

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

In the Matter of:

DOCKET NO. UT-990582

Collocation Rulemaking

SUPPLEMENTAL COMMENTS OF U S WEST

Introduction

On February 15, 2000, the Washington Utilities and Transportation Commission (Commission) issued a *Notice Of Opportunity to File Supplemental Comments* concerning the Commission's Collocation Rulemaking proceeding. The Commission specifically invited comments on whether the Commission should adopt the provisions of FCC Rule 51.323 as a state regulation, and to comment on the proposed rule language, attached to the notice, that was jointly submitted by AT&T Communications, TCG Seattle, NEXTLINK Washington, Inc., NorthPoint Communications, Inc., GST Telecom Washington, Inc., Advanced Telcom Group, Inc., and MCImetro WorldCom. U S WEST herein provides comment on these issues.

Adoption of FCC Rule 51.323

The Commission has asked parties to comment on whether the Commission should adopt the FCC's Rule 51.323 (47 C.F.R. §51.323) on collocation as a separate state requirement.

U S WEST does not believe it is necessary to do so. Adopting Rule 51.323 as a state requirement would simply impose a duplicative and redundant state requirement. Doing so would add nothing to the existing requirement as set forth by the FCC, and would not change the Commission's ability to enforce those requirements. While the Commission certainly has authority to adopt duplicate provisions of a federal rule, it would seem to make sense to do so only if the Commission wants to ensure a consistent regulatory scheme between the federal and state jurisdictions, and the federal rules do not otherwise apply to state activity. An example of such a situation was in the context of adopting pole attachment rules, where the FCC promulgated rules, but there was independent state authority to regulate pole attachments. That is not the case here, where the FCC's Rule 51.323 will apply to collocation arrangements in Washington whether the Commission independently adopts the rule or not. Thus, in the interests of economy of legislative effort, it is not necessary to adopt Rule 51.323 at the state level.

II. The SGAT Alternative

Although the *Notice* does not specifically raise the issue of a Statement of Generally Available Terms (SGAT), U S WEST argues that if the Commission determines that it must document the federal collocation requirements in a state-specific document, then a more appropriate vehicle would be an SGAT. The ever-evolving nature of complex interconnection requirements is a regulatory reality. Both the FCC and the Washington Commission continue to add or clarify requirements. The changing regulatory scheme results in necessary adaptation of operational processes. Both U S WEST and the Commission must be prepared to react in a quick and efficient manner to changing federal requirements. This need for flexibility was acknowledged by the Commission during its' March 10, 2000, Open Meeting. During the discussion of proposed evidential requirements for U S WEST's Section 271 Application, Commission staff and the Commissioners acknowledged the efficiency that might be gained via an SGAT. Additionally, in Docket UT-990261, Carrier-to-Carrier Service Quality Rulemaking, the Commission has sought comment on whether wholesale service quality standards should be addressed through an SGAT rather than through rules. Therefore, since U S WEST will be filing an SGAT in support of its

Section 271 application, and possibly in conjunction with wholesale service standards, it would be consistent to document collocation obligations within the SGAT rather than in separate rules.

III. Proposed Rule Language

As previously noted, U S WEST does not support the adoption of Rule 51.323 at the state level. Nevertheless, U S WEST welcomes the opportunity to provide comment on the proposed rule language. To facilitate Commission review, U S WEST's comments are provided in the following formats: (1) A narrative discussion of the changes and (2) Text revisions are directly made to the proposed rule at Attachment A. It's recommended that the narrative and revised rule language be read side-by-side..

Section (1) Definitions:

At (b), (c) and (d), U S WEST presents language consistent with FCC 51.323.

U S WEST believes that the proposed definition of delivery date at (c), is overly broad and beyond the scope of a collocation rule. Suggestions are made to focus the definition on the actual collocation. Delivery aspects of other specific services such as administrative telephone service, should be addressed on a contract by contract basis.

Section (2) Types of Collocation Available:

At (d) Adjacent Collocation: U S WEST inserts language from FCC 51.323 and deletes proposed language that conflicts with the FCC's requirement. ILECs are only required to make adjacent collocation available where space is legitimately exhausted. U S WEST also adds the reference that CLECs must bear all expenses from adjacent collocation, pursuant to the Commission's February 24, 2000, Order in Docket UT-990385¹.

¹ Commission Order Adopting Arbitrator's Report, In Part; Modifying Report, In Part; And Approving Negotiated And Arbitrated Interconnection Agreement, In the Matter of the Petition for Arbitration of an Interconnection Agreement Between American Telephone Technology, Inc. and U S WEST Communications, Docket No. UT-990385, February 24, 2000.

Section (3) Provisioning Collocation:

At (c): Pursuant to FCC rules, an ILEC must provide a tour of the premises, at no charge, subsequent to the ILEC denying a request for physical collocation due to space limitations.² The ILEC incurs expenses conducting site tours; Additional site tours should not be mandated in rules. U S WEST proposes that if the Commission seeks to expand on the federal requirement regarding site tours, than it should do so only following the receipt of a 50% down-payment from the CLEC to accomplish construction planning. This would ensure that CLECs requesting site visits are serious in their intent to collocate with the ILEC and are not just seeking competitive intelligence, or unnecessarily expending ILEC resources. The federal rule for a site visit following space denial is the minimum requirement, ILECs and CLECs should retain the flexibility to conduct additional tours as needed for assessing construction issues. Furthermore, if the Commission mandates site visits beyond those required by federal rules, than the ILEC should be entitled to cost recovery.

