complete until after the CFAs were provided, then the CLP may delay installation of its equipment, for whatever reason, without paying the ILEC floor space charges.

The Public Staff concluded its comment stating that the Standard Offering, Section 6.4.6, should be amended to state: "The ILEC is required to provide CFAs when the CLP has installed its equipment in the collocation space. The ILEC may assign the CFAs *before installation of the CLP's equipment if the CLP has provided sufficient information* for the ILEC to do so."

The Commission agrees with the Public Staff in that the CFAs should not be provided until the collocation space is ready for use by the CLP and the equipment to be installed in the collocation space has been verified by the CLP. The completion of the collocator's space and the assignment of CFAs are two entirely separate provisioning project paths. As such, the Parties must agree on the date certain for the in-service (e.g., requirement) of CFAs for DS-1 or DS-3 services. The Commission believes that the ILEC should not be placed in a position of having to provide collocation space, without compensation, well before the CLP has determined its own equipment requirements.

CONCLUSIONS

The Commission concludes that the ILEC should not be required to provide CFAs until the collocation space is ready for use by the CLP and the equipment to be installed *in the collocation space has been verified by the CLP. Furthermore, the ILEC should not* be placed in a position of having to provide collocation space, without compensation, well before the CLP has determined its own equipment requirements.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 44

ISSUE 45: Which party may designate the point of demarcation? What is the appropriate demarcation point?

ISSUE 46: Is the Point of Termination (POT) frame an appropriate demarcation point?

POSITIONS OF PARTIES

ALLTEL: ALLTEL did not address this issue in its Brief.

AT&T: AT&T stated that the ILEC shall identify technically feasible points and the CLP should designate the point of demarcation which, in most cases, will be in or adjacent to its collocation space. In general, the CLPs' facilities should be as near to their collocated space as possible. The CLPs' concern is that their equipment and cabling not extend *beyond the area that it controls. The GTE Order is not relevant because it refers to the* ability to allocate collocation space, not the demarcation point. A POT bay or frame should not be required in order for CLPs to interconnect with an ILEC. If a CLP chooses another

type of equipment or arrangement, it should be allowed to do so. ILECs may not require competitors to use an intermediate connection to the incumbent's network if technically feasible, because such intermediate points of interconnection simply increase collocation costs without a concomitant benefit to incumbents. Thus, a terminal block or other intermediate arrangement cannot be required. However, a POT bay or frame is an appropriate demarcation point in collocated space if a CLP chooses to interconnect at a POT bay or frame.

BELLSOUTH: BellSouth stated that there is nothing in the TA96 or the FCC rules that allows the CLP to choose the point of demarcation on the ILEC's network. Thus, BellSouth has the authority to determine the demarcation point within the central office for CLPs choosing collocation as their method of interconnecting with BellSouth's network so as to ensure that space is efficiently administered. For 2-wire or 4-wire connections to BellSouth's network, the demarcation point shall be a common block on the BellSouth designated conventional distributing frame (CDF). The CLP shall be responsible for providing, and the CLP's BellSouth Certified Vendor shall be responsible for installing and properly labeling/stenciling the common block and necessary cabling pursuant to the established construction and provisioning interval. For all other terminations, BellSouth shall designate a demarcation point on a per arrangement basis. At the CLP's option, a POT bay or frame may be placed in the collocation space, but this POT bay will not serve as the demarcation point.

MCIM: MCIm took the same position as AT&T.

NEW ENTRANTS: The New Entrants took the same position as AT&T.

PUBLIC STAFF: The Public Staff stated that the ILEC may designate the number and location(s) of demarcation points at each central office. The Parties should negotiate the standards by which the ILEC will designate the demarcation points using the FCC's revised rules regarding space designation to guide the negotiations. The POT bay may be used as a demarcation point.

SPRINT: Sprint stated that it was willing to accept the New Entrants' position on Issue Nos. 45 and 46 to the extent it is consistent with the terms and conditions of the Standard Offering (Sections 5.4; 5.5) filed with the direct testimony of Sprint witness Hunsucker, if it is included in the Standard Offering and the Standard Offering is made applicable to all parties.

VERIZON: Verizon stated that the ILEC shall designate the point of demarcation. The ILEC will use its best efforts to identify the closest demarcation point to the CLP's equipment that is available. At the CLP's option and expense, a POT bay, frame or digital cross-connect may be placed in or adjacent to the collocation space that may serve as the demarcation point. If the CLP elects not to provide a POT frame, the ILEC will agree to handoff the interconnection cables to the CLP at its equipment.

WORLDCOM: WorldCom took the same position as AT&T.

DISCUSSION

Section 5.4 of the Standard Offering addresses the provision of demarcation points, including POT frames, by the ILEC to the CLP:

> 5.4 Demarcation Point. Unless otherwise requested by the CLP, the CLP will designate the point of demarcation in or adjacent to its collocation space. At the CLP's request, the ILEC will identify to the CLP the location(s) of other possible demarcation points available to the CLP, and the CLP will designate from these location(s) the point(s) of demarcation between its collocated equipment and the ILEC's equipment. The ILEC will use its best efforts to identify the closest demarcation point to the CLP's equipment that is available. Each party will be responsible for maintenance and operation of all equipment/facilities on its side of the demarcation point. For 2-wire and 4-wire connections to the ILEC's network, ILEC may offer, as an option to the CLP, a demarcation point that is a common block on the ILEC designated conventional distributing frame. The CLP shall be responsible for providing, and the CLP's ILEC-Certified Vendor shall be responsible for installing and properly labeling/stenciling, the common block, and necessary cabling pursuant to Section 5.5. The CLP or its agent must perform all required maintenance to equipment/facilities on its side of the demarcation point, pursuant to subsection 5.5 following, and may self-provision cross-connects that may be required within the collocation space to activate service requests. At the CLP's option and expense, a POT bay, frame, or digital cross-connect may be placed in or adjacent to the Collocation Space that may, at the CLP's option, serve as the demarcation point. If the CLP elects not to provide a POT frame, the ILEC will agree to handoff the interconnection cables to the CLP at its equipment, at the CLP's designated demarcation point. When the CLP elects to install its own POT frame/cabinet, the ILEC must still provide and install the required DC power panel.

CLP witness Gillan testified that the CLPs take the general position that the CLP should have the right to designate the point of demarcation. He stated that, by definition, the point of demarcation is the point where one carrier's facilities end and the other carrier's facilities begin. He believed that if the CLP's collocation is limited to a particular area within the ILEC office, then the CLP's facilities should be contained as near to that collocated space as possible. He added that any other arrangement would result in the CLP's cabling and other equipment extending beyond the area that the CLP controls. Witness Gillan testified that the Standard Offering proposes that the ILECs identify possible demarcation points, using their best efforts to identify the closest point to the CLP's equipment that is available, and the CLPs will designate the point.

With respect to whether or not a POT frame or bay is an appropriate demarcation point, witness Gillan stated that a POT bay or frame should not be required in order for CLPs to interconnect with an ILEC. He contended that the FCC had prohibited ILECs from requiring CLPs to use an intermediate frame between the main distributing frame (MDF) and the collocation space as the demarcation point, citing the following language from Paragraph 42 of the Advanced Services Order:

> Incumbent LECs may not require competitors to use an intermediate interconnection arrangement in lieu of direct connection to the incumbent's network if technically feasible, because such intermediate points of interconnection simply increase collocation costs without a concomitant benefit to incumbents.

However, he testified that a POT bay or frame is an appropriate demarcation point in collocated space if a CLP chooses to interconnect at a POT bay or frame.

Finally, witness Gillan testified that the GTE decision, which dealt with the designation of space for collocation within the central office, was not relevant to the demarcation point issue in this case. Rather, he contended that the issue concerns what information is relevant to the decision to collocate which would assist both the ILEC and the CLPs and he argued there is no legitimate reason why it should be withheld.

BellSouth witness Milner testified that there was nothing in either the Act or the FCC's rules that allowed CLPs to choose demarcation points. He stated that the appropriate demarcation point was the common block on BellSouth's CDF, which is an intermediate frame located in the common area between BellSouth's main distributing frame and the CLP's collocation space. Witness Milner argued that the GTE case confirmed that "ILECs have the authority to designate collocation locations within the central office," which he interpreted as meaning that ILECs also had the authority to designate demarcation points. This view was echoed by Verizon witness Ries who also argued that allowing the CLPs to access the MDF or any other ILEC facility termination points would create network reliability and security issues.

In the Public Staff's Proposed Order, it cited the GTE case, where the Court stated:

> It is one thing to say that LECs are forbidden from imposing unreasonable minimum space requirements on competitors; it is quite another thing, however, to say that competitors, over the objection of LEC property owners, are free to pick and choose preferred space on the LECs' premises, subject only to technical feasibility. There is nothing in § 251(c)(6) [of the Act] that endorses this approach. The statute requires only that the LEC reasonably provide space for "physical collocation of equipment necessary for interconnection or access to unbundled network elements at the premises of the local exchange carrier," nothing more.

> The sweeping language in paragraph 42 of the Collocation Order appears to favor the LECs' competitors in ways that exceed what is "necessary" to achieve reasonable "physical collocation" and in ways that may result in unnecessary takings of LEC property. Once again we find that the FCC's interpretation of § 251(c)(6) goes too far and thus "diverges from any realistic meaning of the statute." (Massachusetts v. Department of Transp., 93 F.3d at 893)

The Public Staff pointed out that pursuant to these findings, the Court vacated the provisions of Paragraph 42 of the *Advanced Services Order* that gave collocators the option of collocating equipment in any unused space in the ILEC's premises, to the extent technically feasible. It also vacated provisions that prohibited ILECs from requiring competitors to locate in a room or isolated space separate from the ILEC's own equipment. Relying heavily upon the GTE case cited above, the Public Staff believes that a CLP has no more right to choose a preferred location for its demarcation point in an ILEC central office than a CLP has to choose a preferred location for physical collocation space.

The Commission concludes that the ILEC may designate the number and location(s) of demarcation points at each central office as a regulatory policy determination. The testimony in this case indicates that the ILECs are willing to provide a demarcation point that is either proximate to the CLP's collocation space, (i.e., in the POT bay or frame) or adjacent to the main distributing frame where the ILEC connects its own outside plant to the switching network. The Commission agrees with the Public Staff that either demarcation point will meet the legitimate needs of CLPs for collocation. However, the ILEC should not deliberately choose a location in the central office that simply causes a CLP to face substantially higher costs or a significantly higher risk of service disruption than the CLP would face if the demarcation point were located at another location within the building.

Although Section 5.4 of the Standard Offering contains language which is contrary, in parts, to the Commission's conclusions on this issue, the Commission encourages the ILECs to work cooperatively with the CLPs in provisioning collocation space, including the point of demarcation issue. For example, nothing prevents the ILECs from offering CLPs multiple demarcation points, as described in the Standard Offering, if the ILEC chooses to do so. Therefore, the Commission urges the ILECs and the CLPs to further negotiate the demarcation point issue using the Standard Offering and the FCC's revised rules and new policies and practices regarding space designation, as set forth in the *Collocation Remand Order*, as a starting point for further negotiations to develop mutually agreed upon language for inclusion in the Standard Offering.

CONCLUSIONS

The Commission concludes that the ILEC may designate the number and location(s) of demarcation points at each central office. The POT bay or frame may be used as a demarcation point. The Parties should negotiate the standards by which the ILEC will

designate the demarcation points using the Standard Offering and the FCC's rule regarding space designation to guide the negotiations.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 45

ISSUE 47: What are the appropriate terms and conditions for the provision of cross-connects in the ILEC premises?

POSITIONS OF PARTIES

ALLTEL: This issue was not addressed in ALLTEL's Brief. Additionally, ALLTEL did not file comments on the Collocation Remand Order which was released August 8, 2001.

AT&T: AT&T did not file comments on the Collocation Remand Order. In its Proposed Order which was filed prior to the issuance of the Collocation Remand Order, AT&T contended that the CLP may provision its own cross-connect facilities, or the ILEC should provide, at the CLP's request, the connections between carriers' equipment, at the rates provided for in New Entrants witness Feldman's testimony. CLPs should follow the same reasonable safety requirements that the ILEC uses for its own equipment. CLPs may construct their own cross-connect facilities using copper or optical facilities, subject to the same safety requirements ILECs impose on their similar facilities.

