

**BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of Telecommunications Collocation        )  
Rulemaking    )       Docket No. UT-990582

**SUPPLEMENTAL COMMENTS OF GTE**

**March 15, 2000**

On February 17, 2000, the Washington Utilities and Transportation Commission (“Commission”) issued a Notice of Opportunity to File Supplemental Comments in Collocation Rulemaking Docket No. UT-990582. The Commission invited comments on two subjects: (1) whether it should adopt 47 C.F.R. § 51.323, promulgated by the Federal Communications Commission (“FCC”) in part by the *Advanced Services Order*,<sup>1</sup> as a state regulation; and (2) the proposed rules submitted by a number of collocators (Proposed Rules).<sup>2</sup> GTE Northwest Incorporated (“GTE”) by submits its supplemental comments on these two subjects.

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<sup>1</sup> First Report and Order and Further Notice of Proposed Rulemaking on *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket No. 98-147, FCC 99-48 (rel. March 31, 1999).

<sup>2</sup> The collocators submitting the proposed rules are AT&T Communications, TCG Seattle, NEXTLINK Washington, Inc., NorthPoint Communications, Inc., GST Telecom Washington, Inc., Advanced Telcom Group, Inc. and MCI WorldCom.

## **I. THE COMMISSION SHOULD NOT ADOPT 47 C.F.R. § 51.323.**

Commission adoption of 47 C.F.R. § 51.323 is unnecessary and would be counterproductive. The Commission may fulfill its regulatory obligations with regard to collocation without making state rules out of the FCC's rules. It should not adopt any other rules that duplicate, overlap or conflict with the federal rules. In addition, given the likelihood that key provisions of the *Advanced Services Order* will be reversed on appeal, the Commission should defer any consideration of collocation issues until the appeal has run its course.<sup>3</sup>

### **A. Promulgating the *Advanced Services Order* as a state rule is unnecessary.**

There is no need for the Commission to duplicate the federal regulations at the state level. "Need" is one of the seven criteria set forth by the Governor's Executive Order 97-02 with which to "test an existing rule or to write a new one." Adoption of 47 C.F.R. § 51.323 as a state rule would violate this criterion, because the Commission already has ample authority to enforce the 1996 Act and the FCC's collocation rules.<sup>4</sup>

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<sup>3</sup> The *Advanced Services Order* was appealed to the United States Court of Appeals for the District of Columbia Circuit by the GTE Entities, the United States Telephone Association, U S WEST, Inc., and U S WEST Communications, Inc. in Case No. 99-1176. Briefs were filed in the case, and oral argument was heard on February 2, 2000.

<sup>4</sup> Adoption of 47 C.F.R. § 51.323 also would not be an act of "efficiency" or "clarity," two other criteria specified in the Executive Order, as the federal regulations already apply in Washington and may be implemented by the Commission.

Washington statutes already authorize the Commission “to take actions, conduct proceedings, and enter orders as permitted or contemplated for a state commission under the federal telecommunications act of 1996, P.L. 104-104 (110 Stat. 56)....” Revised Code of Washington § 80.36.610. Because of this statutory authority, the Commission is already free to hear complaints, take actions, and issue orders on the collocation requirements set forth in section 251(c)(6) of the 1996 Act. Such actions could include enforcing collocation rules issued by the FCC. The Commission also may reject interconnection agreements negotiated by parties under section 252 of the 1996 Act if they do “not meet the requirements of section 251,” including section 251(c)(6). Once interconnection agreements are entered and approved, the Commission also hears petitions for their enforcement. Washington Administrative Code § 480-09-530. Enforcement petitions give the Commission another avenue by which to enforce the FCC’s collocation rules.

Simply enforcing FCC rules that are in effect would make sure that the Commission would always be applying current legal requirements. It would spare the Commission and the parties the necessity of conducting a state rulemaking proceeding every time the federal rules are changed. For these reasons alone, the Commission should not adopt the FCC rules as state rules, and it should not adopt any other rules that duplicate, overlap or conflict with the federal rules.

**B. The Commission should not duplicate the *Advanced Services Order*, because it is on appeal and key provisions are likely to be reversed.**

The Commission should not waste its resources to re-litigate issues that are being determined at the federal level. Commission adoption of 47 C.F.R. § 51.323 would be

counterproductive because three key provisions of the *Advanced Services Order* are likely to be reversed on appeal by the D.C. Circuit Court of Appeals. The *Advanced Services Order* made extensive amendments to 47 C.F.R. § 51.323. Three of the requirements imposed on incumbent local exchange carriers (“ILECs”) exceed the limits prescribed by Congress in 1996 Act. The D.C. Circuit has vacated past FCC rulings for exceeding statutory authority, *see, e.g. Comstat Corp. v. FCC*, 114 F.3d 223, 227 (D.C. Cir. 1997), and will likely do so again in this instance. If the *Advanced Services Order* is reversed on appeal, state adoption of 47 C.F.R. § 51.323 would leave the Commission with collocation rules that will have been determined to be invalid as a matter of federal law.

**1. The FCC improperly interpreted “necessary” to mean “used or useful.”**

The 1996 Act requires ILECs to provide for collocation of competitors’ equipment that is “*necessary* for interconnection or access to unbundled network elements.” 47 U.S.C. § 251(c)(6). The FCC, however, ruled that ILECs must provide for collocation of any equipment that is “used or useful” for interconnection or access to unbundled network elements, regardless of whether it is “necessary” for those purposes. 47 C.F.R. § 51.323(b). Thus, the FCC mandated collocation where Congress did not authorize it.

Section 251(c)(6) of the 1996 Act is narrowly tailored to authorize a limited physical occupation of incumbent carriers’ private property only insofar as “necessary” to allow a competing carrier to connect its facilities with those of the incumbent. By purporting to define “necessary” to mean “used or useful,” the FCC has effectively written the “necessary” requirement out of the statute, thereby committing precisely the same sin of

which it was found guilty in *AT&T Corp. v. Iowa Utilities Board*, 119 S. Ct. 721 (1999). The Supreme Court there rejected as unreasonable the FCC’s reading of the word “necessary” — as used in section 251(d)(2) of the 1996 Act, which requires the FCC to consider whether access to any particular unbundled network element is “necessary” — because the agency had failed to apply any meaningful “limiting standard.” *Id.* at 734. Instead, the FCC said, in effect, that “whatever requested element can be provided must be provided.” *Id.* at 735.

