that the initial response should indicate whether space is available or not. If space is available, the initial 15-day response should include the following information: price quote, dimensions, obstructions, diversity, power considerations, hazards, engineering information, and due dates. (TR 693) Witness Martinez states that "if furnishing the Engineering Information and Due Date information would delay the initial response, MCI WorldCom could agree to defer this information for a short time." (TR 694)

Rhythms witness Williams states that "ILECs should be required to respond to a complete and correct application for collocation within the 15 calendar day response time set by the Commission." (TR 762) Witness Williams contends that this response should include all information the ILEC will require from an ALEC when submitting a firm order for collocation. Witness Williams explains that this response should include: amount of space available, estimated space preparation quotes, estimated provisioning interval, power requirements, and any other information required by ILECs in the firm order. (TR 762)

As a means of simplifying the application process and expediting responses to applications for collocation, several parties to this proceeding suggest some form of standardized pricing for collocation. MGC witness Levy, while describing the benefits of tariffed collocation prices over Individual Case Basis (ICB) pricing, states that "[I]n states that have established pricing for collocation, the collocator knows before submitting the application exactly how much the space preparation will cost before the application is submitted. In such cases, the only information received in the application response is whether space is available." (TR 899-900) Witness Levy further contends that the best way to shorten response intervals is by adopting a tariffed approach to pricing as opposed to ICB pricing. (TR 921)

FCCA witness Gillan states that "[A] standardized offering, known in advance, should simplify and accelerate these important intervals." (TR 1025) Witness Gillan further argues:

The reason that other processes and services have been standardized is that they become more efficient to offer in that manner. There is no reason that similar efficiencies are not possible here once collocation is made a standard product of the ILEC instead of a specialized arrangement. (TR 1026)

Intermedia witness Jackson asserts that "[I]t would be easier for us to work off of a good properly priced tariff and I think we would do that most of the time unless there was some anomaly there that I don't anticipate right now." (TR 1152) In addition, Supra witness Nilson states that Supra advocates detailed tariffs with prices that can be challenged at the Commission. (TR 999)

Witnesses for Covad and Rhythms offer an alternative form of standardization. Covad witness Moscaritolo states that "the need for flat-rate pricing is an absolute. That for an ILEC to take 30 days or more to provide an estimate that is subject to true-up later is an unnecessary delay and needs to be eliminated." (TR 854) Witness Moscaritolo states that parties should agree upon a flat rate to be charged initially for standard cageless collocation arrangements in certain increments. When an ALEC desires collocation space in a central office, it submits its application along with 50% of the flat-rate price. The ILEC begins provisioning immediately. During the provisioning interval the ILEC develops a cost estimate, and upon delivery of the space the prices are subject to true-up. (TR 836-837) Covad witness Moscaritolo contends that "the flat-rate procedure eliminates the

unnecessary delay associated with BellSouth's application interval." (TR 837)

Rhythms witness Williams agrees with Covad's proposed flat-rate procedure. Witness Williams states that "Covad has proposed a viable and feasible alternative, which allows ILECs to completely respond to the application within 15 days." (TR 784) Witness Williams further states, "I recommend that the Commission fully adopt Covad's proposal of an estimated flat-rate price quote, subject to true-up." (TR 785)

Two ILECs, GTEFL and Sprint, also support establishing tariffs for collocation prices. GTEFL witness Ries states that "tariffing will introduce greater simplicity, speed, and certainty into the collocation process." (TR 428) Witness Ries further states that "GTE intends to file a tariff reflecting an averaged flat rate for costs associated with site modification, HVAC and power modification, and security and electrical requirements." (TR 412) Witness Ries asserts that this new tariff will enable GTE to respond to an ILEC's application within 15 calendar days with space availability and a price quote. Witness Ries states that "[T]his eliminates the additional 15 days that was formerly necessary to finalize the price quote." (TR 446) Witness Ries further explains that "[B]ecause GTE will provide both space availability and price information within 15 calendar days, the ALEC will be able to place a firm order at that time." (TR 412)

While also supporting a tariff approach to pricing, Sprint asserts that an ILEC should provide two responses to an application for collocation. The first response should inform the applicant whether space is available or not, while the second should provide a price quote and technical information. Sprint witness Closz contends that an ILEC should initially respond to an application for collocation within 10 calendar days with information regarding space availability. (TR 601) Witness Closz states that this response interval is consistent with the FCC's Advanced Services Order, FCC Order 99-48. (TR 602)

Witness Closz presents two different intervals for the second response, depending on whether prices are tariffed or not. (TR 603) Witness Closz explains that where collocation prices are tariffed or covered by the ALEC's interconnection agreement, the ILEC should provide price quotes within 15 calendar days. If collocation prices are quoted on an ICB basis, the ILEC should provide price quotes within 30 calendar days from receipt of a complete and correct collocation application. (TR 603)

BellSouth witness Hendrix asserts that "BellSouth will inform an ALEC within fifteen (15) calendar days of receipt of an application whether its application for collocation is accepted or denied as a result of space availability." (TR 24) Witness Hendrix states that BellSouth will provide a complete Application Response within thirty (30) business days of the receipt of a completed application for physical collocation. (TR 24) In addition, witness Hendrix states that for virtual collocation requests, BellSouth's policy has been to provide an Application Response within twenty (20) business days. (TR 25) Witness Hendrix explains that "[T]he Application Response will include estimates of the Space Preparation Fees, the Cable Installation Fee (if applicable), and the estimated date the space will be available." (TR 25) Witness Hendrix contends that this information is sufficient for the ALEC to complete a firm order. (TR 26)

BellSouth witness Hendrix, responding to the position of other parties, asserts that the FCC did not establish a rule requiring ILECs to respond to applications within 10 days. Referring to paragraph 55 of FCC Order 99-48, witness Hendrix argues that "this was not stated as a requirement, but as a statement of what is a reasonable amount of time to accept or deny an application." (TR 46) Witness Hendrix further asserts:

BellSouth will inform an ALEC within fifteen (15) calendar days of an application whether its application for collocation in Florida is accepted or denied as a result of space availability. This is in compliance with this Commission's recent order which states in part: "The ILEC shall respond to a complete and correct application for collocation within 15 calendar days." (Order No. PSC-99-1744-PAA-TP, Section IIA) (TR 46)

BellSouth is not in favor of tariffing collocation prices, but instead supports the development of standard rates for all physical collocation elements to be included in a standard collocation agreement. Witness Hendrix argues that BellSouth is required by Section 252 of the Telecommunications Act of 1996 (Act) to negotiate collocation agreements, and if BellSouth were to file a tariff it would probably still negotiate agreements for the majority of ALEC requests. (TR 47-48) Witness Hendrix asserts that "the best approach is to develop standard rates for all physical collocation elements within a standard collocation agreement, an effort that is well under way." (TR 48) Witness Hendrix argues that BellSouth would file a tariff if it were required to, but he feels it would be a waste of time. (TR 93) In addition, witness Hendrix contends that BellSouth is moving toward

standardized rates to be included in a standard agreement for collocation, which will produce the same efficiencies sought by those favoring tariffs. (TR 48)

BellSouth and GTEFL have also suggested response intervals for situations in which multiple applications are submitted by a single ALEC within a certain time frame. BellSouth witness Hendrix explains that when multiple applications are received within a 15 business day window, BellSouth responds no later than the following: within 20 business days for 1-5 applications; within 26 business days for 6-10 applications; within 32 business days for 10-15 applications. Response intervals for more than 15 applications must be negotiated. (TR 25) GTEFL witness Ries states that "when the ALEC submits 10 or more applications within a 10-day period the 15-day response period will increase by 10 days for every additional 10 applications or fraction thereof." (TR 413)

Analysis

In support of their suggested intervals, parties have repeatedly cited paragraph 55 of the FCC's Advanced Services Order which reads in part:

We view ten days as a reasonable time period within which to inform a new entrant whether its collocation application is accepted or denied. Even with a timely response to their applications, however, new entrants cannot compete effectively unless they have timely access to provisioned collocation space. We urge the states to ensure that collocation space is available in a timely and pro-competitive manner that gives new entrants a full and fair opportunity to compete. (FCC 99-48, ¶ 55)

While several ALECs state that this paragraph requires ILECs to respond to an application within 10 days, staff agrees with BellSouth's argument that "this was not stated as a requirement, but as a statement of what is a reasonable amount of time to accept or deny an application." (Hendrix TR 46)

However, the FCC also urges the states to ensure that collocation space is available in a timely and pro-competitive manner. Staff believes that the first step in this process is to establish reasonable intervals for application responses, which will enable the requesting party to place a firm order and allow the provisioning process to begin in a timely manner.

MGC witness Levy asserts that "[T]he ILEC should always provide sufficient information in their response to an application to enable the ALEC to submit a FOC [Firm Order Confirmation] with the knowledge of exactly what charges will be incurred." (TR 902) Witness Levy also states that this initial response should include space availability and a price quote for the type of collocation requested. (TR 899) Supra witness Nilson suggests that "[T]he ALEC must know the total cost of space preparation prior to placing a firm order commitment." (TR 953) In keeping with the intent of the FCC's Advanced Services Order cited above, staff agrees with MGC witness Levy that the initial response to an application for collocation should contain sufficient information for the ALEC to place a firm order. Staff also believes the evidence in the record indicates that price quotes are essential to placing a firm order. However, there is varying testimony regarding the interval in which this information should be provided.

Intermedia witness Jackson states that price information should be provided within 30 business days. (TR 1123) Supra witness Nilson has suggested this information be provided within twenty (20) calendar days from the receipt of an application. (TR 953) Covad witness Moscaritolo claims that all information needed for a firm order should be included in a 10-day response interval. (TR 834) MCI witness Martinez contends that price information should be provided within 15 calendar days from receipt of an application. (TR 692) Similarly, AT&T witness Mills agrees with a 15-day interval for all information necessary to place a firm order. (TR 1173) Rhythms witness Williams asserts that "the ILECs can respond to an application for collocation within 15 days with enough information, including price, to enable us to place a firm order for space." (TR 796) Staff agrees that 15 calendar days is an appropriate interval to provide the information needed to place a firm order, i.e., space availability and a price quote.

While BellSouth argues that it will only provide acceptance or denial due to space availability within the 15 calendar day interval, two other ILECs have provided testimony in this proceeding which supports the provision of price quotes within an interval of 15 calendar days as well. Sprint witness Closz states that "[T]o the extent that collocation price elements are tariffed or covered by the ALEC's interconnection agreement, the ILEC should provide price quotes to requesting collocators within fifteen (15) calendar days of receipt of a complete and correct collocation application." (TR 603) In addition, GTEFL witness Ries states that "because GTE will provide both space availability and price information within 15 calendar days, the ALEC will be able to place a firm order at that time." (TR 412) Witness Ries asserts that

GTEFL is able to provide this information within 15 calendar days due to collocation tariffs they are filing in the state of Florida. He argues that this tariff eliminates the need for the additional 15 days that was formerly necessary to finalize a price quote. (TR 446)

When considering the appropriate intervals for responding to multiple applications, there is no evidence in the record that would show the intervals offered by BellSouth and GTEFL for multiple application responses are unreasonable. However, in an effort to present uniform standards for ILECs in responding to applications for collocation, staff believes that a single set of intervals should be established. Therefore, staff believes that intervals similar to those offered by GTEFL for responding to multiple applications would be more consistent with the interval of 15 calendar days staff is recommending for single applications. GTEFL witness Ries states that "when the ALEC submits 10 or more applications within a 10-day period the 15-day response period will increase by 10 days for every additional 10 applications or fraction thereof." (TR 413) Staff believes these intervals presented by GTEFL, for responding to multiple applications submitted in a given time frame, are reasonable.

Conclusion

Staff recommends that ILECs be required to respond to a complete and correct application for collocation within 15 calendar days providing sufficient information to enable an ALEC to place a firm order, including space availability and price quotes. Staff believes the evidence of record shows that a response containing space availability and price quotes will enable a requesting ALEC to place a firm order for collocation, and staff believes the record shows that GTEFL and Sprint have established the feasibility of providing this information within 15 calendar days of a complete and correct application. Regarding response intervals for multiple applications submitted within a given time frame, staff recommends that when an ALEC submits ten or more applications within ten calendar days, the following intervals should apply:

Applications 1-9	15 calendar days from receipt of each application
Applications 10-19	Within 25 calendar days from receipt of the first application

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Applications 20-29	Within 35 calendar days from receipt of the first application
Each 10 additional applications, or fraction thereof	10 additional calendar days from receipt of the first application

ISSUE 2: If the information included in the ILEC's initial response is not sufficient to complete a firm order, when should the ILEC provide such information or should an alternative procedure be implemented?

RECOMMENDATION: If the Commission approves staff's recommendation in Issue 1, the initial response provided within 15 calendar days to a complete and correct application for collocation will contain sufficient information to complete a firm order for collocation. (HINTON)

POSITIONS OF THE PARTIES:

BELLSOUTH:

BellSouth will provide an application response within 30 calendar days of receipt of the complete and correct application and application fee. The application response will include estimates of the various fees, the estimated date the space will be available, and the configuration of the space.

GTEFL:

GTE's response to the application will provide all the information necessary to place a firm order. Thus, no alternative procedure is necessary as to GTE.

ALLTEL:

Within 10 additional business days. All information necessary to submit a firm order should be provided by the ILEC within 20 business days from the date of the initial request.

SPRINT:

All information necessary for the ALEC to submit a firm order, including detailed pricing and technical information, should be provided within 30 calendar days of receipt of an application.

SUPRA:

The ILEC should provide all information needed for an ALEC to place a firm order within 15 calendar days of receipt of an order. ILECs should be required to streamline their collocation practices, maintain space inventory information, and standardize their pricing so that this provisioning interval can be satisfied.

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JOINT STATEMENT (FCCA, AT&T, COVAD, FCTA, INTERMEDIA, MCI, MGC, MEDIAONE, and RHYTHMS):

The ILEC should provide all information needed for an ALEC to place a firm order within 15 calendar days of receipt of an order. ILECs should be required to streamline their collocation practices, maintain space inventory information, and standardize their pricing so that this provisioning interval can be satisfied.

STAFF ANALYSIS:

See staff's analysis in Issue 1.

ISSUE 3: To what areas does the term "premises" apply, as it pertains to physical collocation and as it is used in the Act, the FCC's Orders, and FCC Rules?

RECOMMENDATION: Staff recommends that the term "premises" should apply to ILEC-owned or leased central offices, serving wire centers, buildings or similar structures that house network facilities, including but not limited to ILEC network facilities on public rights-of-way or in controlled environmental vaults (CEVs).
(FULWOOD)

POSITIONS OF THE PARTIES:

BELLSOUTH:

The term "premises" applies to ILEC central offices, serving wire centers and tandem offices, all buildings or similar structures owned or leased by the ILEC that house ILEC network facilities, and any structures that house ILEC network facilities on public rights-of-way.

GTEFL:

In general, the FCC defines "premises" to encompass ILEC buildings housing its network facilities. The concept of collocation does not apply beyond the ILEC's premises.

ALLTEL:

The term "premises" refers to an ILEC's central offices and serving wire centers, as well as all buildings or similar structures owned or leased by the ILEC that house its network facilities and all structures that house ILEC facilities on public rights-of-way, including, but not limited to, vaults containing loop concentrators or similar structures.

SPRINT:

The FCC defines premises as structures owned or leased by an ILEC that house its network facilities. The FPSC should expand this definition to make available for collocation ILEC administrative offices on space adjacent to ILEC premises housing network facilities, if vacant space is available in the adjacent structures.

SUPRA:

The term "premises" applies to all ILEC buildings or similar structure that house network facilities, including remote terminals. Collocation is permitted at ILEC premises, which include collocation in ILEC buildings, on ILEC property, and in or on adjacent property owned or controlled either by the ILEC or by other parties.

JOINT STATEMENT (FCCA, AT&T, COVAD, FCTA, INTERMEDIA, MCI, MGC, MEDIAONE, and RHYTHMS):

The term "premises" applies to all buildings or similar structures that house network facilities, including remote terminals. Collocation is permitted at ILEC premises, which includes collocation in ILEC building, on ILEC property, and in or on adjacent property owned or controlled either by the ILEC or by other parties.

STAFF ANALYSIS:

The issue before the Commission is to define what areas are included in the term "premises" for purposes of physical collocation. A broad definition of "premises" allows competing carriers physical collocation at various locations under the ILEC control. Although the term "premises" was not defined in the FCC's Advanced Services Order, FCC 99-48, issued in CC Docket No. 98-147, this Order did enable ALECs to collocate in certain adjacent ILEC facilities when space is legitimately exhausted inside the ILEC's network facility. The recent expansion of the areas in which an ALEC may collocate raises the issue of how the term "premises" applies to these areas.

Staff notes that FCC rule 47 C.F.R. § 51.5 provides that an ALEC may physically collocate "within or upon an incumbent LEC's premises." The ALECs argument suggest that they are of the opinion that if certain areas are not identified as "premises," they would be precluded from obtaining physical collocation services in those areas. In an attempt to expand the definition of "premises," ALECs are seeking to treat adjacent collocation as traditional physical collocation. Staff notes that Issue 4 addresses the related issue of "off-premises" physical collocation.

BellSouth witness Milner states that the term "premises" is clearly defined by the FCC. Witness Milner cites the FCC Local Competition Order, FCC 96-325, issued in CC Docket No 96-98, which states:

. . . . We[FCC] therefore interpret the term "premises" broadly to include LEC central offices, serving wire centers and tandem offices, as well as all buildings or similar structures owned or leased by the incumbent LEC that house LEC network facilities. We [FCC] also treat as incumbent LEC premises any structures that house LEC network facilities on public rights-of-way, such as vaults containing loop concentrators or similar structures. ¶573 (TR 242)

Witness Milner believes that if the FCC intended to broaden the definition of "premises," the FCC could have redefined the term in its most recent Order. However, he argues that the FCC did not expand the definition. (TR 243)

GTEFL witness Reis agrees with the position of BellSouth witness Milner and further clarifies the locations that GTEFL considers "premises." Witness Reis states:

GTE interprets it to mean that any GTE location identified in the NECA [National Exchange Carrier Association] #4 tariff (listing GTE sites nationwide) is available for collocation . . . (TR 409)

Sprint witness Hunsucker counters, however, that GTEFL's definition of the NECA #4 tariff does not include a complete definition of "premises." The FCC's definition included "vaults containing loop concentrators or similar structures." He states:

Typically, ILECs do not load these locations in NECA #4. Thus, applying GTE's definition would preclude collocation at these points in the ILEC network which is inconsistent with the FCC's definition (TR 549)

Staff agrees with Sprint that the NECA #4 tariff does not include all the areas that should be included in the definition of "premises."

Further, Sprint witness Hunsucker asserts that paragraph 44 of the First Advanced Services Order, FCC 99-48, broadens the definition of "premises." He believes the FCC's introduction of adjacent collocation redefines "premises" to include structures adjacent to a central office or wire center if owned or leased by the ILEC. (TR 517) Witness Hunsucker states that ILECs are also

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required to allow ALECs to construct or obtain adjacent structures on an ILEC's property. He explains:

. . . Upon legitimate exhaust then the adjacent collocation could be the building on contiguous property, and I don't think we look at separation by a street or an alley as necessarily breaking that contiguous property.
(TR 517)

BellSouth witness Milner agrees that upon legitimate space exhaustion, ALECs are allowed to construct or procure adjacent structures. However, witness Milner notes that in no case should ILECs be required to permit collocators' CEVs or similar structures on ILEC property that do not house network facilities. (TR 209) However, witness Milner claims that the adjacent structures are not "premises." He argues:

The FCC's definition of adjacent CEVs and similar structures is inconsistent with its own definition of "premises" and the Act's requirement for collocation within BellSouth's premises. This is because the resulting structure, whether constructed by the collocator or otherwise procured, would not be owned by BellSouth and thus would not fit the definition of being any one of the types of structures named in the FCC's definition. (TR 209)

Supra witness Nilson counters:

Although one could interpret the FCC's definition of premises to be inconsistent with its requirement for adjacent CEVs, that interpretation itself is inconsistent with the spirit of the Telecommunications Act and the intent of the FCC's Order, which is to promote competition. (TR 973)

Staff does not agree with BellSouth witness Milner's assertion that the FCC's definition of "premises," and the Telecommunication Act requirement for collocation at the ILECs "premises," is technically in conflict with adjacent collocation. (TR 209) Staff notes that the FCC's First Advanced Service Order requirement for adjacent collocation did not specify whether the adjacent structure on an ILEC's property would be considered ILEC "premises". However, the Order states:

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. . . The incumbent must provide power and physical collocation services and facilities, subject to the same nondiscriminatory requirements as traditional collocation. (FCC 99-48, ¶44)

MCI witness Martinez contends that paragraphs 39 and 45 in the Advanced Services Order further broaden the definition of "premises" as it applies to collocation. (TR 696) Witness Martinez cites an excerpt from the Texas Commission findings in the Supplemental Collocation Tariffs Matrix, Project No. 16251, regarding the definition of "premises":

The Commission also finds that, to the extent space in an Eligible Structure is "legitimately exhausted" and the SWBT property also has within close proximity an "administrative office" where network facilities could be housed, that space should be looked at as a possible adjacent on-site collocation. (EXH 12)

Further, witness Martinez believes that the broad nature of the FCC's definition gives state commissions the latitude to include other collocation concepts while maintaining consistency with the FCC's Advanced Services Order. (TR 726) Witness Martinez also cites the Advanced Service Order, FCC 99-48, which states:

A collocation method used by one incumbent LEC or mandated by a state commission is presumptively technically feasible for any other incumbent LEC. ¶8

AT&T witness Mills agrees and asserts:

The FCC's Expanded Interconnection collocation rules, section 251(c)(6) is not limited to "central offices" but more broadly allows collocation "at the premises of the local exchange carrier."

He further states:

The dictionary definition of "premises" is "A piece of real estate; house or building and its land." (TR 1175)

Witness Mills clarifies that the use of the Webster definition in his interpretation of "premises" is to illustrate the intent of the FCC broadly defining "premises." (TR 1199) He explains:

. . . the intent of the FCC is to allow Commissions to give more concise interpretations in matters where they have given rules and orders. (TR 1198)

Analysis

Staff agrees that this Commission has the ability to interpret more precisely FCC rules as they apply in Florida. However, staff does not believe this Commission has the authority to extend or broaden FCC rules and orders, or to make a contradictory interpretation.

Staff notes the expanded definition of "premises" contained in the Texas Matrix. In particular, staff cites the definition of an Adjacent Structure:

A collocator-provided structure placed on SWBT property (Adjacent On-site) or non-SWBT property (Adjacent Off-site) adjacent to an Eligible Structure. This arrangement is only permitted when space is legitimately exhausted inside the Eligible Structure and to the extent technically feasible. SWBT and CLECs will mutually agree on the location of the designated space on SWBT premises where the adjacent structure will be placed. (EXH 12)

Staff interprets "premises," as applied in the above definition, to include the ILEC's land surrounding ILEC Eligible Structures. However, staff believes the dictionary definition of "premises" was used to clarify the distinction between Adjacent On-site and Off-site collocation, but it was not intended to provide a definition for "premises" as it applies to physical collocation.

Staff emphasizes that the issue is what areas are to be considered "premises" for the purposes of physical collocation. Staff believes, however, that the ALECs seek to resolve matters that actually go beyond the issue as framed. As mentioned earlier, staff believes that ALECs are of the opinion that if certain areas are not identified as "premises," they would be precluded from obtaining physical collocation services in those areas. However, staff addresses ILECs' obligations to interconnect with ALEC physical collocation equipment located "off-premises" in Issue 4.

Also, staff notes that there is testimony to the issue of how adjacent facilities which house administrative personnel should now be considered "premises" because of the FCC's adoption of adjacent collocation as an accepted method of collocation. (Martinez TR 697; Hunsucker TR 518) However, staff is not persuaded that the FCC's authorization of adjacent collocation expanded the definition of "premises" to include structures that do not house network facilities.

Staff observes that all ALECs agree with the assertion that adjacent collocation on an ILEC's property is required by the ILEC, to the extent space is legitimately exhausted in an ILEC owned or leased network facility. (Hunsucker TR 517; Martinez TR 697; Williams TR 800; Levy TR 902; Nilson TR 973; Mills TR 1176) As noted earlier, staff believes that the Advanced Services Order establishing adjacent collocation expands an ILEC's obligation to provide physical collocation services to ALECs. In particular:

. . . The incumbent must provide power and physical collocation services and facilities, subject to the same nondiscriminatory requirements as traditional collocation. (FCC 99-48, ¶44)

However, staff believes the evidence of record shows that this Order only expands the obligation of an ILEC to provide power and physical collocation services, not the definition of "premises." Staff agrees with BellSouth witness Milner that an adjacent structure, whether procured from a third party or constructed on an ILEC's property by the collocator, would not be considered the ILEC's "premises." (TR 209) Staff notes that the ILEC would not own, lease, or control the structure, which therefore precludes it from being considered "premises" based upon the FCC definition.

Further, staff believes that the FCC intentionally limited the definition of "premises" to "structures that house network facilities." Therefore, staff is not persuaded that the term "premises" needs further expanding in order to ensure competitors can compete.

Conclusion

The evidence of record supports that the term "premises" should only apply to ILEC-owned or leased central offices, serving wire centers, buildings or similar structures that house network facilities, including but not limited to ILEC network facilities on public rights-of-way or in controlled environmental vaults (CEVs). Staff notes that when space at the existing ILEC "premises"

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legitimately exhausts, ILECs should be required to permit collocation on an ILEC's property in adjacent buildings, controlled environmental vaults, or similar structures where technically feasible. However, the record is not persuasive that adjacent buildings or similar structures are the ILEC's "premises."

ISSUE 4: What obligations, if any, does an ILEC have to interconnect with ALEC physical collocation equipment located "off-premises"?

RECOMMENDATION: The Telecommunications Act of 1996 requires ILECs to interconnect with ALECs for the mutual exchange of traffic regardless of whether the ALEC is located on or off "premises." Further, when space legitimately exhausts in an ILEC "premises," the FCC Advanced Services Order, FCC 99-48, obligates ILECs to provide power and physical collocation services and facilities to an ALEC located on an ILEC's property contiguous to an ILEC's "premises" to the extent technically feasible. Also, staff recommends that ALECs collocating "off-premises" should be allowed to use copper entrance cabling. However, ILECs may require an ALEC to use fiber entrance cabling after providing the ALEC with an opportunity to review evidence that demonstrates entrance capacity is near exhaustion at a particular central office. (FULWOOD)

POSITIONS OF THE PARTIES:

BELLSOUTH:

An ILEC must allow adjacent collocation in exhaust situations. Also, a LEC has the obligation to accommodate ALEC requests for fiber optic facilities to be placed in BellSouth's entrance facilities.

GTEFL:

The ILEC's obligation to interconnect under the Telecommunications Act of 1996 does not change whether the ALEC's equipment is located on or off the ILEC's premises. However, it is a contradiction in terms to refer to equipment off the ILEC's premises as "physical collocation equipment." Physical collocation can occur only at the ILEC premises.

ALLTEL:

ILECs subject to Section 251(c)(6) should be obligated to interconnect with ALEC collocation equipment located "off-premises" to the extent technically feasible.

SPRINT:

An ILEC does not have any obligation to provide for collocation of equipment located "off-premises" since the ILEC would not own or control the "off-premises" site.

SUPRA:

When space is exhausted in an ILEC central office or remote terminal, the ILEC is required under the "best practices" rule to interconnect with ALEC equipment on property adjacent to those premises. If requested, such interconnection must use the same copper facilities that would be permitted inside the ILEC premises.

JOINT STATEMENT (FCCA, AT&T, COVAD, FCTA, INTERMEDIA, MCI, MGC, MEDIAONE, and RHYTHMS):

When space is exhausted in an ILEC central office or remote terminal, the ILEC is required under the "best practices" rule to interconnect with ALEC equipment on property adjacent to those premises. If requested, such interconnection must use the same copper facilities that would be permitted inside the ILEC premises.