BELLSOUTH: In its Amended Proposed Order, filed after the Collocation Remand Order was issued, BellSouth stated that it would provide co-carrier cross-connects in accordance with the Collocation Remand Order and would permit CLPs to self provision co-carrier cross-connects in accordance with Section 3.7 of BellSouth's Standard Offering. Whereas, in its initial Proposed Order, BellSouth had contended that it was not obligated *to provide or to allow co-carrier cross-connects*.

MCIm: MCIm did not file comments on the Collocation Remand Order. MCIm filed a Brief which only addressed its proposed resolution of the arbitration issues which were raised between MCIm and BellSouth in Docket No. P-474, Sub 10, pertaining to physical collocation, that were transferred to this generic proceeding. This issue was not one of those transferred issues. Thus, this issue was not specifically addressed in MCIm's Brief, except to the extent that MCIm stated that it supported the New Entrants' and Sprint's compromise Standard Offering, as revised.

NEW ENTRANTS: The New Entrants did not file comments on the Collocation Remand Order. The New Entrants, AT&T, and WorldCom filed a joint Proposed Order. Additionally, the New Entrants also filed a separate Brief, but provided no specific comments, therein, on this issue. The New Entrants supported the position noted above for AT&T.

PUBLIC STAFF: The Public Staff filed an Amendment to its Proposed Order after the Collocation Remand Order was issued. In its initial Proposed Order, the Public Staff had commented that the Standard Offering should be amended to reflect that the ILEC bears no obligation to provide or allow co-carrier cross-connects. However, the Public Staff now believes that the Standard Offering should be amended to reflect that an ILEC may, but is not required to allow collocating CLPs to provision their own cross-connects. Further, the Public Staff stated that the Standard Offering should instead reflect that, at the request of a collocating CLP, the ILEC must provide cross-connects between equipment in the collocated space of two or more telecommunications carriers, unless the ILEC allows the CLP to provision its own cross-connects or the cross-connect is not required.

SECCA: SECCA did not file a Brief or Proposed Order, but SECCA filed comments pertaining to the Collocation Remand Order. SECCA commented that the Collocation Remand Order requires ILECs to provision cross-connects between CLPs as unbundled network elements, subject to the provisions of Section 251 of the Act.

SPRINT: Sprint filed an Amendment to its Brief after the Collocation Remand Order was issued. In its filing prior to its Amendment, Sprint would have accepted the New Entrants' position on this issue to the extent it was consistent with the terms and conditions of the Standard Offering filed with the direct testimony of Sprint witness Hunsucker, it was included in the Standard Offering, and the Standard Offering was made applicable to all Parties in its entirety. In its amended filing, Sprint's position was that CLPs may no longer self-provision cross-connects through common areas since their cabling and equipment is considered collocated equipment which does not meet the "necessary" standard. ILECs are now required to provide CLPs connections using copper, dark fiber, lit fiber, or other transmission media as requested by the CLP.

VERIZON: Verizon filed additional comments after the Collocation Remand Order was issued. Verizon noted that the Collocation Remand Order affected its position on this issue and concluded that its Proposed Order should be amended. In its additional comments, Verizon stated that the ILEC should provide dedicated transport service (cross-connections between collocated CLPs' arrangements) for DS0, DS1, DS3, and dark fiber circuits. Additionally, the ILEC should also provide other technically feasible cross-connection arrangements, including lit fiber, on an individual case basis, as requested by a CLP. In its filing prior to the issuance of the Collocation Remand Order, Verizon had stated that the CLP may directly connect to other interconnectors within the ILEC premises through facilities owned by the CLP or through ILEC facilities designated by the CLP, at the CLP's option and that provisioning had to be implemented by an ILEC-approved, certified contractor when facilities traverse outside the CLP collocated space.

WORLDCOM: WorldCom did not file comments on the Collocation Remand Order. WorldCom, AT&T, and the New Entrants filed a Joint Proposed Order, and thus, WorldCom supported the position noted above for AT&T.

DISCUSSION

This issue concerns the provisioning of cross-connects between CLPs that are collocated, i.e., co-carrier cross-connects, in an ILEC's premises. On August 8, 2001, the FCC released its Collocation Remand Order providing a reevaluation by the FCC of its collocation rules on remand from the United States Court of Appeals for the District of Columbia Circuit in the case of GTE Serv. Corp. v. FCC (D.C. Cir. 2000). That Order addressed several matters, one being the issue of the FCC's remanded rules requiring that ILECs allow collocating CLPs to install and maintain cross-connects between other collocated CLPs within an ILEC's premises. In the Collocation Remand Order at Paragraph 58, the FCC provided a definition and a description of the various cross-connect schemes as follows:

> As an initial matter, we believe it is important to define cross-connects and describe how prevalent they are in a typical central office. "A cross-connection [or cross-connect] is a cabling scheme between cabling runs, subsystems, and equipment using patch cords or jumper wires that attach to connection hardware on each end." Typically, in a central office, the cabling scheme might run from a piece of equipment up into an overhead racking system, through that system and down from the racks to connect with another piece of equipment. Cross-connects can run through the main distribution frame or an intermediate distribution frame when being used to connect two pieces of equipment or when being used to connect equipment to a transmission facility, such as a loop or trunk. When two pieces of equipment are in close proximity to each other, the cross-connect may progress directly from one piece of equipment to the other without entering the racking system. Cross-connects generally are present throughout the incumbent's premises. Cross-connects interconnect incumbent LEC equipment to other incumbent LEC equipment and incumbent LEC equipment to collocator equipment. Cross-connects also interconnect one piece of a collocator's equipment to another piece of that collocator's equipment. Finally, because of the Commission's previous cross-connect rule adopted in the *Local Competition Order*, cross-connects have been used to interconnect one collocator's equipment to another collocator's equipment. (Footnotes omitted.)

In the Proposed Order jointly entered between AT&T, the New Entrants, and WorldCom which was filed prior to the issuance of the Collocation Remand Order, AT&T, et al., contended that the CLP may provision its own cross-connect facilities, or that the ILEC should provide, at the CLP's request, the connections between carriers' equipment. AT&T, et al., remarked that the CLPs should follow the same reasonable safety requirements that the ILEC uses for its own equipment and that CLPs should be permitted to construct their own cross-connect facilities using copper or optical facilities, subject to the same safety requirements ILECs impose on their similar facilities. In support of their position, they asserted that requiring ILECs to provide CLP-to-CLP cross-connection under

section 251(c)(6) of the Act is consistent with the structure of the statute. Further, they pointed out that Section 251(a) requires all carriers — including the CLPs — to interconnect with other carriers and that section 251(c)(6) requires any conditions imposed on interconnection to be "nondiscriminatory." Accordingly, they argued that a denial of cross-connection would violate the requirement that ILECs provide collocation on a nondiscriminatory basis because the ILEC could connect with a collocating CLP at the ILEC's central office, but another CLP could not. Given that CLPs need to collocate at ILEC central offices, AT&T, et al., stated that ILECs have the opportunity to interconnect with CLPs on an efficient and readily available basis. Thus, AT&T, et al., remarked that cross-connection is necessary to put each collocating CLP in a position to achieve the same interconnection with other CLPs as the ILEC itself is able to do. Furthermore, AT&T, et al., explained that even if "interconnection" were to be defined narrowly to encompass only interconnection with the ILEC's network, any condition denying cross-connection would violate the statute's prohibition against "nondiscriminatory" conditions. AT&T, the New Entrants, and WorldCom did not file comments on the Collocation Remand Order. Thus, they were silent on the manner in which the revised CLP/Sprint Standard Offering language would need to be further revised to conform with the findings set forth in the FCC Collocation Remand Order.

As indicated above in the narrative of each party's position, only a portion of the Parties filed additional comments or amendments specifically addressing changes in their positions based upon the FCC's Collocation Remand Order, which was released on August 8, 2001. These parties were BellSouth, the Public Staff, SECCA, Sprint, and Verizon.

In its initial Proposed Order, BellSouth's position had been that an ILEC was not obligated to provide or allow co-carrier cross-connects. BellSouth had commented in its initial Proposed Order that the D.C. Circuit's GTE Serv. Corp. v. FCC (D.C. Cir. 2000) decision of March 17, 2000, specifically addressed the issue of ILEC obligations to provide cross-connects and that BellSouth's reading of the decision was that an ILEC was not required to provide CLPs with cross-connects. Specifically, in that decision, under Section B. "Necessary", the D.C. Circuit held as follows:

> . . . .One clear example of a problem that is raised by the breadth of the Collocation Order's interpretation of "necessary" is seen in the Commission's rule requiring LECs to allow collocating competitors to interconnect their equipment with other collocating carriers. See Collocation Order, 14 FCC Rcd at 4780 p 33 ("We see no reason for the incumbent LEC to refuse to permit the collocating carriers to cross-connect their equipment, subject only to the same reasonable safety requirements that the incumbent LEC imposes on its own equipment."). The obvious problem with this rule is that the cross-connects requirement imposes an obligation on LECs that has no apparent basis in the statute. Section 251(c)(6) is focused solely on connecting new competitors to LECs' networks. In fact, the Commission does not even attempt to show that cross-connects are in any sense

> "necessary for interconnection or access to unbundled network elements." Rather, the Commission is almost cavalier in suggesting that cross-connects are efficient and therefore justified under s 251(c)(6). This will not do. The statute requires LECs to provide physical collocation of equipment as "necessary for interconnection or access to unbundled network elements at the premises of the local exchange carrier," and nothing more. As the Supreme Court made clear in Iowa Utilities Board, the FCC cannot reasonably blind itself to statutory terms in the name of efficiency. . . .

Consequently, based upon its interpretation of the GTE Serv. Corp. v. FCC (D.C. Cir. 2000) decision, BellSouth had concluded that an ILEC was not required to provide CLPs with cross-connects. However, now based upon the Collocation Remand Order released on August 8, 2001, BellSouth's position is that it would provide co-carrier cross-connects in accordance with the Collocation Remand Order and would permit CLPs to self provision co-carrier cross-connects in accordance with its proposed Section 3.7 of BellSouth's Standard Offering. In its Amended Proposed Order, BellSouth filed specific language in regard to this issue, which it proposed for inclusion in the Standard Offering as follows:

> **BellSouth's Proposed Language** (Sections 3.7, 3.7.1, and 3.7.2):
>
> **3.7** Co-Carrier Cross-Connect (CCXC). The primary purpose of collocating CLP equipment is to interconnect with the ILEC's network or access the ILEC's unbundled network elements for the provision of telecommunications services. The ILEC will permit the CLP to interconnect between its virtual or physical collocation arrangements and those of another CLP. At no point in time shall the CLP use the Collocation Space for the sole or primary purpose of cross-connecting to other CLPs.
>
> **3.7.1** Except as provided herein, the CCXC, may be provisioned through facilities owned by the CLP or through the ILEC's facilities, at the CLP's option. Such connections to other carriers may be made using either optical or electrical facilities. The CLP may deploy such optical or electrical connections directly between its own facilities and the facilities of other interconnector(s) without being routed through the ILEC's equipment. If the ILEC provisions the CCXC, then the connection between both CLPs will be made between the CFA termination points of both arrangements through the ILEC's Distribution Frame, DSX or LGX. The CLP may not self provision CCXC on any ILEC distribution frame, Pot Bay, DSX or LGX. The CLP is responsible for ensuring the integrity of the signal. In the event the CLP determines that signal degradation will occur, the CLP should request a four-wire cross-connect arrangement. The four-wire

cross-connect arrangement will require that the CLP and the cross-connected CLP provide multiplexing equipment within their Collocation Space.

3.7.2 A request from the CLP for CCXC must include authorization from the other CLP(s) involved, including designation of the terminations for CCXC. The CLP must use an ILEC Certified Supplier to place the CCXC. For the CLP-provisioned CCXC, there will be a recurring charge per linear foot of common cable support structure used. The CLP-provisioned CCXC shall utilize common cable support structures except in the case of two contiguous collocation arrangements.