The same analytical failure infects the *Advanced Services Order*. Congress imposed a duty to provide physical collocation only of equipment “necessary” for interconnection or access to unbundled network elements. By substituting “used or useful” for “necessary” in that formulation, the FCC has authorized competing carriers to install in incumbent carriers’ central offices any piece of equipment — regardless of its size or function, and regardless of whether it is *necessary* to meet the statutory purpose — so long as it could be used in some minimal way for the specified purposes. As did the rule invalidated in the *Iowa Utilities Board* decision, this reading fails to apply any meaningful “limiting standard” and improperly “allows entrants, rather than the Commission,” to determine whether the “necessary” standard will be met. *Id.* at 734.

The Commission’s decision to allow a competitor to construct cross-connect facilities to interconnect with another collocated competitor (not the incumbent), see 47 C.F.R. § 51.323(h), shows that the Commission’s interpretation has no meaningful limit. Cross-connects between collocating carriers are not, by any stretch of the term, “necessary” for interconnection to the incumbent’s network. Indeed, they are not even

“used” or “useful” for interconnection or access to unbundled network elements because they provide no link whatsoever to the incumbent’s network.

**2. The FCC’s rules on “cageless” and “adjacent” collocation render meaningless the 1996 Act’s virtual collocation provision.**

In a departure from its prior reading of the statute, the FCC denied incumbent carriers the right to require physically separate collocation, thereby effectively rendering the Act’s virtual collocation option meaningless. Instead, incumbents must now allow “cageless collocation,” which the FCC defines as collocation in *any* unused space, without any meaningful physical separation. 47 C.F.R. § 51.323(k)(2). And if space is exhausted in the central office, the FCC gives competitors a license to take over unoccupied incumbent-owned land adjacent to the central office building and to construct on that property facilities for their own exclusive use. 47 C.F.R. § 51.323(k)(3). The terms of the statute, however, plainly reflect Congress’s understanding that collocated equipment would be installed only in segregated, secured portions of incumbents’ central office buildings; if space is exhausted in a particular central office, Congress provided for virtual collocation, not for the seizure of unoccupied land adjacent to the central office for construction of a new facility to house competitors’ equipment. See 47 U.S.C. § 251(c)(6) (“...the carrier may provide for virtual collocation if ... physical collocation is not practical for technical reasons or because of space limitations.”). The FCC’s order thereby dramatically expands the limited taking that Congress authorized and has effected, without benefit of statutory sanction, a far greater intrusion on private property — and one that cannot be squared with the Court’s ruling in *Bell Atlantic Tel. Cos. v. FCC*, 24 F.3d 1441, 1445 (D.C. Cir. 1994).

This FCC expansion of the statute’s “physical collocation” requirement renders the 1996 Act’s provision for virtual collocation meaningless. Inherent in the statute’s distinction between physical and virtual collocation is the notion that — in terms of the location and arrangement of interconnection equipment — virtual collocation requires less space than does physical collocation. But if competitors are permitted to collocate their equipment *anywhere* in an incumbent’s facility — and may confiscate the incumbent’s unoccupied land to build new facilities for physical collocation — it is difficult to imagine an occasion when the FCC’s new version of physical collocation (in contrast to virtual collocation) would be impractical because of “space limitations.” Since the FCC’s reading leaves no function for the “virtual collocation” clause in section 251(c)(6), it violates the legal principle that a statute must be construed to give meaning to every word and phrase.

**3. *The FCC illegally deprives ILECs of a fair opportunity to fully recover space preparation costs.***

By requiring ILECs to bear the initial costs of preparing collocation space for their competitors on the theory that the costs will later be recovered from the collocating carriers, the FCC has prescribed a recovery mechanism that arbitrarily deprives incumbents of a realistic opportunity fully to recover those costs. In particular, the FCC has ordered that “incumbent LECs must allocate space preparation, security measures, and other collocation charges on a pro-rated basis so that the first collocater in a particular incumbent premises will not be responsible for the entire cost of site preparation.” *Advanced Services Order* ¶ 51; *see also* 47 C.F.R. § 51.323(k)(1). If the remaining space is not immediately

and permanently occupied in full, the incumbent bears the costs of preparing the vacant space.

The risk of less than full occupancy should be borne by the collocators, not the incumbent. The FCC should have required that later collocators reimburse earlier collocators or require incumbents to allocate all the costs of site preparation among collocators so that early collocators do not bear a disproportionate share of the overall costs — the FCC's stated concern for imposing this pro-rated cost regime. This alternative would ensure that the parties gaining the benefit of the property bear the costs associated with obtaining it; it is arbitrary and capricious to require the incumbent to bear the risk when it is the one party that may not use its own property. This FCC rule should therefore be reversed on appeal.<sup>5</sup>

**C. The Commission should defer consideration of collocation rules pending appeal of the *Advanced Services Order*.**

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<sup>5</sup>The FCC claims that it does, in fact, believe that collocators – rather than ILECs – will end up bearing full site preparation costs. For example, in its appellee brief to the D.C. Circuit, the FCC claims that it envisioned an approach in which a competitive local exchange carrier ("CLEC") is initially assessed up-front charges for site preparation only in proportion to the amount of space it actually leases. Costs of space not recovered from CLECs, however, would be amortized over five years, with unrecovered costs averaged and recovered from all CLECs collocating within a geographic area. CLECs, however, interpret the *Advanced Services Order* to mean that the ILEC must bear the risk of less than full occupancy. At a minimum, the *Advanced Services Order* should be remanded on this issue so that the FCC can clarify that collocators ultimately will bear all site preparation costs.



If the Commission seeks to address collocation issues other than cost recovery,<sup>6</sup> it should wait until after the likely reversal and remand of the *Advanced Services Order*. The threshold nature of the issues on appeal dictates that the Commission delay issuing rules pending their resolution. For example, as discussed above, the appeal will resolve the issues of what types of equipment must be collocated and the forms of collocation that must be offered. Promulgating collocation rules in advance of a final determination on the types and forms of collocation permitted and required by the 1996 Act would be premature. Moreover, it would likely result in the Commission having to reissue rules once the appeal and remand have been completed.

In the interim, collocation is available to CLECs through the negotiation/arbitration process mandated by sections 251 and 252 of the 1996 Act.<sup>7</sup> As discussed above, the Commission's role in approving and enforcing these agreements affords it the opportunity to ensure that provisions for collocation in these agreements are consistent with the 1996 Act.

## **II. THE COMMISSION SHOULD NOT ADOPT THE PROPOSED RULES.**

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<sup>6</sup> Under section 251(c)(6) of the Act, the Commission must set collocation rates that are "just" and "reasonable." To be "just" and "reasonable," collocation rates must allow ILECs the opportunity to recover their actual costs plus a reasonable profit. As the *Advanced Services Order* makes clear, *see, e.g.*, ¶¶ 43, 48, 51, and 58, the FCC envisions that state commissions, such as this one, are to ensure that ILECs recover collocation costs.