STAFF ANALYSIS:

In Issue 3, staff recommends that the term "premises" pertains to ILEC owned or leased central offices, serving wire centers, buildings or similar structures that house network facilities including, but not limited to, ILEC facilities on public rights-of-way or in controlled environmental vaults. However, the FCC Advanced Services Order, FCC 99-48, expanded the ALECs' ability to collocate in controlled environmental vaults or adjacent structures when space is legitimately exhausted inside the ILEC's central office. Issue 4 seeks a resolution as to what extent an ILEC is obligated to interconnect with an ALEC's equipment located "off-premises," and what type of entrance cabling should be used.

Sprint witness Hunsucker believes "off-premises" collocation should not be included in this issue. He believes that ALEC equipment located in an area that is not owned or leased by the ILEC does not meet the definition of collocation. (TR 575) However, staff notes that witness Hunsucker believes the term "premises" should be defined more broadly than staff recommends in Issue 3. He states:

. . . Then upon legitimate exhaust [central office space] then the adjacent collocation could be a building on contiguous property, and I don't think we look at separation by a street or alley. . . (TR 579)

Sprint witness Hunsucker believes that under his definition of "premises," ILECs are obligated to interconnect with ALEC's equipment. (TR 576) However, witness Hunsucker believes that if the

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equipment is located "off-premises," this situation does not constitute collocation, but rather interconnection. (TR 576) He defines interconnection as the physical linking of networks between the ILEC's facilities and the ALEC's facilities for the mutual exchange of traffic. (TR 520) Staff notes that all carriers agree that interconnection, as defined by witness Hunsucker, is required under the Telecommunications Act of 1996. (Milner TR 211; Reis TR 410; Hunsucker TR 519; Martinez TR 697; Williams TR 793; Levy TR 903; Nilson TR 954; Jackson TR 1105; Mills 1175)

BellSouth witness Milner asserts:

I believe "off-premises" physical collocation is a reference to space an ALEC may rent or own that is in proximity to a BellSouth central office. The ALEC's equipment in such a situation would be interconnected to BellSouth's network in the same ways as if the ALEC's equipment were housed within the ALEC's central office. (TR 211)

However, Intermedia witness Jackson contends that ILECs are not only required to interconnect with ALECs located "off-premises," but they are obligated to provide physical collocation services. He states:

As a result of the FCC's collocation Order, it is clearly the obligation of the ILEC to provide collocation. The FCC adopted rule 51.323(k)(3) requiring the ILEC to provide "off-premises" or "adjacent collocation" where space is legitimately exhausted in a particular ILEC central office and where technically feasible. (TR 1105)

BellSouth witness Milner argues that Intermedia witness Jackson implies that "adjacent collocation" and "off-premises collocation" are synonymous terms. He states:

I do not believe "off premises" [collocation] and "adjacent collocation" to be synonymous terms. BellSouth provides "adjacent collocation" by allowing collocators to construct or otherwise procure CEVs and similar structures on BellSouth's property in cases where space is legitimately exhausted. I believe "off-premises" physical collocation is a reference to a space a collocator may

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rent or own in close proximity to a BellSouth central office. (TR 250)

Staff believes that because of the various uses of the terms "off-premises collocation" and "adjacent collocation" in the testimonies of witnesses, it is necessary to establish the areas staff believes are covered by each term. In Issue 3, staff's definition of "premises" does not include ILEC owned or leased contiguous property at an ILEC's "premises." However, staff notes that according to the FCC Advanced Services Order, FCC 99-48, when space at the existing ILEC "premises" legitimately exhausts, ILECs should be required to permit collocation in adjacent buildings, controlled environmental vaults, or similar structures where technically feasible. Applying staff's definition of "premises" in Issue 3, and the FCC's collocation arrangements, staff believes there are no differences in the areas covered by the terms "off-premises", "adjacent," or "on-site" collocation.

Sprint witness Hunsucker believes an ILEC does not have any obligation to provide physical collocation services for an ALEC's equipment located "off-site" since the ILEC would not own or control the site. (TR 519) Moreover, he believes ILECs are only required to interconnect with ALECs located at structures which are not on an ILEC's property.

MCI witness Martinez contends:

. . . if space for physical collocation is legitimately exhausted, the Commission again, should follow the lead of the Texas Commission and require the ILEC to offer both adjacent on-site collocation and adjacent off-site collocation. (TR 722)

Staff notes the decision of the Texas Commission to include "adjacent off-site collocation" as a type of collocation arrangement. "Adjacent off-site collocation" incorporates ALEC owned or leased structures in proximity of an ILEC's central office or eligible structure when space legitimately exhausts for an "on-site collocation" arrangement. Witness Martinez notes that proximity generally refers to the area within one city block of a central office. (TR 732) Staff believes that according to the Texas definition of "off-site collocation," ILECs are not required to provide power or traditional physical collocation services. Moreover, staff interprets that "off-site collocation," as defined by the Texas Commission, is limited to the requirement of the ILEC to perform cabling from the ILEC's premises to the ALEC's facilities for tariff purposes.

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Staff agrees with Sprint witness Hunsucker's assertion that "adjacent off-site collocation," as defined by the Texas Commission, meets the FCC's definition of interconnection, and not collocation. Staff agrees that ILECs should only be obligated to interconnect with an ALEC's facility located beyond the contiguous property of an ILEC's "premises" for the purposes of transmission and mutual exchange of traffic. Staff notes that property separated by an alley or public passage way should still be considered contiguous property.

Staff believes that when space legitimately exhausts within an ILEC's premises, ILECs should be obligated to provide physical collocation services to an ALEC who collocates in a CEV or adjacent structure located on the ILEC's property to the extent technically feasible. Staff interprets the Advanced Services Order to support this type of collocation:

Finally, we require incumbent LECs, when space is legitimately exhausted in a particular LEC premises, to permit collocation in adjacent controlled environmental vaults or similar structure to the extent technically feasible.

. . . In general, however, the incumbent LEC must permit the new entrant to construct or otherwise procure such an adjacent structure, subject only to reasonable safety and maintenance requirements. The incumbent must provide power and physical collocation services and facilities, subject to the same nondiscriminatory requirements as traditional collocation arrangements. (FCC 99-48, ¶44)

This issue also involves what type of entrance cabling should be used in "adjacent collocation." Staff notes that no party presented much evidence on this subject. BellSouth witness Milner believes only fiber-optic facilities should be used as entrance cabling. He cites ¶69 of the FCC's Second Report and Order, In the Matter of Expanded Interconnection with Local Telephone Company Facilities in CC Docket 91-141:

ILECs are not required to provide expanded interconnection for switched transport for non-fiber optic cable facilities (e.g., coaxial cable). In the Special Access Order, we[FCC] concluded that given the potential adverse effects of interconnection on the availability of conduit or riser space,

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interconnection should be permitted only upon Common Carrier Bureau approval of a showing that such interconnection would serve the public interest in a particular case. We adopt this approach for switched transport expanded interconnection. (TR 212)

Rhythms witness Williams argues:

We are a DSL provider, and as such we typically cannot provide service without contiguous copper connection from our equipment, called a DSLAM to our customers' premises. If we cannot collocate our equipment and get access to unbundled copper loops, we are shut out of providing service. (TR 795)

BellSouth witness Milner counters that there is fiber optic equipment that would accommodate DSL over fiber. He believes this provides ALECs with a viable alternative to copper connectivity. (TR 289) Witness Milner asserts that BellSouth provides copper connectivity to ALECs collocating on BellSouth's property. However, he does not believe BellSouth has an obligation to provide that form of interconnection to an ALEC located off BellSouth's property. (TR 286, 287)

AT&T witness Mills believes that restricting entrance cabling to fiber places unreasonable requirements on the ALEC. He states:

The Commission should require ILECs, pursuant to FCC Rule 51.323 including (d)(3), to "permit interconnection of copper or coaxial cable if such interconnection is first approved by the state commission;..." This requirement is more in keeping with the procompetitive purposes of the Act... (TR 1175)

BellSouth witness Milner argues:

Accommodation of ALECs' requests to use BellSouth entrance facilities to bring new copper cables into BellSouth central offices would accelerate the exhaust of entrance facilities at its central offices at an unacceptable rate(TR 212)

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He further states:

The trend in the telecommunications industry is for cables and equipment to be reduced in size, not increased in size. (TR 211)

Rhythms witness Williams argues that though copper in conduit is larger than fiber, it will not choke off entrance facilities. (TR 816) He states that prior to leasing a third party structure, Rhythms inquires about conduit entrance space availability. (TR 815)

Staff is persuaded that DSL over fiber is technically feasible. Staff observes that there is equipment available which accommodates DSL over fiber. (TR 289) However, staff believes that an ALEC would be required to obtain additional equipment to utilize this technology. Staff believes requiring an ALEC to purchase such equipment could significantly increase the ALEC's collocation costs. Because of these increased costs, staff believes requiring fiber optic entrance facilities could be a competitive obstacle for certain ALECs requesting collocation facilities. Staff is persuaded that ALECs should be allowed to use copper entrance cabling.

Staff considered the fact that entrance facilities have a certain capacity per central office. Also, staff notes that allowing copper cabling would accelerate the entrance facility exhaust interval. Therefore, staff believes ILECs may require an ALEC to use fiber entrance cabling after providing the ALEC with an opportunity to review evidence that demonstrates entrance capacity is near exhaustion at a particular central office. Staff notes that the evidence of record is insufficient to determine what the percentage of entrance facility used should be before requiring fiber optic cabling; however, staff believes that factors should include but not be limited to subscriber growth, "off-site collocation" growth and cabling request, and cabling requirements of the ILEC.

Conclusion

The Telecommunications Act of 1996 requires ILECs to interconnect with ALECs for the mutual exchange of traffic regardless of whether the ALEC is located on or off "premises." Further, when space legitimately exhausts in an ILEC "premises," the FCC Advanced Services Order, FCC 99-48, obligates ILECs to provide power and physical collocation services and facilities to an ALEC located on an ILEC's property contiguous to an ILEC's

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"premises" to the extent technically feasible. Also, staff recommends that ALECs collocating "off-premises" should be allowed to use copper entrance cabling. However, ILECs may require an ALEC to use fiber entrance cabling after providing the ALEC with an opportunity to review evidence that demonstrates entrance capacity is near exhaustion at a particular central office.

ISSUE 5: What terms and conditions should apply to converting virtual collocation to physical collocation?

RECOMMENDATION: Staff recommends that the Commission order the terms and conditions, together with the procedures, for converting virtual collocation to physical collocation as presented in the staff analysis. (ILERI)

POSITIONS OF THE PARTIES:

BELLSOUTH:

The terms and conditions that should apply for converting virtual to physical collocation should be consistent with the terms and conditions of the assessment and provisioning of physical collocation. In addition, the terms should be negotiated between the carriers and formalized in a collocation agreement.

GTEFL:

The procedures that apply to a new physical collocation should generally apply to conversions to physical collocation, as well. In both cases, the ILEC will need to do the same site assessment and preparation. Because each virtual arrangement is different, requests for "in-place" conversions should be addressed on a case-by-case basis.

ALLTEL:

Virtual to physical should be done seamlessly without interruption of service, on terms requiring no more than reversing equipment "ownership" and cageless security training for ALEC employees. When the ALEC migrates from virtual to cageless physical, the interval should be no greater than 30 business days.

SPRINT:

The terms and conditions that should apply to conversions from virtual to physical collocation vary depending on what type of conversion is requested.

SUPRA:

An ILEC should complete the conversion of virtual collocation to cageless physical collocation within 10 calendar days of

receipt of written request. Conversion of virtual collocation to cageless collocation should not require the relocation of an ALEC's equipment even if the equipment is in the same line-up as ILEC equipment.

JOINT STATEMENT (FCCA, AT&T, COVAD, FCTA, INTERMEDIA, MCI, MGC, MEDIAONE, and RHYTHMS):

An ILEC should complete the conversion of virtual collocation to cageless physical collocation within 10 calendar days of receipt of written request. Conversion of virtual collocation to cageless collocation should not require the relocation of an ALEC's equipment even if the equipment is in the same line-up as ILEC equipment.

STAFF ANALYSIS:

Federal Background

Section 251(c)(6) of the 1996 Act requires ILECs to:

provide, on rates, terms, and conditions that are just, reasonable, and nondiscriminatory, for physical collocation of equipment necessary for interconnection or access to unbundled network elements at the premises of the local exchange carrier, except that the carrier may provide for virtual collocation if the local exchange carrier demonstrates to the State commission that physical collocation is not practical for technical reasons or because of space limitations. (EXH 1)

In the Local Competition First Report and Order, FCC 96-325 issued August 8, 1996, the FCC adopted specific rules to implement the collocation requirements of Section 251(c)(6). In the FCC's Advanced Services Order, FCC 99-48 issued March 31, 1999, in ¶ 20, the FCC tentatively concluded that "we should adopt additional collocation rules, as urged by ALTS, to ensure that competing providers have access to the physical collocation space they need in order to offer advanced services." (EXH 1)

Analysis

The issue before this Commission is to determine the terms and conditions that should apply for converting a virtual collocation arrangement to a physical collocation arrangement. While this issue on its face appears to be very broad, there are only a few items that the parties address. Primarily, the disputed items are what charges should apply when an ALEC converts from virtual to

physical collocation, and whether an ALEC's equipment must be relocated during the process.

In a physical collocation arrangement, the collocating carrier must submit a physical collocation application to the ILEC and pay an application fee so that the ILEC can perform the engineering and administrative assessments necessary to evaluate the application. These activities may include but are not limited to an evaluation of engineering drawings, HVAC, power, feeder and distribution, grounding, cable racking, and engineering and billing record updates. In a physical collocation arrangement, the collocating carrier has direct access to its equipment at all times. BellSouth witness Hendrix states that after an application has been filed, the ILEC incurs costs; therefore, an application fee is required. (TR 28)

In a virtual collocation arrangement, the collocating carrier must submit a virtual collocation application to the ILEC and pay an application fee for certain engineering and administrative activities that the ILEC performs. The competitor designates the equipment to be placed at the ILEC's premises. The competing provider, however, does not have physical access to the incumbent's premises (i.e., access is restricted to limited inspection visits). Instead, the equipment is under the physical control of the ILEC. In addition, the ILEC is responsible for installing, maintaining, and repairing the competing provider's equipment. (FCC 99-48, ¶19)

Once the ALEC has established a collocation arrangement (physical or virtual) at a central office, the ALEC may decide to remove or upgrade the current equipment. Staff believes that such changes to the existing collocation configuration are considered to be a "conversion" or "rearrangement."

Sprint witness Cloz states that the ALEC should submit a collocation application when the ALEC wants to convert from virtual to caged or cageless physical collocation based on the ILEC's standard provisioning terms and conditions, because in either case space and engineering work would be required. (TR 607)

MCI witness Martinez states that there should be minimal interruption to the ALEC's services during a conversion or rearrangement. (TR 699) AT&T witness Mills states that when a collocation conversion is requested by an ALEC, the ownership and maintenance responsibilities should be changed. (TR 1176) Staff agrees with both of these statements because in a virtual collocation arrangement, the ALEC has no access to the ILEC's premises, unlike a physical collocation arrangement. Therefore,

the ILEC would transfer its ownership and responsibilities of the collocation arrangement to the ALEC.

Similarly, FCCA witness Gillan supports the AT&T witness' position in that "terms for converting virtual collocation space should require no more than reversing the 'ownership' of the virtually collocated equipment." (TR 1029) However, staff believes that a collocation "conversion" or "rearrangement" application should be submitted in order to keep a record of what has been requested by the ALEC, and the acceptance or denial response by the ILEC. Staff will refer to this application as a "collocation conversion application" (CCA) in this recommendation. Staff believes that a CCA is in the best interest of ALECs and ILECs, because a CCA will include all necessary information related to the type of work to be performed by the ILEC.

Although Sprint witness Closz states that conversions in place require changes in administrative, billing, and engineering record updates, the witness also defines conversion in place as "there are no changes." (TR 653) Staff finds witness Closz's statements very confusing and contradictory because staff believes that changes such as administrative, billing, and engineering record updates are necessary changes that are required to effectuate the conversion from virtual to physical collocation.

Sprint witness Closz states that the ALEC's request to convert a virtual collocation arrangement to a cageless physical collocation arrangement requires an additional review process in which the ILEC must assess the changes requested and their potential impact on the current collocation arrangement. Witness Closz further clarifies that the collocater's equipment may need to be moved in order to satisfy the ALEC's request for conversion. (TR 609) In the case of conversions from virtual to caged collocation, Sprint witness Closz states that additional space and construction considerations must be taken into account. (TR 610) Staff agrees.

Intermedia witness Jackson argues that the "ILEC should be required to convert virtual arrangements to cageless arrangements at no charge in all instances." (TR 1158) Witness Jackson further explains that there should not be any substantial administrative costs because the ILEC only has to update its systems to indicate that it does not own the equipment. (TR 1159)

Staff agrees with Sprint witness Closz, and in part with Intermedia witness Jackson, that if there are no physical changes required by the ILEC to the collocation arrangement, the only charges that should apply are for the administrative, billing, and engineering record updates.

DATE: April 6, 2000

Rhythms witness Williams refers to the FCC's Advanced Services Order, FCC 99-48 issued March 31, 1999, in paragraph 39, in which the FCC stated:

Moreover, we noted in the *Advanced Services Order and NPRM*, and the record reflects, that more cost-effective collocation solutions may encourage the deployment of advanced services to less densely populated areas by reducing the cost of collocation for competitive LECs¹.

GTEFL witness Ries claims that GTEFL treats conversion requests the same as a new application request, since the same site surveys and engineering analysis need to be conducted. (TR 410) BellSouth witness Hendrix claims that BellSouth must review its ability to provide physical collocation and assess the support components which are necessary for a particular arrangement. Witness Hendrix gives examples of the types of work that BellSouth has to perform, such as review of engineering drawings, HVAC, power feeder and distribution, grounding, and cable racking. Witness Hendrix also indicates that due to such work, the ILEC incurs costs. (TR 28)

The BellSouth and GTEFL witnesses contend that an ALEC's request to convert virtual collocation to cageless physical collocation should be subject to the ILEC's standard application fees. (Hendrix TR 28-29; Ries TR 410) Staff agrees that ILECs incur costs associated with the conversion process. However, staff does not believe that a new physical collocation application needs to be submitted for conversion requests. Staff recommends that a CCA should be submitted because this more accurately reflects the conversion process rather than a new application for physical collocation.

If there are no physical changes to the existing virtual collocation arrangement, staff believes that the evidence of record supports that charges should only reflect administrative costs such as updating engineering and billing records. Staff notes that such costs should be minimal, but may be better negotiated in the interconnection agreement between the ILEC and ALEC. Staff, however, does not believe that the Commission should impose any terms and conditions related to matters involving administrative costs, since they vary depending on the type of request and need, and should be negotiated in an interconnection agreement.

¹ *Advanced Services Order and NPRM* at para. 138. See Covad Comments at 26 (large minimum space requirements and segregated collocation rooms increase costs and "ultimately presents a substantial barrier to entry in smaller towns and residential areas").

Rhythms witness Williams states that the ILECs may not require that all physical collocation arrangements be located in a segregated collocation area. He further states that the ILECs must utilize any unused space for physical collocation. (TR 763) Staff agrees. Witness Williams also states that under federal regulation, it is unnecessary to relocate the equipment when a cageless collocation arrangement is requested by the ALEC. On the other hand, he argues that BellSouth and GTEFL assert that they have the right to move the equipment to build a cage to protect their equipment. (TR 779) In this case, witness Williams affirms that moving the equipment is not a reasonable security measure because such relocation causes service outages and unnecessary expenses. (TR 780)

With respect to the relocation of equipment, BellSouth witness Hendrix states:

The conversion of an existing virtual collocation arrangement to a physical collocation arrangement usually necessitates either the relocation of the virtual collocation equipment to the space designated for the new physical collocation arrangement or the placement of new equipment in the physical collocation space and the decommissioning of the old virtual collocation arrangement. (TR 28)

Witness Hendrix further states that such a conversion process allows BellSouth to manage its space in the most effective way. (TR 28)

Regarding the manner in which BellSouth handles conversion requests, BellSouth witness Hendrix states that conversion requests are evaluated so that a decision is made to convert the old arrangement to a caged or a cageless physical collocation arrangement. Cageless physical collocation arrangements will not require the relocation of the equipment, but caged physical collocation arrangements will. In either case, BellSouth believes that conversion requests to physical collocation arrangements (caged or cageless) must be treated as a new application for physical collocation. (TR 50) Similarly, GTEFL witness Ries states that conversion requests may involve relocation of the equipment. Witness Ries further states that the ILECs may take reasonable security measures to protect their equipment since it may be necessary to move the ALEC's equipment to properly separate it. (TR 434)

Covad witness Moscaritolo states that conversions should not require the relocation of the equipment even if the ALEC's

equipment is in the same line-up as the ILEC's equipment. He further states that such relocation measures delay the conversion and increase the costs associated with conversion. (TR 838) Witness Moscaritolo refers to the New York Public Service Commission's statement that "[S]pending time and effort to move a virtual arrangement from one area of a central office to another would be an unnecessary and time-consuming burden." (TR 839) Witness Moscaritolo also states that Bell Atlantic is implementing this policy. (TR 839)

MGC witness Levy states that it is not possible to convert a virtual collocation arrangement to a physical collocation arrangement because a cage must be built around the existing virtual collocation arrangement. In addition, other equipment around the virtual collocation arrangement must be moved to free up some space. (TR 904) However, he states that it is possible for an ALEC to get similar arrangements associated with physical collocation rather than granting self-contained floor space. (TR 904) Witness Levy indicates that in Las Vegas, Sprint permits MGC technicians to access its collocated equipment arrangement on a 24 hours 7 days a week basis even though all of its collocation arrangements are regarded as virtual collocation arrangements. He states that such arrangements are located in the same line-up as the ILEC's transmission or switching equipment. (TR 904)

Intermedia witness Jackson states that the ILECs should be able to perform the conversion of a virtual collocation arrangement upon request to a cageless physical collocation arrangement. In addition, he alleges that based on the FCC's Orders and Rules, the ALECs must remain commingled with the ILEC's equipment, but under a physical cageless collocation arrangement. (TR 1106)

Regarding relocation of equipment, staff has reviewed the evidence of record and believes the following recommendations are appropriate. First, when converting from virtual to cageless physical collocation, the ALEC's equipment may remain in place even if it is in the ILEC's equipment line-up. Staff believes that to require relocation of equipment under these circumstances would be unduly burdensome and costly to the ALEC without any benefit. Second, when converting from virtual to cageless physical collocation and the ALEC is requesting to place additional equipment, acquire additional space, or the ILEC must perform work on the equipment to effectuate the conversion, staff recommends that these be handled on a case-by-case basis to be negotiated by the parties. Staff can conceive of instances where additional equipment is requested to be placed or additional space is requested which cannot be accommodated in the existing space, and the collocation arrangement would need to be relocated.

Last, when converting from virtual to caged physical collocation, the ALEC equipment should be relocated because construction of a cage will require additional space. Since virtual collocation equipment is typically in the same line-up as ILEC equipment, staff believes that this space would be more efficiently re-used for another virtual collocation arrangement, a cageless physical collocation arrangement or for ILEC equipment.

Sprint witness Closz states that the terms and conditions for converting virtual collocation to either physical caged or physical cageless collocation should be differentiated. (TR 607) Staff agrees. In part, staff also agrees with BellSouth witness Hendrix that "[T]hese conversions will be evaluated as to whether there are extenuating circumstances or technical reasons that would cause the arrangement to become a safety hazard within the premises or otherwise conflict with the terms and conditions of the collocater's collocation agreement." (TR 50, 51) Staff believes that the terms and conditions of the assessment and provisioning of a conversion request within the context of an interconnection agreement should be negotiated between the carriers.

If there are physical changes to the existing collocation arrangement being requested, the evidence of record supports that an application fee is appropriate.

In Issue 1, staff recommended that an ILEC should respond to a collocation application within 15 calendar days of the request with sufficient data for the ALEC to place a firm order. Staff also believes that a 15 calendar day response is also appropriate in this case.

Conclusion

Staff recognizes that the terms and conditions that should apply for converting a virtual collocation arrangement to a physical collocation arrangement are complex in nature and vary depending on the type of conversion being requested. However, staff recommends that the ALEC requesting a conversion submit a collocation conversion application (CCA) to the ILEC.

If no changes to the collocation arrangement are requested by an ALEC, and the ILEC performs no work other than updating billing records, changing administrative records, and revising engineering records, then there should be only minor charges for the application. Such administrative costs should be negotiated in the interconnection agreement between the parties.

If there are changes to the collocation configuration being requested, staff believes that an application fee is appropriate. In either case, staff agrees with the majority of the parties that the ILEC must inform a collocator within 15 calendar days of its request whether its collocation conversion application is accepted or denied, and provide sufficient information for the ALEC to place a firm order.

Staff also recommends the following regarding relocation of equipment during a conversion from virtual to physical collocation. When converting from virtual collocation to cageless physical collocation, the ALEC's equipment may remain in place. When converting from virtual to cageless physical collocation and the ALEC is requesting to place additional equipment, acquire additional space, or the ILEC must perform work on the equipment to effectuate the conversion, staff recommends that these be handled on a case-by-case basis to be negotiated by the parties. Last, when converting from virtual to caged physical collocation, the ALEC equipment should be relocated.

ISSUE 6: What are the appropriate response and implementation intervals for ALEC requests for changes to existing collocation space?

RECOMMENDATION: Consistent with staff's recommendation in Issue 1, staff recommends that ILECs be required to respond to a complete and accurate request or application for changes to existing collocation space within 15 calendar days with all the information necessary for an ALEC to place a firm order. Staff also recommends that the implementation interval for changes to existing collocation space should be 45 days after receipt of a firm order or the change request has been accepted. **(FAVORS)**

POSITIONS OF THE PARTIES

BELLSOUTH:

The response interval for change to an ALEC's existing collocation space should not exceed 30 days and the implementation interval should not exceed 60 days for normal conditions or 90 days for conditions other than normal.

GTEFL:

It depends upon the type of change requested. Requests for major changes requiring more space, power, or the like are treated like new collocation applications. Requests for minor changes within the parameters of the original application will not require a new application and will generally be processed more quickly.

ALLTEL:

An initial response should be provided within 5 business days, with a total implementation interval of between 10 and 30 business days depending on the complexity of the changes.

SPRINT:

The appropriate response and implementation intervals will depend on the type of change being requested.

SUPRA:

If the requested change does not exceed the ALEC's initial space and power estimates, there should simply be a notification process so the ILEC is aware of what equipment

has been installed. Changes exceeding initial requirements should be based on best practices.

JOINT STATEMENT (FCCA, AT&T, COVAD, FCTA, INTERMEDIA, MCI, MGC, MEDIAONE, and RHYTHMS):

If the requested change does not exceed the ALEC's initial space and power estimates, there should simply be a notification process so the ILEC is aware of what equipment has been installed. Changes exceeding initial requirements should be based on best practices.

STAFF ANALYSIS:

The issue before the Commission is to determine when an ILEC should be required to respond to an ALEC's request for changes to existing collocation space and the implementation interval for these changes. Staff points out that this issue refers to changes to an ALEC's existing physical collocation space.

BellSouth witness Hendrix states that the response interval for a request for change to an existing space should not exceed 30 days. He also states that the implementation interval for a request for changes to an ALEC's existing collocation space should not exceed 60 calendar days, under normal circumstances. (TR 29) Witness Hendrix describes normal conditions as "conditions where none of the following exist: material equipment ordering required, HVAC or power upgrades or additions, addition to floor space, racks, or bays." He states that for conditions other than normal, the implementation interval should be the same as a new request, 90 calendar days. (TR 29)

GTEFL witness Ries states that the response and implementation intervals depend upon the type of change requested; however, in general the response and implementation intervals are the same for changes to existing collocation space as they are for new collocation requests. (TR 411) Witness Ries goes on to explain:

. . . GTE distinguishes between major and minor augments. At the time it originally submits its collocation application, the ALEC indicates the amount of power it will need and the amount of heat (in BTUs) that its equipment will generate. The ALEC may then place equipment that does not exceed the capacity of the engineered space. As long as any changes the ALEC wishes to make are within

the ALEC's original specifications, the change is considered to be a minor augment.

