

**BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

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

**SECOND SUPPLEMENTAL COMMENTS OF GTE**

**May 15, 2000**

On April 11, 2000, the Washington Utilities and Transportation Commission (“Commission”) issued a Notice of Opportunity to File Supplemental Comments in this Docket. Specifically, the Commission invited comments on nine questions related to the proposed rules submitted by a number of collocators (“Proposed Rules”).<sup>1</sup> GTE Northwest Incorporated (“GTE”) filed Supplemental Comments on the Proposed Rules on March 15, 2000 (“Supplemental Comments”), and hereby files Second Supplemental Comments in response to the nine questions posed by the Commission. Although GTE answers the questions posed by the Commission, it continues to believe that the Commission should not adopt any collocation rules at this time for the reasons set forth in GTE’s Supplemental Comments. Moreover, the state of the federal collocation law is even more uncertain now that the United States Court of Appeals for the District of Columbia Circuit has vacated and remanded portions of the Federal Communications Commission’s (“FCC”) *Advanced Services Order*,<sup>2</sup> as GTE predicted it would

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<sup>1</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.

<sup>2</sup>First Report and Order and Further Notice of Proposed Rulemaking on *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket Nos. 98-147, FCC 99-48 (rel. March 31, 1999).



in its Supplemental Comments. GTE Serv. Corp. v. Fed. Communications Comm'n, 205 F.3d 416 (D.C. Cir. 2000) (“D.C. Circuit Court Ruling”). The Commission should, at a minimum, delay consideration of these rules pending remand of the *Advanced Services Order* to the FCC.

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

The definition of “equipment” in Proposed Rule (1)(d) is inconsistent with the D.C. Circuit Court Ruling. The “used and useful” focus of the definition of equipment in the Proposed Rule was taken from the *Advanced Services Order*, which the D.C. Circuit Court Ruling deemed in relevant part to “permit competitors to collocate equipment that may do more than what is required to achieve interconnection or access.” 205 F.3d at 422-23. The proper standard, taken by the D.C. Circuit Court directly from section 251(c)(6), is equipment that is “necessary” to interconnection or access to unbundled network elements.

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

As GTE explained in its Supplemental Comments, adjacent collocation is only to be provided when technically feasible and when space is legitimately exhausted in a particular premises. These prerequisites are clear from the *Advanced Services Order* and D.C. Circuit Court Ruling. *See* 47 C.F.R. § 51.323(k)(3) (adjacent collocation is required only “where space is legitimately exhausted in a particular incumbent LEC premises” and “to the extent technically feasible”); 205 F.3d at 425 (“adjacent collocation is required only when space in the central offices is exhausted.”). As also explained in GTE’s Supplemental Comments, Proposed Rule 2(d) also fails to include the

requirement that any hut or similar adjacent collocation structure conform to local building codes, zoning requirements, and GTE's standards regarding design, construction, safety, and maintenance. These requirements must be included to be consistent with ¶ 44 of *Advanced Services Order*, which specifies that "zoning and other state and local regulations may affect the viability of adjacent collocation, and ... the incumbent LEC may have a legitimate reason to exercise some measure of control over design or construction parameters ...." Thus, if the Proposed Rules are utilized, these prerequisites to adjacent collocation should be inserted into Proposed Rule (2)(d).

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

A. Intervals Set By Other Commissions

The FCC did not establish collocation time intervals in the *Advanced Services Order*. ¶ 54 ("We do not adopt specific provisioning intervals at this time. We have adopted several new collocation rules in this Order, and we do not yet have sufficient experience with the implementation of these new collocation arrangements to suggest time frames for provisioning."). Although noting that it "view[s] ten days as a reasonable time period within which to inform a new entrant whether its collocation application is accepted or denied,"<sup>3</sup> the

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<sup>3</sup>*Advanced Services Order* ¶ 55.