Thus, the Commission must address collocation issues to ensure, among other things, that ILECs are given the fair opportunity to recover their actual costs. The Commission plans to take up the cost recovery aspect of collocation in Docket No. UT-003013.

<sup>7</sup>GTE urges the Commission to provide collocators another option, by allowing its pending state collocation tariff (Advice Letter #901) to go into effect.

In response to the Commission’s invitation to comment on the Proposed Rules, GTE reiterates its position that the Commission should not adopt any collocation rules – including the Proposed Rules – at this time. If the Commission, however, elects to promulgate non-cost recovery collocation rules at this time, it should not adopt the Proposed Rules as drafted. The Proposed Rules contain numerous deficiencies. For example, many of the Proposed Rules are unclear, some restate provisions of the *Advanced Services Order* that are likely to be reversed on appeal, and others misinterpret the requirements of the 1996 Act and the *Advanced Services Order*.

In order to address these and other deficiencies, GTE provides specific comments below. Also included are suggested amendments should the Commission insist upon implementing collocation rules using the Proposed Rules as a guide. The comments and suggested amendments are being provided only to refute the particularly egregious portions of the Proposed Rules; they do not reflect modification of GTE’s position that no collocation rules should be adopted by the Commission at this time.

#### **PROPOSED RULE (1) -- DEFINITIONS**

Proposed Rule (1)(c) improperly includes the term “telephone service” in the definition of “delivery date.” “Telephone service” is not a collocation service. Because the Proposed Rules are designed to address procedures for provisioning collocation service, this term should be removed from the definition of “delivery date.”

The definition of "ILEC premises" noted in Proposed Rule (1)(f) is too broad. The definition should be revised to identify more specific facilities defined as "ILEC premises, including wire centers and access tandems listed in the NECA 4 Tariff.

### **PROPOSED RULE (1) WITH GTE'S CHANGES:**

- (1) Definitions. For purposes of this section:
  - (a) "CLEC" means a competing local exchange carrier that requests collocation from an ILEC.
  - (b) "Collocation" means the ability of a CLEC to place equipment within, upon, or nearby an ILEC's premises.
  - (c) "Deliver" or "delivery date" means the point when the ILEC turns the collocation space and related facilities over to the CLEC and recurring charges for collocation may begin to accrue. Delivery includes, but is not necessarily limited to, providing the CLEC with access to the collocation space for collocation other than virtual collocation, as well as providing power, ~~telephone service~~, and other services and facilities requested by the CLEC in its collocation application for provisioning by the delivery date.
  - (d) "Equipment" means any device or facilities used to provide telecommunications service. Specifically when used in the context of CLECs' collocated equipment, this term means any device or facilities used or useful for interconnection or access to unbundled network elements as required in 47 C.F.R. § 51.323.
  - (e) "ILEC" means an incumbent local exchange carrier that is required to provide collocation pursuant to 47 U.S.C. § 251(c)(6).
  - (f) "ILEC premises" means an ILEC wire center, central office, or access tandem listed in the National Exchange Carrier Association, Inc., Tariff FCC4. ~~any other location owned and/or controlled by the ILEC at which interconnection with the ILEC's network or access to ILEC unbundled network elements is technically feasible.~~

### **PROPOSED RULE (2) – TYPES OF COLLOCATION AVAILABLE**

Proposed Rule (2)(d) provides that “each ILEC shall offer adjacent collocation in any ILEC premises, even if space for collocation is available within that ILEC premises.” Section 51.323(k)(3) of the C.F.R., however, requires that ILECs provide adjacent collocation only “where space is legitimately exhausted in a particular incumbent LEC premises.” It does not require ILECs to provide adjacent collocation if space is available inside the Central Office (CO) for caged or cageless collocation. Proposed Rule (2)(d) also makes no reference to requiring hut or similar adjacent collocation structures to conform to local codes. Such structures must conform with local codes, and any rule on the subject should state as much.

Proposed Rule 2(f) is an unwarranted attempt to expand the type of collocation to be provided by ILECs. It should not be adopted.

**PROPOSED RULE (2) WITH GTE’S CHANGES:**

- (2) Types of collocation available. Each ILEC shall provide the following types of collocation to CLECs:
  - (a) Physical (caged) collocation as defined in 47 C.F.R. § 51.5.
  - (b) Physical (shared) collocation as defined in 47 C.F.R. § 51.323(k)(1).
  - (c) Physical (cageless) collocation as defined in 47 C.F.R. § 51.323(k)(2).
  - (d) Adjacent collocation as defined in 47 C.F.R. § 51.323(k)(3). Upon request from a CLEC ~~and to the extent technically feasible~~, each ILEC shall also offer adjacent collocation ~~in any ILEC premises, even if space for collocation is available within that ILEC premises~~ when the following conditions are met:
    - I) Space is legitimately exhausted in the ILEC’s wire center or access tandem for caged and cageless collocation;

- ~~ii) Space is not required for the ILEC's future use; and~~
- ~~ii) It is technically feasible to construct a hut or similar structure on ILEC property that adheres to local building code, zoning requirements, and ILEC building standards.~~
- (e) Virtual collocation as defined in 47 C.F.R. § 51.5.
- ~~(f) Other collocation. Each ILEC shall provide collocation other than the types of collocation specified in this section if such collocation is technically feasible and either has been required by federal law or has been deployed in any ILEC premises. A successful deployment of the requested collocation arrangement in any ILEC premises in Washington or in any other state in which the ILEC provides local exchange service creates a rebuttable presumption that the arrangement is technically feasible.~~

### **PROPOSED RULE (3) – PROVISIONING COLLOCATION**

Proposed Rule (3)(a) would require the ILEC to notify the CLEC within ten business days whether sufficient space exists to accommodate the CLEC's collocation request. GTE's national collocation offering instead uses a threshold of fifteen calendar days, a threshold approved by the California Public Utilities Commission. Setting a rule of fifteen calendar days would thus allow GTE to have system-wide consistency. Because fifteen calendar days is similar in length to ten business days, the system-wide consistency could be achieved without any material difference in the proposed amount of time.

Proposed Rule (3)(b) proposes 25 days for the ILEC to provide the CLEC with a written quote for its collocation request. GTE commits to providing quotes as soon as possible and, in some case, quotes are delivered in a shorter amount of time than the proposed 25-day interval. GTE's national collocation offering uses a threshold of thirty

calendar days, a threshold approved by the California Public Utilities Commission. Setting a rule of thirty calendar days would thus allow GTE to have system-wide consistency.