Similar to BellSouth, the Public Staff, in its initially filed Proposed Order, had also agreed that in conformity with the GTE Serv. Corp. v. FCC (D.C. Cir. 2000) decision, ILECs were not obligated to provide or allow co-carrier cross-connects. However, now based upon the Collocation Remand Order, the Public Staff's position is that the Standard Offering should be amended to reflect that an ILEC may, but is not required, to allow collocating CLPs to provision their own cross-connects. Further, the Public Staff stated that the Standard Offering should instead reflect that, at the request of a collocating CLP, the ILEC must provide cross-connects between equipment in the collocated space of two or more telecommunications carriers, unless the ILEC allows the CLP to provision its own cross-connects or the cross-connect is not required. The Public Staff explained that a cross-connect is not required if the connection is requested pursuant to Section 201 of the Act, unless the CLP certifies that more than 10% of the traffic through the cross-connect is interstate. In that case, the Public Staff commented that an ILEC may not refuse to provision the cross-connect. Additionally, the Public Staff stated that if the ILEC wishes to challenge the certification, it may do so through a Section 208 complaint to the FCC. However, the Public Staff noted that no such certification is required if the request is pursuant to Section 251 of the Act. Accordingly, the Public Staff commented that the CLP/Sprint Standard Offering, Sections 1.3 and 5.6, et. seq., should be amended to reflect the new FCC Rule 51.323(h), (1), and (2). Specifically, the Public Staff stated that language which permits a CLP to provision and maintain its own cross-connects should be removed. However, the Public Staff did not provide specific proposed language for inclusion in a Standard Offering Agreement.

SECCA, a member of the CLP Coalition, did not originally file a Brief or Proposed Order, but SECCA did file brief comments pertaining to the Collocation Remand Order. The CLP Coalition entered into a compromise Standard Offering with Sprint, which was submitted to the Commission on May 18, 2000, and was revised on January 18, 2001. In its comments, SECCA acknowledged that the Collocation Remand Order related to certain provisions of the Standard Offering. SECCA commented that the Collocation Remand Order requires ILECs to provision cross-connects between CLPs as unbundled network elements, subject to the provisions of Section 251 of the Act. Further, SECCA stated that "the Standard Offering as revised represents a reasonable, well-balanced compromise that should be adopted as a whole, subject to certain changes and decisions regarding

disputed issues not here relevant." However, SECCA did not specifically set forth any suggested changes to the CLP/Sprint Standard Offering.

In its initial filing of its Brief, Sprint would have accepted the New Entrants' position on this issue to the extent it was consistent with the terms and conditions of the Standard Offering filed with the direct testimony of Sprint witness Hunsucker, it was included in the Standard Offering, and the Standard Offering was made applicable to all Parties in its entirety. However, in its Amendment to its Brief, filed after the Collocation Remand Order was issued, Sprint's position now was that CLPs may no longer self-provision cross-connects through common areas since their cabling and equipment is considered collocated equipment which does not meet the "necessary" standard. Sprint commented that ILECs should now be required to provide CLPs connections using copper, dark fiber, lit fiber, or other transmission media as requested by the CLP. Sprint believes that cross-connects should be provided to any lawfully collocated carrier, such as a connection between a CLP and a competitive transport provider. Sprint stated that the impact of the Collocation Remand Order upon the CLP/Sprint Standard Offering, as it pertains to cross-connects, would consist of the deletion of references to CLP provisioned cross-connects. In its Amendment to its Brief, Sprint filed specific language in regard to this issue, which it proposed for inclusion in the Standard Offering as follows:

Sprint's Proposed Language (Sections 5.6, 5.6.1, and 5.6.2):

5.6 Co-Carrier Cross-connect. In addition to, and not in lieu of, obtaining interconnection with, or access to, the ILEC telecommunications services, unbundled network elements, and facilities, the CLP may directly connect to other Interconnectors within the designated ILEC Premises (including to its other virtual or physical collocated arrangements). Where technically feasible, the incumbent LEC shall provide the connection using copper, dark fiber, lit fiber, or other transmission medium, as requested by the collocating telecommunications carrier. In immediately adjacent collocation arrangements, the CLP may deploy such optical or electrical connections directly between its own facilities and the facilities of other Interconnector(s) without being routed through ILEC equipment.

5.6.1 Within the ILEC Premises, the ILEC will provide, at the CLEC's request, the connection between equipment in the collocation spaces of two or more telecommunications carriers, or permit CLECs to construct their own cross-connect facilities, and to connect to other physical CLECs using copper or optical facilities between collocated equipment located within the same ILEC premises, subject only to the same reasonable safety requirements that the ILEC imposes on its own equipment. If the facility run is over ILEC or other CLEC

in-service equipment, the requesting CLEC must use an approved ILEC contractor or one that meets ILEC contractor qualifications.

5.6.2 If a physical CLP and a virtual CLP both have dedicated appearances not then in use on a DSX-1 panel, DSX-3 panel, or FDF located within contiguous areas within the eligible structure, then the ILEC will provide the interconnection of physically and virtually collocated equipment by connection of copper or optical facilities to the CLPs' dedicated appearances on the DSX-1 panel, DSX-3 panel, or FDF. The connections shall be made by the ILEC within ten (10) calendar days of a joint request by the CLPs.

In its filing prior to the issuance of the Collocation Remand Order, Verizon had stated that the CLP may directly connect to other interconnectors within the ILEC premises through facilities owned by the CLP or through ILEC facilities designated by the CLP, at the CLP's option and that provisioning had to be implemented by an ILEC-approved, *certified contractor when facilities traverse outside the CLP collocated space. However*, Verizon, in its additional comments provided after the Collocation Remand Order was issued, remarked that the Collocation Remand Order affected its position on this issue and concluded that its Proposed Order should be amended. In its additional comments, Verizon stated that the ILEC should provide dedicated transport service (cross-connections between collocated CLPs' arrangements) for DS0, DS1, DS3, and dark fiber circuits. Additionally, Verizon noted that the ILEC should also provide other technically feasible cross-connection arrangements, including lit fiber, on an individual case basis, as requested by a CLP. Further, Verizon continued to advocate the use of a collocation tariff. In its additional comments provided after the issuance of the Collocation Remand Order, Verizon provided no specific proposed language for inclusion in a Standard Offering Agreement in this regard.

Based upon our review of the Collocation Remand Order, the Commission provides *the following discussion and conclusions on this issue. In the Collocation Remand Order*, at Paragraph 12, the FCC stated that it took several actions in that Order, one being the following:

- We eliminate the Commission's previous requirement, adopted pursuant to section 251(c)(6), that an incumbent LEC allow competitive LECs to construct and maintain cross-connects outside of their immediate physical collocation space at the incumbent's premises. We find, however, that sections 201 and 251(c)(6) authorize us to require that an incumbent LEC provision cross-connects between collocated carriers, and we require that an incumbent LEC provide such cross-connects upon reasonable request.

In summary, the FCC has now concluded that it cannot require ILECs to allow CLPs to provision cross-connects outside their collocation space, but that it can require ILECs to *provision cross-connects between collocated CLPs*.

The discussion provided in the Collocation Remand Order includes a Section C narrative which addresses "Cross-Connections Between Collocators". That discussion is presented in Paragraphs 55 through 84 of said Order. In Paragraph 55, the FCC briefly stated its prior decisions relating to cross-connects between collocators as follows:

> In the *Local Competition Order*, the Commission required incumbent LECs to provision (i.e., install and maintain) cross-connects to allow a collocator to connect its collocated equipment to the collocated equipment of another carrier within the same incumbent LEC premises so long as each collocator's equipment was used for interconnection with the incumbent or access to the incumbent's unbundled network elements. In the *Advanced Services First Report and Order*, the Commission further required incumbent LECs to permit collocating carriers to provision their own cross-connect facilities between equipment collocated at the incumbent's premises, subject only to the same reasonable safety requirements the incumbent places on its own facilities. (Footnotes omitted.)

In Paragraph 56, the FCC noted the D.C. Circuit's findings in GTE Serv. Corp. v. FCC (D.C. Cir. 2000), as follows:

> In *GTE v. FCC*, the D.C. Circuit vacated and remanded the cross-connects rule adopted in the *Advanced Services First Report and Order*. The court stated that "requiring [incumbent] LECs to allow collocating competitors to interconnect their equipment with other collocating carriers . . . imposes an obligation on [incumbent] LECs that has no apparent basis in the statute." The court found that the Commission had not shown that cross-connects between collocators are "necessary for interconnection or access to unbundled network elements" within the meaning of that provision. (Footnotes omitted.)

In Paragraphs 59 and 60, the FCC summarized its findings on remand regarding this issue as follows:

> 59. At issue in this *Order* are the cables that cross-connect two collocated competitive LECs. As explained below, we find that, in light of *GTE v. FCC*, we may not require an incumbent LEC to allow competitive LECs to provision cross-connects outside of their immediate physical collocation space at the incumbent's premises. However, we find that pursuant to section 201 that it would be unjust and unreasonable for an incumbent LEC to refuse to provision cross-connects between two collocated competitive LECs. We also find that, in the alternative, such a refusal would be unjust, unreasonable, and discriminatory within the meaning of section 251(c)(6). Accordingly, we return to the obligations set forth in the *Local Competition Order* that required incumbent LECs to provision cross-connects to collocators.

> 60. We find that there are significant differences between requiring the incumbent to provision the cross-connects for collocated competitive LECs and requiring an incumbent LEC to allow competitive LECs to provision cross-connects within the incumbent's premises. First, there is a fundamental difference as to who owns and controls the cross-connect cabling. When competitive LECs provision their own cross-connects, the competitive LECs own and control the cabling; whereas, when the incumbent provisions the cross-connects, the incumbent owns and controls the cabling. Second, for competitive LECs to provision cross-connects, they typically must access common areas, which may include a racking system, of the incumbent's premises to install and maintain the cross-connects.[155] In contrast, if the incumbent provisions the cross-connects, the competitive LECs need not have access to the common areas for the purpose of provisioning the cross-connects. Thus, the latter approach is substantially less invasive of the incumbent's property rights (e.g., in terms of security, safety, and risk to incumbent LEC equipment). (Footnote No. 156 omitted.)
>
> Footnote 155: As used in this Order, "common areas" refers to areas on an incumbent LEC's premises outside of a physical collocator's immediate collocation space. Many common areas contain facilities or equipment serving multiple carriers.

As noted above in Paragraph 59, the FCC based its decision, in this regard, on both Section 201 and Section 251(c)(6) of the *Communications Act of 1934 As Amended By The Telecommunications Act of 1996*. Title II — Common Carriers, Part I — Common Carrier Regulation, Section 201 —Service and Charges, Paragraph (a) requires, in pertinent part, that "[i]t shall be the duty of every common carrier engaged in interstate or foreign communication by wire or radio to furnish such communication service upon a reasonable request therefor . . . where the Commission, after opportunity for hearing, finds such action necessary or desirable in the public interest, to establish physical connections with other carriers . . . ." Additionally, Title II — Common Carriers, Part II — Development of Competitive Markets, Section 251 — Interconnection, Paragraph (c), Subparagraph (6) requires an ILEC to provide collocation ". . . on rates, terms, and conditions that are just, reasonable, and nondiscriminatory. . . ."

The Collocation Remand Order provided a discussion Section C, Part 1 titled "Competitive LEC Self-Provisioning of Cross-Connects" composed of a single Paragraph 61. Therein, the FCC found that "neither section 201 nor section 251 authorizes us to adopt a rule requiring physical collocation by which incumbent LECs allow competitive LECs to provision cross-connects outside of their immediate collocation space." The FCC concluded that because "the competitive-LEC provisioning of cross-connects constitutes physical collocation, we must conclude that our authority under section 201 does not extend to requiring that an incumbent LEC allow such provisioning."

Further, the Collocation Remand Order provided a discussion Section C, Part 2 titled "Incumbent LEC Provisioning of Cross-Connects — Section 201" composed of

Paragraphs 62 through 78. Pursuant to Section 201, the FCC concluded in Paragraph 62 that it had the authority "to require incumbent LECs to provision cross-connects for carriers collocated at the incumbent's premises, and we exercise this authority to require such cross-connects upon reasonable request." The FCC, in Paragraph 63, found that "incumbent LEC-provisioned cross-connects between collocators within the incumbent's premises constitute a 'communications service' 'necessary or desirable in the public interest' within the meaning of section 201(a)." In Paragraph 65, the FCC found that "cross-connects between collocators within an incumbent's premises are essential to the development of a fully competitive transport market." The FCC, in Paragraph 67, found that "providing cross-connects between collocated carriers will not materially burden incumbent LECs." Further, in Paragraph 69 the FCC stated that "requiring incumbent LECs to provision cross-connects between collocated carriers furthers Congress' decision in the 1996 Act to open all telecommunications markets to competition and is consistent with (though less intrusive than) the Act's requirement that incumbent LECs allow physical collocation within their premises under Section 251(c)(6)."

