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May 15, 2000

VIA ELECTRONIC MAIL
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Carole J. Washburn
Secretary
Washington Utilities & Transportation Commission
1300 S. Evergreen Park Drive SW
P.O. Box 47250
Olympia WA 98504-7250

Re: Collocation Rulemaking, Docket No. UT-990582

Dear Ms. Washburn:

Pursuant to the Notice of Opportunity to File Supplemental Comments (May 15, 2000) in the above-referenced docket, Advanced TelCom Group, Inc., AT&T Communications of the Pacific Northwest, Inc., TCG Seattle, Electric Lightwave, Inc., NEXTLINK Washington, Inc., and MCI WorldCom (collectively "Joint Commenters"), provide the following comments in response to issues raised in that Notice.

In Section (1), should the definition of "equipment" be changed? Should any other definitions be added or changed?

No, the definition of "equipment" should not be substantively changed. The D.C. Circuit Court of Appeals vacated and remanded the federal collocation rule on which the proposed definition of "equipment" was based, *see GTE Service Corp. v. FCC*, 205 F.3d 414 (D.C. Cir. 2000), but the federal Telecommunications Act of 1996 ("Act") expressly authorizes the Commission to establish its own requirements that are not inconsistent with federal law. 47 U.S.C. sections 251(d)(3) & 261(c). The Commission should exercise that authority and require the ILECs to permit collocation of any and all equipment that is used or useful for interconnection and access to unbundled network elements.

The legislature has broadly empowered the Commission to regulate the services provided by

telecommunications companies, including services provided to other telecommunications companies. *E.g.*, RCW 80.36.080; 140 & 160. The Commission is also charged with "[p]romot[ing] diversity in the supply of telecommunications services and products in telecommunications markets throughout the state." RCW 80.36.300(5). State law thus provides more than ample authority to require that ILECs permit CLECs to collocate any equipment that enables them to interconnect with, or obtain access to, the ILEC's network.

The Commission has consistently exercised its authority under state and federal law to impose just such a requirement. *See, e.g., In re AT&T/U S WEST Arbitration*, Docket No. UT-960307 (requiring U S WEST to permit collocation of remote switching units). Nothing in the D.C. Circuit's decision affects those decisions. The ILECs have failed to identify any legitimate reason for refusing to permit a CLEC to collocate equipment that has switching functionality, as well as the ability to be used for interconnection or access to unbundled network elements. The ILEC's desire to do only the minimum required by federal law in order to limit competitors' efficiency not only is insufficient justification for reversal of the Commission's past practices but is fundamentally inconsistent with the Commission's efforts to promote the development of effective local exchange competition in Washington.

Accordingly, the only change to the definition of "equipment" in the current proposed rule should be the addition of the phrase "including but not limited to equipment" prior to "as required" in the last line of that definition. The Joint Commenters do not propose any additional revisions or additions to the definitions in the draft rule as currently proposed.

In Section (2), paragraph (d), what conditions should apply when adjacent collocation is requested?

No conditions should apply to the availability of adjacent collocation when requested. The FCC has required that adjacent collocation be available when space is exhausted in a central office, but competitors may want adjacent collocation even if collocation space is available. Adjacent space may be preferable to the space available in the central office to meet a CLEC's needs, or a CLEC may desire caged physical collocation when space is available only for cageless physical collocation. Adjacent collocation should be available as long as the CLEC is able to identify or locate adjacent space and is willing to pay the ILEC the TELRIC-based rates for facilities and services it provides.

In Section (3), what intervals have been established by other state commissions for collocation? What intervals has the FCC established? How does the availability of equipment and materials, including cable, impact site preparation intervals? Should CLECs be allowed to self-provision equipment and materials necessary for collocation?

To the extent that other state commissions have established collocation intervals, those intervals generally are similar to the intervals established by this Commission and contained in the draft proposed rule, with the exception of the provisioning interval, which can be as short as 45 days. *See*, *e.g.*, Utah Admin. Code R746-365-4(B)(2)(c) (requiring 15 day space availability response to initial request, 25 days for written quote with 30 day response, and 45 days to provision upon acceptance of quote). U S WEST, however, has agreed in a Commission-approved interconnection agreement with Covad to provision collocation within 45 days and thus must do so for all requesting carriers.

The FCC has not established collocation intervals other than to find that 10 days is a reasonable period in which to inform a requesting CLEC of space availability, but has left that determination to the states. *See Advanced Services Order* ¶¶ 54-55. The FCC, however, stressed the importance of timely provisioning, *id*. ¶ 54, and previously stated that intervals originally proposed by AT&T in an ex parte letter submitted in 1996 provide a good guide. *See Local Competition Order* ¶ 604 & n.1461. The intervals in the proposed rule are generally consistent with these intervals, but require more expedited provisioning as a result of greater experience with collocation provisioning since 1996.

The provisioning intervals in the proposed rule generally allow sufficient time to obtain the necessary equipment and facilities to provide collocation. The availability of equipment and materials, however, will impact site preparation intervals on an individual case basis to the extent that substantial delays in the ILEC's ability to obtain the necessary equipment and materials could delay provisioning the affected collocation elements. To the extent that the ILEC has timely and reasonably sought to obtain the necessary equipment and materials, their unavailability would be a force majeur condition that would excuse performance for as long as the condition lasts and the ILEC continues to make reasonable efforts to remedy the condition. No such excuse would be applicable, however, if the ILEC has not acted reasonably – for example, by waiting until the last minute to place orders with its vendors or by dedicating limited resources to its own uses at the expense of requesting CLECs.