He further explains:

If the requested augment would exceed the power and BTU's originally specified, or if it would require additional space, it is considered a major augment. Major augments will be treated like new collocation applications. In these cases, the ILEC will need to assess potential impacts of requested changes on power, HVAC, cabling and space requirements. While it will not take 90 days to provision every such change, it would be impossible to define some uniform, shorter interval, because change requests can vary widely in the amount of work they require. (TR 433)

Sprint witness Closz states that collocation space changes will likely involve the addition of equipment to the collocation arrangement and/or changing the existing equipment. Witness Closz explains that equipment additions or changes to the existing configuration are typically referred to as "augmentations" to existing collocation arrangements. (TR 610) Given the varied nature of change requests, witness Closz proposes the following response and implementation intervals:

When the change requested requires no physical work on the part of the ILEC other than record updates, ALECs should only be required to advise the ILEC of the changes that will be made. . . . This response should be provided within fifteen (15) calendar days of receipt of the ALEC's change notification.

Provisioning intervals when changes are required should be reflective of the actual work involved, but should not exceed 30 calendar days from receipt of the ALEC's request for a change. Longer intervals are warranted only in cases where ILEC infrastructure improvements and/or upgrades requiring additional time are required but in these cases the interval should not exceed 90 calendar days from receipt of the change request. (TR 611-612)

MCI witness Martinez believes first and foremost that most changes made by an ALEC within its collocation space do not warrant either implementation intervals or additional applications or application fees. (TR 699) Witness Martinez explains that when an ALEC submits its initial request for collocation it provides the ILEC with information about the ultimate power requirements and equipment configuration for the collocation space. He states that ". . . so long as the changes to the collocation space do not exceed the initial forecast, there should be no obligation to obtain the ILEC's permission. . . . At most, the ALEC should be required to make an information notification to the ILEC to enable the ILEC to update its records regarding the types of equipment actually installed." (TR 700) He further states that in situations where an ALEC legitimately requires the space to be modified with respect to space, power or HVAC, then the standard intervals for collocation should apply. (TR 700)

MGC witness Levy states that changes to existing collocation arrangements can take many forms and the appropriate response and implementation intervals vary depending on the form of the change. (TR 905) He states that after receiving a request for change, the ILEC should be required to respond to the ALEC within ten business days and this response should include all costs associated with the request. He also states that once a firm order has been placed the interval for provisioning this request should be no more than 30 calendar days.

Supra witness Nilson states that a ten day, or less, response interval is appropriate. He believes that "[S]ince the Commission has already determined that physical collocation should be performed within ninety days, a modification to an existing collocation space should take even less time, certainly not more." (TR 954)

Intermedia witness Jackson states that as a general rule, response and implementation intervals will be shorter when making changes to existing collocation arrangements because the collocation arrangement is already established, and in most of the augmentations, the ALEC is simply installing additional equipment. (TR 1107) Addressing response intervals, witness Jackson states that for changes to existing collocation arrangements requiring no additional space, ILECs should be required to respond within five calendar days. For changes to existing collocation arrangements that require additional space, he states "the ILEC should be held to the 10-day interval prescribed by the FCC in its Collocation Order." (TR 1108-1109)

Witness Jackson proposes three different implementation intervals for changes to existing collocation space. First, if the augmentation of the collocation arrangement requires no work by the ILEC, then ALECs should be able to begin work on the arrangement as soon as the application is accepted. Second, when work is required by the ILEC on the collocation arrangement, such as the addition of facilities or engineering additional power to the collocation arrangement, the ILECs should implement such changes within 45 calendar days. Third, when the ALEC submits an application for changing existing collocation space that requires additional space, the ILECs should be required to implement such changes within 60 calendar days. (TR 1109)

Analysis

Staff notes that there are many different changes to existing collocation arrangements that an ALEC may request. These requests may range from requiring an ILEC only to make administrative or record changes, to provisioning more space for the ALEC. This variety may have contributed to the multitude of different response and implementation intervals proposed by the parties.

Staff recommends that an ILEC be required to respond to an ALEC request for change to its existing collocation arrangement within fifteen (15) calendar days, the same interval that staff recommends in Issue 1. Staff is unpersuaded by the evidence that the response interval for changes to existing collocation space should be different from a response to an initial collocation application. In many cases the ILEC will have to perform the same analyses to evaluate the change request. Also consistent with Issue 1, staff recommends that if the changes to the collocation space will require work on the part of the ILEC, the ILEC's response to the ALEC should contain all information necessary for the ALEC to place a firm order.

Regarding implementation intervals, staff once again notes that there are many different changes to existing collocation arrangements that an ALEC may request. While staff recognizes that implementation intervals can also vary widely depending on the specific change, staff does not believe that the evidence of record is sufficient to prescribe different provisioning intervals relating to all of the different changes that an ALEC may request. The parties propose provisioning intervals from immediately after the application is accepted (effectively zero days), up to ninety (90) calendar days. In Orders Nos. PSC-99-1744-PAA-TP and PSC-99-2393-FOF-TP the Commission ordered a provisioning interval of ninety calendar days for physical collocation after receipt of a firm order by an applicant carrier. Staff does believe that

provisioning changes to existing collocation arrangements usually should require less time than provisioning a new collocation arrangement. Staff, therefore, recommends that the Commission order a provisioning interval of forty-five (45) calendar days. Staff believes that, on average, most changes to existing collocation space can be provisioned in this time frame. However, in an effort to make the process regarding changes to collocation space somewhat consistent with the process outlined in Commission Order No. PSC-99-1744-PAA-TP regarding provisioning of new collocation space, staff also recommends that if the ILEC believes it will be unable to meet this time frame and the parties are unable to agree to an extension, the ILEC shall seek an extension of time from the Commission within 30 calendar days of receipt of the firm order. Staff notes that with respect to provisioning new collocation space, an ILEC is required to file an extension with this Commission within forty-five (45) calendar days after a firm order, but since the recommended provisioning interval for provisioning changes is shorter than that for provisioning new collocation space, staff is recommending that the ILEC files the extension within thirty (30) calendar days of a firm order by the ALEC.

Conclusion

Staff recommends that an ILEC respond to an ALEC application for changes to existing collocation arrangements within fifteen (15) calendar days with all information necessary for the ALEC to submit a firm order. Staff also recommends that changes to existing collocation arrangements be provisioned within forty-five (45) calendar days after receipt of a firm order.

ISSUE 7: What are the responsibilities of the ILEC and collocators when:

- A. a collocator shares space with, or subleases space to, another collocator;
- B. a collocator cross-connects with another collocator

RECOMMENDATION: The FCC has provided sufficient guidance in its rules and orders on ILEC and ALEC responsibilities in shared and subleased collocation space and collocator cross-connects. Staff recommends that the ILECs and ALECs follow those rules and orders. Staff also recommends that in a shared or subleased collocation space arrangement, each ALEC be allowed to submit its own request to the ILEC for equipment placement, unbundled network elements and other services, regardless of which ALEC was the original collocator. (ILERI)

POSITIONS OF THE PARTIES:

BELLSOUTH:

- (a) The appropriate terms and conditions regarding shared/subleased caged collocation are contained in Section 3.1. of Exhibit JDH-1;
- (b) The appropriate terms and conditions for co-carrier cross connects are located in Section 5.6 of Exhibit JDH-1.

GTEFL:

ALECs in shared and subleased collocation arrangements may order interconnection services directly from the ILEC, but participants must designate a host ALEC responsible for ordering and payment of other services. ILEC and ALEC responsibilities as to cross-connects will depend on whether such arrangements traverse common areas.

ALLTEL:

FCC Rules 51.323(k)(1) and 51.323(h) address the cost of shared collocation space and the cross connection between two collocators. The Commission's decision on this issue should be consistent with those rules.

SPRINT:

(A) FCC rules prohibit an ILEC from charging collocators sharing space more than the cost for a single collocator and require that site conditioning charges be prorated. An ILEC must also permit each ALEC to order unbundled network elements to and provision service from the shared space.

(B) Pursuant to FCC Rules, ILECs must permit collocating telecommunications carriers to interconnect their respective networks to the networks of other collocating carriers, when the carriers do not request ILEC construction of such facilities. Additionally, ILECs must do the construction upon request.

SUPRA:

An ILEC may not increase the preparation costs for shared space above that for a single cage and the ILEC must prorate preparation charges. Shared collocation should occur on terms and conditions that are not inconsistent with the *Advanced Services Order*.

JOINT STATEMENT (FCCA, AT&T, COVAD, FCTA, INTERMEDIA, MCI, MGC, MEDIAONE, and RHYTHMS):

An ILEC may not increase the preparation costs for shared space above that for a single cage and the ILEC must prorate preparation charges. Shared collocation should occur on terms and conditions that are not inconsistent with the *Advanced Services Order*.

STAFF ANALYSIS:

A. Shared or Subleased Collocation

The issue before this Commission is to determine the responsibilities of ILECs and collocators in shared and subleased collocation space. In most existing central office collocation arrangements, the designated physical collocation spaces of several competitive entrants are located close together within the ILEC premises. Because of the conveniences and efficiencies associated with this proximity, competitive entrants seeking to interconnect with each other may find connecting between their respective collocation spaces on the ILEC premises the most efficient means of interconnecting with each other.

In the FCC's Advanced Services Order issued March 31, 1999, (FCC 99-48) in paragraph 8, the FCC takes the following steps with regard to shared cage collocation:

- Incumbent LECs must make available to requesting competitive LECs shared cage and cageless collocation arrangements. Moreover, when collocation is exhausted at a particular LEC location, incumbent LECs must permit collocation in adjacent controlled environmental vaults or similar structures to the extent technically feasible.
- Incumbent LECs must permit competitors to collocate all equipment used for interconnection and/or access to unbundled network elements (UNEs), even if it includes a "switching" or enhanced services function, and incumbent LECs cannot require that the switching or enhanced services functionality of equipment be disengaged.

Sprint witness Hunsucker addresses this issue by referring to the FCC's Rule 51.321(k)(1). (TR 520) Staff notes that the FCC clearly outlined the responsibilities of the ILEC and collocators when a collocator shares space with, or subleases space to, another collocator in Rule 51.321(k)(1). This rule states:

(k) An incumbent LEC's physical collocation offering must include the following:

(1) Shared collocation cages. A shared collocation cage is a caged collocation space shared by two or more competitive LECs pursuant to terms and conditions agreed to by the competitive LECs. In making shared cage arrangements available, an incumbent LEC may not increase the cost of site preparation or nonrecurring charges above the cost for provisioning such a cage of similar dimensions and material to a single collocating party. In addition, the incumbent must prorate the charge for site conditioning and preparation undertaken by the incumbent to construct the shared collocation cage or condition the space for collocation use, regardless of how many carriers actually collocate in that cage, by determining the total charge for site preparation and allocating that charge to a collocating carrier based on the percentage of the total space utilized by that carrier. An incumbent LEC must make shared collocation space available in single-bay increments or their equivalent, *i.e.*, a

competing carrier can purchase space in increments small enough to collocate a single rack, or bay, of equipment.

In addition, in paragraph 41 of Order FCC 99-48, the FCC also concluded:

In other words, a carrier should be charged only for those costs directly attributable to that carrier. The incumbent may not place unreasonable restrictions on a new entrant's use of a collocation cage, such as limiting the new entrant's ability to contract with other competitive carriers to share the new entrant's collocation cage in a sublease-type arrangement. In addition, if two or more competitive LECs who have interconnection agreements with an incumbent LEC utilize a shared collocation arrangement, the incumbent LEC must permit each competitive LEC to order UNES to and provision service from that shared collocation space, regardless of which competitive LEC was the original collocator.

Rhythms witness Williams contends that billing each ALEC separately is not needed for services like power, HVAC, etc. (TR 816) However, BellSouth witness Hendrix argues that separate billing causes more work and expense resulting in possible administrative and billing errors. (TR 84) Staff believes that based on the FCC's Rule 51.321(k)(1), if the ILEC must prorate based on the number of collocators and space used by each collocator, the ILEC should be able to bill each collocator separately. In addition, as Rhythms witness Williams acknowledges, the ILEC must track all the changes in the collocation arrangement to make sure that it is billing the correct entity and allocating shares correctly. (TR 817)

BellSouth witness Hendrix states that BellSouth provides shared collocation in every central office provided that a) local building codes allow such an arrangement, and b) BellSouth's central office premises are not located within a leased space. Witness Hendrix also indicates that a host-guest relationship occurs when an ALEC chooses to share its space with other ALECs. (TR 30-31)

Intermedia witness Jackson states that when a collocator shares space with another collocator, the ALECs would be responsible for setting terms and conditions for the shared space. The witness also states that each collocator must be permitted by the ILEC to order UNES and provision service from the shared space. This witness further states that ILECs should not restrict the

types of equipment collocated by ALECs as long as they are used for interconnection or access to UNEs. (TR 1143) This witness' statement coincides with the FCC's Order (FCC 99-48, ¶8). (EXH 1)

The FCC's Order (FCC 99-48) clearly states that the ILEC must permit each ALEC to order UNEs to and provision service from the shared collocation space, regardless of who the original collocator is. However, BellSouth witness Hendrix states that the host ALEC should be the responsible party to submit applications for initial and additional equipment placements of its guests. (TR 30) Staff disagrees with the BellSouth's witness statement because the ILEC may not impose unnecessary requirements on how or what the ALECs might need for their own network infrastructure. (FCC 99-48, ¶8) Therefore, staff does not believe that the ALECs should designate a host ALEC. In other words, each ALEC should be able to order directly from the ILEC any addition to its network, and therefore, the ILEC must be able to bill each ALEC separately. (TR 1143; FCC 99-48, ¶48)

Conclusion

Staff considers shared physical collocation a service offered by the ILECs to ALECs as another option for interconnection and access to unbundled network elements. Under a shared collocation arrangement, a single collocation node is shared by two or more ALECs. The ALEC, the host, makes the determination that other ALECs, the guests, will be allowed to share space within its cage under the terms and conditions governing the sharing arrangement agreed to between the ALECs. Therefore, staff recommends that the ILEC should not be a part of any such negotiations.

Since the FCC Rule 51.321(k)(1) requires an ILEC to prorate its costs based on the number of collocators and space used by each collocator, staff recommends that the ILEC should bill each collocator separately.

The FCC has provided sufficient guidance in its rules and orders [FCC 99-48, FCC 96-325, FCC 96-333, FCC 97-208, and Rule 51.321(k)(1)] on ILEC and ALEC responsibilities in shared and subleased collocation space. Staff therefore recommends that the ILECs and ALECs follow those rules and orders. Staff also recommends that in a shared or subleased collocation space arrangement, each ALEC be allowed to submit its own requests to the ILEC for equipment placement, unbundled network elements and other services, regardless of which ALEC was the original collocator.

B. Collocator Cross-Connects

The issue before this Commission is to define the responsibilities of ILECs and collocators when a collocator cross-connects with another collocator. The FCC outlined the responsibilities of the ILEC and collocators when a collocator cross-connects with another collocator in Rule 51.323(h). It states:

(h) An incumbent LEC shall permit a collocating telecommunications carrier to interconnect its network with that of another collocating telecommunications carrier at the incumbent LEC's premises and to connect its collocated equipment to the collocated equipment of another telecommunications carrier within the same premises provided that the collocated equipment is also used for interconnection with the incumbent LEC or for access to the incumbent LEC's unbundled network elements.

The FCC also requires the ILEC to permit the new entrant to construct its own cross-connect facilities, using either copper or optical facilities, subject only to the same reasonable safety requirements that the incumbent places on its own similar facilities. (FCC 99-48, ¶33) For this reason, the FCC also concluded that ILECs may require that all equipment that a new entrant places on its premises meet safety requirements to avoid endangering other equipment and the ILECs' networks.

The FCC further states that ILECs may not require competitors to purchase any equipment or cross-connect capabilities solely from the incumbent at tariffed rates. (FCC 99-48, ¶33) For this reason, an ILEC may not refuse to permit collocation of equipment on the grounds that the Bellcore Network Equipment and Building Specifications (NEBS) are not met. (FCC 99-48, ¶34)

MCI witness Martinez indicates that BellSouth's position has always been that if an ALEC wants to cross-connect with another ALEC, the ALEC must submit a subsequent application and any applicable fees. He states that the application fee is \$1,600 or more. He believes that this is not cost-effective considering that such fees will eliminate and disrupt the "self-construction" alternative for the ALEC community. He further states that the ILEC should not require any application or any fees since the ALEC has the right to perform its own cabling. (TR 702-703) However, BellSouth witness Hendrix states that for co-carrier cross-connects, there needs to be an application fee due to cable racking. (TR 32) For example, some problems may occur when changes are made to the existing collocation space. (EXH 7)

MCI witness Martinez states that the ALEC should be able to construct, run its cables, and interconnect their equipment with another ALEC. In return, the ALEC will inform BellSouth what type of work will be done. (TR 703) Staff agrees; however, staff also realizes that the ALECs must also inform the ILECs when such work will begin, and when this work will be completed. MCI witness Martinez also indicates that since the ILEC is not providing service and additional facilities, the ILEC should not require any application fee or charges related to cross-connection. (TR 701) Staff also notes that depending on the location of the ILEC premises, cable racking might be complicated in nature, in which some work must be done in common areas by the ILEC. BellSouth witness Hendrix states that in circumstances like this such work may cause potential problems. (TR 32) Staff agrees.

Staff believes the record supports that when ALECs cross-connect with each other in contiguous collocation spaces, no application fees should be required since the ALECs could establish their own cabling, but the ALECs must inform the ILEC of the type of work to be performed and the duration of such work. Staff believes that the ALEC must use an ILEC-certified vendor to perform this work or either must submit an application to the ILEC to perform this task. However, for ALEC cross-connects in non-contiguous collocation spaces, staff agrees with BellSouth witness Hendrix that due to the nature of the work to be performed, the ALEC must submit an application for the cabling system work to the ILEC, and the work should be performed by the ILEC. FCC Rule 51.323(h)(2) reads:

An incumbent LEC shall permit collocating telecommunications carriers to place their own connecting transmission facilities within their the incumbent LEC's premises outside of the actual physical collocation space, subject only to reasonable safety limitations.

Staff notes that "subject only to reasonable safety limitations" is vague and thus does not provide specific guidance on this matter. However, staff notes that in establishing cross-connects in non-contiguous collocation spaces, inevitably work must be done in common areas. Staff is particularly concerned about work performed in common areas, because it could potentially affect not only the cross-connecting carriers, but the ILEC and all other ALECs collocated in the central office. Staff believes that this is a legitimate safety concern, and consistent with staff's recommendation in Issue 15, staff recommends that all work in common areas be performed by the ILEC. Therefore, staff recommends that for ALEC cross-connects in non-contiguous collocation spaces,

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the ALECs should be required to submit an application to the ILEC for the ILEC to perform the work.

Conclusion

Staff recommends that for contiguous collocation spaces, the ALECs should be able to perform their own cabling, and in non-contiguous collocation spaces, the ALECs must submit an application to the ILEC, and the work must be performed by the ILEC.

Staff believes that the FCC has provided sufficient guidance in its rules and orders [FCC 99-48, FCC 96-325, FCC 96-333, FCC 97-208, and Rule 51.323(h)] on ILEC and ALEC responsibilities in collocator cross-connects. Staff recommends that the ILECs and ALECs follow those rules and orders.

ISSUE 8: What is the appropriate provisioning interval for cageless physical collocation?

RECOMMENDATION: Staff recommends that the provisioning interval for cageless physical collocation be ninety (90) calendar days after an applicant carrier has submitted a firm order, the same as that for caged physical collocation. **(FAVORS)**

POSITIONS OF THE PARTIES:

BELLSOUTH:

The appropriate provisioning interval for cageless physical collocation should be 90 calendar days under normal conditions.

GTEFL:

Cageless collocation is a physical collocation offering. Except for the absence of a cage, it is no different from traditional, physical collocation. As such, there is no reason to deviate from the existing 90-day provisioning interval this Commission has established for physical collocation.

ALLTEL:

When the ALEC migrates from virtual to cageless physical, the interval should be no greater than 30 business days. The interval for establishing an initial "cageless physical" arrangement should be no more than 50 business days.

SPRINT:

The appropriate interval is the same as the interval for virtual collocation, that is, 60 calendar days from receipt of a firm order from an ALEC.

SUPRA:

When space and power are readily available, an ILEC should provision cageless collocation space within 45 calendar days of receiving a request. When space and power are not readily available, an ILEC should provision cageless collocation space within 60 calendar days of receiving a request.

JOINT STATEMENT (FCCA, AT&T, COVAD, FCTA, INTERMEDIA, MCI, MGC, MEDIAONE, and RHYTHMS):

When space and power are readily available, an ILEC should provision cageless collocation space within 45 calendar days of receiving a request. When space and

power are not readily available, an ILEC should provision cageless collocation space within 60 calendar days of receiving a request.

STAFF ANALYSIS:

The issue before the Commission is to determine the appropriate provisioning interval for cageless physical collocation. The FCC has declined to adopt specific provisioning intervals, but because of the importance of ensuring timely collocation space, it has encouraged "state commissions to ensure that incumbent LECs are given specific time intervals within which they must respond to collocation requests." (FCC 99-48, ¶54) This Commission established guidelines for provisioning of physical and virtual collocation in Order No. PSC-99-1744-PAA-TP as it stated:

Upon firm order by an applicant carrier, the ILEC shall provision physical collocation within 90 days or virtual collocation within 60 days. (PSC-99-1744-PAA-TP, p.17)

The Commission clarified this order in Order No. PSC-99-2393-FOF-TP to reflect that these time frames are calendar days. This issue seeks to determine whether a different provisioning interval should apply to cageless physical collocation, as opposed to the 90 calendar days that apply to traditional caged physical collocation.

BellSouth witness Hendrix states that BellSouth has found that its provisioning interval is not controlled by the time required to construct an arrangement enclosure. (TR 32) He states:

The controlling factors in the overall provisioning interval actually include the time required to complete the space conditioning, add to or upgrade the heating, ventilation, and air conditioning system for that area, add to or upgrade the power plant capacity and power distribution mechanism, and build out network infrastructure components such as the number of cross-connects requested. When the construction of an arrangement enclosure is not required or is not performed by BellSouth, all other collocation area and network infrastructure must still take place. (TR 33)

Witness Hendrix argues that "there are approximately 85 steps in the ordering and all of the other processes that we must follow to

get that collocation space to the customer on time. For cageless, you simply avoid one step, and that is building the cage." (TR 66)

Similarly, GTEFL witness Ries states:

The appropriate provisioning interval for cageless physical collocation is the same as for caged physical collocation. The only difference between caged and cageless physical collocation is construction of the cage itself. Extending power and providing overhead support and cable racking are typically the most time consuming aspects of the provisioning process. These tasks, which generally dictate the provisioning interval, are required whether cageless or caged physical collocation is being provisioned. (TR 417)

Sprint witness Closz responds that a reduced interval appropriately reflects that the time required to construct cages is not needed for the provisioning of cageless arrangements. (TR 612) She further states:

Sprint believes that the appropriate provisioning interval for cageless physical collocation is sixty (60) calendar days. Sprint's ILEC work processes for provisioning cageless physical collocation are essentially the same as its internal work processes for provisioning virtual collocation and accordingly, Sprint believes that the provisioning intervals for virtual collocation and cageless physical collocation should be the same. (TR 634)

Similarly, the ALECs in this proceeding use the same arguments as Sprint that cageless physical collocation mirrors virtual collocation, and not constructing a cage should allow for a shorter provisioning interval than 90 calendar days. (Williams TR 785; Nilson TR 956; Jackson TR 1110; Mills TR 1178)

Covad witness Moscaritolo states:

When space and power are readily available, an ILEC should provision cageless collocation space within 45 calendar days. When space and power is not readily available, an ILEC should

provision cageless collocation space within 90 calendar days. US West presently provides these provisioning intervals to Covad under its interconnection agreement. (EX. A.) Because US West provides these intervals, such intervals are presumptively feasible in the regions of other ILECs, including BellSouth and GTE Florida. (TR 840)

He contends that Southwestern Bell Telephone Company (SWBT) provides cageless collocation in active collocation space in 55 calendar days if an ALEC installs its own racking, and in 70 calendar days if the ILEC installs the racking. (TR 840) Witness Moscaritolo further states that if active collocation space is not readily available, SWBT provides cageless collocation in 140 calendar days. (TR 840) He also disagrees with GTEFL witness Ries and BellSouth witness Hendrix and argues that the construction of a cage is the interval-limiting task in the provisioning of caged collocation. (TR 848-849)

MGC witness Levy states that upon receipt of a firm order, cageless collocation should be provisioned within 30 calendar days. He contends that in Las Vegas, all MGC collocations are cageless, and the space is consistently available within 30 days. (TR 910)

Analysis

As mentioned previously, this Commission has established the requirement that an ILEC shall provision physical collocation within 90 calendar days and virtual collocation within 60 calendar days after the receipt of a firm order by an applicant carrier. Most ALECs in this proceeding argue that cageless physical collocation mirrors virtual collocation and that without having to construct a cage, the provisioning interval should be less than caged physical collocation. Indeed, FCCA, AT&T, Covad, FCTA, Intermedia, MCI, MGC, MediaOne, Rhythms and Supra in their joint position statement contend that the ILECs should provision cageless collocation within 45 calendar days of receiving a request if space and power are readily available and 60 days if not readily available. However, they have presented very little persuasive evidence to support their position.

BellSouth witness Hendrix argues that virtual collocation and physical collocation, cageless or otherwise, are two different services, provisioned in two different ways. (TR 56) He states:

With virtual collocation, the ALEC does not have direct access to its collocated

equipment. BellSouth leases the ALEC's equipment and assumes the responsibility to maintain it. Since BellSouth technicians work on virtual collocation equipment, it is typically placed within BellSouth's lineup to provide more efficient access to the equipment. With physical collocation, however, the ALEC performs its own maintenance activities and therefore [sic] requires access to its equipment. Since the Advanced Services Order states that, "The incumbent LEC may take reasonable steps to protect its own equipment, such as enclosing the equipment in its own cage," (paragraph 42) BellSouth typically places physical collocation arrangements outside its lineup, in unused space. This unused space often requires space preparation and infrastructure construction activities before equipment may be placed within it. Therefore, the provisioning activities for virtual and physical collocation are not the same, . . . (TR 56-57)

GTEFL witness Ries states:

The ALECs advocate a much shorter interval for cageless than for caged collocation by comparing it to virtual. This comparison is unjustified. Cageless collocation is a physical collocation offering. Except for cage construction, it requires the ILEC to perform the same kinds of tasks to prepare the space. In GTE's experience, the provisioning intervals for caged and cageless construction is not a significant factor in determining provisioning intervals. Certainly, it does not justify reducing provisioning time frames by a month or more, as the ALECs suggest. (TR 448)

Although staff does not find BellSouth's and GTEFL's arguments entirely persuasive, these arguments do suggest that there are differences between virtual and physical collocation, whether caged or not, that could cause the provisioning intervals to differ. The FCC stated:

Under virtual collocation, interconnectors are allowed to designate central office

transmission equipment dedicated to their use, as well as to monitor and control their circuits terminating in the LEC central office. Interconnectors, however, do not pay for the incumbent's floor space under virtual collocation arrangements and have no right to enter the LEC central office. Under our virtual collocation requirements, LECs must install, maintain, and repair interconnector-designated equipment under the same intervals and with the same or better failure rates for the performance of similar functions for comparable LEC equipment. (FCC 96-325, ¶559)

In physical collocation other types of equipment may be installed besides transmission equipment, including equipment that may have switching functionality. This will be discussed in greater detail in Issue 12. These differences in equipment do bring about different technical aspects of provisioning the collocation space, such as grounding differentials, power and heat differentials, and different equipment footprint sizes. AT&T witness Mills agrees that these differences exist between equipment typically placed in a virtual collocation arrangement versus a physical collocation arrangement. (TR 1206) Staff is persuaded by the evidence that these differences between virtual and physical collocation may cause the provisioning intervals to differ. There were no substantial arguments to the contrary presented.