Additionally, in Paragraphs 77 and 78, the FCC stated the following:

> 77. We recognize, of course, that the Commission's exercise of its authority under section 201 historically has been limited to interstate and foreign communication by wire or radio. Physical connections between collocators and other carriers, like other portions of the telecommunications network, typically transmit both interstate and intrastate traffic. We have previously determined that special access lines carrying both interstate and intrastate traffic are subject to the Commission's jurisdiction where it is not possible to separate the uses of the special access lines by jurisdiction. We have typically exercised that jurisdiction, however, only when the amount of interstate traffic transmitted over a special access line constitutes more than 10% of all traffic transmitted over that line. We have reasoned that lesser percentages of interstate traffic should be considered *de minimis.* (Footnotes omitted.)
>
> 78. We conclude that a similar approach is appropriate with regard to a cross-connect service between collocators and other carriers provided pursuant to section 201. As with special access traffic, we would expect that the traffic carried through these cross-connects typically includes interstate or foreign communication. To the extent that our cross-connect requirements are dependent upon our authority under section 201, we require incumbent LECs to provide a cross-connect within its premises where: (1) two collocated carriers request such a cross-connect; and (2) more than a *de minimis* amount of the traffic to be transmitted through the cross-connect will be interstate. Where the interstate or foreign traffic would be more than *de minimis*, the incumbent LEC must provision the cross-connect through its interconnection facilities or equipment. Where a collocator is requesting this cross-connect solely pursuant to our action

> under section 201, it shall provide a certification to the incumbent that it satisfies the *de minimis* threshold of 10%. Upon receipt of such certification, the incumbent shall promptly provision the service. The incumbent cannot refuse to accept the certification but instead must provision the service promptly. If the incumbent feels that the certification is inaccurate, it can file a section 208 complaint with the Commission. (Footnotes omitted.)

Herein above, the FCC acknowledged that "its authority under section 201 historically has been limited to interstate and foreign communication by wire or radio", however, the FCC explained that "[a]s with special access traffic, we would expect that the traffic carried through these cross-connects typically includes interstate or foreign communication." Accordingly, the FCC decided to exercise its authority under section 201 and concluded that an ILEC should provide a cross-connect within its premises where (1) two collocated carriers request such a cross-connect and (2) more than a *de minimis* amount, i.e., more than 10% of the traffic to be transmitted through the cross-connect, will be interstate.

The Collocation Remand Order also provided a discussion Section C, Part 3 titled "Incumbent LEC Provisioning of Cross-Connects — Section 251" composed of Paragraphs 79 through 84. In Paragraph 79, the FCC stated that "[s]imilar to our reasoning under section 201, we find, as a second, alternative ground, that incumbent LEC-provisioned cross-connects between two collocators, and the attendant obligations to make dark fiber available as a cross-connect and to use the most efficient arrangement available, are also supported by section 251 of the Act." Further, the FCC explained that ILEC-provisioned cross-connects "are properly viewed as part of the terms and conditions of the requesting carrier's collocation in much the same way as the incumbent LEC provisions cables that provide electrical power to collocators."

In Paragraph 80, the FCC commented that its requirement that ILECs provision cross-connects between collocated CLPs "is consistent with the original obligation for cross-connects that the Commission imposed in the *Local Competition Order*." The FCC further stated that "[a]lthough we now conclude that the Commission overreached in further extending competitors' cross-connect rights in the *Advanced Services First Report and Order*, we believe the initial approach in the *Local Competition Order* was a reasonable interpretation of the applicable statutory language."

In Paragraph 82, the FCC explained that the "provisioning of cross-connects within the incumbent's premises merely puts the collocator in position to achieve the same interconnection with other competitive LECs that the incumbent itself is able to achieve." Consequently, the FCC concluded that "the refusal to provision such cross-connects would be discriminatory toward competitive LECs." Additionally, in Paragraph 83, the FCC stated that "because incumbents provide cross-connects within their premises to those collocators that purchase the incumbents' transport services, an incumbent LEC's failure to provide cross-connects within its premises to collocators that wish to utilize a competitive transport provider also raises this nondiscrimination issue." Further, the FCC noted that a failure to provide such cross-connects "would in effect force the competitive

LEC to purchase incumbent LEC transport in order to access a competitive provider's transport service." Finally, in Paragraph 84, the FCC commented that "[r]equiring incumbent LECs to provision cross-connects between requesting carriers is consistent with the statutory scheme outlined in section 251 and is consistent with Congress' explicit goal of ensuring interconnected networks."

Based upon its reevaluation as reflected in the foregoing discussion of the Collocation Remand Order, the FCC amended its rules. Paragraph (h) and Subparagraphs (1) and (2) of FCC Remanded Rule 51.323, as presented in Appendix B of the FCC Advanced Services Order released March 31, 1999, are as follows:

> (h) An incumbent LEC shall permit a collocating telecommunications carrier to interconnect its network with that of another collocating telecommunications carrier at the incumbent LEC's premises and to connect its collocated equipment to the collocated equipment of another telecommunications carrier within the same premises provided that the collocated equipment is also used for interconnection with the incumbent LEC or for access to the incumbent LEC's unbundled network elements.
>
> (1) An incumbent LEC shall provide, at the request of a collocating telecommunications carrier, the connection between the equipment in the collocated spaces of two or more telecommunications carriers. The incumbent LEC must permit any collocating telecommunications carrier to construct its own connection between the carrier's equipment and that of one or more collocating carriers, if the telecommunications carrier does not request the incumbent LEC's construction of such facilities. The incumbent LEC must permit the requesting carrier to construct such facilities using copper or optical fiber equipment.
>
> (2) An incumbent LEC shall permit collocating telecommunications carriers to place their own connecting transmission facilities within the incumbent LEC's premises outside of the actual physical collocation space, subject only to reasonable safety limitations.

Paragraph (h) and Subparagraphs (1) and (2) of the FCC's Final Rule 51.323, as presented in Appendix B of the FCC Collocation Remand Order released August 8, 2001, are as follows:

> (h) As described in subparagraphs (1) and (2) of this paragraph, an incumbent LEC shall permit a collocating telecommunications carrier to interconnect its network with that of another collocating telecommunications carrier at the incumbent LEC's premises and to connect its collocated equipment to the collocated equipment of another telecommunications carrier within the same premises, provided that the collocated equipment is

> also used for interconnection with the incumbent LEC or for access to the incumbent LEC's unbundled network elements.
>
> (1) An incumbent LEC shall provide, at the request of a collocating telecommunications carrier, a connection between the equipment in the collocated spaces of two or more telecommunications carriers, except to the extent the incumbent LEC permits the collocating parties to provide the requested connection for themselves or a connection is not required under paragraph (h)(2) of this section. Where technically feasible, the incumbent LEC shall provide the connection using copper, dark fiber, lit fiber, or other transmission medium, as requested by the collocating telecommunications carrier.
>
> (2) An incumbent LEC is not required to provide a connection between the equipment in the collocated spaces of two or more telecommunications carriers if the connection is requested pursuant to section 201 of the Act, unless the requesting carrier submits to the incumbent LEC a certification that more than 10 percent of the amount of traffic to be transmitted through the connection will be interstate. The incumbent LEC cannot refuse to accept the certification, but instead must provision the service promptly. Any incumbent LEC may file a section 208 complaint with the Commission challenging the certification if it believes that the certification is deficient. No such certification is required for a request for such connection under section 251 of the Act.

By comparing the remanded rules (former rules) and the final rules provided above, the Commission recognizes that the FCC's former Rule 51.323(h) has been amended by inserting a restrictive clause as follows: "[a]s described in subparagraphs (1) and (2) of this paragraph." The FCC has amended Rule 51.323(h)(1) by removing the requirement that an ILEC "must permit any collocating telecommunications carrier to construct its own connection between the carrier's equipment and that of one or more collocating carriers . . . ." The FCC has also revised its former Rule 51.323(h)(2) by removing its requirement that an ILEC should permit collocating CLPs to place their own connecting transmission facilities within the ILEC's premises outside of the actual physical collocation space. Further, the FCC has amended Rule 51.323(h)(1) such that the final rule states that an ILEC shall provide, at a CLP's request, a connection between equipment in the collocated spaces of two or more CLPs, except to the extent that the ILEC permits the collocating CLPs to provide the connection themselves or a connection is not required under the final Rule 51.323(h)(2). Specifically, according to the final Rule 51.323(h)(2), a connection is not required if the connection is requested pursuant to Section 201 of the Act, unless the CLP certifies that more than 10% of the traffic through the connection will be interstate. Further, said Rule provides that the ILEC may file a complaint with the FCC challenging the certification if it believes the certification is deficient. Additionally, final Rule 51.323(h)(2) also provides that if the request for a connection is made pursuant to Section 251 of the Act, then no such certification is necessary.

As stated previously, Section 1.3 of the CLP/Sprint revised Standard Offering which, in pertinent part, stated that "[i]n addition to, and not in lieu of, interconnection to the ILEC's services and facilities, the CLP may connect to other interconnectors within the designated ILEC Premises (including to its other virtual or physical collocated arrangements) through co-carrier cross-connect facilities designated by the CLP pursuant to §5.6 following" and Sections 5.6, 5.6.1, and 5.6.2 of the CLP/Sprint revised Standard Offering, set forth the terms and conditions for the provisions of cross-connects. Generally, those sections provided that an ILEC would provide a connection between equipment in the collocation spaces of two or more telecommunications carriers if requested or would permit the CLPs to construct their own cross-connect facilities and to connect to other physically collocated CLPs using copper or optical facilities between collocated equipment located within the same ILEC premises, subject to the same reasonable safety requirements that the ILEC imposes on its own equipment.

Based upon the foregoing, the Commission concludes that Sections 1.3, 5.6, 5.6.1, and 5.6.2 of the CLP/Sprint revised Standard Offering need to be rewritten to be consistent with the findings of the Collocation Remand Order and final Rules therein, as discussed herein above. Essentially, the Standard Offering should be amended to reflect that an ILEC may, but is not required, to allow collocating CLPs to provision their own cross-connects. The Standard Offering should instead reflect that, at the request of a collocating CLP, the ILEC must provide cross-connects between equipment in the collocated space of two or more telecommunications carriers, unless the ILEC allows the CLP to provision its own cross-connects or the cross-connect is not required as established by Rule 51.323(h)(2).

In the revised filings of the Parties provided after the Collocation Remand Order was released, as noted previously, BellSouth and Sprint, the only parties presenting amended language, have provided differing language which they now propose to be included in the Standard Offering. Rather than choosing either BellSouth's proposal or Sprint's proposal or making modifications thereto, which might also need to include language on rates and/or provisioning intervals, the Commission believes that it would be more appropriate and efficient to require the Parties to negotiate mutually agreeable language for inclusion in the Standard Offering in this regard. Accordingly, the Commission concludes that Sections 1.3, 5.6, 5.6.1. and 5.6.2 should be rewritten in conformity with the Collocation Remand Order, recognizing that in said Order the FCC eliminated "its previous requirement that an incumbent carrier allow competitive carriers to construct and maintain cross-connects outside of their immediate physical collocation space at the incumbent's premises", found that "an incumbent carrier must provision cross-connects between collocated carriers", and required "an incumbent carrier to provide such cross-connects upon reasonable request."

The matter of the appropriate rates for cross-connects are subsequently addressed in Finding of Fact No. 47.

CONCLUSIONS

The Commission declines to accept either BellSouth's or Sprint's proposed language on this issue and instead requires the Parties to negotiate and develop mutually agreeable language for inclusion in the Standard Offering that is consistent with the findings of the FCC in its Collocation Remand Order. Generally, the Standard Offering should be amended to reflect that an ILEC may, but is not required, to allow collocating CLPs to provision their own cross-connects. The Standard Offering should instead reflect that, at the request of a collocating CLP, the ILEC must provide cross-connects between equipment in the collocated space of two or more telecommunications carriers, unless the ILEC allows the CLP to provision its own cross-connects or the cross-connect is not required as established by Rule 51.323(h)(2).

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 46

ISSUE 48: How many accompanied site visits should the ILEC be required to conduct?

POSITIONS OF PARTIES

ALLTEL: ALLTEL did not address this issue in its Brief.

AT&T: At least two site visits should be required of the ILEC at no cost. These should include an initial central office visit and a second visit at, or prior to, completion of a collocation site. Thereafter, routine inspections may be needed at reasonable intervals mutually agreed upon by the parties.

BELLSOUTH: BellSouth will permit one accompanied site visit free of charge after receipt of a bona fide firm order. BellSouth is not required to give escorted tours (except in the case where space has been denied because of space exhaust) and is not obligated to give a tour prior to the CLP sending BellSouth a bona fide firm order. However, if the CLP agrees to applicable security provisions, the CLP may visit the premises without escort after BellSouth receives the CLP's bona fide firm order.