CLECs should be permitted to self-provision equipment and materials necessary for collocation. CLECs obviously have a far greater incentive than the ILEC to ensure timely and efficient completion of collocation provisioning. If a CLEC believes that it can provision (or engage a third party vendor acceptable to both parties to provision) the necessary equipment and materials better, faster, and/or cheaper than the ILEC can provision them, the CLEC should have that option.

In Section (4), what conditions has the FCC established for reserving central office space? Must space be made available on a first-come, first-served basis?

The FCC has required ILECs to make central office space available to requesting carriers on a first-come, first-served basis. *Local Competition Order* ¶ 585. ILECs may "retain a limited amount of floor space for defined future uses" but "may not, however, reserve space for future use on terms more favorable than those that apply to other telecommunications carriers seeking to hold collocation space for their own future use." *Id*. ¶ 604; *accord* 47 C.F.R. 51.323(f)(4).

For the following questions, assume that space must be made available on a first-come first-served basis and more than one CLEC has requested space in the same central office. What is the best method to inform CLECs as space becomes available? What should trigger the

offer of available space to a CLEC? What is a reasonable time interval for a CLEC to accept space as it becomes available? If a CLEC does not timely accept space as it becomes available, or elects to wait until additional space becomes available, how is the CLEC's request impacted?

In addition to maintaining a publicly available list of central offices in which collocation space is not available, the ILEC should maintain a proprietary list of CLECs that have requested space in those offices. CLECs should not be required to place an order for space in a central office that the ILEC has identified as lacking collocation space to be included on the list of CLECs requesting space in that office. Once space becomes available, the ILEC should notify each CLEC, in the order they requested space, that space is now available through the notification provisions in the parties' interconnection agreements.

The triggering event for an offer of available space will vary with individual circumstances. Such an event could include removal of obsolete equipment from the central office (e.g., replacement of an analog switch with a digital switch), a collocated CLEC's decision to vacate some or all of its collocated space, the failure of a CLEC to occupy collocation space constructed for it within a reasonable period of time, or completion of expansion of the central office. The ILEC should be required to inform CLECs waiting for space of the availability of that space as soon as the ILEC is aware of a reasonably approximate date on which space will be available.

A CLEC generally should be required to respond to the ILEC's notice of space availability within ten days of its receipt of that notice. Such a response, however, should be in the form of "reactivating" any application the CLEC originally submitted or of submitting an application if the CLEC did not previously submit an application. Following that response, the standard intervals would apply (e.g., for providing the CLEC with a quote, which the CLEC would have the option to accept or reject within the specified interval).

If a CLEC does not timely accept space, it should be removed from the list of CLECs requesting space in that central office, and the space should be offered to the next CLEC in line. A CLEC, however, should be permitted to allow the ILEC to offer the space to other CLECs without losing its place in line. For example, if less space becomes available than the CLEC has requested and the CLEC does not want to take that space, the CLEC should be able to allow the ILEC to offer the space to the next CLEC in line while maintaining its right to be notified first if additional space becomes available in the future.

In Section (5), what restrictions should be placed on collocation equipment, other than NEBS Level I compliance? What exceptions should be allowed?

Collocated equipment should meet the same safety and engineering standards the ILEC has adopted for its own central office equipment, including NEBS Level I compliance, and the proposed rule is so drafted. Exceptions to these standards should be permitted on an individual case basis if the ILEC and the CLEC can negotiate proper safeguards, subject to the dispute resolution provisions of the parties' interconnection agreement.

In Section (6), how should collocating carriers access each other's network?

Collocating carriers should be permitted to access each other's networks either by requesting the ILEC to construct the required facilities or by constructing (or using a mutually acceptable third party vendor to construct) those facilities. The additional language U S WEST proposed in its March 15 comments is acceptable. The language GTE proposed in its comments, however, is too restrictive and specific to GTE processes and should not be adopted.

In Section (7), what security costs should ILECs be allowed to recover from collocating CLECs?

The FCC has authorized the ILECs to impose only those security measures that it imposes on its own employees and contractors. *Advanced Services Order* ¶¶ 46-49. ILECs thus should be allowed to recover only the CLECs' pro rata share of the ILECs' total costs for those security measures used by both the CLECs and the ILECs. ILECs, however, are not entitled to recover any costs for security measures that they do not impose on themselves (e.g., the costs of constructing physical barriers between the ILEC's equipment and CLECs' equipment). The Commission will determine those costs in Docket No. UT-003013.

In Section (8), how does the availability or unavailability of loop data impact collocation?

The primary purposes for obtaining collocation in an ILEC central office are for interconnection and access to unbundled network elements, particularly unbundled loops. Collocation requires a substantial initial investment, both to obtain space and related facilities from the ILEC and to purchase and install the equipment the CLEC needs to operate in that space. The availability of loops may significantly impact a CLEC's determination of how much space and related facilities it will need in a particular central office or even whether collocation is economically viable in that office. For example, if a high percentage of loops in a particular central office is served using digital loop carrier or need conditioning, the CLEC may need space only for interconnection (or may not collocate at all) because accessing loops in that office is not financially justified. Accordingly, the availability of loop data and the quality and type of loops available (*i.e.*, served via IDLC or other network architecture preventing full access to unbundled loops or requiring extraordinary conditioning efforts to get clean loops) can substantially impact a CLEC's decision whether and to what extent to collocate in a specific central office.

The Joint Commenters appreciate the opportunity to comment on these issues and look forward to continued participation in this proceeding.

Sincerely yours,

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