

**BEFORE THE**  
**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**  
**UT-990582**

In the Matter of Telecommunications)  
Collocation Rulemaking ) Comments of Sprint Corporation

Sprint Corporation, on behalf of United Telephone Company of the Northwest and Sprint Communications Company, L.P. (collective, "Sprint") hereby submits the following comments in response to the Commission's August 18, 2000 Notice of Opportunity to Submit Written Comments concerning the proposed WAC 480-120-560.

**Introduction**

The WUTC plays a crucial role in determining collocation terms and conditions. The proposed rule should promote competition by ensuring that CLECs will have timely access to ILEC facilities. It should also establish clear expectations for all participants. And finally, it should be fair, just, and reasonable to all parties. Sprint believes that the current draft rule goes far toward meeting those goals; however, there are a few areas for which Sprint proposes changes, primarily, as a result of the recent order issued by the FCC.<sup>1</sup>

**480-120-560(1) Definitions - Collocation**

"Collocation" is defined in the proposed rule as the ability of a CLEC to place equipment within, upon, or *nearby* an ILEC's premises. Sprint believes that the word "nearby" should be deleted. Sprint understands that when CLEC equipment is located nearby an ILEC premises, it is "off-premises", (i.e. at a non-ILEC location.) The FCC Recon. Order, in 47 CFR 51.5, defines "premises" as follows:

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<sup>1</sup> See In re Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Order on Reconsideration and Second Further Notice of Proposed Rulemaking in CC Docket 98-147 and Fifth Further Notice of Proposed Rulemaking in CC Docket No. 96-68, CC Docket Nos. 98-147 & 96-68, FCC 00-297 (rel. Aug. 10, 2000) ("FCC Collocation Recon. Order").

*Premises.* *Premises* refers to an incumbent LEC;s central offices and serving wire centers; all buildings or similar structures owned, leased, or otherwise controlled by an incumbent LEC that house its network facilities; all structures that house ILEC facilities on public rights-of-way, including but not limited to vaults containing loop concentrators or similar structures; and all land owned, leased, or otherwise controlled by an incumbent LEC that is adjacent to these central offices, wire centers, buildings, and structures.<sup>2</sup>

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

The Telecommunications Act and the FCC Rules require an ILEC to interconnect with CLEC facilities and equipment for the mutual exchange of traffic between the two carriers. This obligation exists regardless of whether the CLEC equipment is collocated “on-premises”, i.e., the ILEC premises, or located “off-premises” at a non-ILEC location. Interconnection is the physical linking of networks between the ILEC facilities and the CLEC facilities. As Sprint understands it, interconnection, not collocation rules, would apply if CLEC equipment is located nearby the ILEC premises.

Since collocation is premised on ILEC control, either through ownership or the leasing of such facilities, the proposed definition of collocation should be restricted to CLEC equipment placed upon property that is owned or controlled by an ILEC. The inclusion of the word “nearby” in the definition permits collocation on property outside of the ILEC’s control. The word “nearby” should therefore be removed from the definition.

#### **480-120-560(1) Definitions – ILEC Premises**

The proposed definition of "ILEC premises" should be replaced with the FCC's latest and more expansive definition of premises, as defined above. The FCC’s definition is more inclusive because it includes structures, similar structures, and public rights-of-way.

#### **480-120-560(2) ILEC Response to CLEC Order for Collocation**

The proposed rule requires the ILEC to respond within fourteen days of receipt of an

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<sup>2</sup> FCC Recon. Order. 47 CFR § 51.5.

application whether or not there is space available to accommodate a CLEC's collocation request. Sprint suggests that the Commission amend the proposed rule to comport with the FCC's national ten-calendar day standard.<sup>3</sup> The FCC first stated in the Advanced Services First Report and Order that a ten day interval constitutes a reasonable time within which an incumbent LEC should inform a new entrant whether its collocation application has been accepted or denied. In the Collocation Recon. Order, the FCC reasoned that LECs have had ample time since the enactment of 251(c)(6) to develop internal procedures sufficient to meet this deadline.<sup>4</sup>

Sprint recognizes that ILECs, particularly those that serve rural areas, may not be adequately staffed to meet the standard ten-day interval when multiple applications are received. Therefore, Sprint proposes the following sliding scale: for those requests that do not fall within the top 100 MSAs,<sup>5</sup> the ILEC should respond in ten days to requests for collocation at the first ten ILEC premises within the state; fifteen days for response on the eleventh to fifteenth ILEC premises within the state; twenty calendar days for response to the sixteenth to twentieth ILEC premises within the state. The scale would continue at the same rate for requests beyond twenty premises.