There are various reasons for the 30-day time period, including the fact that several rate elements will be quoted based on measurements that are impacted by the location of the proposed collocation arrangement. Engineering estimates also will have to be developed prior to submission of a quote to the CLEC, often pushing out the interval to 30 days.

The site visit envisioned in Proposed Rule (3)(c) would be unproductive for both the ILEC and CLEC. Until the CLEC submits a check for 50% of the NRC's for the arrangement, there are no guarantees that there will be any space left in the building for collocation, much less the same space the CLEC saw during the site visit. Thus, a site visit in advance of a deposit would be inappropriate.

Proposed Rule 3(d) would require that the ILEC complete construction of, and deliver, the requested collocation space and related facilities within 45 calendar days of the CLEC's acceptance of the written quote and payment of one-half of the nonrecurring charges specified in the quote. This proposed schedule is unrealistic and inconsistent with GTE's methods of providing collocation, which are based on the most efficient and cost-effective standards. For example, the normal interval for shipment of the cables alone is on average 42 days from the date the vendor receives the purchase order to the date the material is shipped. This would leave only 3 days to engineer, flow through the supply process, and to install the collocation equipment. On average, GTE's provisioning interval to complete construction and deliver the requested collocation space and related facilities is 90 calendar days. An interval of 10 days is necessary to schedule, engineer, order

equipment, and obtain work order approval (Engineering process). Another 50 calendar days is required to process the purchase order, allow for equipment lead time, transport equipment to supply point, and ship equipment from supply point to collocation site (Furnishing process). Finally, 30 calendar days is required to schedule, travel to the collocation site, inventory equipment, and actually install the collocation equipment (Installation/Testing process).

As noted above, GTE's analysis is that on average it takes approximately 90 calendar days to provision a standard collocation request. This average interval aligns with GTE's national collocation offering by using a threshold of ninety (90) calendar days, a threshold approved by the California Public Utilities Commission. Setting a rule of ninety (90) calendar days would thus allow GTE to have system-wide consistency.

The provisioning interval for a collocation request with extraordinary circumstances needs to be longer than the 90-day interval proposed by the CLECs.<sup>8</sup> On average, it takes approximately 5 additional days to perform the engineering process. The furnishing process takes the same time as for a standard collocation request (50 calendar days) except in instances where battery additions are required. In these cases, it takes approximately 190, rather than 50, days to complete the furnishing process. The installation/testing process takes from an additional 3 calendar days to 7 calendar days longer than a standard collocation request, depending upon what type of support infrastructure augmentation is required (BDFB, rectifier, and/or battery additions). The total

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<sup>8</sup> Any provisioning interval set ultimately by the Commission must necessarily be consistent with any such intervals set in the OSS proceeding.

provisioning interval for a collocation request with extraordinary conditions could range on average from 100 calendar days to 226 calendar days.

Proposed Rule (3)(d) also refers to “inactive or underutilized” equipment. The applicable standard in the *Advanced Services Order* is “obsolete unused” equipment, not the broader “inactive or underutilized” standard utilized in the Proposed Rule. 47 C.F.R. § 51.321(I). “Inactive or underutilized” equipment may include equipment that is still being used, and thus is inconsistent with § 51.321(I). Any proposed rule should mirror the standard set forth in § 51.321(I).

Proposed Rule (3)(d) also requires the ILEC to credit the CLEC in an amount equal to one tenth of the total nonrecurring charge for the requested collocation for each full week the ILEC fails to deliver the collocation space after the required delivery date. The Commission does not have authority to impose such liquidated damages. Moreover, there are variables associated with the construction of a collocation arrangement that are out of the ILEC’s control. For example, the ILEC has no control over variables such as equipment delivery and building permits. In some instances, variables such as cable delivery are the responsibility of the CLEC. Obviously, an ILEC cannot be penalized for the action or inaction of a CLEC.

Proposed Rule (3)(e) is ambiguous with respect to when the project is considered 50% completed, and it should be modified. The delivery of equipment is the primary factor of the 90-day interval. Construction is the shorter time line in the interval but just as critical. GTE will work closely with the CLECs to provide project status reports on an as-needed basis. GTE notifies the CLEC approximately a week prior to completion to schedule the arrangement walk through with the CLEC. GTE provides CLLI codes to the CLEC in the



initial phases of the project, before the time period specified in the Proposed Rules. GTE also provides circuit assignments based on actual terminations no later than the collocation arrangement turnover to the CLEC. Any rule on this subject should be consistent with this process.

Proposed Rule 3(e) also includes subjects not related directly to the provision of collocation service, such as requirements related to “other codes necessary to order interconnection and cross-connection circuits.” Such topics should not be included in a collocation rule.

The inspection in Proposed Rule 3(f) is unreasonable. Construction schedules are tight; thus, a portion of the arrangement may not be available to inspect 5 days prior to the completion. Moreover, the CLEC will have the opportunity to identify necessary corrections and modifications during the walk-through that will be held upon the completion of the arrangement requested. GTE proposes to maintain the single walk through upon the completion of the arrangement requested and address all, if any, corrections at that time.

Proposed Rule (3)(g) makes another inappropriate reference to “telephone service.” As noted in GTE’s comments to Proposed Rule (1)(c) above, “telephone service” is not a collocation service and, thus, should not be the subject of any proposed collocation rules. Also, any proposed rule on this subject should clarify that reasonable access to an ILEC’s “basic facilities” shall be provided only to those CLEC employees, contractors, and representatives who have passed the appropriate ILEC security clearance. The *Advanced Services Order* allows the ILEC to impose security requirements on other carriers that are as stringent as those it imposes on itself. 47 C.F.R. § 51.323(I). GTE currently requires its own employees to pass the appropriate security clearance in order to obtain an access

card for any given GTE facility. As a result, the same requirement should apply to CLEC personnel seeking access to the same facility.