The other argument presented by the ALECs was that construction of a cage increases the provisioning interval for caged physical collocation. While staff believes that there is time involved with construction of a cage, staff is unpersuaded that this time is substantial or the limiting factor in provisioning caged physical collocation. As pointed out in the hearing, construction of a cage may be done concurrently with the other work necessary to provision the collocation space. (Hendrix TR 175) Therefore, staff is unpersuaded that construction of a cage significantly increases the time required for caged physical collocation and does not believe that the provisioning interval for cageless physical collocation should be reduced based on this argument.

Conclusion

Staff recommends that the provisioning interval for cageless physical collocation be ninety (90) calendar days after an applicant carrier has submitted a firm order, the same as that for caged physical collocation. The ALECs argue that cageless physical

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collocation mirrors that of virtual collocation and that construction of a cage lengthens the provisioning interval for caged collocation which would not be necessary for cageless collocation. The evidence of record does not support these arguments. The evidence of record does show that there are differences between virtual and cageless physical collocation, but it does not show that the provisioning interval for caged physical collocation is significantly impacted by the construction of a cage.

ISSUE 9: What is the appropriate demarcation point between ILEC and ALEC facilities when the ALEC's equipment is connected directly to the ILEC's network without an intermediate point of interconnection?

RECOMMENDATION: The appropriate demarcation point is an ILEC designated location at the perimeter of an ALEC's collocation space; however, parties may negotiate another demarcation point up to the conventional distribution frame (CDF). **(FULWOOD)**

POSITIONS OF THE PARTIES:

BELLSOUTH:

BellSouth should designate the point of interconnection between the ALEC's network and/or equipment and BellSouth's network. The demarcation point should be a common block on the BellSouth designated conventional distribution frame for 2-wire and 4-wire connections. For all other terminations, BellSouth should designate a demarcation point for each arrangement.

GTEFL:

The most appropriate demarcation point is the ALEC-provided block that connects to the main distribution frame or a digital signal cross-connect panel. While GTE favors a flexible approach to defining demarcation points, ALECs must never be permitted to access the main distribution frame.

ALLTEL:

If the ILEC provides the Tie, then the demarcation point should be the ALEC's equipment. Conversely, if the ALEC provides the Tie facility, then the demarcation point should be the ILEC's equipment.

SPRINT:

The ALEC collocation site is the appropriate demarcation point. The ALEC should have the option to use or not use an intermediate point of interconnection.

SUPRA:

The ALEC, not the ILEC, has the right to designate the demarcation point. Technically feasible demarcation points include, but are not limited to, the ALEC's collocation space and an intermediate frame, such as POT bays. An ILEC, however, cannot require interconnection at an intermediate frame unless requested by the ALEC.

JOINT STATEMENT (FCCA, AT&T, COVAD, FCTA, INTERMEDIA, MCI, MGC, MEDIAONE, and RHYTHMS):

The ALEC, not the ILEC, has the right to designate the demarcation point. Technically feasible demarcation points include, but are not limited, the ALEC's collocation space and an intermediate frame, such as POT bays. An ILEC, however, cannot require interconnection at an intermediate frame unless requested by the ALEC.

STAFF ANALYSIS:

The issue before the Commission is to determine the appropriate demarcation point in the case where the ALEC's equipment is connected directly to the ILEC's network, without an intermediate point of interconnection. Prior to the issuance of the FCC Advanced Services Order, FCC 99-48 in CC Docket No 98-147, typically the ILEC required an ALEC to interconnect at a Point of Termination (POT) bay. However, Rhythms witness Williams states that the Advanced Services Order prohibits ILECs from requiring POT bays because such arrangements increase an ALEC's costs of interconnection. (TR 770) As a result of removing this intermediate point, there is disagreement about the new location of the demarcation point. MGC witness Levy explains:

Without a point of termination ("POT") bay between the ALEC and ILEC, it is difficult to identify a demarcation point. In such case, each cable becomes a type of meet-point since the ALEC is not permitted to reach the ILEC end and the ILEC is not permitted to reach the ALEC end. (TR 910)

He further states:

However, if there is no POT bay, establishing a demarcation point would be less important if the ALEC were permitted to do all of its wiring between its equipment and the ILEC termination destination: the MDF for DS0s; and DSX1 and DSX3 ports for the DS1 and DS3. . . (TR 911)

GTEFL witness Reis argues:

In no event should the ALEC have access to the ILEC's main distribution frame [MDF] to perform end-to-end wiring. The MDF is a

cross-connect point for wiring or jumping numerous pieces of central office equipment.
(TR 449)

If ALECs could access the ALEC's MDF, witness Reis believes ILECs would not be able to keep accurate records of connections, which would affect network reliability. Also, he believes network security would be a concern. (TR 450) Staff is persuaded that an ILEC should not be obligated to offer access to its MDF. Staff notes that the MDF connects directly to the switch. The MDF provides an area for technicians to modify switch connection without actually altering the connections at the switch, which is very difficult due to the extremely large number of connections at any point at the switch. Staff believes that labeling and maintaining terminations is critical and should be performed by one party: the ILEC. Moreover, staff believes that security and network accountability would be jeopardized by requiring ILECs to provide such access.

BellSouth witness Milner proposes that an ILEC should be able to determine the demarcation point. He states:

BellSouth will designate the point(s) of interconnection between the ALEC's equipment and/or network and BellSouth's network. Each party will be responsible for maintenance and operation of all equipment/facilities on its side of the demarcation point. (TR 214)

Witness Milner believes the point of interconnection should be the common block on an ILEC's conventional distribution frame (CDF). (TR 214). Staff notes that the CDF is an intermediate frame located in the common area between the ILEC's main distribution frame and an ALEC's collocation space.

Rhythms witness Williams argues:

BellSouth's requirement that Rhythms wire to the CDF increases Rhythms costs to interconnect and provides no concomitant benefit to BellSouth (other than the increased revenue BellSouth generates from Rhythms). (TR 771)

Moreover, witness Williams states that BellSouth is requiring Rhythms to accept contract amendments which designate the CDF as the point of interconnection. (TR 771) Staff notes that Rhythms provided a copy of the contracts. (EXH 20) Witness Williams

contends that BellSouth insists that Rhythms waive rights provided by the Advanced Services Order in order to obtain cageless collocation. (TR 772)

Analysis

Staff believes there are two reasons why the CDF should not be the required demarcation point. First, staff believes the common area is not an appropriate demarcation point because BellSouth is advocating and staff recommends in Issue 15 that ILECs should perform work in common areas. BellSouth witness Hendrix asserts that any area located outside the ALEC's collocation space is common space (TR 150). Also, witness Hendrix states:

It is BellSouth's responsibility to maintain and to make whatever changes are needed to equipment that are in the -- equipment or elements that are in the office that is outside of the space designated for a given ALEC customer. (TR 147)

However, BellSouth witness Milner states:

The ALEC or its agent must perform all required maintenance to equipment/facilities on its side of the demarcation point and may self-provision cross-connects that may be required within the collocation space to activate service requests. (TR 214)

Staff believes that BellSouth witness Milner and witness Hendrix have presented conflicting positions which would preclude ALECs from performing their own facility maintenance on their side of the demarcation point. Staff notes that BellSouth witness Milner is advocating that an ALEC or its agent would perform maintenance up to the CDF; however, BellSouth witness Hendrix believes that the area outside of the ALEC's collocation space is common space, and only ILECs should maintain that area, including the resident cabling. (TR 147, 150)

Second, Sprint witness Closz states that when a demarcation point is designated at an intermediate frame located at a distance from the collocation space, additional ALEC cabling would be required. (TR 636)

Sprint witness Closz proposes that an ALEC collocation site be the appropriate demarcation point. Witness Closz believes that the

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ALEC's collocation site serves as a meet point. (TR 614) She states:

...the ALEC collocation site serves as the point at which the ALEC and ILEC facilities meet. It is also the point for which maintenance and provisioning responsibilities are split with each party assuming accountability on its side of the demarcation point. (TR 635)

She further asserts:

The FCC has determined that under Sections 251(c)(2) and 251(c)(3), the requesting carrier may choose any method of interconnection or access to unbundled elements that is technically feasible at a particular point. (96-325 local Competition Order P. 549) Thus the ALEC, not BellSouth, is permitted to designate the point of interconnection. (TR 716)

However, BellSouth Witness Milner counters:

. . . the ALEC collocation site is not "the" appropriate demarcation point, but "one" appropriate demarcation point. Second, Ms. Cloz fails to indicate specifically where such a demarcation would be made, or upon what device the demarcation point would reside. (TR 253)

Staff is persuaded that the ALEC's collocation site is the appropriate demarcation point. Staff believes that the demarcation point is the point at which each carrier is responsible for all activities on its side. The evidence of record shows that currently ALECs are not allowed to manage or control the area outside of their collocation space. Moreover, establishing a demarcation point outside of an ALEC's collocation space could prohibit ALECs from managing or performing maintenance to their cabling on their side of the demarcation point without a BellSouth Certified Contractor. Therefore, staff recommends that the ALEC's collocation space would be the appropriate demarcation point. Further, staff believes that because the ILECs manage the cabling and cable racking in the common area, the ILEC should designate the location of such a point at the perimeter of an ALEC's space; however, staff believes ILECs should not be required to terminate

the cabling onto any ALEC device or equipment. The ALEC should be responsible for terminating the cable to its own equipment and notifying the ILEC when completed. Also, staff believes that ILECs should be required to provide an ALEC specified cable extension from the demarcation point at the same costs at which ILECs provide cable to itself.

Staff considered the fact that there are ALECs that prefer to use POT bays and other intermediate points as demarcation points. Staff notes that no ILEC was opposed to an ALEC's use of POT bays in an ALEC's space, or other intermediate points in an ILEC's space up to the CDF. GTEFL witness Reis states:

GTE would allow Covad to put a POT Bay in their collocation space. What GTE would not be in favor of is GTE performing the wiring on equipment that is in the Covad space, that we would provide to the cable...(TR 484)

Staff believes that although the FCC prohibits ILECs from requiring POT bays or other intermediate points of interconnection, ALECs are not prohibited from choosing to use them. Staff notes that parties may negotiate other demarcation points up to the CDF. However, if terms cannot be reached between the carriers, the ALEC's collocation site should become the default demarcation point.

Conclusion

The appropriate demarcation point is an ILEC designated location at the perimeter of an ALEC's collocation space; however, parties may negotiate another demarcation point up to the conventional distribution frame (CDF).

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ISSUE 10: What are reasonable parameters for reserving space for future ILEC and ALEC use?

RECOMMENDATION: Either an ILEC or ALEC should have the ability to reserve space for a period not to exceed 18 months. The reservation of space should be non-discriminatory allowing ALECs and ILECs to reserve space under the same terms and conditions. (WOLFE)

POSITIONS OF THE PARTIES:

BELLSOUTH:

BellSouth and ALECs should be allowed to reserve space for a two-year forecast. Both BellSouth and ALECs must forfeit space not used within this time.

GTEFL:

ILECs and ALECs alike should be able to reserve the amount of space they can support with documented, funded business plans. Given different planning intervals, a uniform period for space reservation is inappropriate.

ALLTEL:

An ILEC cannot retain space on terms more favorably than those that apply to ALECs seeking to reserve collocation space for their own future use.

SPRINT:

FCC rules provide that an ILEC may not reserve space for future use on terms more favorable than those that apply to collocating carriers. The FPSC should adopt additional requirements limiting ILEC and ALEC reservation of space to 12 months.

SUPRA:

The Commission should limit the ILEC reservation of space to one year. Where space is nearing exhaust, the ALECs and ILECs should be required to release space to carriers with an immediate need.

JOINT STATEMENT (FCCA, AT&T, COVAD, FCTA, INTERMEDIA, MCI, MGC, MEDIAONE, and RHYTHMS):

The Commission should limit the ILEC reservation of space to one year. Where space is nearing exhaust, the ALECs and ILECs should be required to release space to carriers with an immediate need.

STAFF ANALYSIS:

The issue before the Commission is the appropriate length of time collocation space can be reserved once collocation space has been granted by the ILEC to a requesting party. While the positions of the parties varied as to the length of time collocation space should be able to be reserved, all but one party agreed that a provider should be allowed to reserve collocation space.

Several ALECs emphasized the need to have the ability to reserve space under the same terms and conditions as the ILECs. The FCC has addressed space reservation in FCC Rule 51.323(f)(4), which states:

An incumbent LEC may retain a limited amount of floor space for its own specific future uses, provided, however, that the incumbent LEC may not reserve space for future use on terms more favorable than those that apply to other communications carriers seeking to reserve collocation space for their own use.

Supra witness Nilson states in his direct testimony that parameters for reserving collocation space should be applied equally to ALECs and ILECs, and neither party should be allowed to reserve space for a greater amount of time than the other. (TR 958)

MCI witness Martinez agrees that there should be parity among parties when reserving central office space. In his testimony, witness Martinez asserted that the maximum time for space reservation should be two years. (TR 703) During cross examination, witness Martinez stated that "[B]ased on industry practice, I believe that space reservation for all parties should be based on a planning horizon for the current year plus one." (TR 721).

Intermedia witness Jackson proposed that ILECs should be required to have a minimum amount of collocation space available in every central office. Intermedia witness Strow stated that "[I]f the space falls below this threshold, the ILEC should have to begin to create plans for expansion of the central office space." (TR 1112) While witness Jackson did not know how much collocation space should be required in each central office, he believes there should be enough space for two collocators at any given time. If space for two collocators is unavailable, the ILEC should relinquish its reserved space and make it available to requesting ALECs. (TR 1112)

Covad is concerned with future growth and disclosure of the ILECs' future growth plans. Covad witness Moscaritolo asserts that if ILECs' plans for future growth lessen the amount of collocation

space available in a central office, the LEC should notify the ALECs waiting to collocate in that central office. He notes that no mechanism exists for ALECs to verify ILECs' future use of their reserved collocation space. Witness Moscaritolo suggests that the ILECs should be required to disclose this information on their websites or in a filing with the Commission. During witness Moscaritolo's summary presented at the hearing, he expressed that whatever decision was concluded on this issue, there should be parity among companies. (TR 855)

GTEFL witness Ries testified that collocation space should be allowed to be reserved for an indefinite amount of time, as long as a documented, funded business plan accompanied the request for collocation space. However, during cross-examination, witness Ries was asked if there were situations when an ALEC would not need a funded, documented business plan in order to reserve collocation space. Witness Ries responded, "If space was available in the central office to accommodate new requests, then that is not needed." (TR 499) Witness Ries further contended that, "[I]f GTE were only able to reserve space on a one-year increment, for example, then it would be forced to plan and implement switch additions on a year-by-year basis." (TR 449) GTEFL witness Ries also asserted that once floor space is granted to an ALEC, the ALEC should be required to pay for items such as utilities, maintenance, and taxes on the space, and should be required to install their cage or bay at the time of reservation. (TR 418)

Sprint witness Hunsucker believes that FCC Rules 51.323(f)(4)-(6) serve as guidelines for the reservation of collocation space, but it is the responsibility of the state commissions to take the next step to ensure collocation occurs in a timely manner. The witness believes that ILECs and ALECs should be able to reserve collocation space for up to 12 months. Witness Hunsucker further states an ILEC should be required to provide justification to the requesting party when denying collocation due to lack of space. This justification would come from the ILEC demand and facility charts, which should include three to five years historical data and forecasted growth. (TR 525)

Witness Hunsucker stated that given the nature of the local telecommunications market and the deployment of advanced services, it is difficult to forecast space requirements beyond 12 months. He believes that a planning period longer than 12 months is just that, for planning, and the further plans are into the future, the more subject they are to change. Sprint witness Hunsucker believes a 12-month reservation period should be adopted over the other alternatives presented because, ". . . we have got to ensure that there is a certainty that space is going to be used when we allow

space to be reserved." (TR 572) While Sprint develops plans for periods of two years, three years, or four years into the future, ". . . those plans do not become funded and they are subject to change at any time." (TR 583) Witness Hunsucker further believes upon remittal of the collocation charges from the ALEC to the ILEC, the ALEC should be required to occupy the collocation space within six months. Failure to occupy the collocation space within six months would allow the ILEC to reclaim the collocation space and satisfy other collocation requests with the reclaimed space. (TR 526)

MGC witness Levy testified there should be no reservation of space in a central office by either an ILEC or an ALEC. The witness believes space reservation creates inefficiencies and adds delays and complications. However, witness Levy goes on to say that ". . . if there must be a reservation policy, it should not in any way favor the ILEC or any affiliated companies or subsidiaries of the ILEC." (TR 911-912) The MGC witness concludes that if MGC foresees future needs for collocation space, perhaps ten months in the future, MGC would immediately reserve it. When asked if MGC was willing to pay for the space upon submitting the application, he stated yes. (TR 944)

BellSouth witness Milner testified that BellSouth currently applies the same standards to an ALEC it applies to itself and it allows an ALEC to reserve space for a two-year period. Witness Milner contends that BellSouth's retail division does not acquire space in a central office, but its network organization does plan future space usage. Witness Milner disagrees with Sprint witness Hunsucker's recommendation of a 12-month reservation policy, reaffirming his position that either BellSouth or an ALEC should be able to reserve space for up to two years. (TR 256)

Further, witness Milner contends that Intermedia's proposal to require ILECs to have space available for two collocators at any given time would put BellSouth at a disadvantage relative to the ALECs. First, he asserts that BellSouth would be disadvantaged if ALECs could reserve space without the possibility of being required to relinquish reserved space, but BellSouth must surrender its reserved space to accommodate future collocators. Second, BellSouth witness Milner contends that BellSouth is not required to construct additional space to lease. (TR 256-257)

Analysis

The parties have presented various positions on the appropriate length of time collocation space can be reserved. These positions include not allowing collocation space to be

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reserved under any circumstance, allowing collocation space to be reserved for an indefinite amount of time, and allowing collocation space to be reserved for a period of from 12 to 24 months. Several parties also emphasized the need for nondiscriminatory treatment with respect to reserving collocation space. The FCC's Rule 51.323(f)(4) addresses this issue:

An incumbent LEC may retain a limited amount of floor space for its own specific future uses, provided, however, that the incumbent LEC may not reserve space for future use on terms more favorable than those that apply to other communications carriers seeking to reserve collocation space for their own use.

To comply with Rule 51.323(f)(4), staff believes that the length of time an ILEC or a requesting carrier can reserve collocation space should be the same. Moreover, staff is persuaded that an ILEC or a requesting carrier should be allowed to reserve collocation space subject to the same terms and conditions.

MGC Communications witness Levy has proposed there not be a time period in which collocation space can be reserved. Witness Levy believes when a collocator discovers a need for collocation space, interested collocators should secure the space at that time, including submitting the application for collocation, the application fee, and all required capital outlay to have the space prepared for their intended use.

Staff believes MGC witness Levy's proposal is not reasonable. Given the cost incurred for preparing collocation space, this method could deter competitive entrants that do not have sufficient capital for short-term outlays, and impede competitive carriers from expanding into new markets. This approach would create a guessing game as to when and how long collocation space would be available in a central office and hinder future central office expansion plans.

GTEFL proposes that a company be allowed to reserve an unlimited amount of collocation space for an indefinite amount of time, if supported by a funded, documented business plan. GTEFL witness Ries testified that different types of equipment have different implementation and planning intervals. GTEFL believes that limiting the time collocation space can be reserved would result in an inefficient and costly approach to accommodate network additions. (TR 449) When GTEFL witness Ries was asked if collocation space could be reserved without a funded, documented business plan, he responded, "[I]f space was available in a central office to accommodate new requests, then that is not needed." (TR

499) During cross-examination, GTEFL witness Ries was also asked to describe what a funded, documented business plan included. He said GTEFL reviews and updates its forecasted future requirements on a quarterly basis to determine when a switch would require an addition. He also stated the funded, documented business plan can trigger where future switch additions may be needed to accommodate growth two or three years into the future.

Staff does not believe that the existence of a funded, documented business plan warrants reserving collocation space for an indefinite amount of time. While GTEFL contends the reservation of collocation space varies by central office, this method provides little incentive for companies to install equipment and utilize collocation space in a timely manner. This proposal could accelerate space exhaustion and hinder the ability of other competitive carriers to obtain collocation space. Further, this proposal also could create a situation where one ALEC could control all available collocation space in a particular central office. This would lead to other ALECs having to succumb to the terms and conditions of the host ALEC. Staff believes GTEFL can sustain adequate forecasting and future growth planning while restricting the allowed period for space reservation.

BellSouth and Sprint believe that both ALECs and ILECs should be able to reserve space under equal terms and conditions; however, they differ as to the length of time a requesting collocater is allowed to have space reserved. BellSouth proposes a 24 month period, while Sprint proposes a period of 12 months.

BellSouth witness Milner contends that a two-year planning horizon gives adequate notice to the parties as to what their expected needs for space reservation space might be. (TR 279) Witness Varner also states BellSouth currently reserves and allows ALECs to reserve space on a two-year basis. Although BellSouth reserves space on a two-year basis, this time period may be overstated somewhat. Along with allowing requesting parties to reserve space for two years, BellSouth initiates a six-month window for forfeiture of space. Current BellSouth policy is that after six months has passed and an ALEC or BellSouth has not begun to make use of the space, while another ALEC has requested space and there is no available space in that central office, this would trigger a forfeiture of space from either the ALECs or BellSouth. (TR 307-308) In his direct testimony, witness Milner described the process for determining equipment requirements. He indicated that "Currently, BellSouth projects equipment requirements for the next 12 to 18 months based on the actual demand of the past 12 to 18 months." (TR 216)

Sprint witness Hunsucker proposed 12 months as a sufficient period for the reservation of space. Sprint witness Hunsucker testified that because of the nature of the telecommunications industry and the deployment of advances services, it is difficult to forecast beyond 12 months. He also believes planning beyond twelve months is just that, planning.

Conclusion

Staff recommends, based on the record, that an 18-month reservation period should be established for reserving space. An 18-month reservation period should apply to all providers alike, ILECs and ALECs. It is further evident that space within a central office is a limited resource. Limiting the length of time space is allowed to be reserved will promote efficient use of central office space and allow current and future collocators the ability to reserve space and enter new markets, stimulating competition. An 18-month reservation policy will also allow requesting collocators to more accurately forecast and adjust space requirements.

Two other peripheral topics were raised by certain parties in this issue. First, GTEFL witness Ries believes ALECs should begin paying for collocation space once the ALEC is granted collocation space by the ILEC. (TR 418) Second, Sprint witness Hunsucker believes the ILEC in a particular franchise area should have the ability to reclaim unused collocation space after a period of time has elapsed. (TR 527) While staff acknowledges these as legitimate issues, we believe there is insufficient evidence presented in this docket to make recommendations on these concerns. Furthermore, these points are beyond the scope of the issue to be decided.

ISSUE 11: Can generic parameters be established for the use of administrative space by an ILEC, when the ILEC maintains that there is insufficient space for physical collocation? If so, what are they?

RECOMMENDATION: No, generic parameters cannot be established due to the uniqueness of each central office. When an ALEC believes that no space exists for physical collocation, the Commission will follow the procedures outlined in PSC Order Nos. PSC-99-1744-PAA-TP and PSC-99-2393-FOF-TP to determine whether a waiver of the physical collocation requirements should be granted. (WOLFE)

POSITIONS OF THE PARTIES:

BELLSOUTH:

Administrative space should be defined as any space not directly supporting the installation or repair of both telephone equipment and customer service. Generic parameters cannot be established because there are space, equipment, building code, manpower and other requirements unique to each central office.

GTEFL:

No. Generic parameters for the use of the ILEC's administrative space are infeasible. Because each central office is different, the reasonableness of the ILEC's use of space should continue to be assessed on a case-by-case basis.

ALLTEL:

No. The variance in central office infrastructure would make the attempt to establish generic parameters an onerous and unmanageable task.

SPRINT:

Yes, generic guidelines should be established to promote the availability of space for competitive purposes. ILECs should be required to relocate administrative office personnel before denying physical collocation requests. Administrative office personnel should be defined as personnel that are not essential to the function of a particular premise.

SUPRA:

Yes, ILECs should be required to relocate all office administrative personnel before denying physical collocation requests. Administrative personnel should be defined as personnel that are not essential to the function of a particular premise.

JOINT STATEMENT (FCCA, AT&T, COVAD, FCTA, INTERMEDIA, MCI, MGC, MEDIAONE, and RHYTHMS):

Yes, ILECs should be required to relocate all office administrative personnel before denying physical collocation requests. Administrative personnel should be defined as personnel that are not essential to the function of a particular premise.

STAFF ANALYSIS

The issue before the Commission is when available collocation space has been exhausted, whether guidelines should be established for when administrative space should be converted into physical collocation space. Suggested generic guidelines for converting administrative space into collocation space include relocating administrative personnel away from central offices, limiting the amount of space used in a central office for training purposes, and limiting the size of employee amenities including break rooms and bathrooms. From all the testimony, two distinct and different opinions arose.

Witness Ries representing GTEFL and BellSouth witness Milner both agreed that generic parameters cannot be established. GTEFL witness Ries states, "[T]rying to define such parameters would be futile. Each ILEC premise has its own, unique set of circumstances." (TR 419) He also alluded to the fact that if certain parameters were met, the ALECs would still dispute the availability of collocation space.

BellSouth witness Milner defines administrative space as ". . . any space not directly supporting the installation or repair of both telephone equipment and customer service." (TR 222) Examples of administrative space include storerooms, break rooms, training areas, and space used by workgroups performing functions not related to telecommunications equipment. BellSouth witness Milner indicated that generic parameters cannot be established because of the differences between central offices. These differences include variations in equipment requirements with respect to space needs and power requirements, building codes that affect remodeling and building additions, and other unique characteristics. These unique characteristics also influence the number and types of people necessary to ensure the daily operations of the central office, the design and size of the facility, and differences among computer systems controlling each central office. (TR 223) Witness Milner further explains,

The demands for space within central offices are not the same. They are unique, and so are the amounts of

equipment, the number of people that are required to maintain that equipment and repair it if it breaks. So while ALECs may argue that some or all of these administrative purposes are not indispensable, and argue that BellSouth must relocate or dispose of that space, this Commission, I believe, should affirm BellSouth's use of administrative space as a practical use of the available space within the central office. (TR 280)

Several parties believe that generic guidelines can and should be established with respect to when administrative space should be converted into physical collocation space. Sprint witness Hunsucker believes that establishing guidelines pertaining to space availability would promote competition. The witness indicates they are being denied physical collocation space in other ILEC facilities when space is being occupied by administrative personnel not essential to the daily functions of a central office. (TR 527)

Sprint witness Hunsucker's definition of administrative personnel is slightly different from BellSouth's definition. Witness Hunsucker defines administrative personnel as those employees whose work is not directly related to the central office switching function that is provided in that location. (TR 580) The witness also believes ALECs should have the ability to locate their switching/transmission equipment in the same location the ILECs locate their comparable equipment. Sprint witness Hunsucker believes ILECs should be required to relocate administrative personnel before denying physical collocation requests. Administrative office personnel that are not essential to the functioning of a particular central office should also be relocated. (TR 528) Sprint believes the cost of relocating administrative personnel should be recoverable. ILECs should be allowed to recover a portion of the relocation cost based on the percent of the requested collocater's square footage to the total square footage of relocated administrative personnel. (TR 528-529)

While witness Hunsucker does not contest the need for training areas or employee bathrooms in a central office, he does express concern over the size of such areas and believes that training rooms and bathrooms that are much larger than needed should be reduced in size. (TR 559)

Taking witness Hunsucker's position one step further, MGC witness Levy asserts that, ". . . there is no more economically efficient use of space within an ILEC central office than use for the purpose of housing telecommunications equipment." (TR 912) MGC witness Levy believes that all space in a central office should be used for this purpose with the exception of a minimal amount of

space used for employee bathrooms and space needed by technicians. Witness Levy contends in his testimony that ILECs leave unused and old equipment sitting in central offices in an effort to absorb space. (TR 922)

BellSouth witness Milner disagrees with Sprint witness Hunsucker and explains the necessity for certain types of administrative space, such as training areas. He stresses the need for training and quiet areas to facilitate the learning process. He also believes relocating training space would reduce the efficiency of the training process and impact the quality of service. (TR 261)

MCI witness Martinez contends there is no need for generic parameters to be established when collocation space exists in a central office. The witness believes parameters should be established to apply in instances when collocation requests are denied. Specifically, witness Martinez believes that guidelines governing what constitutes reasonable levels of administrative space are needed when collocation requests are denied on the basis of space exhaustion when administrative personnel are housed in the same facility. Witness Martinez recommends " . . . that minimum office force, work area, and floor space guidelines should be identified for each class of wire center." (TR 704) These guidelines should be approved by the Commission.