MCIm: MCIm did not address this issue in its Brief.

NEW ENTRANTS: New Entrants took the same position as AT&T.

PUBLIC STAFF: The ILEC should provide each prospective collocator two escorted tours of the central office. These may be taken anytime after the ILEC receives the bona fide firm order and prior to the transfer of the completed collocation space to the CLP. CLP personnel who have met the ILEC's standard security requirements should be granted unescorted access to the area where the CLP's collocation space is being built. ILECs should not be required to provide central office tours prior to submission of a collocation

application, except in cases where the ILEC alleges that space for collocation is unavailable.

SPRINT: Sprint was willing to accept AT&T's position on this Issue to the extent it is consistent with the terms and conditions of the Standard Offering filed with the direct testimony of Sprint witness Hunsucker, it is included in the Standard Offering, and the Standard Offering is made applicable to all parties in its entirety.

VERIZON: Verizon will permit one visit during the provisioning period and a second visit when space is relinquished to the CLP.

WORLDCOM: WorldCom took the same position as AT&T.

DISCUSSION

Sections 6.1.5 and 6.3.2 of the Standard Offering specify the number and types of accompanied site visits that an ILEC is required to conduct. Section 6.1.5 provides that, prior to submitting an application for collocation space, "the prospective CLP may elect to arrange with the ILEC a full site visit to an ILEC Premises for the purpose of permitting the CLP to determine if the structure meets the potential CLP's business needs and if space is available in the structure for the potential CLP's physical collocation arrangement." Section 6.3.2 provides for "an accompanied site visit to the CLP's designated collocation arrangement location mid-way through the project and a final inspection once completed."

CLP witness Gillan testified that ILECs should be required to provide two site visits free of charge: an initial central office visit and a second visit during the preparation of the collocation site, or after completion. This testimony was at odds with Section 6.1.5 of the Standard Offering, which states that "[t]he CLP shall be billed as specified in Section 7" for the initial, or pre-application, visit, but consistent overall with the proposal in the Standard Offering for two accompanied site visits at no cost to the CLP.

BellSouth witness Milner testified that BellSouth would permit an accompanied site visit after receipt of a bona fide firm order, but argued that it was not required to give escorted tours prior to that time. He also stated that CLP personnel who met "applicable security provisions" could visit the premises without escort after receipt of the bona fide order.

Witness Milner contended that the preapplication visit would not be useful, because the CLP's exact collocation space requirements are still unknown prior to preparation of the application. He also asserted that it was unreasonable to require BellSouth to expend resources on CLPs "who might not be serious about purchasing a collocation arrangement."

Verizon witness Ries proposed that two accompanied site visits be allowed, one during the ILEC provisioning period and a second when the space was turned over to the CLP. He suggested that any additional visits would be unproductive and "unnecessarily disruptive." He also argued that the CLPs' proposed preapplication visits exceeded the FCC guidelines in the *Order on Reconsideration*, which he said contemplated access to the collocation arrangement "only after the application has been accepted and is moving towards completion."

The Public Staff argued that the ILEC should provide each prospective collocator two escorted tours of the central office. These may be taken anytime after the ILEC receives the bona fide firm order and prior to the transfer of the completed collocation space to the CLP. CLP personnel who have met the ILEC's standard security requirements should be granted unescorted access to the area where the CLP's collocation space is being built. ILECs should not be required to provide central office tours prior to submission of a collocation application, except in cases where the ILEC alleges that space for collocation is unavailable.

Paragraph 59 of the *Order on Reconsideration* specifies that "a requesting telecommunications carrier also must have reasonable access to its designated collocation space while the incumbent LEC prepares that space for collocation." The FCC noted that this access "will help the requesting carrier promptly identify any defects in the incumbent LEC's work and thus reduce collocation delays."

The Commission, therefore, concludes that the ILEC should provide each prospective collocator two escorted tours of the central office: first, after the ILEC receives the bona fide firm order, and then again at, or prior to, the transfer of the completed collocation space to the CLP. CLPs may use these tours to examine the collocation area, power and cabling arrangements, and demarcation point(s), and may also use the tours to familiarize themselves with central office features and functions which may be necessary to enable them to interconnect with the ILEC's network or to obtain access to UNEs. The Commission also concludes that CLP personnel who have met the security requirements, as discussed in Issue No. 59, should be granted unescorted access to the area where the CLP's collocation space is being built. The Commission does not find it appropriate to require ILECs to allow central office tours prior to submission of a collocation application except in cases where the ILEC alleges that space for collocation is unavailable.

Sections 6.1.5 and 6.3.2 of the Standard Offering should be amended to reflect these changes.

CONCLUSIONS

The Commission concludes that an ILEC should be required to conduct two accompanied site visits: one after the ILEC receives the bona fide firm order and a second

at, or prior to, the transfer of the completed collocation space to the CLP, and that Sections 6.1.5 and 6.3.2 of the Standard Offering should be amended accordingly.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 47

ISSUE 49: What are the appropriate rates and charges for collocation?

ISSUE 62: Should security charges be assessed for collocation in offices with existing card key systems and how should security costs be allocated in central offices where new card key systems are being installed?

ISSUE 68: What rates, terms, and conditions should govern the provision of DC power to collocation space? (This is related to the issue of how to calculate a rate for power - See Issue 49)

POSITIONS OF PARTIES

ALLTEL: ALLTEL did not address this issue in its Brief.

AT&T: The statewide average monthly recurring rate for central office floor space should be $1.00 per square foot per month. The floor space rates for cageless racks, security charges, relay racks, and cabinets should be adjusted in accordance with the testimony of New Entrants witness Feldman and Exhibits LF-4, LF-5, and LF-6. ILECs should not charge an availability fee for collocation space. They may be able to, however, impose a fee for reasonable engineering costs that are incurred in connection with the construction of collocation space. The rates for the construction of cage enclosures should be those proposed by Sprint. The nonrecurring and monthly recurring rates for DC power should be adjusted based on the testimony of New Entrants witness Feldman and should be based upon amps used rather than amps fused. MCIm's proposed language with regard to this issue which is consistent with this recommendation should be incorporated into the interconnection agreement with BellSouth. The rates for cross-connects should be those proposed by the New Entrants. Cable installation should be made available at the rates proposed by the New Entrants in Exhibit LF-4.

BELLSOUTH: The rates proposed by BellSouth are appropriate.

MCIm: MCIm did not specifically address this issue in its Brief.

NEW ENTRANTS: The New Entrants filed a Joint Proposed Order with AT&T and WorldCom. Therefore, the position as outlined for AT&T above represents the New Entrants' position on this issue.

PUBLIC STAFF: The rates proposed by the ILECs, with the adjustments and changes recommended by the Public Staff, are the appropriate rates for collocation.

SPRINT: TELRIC floor space rates should be based upon the forward-looking cost to construct a building from the ground up. This would be determined by using a third-party construction estimator which assumes that the central offices are prepared for collocation by CLPs. Sprint proposed recovering floor space on a monthly recurring basis only and would not include further site preparation charges. Sprint believes that recovering both the cost of a newly constructed building and the cost of site preparation (the methodology BellSouth proposed) would allow for double recovery of building costs. Sprint also believes that security costs should be allocated on a per square foot basis with the cost of security being spread over the entire building, not just the collocation space allocated to the CLPs. Sprint's recommendation has been adopted by the Florida Commission.

VERIZON: Rates should be aligned with underlying costs, assessed to the cost-causer, and divided into nonrecurring and monthly recurring charges. Verizon's Expanded Interconnection Services Cost Study (EIS study) should be adopted.

WORLDCOM: WorldCom filed a Joint Proposed Order with AT&T and the New Entrants. Therefore, the position as outlined for AT&T above represents WorldCom's position on this issue.

DISCUSSION

Due to the complexity of this issue, it will be discussed in separate sections. **Section I** will be a general discussion of the issue of collocation rates. **Section II** will be a specific discussion detailing the following contentious rate issues:

Rate Issue No. 1 - Rate for Floor Space
Rate Issue No. 2 - Availability Fee / Application Fee for Collocation
Rate Issue No. 3 - Construction of Cage
Rate Issue No. 4 - DC Power
Rate Issue No. 5 - Rates for Cross-connects
Rate Issue No. 6 - Cable Installation
Rate Issue No. 7 - Security Costs
Rate Issue No. 8 - Augmenting
Rate Issue No. 9 - Adjacent Collocation
Rate Issue No. 10 - Premises Space Report

SECTION I - GENERAL DISCUSSION ON COLLOCATION RATES

The Commission notes that the following charts demonstrate that the ILECs **all presented various collocation rate elements** for recurring and nonrecurring charges and that a direct comparison of the ILECs' proposals is not possible.

The following chart summarizes the **recurring** collocation rates proposed by BellSouth in this proceeding:

Element	BellSouth
Central Office Modification	$2.42
Common Systems Modification - Cageless	$2.88
Common Systems Modification - Caged	$97.98
Space Enclosure - Welded Wire-mesh - per first 100 sq. ft.	$192.79
Space Enclosure - Welded Wire- per add'l 50 sq. ft.	$18.91
Floor Space - Per Sq. Ft.	$7.26
Cable Support Structure - Per entrance cable	$20.57
Power - 48V DC power	$8.50
Power - 120V AC power single phase	$5.50
Power - 240V AC power single phase	$11.01
Power - 120V AC power three phase	$16.51
Power - 277 AC power three phase	$38.12
Cross-connects - 2-wire	$0.31
Cross-connects - 4-wire	$0.62
Cross-connects - DS-1	$1.38
Cross-connects DS-3	$17.62
Cross-connects 2-fiber	$3.50
Cross-connects 4-fiber	$6.20
Security Access Security System	$41.03
New Access Card Activation	$.062
POT Bay 2-wire cross-connect	$0.11
POT Bay 4-wire cross-connect	$0.21
POT Bay DS1 cross-connect	$1.49
POT Bay DS3 cross-connect	$13.27

POT Bay 2 fiber cross-connect	$45.30
POT Bay 4 fiber cross-connect	$61.09

The following chart summarizes the **nonrecurring** collocation rates proposed by BellSouth in this proceeding:

Element	BellSouth
Application Fee	$3,741.00
Subsequent Application Fee	$3,119.00
Space Prep - Firm Order Processing (Project Mgmt.)	$1,196.00
Cable Installation	$1,701.00
Cross-connects - 2-wire First/Additional	$33.53/$31.65
Cross-connects - 4-wire	$33.67/$31.70
Cross-connects - DS-1	$52.87/$39.86
Cross-connects - DS-3	$51.97/$38.59
Cross-connects - 2-fiber	$51.97/$38.59
Cross-connects - 4-fiber	$64.53/$51.15
New Access Card Activation	$55.30
Administrative change, existing card	$15.51
Replace lost or stolen card	$45.34
Initial key	$26.06
Replace lost of stolen key	$26.06
Space Availability Report	$2,140.00
Security Escorts - Basic time Per half hr./Add'l half hr.	$33.68/$21.34
Security Escorts - Overtime	$43.87/$27.57
Security Escorts - Premium Time	$54.06/$33.80
Additional Engineering Fee - Basic time	$31.00/$22.00
Additional Engineering Fee - Overtime	$37.00/$26.00

The following chart summarizes the **recurring** collocation rates proposed by Carolina and Central in this proceeding:

Element	Carolina	Central
Floor Space (cost per square foot)	$5.94	$6.00
Floor Space (cost per equipment bay)	$58.22	$58.81
Power Cost - Per Fused Ampere	$15.25	$17.43
Power Cost - Connection to Power Plant 50 Amps	$87.45	$86.24
Power Costs - Connection to Power Plant 100 Amps	$162.61	$159.63
Power Costs - Connection to Power Plant 200 Amps	$310.05	$303.34
Monthly Cost per Outlet/Overhead Light	$33.95	$33.95
Grounding Charge per 100 SF Secured	$23.27	$25.25
Grounding Charge per Cageless or Virtual Eq. Bay	$2.91	$3.15
Cross-connect - DS0- Per 100 DS0	$29.46	$27.40
Cross-connect - DS1 - Per 28 DS1	$43.33	$39.85
Cross-connect - DS3 - Per DS3	$24.88	$22.79
Cross-connect - Optical - Per 4 fibers	$40.41	$37.62
Riser Space - Cost per Foot from Vault to Cage	$0.08	$0.08
Vault - Cost per Cable Access	$9.58	$9.58
Conduit Space - Cost per Foot From First Manhole to Vault	$0.09	$0.09
Internal Cabling	$83.33	$77.51
Virtual Coll - Maintenance per quarter hour	$11.39	$12.12