**PROPOSED RULE (3) WITH GTE'S CHANGES:**

- (3) Provisioning collocation. Upon receiving a request for collocation from a CLEC, an ILEC shall provision collocation pursuant to the following requirements:
- (a) The ILEC shall notify the CLEC whether sufficient space exists in the ILEC premises to accommodate the CLEC's collocation requirements within fifteen (15) calendar ten (10) business days of receipt of a request for collocation. As part of that notification, the ILEC shall also notify the CLEC of any extraordinary circumstances, as defined in (3)(d) below, that may delay delivery of the requested collocation space and related facilities. If a CLEC submits 10 or more applications within a 10-day period, the fifteen (15) calendar day response interval will be increased by ten (10) calendar days for every 10 additional collocation applications or fraction thereof submitted to the ILEC.
  - (b) If sufficient space exists, the ILEC shall provide the CLEC with a written quote within thirty (30) twenty-five (25) calendar days of receipt of the request detailing the nonrecurring and recurring charges applicable to provisioning the requested collocation.
  - (c) ~~The ILEC shall permit at least one accompanied site visit to the designated collocation space after providing the written quote, without charge to the CLEC, to enable the CLEC to verify and inspect the space the ILEC offers for collocation.~~
  - (d) The ILEC shall complete construction of, and deliver, the requested collocation space and related facilities within ninety (90) forty-five (45) calendar days of the CLEC's acceptance of the written quote and payment of one-half of the nonrecurring charges specified in the quote. The CLEC's acceptance of the quote or payment of any quoted charges, however, shall not preclude the CLEC from later disputing the accuracy or reasonableness of those charges. If extraordinary circumstances occur, the ILEC shall complete provisioning of the requested collocation within 180 ninety (90) calendar days of the CLEC's acceptance of the written quote. Extraordinary circumstances shall not include standard work and equipment required to provide the requisite collocation, but may include (i) the need to reclaim space for collocation by removing obsolete unused inactive or underutilized equipment; or (ii) the unavailability of necessary equipment and facilities in a reasonable time period, if that unavailability is not due in whole or in part, to the ILEC's failure to timely arrange for such equipment or facilities. Following any initial notification as required in subsection (3)(a) above, the ILEC

~~shall notify the CLEC of any extraordinary circumstances as soon as the ILEC is aware of those circumstances and shall take all reasonable steps to avoid or minimize any delays caused by those circumstances, including but not limited to joint provisioning of collocation elements by the ILEC and CLEC, or sole construction by the CLEC, through a mutually acceptable third party contractor. Recurring charges shall not begin to accrue for any element until the ILEC delivers that element to the CLEC. To the extent that a CLEC self-provisions any collocation element, the ILEC may not impose any charges for provisioning that element. In addition, the ILEC shall credit the CLEC in an amount equal to one tenth of the total nonrecurring charge for the requested collocation for each full week the ILEC fails to deliver the collocation space after the required delivery date.~~

- (e) ~~The ILEC shall notify the CLEC when construction of the CLEC's collocation space is approximately 50% completed, including scheduled completion and delivery dates. At that time, or n No later than thirty (30) days prior to the scheduled delivery date, the ILEC shall provide the CLEC with sufficient information to enable the ILEC and the CLEC to establish firm CLLI codes. and any other codes necessary to order interconnection and cross-connection circuits for the equipment the CLEC intends to collocate, and the ILEC shall accept and process CLEC orders for such circuits. The ILEC shall provision points of interface ("POIs") and other circuits concurrent with delivery of the collocation space and related facilities or within fourteen (14) days after delivering the collocation space and related facilities with the agreement of the CLEC, in conjunction with the installation of the CLEC's equipment.~~
- (f) ~~The ILEC shall conduct an inspection with the CLEC of the collocation space at least five (5) calendar days prior to completion of construction of the collocation space. The ILEC shall correct any deviations to the CLEC's original or jointly amended requirements within three (3) calendar days after the inspection, at the ILEC's sole expense.~~
- (g) ~~Upon request of the CLEC and concurrent with delivery of the collocation space and related facilities, the ILEC shall provide basic telephone service to the collocation space under the rates, terms, and conditions of the ILEC's current tariff or price list offering for the service requested. The ILEC shall also provide only those CLEC employees, contractors, and representatives, who have passed the appropriate ILEC security clearance for that facility, with reasonable access to basic facilities, such as restroom facilities and parking, while at the ILEC premises.~~

#### **PROPOSED RULE (4) – DENIAL OF REQUEST FOR COLLOCATION**

Proposed Rule (4) should be modified to reflect the FCC's orders regarding reservation of space. The FCC's *First Report and Order* indicates only that the ILEC may

not reserve space for its future use on terms more favorable than those that apply to CLECs seeking to reserve collocation space for their future use.<sup>9</sup> It does not specify a three-year limitation on the reservation of space. Any rule on this subject should include criteria upon which the ILEC can reserve space. GTE's revisions to the Proposed Rules incorporate language outlining its current reservation of space guidelines.

Proposed Rules (4), (4)(a), (4)(c)(iii), and (4)(c)(iv) refer to "inactive or underutilized" equipment. As noted in response to Proposed Rule 3(d), the terminology used in the *Advanced Services Order* is "obsolete unused" equipment, not "inactive or underutilized." There is a significant difference in these phrases, and any rule on this subject should mirror the language used in the *Advanced Services Order*.

Proposed Rule (4)(b) provides that once an ILEC has denied the CLEC's request for collocation, the ILEC shall permit the CLEC to tour the ILEC premises within ten (10) calendar days after the ILEC has denied the CLEC's collocation request. As the *Advanced Services Order* specifies, however, such tours should apply only to physical collocation. 47 C.F.R. § 51.321(f) ("An incumbent ILEC that contends space for *physical* collocation is not available ...") (emphasis added). Thus, when an ILEC provides space for any form of physical collocation, caged or cageless, it has not denied a request for physical collocation, and no tour is required. When there is no space available for caged and cageless

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<sup>9</sup> *In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996 and Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers*, CC Docket Nos. 96-98, 95-185 (rel. August 8, 1996) ¶ 604.

collocation, however, the ILEC has effectively denied collocation to the CLEC and must provide the tour.

Proposed Rule (4)(c) specifies that an ILEC provide the Commission with a “report” of any premises where the ILEC claims that physical collocation is not practical because of space limitations. The *Advanced Services Order*, however, requires that the ILEC provide the Commission with “floor plans or diagrams” in this instance, not the “report” included in Proposed Rule (4)(c). *Advanced Services Order* ¶ 56. A “report” would require more preparation – and would be more costly – than simply providing “floor plans or diagrams.” The “report” in Proposed Rule (4)(C) is thus inconsistent with the *Advanced Services Order* and should be deleted.

Proposed Rule 4(c) also requires the ILEC to provide a copy of its detailed floor plans or diagrams of any premises where the ILEC claims that physical collocation is not practical directly to the CLEC. To be consistent with the *Advanced Services Order*, this language should be removed from the proposed rule. The *Advanced Services Order* only requires the ILEC to provide this information directly to the Commission. 47 C.F.R. § 51.321(f).

Finally, Proposed Rule 4(c) is also problematic because it states that the ILEC shall prepare the report at “its sole expense.” ILECs are not to bear any collocation costs at their “sole expense.” The *Advanced Services Order* specifies in various places (e.g., ¶¶ 43, 48, 51, and 58) that state commissions are to ensure that ILECs recover the costs they incur to provide collocation.