FCC deferred consideration of collocation time intervals to state commissions for the time being in the *Advanced Services Order*. Two state commissions, those in California and Florida, have established collocation intervals:

	<b>California Public Utilities Commission<sup>4</sup></b>	<b>Florida Public Service Commission<sup>5</sup></b>
<b>Notification of CLEC of space availability (from receipt of application)</b>	<b>15 calendar days</b>	<b>15 days except for CLECs filing multiple requests:</b> <ul style="list-style-type: none"> <li>•10-19 requests: 25 days</li> <li>•20-29 requests: 35 days</li> <li>•10 addt'l days for each 10 addt'l applications (or fraction thereof)</li> </ul>
<b>Price Quote (from receipt of application)</b>	<b>30 calendar days</b>	<b>15 days</b>
<b>Project Completion for caged, cageless, shared cage, and subleased caged (from receipt of 50% of NRCs)</b>	<ul style="list-style-type: none"> <li>•90 calendar days for new installation (90% benchmark for GTE)</li> <li>•80 calendar days for augments (100% benchmark)</li> </ul>	<ul style="list-style-type: none"> <li>•90 days for new installation</li> <li>•45 days for augment</li> </ul>
<b>Project Completion for virtual collocation</b>	<b>n/a</b>	<b>60 days from firm order</b>

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<sup>4</sup>The California Public Utilities Commission (“California Commission”) decided on these intervals in D.99-08-020 (Aug. 5, 1999), a decision addressing OSS performance measurements. D.99-08-020 adopted certain intervals that the Commission had set in D.98-12-068, and noted that the intervals could be superseded by new intervals set in the “Local Competition” proceeding (R.95-04-043/I.95-04-044). D.99-08-020 at 52-53. The California Commission has not yet issued new intervals in the “Local Competition” proceeding.

<sup>5</sup>The Florida Public Service Commission set these intervals in Order PSC-99-1744-PAA-TP and in a pending order reflecting its adoption on April 18, 2000, of intervals recommended by its Staff in Docket Nos. 981834-TP and 990321-TP.

**B. Availability of Equipment and Materials**

As GTE explained in its Supplemental Comments, the availability of equipment and materials, particularly cable, impacts site preparation intervals. For example, the normal interval for shipment of cables is 42 days, on average, from the date the vendor receives the purchase order to the date the material is shipped. Obviously, the 45 calendar day threshold in Proposed Rule (3)(d) for completing construction of and delivering the requested collocation space and related facilities would be insufficient in light of the 42 day period for the shipment of cables. 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 the 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). This ninety-day process is consistent with the interval set by the California Public Utilities Commission, as described above.

**C. CLEC Self-Provisioning**

CLECs should be permitted to self-provision the components of the collocation equipment that are inside the cage or within the designated bays in cageless collocation. Work activities outside the collocation space, however, should be coordinated by the ILEC. The ILEC and CLEC may mutually agree on utilizing ILEC-certified contractors for these

activities, or the CLEC may apply to become a certified contractor itself.

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

As GTE explained in its Supplemental Comments, the only standard that the FCC has set for reserving central office space is that an 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>6</sup> The FCC also requires specifically in the *First Report & Order* that space be made available “to requesting carriers on a first-come, first-served basis.”<sup>7</sup>

**5. For the following questions, assume that space must be made available on a first-come first-served basis and more than one CLEC has requested space in the same central office. What is the best method to inform CLECs as space becomes available? What should trigger the offer of available space to a CLEC? What is a reasonable time interval for a CLEC to accept space as it becomes available? If a CLEC does not timely accept space as it becomes available, or elects to wait until additional space becomes available, how is that CLEC’s request impacted?**

The most non-discriminatory way to offer collocation space to CLECs in the ILEC’s central office is on a first-come, first-served basis, based on updates to the publicly available website that ILECs are required to keep under 47 C.F.R. § 51.321(h). CLECs may monitor the website and make collocation requests for central offices that are removed from the list of exempt offices. The website is the best method to inform CLECs because it is publicly available, and provides information to all CLECs at the same time.

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<sup>6</sup>First Report & Order, *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.

<sup>7</sup>*First Report & Order* ¶ 585.

A system of notifying particular CLECs, such as those that have been rejected for space exhaustion in the past, and giving them priority to collocate over other CLECs should not be adopted. Because offices can remain exempt of space for collocation for extended periods of time, many of the original CLEC applicants will have pursued other alternatives. Thus, allocating time to allow these original CLEC applicants to be notified and respond to changes in collocation space availability will effectively delay collocation entry into the central office.

If the Commission decides ultimately to require that certain CLECs be notified when collocation space becomes available, the CLECs should be required to respond within a set period of time as to whether they are still interested in space at that location. CLECs should recommend a time interval for this purpose, based on the amount of time that is necessary for reassessment of their business plans. If a CLEC notified under such a plan elects not to pursue collocation at the particular location, the CLEC should be required to resubmit an application in line with other CLECs if it later becomes interested in obtaining space.