The following chart summarizes the **nonrecurring** collocation rates proposed by Carolina and Central in this proceeding:

Element	Carolina	Central
Application Fee	$3,793.08	$3,793.08
Augmentation Fee	$1,294.08	$1,294.08
Security Cage Construction - Engineering	$559.81	$559.81
Security Cage Construction - Construction	$25.37	$25.37
Power Costs - Connection to Power Plant 50 Amps	$3,624.53	$3,669.37
Power Costs - Connection to Power Plant 100 Amps	$6,474.63	$6,528.90
Power Costs - Connection to Power Plant 200 Amps	$11,992.69	$12,053.97
Cost per AC Outlet (per 20 Amps)	$883.15	$883.15
Cost for Overhead Lighting	$1,098.35	$1,098.35
Security Card - Per Card	$15.00	$15.00

The following chart summarizes the **recurring** collocation rates proposed by Verizon in this proceeding:

Element	Verizon
Floor Space	$2.02
Cable Space - Subduct Space - Manhole	$3.04
Cable Space - Subduct Space - Subduct	$0.03
DC Power Facility - Power Supply	$316.46
DC Power Facility - Fuses and Fuse Panels	$41.81
DC Power Facility - Power Cable Pull - Labor	$57.20
DC Power Utility	$87.22
Facility Termination - DSO Cable - Material	$2.35
Facility Termination - DS1 Cable - Material	$9.67
Facility Termination - DS3 Cable - Material	$6.80
Building Modification - Storage Security	$47.81

Building Modification - Security Access - Card Reader	$80.76
Building Modification - Security Access - Controller	$34.14
Site Modifications - Demolition and Site Work	$13.45
Site Modifications - Dust Partition	$20.48
HVAC Minor	$17.13
Environmental Conditioning	$61.30
Electrical - Lighting	$9.28
Electrical - Electrical Outlet	$8.35
Electrical - Floor Grounding Bar	$39.06
Fiber Cable - 48 Fiber - Material	$5.48
Fiber Cable - 48 Fiber - Utilization Factor	$0.55
Fiber Cable - 96 Fiber - Material	$15.65
Fiber Cable - 96 Fiber - Utilization Factor	$0.55
Cable Rack - Metallic DS0 - Utilization Factor	$0.0094
Cable Rack - Metallic DS1 - Utilization Factor	$0.0058
Cable Rack - Fiber Cable - Utilization Factor	$0.0131
Cable Rack - Coaxial Cable - Utilization Factor	$0.0019

The following chart summarizes the **nonrecurring** collocation rates proposed by Verizon in this proceeding:

Element	Verizon
Engineering - New Collocation Site	$1,267.64
Engineering - Existing Collocation Site	$1,071.73
Engineering - Augment/Change Current Svc Arrangements	$199.42
Building Modification - Access Card - New/Replacement	$19.56
Building Modification - Access Card - Change	$2.68
Electrical - Cage Grounding Bar	$1,387.08
Overhead Superstructure - Engineering Costs	$33.82

Overhead Superstructure - Installation	$13.31
Overhead Superstructure - Travel Time	$44.37
Overhead Superstructure - Materials - Racking	$20.59
Cage Fencing - 100 and over square feet floor space	$7.66
Cage Fencing - 75-99 square feet floor space	$8.17
Cage Fencing - 50-74 square feet floor space	$9.02
Cage Fencing - 25-49 square feet floor space	$10.93
Cage Gate	$471.53
DC Power Facility - Termination	$66.56
DC Power Facility - Power Cable Pull - Labor	$11.09
DC Power Facility - Engineering Costs	$33.82
DC Power Facility - Travel Time	$44.37
Fiber Cable Pull - Engineering Costs	$606.30
Fiber Cable Pull - Place Innerduct	$2.27
Fiber Cable Pull - Pull Cable	$0.93
Fiber Cable Pull - Cable Fire Retardant	$44.37
Fiber - Engineering Costs	$30.32
Fiber - Splicing (48 fiber cable or less)	$49.33
Fiber - Splicing (greater than 48 fiber cable)	$41.54
Facility Pull - Engineering Costs	$33.82
Per DSO Cable - Per Foot Pull Labor	$1.11
Per DSO Cable - Per Termination (C)	$4.44
Per DSO Cable - Travel Time	$44.37
Per DS1 Cable - Per Foot Pull Labor	$1.11
Per DS1 Cable - Per Termination (C)	$1.11
Per DS1 Cable - Travel Time	$44.37
Per DS3 Cable - Per Foot Pull Labor	$1.11

Per DS3 Cable - Per Termination (C)	$1.11
Per DSO Cable - Per Termination (UC)	$11.09
Per DS3 Cable - Travel Time	$44.37
Per Fiber Cable - Per Foot Pull (Labor)	$1.11
Per Fiber Cable - Travel Time	$44.37

BellSouth stated in its Proposed Order that it used the cost methodology previously approved by the Commission in Docket No. P-100, Sub 133d (the UNE cost docket). BellSouth maintained that its proposed rates are TELRIC-based and were developed using a forward-looking network configuration, a forward-looking cost of capital, economic depreciation rates, and a reasonable allocation of forward-looking common costs. BellSouth argued that its forward-looking economic costs do not include embedded costs, retail costs, opportunity costs, or revenues to subsidize other services.

BellSouth clarified that it filed cost support for both physical and virtual collocation elements. BellSouth noted that physical collocation allows the CLP to install CLP-owned equipment and facilities within leased space in BellSouth's premises. BellSouth explained that virtual collocation permits the CLP to install equipment within BellSouth's existing line-up, and BellSouth does not own the equipment. However, BellSouth noted, it will maintain the equipment at the CLP's request, pursuant to the rates and charges in Section 20 of Tariff FCC No. 1. BellSouth noted that by Order dated October 26, 2000, the Commission ordered the Collocation Task Force to reconvene after the filing of briefs and proposed orders to consider virtual collocation and remote site collocation. [**COMMISSION NOTE**: By letter filed April 27, 2001, the New Entrants stated that they prefer to leave the issues of remote site physical collocation and virtual collocation to individual company negotiations and prefer not to pursue Task Force negotiations or a hearing on these issues.] Therefore, BellSouth pointed out, the Commission will only be setting rates for **physical collocation** in this pending proceeding.

BellSouth further argued that based on a review of CLP witness Feldman's rebuttal testimony and his Exhibit LF-3, it appears that witness Feldman believes that the only way to obtain a consistent set of collocation rate elements in North Carolina is to introduce yet more rate elements and another rate structure from Texas. BellSouth contended that the most reasonable approach would be to work with rate structures that currently exist in North Carolina today and build on them.

BellSouth noted that while the Parties addressed many issues and concerns regarding collocation over several months, a proposal to include all of the rate elements and the rate structure from the Texas tariff was never made by any Party. BellSouth argued that at a minimum, the CLPs should have informed the ILECs several months ago

that they had a concern with the rate structure and would propose the Texas tariff structure through prefiled testimony.

BellSouth further maintained that even if the Commission considered the Texas rate structures, the Texas collocation tariff has rate elements that do not exist in any of the ILECs' cost proposals in North Carolina. BellSouth noted that witness Feldman confirmed this in his prefiled testimony and on cross-examination. BellSouth also quoted a portion of the transcript where witness Feldman agreed that the rates from the Texas tariff were not modified in any way to reflect circumstances in North Carolina.

BellSouth argued that another problem with using the Texas tariff is that it includes items (such as timing source arrangement and adjacent off-site collocation) that are not offered in North Carolina by BellSouth and that are not required collocation offerings.

BellSouth noted that the final problem with adopting witness Feldman's proposed rate structure is that it will require the Parties to once again agree on what is required under the various rate elements included in the Texas tariff, and BellSouth will have to revamp its billing, service order process, and other internal processes just to be able to implement a Texas rate structure.

BellSouth contended that witness Feldman's Exhibit LF-6.0 which compares BellSouth's proposed rates with the New Entrants' proposed corrected rates included errors that misstated the costs that BellSouth filed. BellSouth maintained that the value witness Feldman included for Application Fee Augment ($1,920.31) is not contained in BellSouth's cost study and the correct value for this element (Subsequent Application Fee) is $3,119. BellSouth also stated that the value witness Feldman placed under Project Management Initial, $1,196, is actually the Firm Order Processing Fee associated with Space Preparation. BellSouth finally noted that witness Feldman included a nonrecurring charge of $5,817.60 for Redundant Connection to Power Plan 40 Amps Leads. BellSouth maintained that its study does not include this element, and it is difficult for BellSouth to determine how witness Feldman arrived at this value.

BellSouth asserted that witness Feldman's accusation that BellSouth used embedded investments in its cost study is incorrect and that booked amounts were used in some cases to develop relationships between investments but that, however, they were not used as direct investment input into the study.

BellSouth recommended that the Commission conclude that BellSouth's collocation cost study complies with the TELRIC methodology adopted by the Commission in the generic cost docket and has produced rates that are forward-looking in compliance with TA96.

BellSouth argued in its Brief that what the CLPs have done with their so-called "compromise" offering is to take a Texas collocation tariff (including, incredibly, even rates that are Texas-specific) and attempt to force it down the throats of North Carolina

regulators and ILECs, all the while taking offense to any suggestion that their offering might be inappropriate for use in North Carolina. BellSouth also maintained that of all the North Carolina ILECs, BellSouth's central office space is in the greatest demand because BellSouth serves the larger, more urban areas of North Carolina where competition has emerged and is growing at a rapid rate. BellSouth stated that while the CLPs crowed that their standard offering must be "ILEC friendly" because Sprint had few objections to it, the truth is that Sprint's collocation activity in its predominately rural service territory is a gnat in comparison with collocation requests BellSouth receives in its urban central offices.

BellSouth also noted that not only do CLPs want collocation provisioning completed at an unrealistic pace, but they want the collocation process completed for a fraction of the ILECs' TELRIC costs. BellSouth argued that to "analyze and correct" the ILECs' collocation cost studies, the CLPs offered the testimony of one witness, witness Feldman (1) who has never performed a TELRIC cost study for an ILEC; (2) who has never worked in any capacity in an ILEC's cost organization; (3) who has an undergraduate degree in economics and a law degree but has no degree in engineering and does not consider himself an economist; (4) whose stated working experience to date consists of working for a consulting firm; as a staffer for the Texas Public Service Commission; and as president of a small CLEC in Texas; (5) who recommends that collocation rates in Texas be approved for use in North Carolina, even though no North Carolina ILEC offers those rate elements, and also recommends that Texas rates be used for those elements; (6) who admittedly performed no cost study to support the rates he proposed in this proceeding; and (7) whose own analysis was riddled with errors.

BellSouth asserted that the CLPs tried mightily to create confusion and doubt where there is none with respect to BellSouth's TELRIC-compliant collocation cost study. BellSouth argued that in considering the CLPs' attacks on BellSouth's collocation cost study, the Commission should keep in mind the following undisputed points:

(1) BellSouth used the same cost methodology previously approved by the Commission in its generic cost proceeding that established permanent rates for a number of UNEs;
(2) BellSouth included the same Commission-ordered adjustments for the cost of capital, depreciation rates, and tax factors in its collocation cost study;
(3) Many of the CLPs' proposed changes include errors; and
(4) Clearly more weight should be given to the testimony of an ILEC witness, such as BellSouth witness Caldwell, who oversaw and sponsored the cost study, than to a witness who "analyzed" and "corrected" those studies after the fact in a manner that ignored prior Commission orders and that included numerous errors.

BellSouth witness Hendrix maintained in his cost issue rebuttal testimony that it would seem that the reasonable approach would be to work with what currently exists in North Carolina today and build on it. Witness Hendrix stated that while there may be some

positives to be gained by reviewing other states and region rates and rate structures, a wholesale change is both drastic and inappropriate.

Witness Hendrix also noted that while the Parties addressed many concerns and issues during the time the Task Force was actively negotiating, a proposal to include all the rate elements and the rate structure from the Texas tariff was never made. Witness Hendrix maintained that it is inconceivable that such a significant proposal would be made at this the eleventh hour and that during the entire negotiation sessions, the CLPs would not discuss the issue of rates or the issue of rate structures. Witness Hendrix noted that the language in Section 7, Rates and Charges, of the Collocation Task Force Final Report simply states that "Discussions Concerning Rates and Charges are Deferred Until Agreement on Terms." Witness Hendrix asserted that the CLPs should have at a minimum informed BellSouth several months ago that they had a concern with the rate structure and would propose the Texas tariff structure.