Proposed Rule (4)(c)(iv) requires *color*-coded floor plans. There is no provision, however, in the FCC’s orders requiring that floor plans be *color*-coded. Coded floor plans

provide the Commission and CLECs with the “detailed” floor plans required. See *Advanced Services Order* ¶ 57. ILECs that do not currently prepare color-coded floor plans should not be required to incur the additional expense to create them.

Proposed Rule (4)(c)(vii) requires the ILEC to provide the CLEC with the number of employees employed at a central office and each employees’ job title. This language should be revised to require the ILEC to provide only the number of employees who normally utilize the administrative areas of the central office. The CLEC will not be interacting with ILEC employees outside of the administrative areas; thus, providing the CLEC with information concerning other employees employed at a central office is irrelevant. Additionally, there is no apparent reason for CLECs to have the job titles of the ILECs’ employees.<sup>10</sup>

Proposed Rule (4)(e) is inconsistent with the *Advanced Services Order*. The *Advanced Services Order* requires that the ILEC publish a list of all of its central offices in which insufficient space exists to accommodate collocation on a publicly available Internet site, but it does not require the ILEC to provide this list directly to the CLEC. 47 C.F.R. § 51.321(h). Also, the publicly available Internet site is to deal only with premises for physical collocation, not virtual collocation.

Proposed Rule (4)(f) imposes an inappropriate duty on ILECs to maintain an elaborate waiting list process for when collocation space becomes available in particular central offices. The most nondiscriminatory way to offer CLECs space in the ILEC’s central

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<sup>10</sup> For clarification purposes, minor revisions are noted to CLEC rules (4)(c)(1), (4)(c)(ix), (4)(c)(x), and (4)(c)(xi) below.

offices is on a first-come, first-served basis, based on updates to the publicly available website as noted in the alternative language GTE provided for Proposed Rule (4)(e).

**PROPOSED RULE (4) WITH GTE'S CHANGES:**

- (4) Denial of request for collocation. An ILEC may retain appropriate floor space for its own specific future uses, provided, however, that the ILEC may not reserve space for future use on terms more favorable than those that apply to CLECs seeking to reserve collocation space for their own future use. The ILEC will reserve space for its own specific future use based on the following criteria: (1) Floor space for transmission and miscellaneous equipment shall be reserved for up to two years of growth. This would include, but not be limited to, digital cross-connect systems, D4 channel banks, SONET terminals, DWDM equipment, and loop treatment equipment; (2) Floor space for continued expansion of the central office switch (end office, tandem, toll, STP) shall be reserved for up to four years of growth unless central office switch growth cannot be accommodated in floor space associated with a future building addition, in which case, floor space is reserved to accommodate the ultimate growth of the central office switch. The ultimate growth of the central office switch is defined as: (a) The maximum terminations/ports (lines and trunks) the central office switch can support, or (b) The number of terminations/ports anticipated at the time switch modernization technology (complete replacement) is planned to be placed in service; (3) Floor space for the following central office areas shall be reserved for the ultimate requirements of the central office building: power room, main distribution frame, cable vault, manual cross-connect line-ups, optical system cross-connect/interconnection line-ups. An ILEC shall not deny a request for physical (caged, cageless, or shared) collocation based on reservation of space for virtual collocation or based on reservation of space for the ILEC's own use beyond reasonable forecasted use for three years or the same amount of time the ILEC permits CLECs to reserve space for future growth, whichever is less. An ILEC must, upon CLEC request, remove obsolete unused equipment from the central premises to increase the amount of space available for collocation without charge to CLECs. An ILEC also shall not deny a request for collocation if space can be made available through removal of inactive or underutilized equipment, nor may an ILEC charge to CLECs any costs the ILEC incurs to identify and remove such equipment.—If the ILEC notifies a CLEC that insufficient space exists to accommodate the CLEC's request for collocation, the following procedures apply:
- (a) As part of its notification of lack of space, the ILEC shall notify the CLEC if any space is available for collocation and, if so, how much space is available. The ILEC shall also verify that the ILEC cannot reclaim space for collocation by consolidating or removing obsolete unused ~~inactive or underutilized~~ equipment.

- (b) ILEC's that claim no space is available for a CLEC to physically collocate in the ILEC premises must allow the requesting CLEC to tour the entire premises in question. The ILEC shall permit the CLEC to tour the ILEC premises without charge within ten (10) calendar days of the CLEC's written request for such a tour made after the ILEC has denied the CLEC's collocation request.
- (c) Unless the CLEC withdraws its request in writing, the ILEC shall submit to the Commission detailed floor plans or diagrams of any premises where the ILEC claims that physical collocation is not practical because of space limitations. ~~file a report with the Commission within twenty-five (25) days after denying the CLEC's request for collocation. Upon request and execution of an appropriate confidentiality agreement, the ILEC shall also provide a copy of the report to the CLEC.~~ The ILEC shall prepare the report ~~at its sole expense~~, and the report shall include:-
- i) Central office name and Central Office Common Language Identifier, where applicable;
  - ii) Requesting CLEC, including the amount of space sought by the CLEC;
  - iii) ~~Written inventory of active, inactive, and underutilized equipment, including the signatures of ILEC personnel certifying the accuracy of the information provided;~~
  - iv) ~~Color-Coded floor plans that identify the following areas in the central office premises: existing equipment areas, vacant floor space reserved for the ILEC's future use, administrative space, and existing collocation space. The floor plans shall provide spatial dimensions to calculate the square footage for each area. office space work areas, provide spatial dimensions to calculate the square footage for each area, and locate inactive and underutilized equipment;~~
  - v) Narrative of the central office floor space use;
  - vi) Total amount of space occupied by interconnecting collocators for the sole purpose of interconnection;
  - vii) Total amount of space occupied by third parties for purposes other than interconnection, and a narrative of the space use;
  - viii) The number of central office employees who normally utilize the administrative areas of the central office premises. ~~employed and job titles;~~
  - ix) Description of central office renovation/expansion plans and time frames for completion, if any;