Intermedia witness Jackson takes Witness Martinez's recommendation one step further, and recommends that the Commission act as a space administrator and assign collocation space in ILEC's central office. Witness Jackson says that whether collocation space is deemed available through creation, conversion, or reclamation of space, including administrative space, the Commission should be the administrator of such space. Intermedia also suggests the Commission require all ILECs to retain applications for physical collocation for a period not to exceed five years. (TR 1113)

Conclusion

The testimony of the parties presented two distinct points of view. Sprint and the ALEC parties believe generic parameters can and should be established for converting administrative space into physical collocation space, while BellSouth and GTEFL believe generic parameters cannot be established. Most parties believe the Commission should establish generic parameters for when administrative space should be relinquished and converted into physical collocation space. While the parties have suggested limiting the size of employee bathrooms, break rooms, and training areas, no detailed guidelines for implementing this proposal were presented. Staff questions whether generic standards can be

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established for converting administrative space into physical collocation space due to the uniqueness of each central office. Staff also disagrees with Intermedia witness Jackson's suggestion that the Commission act as the administrator of physical collocation space within a central office. We believe that building engineers and network managers have greater expertise than this Commission to manage central office facilities.

Staff agrees with the witnesses presented by BellSouth and GTEFL that adequate generic parameters cannot be established. Each central office has a set of unique circumstances that factor into how much administrative space is essential to the daily operations of that office. The amount of administrative space necessary per central office varies by the types of equipment in use, building limitations and design, and the expertise and number of people necessary to ensure proper operation of the central office. Notwithstanding this conclusion, staff would note that this Commission has established procedures in FPSC Orders Nos. PSC-99-1744-PAA-TP and PSC-99-2393-FOF-TP for when ILECs believe collocation space has been exhausted and to determine whether a waiver of the physical collocation requirements should be granted. These orders establish procedures and requirements for determining whether collocation space is unavailable in a particular central office.

ISSUE 12: What types of equipment are the ILECs obligated to allow in a physical collocation arrangement?

RECOMMENDATION: Staff recommends that the Commission order ILECs to allow the types of equipment, in a physical collocation arrangement, that are consistent with FCC rules and orders. Further, if the ILEC objects to the collocation of equipment by a requesting telecommunications carrier, it must prove to the Commission that the equipment will not be used for interconnection or access to unbundled network elements. However, staff does recommend that the ALEC provide to the ILEC, upon request, any manufacturer specifications regarding the equipment in dispute.
(FAVORS)

POSITIONS OF THE PARTIES:

BELLSOUTH:

Equipment that can be used to provide telecommunications service, such as Digital Subscriber Line Access Multiplexers (DSLAMs), routers, Asynchronous Transfer Mode (ATM) multiplexers, Remote Switching Modules (RSMs), and stand-alone switching equipment should be allowed in a physical collocation arrangement. Equipment used solely to provide enhanced services should not be allowed in a physical collocation arrangement.

GTEFL:

ILECs must allow equipment that is necessary for interconnection or access to unbundled network elements (UNEs).

ALLTEL:

ILECs subject to Section 251(c)(6) of the 1996 Act are required to permit collocation of any equipment required by the statute unless they first prove to the state commission that the equipment will not be used by the carrier for obtaining interconnection or access to unbundled network elements.

SPRINT:

Pursuant to FCC rules an ILEC must permit the collocation of any type of equipment used for interconnection or access to unbundled network elements.

SUPRA:

An ILEC must permit the collocation of any type of equipment that is "used or useful" for interconnection or access to unbundled network elements. This includes, but is not limited to, transmission equipment, optical terminating equipment and multiplexers, DSLAMs, routers, ATMs and remote switching modules.

JOINT STATEMENT (FCCA, AT&T, COVAD, FCTA, INTERMEDIA, MCI, MGC, MEDIAONE, and RHYTHMS):

An ILEC must permit the collocation of any type of equipment that is "used or useful" for interconnection or access to unbundled network elements. This includes, but is not limited to, transmission equipment, optical terminating equipment and multiplexers, DSLAMs, routers, ATMs and remote switching modules.

STAFF ANALYSIS:

The issue before the Commission is to determine the types of equipment that an ILEC is obligated to allow an ALEC to place in a physical collocation arrangement. The FCC has addressed this issue on numerous occasions, including in FCC Rules §51.323(b)-(c), the First Report and Order (FCC 96-325) issued on August 8, 1996, and most recently in its First Advanced Services Order (FCC 99-48) issued on March 31, 1999.

BellSouth witness Milner cites paragraph 28 of the Advanced Services Order which "requires the collocation of Digital Subscriber Line Access Multiplexers (DSLAMs), routers, Asynchronous Transfer Mode (ATM) multiplexers, and Remote Switching Modules (RSMs)." He states that BellSouth has allowed collocation of these types of equipment plus "stand-alone" switching equipment. Witness Milner contends that because the FCC Advanced Services Order does not require collocation of equipment used solely for enhanced services, BellSouth believes that it is already in compliance with the FCC's requirements. (TR 203-204)

GTEFL witness Ries believes that the FCC has answered this issue and has provided enough direction for this Commission to determine ILECs' obligations in this area. (TR 420) In support of this, he cites paragraphs 28 and 30 of the Advanced Services Order in which the FCC addressed this issue. (TR 419) Witness Ries also argues:

Indeed, it would not be possible or desirable to draw up an exhaustive list of particular

pieces of equipment that could be collocated, as the ALECs might advocate. Such a list would, no doubt, be obsolete as soon as it was established, and there would inevitably be ALEC requests to collocate equipment not on the list. If there are disputes about interpretation of the FCC rule as applied to a particular piece of equipment, the only practical approach is for the Commission to address them on a case-by-case basis. (TR 420)

Sprint witnesses Hunsucker and Closz both refer to FCC Rule 51.323(b) and state that this rule requires an ILEC to permit collocation of any type of equipment used for interconnection or access to unbundled network elements. (Hunsucker TR 529; Closz TR 615) Witness Hunsucker states that the only limitation contained in the FCC rules is that ILECs are not required to permit collocation of equipment used solely for switching or solely to provide enhanced services. (TR 529-530) He further contends:

Additionally, if the ALEC places mixed use equipment, i.e., equipment used for interconnection or access to unbundled network elements that also provide switching or enhanced services functionality, the ILEC cannot place any limitations on the ability of the ALEC to use all the features, functions, and capabilities of the equipment, including, but not limited to switching, routing features and functions and enhanced services capabilities. (TR 530)

Witness Closz contends that the FCC rules, which require ILECs to permit a broad range of telecommunications equipment deployment within collocation arrangements, provide flexibility to ALECs seeking to provide advanced telecommunications services. (TR 616)

MCI witness Martinez, Covad witness Moscaritolo, MGC witness Levy and Supra witness Nilson all cite to paragraph 28 of the FCC's Advanced Services Order in addressing the equipment allowed in a physical collocation arrangement. (Martinez TR 705; Moscaritolo TR 842; Levy TR 912; Nilson TR 959) MCI witness Martinez states that FCC Rules 51.323(b)-(c) require that an ILEC permit any equipment that is "used or useful" for either interconnection or access to unbundled network elements, regardless of the other functionalities inherent in such equipment. (TR 705) He also contends that the ILEC cannot impose safety or engineering standards that are more stringent than the standards that the ILEC applies to its own

equipment located on the premises in question. (TR 705) MGC witness Levy believes that the ALEC should be permitted to install any equipment that meets the BellCore Network Equipment and Building Specifications (NEBs) level 1 compliance, regardless of its functionality. (TR 913)

Intermedia witness Jackson adds:

The FCC concluded in its Collocation Order that ILECs should not be permitted to impede competing carriers from offering advanced services by imposing unnecessary restrictions on the type of equipment that competing carriers may collocate . . . As a result, ILECs can no longer prohibit the types of equipment collocated by ALECs as long as it is used for interconnection or access to unbundled network elements. (TR 1115)

Analysis

Staff must first note that although the parties wanted the issue of the types of equipment placed in a physical collocation arrangement in this proceeding, there is not much disagreement on this issue. In fact, the parties do little more than cite relevant FCC orders. Congress addressed the obligation of collocation by Incumbent Local Exchange Carriers in section 251(c)(6) of the Act:

(6) Collocation.-The duty to provide, on rates, terms, and conditions that are just, reasonable, and nondiscriminatory, for physical collocation of equipment necessary for interconnection or access to unbundled network elements at the premises of the local exchange carrier, . . .

The FCC later clarified that "necessary does not mean 'indispensable' but rather 'used' or 'useful.'" (FCC 96-325, ¶579)

The FCC also addressed equipment placement in rules §51.323(b)-(c) as they read:

(b) An incumbent LEC shall permit the collocation of any type of equipment used for interconnection or access to unbundled network elements . . . Equipment used for interconnection and access to unbundled

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network elements includes, but is not limited to:

(1) Transmission equipment including, but not limited to, optical terminating equipment and multiplexers; and

(2) Equipment being collocated to terminate basic transmission facilities pursuant to §§64.1401 and 64.1402 of this chapter as of August 1, 1996.

(c) Nothing in this section requires an incumbent LEC to permit collocation of switching equipment or equipment used to provide enhanced services.

Further, the FCC clarified its positions on collocation equipment in its Advanced Services Order, issued March 31, 1999, when it stated:

We agree with commenters that our existing rules, correctly read, require incumbent LECs to permit collocation of all equipment that is necessary for interconnection or access to unbundled network elements, regardless of whether such equipment includes a switching functionality, provides enhanced services capabilities, or offers other functionalities. Our rules obligate incumbent LECs to "permit the collocation of any type of equipment used for interconnection or access to unbundled network elements." Stated differently, an incumbent LEC may not refuse to permit collocation of any equipment that is "used or useful" for either interconnection or access to unbundled network elements, regardless of other functionalities inherent in such equipment . . . We further agree with commenters that this rule requires incumbent LECs to permit competitors to collocate such equipment as DSLAMs, routers, ATM multiplexers, and remote switching modules. Nor may incumbent LECs place any limitations on the ability of competitors to use all features, functions, and capabilities of collocated equipment, including, but not limited to, switching and routing features and functions. (FCC 99-48, ¶325)

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MGC witness Levy states that the ALEC should be permitted to install any equipment that meets the BellCore Network Equipment and Building Specifications (NEBs) level 1 compliance, regardless of its functionality. (TR 913) Staff disagrees. The FCC has clearly stated that it continues to decline "to require incumbent LECs to permit the collocation of equipment that is not necessary for either access to UNEs or for interconnection, such as equipment used exclusively for switching or for enhanced services." (FCC 99-48, ¶30)

Staff agrees with GTEFL witness Ries that it would not be possible, or desirable, to draw up an exhaustive list of equipment that could be collocated. Due to rapidly changing technology, such a list would be obsolete in very short order.

The only point of contention seems to be who should bear the responsibility of proving to the state commission whether a particular piece of equipment should be collocated. Sprint witness Hunsucker and Intermedia witness Jackson believe that the burden of proof should be on the ILEC to prove that the equipment will not be used for interconnection or access to unbundled network elements. (TR 530, TR 1115) However, BellSouth witness Milner counters:

It should be the responsibility of the ALEC to demonstrate that any equipment it proposes to collocate in ILEC spaces is in compliance with the FCC's rules. It is my view that it would be an unreasonable burden upon ILECs to prove the contrary case. ILECs could be faced with employing extensive technical resources to evaluate equipment not used for telecommunications purposes. (TR 266)

The FCC has also addressed this situation as it stated:

. . . Whenever an incumbent LEC objects to collocation of equipment by a requesting telecommunications carrier for purposes within the scope of section 251(c)(6) of the Act, the incumbent LEC shall prove to the state commission that the equipment will not be actually used by the telecommunications carrier for the purpose of obtaining interconnection or access to unbundled network elements . . . (47 CFR §51.323(b))

It upheld this position in its Advanced Services Order. (FCC 99-48, ¶28) Staff cannot follow the logic of BellSouth witness Milner. If

the ILEC has denied collocation of a particular piece of equipment, presumably it has done whatever is necessary to determine that the equipment will not be used for interconnection or access to unbundled network elements. Therefore, all it needs to do is present this information to the state commission. Thus, staff believes that this responsibility should belong to the ILEC. However, staff does recommend that the ALEC provide to the ILEC, upon request, any manufacturer specifications regarding the equipment in dispute.

In summary, staff believes that the FCC has provided sufficient direction in determining the equipment that may be physically collocated. The FCC's rules require incumbent LECs to permit collocation of all equipment that is necessary for interconnection or access to unbundled network elements, regardless of whether such equipment includes a switching functionality, provides enhanced services capabilities, or offers other functionalities. The FCC has also stated that an incumbent LEC may not place any limitations on the ability of competitors to use all the features of its collocated equipment. However, the FCC still declines to require the collocation of equipment that is used exclusively for switching or enhanced services. Also, the FCC has stated that it is the responsibility of the ILEC to prove to the state commission that equipment will not be used for interconnection or access to unbundled network elements.

Conclusion

Staff believes that the FCC has provided sufficient direction to determine what equipment may be installed in a physical collocation arrangement. Therefore, staff recommends that the Commission order ILECs to allow the types of equipment in a physical collocation arrangement that are consistent with FCC rules and orders. Further, if the ILEC objects to the collocation of equipment by a requesting telecommunications carrier, it must prove to the Commission that the equipment will not be used for interconnection or access to unbundled network elements.

ISSUE 13: If space is available, should the ILEC be required to provide price quotes to an ALEC prior to receiving a firm order for space in a central office (CO)?

- A. If an ILEC should provide price quotes to an ALEC prior to receiving a firm order from that ALEC, when should the quote be provided?
- B. If an ILEC should provide price quotes to an ALEC prior to receiving a firm order from that ALEC, should the quote provide detailed costs?

RECOMMENDATION: Yes. If collocation space is available, the ILEC should be required to provide price quotes to an ALEC prior to receiving a firm order for space in a central office.

- A. The price quote should be provided within fifteen (15) calendar days from the date the ILEC receives the complete and accurate application.
- B. The price quote should provide detailed costs. **(BARRETT)**

POSITION OF PARTIES

BELLSOUTH:

An ILEC should be required to provide price quotes to an ALEC prior to receiving a firm order. BellSouth provides price estimates (subject to true-up) to an ALEC within 30 days of receipt of a complete and accurate application and application fee.

GTEFL:

Under its tariff, GTE will provide a price quote within 15 days of receipt of the ALEC's collocation application. This quote provides all the information necessary for the ALEC to place a firm order.

ALLTEL:

Yes. "Best estimate" price quotes should be provided within 20 business days of request with detailed cost information so that the alternative types of collocation for the CO in question can be evaluated. Estimates should be firmed-up to a firm quote as expeditiously as possible.

SPRINT:

If an ALEC decides that it needs a price quote prior to placing of a firm order, the price quote should be provided no later than 30 calendar days after receipt of a collocation application. Additionally, to address the need for pricing certainty, Sprint supports the tariffing of collocation prices.

SUPRA:

As discussed in Issue 1, ILECs should be required to provide price quotes within 15 calendar days after receipt of a collocation application, prior to receiving a firm order. The price quote should contain detailed cost information sufficient to enable the ALEC to verify the reasonableness of the estimate.

JOINT STATEMENT (FCCA, AT&T, COVAD, FCTA, INTERMEDIA, MCI, MGC, MEDIAONE, and RHYTHMS):

As discussed in Issue 1, ILECS should be required to provide price quotes within 15 calendar days after receipt of a collocation application, prior to receiving a firm order. The price quote should contain detailed cost information sufficient to enable the ALEC to verify the reasonableness of the estimate.

STAFF ANALYSIS:

In Issue 1, staff recommends that the ILEC should be required to respond to a complete and accurate application with all information necessary for an ALEC to place a firm order, including information on space availability and a price quote, within fifteen (15) calendar days from the date the ILEC receives the collocation application. Staff's recommendation and analysis here essentially mirrors that provided in Issue 1 and also addresses the level of cost detail which should be included in the price quote.

The ILECs sponsoring witnesses in this docket included BellSouth, GTEFL, and Sprint. The respective witnesses for these companies, Hendrix, Reis, and Closz, all agreed that the ILEC should be required to provide price quotes to an ALEC before receiving a firm order for collocation space. (Hendrix TR 34; Reis TR 420; Closz TR 618) Subparts A and B of this issue, however, seek to determine the appropriate response interval for the ILEC to provide price quotes, and whether or not the ILEC price quote for collocation space should provide detailed costs. These two topics

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drew an array of responses, particularly as to the response interval.

FCC Order 99-48, released March 31, 1999 in CC Docket No. 98-147 (Order 99-48, or Advanced Services Order) provides some guidance, but not a definitive ruling, on a reasonable response interval. In Order 99-48, the FCC concluded that responses for collocation requests should be addressed in a ". . . timely and pro-competitive manner" and that ten (10) days for a response was "reasonable." (EXH 1, Order 99-48, ¶55) The Advanced Services Order, however, gave state commissions the latitude to impose additional requirements. (Id. ¶23)

The parties offered a range of answers regarding the appropriate response interval for collocation requests. Witness Williams, for Rhythms, contends that the ILEC should respond within fifteen (15) calendar days with all the information necessary for an ALEC to submit a firm order, including space availability and a price quote. (TR 762) Supra witness Nilson offers that a detailed response within thirty calendar days is reasonable. (TR 960)

The ILECs drew a distinction between the interval for the space availability response and the price quote response. Witness Closz, for Sprint, contends that the space availability response interval should be ten (10) calendar days. (TR 618) The witness offers that the price quote should be provided ". . . within fifteen (15) calendar days if the rates are established by tariff or the ALEC's interconnection agreement, or thirty (30) days if individual case basis (ICB) rates need to be developed." (TR 618) BellSouth witness Hendrix states that the space availability response interval should be fifteen (15) calendar days and the price quote response interval should be thirty (30) calendar days. (TR 34, 67) GTEFL witness Reis contends that within fifteen (15) calendar days, his company will provide both space availability information and a price quote. (TR 413)

BellSouth witness Hendrix states that the interval for providing an ALEC price quote should be thirty (30) business days, primarily because "each request coming to us is quite different," and as such, BellSouth treats each request as an ICB for price development. (TR 34, 68) Witness Hendrix states that BellSouth provides an estimate which details the collocation construction charges for two broad categories: Space Preparation and Cable Installation. (TR 34) The witness acknowledged that these estimates are subject to "true up" with the ALEC, once actual prices are available. (TR 129)

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GTEFL and BellSouth witnesses assert that an order is made "firm" upon the ALEC's submission of fifty percent (50%) of the price estimate. (Reis TR 414; Hendrix TR 130)

Supra witness Nilson disputes the adequacy of BellSouth's price estimates, stating that he doubts that BellSouth actually provides an accurate estimate in response to a collocation application, which results in the ALEC having to deal with cost overruns. (TR 986) He states that BellSouth's price quote, which consists of a three-line document, is often erroneous, and that BellSouth has only offered to share detailed information with Supra during the "true up" process, and not up front, as his company would prefer. (TR 998-999) Under cross examination, witness Hendrix was asked about the very detailed, 180-line item quote summary sheet used by Southwestern Bell, and whether his company, BellSouth, could provide a similar document. (EXH 12; TR 161-162) Witness Hendrix's response was noncommittal.

By contrast, GTEFL witness Reis advocates that detailed information is not necessary, since pricing for collocation arrangements will be set by reference to a tariff most of the time. (TR 421)

Three ALECs agree that the more detailed the price quote is, the better. (Williams [Rhythms] TR 762; Nilson [Supra] TR 960; Jackson [Intermedia] TR 1115) Witness Nilson explains that the detail is needed to review the elements that were compiled by the ILEC to render a collocation price quote. (TR 960) MGC witness Levy advances that ". . . the key is to get away from ICB pricing and make all such elements tariffed." (TR 914) FCCA witness Gillan echoes a similar message, stating that in a tariffed framework, an ALEC could simply "order" collocation with full information about availability, terms, conditions, and prices known in advance. (TR 1032) Sprint, GTEFL, Supra, and the FCCA, whose members primarily include ALECs, all advocate the tariffing process as a vast improvement to BellSouth's ICB framework currently in place. (Closz TR 619; Reis TR 412; Nilson TR 999; Gillan TR 1051) FCCA witness Gillan states that tariffing, as opposed to ICB pricing, introduces a degree of certainty and accountability to the process for the competitive entrants. (TR 1051) Witness Gillan believes that the detailed information would be in the tariff, and not in the traditional, outdated price quote. (TR 1032)

The evidence of this record shows that, in general terms, the parties agree that the ILEC should be required to provide a price quote to the ALEC before receiving a firm order for collocation space. Staff asserts that a price quote is necessary before an ALEC can submit a firm order because, quite simply, the order

cannot be considered "firm" by the ILEC until the ALEC submits a fifty percent (50%) payment of the price estimate. The price quote should provide sufficient detail for the ALEC to submit a firm order, but staff refrains at this time from a specific recommendation on the quantity of detail which should be included in the price quote. Staff, however, notes that the example provided in Exhibit 12, the 180-line Southwestern Bell price quote summary, provided an abundance of detail. We believe that an ILEC, including BellSouth, should be capable of providing more detail than three line items in the price quote for collocation space.

Conclusion

Staff recommends that the ILEC should be required to respond to a complete and accurate application with all information necessary for an ALEC to place a firm order, including information on space availability and a price quote, within fifteen (15) calendar days from the date the ILEC receives the collocation application. Additionally, staff recommends that the collocation response interval begins on the date when the ILEC receives the complete and accurate application.

Staff recommends that the price quotation from the ILEC should contain detailed costs. The price quote should provide sufficient detail for the ALEC to submit a firm order, but staff refrains at this time from a specific recommendation on the quantity of detail which should be included in the price quote. However, we believe that an ILEC, including BellSouth, should be capable of providing more detail than three line items in the price quote for collocation space.

While staff recognizes that all requests for collocation vary, there is a valid argument for standardizing the price development process (i.e., a tariffing platform) whereby the pricing information on certain, common elements is known, and readily available. However, staff is not recommending a specific platform at this time, as this issue and proceeding speak more to the operational procedures for collocation, and not to pricing. Collocation pricing will be addressed in a future proceeding.

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ISSUE 14: Should an ALEC have the option to participate in the development of the ILEC's price quote, and if so, what time frames should apply?

RECOMMENDATION: No. The ALEC should not have the option to participate in the development of the ILEC's price quote for collocation space. (BARRETT)

POSITION OF PARTIES

BELLSOUTH:

No. The ILEC's price estimate is an estimate of the cost of the work that will be done by the ILEC. The ALEC's participation in this estimate should be limited to providing detailed and accurate information regarding the collocation arrangement it is requesting.

GTEFL:

The concept of ALEC participation in development of a price quote is not relevant when the price comes from a tariff, as is the case for GTE.

ALLTEL:

ALECs should not necessarily be involved in the price quote development; but should be able to review the quote prior to its finalization. A joint planning session preceding the development of the quote would mutually beneficial to the parties.

SPRINT:

ALECs should have the option to participate in the ILEC's development of a price quote only to the extent of providing specific requests or development parameters along with the collocation request.

SUPRA:

Yes. The ILEC should permit the ALEC to participate in the development of the ILEC's price quotes. Standard pricing would greatly expedite the price quote process. The Commission should conduct an investigation that will establish standard pricing for collocation.

JOINT STATEMENT (FCCA, AT&T, COVAD, FCTA, INTERMEDIA, MCI, MGC, MEDIAONE, and RHYTHMS):

Yes. The ILEC should permit the ALEC to participate in the development of the ILEC's price quotes. Standard pricing would greatly expedite the price quote process. The

Commission should conduct an investigation that will establish standard pricing for collocation.

STAFF ANALYSIS:

This issue addresses whether the ALEC should participate in the development of the ILEC's price quote for collocation and the time frame for any such participation. There seems to be general agreement that the ALEC's collocation request should be detailed and specific, but there is no agreement on a cooperative process for developing the price quote.

BellSouth witness Hendrix testifies that the price quote is an estimate for the cost of the work that will be done by the ILEC (i.e., BellSouth), and that the ALEC's involvement would be inappropriate and inefficient. (TR 58-59) Witness Hendrix states that BellSouth prepares a unique, ICB price quote for all collocation applications. (TR 34, 68) If required to develop price quotes with the ALEC's participation, witness Hendrix asserts that, from BellSouth's perspective, the application response process could take longer than it otherwise would. (TR 59) Witness Hendrix states that:

. . . it is not reasonable for the ALEC to participate in the estimate other than by providing detailed and accurate information . . . [which] includes racking information, bay information, power and cable requirements, equipment layout and other specifics. (TR 34-35)

GTEFL and Sprint witnesses, Reis and Closz, respectively, reach a similar conclusion, but approach the issue from a completely different perspective. Witnesses Reis and Closz support tariffing collocation prices, which would impact the development of the ILEC/ALEC price quote. (Reis TR 421; Closz TR 621) Witness Reis states that if collocation prices were tariffed and the ALEC submitted its application with accurate information, ". . . there really [would be] no further involvement required on the part of the ALEC." (TR 421)

Sprint witness Closz argues that ALECs seem interested in participating in the price quote because

. . . the total cost to provision the space is perceived to be higher than appropriate. Sprint's assumption would be that the ALEC may believe that they could provide

suggestions or alternatives that would serve to reduce the provisioning costs. (TR 620)

The witness states that Sprint supports a limited role for the ALEC in the ILEC/ALEC price quote development procedure, primarily for clarification, or perhaps a recalculation of a price quote. (TR 620-621) The ALEC's participation should be ". . . only to the extent of providing specific requests or development parameters . . ." (Closz TR 620) She cautioned that further involvement by the ALECs would be ". . . cumbersome and would seriously impede the ILEC's ability to provide timely price quote responses." (Closz, TR 621) Witness Closz concludes by offering Sprint's support for ILEC tariffing by asserting that ". . . ILEC tariffing of collocation prices would not only expedite the price quote process, but would give the ALECs much greater certainty with respect to anticipated collocation costs." (TR 621)

Three ALECs, Covad, MGC, and Supra, advocate ALEC participation in the development of a price quote, but MGC, Supra, and the FCCA, whose members primarily include ALECs, promote the tariffing of collocation rates. (Moscaritolo [Covad] TR 842; Levy [MGC] TR 914; Nilson [Supra] TR 999; Gillan [FCCA] TR 1051) MGC witness Levy states that ". . . if all collocation elements were tariffed, there would be no need to develop price quotes." (TR 914)

Covad witness Moscaritolo and Supra witness Nilson each believe the ALEC should have an option to participate in the development of an ILEC's price quote, as a means to determine whether the amounts charged by the ILEC are reasonable. (TR 842, 999) Witness Moscaritolo argues that the ILEC should be required to deliver to the ALEC copies of all invoices associated with a collocation request. (TR 842)

Supra witness Nilson contends ALEC participation in developing the price quote would lead to mutual agreement between the ILEC and the ALEC, and would serve to reduce the provisioning cost, the need for construction that requires permits, and the overall time to collocate. (TR 987) He states that the resultant ILEC/ALEC meetings and site visits could enable the ALEC to explain any misunderstandings or design errors before the ILEC commences work activities, and that this cooperation would decrease the ALEC's time to market. (TR 987, 999)

Witness Nilson submits contrasting examples of collocation provisioning experiences with BellSouth and with Sprint. He states that Supra's experience with Sprint has been far more favorable in terms of site visits, engineering meetings, and vendor activities held during the application response process, when the price quote

is being developed. (TR 998) On the other hand, he states that BellSouth has declined to involve them in developing its price quote. (TR 998) BellSouth holds no meetings and does not allow site visits until an order is firm, which occurs when " . . . the ALEC accepts a non-detailed three line item quotation of collocation costs and then pays fifty percent (50%) of those funds up front." (TR 998)

Conclusion

Staff believes that the development of the price quote for collocation space is primarily a function that the ILEC should perform. Staff recognizes that ALEC participation may inhibit the price quote process, not improve it. The ALEC will be best served by providing a complete and accurate application to the ILEC when seeking a price quote for collocation, and the ILEC should seek clarification in a timely manner, if needed. Therefore, ILECs should not be required to include ALECs in the development of the price quote.