#### **480-120-560(3)(a) Price Quote Interval**

Sprint would like to see the Commission shorten the twenty-five day deadline for the ILEC to provide a price quote where practical. Sprint's recommends a fifteen-day interval when the ILEC has Commission approved tariffs for collocation rate elements.

Sprint also suggests that the rule should incorporate the FCC's recommended seven-day deadline for the CLEC to respond to the ILEC price quote.<sup>6</sup> Without a deadline, the ILEC will be impaired in its ability to accurately determine if other CLEC collocation

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<sup>3</sup> FCC Recon. Order ¶24. 47 CFR § 51.323 (k)(1).

<sup>4</sup> FCC Recon. Order ¶ 24.

<sup>5</sup> Metropolitan Statistical Areas. In Washington, Seattle/Bremerton/Tacoma area and Spokane are in the top 100 MSAs.

<sup>6</sup> ¶ 25.

requests can be accommodated. Additionally, the ILEC should not be bound to a price quote indefinitely since costs and prices may change periodically.

#### **480-120-560(3)(a) Premise Tour**

As Qwest (then US West) noted in their March 15<sup>th</sup> comments, the FCC rules require an ILEC to provide a tour of the premises, at no charge, subsequent to the ILEC denying a request for physical collocation due to space limitations.<sup>7</sup> The draft rule seems to indicate that another site visit might be required in Washington. Sprint submits that additional site visits should not be required beyond the FCC requirement for all the reasons given by Qwest.

#### **480-120-560(3)(b)-(c) Provisioning Intervals**

Sprint is very concerned about the short time frames for completion of construction of collocation space. 45 days under ordinary conditions and 90 days under extraordinary conditions do not provide sufficient time to complete construction of the ordered collocation space. The proposed rule should allow additional time to support engineering lead-time, work expenditure approval, material delivery and possible building permit requirements. As Verizon (then GTE) noted in their May 15<sup>th</sup> comments and at the workshop held on the March 23, normal intervals for shipment of cable is 42 days on average from the date the vendor receives the purchase order to the date the material is shipped. Also at the workshop on March 23, Rick Finnigan, representing small companies, echoed Verizon's concern that the 45-day interval cannot be achieved given the long lead times on cable.

For physical caged collocation in a conditioned space, Sprint urges the Commission to adopt the FCC's national standard, which is 90 days. The FCC specifically rejected a 45 day deadline because it was not persuaded from the record that an interval shorter than 90 days would be reasonable for many collocation arrangements.<sup>8</sup> Shorter time intervals may

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<sup>7</sup> FCC Advanced Services Order ¶57.

<sup>8</sup> ¶ 27.

be warranted in certain situations. Sprint recommends 60 days for cageless and virtual collocation in conditioned space.

The FCC acknowledged that significantly longer provisioning intervals (beyond the 90 day interval) may be warranted based on detailed information presented to state commissions. Sprint suggests that the burden on the Commission could be reduced by adopting standard intervals for certain extraordinary circumstances. For instance the rule could provide a 180-day interval in the event that the ILEC must remove asbestos, or upgrade HVAC or power. Such an approach is likely to result in more timely provisioning than a waiver process. As the industry gains more experience with collocation, the Commission may wish to add more exceptions with assigned standard intervals to the list. For all other extraordinary circumstances, the ILECs should be able to file a petition for waiver. Finally, Sprint does not believe that the circumstance described in 3(c)(i), the need to reclaim space for collocation by removing inactive or underutilized equipment, merits additional provisioning time.

#### **480-120-560(3)(c) Collocation Forecasts**

Sprint supports a requirement that CLECs provide periodic collocation forecasts, but proposes that such a requirement should be addressed in parties collocation agreements. The last sentence of section 3(c) of the proposed rule should be struck. The language in 3(c) seems to imply that an ILEC should begin reclaiming collocation space and/or ordering equipment in the event that CLEC-provided forecasts indicate a future shortage of space or equipment, rather than upon receipt of a firm order by a CLEC. If this is in fact the WUTC's expectation, then there should be some check in place, such as advance payments, to prevent CLECs from over-forecasting their collocation demand to the detriment of the ILEC and its ratepayers.<sup>9</sup> The FCC has suggested that states may authorize ILECs to penalize

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<sup>9</sup> The WUTC has supported checks on speculative investments in the past. For instance, United Telephone Company of the Northwest has an approved tariff (WN U-2, Schedule AE-10, Sheet 9), that allows the company to assess a non-recurring charge on developers in advance of line extensions that exceed \$2500

CLECs for inaccurate collocation forecasts by lengthening collocation intervals, however, this remedy seems more appropriate in the case of under-forecasting, rather than over-forecasting.

Additionally, Sprint believes that the ILEC should be allowed to reserve collocation central office space for its specific future uses, which Sprint would define as the current year plus one year out. Space should be reserved for CLECs that desire to reserve space on the same conditions pursuant to FCC 51.323(f).