- x) Description of conversion of administrative, maintenance, equipment, and storage space plans and time frames for completion, if any; and
  - xi) ~~Description~~ Narrative describing ~~of any~~ internal policies for conversion of administrative, maintenance, equipment, and storage space in central offices.
- (d) At any time after an ILEC has denied a CLEC's request for collocation, the CLEC may file a petition for enforcement of its interconnection agreement with the ILEC pursuant to WAC 480-09-530. The ILEC bears the burden to prove to the Commission that the requested collocation is not practical for technical reasons or because of space limitations. The ILEC may be relieved of its obligation to provide collocation at a particular ILEC premises only to the extent expressly provided by Commission order.
- (e) The ILEC shall maintain a publicly available document, posted for viewing on the ILEC's publicly available Internet site, indicating all premises that are full (i.e. physical collocation is not available), and must update such a document within ten days of the date at which a premises runs out of physical collocation space. The publicly available Internet site will also list central office premises which were previously out of physical collocation space but can now accommodate physical collocation on a first-come, first-served basis. Each ILEC shall maintain a list of all of its central offices in Washington in which insufficient space exists to accommodate one or more types of collocation. The list shall specify which types of collocation are unavailable in each office and whether the Commission has approved the ILEC's denial of collocation in that office. The ILEC shall post this list on its publicly accessible website and shall provide a copy of the list to any CLEC upon request. The ILEC shall update this list within ten (10) calendar days of (i) denying a CLEC's request for collocation; (ii) the service date of any order from the Commission approving or disapproving such a denial; (iii) providing notice to CLECs previously denied collocation that space has become available in a central office; or (iv) obtaining knowledge through any other means that space for one or more types of collocation is no longer available or has become available in a particular central office.
- (f) ~~Each ILEC shall also maintain a waiting list of all CLECs that have been denied collocation in each central office or that have submitted a letter of intent to collocate in offices in which the ILEC has publicly announced that one or more types of collocation are unavailable, and the dates on which each of these CLECs requested collocation or submitted a letter of intent to collocate. If space for collocation becomes available in any of these central offices, the ILEC shall inform these CLECs, in the order in which they requested collocation, of the availability of that space and shall provide each CLEC with thirty (30) days to renew its original collocation request. The ILEC shall provision collocation to these CLECs on a first-~~

~~come, first-served basis according to the dates on which each initially requested collocation or submitted a letter of intent to collocate in that central office.~~

## **PROPOSED RULE (5) -- EQUIPMENT**

Regarding Proposed Rule (5)(a)(ii), GTE's position is that all CLEC equipment used for caged and cageless collocation must be tested to, and must meet: (1) the NEBS Level 1 family of safety requirements as described in Telecordia Special Report SR-3580, plus be tested to (2) specific additional risk/safety/hazard criteria specified in Addendum E of GTE's collocation service packet ("CSP"). Any CLEC equipment that does not conform to requirement (1) may not be installed on GTE property. Requiring a CLEC's equipment to meet the NEBS Level 1 safety requirements is permitted by the *Advanced Services Order*. *Advanced Services Order* ¶ 35 ("NEBS Level 1 safety requirements are generally sufficient to protect competitive and incumbent LEC equipment from harm."). Any rule adopted on this subject should include a reference to compliance with NEBS Level 1 safety requirements. GTE's position is that a cabinet must be used to mitigate deficiencies identified in requirement (2). Requiring a cabinet does not amount to a denial of collocating the CLEC's equipment in the central office, and thus does not violate the *Advanced Services Order*.

## **PROPOSED RULE (5) WITH GTE'S CHANGES**

- (5) Equipment. ILECs shall permit the collocation of any type of equipment used or useful for interconnection or access to unbundled network elements. If an ILEC objects to a CLEC's collocation of equipment, the following shall apply:
  - (a) An ILEC may deny collocation of equipment if it does not comply with National Equipment and Building Specifications (NEBS) Level 1 safety requirements. An

~~ILEC that denies collocation of a CLEC's equipment, citing safety standards, must provide to the CLEC within five business days of the denial a list of all equipment that the ILEC locates within the premises in question, together with an affidavit attesting that all of that equipment meets or exceeds the safety standard that the incumbent LEC contends the competitor's equipment fails to meet. An ILEC may impose additional risk/safety/hazard criteria not specified in NEBS Level 1. CLEC collocation equipment that complies with NEBS Level 1 safety requirements but doesn't comply with the additional risk/safety/hazard criteria must be placed in a cabinet. The ILEC shall identify to the CLEC the equipment to which the ILEC objects and shall provide a written explanation of its objection. If the ILEC objects because of safety or engineering concerns, the ILEC shall include an affidavit identifying the equipment the ILEC has deployed and is using in the ILEC premises and attesting that this equipment meets or exceeds the safety or engineering standards the ILEC contends that the CLEC's equipment does not satisfy. An ILEC may deny collocation of equipment if it does not comply with National Equipment and Building Specifications Level 1 safety requirements. An ILEC may not object to or deny collocation of equipment on the following grounds:~~

- ~~i) That the equipment does not comply with safety or engineering standards that are more stringent than the safety or engineering standards that the ILEC applies to its own equipment; or~~
  - ~~(ii) That the equipment does not comply with National Equipment and Building Specifications performance standards.~~
- (b) An ILEC may not deny collocation of equipment for any reason other than the contention, supported by affidavit, that the equipment does not comply with the safety or engineering standards that the ILEC applies to its own equipment. Either party may seek Commission resolution of a dispute over equipment to be collocated through a petition to enforce the parties' interconnection agreement pursuant to WAC 480-09-530. In any such proceeding, the ILEC shall bear the burden to demonstrate to the Commission that the CLEC is not entitled to collocate its equipment.

## **PROPOSED RULE (6) -- USE OF COLLOCATION SPACE AND EQUIPMENT**

Proposed Rule 6(a) is drafted too broadly. GTE provides alternative language for Proposed Rule (6)(a) that better defines the process of a CLEC providing its own

connection with another CLEC in the ILEC's central office. This alternative language is consistent with the *Advanced Services Order*.

The reference in Proposed Rule (6)(b) to "connecting transmission facilities" is unclear. "Transmission cables" are the CLEC's "connecting transmission facilities" and any rule on the subject should make this clear.

#### **PROPOSED RULE (6) WITH GTE'S CHANGES:**

- 6) Use of collocation space and equipment. ILECs shall permit collocated CLECs to interconnect their networks with the networks of any other collocated CLEC carrier ~~that is collocated~~ at the ILEC premises and to connect the CLECs' collocated equipment to the collocated equipment of other collocated CLEC collocated carriers if such equipment is also used for interconnection with the ILEC, and/or for access to the ILEC's unbundled network elements. ~~in, the ILEC's network.~~
- (a) ~~At the request of a CLEC, the ILEC shall provide the connection between the equipment in the collocated spaces of two or more CLECs. The ILEC must permit any CLEC to construct its own connection between its equipment and the equipment of one or more collocating carriers if the CLEC does not request that the ILEC provide the connection. When initiating a Collocator to Collocator Interconnect request, the CLEC must submit an Application Form, ASR, and a Minor Augment Fee. The ILEC will be responsible for engineering and installing the overhead superstructure for the Collocator to Collocator Interconnect arrangement, if required, and determining the proper cable route. The CLEC has the option of providing all cables and connectors for the arrangement and the option of running the cables for the arrangement. The CLEC must use an ILEC approved contractor or a contractor that meets the same requirements as an ILEC authorized contractor. If the ILEC provides the cables and connectors and/or runs the cable, the applicable cable and labor rates will be applied.~~
- (b) The ILEC shall permit a CLEC to place its own transmission cables for collocator to collocator interconnection ~~connecting transmission facilities~~ within the ILEC premises outside of the actual collocation space, subject to reasonable safety limitations.