BellSouth witness Caldwell stated in rebuttal testimony that witness Feldman proposed a rate structure that is incompatible with BellSouth's cost study.

The New Entrants maintained in their Brief that the ILECs' proposed rates are grossly overstated and frequently double count costs. The New Entrants argued that the ILECs' overstatement of rates was demonstrated at the hearing by specific evidence concerning four proposed rates: (1) application fees; (2) central office floor space; (3) cage construction; and (4) power rates.

The New Entrants recommended that the Commission adopt their proposed collocation rates which were attached as Exhibit C to the New Entrants' Brief. The New Entrants urged the Commission to not split the difference between the rates proposed by the New Entrants and the ILECs because splitting the difference between reasonable rates and highly inflated rates would result in rates that are still too high. The New Entrants also noted that to the extent the permanent collocation rates are less than the interim collocation rates, the Commission should require its customary true-up to the approved rates.

New Entrants witness Feldman stated in rebuttal testimony that the ILECs' proposed cost studies fail to define the rate elements for which charges are proposed. Witness Feldman maintained that without a common understanding of what is included in collocation terms and conditions, Parties cannot formulate meaningful rates. Witness Feldman noted that in order to correct this problem and create consistency, he used the rate elements from the Texas collocation tariff to provide a consistent set of materials and services which are to be offered to CLPs. He maintained that while he used the Texas definitions to create a consistent set of rate elements, the rates themselves were recalculated using the ILECs' models and the proposed rates are company specific and do reflect the specific operations of each ILEC.

During cross-examination, witness Feldman explained that sometimes Sprint filed rates that were not filed by Verizon and rates filed by Verizon that were not filed by BellSouth. He noted that his proposal tries to harmonize and create a standard menu offering.

Further on cross-examination, witness Feldman stated that depending on the type of cost, costs tend to vary from state to state. Witness Feldman stated that labor rates, floor space, and real estate can vary from state to state. He argued that other costs such as power supplies and large material costs like generators and battery plans do not vary much from state to state.

Witness Feldman explained on cross-examination that he corrected the ILECs' cost studies wherever he could and where there was not a rate proposed, he could not offer any corrections. He noted that he pulled from North Carolina studies where he could and corrected North Carolina studies where he could. He maintained that where he could not pull from other studies, he looked to the Texas study. He further agreed that in some places he simply used the rate in the Texas tariff and in other places he used the basis of the Texas tariff but developed a different rate. He answered that in some instances the Texas rates were higher because "they incorporated some of the same mistakes that you incorporated in your cost studies."

The Public Staff maintained in its Proposed Order that there was considerable testimony regarding the appropriate rate elements that the ILECs should include in their collocation cost studies. The Public Staff stated that while it was unable to identify any issues between the Parties regarding the terms and conditions governing the provision of DC power, several issues arose regarding the proper rates. Specifically, the Public Staff noted, much testimony dealt with whether DC power costs should be recovered on a per fused or per used basis. In addition, the Public Staff commented, CLP witness Feldman proposed to segregate the ILECs' application fees into two separate fees, one for submitting the application and another for managing the collocation request once a firm order has been placed.

The Public Staff noted that there were also arguments raised that CLPs would be charged incorrectly if the ILECs' proposed rate elements were adopted.

The Public Staff recommended that the Commission require the ILECs to modify their cost studies and proposed rates to reflect the Public Staff's recommended conclusions for each individual ILEC as discussed below.

BellSouth - The Public Staff noted that there are considerable differences in some of the proposed rates between the original BellSouth collocation cost study filed in Docket No. P-100, Sub 133d in September 1999 and the study filed in September 2000 in this docket. The Public Staff noted the following differences:

Cost Element	September 1999 Study	September 2000 Study
Physical Collocation -		
Application Cost Initial	$7,008.00	$3,741.00
Floor Space per sq. ft.	$3.45	$7.26
Power per Amp	$6.65	$8.50

The Public Staff commented that these wide differences in cost study results over only a period of one year raise questions as to the assumptions and amounts used in the studies. The Public Staff recognized that some differences simply reflect the fact that BellSouth has had more time to develop its study in this docket and to refine its original study. However, the Public Staff alleged that there are still areas in which the costs appear to be overstated and excessive. The Public Staff stated that the rate for the power per amp in the September 2000 study reflects fused amps, while the September 1999 study reflected used amps.

The Public Staff specifically stated that the hours reflected for the Account Team Collocation Coordinator, Interexchange Network Access Coordinator, Circuit Capacity Management, and Common Systems Capacity Management should be reduced by half. Also, the Public Staff stated that the nonrecurring additive for Corporate Real Estate and Support should be eliminated from the cost study. The Public Staff argued that BellSouth has not provided support for this cost item. The Public Staff opined that these revised amounts more appropriately reflect the ongoing costs that BellSouth will incur in processing initial collocation applications in a TELRIC environment. The Public Staff commented that these same types of costs are also included, to some extent, in the application charges for virtual collocation, adjacent collocation, and physical collocation in the remote terminal. The Public Staff recommended that the Commission require BellSouth to make comparable adjustments to these rate elements as well.

Verizon - The Public Staff noted that unlike BellSouth, Verizon did not have great variations between the cost calculations included in its September 1999 and September 2000 cost studies and that in many instances, there was no difference in the costs calculation in the two studies.

The Public Staff commented, however, that CLP witness Feldman testified that many of Verizon's costs were overstated or inaccurate.

Sprint - The Public Staff noted that as with BellSouth, there are considerable differences between Sprint's September 1999 and September 2000 cost studies that give reason to question the accuracy of the costs. The Public Staff outlined the following differences in Carolina's cost studies:

Cost Element	September 1999 Study	September 2000 Study
Physical Collocation -		
Application Cost Initial	$3,132.93	$3,793.08
Floor Space per sq. ft.	$2.16	$5.94
Power per Amp	$27.63	$15.25

The Public Staff commented that the wide differences in cost study results over a period of only one year raise questions as to the assumptions and amounts used in the studies. The Public Staff opined that certainly some of the difference is due to Sprint having more time to study and develop the costs supporting its proposed rates, but that it is also concerned that some of Sprint's costs are overstated.

Finally, the Public Staff noted that while its discussion was limited to Sprint's collocation rate elements for its Carolina subsidiary, the Commission should direct Sprint to make comparable adjustments to the study produced for its Central subsidiary.

Sprint stated in its Brief that Section 7 of the Standard Offering was left incomplete. Sprint maintained that this was necessary because the rates and charges for each ILEC will be unique and, therefore, could not be included in the Standard Offering applicable to all Parties, but lack of closure on this issue was also symbolic of its significance.

Sprint noted that the Parties are required to use a TELRIC analysis to determine rates and that neither the ILECs nor the CLPs are at liberty to use TELRIC when it suits them and some other method when it does not, and efforts by the New Entrants to use what purported to be a "market" analysis were simply inappropriate.

Sprint maintained that the two biggest costs for a CLP entering a central office for collocation are DC power and floor space. Sprint noted that as its study demonstrated, *these two costs alone constitute approximately 50% to 60% of total collocation costs.*

Sprint argued that its cost study should be accepted without modification. Sprint noted that while it is critical that the cost methodology used be a correct one, it is equally critical that the methodologies used by the various ILECs be consistent.

Verizon stated in its Brief that the Verizon Expanded Interconnection Services Cost Study (Verizon Collocation Cost Study or EIS Study) determines the actual costs Verizon *will incur going forward to provide collocation in North Carolina and comports with the* TELRIC approach reflected in the FCC's pricing rules. Verizon argued that its Collocation Cost Study is the only study in the record defining Verizon's collocation costs. Verizon noted that many of its proposed rates were not contested or were even endorsed by other Parties so approval of these costs is the only approach consistent with reasoned

decisionmaking. Verizon maintained that as to the study elements that were contested, no party provided any reliable or legitimate cost proposals as an alternative to Verizon's Collocation Cost Study. Therefore, Verizon proposed that those costs should also be accepted by the Commission.

Verizon explained that collocation costs are divided into two groups in its Collocation Cost Study: those that will be recovered through nonrecurring charges and those that will be recovered through monthly recurring charges. Verizon noted that to provide collocation, it may perform the following nonrecurring charge activities to incur associated costs: engineering, building modification, DC power facility, fiber cable pull, metallic cable pull, cable fire retardant, cable splice, facility pull, relay rack, telecommunications equipment cabinet, building integrated timing supply (BITS), premises space report, fiber optic cross-connect, and cable material. Verizon noted that nonrecurring charges do not include a mark-up by Verizon and are developed based directly on the cost per unit. Verizon maintained that through exploratory field visits to central offices, meetings with employees at regional headquarters, and consultation with subject matter experts, Verizon has identified the following costs which can be recovered through recurring charges: floor space, floor space for relay racks and cabinets, cable space, DC power facility, DC power utility, facility termination, building modification, cable vault splice, cable vault utilization, cable rack utilization, fiber optic cross-connect, and BITS.

Verizon noted that in an effort to address the CLPs' stated primary concern, the unpredictability of the cost of a collocation arrangement, Verizon's pricing structure charges CLPs the same rates for all central offices in North Carolina and the same rates for each application, regardless of whether the arrangement is placed in active/conditioned or inactive/unconditioned space.

Verizon maintained that its collocation prices were developed through several steps as follows:

(1) each cost element was mapped into an associated rate element;
(2) the number of units and their frequency were developed and applied to the costs to reflect the average usage for selected rate elements; and
(3) a fill factor was developed and applied to the costs to reflect the average number of collocators expected to share certain building modification rate elements.

Verizon noted that consistent with its overall pricing policy, costs recovered through monthly recurring charges include a mark-up of 14% to provide recovery for common costs. Verizon maintained that this is a straightforward application of the TELRIC methodology with appropriate mark-ups for common costs that have already been established by the Commission for the pricing of other UNEs such as the loop, ports, and switching.

Verizon explained that the costs associated with the central office are premised upon collocation occurring in Verizon's existing North Carolina central offices. Verizon noted that since its central offices originally were not designed to provide collocation, the cost study identifies costs associated with building modifications such as demolition, security systems, and environmental conditioning, as well as costs associated with provisioning collocation to each new entrant.

Verizon argued that the position of the New Entrants that TELRIC estimates should be based upon a hypothetical central office design incorporating collocation requirements of CLPs results in unrealistic cost estimates that are unobtainable by any party. Verizon maintained that its cost modeling decision to modify its central offices to accommodate collocation is the least cost alternative available to provide collocation space to the CLPs.

Verizon also argued that all costs associated with modifying a central office to accommodate a collocator should be borne by the collocators, as the FCC has confirmed in Paragraphs 50-51 of the FCC Advanced Services Order. Verizon argued that New Entrants witness Feldman's arbitrary 56% reductions in costs do not reflect the costs of a Verizon central office in today's dollars. Verizon maintained that witness Feldman's analysis falls far short of a cost study upon which the Commission can rely.

Verizon contended that the following building cost elements would be recovered on a nonrecurring basis:

(1) Access card administration;
(2) Cage grounding bar;
(3) Overhead superstructure;
(4) Cage enclosure; and
(5) Cage gate.

Verizon also noted that the following building modification costs would be recovered on a recurring charge basis:

(1) Storage security;
(2) Card reader;
(3) Demolition and site work;
(4) Dust partition;
(5) HVAC-minor;
(6) Environmental conditioning; and
(7) Electrical.

Verizon noted that various Parties took exception to the following building *modification costs*: *storage security*; *access card administration*; *demolition and site work*; dust partition; HVAC-minor; and electrical.

In its Proposed Order, Verizon stated that its cost studies and proposed rates comply with the FCC's TELRIC pricing rules, a number of which have been vacated by the Eighth Circuit. Verizon stated that it will nevertheless continue to support its FCC-compliant studies in this proceeding but reserves the right to petition for rate changes later when the issue of appropriate cost methodology is settled at the federal level.

SECTION 1 - COMMISSION DISCUSSION AND CONCLUSIONS:

Generally, the Commission notes that the Collocation Task Force **did not attempt** to negotiate collocation rates. The Task Force did not address the issue and proposals were first presented in prefiled testimony. The Commission notes that much of the evidence on the record concerning collocation rates is confusing and inadequate. The Commission notes that the record basically consists of the ILECs' cost studies and the New Entrants' proposal. The New Entrants' proposal consists of witness Feldman's proposal wherein he corrected the ILECs' cost studies wherever he could and where there was not a rate proposed, he could not offer any corrections. Witness Feldman also pulled from North Carolina studies where he could and corrected North Carolina studies where he could. Where he could not pull from other studies, he looked to the Texas study. Witness Feldman also in some places simply used the rate in the Texas tariff and in other places he used the basis of the Texas tariff but developed a different rate.