Staff believes that the ALEC's desire to participate in the development of the collocation price quote is to ensure that the ILEC's charges are reasonable. We affirm, however, that the ILEC views the ALEC's participation in a different manner. Staff contends that the ILEC regards ALEC participation more for clarification purposes on an as-needed basis, than for pricing. We affirm, however, that the issue here is ILEC/ALEC participation in the development of the price quote, and that the scope of this issue does not extend to pricing matters.

The record demonstrates that cooperative efforts can be beneficial, as evidenced in the Supra/Sprint example cited in the record. The ALEC's participation in the price quote development process, however, should be requested by the ILEC. We view that requiring the participation between the ILEC and ALEC may inhibit the price quote process, not improve it. Accordingly, we recommend that the ALEC should not have the option to participate in the development of the ILEC's price quote for collocation.

ISSUE 15: Should an ALEC be permitted to hire an ILEC certified contractor to perform space preparation, racking and cabling, and power work?

RECOMMENDATION: Yes. The ALEC should be permitted to hire ILEC-certified contractors or utilize their own ILEC-certified employees, if any, to perform space preparation, racking, cabling, and power work for the construction of physical collocation arrangements, but only within their collocation space. (BARRETT)

POSITIONS OF PARTIES

BELLSOUTH:

An ALEC should be allowed to use a certified contractor to perform work on the ALEC's dedicated collocation space. An ALEC should not be allowed to hire a certified contractor to perform site readiness work for collocation.

GTEFL:

The ALEC can be permitted to hire an ILEC-certified contractor to perform work that affects only its own space. In order to safeguard network security and ensure proper coordination of all work activity, the ILEC must continue to perform work that affects common areas.

ALLTEL:

Yes, for space preparation, racking and cabling, and associated power work. However, in certain instances, the ALECs themselves or their contractors should be permitted to perform installation work within ILEC central offices.

SPRINT:

Yes. The certification process used by the ILEC should be the same process as the ILEC uses for approving contractors for its own purposes.

SUPRA:

Yes. An ALEC, at its option, should be allowed at the ALEC's option, to hire an ILEC-certified contractor to perform all space preparation work, racking, cabling and battery plant expansions. In no instance, should the ILEC certification process unduly delay collocation.

JOINT STATEMENT (FCCA, AT&T, COVAD, FCTA, INTERMEDIA, MCI, MGC, MEDIAONE, and RHYTHMS):

Yes. An ALEC, at its option, should be allowed to hire an ILEC-certified contractor to perform all space preparation, racking and cabling. In no instance, should the ILEC certification process unduly delay collocation.

STAFF ANALYSIS:

This issue addresses whether an ALEC should be permitted to use ILEC-certified individuals to perform construction activities associated with physical collocation. Title 47, Part 51 of the FCC's Code of Federal Regulations (C.F.R.) details certain interconnection obligations the ILECs are bound by, and Section 323(j) addresses the ILEC certification issue. FCC Rule 51.323(j) states:

An incumbent ILEC shall permit a collocating telecommunications carrier to subcontract the construction of physical collocation arrangements with contractors approved by the incumbent ILEC, provided, however, that the incumbent ILEC shall not unreasonably withhold approval of contractors. Approval by an incumbent ILEC shall be based on the same criteria it uses in approving contractors for its own purposes.

BellSouth witness Hendrix believes the ILEC/ALEC relationship is analogous to that of a landlord and a tenant in a multi-tenant environment. (TR 35-36) As such, he describes BellSouth's role as owner or steward of the central office, stating that an ALEC should be allowed to use ILEC-certified contractors to perform work *within their own collocation space*, but not outside of that space. (TR 35-36) Witness Hendrix asserts that work activities of "tenants," or ALECs, should be limited to their own space, where they would be

. . . allowed to build walls inside their space, add lighting and receptacles and install equipment, but they are not allowed to do major mechanical or electrical work that serves or runs through other tenant space . . . The landlord/BellSouth, however, performs all site readiness work that is outside of the tenant/ALEC's space and that could potentially affect the landlord/ILEC's and other tenants'/ALECs' working equipment. Such work includes, but is not limited to, space preparation . . . power work, cable and racking, and other code required common improvements. (TR 36)

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Witness Hendrix cites three main justifications for BellSouth's position of not allowing ALECs to work on "common elements," or work outside of an ALEC's space: 1) BellSouth's concern that allowing multiple carriers to perform common area work would increase costs and create chaos in the central office; 2) BellSouth's commitment to protect against network outages; and 3) BellSouth's concern for safety. (TR 37-38) He summarizes:

BellSouth is responsible for assuring the operating environment of its own network, the public switched network, and that of other collocators. (TR 60)

In order to do this, witness Hendrix states that BellSouth requires the use of ILEC-certified contractors for the engineering and installation of equipment and facilities in its central offices. This provides BellSouth the assurance that technical, safety, and quality standards are achieved and "that things are done in such a way not to create problems for the ALEC, or BellSouth, or any other neighboring ALEC." (Hendrix TR 59-60, 88) Witness Hendrix concludes by declaring that BellSouth's vendor certification process is the appropriate mechanism for maintaining high standards and that it is in the public interest. (TR 61)

GTEFL witness Reis asserts that ALECs should not be permitted to hire ILEC-certified contractors to perform space preparation, racking, cabling, and power work, stating that GTEFL should maintain control of and responsibility for the contractor doing this work. (TR 421) He cites safety and efficiency concerns as support for GTEFL's centralized control, and believes that noncentralized, or ALEC-directed control could result in scheduling conflicts, liability issues, or longer installation intervals. (TR 422)

Sprint witness Closz argues that ALECs should be permitted to hire ILEC-certified contractors to perform space preparation, racking, cabling, and power work, but conditioned her approval on the ILEC's certification process being the same process the ILEC uses for its own purposes, as detailed in FCC Rule 51.323(j). (TR 622, 638) However, under cross-examination, witness Closz asserted that in specific instances where a work activity could affect the entire building, the ILEC can and should be the party to perform such activities. (TR 668) The witness concludes that the ILEC is, after all, the overall steward of its central office buildings. (TR 668)

The ALECs, by and large, are in favor of being allowed to hire ILEC-certified contractors to perform space preparation, racking, cabling, and power work.

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Intermedia witness Jackson states that the ILECs should not be allowed to require the use of their own certified vendors, and that the present guidelines ALECs must follow are inadequate and monopolistic. (TR 1117) The witness asserts that Intermedia and other ALECs should be permitted - although not required - to hire ILEC-certified contractors, but

. . . that the activities of space preparation, racking, cabling, and power should be performed by the ILEC. All of these types of functions are the ultimate responsibility of the ILECs. ALECs should not have to assume the responsibility for performing these functions. (TR 1117)

He concludes by declaring that Intermedia should be able to install and work on its own equipment. (TR 1117)

ALEC witnesses Levy (MGC) and Nilson (Supra) state that an ALEC should have the option to do any installation work currently being done by ILEC personnel or ILEC-certified vendors. (TR 915, 962) Witness Nilson advocates that Supra should have the right to have an ILEC-certified contractor perform any and all collocation work. (TR 999) He cites FCC Rule 51.323(j) as Supra's justification. (TR 962)

MGC witness Levy testifies that it is immaterial whether the certified contractor performing the space preparation, racking, cabling, and power work is acting on behalf of the ILEC or ALEC. (TR 915) However, he states that the ILEC should have the right to review any plans in advance of the actual construction work, and may be paid a nominal fee for its engineering review, if the ALEC manages the process rather than the ILEC. (TR 915)

MCI witness Martinez states that the ALEC should be given the option to have any work, whether inside or outside of the designated collocation space, performed by ILEC-certified contractors or by certified ALEC employees. (TR 719) The witness proposes the idea of self-certification as a component of MCI's own training for employees. (TR 748) He contends that the ILEC's certification material could be offered in combination with the ALEC's customary training, and states the ALEC (MCI) would maintain the appropriate documentation to support the employees' attendance. (TR 748) He acknowledges, though, that the certification procedure would differ from the ILEC's own certification. (TR 749)

Staff believes that the contractor certification process necessary to perform space preparation, racking, cabling, power work for the construction of physical collocation arrangements

should be no different for the ALEC's contractors or employees than for the ILEC's contractors or employees. This view is consistent with FCC Rule 51.323(j), which provides that the ILEC should approve ALEC contractors based upon the same criteria it uses for its own purposes. Staff recommends, however, that the "same criteria" passage applies to the certification process, not just the materials. Thus, we disagree with the MCI proposal to use the ILEC's materials. We believe that the ILEC should be entitled to administer their own certification, and that it should be administered in an equal manner between ILEC and non-ILEC individuals.

Staff affirms that the uniform certification process gives the ILEC assurances that the individuals working in their central offices - whether ILEC or ALEC employees or contractors - have the same degree of instruction on, among other things, network and personal safety. The certification does not, however, affect the ILEC's overall responsibility for operating the entire facility, which it owns. Staff believes the ILEC has a responsibility to provide an environment to meet its own needs and the needs of ALEC tenants, particularly for major mechanical systems. We assert that work activities that involve major or common mechanical systems may be necessary, and that these types of functions are likely to be outside of a collocator's space. We believe those tasks should be coordinated and performed by the ILEC. Staff agrees, therefore, with BellSouth witness Hendrix's assertions that the ALEC's work activities in the ILEC's central office facilities should be limited to their designated collocation space.

The ILECs assert that they are, and should continue to be, the overall stewards of their central office buildings. Staff agrees, and believes that the ILECs have an obligation to oversee and maintain the entire facility. Allowing multiple ALECs to perform work activities outside of their designated collocation spaces could result in chaos, redundancy, or even compromise the integrity of the entire central office, or network.

As such, staff believes that because the identical certification is obtained by the non-ILEC individuals [i.e., contractors and/or ALEC employees], the ALEC should be permitted to hire them or use them to perform space preparation, racking, cabling, power work for the construction of physical collocation arrangements, but only within their collocation space.

Conclusion

Staff believes that the two key elements of this issue are the ILEC-mandated certification, and the work activities ILEC-certified

individuals can perform. We believe the distinction between work activities within and outside of a collocator's respective space is crucial.

Title 47, Part 51 of the C.F.R., Section 323(j), details the interconnection obligations the ILECs are bound by, and all three ILEC parties asserted their right to approve (i.e., certify) contractors to perform space preparation, racking, cabling, power work and all other collocation work activities. (Hendrix TR 60; Reis TR 421; Closz TR 637) Staff agrees that the FCC's Rule 51.323(j) gives the ILECs this right. An equal certification process gives the ILEC assurances that the individuals working in its central office buildings have obtained an identical degree of training, and because the same certification applies for non-ILEC individuals [i.e., contractors and/or ALEC employees], staff believes that the ALEC should be permitted to hire them or use them to perform space preparation, racking, cabling, power work and all other collocation work activities, but only within their collocation space.

We assert that work activities that may be necessary outside of a collocator's space would likely involve major or common mechanical systems, and those tasks should be coordinated and performed by the ILEC, the building's steward. The ILECs are, and should continue to be, responsible for their central office buildings and allowing multiple ALEC carriers to perform work activities outside of their designated collocation spaces could result in chaos, may compromise personal safety for the buildings occupants, or impact network integrity.

As such, staff recommends that the ALEC should be permitted to hire ILEC-certified contractors or utilize their own ILEC-certified employees, if any, to perform space preparation, racking, cabling, power work for the construction of physical collocation arrangements, but only within their collocation space.

ISSUE 16: For what reasons, if any, should the provisioning intervals be extended without the need for an agreement by the applicant ALEC or filing by the ILEC of a request for an extension of time?

RECOMMENDATION: Staff recommends that there are no reasons for the provisioning intervals to be unilaterally extended without the need for an agreement by the applicant ALEC or the filing by the ILEC of a request for an extension of time. If an ILEC cannot meet the established provisioning intervals for physical and virtual collocation, it must comply with the requirements of Order No. PSC-99-1744-PAA-TP regarding extensions of time for provisioning intervals. (**FAVORS**)

POSITIONS OF THE PARTIES:

BELLSOUTH:

There are three situations where provisioning intervals should be extended. They are: 1) provisioning of collocation arrangements encountering extraordinary conditions; 2) provisioning of collocation arrangements encountering delays in the permitting process; and 3) provisioning collocation arrangements associated with central office building additions.

GTEFL:

In cases where provisioning intervals must be extended, the ILEC and ALEC should be permitted to negotiate an extension without the need for a waiver filing. Where delay in delivery of the ALEC's equipment will cause virtual provisioning deadlines to slip, an automatic extension is warranted.

ALLTEL:

Timely entry into the market is dependent upon ILECs meeting provisioning intervals. Absent extraordinary circumstances, there are no viable reasons for which provisioning intervals should be unilaterally extended without the need for an agreement by the applicant ALEC.

SPRINT:

There are no reasons that should provide the ILEC with an opportunity to unilaterally extend collocation provisioning intervals.

SUPRA:

An ILEC should not be allowed to extend unilaterally provisioning intervals established by this Commission. Such unilateral extension rights would create an incentive for ILECs to prolong the provisioning of collocation space to delay the market entry of their competitors.

JOINT STATEMENT (FCCA, AT&T, COVAD, FCTA, INTERMEDIA, MCI, MGC, MEDIAONE, AND RHYTHMS):

An ILEC should not be allowed to extend unilaterally provisioning intervals established by this Commission. Such unilateral extension rights would create an incentive for ILECs to prolong the provisioning of collocation space to delay the market entry of their competitors.

STAFF ANALYSIS:

The issue before the Commission is to determine whether there are any reasons that the provisioning intervals for virtual and physical collocation established by this Commission should be extended without the need for an agreement by the applicant ALEC or filing by the ILEC of a request for an extension of time. In Order No. PSC-99-1744-PAA-TP the Commission stated:

Upon firm order by an applicant carrier, the ILEC shall provision physical collocation within 90 days or virtual collocation within 60 days. If the ILEC believes that it will be unable to meet the applicable time frame and the parties are unable to agree to an extension, the ILEC shall seek an extension of time from the Commission within 45 calendar days of receipt of the firm order . . . The ILEC shall explain, in detail, the reasons necessitating the extension and shall serve the applicant carrier with its request. The applicant carrier shall have an opportunity to respond to the ILEC's request for an extension of time. The Commission will rule upon the request as a procedural matter at an Agenda Conference. (p. 17)

BellSouth witness Milner states that BellSouth does not have total control over collocation provisioning intervals because there are several factors, such as the permitting interval, local

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building code interpretation, and unique construction requirements, that are outside BellSouth's control. (TR 225) He contends:

There are three (3) situations where provisioning intervals should be extended. They are: 1) provisioning of collocation arrangements encountering extraordinary conditions; 2) provisioning of collocation arrangements encountering unusual delays in the permitting process, and; 3) provisioning collocation arrangements associated with central office building additions. (TR 226)

Witness Milner states that "[E]xtraordinary conditions include, but are not limited to, major BellSouth equipment rearrangements or additions; power plant additions or upgrades; major mechanical additions or upgrades; major upgrades for ADA compliance; environmental hazard or hazardous materials abatement." (TR 226)

Witness Milner also contends that much of the work required to provision collocation arrangements requires building permits before construction can commence, and that the time required to receive building permits is outside BellSouth's control. (TR 226) He states that BellSouth has experienced permitting intervals that range from 15 days to in excess of 60 days. (TR 228) Witness Milner cites several examples of conflicts that BellSouth has had with local officials regarding obtaining permits.

GTEFL witness Ries states:

If major system upgrades, such as those involving HVAC or power, are required in conjunction with a physical or virtual collocation request, provisioning may take longer than usual. In these instances, parties should be able to negotiate a date for completion of the collocation arrangement (based upon the extent of the required modifications, contractor availability, and the like) without the need to request a waiver. (TR 415)

Witness Ries, like BellSouth witness Milner, states that issuance of building permits is out of the ILEC's control. However, he states that "[W]hen it is not possible to obtain building permits in a timely manner, an extended due date should be negotiated between GTE and the ALEC, based on the schedule of the permitting agency." (TR 416)

Concerning virtual collocation, witness Ries states that an ILEC should not be required to request a waiver in case of equipment delivery delays. He argues that "if the ALEC doesn't order its equipment early enough in the process, the 60-day interval may come and go before GTE even receives delivery of the ALEC's equipment." (TR 415)

Witness Ries summarizes:

Finally, there should be no need to seek a waiver when GTE and the ALEC agree to an extension for any reason; when the ALEC makes modifications to its application that will cause material changes in provisioning the collocation arrangement; or when the ALEC fails to complete work items for which it is responsible in the designated time frame. (TR 416)

Sprint witness Closz states:

Sprint's perspective is that there are no reasons that should provide the ILEC with an opportunity to unilaterally extend collocation provisioning intervals. Rather, Sprint believes that an open dialogue regarding collocation provisioning scenarios will in most cases lead to mutual agreement between the parties regarding the appropriate provisioning interval. In such instances where the ILEC and the requesting collocator are unable to reach agreement, the ILEC may seek an extension from the Commission. (TR 623)

However, witness Closz does state that "major infrastructure upgrades and other factors beyond the control of the ILEC are appropriate reasons for the ILEC to seek an extension of the provisioning intervals from either the requesting collocator or the FPSC." (TR 624)

All of the ALECs in this proceeding argue that an ILEC should not be able to unilaterally extend the provisioning intervals for permitting or any other reason. They state that if the ALEC and the ILEC cannot agree on extensions of time for provisioning intervals, the ILEC should be required to file for an extension with the Commission. (Martinez TR 707; Williams TR 797; Moscaritolo TR 843; Levy TR 916; Mills TR 1133) Supra witness Nilson states

that "[O]ther than acts of God, I cannot foresee a reason that would warrant an extension of time." (TR 963)

Analysis

As stated earlier, this issue seeks to determine whether there are any reasons that the provisioning intervals for virtual and physical collocation established by this Commission should be extended without the need for agreement by the ALEC or the filing of a request for extension by an ILEC with the Commission. Staff recommends that there are no reasons that the provisioning intervals established by this Commission should be extended without agreement by the ALEC or filing of a request for an extension of time by the ILEC. In Order No. PSC-99-1744-PAA-TP this Commission required that if an ILEC believes it will be unable to meet the applicable time frame, and the parties are unable to agree to an extension, the ILEC shall seek an extension of time from the Commission within 45 calendar days of receipt of the firm order. Staff believes that the requirements of this order provide enough guidance if extensions of time are required.

BellSouth witness Milner and GTEFL witness Ries argue that major system upgrades such as HVAC or power upgrades are extraordinary circumstances that may extend the provisioning intervals. They also argue that the permitting process is out of their control. Staff agrees that there may be times when major system upgrades are required to provision collocation. Staff also agrees that the actual approval of building permits is out of the ILEC's control and that there may be instances when ILECs have experienced extraordinarily long waits in receiving some building permits. However, staff believes that these instances are exceptions rather than the rule. Staff believes that, under normal circumstances, the provisioning intervals established in Order No. PSC-99-1744-PAA-TP are adequate.

Staff also believes that the Commission, in Order No. PSC-99-1744-PAA-TP, has provided enough guidance if extensions of time are required. This order also requires that the ILEC and ALEC attempt to discuss and agree to an extension of time before making a formal request to the Commission.

Regarding the permitting interval, BellSouth witness Milner states that "BellSouth has been increasingly successful in working with the various governmental agencies in reducing the permit approval interval. Further, BellSouth is communicating with the ALECs so that they have a good understanding of the issues faced in processing a collocation request." (TR 233) When cross examined about the negotiation process and permitting intervals, witness

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Milner answered, "[W]ell, I agree with you, the negotiation process is working, and I hope it continues to work." (TR 304)

Likewise, under cross-examination GTEFL witness Ries was asked:

With regard to extension of provisioning intervals, I take it from your testimony that you-- that GTE essentially agrees with the procedure the Commission has put into place, which is if an extension is required, first attempt to negotiate with the ALEC, and failing negotiations, GTE would come to the Commission on an expedited basis for an extension or a waiver? (TR 463-464)

Witness Ries answered "[C]orrect." (TR 464)

Similarly, Sprint witness Closz states:

Should the "mitigating factors" that Mr. Milner referenced result in a situation where the ILEC is unable to meet the designated provisioning interval, the ILEC should discuss the situation with the requesting collocater and attempt to negotiate and [sic] extension to accommodate whatever difficulty has been encountered. Sprint's experience is that in the vast majority of situations, this will result in a satisfactory solution for both parties. (TR 640)

Although Sprint is acting as both an ILEC and ALEC in this proceeding, it appears that all three ILECs seem to agree that the current procedures regarding extensions of provisioning intervals established by this Commission are workable. Therefore, staff does not believe any changes are necessary.

Conclusion

Staff recommends that there are no reasons for the provisioning intervals to be extended without the need for an agreement by the applicant ALEC or the filing by the ILEC of a request for an extension of time. If an ILEC cannot meet the established provisioning intervals for physical and virtual collocation, it must comply with the requirements of Order No. PSC-99-1744-PAA-TP regarding extensions of time for provisioning intervals. The evidence of record seems to show that the parties

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agree that the procedures regarding extensions of time to the collocation provisioning intervals established by this Commission are workable. Therefore, staff does not believe that any changes to that process are necessary.

ISSUE 17: How should the costs of security arrangements, site preparation, collocation space reports, and other costs necessary to the provisioning of collocation space, be allocated between multiple carriers?

RECOMMENDATION: Costs associated with security arrangements, space preparation, and other costs necessary to the provisioning of collocation space should be allocated among those parties who will benefit from the costs incurred. The costs associated with a collocation report should be recovered through a non-recurring charge payable to the ILEC upon requesting a collocation space report. (WOLFE)

POSITIONS OF THE PARTIES:

BELLSOUTH:

The recovery of volume insensitive costs associated with security arrangements, site preparation, and collocation space reports will be allocated among all parties that benefit and in an equitable manner.

GTEFL:

In GTE's case, the costs will be allocated on the basis of GTE's tariff.

ALLTEL:

ILECs subject to Section 251(c) (6) of the Act must allocate space preparation, security measures, and other collocation charges on a pro-rated basis so the first collocater in a particular incumbent premises will not be responsible for the entire cost of site preparation.

SPRINT:

Costs that are not recovered through recurring charges should be recovered on a relative square foot basis from all carriers located on the premises that benefit from a modification. If modifications benefit ALECs only, then the costs should be assessed to ALECs only based on relative square footage.

SUPRA:

The Commission should conduct a generic cost investigation to establish standard collocation prices. Nevertheless, if allocation is to occur, then it should be on a prorata basis calculated upon the actual space each carrier occupies. Moreover, provisions should be made for future collocators to share the costs based upon the space occupied.

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JOINT STATEMENT (FCCA, AT&T, COVAD, FCTA, INTERMEDIA, MCI, MGC, MEDIAONE, and RHYTHMS):

The Commission should conduct a generic cost investigation to establish standard collocation prices for the ILEC. In general, standardized collocation prices should be consistent with TELRIC principals. Further, it should be understood that measures like security protect both collocators and the incumbent and should be priced accordingly.

STAFF ANALYSIS:

Issue 17 addresses how various costs associated with the provisioning of collocation space should be allocated among multiple carriers. The FCC addresses this issue in its First Report and Order and Further Notice of Proposed Rulemaking in CC Docket No. 98-147:

We conclude, based on the record, that incumbent LECs must allocate space preparation, security measures, and other collocation charges on a pro-rated basis so the first collocator in a particular incumbent premises will not be responsible for the entire cost of site preparation. (¶ 51)

GTEFL witness Ries does not agree with allocating the costs addressed in this issue over multiple carriers, and GTE has appealed this matter to the United States Court of Appeals for the District of Columbia. Witness Ries believes that such a cost allocation will prevent them from recovering their actual costs. GTEFL witness Ries further contends that,

Many of the fixed costs associated with collocation space preparation do not depend on the number of competitors that ultimately occupy the space, or the amount of space that any one collocator uses. (TR 423)

GTEFL witness Ries supports a tariff approach and believes this will satisfy the FCC's requirements in CC Docket 98-147. The tariff rates would be determined based on past collocation activity. Witness Ries asserts that "the relevant types of costs associated with collocation arrangements over a period of time will be summed and then divided by the total number of collocators (fill factor) over that same time period." (TR 424) The rates determined from this process would be applied to all collocation requests in the future.

GTEFL filed a collocation tariff with this Commission on December 30, 1999. GTEFL witness Ries believes the tariff is

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consistent with the FCC's First Order in CC Docket 98-147. The witness testified that the costs identified in the Florida tariff for site preparation " . . . are based on GTE[FL]'s work on previous projects and coming up with some averages for what the site preparation would cost." (TR 453)

Contrary to GTEFL witness Ries, MCI witness Martinez believes that the cost of existing security arrangements should be included in the existing charges for collocation, and any additional security measures the ILEC takes to protect their own equipment should be absorbed by the ILEC. He also believes that in the rare instances when ALECs are required to pay security costs, these costs should have been included in a forward-looking cost model used when setting collocation rates. (TR 708) Witness Martinez also suggests that this Commission follow the Texas Commission and place the burden on the ILEC to justify when additional security measures are needed and recoverable from ALECs. (TR 721)

GTEFL witness Ries disagrees with witness Martinez and contends that the FCC allows the ILEC to install security cameras and monitoring systems and further asserts that state commissions can allow ILECs to recover these costs in a reasonable manner. (TR 443-444) He believes the need for additional security costs are caused by the ALECs; therefore, cost recovery should be permitted.

MCI witness Martinez further asserts that the entire cost of removing obsolete equipment should be borne by the ILEC. He believes that by allowing obsolete equipment to remain in place, the ILECs are able to recover their costs of removing obsolete equipment from the ALECs when requesting collocation space. (TR 709)

BellSouth witness Hendrix believes that the costs addressed in this issue should be absorbed by the number of collocators in a central office. BellSouth proposes filing a cost study with the Commission for security access systems, site preparation and collocation space reports in an effort to limit the number of elements priced on an Individual Case Basis (ICB). (TR 39) Witness Hendrix continues on to say that this cost study "will also include several new space preparation elements." (TR 39) In his testimony witness Hendrix lays out various rate elements associated with security access including security systems, new access card activation, administrative changes to existing access cards, and replacement costs for lost or stolen cards. Witness Hendrix contends a definitive discussion of the rate elements and cost methodology associated with new site preparation and collocation space report elements would be premature. (TR 41)

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Witness Hendrix further asserts that standardized prices can be developed from the cost study and included in future interconnection agreements, rather than being filed as a tariff. (TR 93) He believes his customers would prefer to sit down one-on-one and work out the details of an interconnection agreement rather than work with a tariff.