#### **PROPOSED RULE (7) -- SECURITY**

Proposed Rule (7)(c) ignores the right of the ILEC to implement temporary security measures in those areas of the ILEC premises to which the CLEC has access, until the permanent security measures envisioned by the *Advanced Services Order* can be put in place. These temporary security measures will not prohibit CLEC access to the areas of the office where CLEC personnel need to install and maintain their equipment, or access to the restroom.

**PROPOSED RULE (7) WITH GTE'S CHANGES:**

- 7) Security.
  - (a) ILECs may establish reasonable security arrangements to protect their equipment and ensure network reliability. ILECs may only impose security arrangements that are no more stringent than the security arrangements the ILEC maintains for its own employees or authorized contractors but shall maintain security arrangements that enable the ILEC to identify all personnel, both CLEC and ILEC, on the ILEC premises at any point in time.
  - (b) Reasonable security measures that ILECs may adopt include (i) installing security cameras or other monitoring systems; (ii) requiring CLEC personnel or contractors to use badges with computerized tracking systems; or (iii) requiring CLEC personnel or contractors to undergo the same level of security training, or its equivalent, that the ILECs' own employees, or third party contractors performing similar functions, must undergo; *Provided*, however, that an ILEC may not require that the CLEC employees or contractors receive such training from the ILEC itself but must provide information to the CLEC on the specific type of training required so that the CLEC may conduct, or arrange for a third party to conduct, the required training.
  - (c) ILECs must allow CLECs to access their equipment 24 hours a day, seven days a week, without requiring either a security escort of any kind or delaying a CLEC's employees entry into the ILEC premises, or requiring an ILEC employee to be present during the CLEC's entry into the ILEC premises. The ILEC reserves the right to provide temporary security to those areas, i.e., administrative areas, cable vaults, main distribution frames (MDF) rooms, transmission areas, DC power areas, until permanent security can be put in place.
  - (d) The ILEC shall not use any information it receives in the course of implementing or operating security arrangements for any marketing or other purpose associated with

the ILEC's sale or provisioning of telecommunications services in competition with CLECs.

### **PROPOSED RULE (8) – LOOP AVAILABILITY DATA**

Proposed Rule (8) requires that particular loop information be provided to CLECs. The FCC, however, is very specific about the type of loop qualification data that is to be provided to requesting carriers. In its Third Report and Order,<sup>11</sup> the FCC clarified that the pre-ordering function includes access to loop qualification information that identifies the physical attributes of the loop plant to enable carriers to determine whether the loop is capable of supporting xDSL and other advanced technologies. FCC Order 99-238, ¶ 426. Examples of loop qualification information that ILECS must provide requesting carriers include the composition of the loop material; the existence, location, and type of any electronics or other equipment on the loop; the loop length; the wire gauges of the loop; and the electrical parameters of the loop. FCC Order 99-238, ¶ 428. The loop availability information noted in Proposed Rule (8) is not consistent with the loop qualification information noted in the FCC's Order and should be modified accordingly.

Moreover, the FCC indicated that, at a minimum, the ILEC must provide other requesting carriers the same underlying information that the ILEC has in any of its own databases or other internal records. FCC Order 99-238, ¶ 427. The loop availability information noted in Proposed Rule (8) is not currently contained within GTE's databases and/or internal records. Rather, a new database would have to be created with information

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<sup>11</sup> Third Report and Order, Implementation of the Local Competition Provisions of the Telecommunication Act of 1996, CC Docket No. 96-98, FCC 9-238 (November 5, 1999) (hereinafter "Third Report and Order")

that would have to be derived from various sources. However, GTE is in the process of developing electronic interfaces to provide CLECs non-discriminatory access to loop qualification data consistent with the FCC Order. GTE's interface, currently under development, will be based on the Ordering Billing Forum (OBF) industry standards and will be completed by the May 17, 2000 deadline. As a result, Proposed Rule (8) should be revised to be consistent with the type of loop qualification information outlined in the FCC Order.

**PROPOSED RULE (8) WITH GTE'S CHANGES:**

- (8) Loop availability data. An ILEC shall provide the following loop qualification information to any requesting CLEC that agrees to maintain the confidentiality of the information, to the extent that the ILEC currently contains such information in its databases or internal records: ~~has compiled such information~~
- (a) ~~the average length of the loops served out of a specific central office~~ composition of the loop material, including, but not limited to, fiber optics, copper;
- (b) ~~the percentage of loops served out of that central office that are less than 18,000 feet, 12,000 feet, and 9,000 feet in length as measured from the central office to the customer premises~~ the existence, location, and type of any electronic or other equipment on the loop, including but not limited to, digital loop carrier or other remote concentration devices, feeder/distribution interfaces, bridge taps, load coils, pair-gain devices, disturbers in the same or adjacent binder groups;
- (c) ~~the percentage of customers and access lines served by any type of digital line concentration device, such as digital loop carrier, and the geographic area served by DLC to the extent identifiable; and the loop length, including the length and location of each type of transmission media;~~
- (d) ~~geographic areas served by the central office where limitations exist on the deployment of digital subscriber line technologies as a result of power spectrum density considerations or any other limitations or restrictions that would prevent or constrain the provision of digital subscriber line services via a collocation arrangement.~~ the wire gauges of the loop; and

- (e) the electrical parameter of the loop, which may determine the suitability of the loop for various technologies.

### **III. CONCLUSION**

The Commission adoption of 47 C.F.R. § 51.323 as a state rule is unnecessary, because the Washington statutes already authorize the Commission to enforce collocation rules issued by the FCC. In addition, the Commission's adoption of 47 C.F.R. § 51.323 would be counterproductive because three key provisions of the Advanced Services Order are likely to be reversed on appeal. Thus, the Commission should not adopt any non-cost recovery collocation rules at this time. However, if the Commission decides to promulgate non-cost recovery collocation rules at this time, it should adopt the Proposed Rules as modified by GTE in these comments.