At (d): U S WEST incurs significant additional costs to complete construction within shorter timeframes. Cost studies submitted in Docket UT-960369et al., were based on 90-day installations. Disputes between a CLEC and ILEC should be resolved through dispute resolution consistent with their interconnection agreement.

At (e): The wording “50% completed” is unclear and open to multiple interpretations. Thirty days provides a clear benchmark. U S WEST does not understand the intent of language concerning the provisioning of POIs. This language is inconsistent with federal rules and should be deleted.

At (f): It is logical that an inspection of a completed job would commence at job completion -- not before. Timelines for subsequent work would be dependent on the nature of the job, and should be negotiated between the parties.

² In the Matters of Deployment of Wireline Services Offering Advanced Telecommunications Capability, First Report and Order and Further Notice of Proposed Rulemaking, FCC CC Docket 98-147, March 31, 1999 at paragraph 57.

Section (4) Denial Of Request For Collocation:

Reservation of space language is changed to be consistent with the Commission's decision in Docket UT-960323.³ Reservation of space for U S WEST's own use may be reasonably forecasted for three years. If the company fails to implement the projected growth need within the reasonable reservation period, it must make the space available for collocation unless good cause is shown for an extension of time. The reservation period for an ILEC's own use is not contingent on reservation periods for CLECs.

At (a): U S WEST asks CLECs to submit two collocation preferences and advises the CLEC of availability. If neither requested collocation arrangement is available, the CLEC is provided with available alternatives.

At (c): Pursuant to the FCC rule 51.321 (f), U S WEST provides the Commission with a detailed floor plan when collocation is denied due to space limitations. However, the expansive reporting requirements proposed in the draft language go beyond the FCC's requirement for providing the state Commission with a detailed floor plan. Rather, the proposed language pertains to reporting requirements following a complaint.

Upon space denial, U S WEST provides the Commission with a detailed floor plan, and information concerning what type of collocation was denied, what alternative was offered, and when relief may be expected. It is U S WEST's position that the current process provides a realistic balance of affording the Commission notification and information, without introducing unnecessary expenses. If the Commission seeks further clarification, it may contact the company on an as needs basis for further information and a site tour.

The extensive report suggested in the proposed language is the report that U S WEST

³ In the Matter of MFS Communications Company, INC. Petition for Arbitration; TCG Seattle Petition for Arbitration and Electric Lightwave, Inc Interconnection Agreement, Commission Decision and Final Order Modifying Initial Order In Part, and Affirming In Part, Docket UT-960323.

would file in response to a complaint being filed with the Commission, pursuant to Docket UT-960323 et al., at page 22. Therefore, the proposed language has been edited to conform to the Commission's ruling in UT-960323 et al., wherein U S WEST must file the expansive report within 25 days following the receipt of a complaint.

AT (d): U S WEST agrees that CLECs may file for enforcement of their interconnection agreement pursuant to WAC 480-09-530. However, the FCC rules do not limit denial to technical and space limitations. Therefore, the language has been changed to acknowledge that other reasons are allowed under FCC rule 51.323. (e.g. FCC 51.323(c) placement of equipment used solely for switching or solely to provide enhanced services, and 51.323(i) safety issues). Since the ILEC may also be relieved of requirements, based on the FCC rules, the final sentence is deleted.

U S WEST notes that since paragraph (d) introduces the CLEC's filing of a complaint, and paragraph (c) details the ILEC's reporting requirements in response to the complaint, the order of paragraphs (c) and (d) should be reversed for better organizational flow.

At (e): The language has been edited to conform to FCC rule 51.321(h). The ILEC is only required to post at its website a list of premises that are full. Pursuant to the FCC's 706 Order at paragraph 58,⁴ the ILEC should be permitted to recover the costs of implementing these reporting measures from collocating carriers in a reasonable manner.

At (f): U S WEST will maintain a waiting list, and offer collocation on a first-come, first-served basis only to those CLECs who have submitted an order requesting collocation.

Section (5) Equipment:

The proposed language is taken from FCC 51.323(b). U S WEST inserts language from

⁴ In the Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability, First Report and Order and Further Notice of Proposed Rulemaking, CC Docket 98-147, March 31, 1999.

FCC 51.323(c) for a more complete definition.

At (a): Language is corrected to be consistent with FCC 51.323.

At (b): This paragraph is redundant to language contained in Section (4) and should be stricken in its entirety. As addressed in comments to Section (4), the first sentence is inaccurate. The balance of the paragraph is duplicative and unnecessary.

Section (6) Use Of Collocation Space And Equipment:

U S WEST inserts (c) and (d) to clarify that the CLEC must submit an order to the ILEC, and that the CLEC may utilize the service of an approved vendor.

Section (7) Security:

At (c): Clarifies that 24-hour access is only provided to CLECs that order physical collocation. Edits security escort language to be consistent with FCC 51.323.

Section (8) Loop Availability Data:

U S WEST strongly objects to the inclusion of Section (8), loop availability data. Loop availability data are not appropriately addressed within collocation rules. The FCC does not include this issue in its collocation rules, FCC 51.323. As the CLECs are well aware, loop availability is addressed in the FCC's UNE Remand Order,⁵ and is addressed within the subject of operational support systems and pre-ordering, not collocation. The proposed section should be stricken.

Summary

The FCC's Rule 51.323 will apply to collocation arrangements in Washington whether

⁵ In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, CC Docket 96-98, November 5, 1999.

the Commission independently adopts the rule or not. Thus, in the interests of economy of legislative effort, it is not necessary to adopt Rule 51.323 at the state level. If the Commission determines that it must document the federal collocation requirements in a state-specific document, than a more appropriate vehicle would be an SGAT.