#### **480-120-560(3)(f) Advance Order Processing**

Sprint recommends that section 3(f) of the proposed rule be amended to eliminate the requirement that ILECs accept and process CLEC orders prior to acceptance of the collocation space. Otherwise, ILEC installers will be dispatched to sites only to discover that the construction is still in progress, and the CLEC has not yet signed off on the collocation site.

#### **480-120-560(3)(h) Contractor Access**

Section 3(h) of the proposed rule mandates that ILECs provide CLEC employees and contractors with reasonable access to ILEC premises. Sprint believes the rule should also permit the ILEC to insist that CLECs adhere to the same security measures for building access, such as background checks, that the ILEC applies to its own employees and contractors.

#### **480-120-560(4) Denial of Collocation**

The first sentence in section 4 seems to imply that the only permissible reason that collocation may be denied is space exhaust; however 4(c) also suggest there may be technical reasons. Sprint agrees with Qwest that there are other reasons under the FCC rule 51.323 that would warrant denial of collocation, such as placement of equipment used solely for switching or solely to provide enhanced services, and safety

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and are of a speculative nature.

issues.

#### **480-120-560(4)(b) Tour of ILEC Premises Upon Denial of Collocation**

Sprint suggests changing the wording in this subsection to clarify that after the CLEC is denied collocation space, it may request a tour of the ILEC premises within ten days of the denial of space, consistent with FCC rules.<sup>10</sup>

#### **480-120-560(4)(b) Denial of Order for Collocation**

Sprint's CLEC division has had some bad experience with ILECs concerning denial of collocation space. Consequently, Sprint suggests that the rule require that ILECs provide to CLECs that are denied collocation, and to the Commission, a current, full-sized (18x36), detailed floor plan of the central office at least 48 hours prior to the tour of the ILEC's premises. The floor plans should be legible, for instance, the scale should be no smaller than 1/8"=1' scale.

#### **480-120-560(4)(c) Petition Requirements on Denial of Order for Collocation**

Sprint recommends that the proposed rule be amended so an ILEC would be required to file a petition asking the Commission to determine that the space requested by the CLEC is not available within fifteen days, rather than twenty-five days, of notification. The ILEC should have ample documentation supporting the denial at the time the ILEC notifies the CLEC, therefore fifteen days should be adequate time to prepare the petition.

In addition to the requirements listed, Sprint recommends that the Commission require ILECs to provide a demand and facility forecast to support claims of space exhaust. The report should include the forecast along with three to five years of historical data, by functional type of equipment (e.g., switching, transmission, and power). The data should be depicted in twelve-month increments. Such information should indicate the reasonableness of the ILEC's claim that space will not be available. For instance, if a

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<sup>10</sup> FCC Advanced Services Order ¶ 57.

switch cabinet is nearly empty, and there has been no growth for three years, then an ILEC's claim that two more cabinets are going to be installed for its own use would appear to be unreasonable.

#### **480-120-560(4)(f) Notification Process upon Space Availability**

Sprint is unclear about the meaning of "a letter of intent to order collocation space in lieu of a collocation order." It appears to mean that once space is available, Sprint must contact the first CLEC on the waiting list and give that CLEC 30 days to renew its original collocation order before contacting the next entity on the waiting list. Depending upon the length of the waiting list, this process could take months to complete and could needlessly delay competition. Sprint believes that the most efficient way to proceed is to inform all of the CLECs on the waiting list of the available space simultaneously. The CLECs will then have 30 days to renew their orders. Then the orders could be filled in priority order (i.e., position of the CLEC on the waiting list).

If CLEC A that has been denied space in an ILEC premises chooses not to challenge the ILEC on space availability in that premises, and CLEC B has also been denied space in that premises and subsequently challenges the ILEC on space availability, then CLEC B should be given priority for space assignment if, as a result of the challenge, space is found to be available. Additional space would then be provided to other CLECs based on their respective collocation request and according to their position on the waiting list, in accordance with the timelines outlined above, until all available space has been offered to CLECs on the waiting list.

Sprint makes this proposal because it believes that any CLEC serious about collocating should be challenging an assertion that space is not available. Those CLECs that do not challenge such assertions should not benefit from the work other CLECs expend to determine if space is in fact available. Moreover, there is no point in making a challenge if winning the challenge only benefits a competitor.



## **SUMMARY**

Sprint thanks the Commission for its consideration of Sprint's recommendations contained herein. The changes that Sprint proposes should bring the rules into closer alignment with the FCC national standards, and consequently, should improve the ability of carriers to meet the requirements.

Respectfully submitted this 15<sup>th</sup> day of September, 2000.

**SPRINT CORPORATION**

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