BellSouth currently recovers these costs on an individual case basis (ICB) by pro-rating the cost of space preparation on a square footage basis, and charging the ALEC based on the number of square feet used. Currently, the pro-rated cost per square foot assessed to the ALECs varies among central offices based on the different costs of site preparation in each central office. (TR 40-41)

Witness Mills of AT&T agrees in part with BellSouth's methodology but believes actual cost studies must be examined to determine the appropriateness of the final rates. He further believes the costs of site preparation should be recovered based on each ALEC's square footage divided by the total central office square footage, including BellSouth occupied space. (TR 1185)

Supra witness Nilson agrees with AT&T witness Mills and says:

I believe the costs for collocation should be allocated based on the amount of space occupied by the ALEC and a portion should be shared by all ILECs since they also benefit from the upgrades, and profit from the ALEC's business expansion. (TR 965)

Supra witness Nilson advises the Commission to determine the proper pricing methodology to ensure the ILECs do not impose unreasonable and unnecessary costs on the ALECs, and suggests this Commission may want to adopt the approach taken by Bell Atlantic that allows ALECs to pay collocation costs on an installment basis. (TR 966)

Sprint witness Hunsucker's position is consistent with AT&T witness Mills' methodology. He also believes costs should be recovered from collocating carriers in a reasonable manner and shared by the ALECs as well as the ILEC in a particular central office. Witness Hunsucker believes the costs of implementing security measures ". . . should be based on relative square footage as an appropriate estimator of the value of the equipment being protected." (TR 533) He further contends that the appropriate cost recovery method for space preparation and other collocation costs is on the basis of square footage occupied. (TR 536-538) Witness Hunsucker explains:

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For example, if an ILEC decides to make a general building modification (complete change out of the heating and cooling system), then the ALECs would be charged on the basis of their respective square footage to the total square footage associated with the building modification. If however, the ILEC only prepares space sufficient to handle the specific ALEC request, then the ALEC would be responsible for 100% of the charges. (TR 536)

Furthermore, witness Hunsucker believes the cost of collocation space reports should be recoverable by the ILEC. Because ALECs can request this type of report at any time, he believes these costs should be recovered via a non-recurring charge to be assessed by the ILEC at the time of the ALEC request. He believes this charge should be independent of the collocation application fee. (TR 537)

Witness Hunsucker states that a methodology based on the relative square footage used by a provider is fair to all collocating carriers. He believes GTEFL's allocation methodology is not consistent with the historical cost methods approved by state commissions relating to unbundled network elements. (TR 560) Sprint witness Hunsucker believes the cost allocation method proposed by GTEFL witness Ries is unfair. Witness Hunsucker believes this method is based upon 100% utilization of the inputs, which places an unfair burden on collocators when 100% utilization is not achieved. He sums up his analysis by saying GTE's proposal of using the number of collocators or actual users of the facility produces a totally different result and places an inappropriate burden on ALECs. (TR 561)

While agreeing that it is appropriate to allocate a fair share of the costs to the ALECs, witness Hunsucker believes the ILEC should pay an appropriate percentage of the costs if benefits are also received by the ILEC. Witness Hunsucker considers GTEFL witness Ries' proposed methodology anti-competitive because it imposes a disproportionate share of the costs of collocation on ALECs. (TR 562) Witness Hunsucker also believes that BellSouth witness Hendrix's methodology is inappropriate because it too will place an inappropriate burden on the ALECs. Witness Hunsucker is not in favor of any method that allocates cost only among the number of collocators in a central office. (TR 563)

Intermedia witness Jackson, who adopted Intermedia witness Strow's prefiled testimony, disagrees with GTEFL witness Ries' methodology that uses a statewide average of collocators to determine costs in a given central office. He believes that

. . . collocators in one central office could end up paying more than their fair share of collocation costs because the costs are spread across all collocators as opposed to being divided amongst the collocators in a particular CO. (TR 1138)

In contrast to any of the opinions expressed above, MGC witness Levy believes all costs addressed in this issue should be paid for by the ILEC because the ILEC can generate revenues from wholesale customers. He believes other companies should not pay for the ILECs' business opportunities and that these costs should be absorbed by the ILEC as a cost of doing business. (TR 916-917) BellSouth witness Hendrix disagrees with witness Levy and argues that ". . . the ALECS, which in this case are the cost causers, should bear such security and reporting costs." (TR 61)

Rhythms witness Williams agrees in part with MGC witness Levy that if the ILEC decides to install additional security measures, it should do so at its own expense. (TR 765) While he acknowledges the FCC's opinion granting the ILEC the right to protect its own equipment, he believes the ILEC should bear all the costs of additional security measures to protect its equipment if the ILEC chooses to do so.

FCCA witness Gillan believes the FPSC should not reach a decision on this issue but should instead focus on establishing the ILECs' general obligations towards providing collocation. He does not agree with the positions presented by GTEFL witness Ries that collocation rates should be based upon a fill factor or BellSouth witness Hendrix's suggested method of basing costs on the number of collocators in a central office. Witness Gillan observes that "It is useful to note the ILECs seem willing to adopt such a perspective when it comes to cost recovery, but not provisioning." (TR 1049) He continues:

It is not useful here to debate in the abstract the appropriateness of either specific suggestion (BellSouth and GTEFL positions). The larger point is that it makes little sense to embrace standardized pricing, while remaining committed to a world of customized provisioning. (TR 1049)

While witness Gillan asserts it is not useful to debate the cost methodology proposals of parties, he does believe "the appropriate treatment of such costs is in the development of a statewide collocation rate." (TR 1031-1032) He believes a statewide collocation rate, or tariff, would benefit the ALECs in two ways: first, a tariff would introduce certainty

into the process as to costs and the length of time required for preparing collocation space; second, it would provide ALECs the ability to evaluate the terms, conditions, and prices for collocation space. (TR 1051)

Witness Gillan believes the controversy over developing a statewide tariff is minimal. He states Sprint supports a statewide tariff, while GTEFL has filed a tariff in Florida. He views BellSouth as not willing to take this step, as he thinks BellSouth believes the ALECs do not want a tariff. He emphasized that every ALEC that is a party to this case supports a collocation tariff and BellSouth should take notice. (TR 1052) During cross-examination witness Gillan was asked if a tariff was developed at this point, should it be statewide? He replied BellSouth could develop a tariff at some point in the future. "Maybe it makes more sense to make it more grandeur [sic] and deaverage it, but certainly at this point we're not looking for you to come up with anything at a lower level of aggregation than statewide." (TR 1058)

However, witness Gillan believes ALECs should retain the right to negotiate collocation rates once a tariff is in place. He asserts ALECs fall into two categories: those that are big enough and have the resources to enter into negotiations, and generally everybody else. (TR 1081)

Analysis

Although this issue is phrased in terms of how should certain costs be allocated between multiple carriers, resolution of this issue effectively leads to a decision as to which cost recovery method is appropriate for multiple carriers for the provisioning of collocation space. In other words, while the decision on this issue will not result in setting rates at this time, nevertheless it will dictate to some extent how certain rates are to be derived at some future time. Specifically, the recovery method dealt with in this issue must cover the cost of security arrangements, collocation space reports, and other costs associated with the provisioning of collocation space. Staff believes the objective is to arrive at a method that neither favors nor discriminates against any carrier. Three distinct approaches have been presented, ranging from all costs associated with the provisioning of collocation space to be absorbed by the ILEC, the development of a statewide collocation tariff, and some method of cost recovery that divides costs among ILECs and requesting collocators.

Staff generally supports the FCC's First Report and Order and Further Notice of Proposed Rulemaking in CC Docket No. 98-147(¶51), and believes that certain of the costs associated with collocation presented in this issue should be recovered on a pro-rated basis, so that the first collocator in a central office is not responsible for the entire cost of site preparation if it will benefit future collocators. Staff also notes that in CC Docket No. 98-147(¶51), the FCC stated that it expects state commission to determine the proper pricing methodology to ensure that incumbent LECs properly allocate site preparation costs among new entrants. Staff believes that MGC witness Levy's proposal, that all costs associated with collocation should be absorbed by the ILEC, is in complete opposition to the First Report and Order and Further Notice of Proposed Rulemaking in CC Docket No. 98-147. While many parties presented arguments in support of standardized pricing or the creation of a statewide tariff, few parties suggested how the rates should be determined. Staff notes that this issue concerns not whether a tariff is preferred for standardized pricing, but how certain costs should be allocated among multiple carriers consistent with previous FCC and FPSC orders.

Cost of Security Arrangements, Site Preparation, and Other Costs Necessary to the Provisioning of Collocation Space

¶ 51 of the FCC's First Advanced Services Order provides general guidance as to how costs of these components should be "allocated" or, equivalently, how cost recovery should be structured:

We conclude, based on the record, that incumbent LECs must allocate space preparation, security measures, and other collocation charges on a pro-rated basis so the first collocator in a particular incumbent premises will not be responsible for the entire cost of site preparation.

Staff believed that a few observations are in order. First, in contrast to the wording of this issue, the above paragraph does not specifically refer to allocation of costs to multiple carriers. Second, staff believes that this passage does not necessarily require that all costs referred to therein must be allocated to more than one provider -- just those costs so that ". . .the first collocator in a particular incumbent premises will not be responsible for the entire cost. . ." Accordingly, we infer that certain costs associated with space preparation, security measures, and other items may need to be

allocated among multiple providers; what needs to be determined is to how to decide which ones require this specific treatment. Key factors to consider to arrive at this decision are cost causation and who benefits. (Hendrix TR 39; Hunsucker TR 535)

Staff believes that how to treat the costs of security arrangements, site preparation, and other costs of collocation can be characterized by the following three scenarios:

1. Cost of security arrangements, site preparation, and other costs necessary to the provisioning of collocation space incurred by the ILEC that benefit only one collocating party.
2. Cost of security arrangements, site preparation, and other costs necessary to the provisioning of collocation space incurred by the ILEC that benefit all current and future collocating parties.
3. Cost of security arrangements, site preparation, and other costs necessary to the provisioning of collocation space incurred by the ILEC that benefit all collocating parties and the ILEC.

Determining how to allocate costs for each of these three scenarios among multiple carriers will ensure non-discriminatory treatment among carriers. Staff believes the following approach achieves this goal. The conclusions drawn from this analytical framework are predicated on and consistent with longstanding policies of both this commission and the FCC; namely, that the cost causers who receive benefits should be responsible for the recovery of such costs. (FCC 96-325, ¶ 678,691; FPSC Order No. PSC-96-1579-FOF-TP, pp. 22-25; Hunsucker TR 534)

First, staff believes that the costs of security arrangements, site preparation, and other costs necessary to the provisioning of collocation space incurred by the ILEC that benefit only a single collocating party in a central office should be paid for by that collocating party. Recovering costs only from the party that benefits will eliminate the burden on ILECs and other collocators of paying for costs of collocation they did not cause to be incurred. (See, e.g., §51.507 (a) and (b), C.F.R.; Hunsucker TR 534; Ries TR 423)

Second, the costs of security arrangements, site preparation, and other costs necessary to the provisioning of collocation space incurred by the ILEC that benefit both current and future collocating parties should be recoverable by the ILEC from current and future collocating parties. In this case, staff believes that these costs should be allocated based on the amount of floor space occupied by a collocating party, relative to the total collocation space for which site preparation was performed. (Hunsucker TR 532-533)

Third, staff believes the costs of security arrangements, site preparation, and other costs necessary to the provisioning of collocation space incurred by the ILEC that benefit current or future collocating parties and the ILEC should be recoverable by the ILEC from current and future collocating parties, and a portion should be attributed to the ILEC itself. The ALECs addressed their concerns over security issues that not only benefit collocating parties, but also benefit the ILEC. Staff recommends that when multiple collocators and the ILEC benefit from modifications or enhancements, the cost of such benefits or enhancements should be allocated based on the amount of square feet used by the collocator or the ILEC, relative to the total useable square footage in the central office. (Hunsucker TR 532-533; Hendrix TR 39-40; Martinez TR 709)

Costs of Collocation Space Reports

Since GTEFL witness Ries and BellSouth witness Hendrix did not specifically address the cost of collocation space reports separately, staff infers that these parties presumably would recover the costs of collocation space reports in the same manner they advocate for all other costs addressed in this issue. However, Sprint witness Hunsucker believes this cost should be recoverable by the ILEC via a non-recurring charge assessed upon a collocating party requesting the report. (Hunsucker TR 536-538)

Given the nature and the prescribed use of a collocation space report, staff agrees with witness Hunsucker that a non-recurring charge is the appropriate way to recover the costs of collocation space reports. A collocation space report must be made available to any requesting party. Staff agrees that the collocation space report is typically used by the ALECs to assess whether collocation space is available in a particular ILEC facility. Further, a collocation space report is made available to ALECs before an application is submitted for collocation, and in many cases an actual application for

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collocation may be forthcoming. Accordingly, staff recommends that a one-time non-recurring charge is the most reasonable means for an ILEC to recover the costs of producing these reports. (Hunsucker TR 536-538)

Summary

Staff recommends that the costs of security arrangements, site preparation, and other costs necessary to the provisioning of collocation space incurred by the ILEC that benefit only a single collocating party in a central office should be paid for by that collocating party.

Second, staff recommends that the costs of security arrangements, site preparation, and other costs necessary to the provisioning of collocation space incurred by the ILEC that benefit both current and future collocating parties should be recoverable by the ILEC from current and future collocating parties.

Third, staff recommends that the costs of security arrangements, site preparation, and other costs necessary to the provisioning of collocation space incurred by the ILEC that benefit current and future collocating parties, and the ILEC, should be recoverable by the ILEC from current and future collocating parties, and a portion should be attributed to the ILEC itself.

Last, staff recommends that a one-time, non-recurring charge is the appropriate way for the ILECs to recover the costs of preparing the collocation space reports. Given the nature and the prescribed use of a collocation space report, only the parties that benefit from the collocation space reports should pay for them.

ISSUE 18: If insufficient space is available to satisfy the collocation request, should the ILEC be required to advise the ALEC as to what space is available?

RECOMMENDATION: Yes. If insufficient space is available to satisfy an ALEC's request, the Commission should require that the ILEC inform the ALEC of the amount of available collocation space in the central office (CO) within fifteen (15) calendar days, consistent with Issue 1, and that the ILEC provide the ALEC with sufficient information on the available collocation space to enable the ALEC to submit a firm order. (AUDU)

POSITIONS OF THE PARTIES:

BELLSOUTH:

Yes. BellSouth will notify the applicant what space is available if insufficient space is available to satisfy the collocation request.

GTEFL:

It is GTE's practice to advise an ALEC as to available space if there is not enough space to satisfy its collocation request. As such, GTE would not oppose such a notification requirement.

ALLTEL:

Yes, if insufficient space is available, the ILEC should be required to provide information regarding available space within 10-business days, including dimensions, shape and location. A floor plan and diagram, including the physical location of lighting, ventilation, power, heat and air conditioning of the CO should also be provided.

SPRINT:

Yes. A dialogue should be created between the ILEC and the ALEC to explore options that are specifically relevant to that ALEC's request, within the established time frames for responding to a collocation application.

SUPRA:

Yes. The ILEC should notify the ALEC of what portion of the requested space is available. If the ALEC accepts the smaller space, there should be no extension of the

provisioning intervals or additional application fees. Space verification procedures should apply if any portion of the space request is denied.

JOINT STATEMENT (FCCA, AT&T, COVAD, FCTA, INTERMEDIA, MCI, MGC, MEDIAONE, and RHYTHMS):

Yes. The ILEC should notify the ALEC of what portion of the requested space is available. If the ALEC accepts the smaller space, there should be no extension of the provisioning intervals or additional application fees. Space verification procedures should apply if any portion of the space request is denied.

STAFF ANALYSIS:

While the parties all agree that the ILEC should notify a requesting ALEC of the amount of collocation space available in a given CO when the collocation space is insufficient to meet the request, the parties disagree on the time frame for notification. Thus, this issue shall also address the appropriate time frame for an ILEC to notify an ALEC of the amount of available space for collocation when the space is insufficient to meet the request.

BellSouth witness Hendrix asserts that BellSouth is not opposed to notifying the ALEC of what space is available, when there is insufficient space to fill the original request. (TR 41) Witness Hendrix states:

The ALEC can then choose to either accept the space that is available; accept the space available and place the remaining amount of space it requested on the waiting list BellSouth maintains for that central office; choose not to accept the space and place its entire request on the waiting list; or simply choose not to accept the space. (Hendrix TR 41)

Witness Hendrix contends that BellSouth will not proceed to provision the available space without a firm order from the ALEC. (TR 62) He testifies that there is no application fee or new application interval associated with the ALEC's acceptance of any partial collocation space. (TR 96, 113) Witness Hendrix states that the ALEC will be given time to reassess its application and appropriately modify it to

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conform with the available space. (TR 173) Witness Hendrix also states that upon notification of the availability of partial collocation space, the ALEC can submit a firm order for the partial collocation space. (TR 114) At this same time, the ALEC would be required to pay for the accepted partial available space, according to witness Hendrix. (TR 97) BellSouth witness Hendrix contends that an ALEC on a waiting list will be afforded the same opportunity to accept or reject any partial collocation space, as its turn comes on the list. (TR 174) He further contends that if an ALEC is notified that there is no collocation space in a CO when the ALEC places a request for collocation space, the ALEC has ten days from the date of notification to request a physical tour of this CO. (TR 115)

GTEFL witness Reis states that it is GTEFL's practice to advise the ALEC of what space is available for collocation when there is insufficient space to meet the ALEC's request. (TR 424) He testifies that an ALEC can tour the CO when it is denied collocation space in that CO, but argues that a CO tour for an ALEC that has been granted partial collocation space is unnecessary. Witness Reis contends that such tours were not contemplated by the FCC. (TR 476) In the case of partial space, witness Reis further argues that the Commission should not require space exhaustion verification tours, since such an expansive proposal is subject to ALEC abuse. (TR 442) Witness Reis states:

It is GTE's policy that we will grant a tour when we deny a request for collocation, not just - if we deny a request that says, "You do not have 400 feet; we can only give you 300 feet," it is GTE's policy that we would not provide a tour at that time, only when we totally deny the request. (TR 478)

Witness Reis argues that such a proposal would potentially tie-up needed resources that could go toward implementing collocation requests. (TR 442) Witness Reis further explains:

. . . continuous tours basically take our engineering installer technical reps away from activity they can be doing for GTE work and even doing work for provisioning space for collocation. So just granting a number of tours just makes additional

work that we would not feel compelled to perform unless necessary. (TR 501)

Sprint witness Closz testifies that if an ILEC can only provision a portion of the ALEC's requested collocation space, the ALEC and the ILEC must dialogue in order to explore options that are ". . . specifically relevant to the ALEC's request." (TR 625) She argues that this dialogue should be conducted within the FCC's established time frame for the ILEC's response to the collocation application. (TR 625) Witness Closz further argues that in a case of insufficient collocation space, the ALEC is entitled to a tour of the ILEC's premises, and asserts that prior to such a tour, the ILEC should be required to provide the ALEC with detailed engineering floor plans of the premises, showing detailed information that will enable the ALEC to review and make its determination of the available collocation space. (TR 626) Witness Closz argues that all of these provisions comport with FCC's Rule 51.321 (h), which states in part:

Upon request, an incumbent LEC must submit to the requesting carrier within ten days of the submission of the request a report indicating the incumbent LEC's available collocation space in a particular LEC premises. This report must specify the amount of collocation space available at each requested premises, the number of collocators, and any modifications in the use of the space since the last report. This report must also include measures that the incumbent LEC is taking to make additional space available for collocation. The incumbent LEC must maintain a publicly available document, posted for viewing on the incumbent LEC's publicly available Internet site, indicating all premises that are full, and must update such document within ten days of the date at which a premises runs out of physical collocation space. (TR 624-635)

MCI witness Martinez argues that in addition to the ILEC informing the ALEC of the availability of partial collocation space, the ALEC should be given the opportunity to modify its request consistent with the amount of available space, without penalty. (TR 709)

Rhythms witness Williams argues that the ILEC should be required to notify the ALEC of the amount of space actually available at a CO when such collocation space is insufficient to satisfy the ALEC's initial request. Witness Williams argues that such notification may allow the ALEC to modify its plans for collocation at a particular CO, and contends that an ALEC cannot make such a determination unless the ILEC informs the ALEC of the availability of this partial collocation space at the particular CO. (TR 773-774) He asserts that website posting of CO availability is an important mechanism for ALECs in planning where to collocate. (TR 773)

Covad witness Moscaritolo testifies that the ILEC should notify the ALEC if only a portion of the requested collocation space is available, and argues that the ILEC should proceed to provision such partial collocation space without delay, with no additional application fee, or new application interval. (TR 844) Witness Moscaritolo contends that once an ALEC has decided to collocate in a particular CO, it is the ALEC's ultimate desire to serve customers out of that CO; hence, the ability for the ALEC to collocate in lesser space than originally requested is acceptable. (TR 844) Witness Moscaritolo argues that to prevent ILECs from abusing the partial space provision, any partial filling of any collocation request should trigger the space verification procedures of the FCC and this Commission. (TR 844-845)

MCG witness Levy states that the ILEC should advise the ALEC of any amount of partial collocation space, when the available space is insufficient to fill the submitted collocation request. Witness Levy argues that the process should be streamlined whereby the ALEC can submit one application with three different choices of the ALEC's preferred mode of collocation, instead of revising the application based on rejections. (TR 917)

Supra witness Nilson testifies that the ILEC should inform the ALEC of the amount of space available when there is insufficient space to fill the original space request, and argues that the ILEC should then be required to demonstrate space depletion in the specific CO. (TR 966) Witness Nilson argues that a notification of insufficient space to meet a collocation request in any given CO should trigger a walk-through visit of the CO by Commission staff, the affected ALEC and the ILEC. (TR 967)

Intermedia witness Jackson testifies that when there is insufficient space to fill the ALEC's initial collocation

request, the ALEC should not be required to submit another application for the partial available collocation space; instead the original application should suffice. (TR 1143) Witness Jackson argues that BellSouth's ten-day window for touring a CO seems to suggest that after the ten-day window, the ALEC loses the opportunity to tour the CO. (TR 1130) Witness Jackson further argues that such an interpretation of the FCC's rules is not reasonable and contends:

. . . specifically, the ten-day window requirement is for the protection of the ALECs. In other words, if the ALEC requests a tour of the facility within the ten-day window, the ILEC is obligated to allow the ALEC to tour the facilities within ten days of the denial of space. However, nothing in the FCC's rules precludes an ALEC from requesting a tour date beyond the ten-day window or, for that matter, from requesting a tour after the ten-day window has ended. Any other interpretation would punish those ALECs who may not have the flexibility of immediately rearranging their schedules to accommodate a tour. (TR 1130)

Analysis

As stated earlier, staff notes that all parties agree that the ILEC should notify the ALEC of the amount of space available for collocation when the space is insufficient to meet the request.

Staff notes that most of the parties are silent with respect to what time frame is appropriate for the ILECs to notify the ALECs of any partial available space in a CO. Since the ILECs will, in this instance, be responding to a collocation request just as usual, staff believes that a fifteen-calendar day response period is appropriate, consistent with staff's recommendation in Issue 1² of this proceeding. Staff believes that giving the ILEC a 15-calendar day response period will allow the ILEC to provide the ALEC

² In Issue 1 of this proceeding, staff recommends that the Commission require the ILEC to respond to a request for collocation within 15 calendar days of the request, and that the ILEC's response should include information necessary for an ALEC to place a firm order for the available collocation space.

with a more complete response to the ALEC's request for collocation. Staff agrees with BellSouth witness Hendrix that "[U]pon notification of the availability of partial collocation space, the ALEC can submit a firm order for the partial collocation space." (Hendrix TR 114) Staff believes that in order for an ALEC to submit a firm order on a provided collocation space, the ILEC's response must be sufficiently detailed so as to enable the ALEC to proceed with a decision to accept the space and consequently submit a firm order.

While BellSouth witness Hendrix proposes a ten-day ALEC response interval, no other parties commented on this subject. Staff believes that when an ILEC responds to an ALEC's request consistent with Issue 1, and provides the ALEC with sufficiently detailed information to allow the ALEC to submit a firm order on the collocation space, that there will be no need for an ALEC response interval. Besides, nothing in the record supports BellSouth's proposed ALEC response interval, and neither the FCC nor this Commission has contemplated any ALEC response interval.

Contrary to the views of some of the ALECs, staff is not persuaded that an ALEC should be allowed to tour a CO if it is offered partial collocation space because of insufficient collocation space in a CO. Staff does not believe that the FCC order suggests that the ILECs should allow tours when partial collocation is provisioned; instead, an argument can be made that the FCC only anticipated CO tours in cases where collocation requests are denied completely. It appears that the ALECs' proposed CO tours with respect to partial collocation space are inconsistent with provisions of FCC Order 99-48, which reads in part:

Specifically, we require the incumbent LEC to permit representatives of a requesting telecommunications carrier that has been denied collocation due to space constraints to tour the entire premises in question, . . . (FCC 99-48, ¶57)

Staff believes that this refers to an ILEC's complete denial of an ALEC's request for collocation space and not a partial denial of space. Therefore, staff recommends that the ILEC respond back to the ALEC on the available space with sufficient information for the ALEC to place a firm order.

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Conclusion

Staff recommends that the Commission should determine that when the ILEC provides partial collocation space to an ALEC because of insufficient space in the CO, the Commission should require that the ILEC inform the ALEC of the amount of available collocation space in the CO within fifteen (15) calendar days, consistent with Issue No. 1, and that the ILEC provide the ALEC with sufficiently detailed information on the available collocation space to enable the ALEC to submit a firm order.

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ISSUE 19: If an ILEC has been granted a waiver from the physical collocation requirements for a particular CO, and the ILEC later makes modifications that create space that would be appropriate for collocation, when should the ILEC be required to inform the Commission and any requesting ALECs of the availability of space in that office?

RECOMMENDATION: Sixty (60) calendar days before space will become available in a central office (CO) where the ILEC has been granted a waiver from the physical collocation requirements, the ILEC should inform the Commission and requesting ALECs by mail, in addition to posting the updates on its external website. In the event the ILEC's determination that space will be available does not allow for sixty (60) calendar days' notice, the ILEC should notify the Commission and requesting ALECs within two business days of this determination. (AUDU)

POSITIONS OF THE PARTIES:

BELLSOUTH:

When space becomes available in a previously exhausted central office, BellSouth will notify the ALECs that can be accommodated and will also notify the Commission, a maximum of 60 days prior to the date on which space will be available.

GTEFL:

If modifications create new collocation space in a formerly exempted office, GTE will post the change in the exempt status on its website within 10 days of the status change. This is the fairest and easiest way to notify all potentially interested parties; GTE does not believe any more extensive requirement is justified.

ALLTEL:

Notice should be provided to the FPSC within 10 business days of availability. In addition, when a waiver is no longer required, that fact should be posted on a website for 3 months. Within 15 business days, the ILEC should give actual notice to all ALECs who have requested space in that CO within the last 6 months.

SPRINT:

The ILEC should inform the FPSC and the ALECs the time a decision is made to make any modifications that increase

the availability of space. Subsequently, the ILEC should periodically provide a timeline of when space will be available. Alternatively, the information could be placed on an Internet website.

SUPRA:

When collocation space becomes available, the ILEC should advise the Commission and all ALECs who previously requested space in that office by mail and by posting on its Internet site within 10 calendar days of the decision that will result in the availability of space.