**6. In Section (5), what restrictions should be placed on collocation equipment, other than NEBS Level 1 compliance? What exceptions should be allowed?**

Collocation equipment should not be allowed to interfere – physically, electronically, or otherwise – or impair the service of the ILEC or other collocated CLECs, or create hazards or cause physical harm to any individual or the public. In order to ensure this, and as GTE explained in its Supplemental Comments, all CLEC equipment used for caged and cageless collocation must: (1) be tested to and must meet the NEBS Level 1 family of safety requirements; and (2) be tested to the specific additional risk/safety/hazard criteria specified in Addendum E of GTE’s Collocation Service



Packet (“CSP”). These rules are consistent with ¶¶ 35, 36 of the *Advanced Services Order*, which permit imposition of NEBS Level 1 safety requirements and other safety requirements that the ILEC imposes on its own equipment.

Consistent with ¶ 35 of the *Advanced Services Order*, any CLEC equipment that does not conform to requirement (1) may not be installed on GTE property. CLEC equipment that does not satisfy the specific additional risk/safety/hazard criteria in GTE’s CSP may be collocated provided that it is placed in a cabinet to protect other equipment from its deficiencies. 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*. In order to ensure all carriers are treated on a non-discriminatory basis, no exceptions to these rules should be permitted.

For the same reasons, the ILEC should be permitted to remove and/or refuse use of CLEC facilities and equipment from its list of approved products if such products, facilities and equipment are determined to be no longer compliant with NEBS Level 1 safety standards or Electromagnetic Compatibility and Electrical Safety Generic Criteria for Network Telecommunication Equipment (GR-1089-CORE). Similarly, ILECs also should have the right to remove and/or refuse use of CLEC facilities or equipment that does not meet or comply with the equipment safety requirements specified in the ILEC Collocation Services Packet.

**7. In Section (6), how should collocating carriers access each others network?**

The D.C. Circuit Court Ruling stated that the “cross-connects requirement imposes an obligation on LECs that has no apparent basis in the statute.” 205 F.3d at 423. If, however, the ILEC chooses to offer cross connects, the offer should be governed by an application process. If the

collocators are located in contiguous spaces, the requesting collocator may be able to self-provision the arrangement. If the collocators are not in contiguous spaces, however, the ILEC should be able to determine if the request should be provisioned by the ILEC, a certified contractor, or through self-provisioning. For example, an ILEC should be responsible for engineering and installing the overhead superstructure, if required, and determining the proper route for the cable to travel through the central office. Once the cable route has been determined and the overhead superstructure engineered and installed, if necessary, the CLEC may provide all cables and connectors, and may run the cables if it uses an ILEC-approved contractor or a contractor that meets the same requirements as an ILEC-authorized contractor.

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

The ILEC is permitted by the *Advanced Services Order* to use reasonable security measures that it deems appropriate to protect its equipment, and recover the costs of implementing these security measures from collocating carriers. *Advanced Services Order* ¶ 48. Reasonable security measures by an ILEC include enclosing ILEC equipment in its own cage or other separation, utilizing monitored card reader systems, installing digital security cameras, requiring badges with computerized tracking systems, providing identification “swipe” cards, and using keyed access and/or logs. In its cost study, GTE has identified costs for card readers, card access controllers, and locking storage cabinets as appropriate security measures, and will recover these costs through the “Building Modification” and “Access Card Administration” rate elements.

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

Loop availability data should not be addressed in collocation rules. Collocation allows a CLEC to place equipment within an ILEC's central office for the purposes of interconnection or access to unbundled network elements; loop data is an issue surrounding the services that an existing collocation customer would order such as UNEs or line-sharing.

Recognizing that these are two separate issues, the FCC does not include loop availability data in its collocation rules. Instead, as US West noted in its Supplemental Comments submitted March 15, 2000, the FCC addressed loop availability in the "UNE Remand Order" within the context of operational support systems and pre-ordering, not collocation.<sup>8</sup>

**Conclusion**

For all the reasons set forth in GTE's Supplemental Comments, and in light of the uncertainty resulting from the D.C. Circuit Court Ruling on the *Advanced Services Order*, the Commission should not adopt collocation rules at this time. If the Commission decides to promulgate collocation rules based on the Proposed Rules, however, it should: (1) correct the deficiencies in the Proposed Rules as explained by GTE in its Supplemental Comments and these Second Supplemental Comments, and (2) amend the Proposed Rules to be consistent with the reasoning explained in the D.C. Circuit Court Ruling.

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<sup>8</sup>Third Report and Order and Fourth Notice of Proposed Rulemaking, *In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket 96-98 (rel. Nov. 5, 1999).