JOINT STATEMENT (FCCA, AT&T, COVAD, FCTA, INTERMEDIA, MCI, MGC, MEDIAONE, and RHYTHMS):

When collocation space becomes available, the ILEC should advise the Commission and all ALECs who previously requested space in that office by mail and by posting on its Internet site within 10 calendar days of the decision that will result in the availability of space.

STAFF ANALYSIS:

This issue does not seek to address whether the ILEC should inform the Commission and the ALEC community when collocation space becomes available in a central office (CO) for which the ILEC was previously granted a waiver of the physical collocation requirements due to space exhaustion. Instead, this issue seeks to address the appropriate time frame for the ILEC to inform the Commission and the ALEC community when space becomes available in a CO for which the ILEC was previously granted a waiver of the physical collocation requirements due to space exhaustion.

BellSouth witness Hendrix testifies that BellSouth will maintain a waiting list of all ALECs that have applied for physical collocation in a CO that does not have space available for physical collocation. (TR 42) Witness Hendrix states that an ALEC can get on the waiting list by sending a letter of intent or by sending in an application for physical collocation at the specific CO. (TR 101) He contends that as space becomes available in the given CO, BellSouth will offer the available space to the first ALEC on the waiting list, and the ALEC has a time certain to respond to the offered space. However, witness Hendrix could not say whether the ALEC has 30 or 60 days to respond to the offer on the available collocation space. (TR 111-112) Witness Hendrix further testifies:

When space becomes available for physical collocation in a previously exhausted central office, BellSouth will notify the ALECs that can be accommodated in the newly available space, based on the square footage each customer has requested. BellSouth will notify these ALECs a maximum of 60 days prior to the space availability date. (TR 42)

Witness Hendrix argues that BellSouth cannot commit to providing 90 days notification prior to space availability, and contends that it is not reasonable to require ILECs to estimate what space will become available by modifications three months in the future, with the degree of accuracy necessary to support collocation requests. (TR 63) Witness Hendrix further testified during cross-examination:

Q: So even if you knew 90 days in advance that the space was going to be available, you wouldn't notify the ALECs until you get down to the 60-day mark?

A: That is correct. And the reason is we need to ensure that when we give a customer an answer that we can stand with that answer. (TR 98)

Witness Hendrix states that on the space availability date, BellSouth will inform the Commission that space has become available for physical collocation and also file to terminate the waiver in the specific CO. (TR 42)

GTEFL witness Reis states that GTEFL will post any changes regarding the exempt status of a CO at its exempt central office website within 10 business days of the status change. (TR 424-425) Witness Reis testifies that:

Within ten days of when the space becomes available, we put it on our website. And it is clearly marked that this office used to be exempt from having available space and now the space is available. And at that time the first party that comes forth with an application and with the 50 percent deposit for the nonrecurring charges would then have

first-come, first-served for that
available space. (TR 466)

Witness Reis further testifies that GTEFL would not maintain a waiting list while the CO waiver is active because the waiting period would typically be very long. He contends that maintaining a waiting list would require GTEFL to check with every ALEC on the waiting list to see if each of the ALECs still has need for collocation in the CO in question. (TR 467)

Sprint witness Hunsucker argues that at the time a decision is made to increase available collocation space through any modifications, the ILEC should inform both the Commission and the ALEC community. (TR 539) Witness Hunsucker asserts:

. . . the ILEC should provide a project plan and expected timeline of when the space will be available and should provide progress reports every thirty days as to the current status/activities. This information can be sent directly to each ALEC who has a request for collocation space pending or placed on an Internet web site. (TR 539)

During cross-examination, witness Hunsucker testified,

Q: And I take it your position is if Sprint knew of space availability longer than 60 days in advance you believe it is appropriate to notify the parties when you know?

A: Yes, absolutely. (TR 588)

MCI witness Martinez states that ILECs should inform the Commission and all ALECs of space availability as soon as the ILEC knows the approximate date which this space will become available. (TR 710) Witness Martinez argues:

[A]s part of obtaining a waiver, the ILEC presumably will have shown what its plans are for relieving the central office and will have established some timetable for removing obsolete unused equipment, constructing additional space, etc. Since all of this type of relief work

will have to start in advance, the ILEC should be able to provide estimated space availability dates well before the date the space actually becomes available. (TR 710)

Witness Martinez asserts that the ILECs should provide notification by letter to the Commission and to all ALECs that have filed requests for collocation in the CO, and argues that this information should be posted on the ILEC's website as called for by the FCC. (TR 710) Witness Martinez contends that the new space should be offered on a first-come, first-served basis to ALECs who have previously been denied physical collocation space in the office. (TR 721-722)

Rhythms witness Williams argues that as collocation space becomes available at COs where ALECs were previously denied collocation, the ILEC should notify the ALECs who had previously requested space for collocation at the CO. (TR 774) Witness Williams asserts that the website posting of CO space availability is an important mechanism competitors utilize in planning where to collocate in a given market. (TR 773)

MGC witness Levy testifies that the ILEC should notify the Commission and any collocators who had previously been denied collocation, even if the collocator had proceeded with virtual collocation as an alternative. Witness Levy contends that the ILEC should be required to inform the Commission and the ALECs of the pending availability at least three (3) months before the additional space is ready for ALEC occupancy. Witness Levy argues that the advance notice will enable an ALEC to re-assess its interest in collocating in the specific CO and determine if the interest still remains. (TR 918)

Supra witness Nilson argues that if there is a physical collocation waiver in effect, as space becomes available in the CO, the ILEC should notify the Commission and any requesting carriers of the availability of space in the central office. (TR 967)

Intermedia witness Jackson argues that as space becomes available because of modifications in a CO that was under a waiver, occupancy priority should be given to ALECs based on the order in which the ALECs originally applied for collocation in that CO. Witness Jackson argues that BellSouth's process of notifying ALECs on the waiting list

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that there is newly available space is unclear, defective and discriminatory. (TR 1129)

AT&T witness Mills argues that BellSouth's proposal for notifying ALECs and the Commission when space becomes available in a CO that was under a waiver is unclear. (TR 1185) Witness Mills contends that a simple letter to the ILEC should suffice for the ALEC to get on a waiting list, instead of the onerous process of filing an application along with the application fees. AT&T witness Mills further argues that BellSouth's proposal to notify the ALECs that can be accommodated based upon the square footage requested, suggests that the new space would be awarded based on the nature of the space requested and not on when the space was requested. (TR 1186) Witness Mills contends that the Commission should require the ILEC to provide a minimum 60-days notice on new space availability, and argues that the minimum 60 days will allow ALECs sufficient time to evaluate their space needs. (TR 1186)

Analysis

Staff notes that most of the parties agree that the ILECs should inform the Commission and the ALECs when space becomes available in a CO because of modifications, and that the newly available space should be assigned on a first-come, first-served basis.

While BellSouth and AT&T propose a 60-day notification period prior to the space becoming available, others suggest that an ILEC should inform the Commission and the collocators as soon as the ILEC becomes aware of the changed circumstance. Staff agrees with BellSouth's witness Hendrix that there is merit in ensuring that the space is truly available before informing the ALECs and the Commission. Staff believes that notification should begin when the ILEC knows for certain that space will become available, because when an ILEC experiences a changed circumstance that may make space available, various factors could affect this potential space availability. Staff, however, believes that there is greater benefit to be derived from earlier notification of the pending available space. Thus, staff believes that a 60-day notification period will allow the ALECs enough time to assess their collocation needs in relation to the particular CO.

With respect to the mode of notification, it appears there is consensus for the FCC prescribed website postings. However, there are differing opinions of when an ILEC should

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post any updates on its public website. With the website postings, staff is uncertain how the Commission will know of any changed circumstances, and believes that the Commission will not be aware of any changed circumstance in any CO until the ILEC mails a notice or a problem arises. Further, some parties have suggested notification by mail. Staff believes that in addition to the website postings, that notification by mail is necessary; this way the ILEC sends the notification to both the ALECs and the Commission simultaneously.

With respect to how an ALEC gets on a waiting list and how space will be allocated to requesting ALECs, these will be addressed in Issue 21.

Conclusion

Staff recommends that the Commission should require the ILECs to notify the Commission and the ALEC community 60 calendar days before space will become available in a CO where the ILEC previously has been granted a waiver from physical collocation requirements. The ILEC should inform the Commission and requesting ALECs of the new space availability by mail in addition to posting the updates on its public website. In the event the ILEC's determination that space will be available does not allow for 60 calendar days' notice, the ILEC should notify the Commission and requesting ALECs within two business days of this determination.

ISSUE 20: What process, if any, should be established for forecasting collocation demand for CO additions or expansions?

RECOMMENDATION: The Commission should not establish a specific process for forecasting collocation demand for central office (CO) additions or expansions. However, the Commission should require that the ILEC's forecasts of collocation demand be based on historical collocation data, CO characteristics, and ALEC forecasts of collocation space needs. The process of weighing these factors is inherently subjective; thus, the Commission should not prescribe a particular process. (AUDU)

POSITIONS OF THE PARTIES:

BELLSOUTH:

The Commission should encourage ALECs to provide forecasts periodically for a planning horizon of two years such that BellSouth can take ALEC forecasts into account as one factor when planning for central office additions, expansions, or replacements.

GTEFL:

The FCC requires ILECs to take collocator demand into account when renovating or constructing facilities. GTE should be permitted to retain its current process, which considers past collocation requests and other information about potential demand. In no event should ILECs have to construct space on the basis of just ALEC collocation forecasts.

ALLTEL:

ALECs should provide forecasts to ILECs to prevent premature space exhaust. Based on ALEC forecasts, ILECs should be able to develop or construct space sufficient to prevent exhaust of space.

SPRINT:

ALECs should be required to provide an annual forecast (for a three year period) of space requirements by premises as part of the Joint Operations Plan developed jointly by the ILEC and ALEC. In addition, the ILEC should be required to make reasonable estimates of additional ALEC space requirements for those ALECs not currently covered by a contract.

SUPRA:

ILECs must consider aggregate space demand in planning central office additions. The ILEC is and likely will be the largest "purchaser" of central office space to house its own equipment. The ILEC should augment its forecasts with those of ALECs to plan and construct sufficient space to prevent exhaust.

JOINT STATEMENT (FCCA, AT&T, COVAD, FCTA, INTERMEDIA, MCI, MGC, MEDIAONE, and RHYTHMS):

ILECs must consider aggregate space demand in planning central office additions. The ILEC is and likely will be the largest "purchaser" of central office space to house its own equipment. The ILEC should augment its forecasts with those of ALECs to plan and construct sufficient space to prevent exhaust.

STAFF ANALYSIS:

This issue does not seek to address whether the ILECs should consider ALECs' collocation space needs in planning CO expansion; instead, this issue addresses whether ILECs need to utilize a specific process to factor in ALECs' collocation space needs in CO forecasting.

BellSouth witness Milner testifies that BellSouth factors in ALEC collocation space when planning CO additions or expansions. (TR 235) Witness Milner states that BellSouth factors in collocation space based on forecasts derived from:

. . . space currently allocated for collocation, the amount of space requested in either current applications or collocators on a waiting list for that central office, and the amount of collocation space in central offices in the surrounding area.
(TR 235)

Witness Milner states that ALECs are encouraged to provide forecasts periodically for a planning horizon of two years, and contends that BellSouth uses these forecasts as an input when planning for CO additions, expansions, or replacements.
(TR 235)

Witness Milner asserts that forecasting collocation demand for CO addition or expansion is so different from forecasting network growth in the past, where network growth directly correlated with interoffice trunk and access line growth. (TR 236) He argues that in the past, network planning relied on

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forecasts of line growth and interexchange carrier access growth, and further states that this process has changed to account for:

. . . the increased use of the internet and the resulting increased demand on the telecommunications network, the introduction of ALEC networks and the need to interconnect those networks, and the increased demand for wireless interconnection. As a result, the demand on the network is no longer stable or predictable. (TR 236)

Witness Milner then argues:

. . . a lack of a stable forecast information reflecting these influences has forced BellSouth, . . ., to rely heavily on trended demand to determine capacity exhaust and equipment relief timing. (TR 236)

Witness Milner contends that each central office has its own unique growth dynamics, which are generally driven by factors such as:

. . . the location of the central office (rural, suburban, or urban), the market served (residential, office, industrial, etc), and the historic growth rate (stable, expanding, declining). (TR 273)

GTEFL witness Reis states that GTEFL factors in requests received within a particular metropolitan area and other information about potential collocation demand when it forecasts collocation demand for a CO addition or expansion. (TR 425) Witness Reis further testifies that its current practice comports with the FCC's requirements. According to witness Reis, the FCC stated:

[W]e concluded that incumbent LECs should be required to take collocator demand into account when renovating existing facilities and constructing or leasing new facilities, just as they consider demand for other services when undertaking such projects. (TR 425)

Witness Reis testifies that GTEFL does not oppose factoring in ALECs' collocation forecasts as one element in its planning

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process, along with all other available market and historical information (including applications on file). (TR 441) Witness Reis further testifies that:

. . . GTE would strongly oppose any requirements for ILECS to expand or add space based on ALEC forecasts. ALECs have no financial commitment to such forecasts and there is no way of verifying their validity. (TR 441)

GTEFL witness Reis observes that any approach that relies heavily on ALECs' forecasts could underestimate the need for CO additions or expansions, and he argues:

GTE believes ALECs would consider collocation forecasts to be competitively sensitive information. In GTE's experience, ALECs are reluctant to share this kind of information. (TR 442)

Sprint witness Hunsucker states that there are two ways to ensure that ILECs can reasonably anticipate ALECs' future demand for collocation space:

. . . 1) the ILEC could be required to contact the ALECs to request a forecast of future space requirements or 2) the ILEC could make an independent decision on the amount of space to be requested by ALECs. (TR 540)

Witness Hunsucker contends that the ALECs should be required to provide the ILECs with annual 3-year forecasts for collocation space requirements by central office, and that the ILECs should be required to make a reasonable estimate of additional collocation space for those ALECs that are not covered by the ALECs' provided forecasts. (TR 540) He testifies that Sprint is not opposed to a shorter forecast period for ALECs. (TR 581)

Covad witness Moscaritolo argues that the ILEC should provide the ALECs with all information that will affect the ALECs' ability to collocate in a given CO, and conversely, the ALECs should provide the ILEC with future growth plans that will potentially affect the amount of available collocation space in a particular CO. (TR 861)

MGC witness Levy argues that forecasting ALECs' future space demand can be accomplished by requiring the ALECs to

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provide ". . . three to five years forecasts from these companies when applications are submitted." (TR 918) Witness Levy argues that this is being practiced by other ILECs. (TR 918, 936) He contends that this should only be one of the inputs in the ILEC's planning as there are other factors that need to be considered. (TR 936-937)

Supra witness Nilson states that as the ILEC begins planning for a CO expansion, the ILEC should poll the ALECs to determine ". . . the level of interest in, and amount of, collocation space, . . ." for any particular central office. Witness Nilson further argues that with this information from the ALECS, the ILEC can better project the amount of additional space that is needed for each CO. (TR 968)

FCCA witness Gillan states that it is reasonable to get some forecast information from the ALECs, and contends that this is information that the ILEC can develop from its own in-house information based on historical data on existing collocation needs and the individual CO's characteristics. (TR 1066) Witness Gillan argues that conditioned CO space is a commodity, and the largest purchaser of that collocation space in any central office is the ILEC itself. (TR 1066, 1069) Witness Gillan further argues that since the ILEC is the largest purchaser of collocation space in any given CO, the ILEC's space demand and growth will determine most of the change in space requirements in that CO. Knowing the ILEC's space demand, witness Gillan argues that the ALECs' future demand for collocation space can simply be overlaid on the ILEC's own future space needs as an incremental effect. (TR 1069) Witness Gillan further contends that the ILEC should have inventory space, ". . . because you should have space available and waiting for customers, just like you do for any other product." (TR 1070)

Analysis

All the parties agree, to a degree, that an ILEC should factor in the ALECs' collocation needs when planning a CO addition or expansion. This comports with the FCC requirement (FCC 96-325, ¶585 and 605) that ILECs need to take into account ALECs' forecasts for space as they plan for CO additions or expansions. Consistent with BellSouth's and Sprint's proposal, staff believes that the ALECs should provide the ILECs with two-year forecasts, on an annual basis, to assist the ILECs in CO planning. (TR 235, 540, 581)

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While staff agrees with the ILECs that warehousing space is not what the FCC intended, staff also agrees with FCCA witness Gillan that one can construe collocation space to be similar to any other product that the ILECs provide their customers and thus, the ILEC should carry an inventory. (TR 1071) Hence, another method of accounting for ALEC collocation space demand would be to use the ILEC's historical data to project the needed collocation space in the particular CO. By historical data staff means currently allocated collocation space.

Staff agrees with BellSouth that each CO is unique and believes that the following factors could be useful in assisting the ILECs to accurately factor in ALECs' collocation space demands. These factors are:

- the location of the central office (rural, suburban, or urban),
- the market service area (residential, office, industrial, etc),
- the historic growth rate (stable, expanding, declining),
- trending data (demand for wireline and wireless interconnection, increased network capacity to accommodate increasing internet demands), and
- general technology effects (obsolescence and shrinking network equipment sizes).

Staff believes that the ILECs should take these factors into consideration in planning CO expansion. The weighting of these factors in demand planning differs from CO to CO, just as it differs from ILEC to ILEC.

Conclusion

Based on the evidence in this proceeding, the ILECs appear to be incorporating the ALECs' future space needs in planning for CO additions or expansions, as required by the FCC. Thus, staff recommends that the Commission should not establish a specific process for ILEC forecasting of collocation demand for CO additions or expansions. While the ILEC's forecasts of collocation demand should be based on historical collocation data, CO characteristics, and ALEC forecasts of collocation space needs, the process of weighing these factors is inherently subjective; therefore, the Commission should not prescribe a particular process.

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ISSUE 21: Applying the FCC's "first-come, first-served" rule, if space becomes available in a central office because a waiver is denied or a modification is made, who should be given priority?

RECOMMENDATION: When space becomes available in a central office due to a Commission denial of a waiver request or modifications are made that create space, staff recommends that priority be given to the first ALEC that was denied collocation space in that central office, and then to subsequent ALECs who were denied space until all such space is exhausted. Staff recommends that ILECs be required to maintain a waiting list of ALECs that were denied space, by order of the application denial date. Staff also recommends that ILECs be required to accept a letter of intent to collocate, in central offices where a waiver is granted and a waiting list already exists, as a means of securing an ALEC's place on the waiting list without having to file an application for space that does not exist. (HINTON)

POSITIONS OF THE PARTIES:

BELLSOUTH:

BellSouth will maintain a waiting list of ALECs and the amount of space each requested in the order of BellSouth's receipt of each collocation application. When space becomes available, space will be offered in a "first-come, first right of refusal" manner.

GTEFL:

Under the first-come, first-served rule, new space should be made available to ALECs in the order in which they submit a firm order for the space.

ALLTEL:

ILECs subject to Section 251(c)(6) should be required to maintain a request inventory. ALECs that requested space within the last 6 months in a CO with new space should be notified within 15 business days. The first requester would be offered the space.

SPPINT:

ALECs should be given priority based on the date of their respective collocation applications. If space is exhausted, the ILEC should maintain a list of all pending

requests in a wait list mode based on the collocation application date.

SUPRA:

ILECs should keep a waiting list of all ALECs requesting space, and should notify the ALECs within 10 days of space availability, with a response due in 30 days. If an ALEC successfully challenges an ILEC's denial of space, then that ALEC should be given first priority.

JOINT STATEMENT (FCCA, AT&T, COVAD, FCTA, INTERMEDIA, MCI, MGC, MEDIAONE, and RHYTHMS):

The ILEC should keep a prioritized waiting list of all ALECs who have requested space, and should notify all ALECs on the list within 10 calendar days after it knows when space will become available. ALECs should have 30 days to indicate their interest in maintaining their priority.

STAFF ANALYSIS:

The issue before the Commission is to determine who should be given priority for new collocation space, when such space becomes available in a central office due to modifications or a denied waiver. Testimony on this issue is similar throughout the record, with a few exceptions as discussed below.

AT&T witness Mills contends that where an ILEC has denied a request for physical collocation within the preceding three years, and space is made available due to a modification to the central office, then the newly available space should be offered first to the carriers whose requests for physical collocation were denied. This should be done beginning with the first ALEC to be denied space. (TR 1186-1187) Similarly, MCI witness Martinez contends:

The ILEC should maintain a priority waiting list in any office where an ALEC is denied physical collocation. The ALEC's place on the list should be determined by the date of its firm order for space, or the date on which its application for space was rejected, if that date is earlier. (TR 719)

Witness Martinez asserts that the first-come, first-served rule should apply based on the date the ALEC's initial order was received. He also contends that accepting virtual collocation after being denied physical, should not affect an

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ALEC's priority when space for physical collocation becomes available. (TR 711)

Supra witness Nilson similarly states that "the ILEC should offer the available space to the first carrier that requested space." (TR 969) Witness Nilson states that the ILEC should be required to maintain a list of all carriers who have requested space in the order their requests were received. (TR 969) Intermedia witness Jackson agrees, stating that "[P]riority should be given to the ALEC based on the order in which the ALECs originally applied for collocation in that specific central office - first come, first-served." (TR 1113)

MGC witness Levy states that the company that submitted the first collocation request to be denied should be first in line and have first opportunity to submit a firm order for the new space. (TR 919) Witness Levy suggests that this process should continue with the next ALEC on the waiting list, until firm orders have been submitted for all the space that has become available. Once all formerly rejected applicants have had a chance to submit firm orders for space, then the remaining space should be published for any new collocators who are not on the waiting list. (TR 919)

BellSouth witness Hendrix states that "BellSouth maintains a waiting list that contains the ALECs and the amount of space each requested, in the order of BellSouth's receipt of each collocation application." (TR 43) Witness Hendrix goes on to explain that when space for physical collocation becomes available in a central office, space is offered on a "first-come, first-right of refusal" manner. ALECs that can be accommodated in the newly available space, based on square footage originally requested, are notified and asked to contact BellSouth if still interested in the space. The newly available space is then distributed to these companies in the order they appear on the waiting list. (TR 43) BellSouth witness Hendrix also states that BellSouth does not require an ALEC to "re-up" its place on the waiting list. Once an ALEC is on the list, it remains there until space has been offered and subsequently turned down or accepted. (TR 100)

Sprint witness Hunsucker agrees that ILECs should maintain a waiting list of denied applicants based on date of application. (TR 542) He states that "when space becomes available, the ILEC shall be required to make space available to ALECs on the wait list based upon the date of application until all space is exhausted." (TR 543) However, witness Hunsucker disagrees with BellSouth, contending that ALECs

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should be required to reaffirm their collocation request every 180 days. He argues that reaffirmation of an application should be required in order "to ensure that market plans have not changed and space is no longer required." (TR 543) He further asserts that if the request is not reaffirmed within 180 days the request date changes to the reaffirmation date, subsequently changing the applicant's order on the waiting list. (TR 543)

In contrast to the majority of testimony in the record, GTEFL witness Ries asserts that "[P]riority will be given to ALECs in the order in which they submit checks for 50% of the NRCs associated with their collocation requests." (TR 425) Witness Ries further explains that GTEFL does not keep a waiting list of ALECs that have been denied space. Instead, GTEFL posts information regarding newly available space on their websight, and the first party that submits an application with the 50 percent deposit for the nonrecurring charges, would then have first priority for the space. (TR 466)

Analysis

Intermedia witness Jackson contends that GTEFL should be required to maintain a waiting list of collocators, and once space becomes available GTEFL should contact them immediately. He further contends that "priority should be given to the collocator with the oldest collocation request, followed by the next oldest, and so on. Priority should not be decided based on who gets to the bank first." (TR 1139) Staff agrees with the position of Intermedia, as well as other parties, and believes that all ILECs should be required to maintain a waiting list of ALECs that have been denied physical collocation in a particular central office.

MGC witness Levy also contends that "[T]he first collocator request for physical collocation that was rejected should be first in line and have the first opportunity to submit a FOC for a cage in the new space." (TR 919) Staff finds this process to be reasonable and believes that the waiting list of denied ALECs should be kept in order of application denial date, with the first application to be denied being first on the list. Staff also agrees with MCI witness Martinez who argues "the fact that the ALEC accepted virtual collocation should not affect its priority when space for physical collocation becomes available." (TR 711) Staff believes that an ALEC should maintain its place on the waiting

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list, even if it has accepted virtual collocation after being denied physical.

Sprint witness Hunsucker contends that ALECs should be required to reaffirm their application for collocation every 180 days, in order to maintain their place on the waiting list. (TR 543) However, staff agrees with BellSouth witness Hendrix who suggests that once an ALEC is on the waiting list, it should remain until such time as collocation space is offered to that ALEC. (TR 100) Staff also agrees with witness Hendrix, who stated during cross examination that an ALEC could be placed on an existing waiting list by submitting a letter of intent, without having to file an actual application. (TR 101) Staff believes this process is reasonable, and that ILECs should be required to accept requests to be placed on an existing waiting list that are not in the form of an application. These letters of intent should be accepted in a non-discriminatory manner.

Regarding application fees, staff refers to FPSC Order No. PSC-99-1744-PAA-TP, dated September 7, 1999, which reads in part:

If the ILEC informs the applicant carrier that it intends to deny collocation in an ILEC premises, the ILEC shall return to the applicant carrier within 15 calendar days any fees over and above those necessary to cover the initial administrative costs associated with processing the carrier's application for that premises.

In addition, staff believes that when an ALEC submits a letter of intent in order to be placed on the waiting list for collocation space at a particular ILEC central office, the ILEC should only be permitted to charge the ALEC for the administrative costs associated with placing the ALEC on the waiting list. The actual application fee would only be charged when space is offered to this ALEC, and an application is submitted for such space.

Staff disagrees with BellSouth's procedure of offering newly available collocation space to ALECs according to the amount of space originally requested. (Hendrix TR 43) Instead, staff agrees with parties such as AT&T, whose witness states that "any newly available collocation shall first be offered to the carriers whose request for physical collocation were denied, beginning with the first such denial." (Mills TR 1187) Staff believes that newly available space should be offered to

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the first ALEC on the waiting list, regardless of whether the amount of space originally requested was greater than that which has become available. If the amount of newly available space is less than the amount originally requested by the first ALEC on the waiting list, staff believes this ALEC should have first right to either accept or refuse this space.

Several parties have testified regarding time frames in which ALECs should be required to respond to an offer of newly available space. While staff believes ALECs should respond within a reasonable time period, response intervals are beyond the scope of this issue and will not be addressed in this recommendation.

Conclusion

Staff recommends that when space is made available in a central office due to modifications or a denied waiver, priority should be given to the first ALEC to have been denied space in that central office. Staff also recommends that ILECs be required to maintain a waiting list by order of application denial date. Any newly available space should be offered to the first ALEC on the waiting list, who then has first opportunity to submit a firm order for such space. This process should continue with the next ALEC on the waiting list, until every ALEC on the list has had an opportunity to place a firm order, or all the new space has been exhausted. Any space remaining after the waiting list is processed would then be offered to ALECs on a first-come, first-served basis, until such space is exhausted.

In addition, staff recommends that ILECs be required to accept letters of intent to collocate in central offices where a waiver is granted and a waiting list already exists. This letter of intent will enable an ALEC to be placed on the waiting list, without being required to file an application for space that does not exist. Staff recommends that the ILEC should be permitted to charge a fee to recover only the administrative costs associated with placing the ALEC on the waiting list, when a letter of intent is submitted. The application fee should not be assessed until such time as the ALEC is offered space, and an application is submitted.

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ISSUE 22: Should this docket be closed?

RECOMMENDATION: No. Whether or not the Commission approves Issues 1 through 21, this docket should remain open pending further proceedings to set collocation rates. **(B. KEATING)**

STAFF ANALYSIS: No. Whether or not the Commission approves Issues 1 through 21, this docket should remain open pending further proceedings to set collocation rates. No. Whether or not the Commission approves Issues 1 through 21, this docket should remain open pending other proceedings.