The Commission believes that there are two general issues to discuss. The first concerns the CLPs' proposal to adopt the Texas collocation tariff rates in this proceeding. The second issue concerns the differences noted between the ILECs' September 1999 and September 2000 cost studies.

Texas Collocation Tariff Rates - The Commission believes based on a review of the evidence that it is not appropriate to simply use the Texas Collocation Tariff Rates. The Commission agrees with BellSouth witness Hendrix that the reasonable approach would be to work with what currently exists in North Carolina today and build on those cost studies. The Commission also believes as witness Hendrix noted that while there may be some positives to be gained by reviewing other states' and regions' rates and rate structures, a wholesale change would be both drastic and inappropriate.

COMMISSION CONCLUSION: The Commission concludes that as a policy, it is more appropriate to begin with the cost studies filed by the ILECs in this proceeding instead of looking toward the Texas Collocation Tariff rates as a starting point in establishing collocation rates.

Cost Study Variances - The Commission notes that the Public Staff pointed out the significant variances in the rates proposed by the ILECs in their September 1999 cost studies versus their September 2000 cost studies. As the Public Staff illustrated, BellSouth approximately doubled its floor space charge and reduced by half its application fee. For Sprint, Sprint approximately doubled its floor space charge and reduced by half

its power charge. The Commission does not reach a conclusion here on this point, only notes the significant changes in the proposed charges between the 1999 and 2000 cost studies.

SECTION II - DISCUSSION ON SPECIFIC AREAS OF CONTENTION ON COLLOCATION RATES

Rate Issue No. 1 - Rate for Floor Space

BellSouth addressed the adjustments CLP witness Feldman and others attempted to make to BellSouth's floor space costs. BellSouth noted that both witnesses Feldman and Mitus proposed the use of the RS Means cost estimator to derive a cost per square foot for floor space. BellSouth recognized that its witness Caldwell testified that the use of actual costs for actual telephone company building additions are more reflective of the costs that BellSouth will incur in providing additional floor space to the CLPs on a going forward basis. BellSouth also maintained that witness Caldwell testified that floor space cost recently experienced is reflective of future expenditures. BellSouth recommended that the Commission agree with witness Caldwell on these points. BellSouth noted that the document upon which both witnesses Feldman and Mitus rely on has the term "Estimator" in its title and that the 1997 version of the RS Means publication had the following disclaimer: "caution should be exercised when using Division 17 [square foot and cubic foot] costs." BellSouth argued that this caution is just as valid today as it was then.

BellSouth also noted that New Entrants witness Birch testified to the appropriate rates for any ILEC central office floor space based on his opinion that BellSouth central office space constitutes "Class B" office space in the Raleigh, North Carolina real estate market. BellSouth contended that on cross-examination, witness Birch conceded to the following points: (1) he is not familiar with TELRIC pricing and would not know if his highest and best use analysis was appropriate under TELRIC pricing; (2) he did not consider whether the two central offices he visited had been adapted or constructed in a special way that would affect their rental rate; (3) that Class B office space in Raleigh typically did not share the characteristics of a telephone central office vis-a-vis reinforced floors, 12 foot ceilings, and generators to supply continuous power; (4) his analysis really only considered the value of the building if used as office space rather than as a telephone central office; (5) Class B office space in Raleigh typically is not available in increments as small as nine square feet as is central office space; (6) market rates for Class B office space vary from city to city but he only visited two central offices in Raleigh; (7) he did not know the statewide average for Class B office space in North Carolina; and (8) his analysis would not say anything about the market rate for office space in other cities where BellSouth and other ILECs have central offices.

BellSouth recommended that the Commission reject the proposed adjustments to BellSouth's floor space charge that were advocated by witness Birch. BellSouth argued that the standard cost methodology established by the FCC and adopted by the

Commission is TELRIC and witness Birch's reliance on "market-based" pricing is in direct violation of that standard. BellSouth argued that even if a "market-based" approach were appropriate, and even if Class B office space were the appropriate surrogate for the Commission to use, witness Birch's floor space calculation, which would apply to all ILECs in North Carolina, is deficient because it is not based on a statewide calculation of Class B office space. BellSouth maintained that it used the costs for actual telephone company building additions in North Carolina to calculate floor space costs to use for collocation purposes.

Witness Caldwell maintained in rebuttal testimony that witness Birch's proposed rates for floor space based on market rates is not appropriate. Witness Caldwell noted that the standard cost methodology established by the FCC and adopted by the Commission is the TELRIC methodology. Witness Caldwell asserted that witness Birch's reliance on market-based pricing is in direct violation of the TELRIC standard.

On cross-examination, witness Caldwell agreed that BellSouth's proposed $7.26 per square foot proposed price is three times higher than Verizon's proposed cost of $2.30 per square foot. Witness Caldwell explained that BellSouth looked at the cost BellSouth will incur for the floor space on a going-forward basis to arrive at its proposed rate. However, witness Caldwell did state that central offices are similar.

In discussing TELRIC versus market prices, witness Caldwell stated that she did not agree that there is some correlation between what someone is offering at the market rate versus what a TELRIC rate is because if the TELRIC rate is higher, one would just go to the market vendor. The Commission believes that this comment is misleading. The Commission notes that ILECs are the only entities in possession of central offices which are necessary for CLPs to collocate equipment in to be able to interconnect to the ILEC's network. Therefore, the Commission believes that it is worth noting that ILECs are the sole provider of central office space and CLPs do not have the freedom to find a market vendor to provide access to such collocation space.

Witness Caldwell agreed that the cost input into BellSouth's study per square foot is $363.36 and that the cost is based on building additions, not existing floor space. Witness Caldwell maintained that it is from building additions because these are new services that BellSouth is actually offering as UNEs in terms of providing space to collocators. She explained that BellSouth looked at what it would cost BellSouth to provide the space on a going-forward basis.

The CLPs included a proposed Finding of Fact No. 3 — The statewide average monthly recurring rate for central office floor space should be $1.00 per square foot per month — in their Joint Proposed Order.

The CLPs also included a proposed Finding of Fact No. 4 — The floor space rates for cageless racks, security charges, relay racks, and cabinets should be adjusted in

accordance with the testimony of New Entrants witness Feldman and Exhibits LF-4, LF-5, and LF-6 — in their Joint Proposed Order.

The CLPs stated in their Joint Proposed Order that the rates proposed by the ILECs (particularly BellSouth and Sprint) for collocation space occupancy are dramatically in excess of the cost that would be incurred by an efficient provider of such space. The CLPs maintained that this is underscored by the fact that rational investors are constructing similar space today in the Raleigh market in the expectation of earning a profit at rents far less than those proposed by the ILECs. The CLPs commented that given that the market rents for such space are approximately $1.00 per square foot per month, this is a reasonable price to charge for collocation space.

The CLPs also asserted that the $1.00 market rate is confirmed by the cost analysis of New Entrants witness Feldman who corrected the cost studies of each of the ILECs. The CLPs listed the following errors that were identified by witness Feldman of the ILECs' proposed rates for floor space:

(1) Sprint used the RS Means Building Cost Data Publication, rather than the RS Means Square Foot Cost Publication, which RS Means itself states is more precise "for estimating the replacement cost of specific buildings." This error resulted in Sprint's double counting of the investment associated with power.

(2) Sprint inaccurately calculated floor space.

(3) Sprint's use of a fill factor results in double recovery of a common space factor.

(4) All three ILECs used an inappropriately high annual charge factor (ACF). Based on the testimony of witness Birch that a market cap rate of .10 is prevalent for this type of space, witness Feldman used an ACF of .10.

(5) Verizon used its historical cost data, indexed, while BellSouth inadequately supported and used unindexed historical data. For both Verizon and BellSouth, witness Feldman replaced that data with the amount he derived from the RS Means Square Foot Cost Publication.

The CLPs noted that when the cost studies were corrected for the errors identified by witness Feldman, the resulting rates, per square foot per month were:

Sprint	$0.88
Verizon	$1.01
BellSouth	$1.04

The CLPs also commented that witness Feldman observed that Verizon's floor space study did not conform to the requirements of TELRIC in that Verizon (1) ignored its own demand for central office space, power, cabling and the like, thus failing to consider the total element aspect of TELRIC, and (2) calculated floor space costs predicated upon the assumption that existing offices would be modified to accommodate collocators, rather than that offices would be built with collocation in mind in the first place, as required by the long run aspect of TELRIC.

The CLPs also argued that the ILECs lease central office space themselves from third parties for $0.20 to $0.80 per square foot per month. The CLPs maintained that the ILECs attempt to impeach their own discovery responses by contending that one or more of these leases are for switching equipment rather than central office space. The CLPs argued that the ILECs failed, however, to present witnesses who were competent to testify on this subject. The CLPs maintained that for the size of at least two of the leases, it is readily apparent that the space involved actually is for central offices. Therefore, the CLPs contended, this confirms the reasonableness of the $1.00 per square foot per month figure advocated by the New Entrants.

The CLPs also noted that when the ILECs' own cost studies are corrected for methodological errors identified by witness Feldman, who relied upon witness Birch for his ACF rate, but otherwise followed the RS Means guide, all three ILEC models produce costs close to $1.00 per square foot per month.

The CLPs also asserted that the ILECs, particularly BellSouth and Verizon, failed to adhere to the requirements of TELRIC. The CLPs stated that BellSouth examined the costs of an addition to a central office, rather than the cost of building a new central office suitable for collocation. The CLPs also noted that Verizon based its cost study on the cost of building the original structure, plus the cost of modifying it for collocation. The CLPs maintained that neither of these approaches complies with the costing methodology dictated by the FCC in Paragraph 685 of the First Interconnection Order which requires the assumption that a new building suitable for multiple tenants will be built from the ground up, in the location of the old central office.

The CLPs noted that the Michigan Public Service Commission was recently faced with this same issue and ruled, as follows:

> The Commission concludes that it should not adopt Ameritech Michigan's model, which assumes that the cost of the existing central office building plus the cost of modifications are a proper basis for determining the forward-looking cost of central office space. Contrary to Ameritech Michigan's argument, TSLRIC [which is indistinguishable for these purposes from TELRIC] principles require the assumption that the location of the buildings remains unchanged, but does not require the

> assumption that the existing buildings with their current configuration will be used.

The CLPs recommended that the Commission agree with the Michigan Commission that the approach, used in this docket by BellSouth and Verizon, in which the ILEC starts with the cost of the building as it exists today, then adds the cost of improvements to accommodate collocation, is not TELRIC-compliant, at least as the law stands today. The CLPs stated that should the Eighth Circuit's decision in the Iowa Utilities Board v. FCC, which is now stayed pending appeal, become effective, the Commission may wish to revisit the issue. The CLPs also recommended that the Commission agree with them that Verizon's decision to ignore its own needs for central office space when it calculates TELRIC cost violates TELRIC principles in that it disregards a major component of demand for central office space — the ILEC's own demand. The CLPs pointed out that FCC Rule 51.511(a) states:

> The forward-looking economic cost per unit of an element equals the forward-looking economic cost of the element, as defined in §51.505, divided by a reasonable projection of the sum of the total number of units of the element that the incumbent LEC is likely to provide to requesting telecommunications carriers and the total number of units of the element that the incumbent LEC is likely to use in offering its own services, during a reasonable measuring period.

The CLPs also addressed the criticisms the ILECs made concerning the testimony of witness Birch. The CLPs noted that while the ILECs suggested that central office space had to meet more stringent floor loading and HVAC requirements, witness Birch, however, testified that the equipment he viewed in BellSouth's central offices did not impose atypical floor loadings or HVAC requirements. The CLPs maintained that if offices were built many years ago to more exacting specifications required by that day's heavier equipment, such additional costs are a classic example of embedded costs which have no place in TELRIC cost analysis per FCC Rule 51.505(d)(1).

The CLPs also addressed the ILECs attempt to impeach witness Birch's testimony by reference to the fact that he did not examine market rents in parts of the State other than Raleigh. The CLPs noted, however, that as witness Birch observed, rents tend to be higher in larger cities than in smaller towns and that there is no basis in the record for the Commission to assume that costs in smaller towns would be higher than in Raleigh.

The CLPs maintained that the ILECs also attempted to impeach witness Birch's testimony by reference to the fact that the ILECs were not willing lessors of space. The CLPs stated that they view this argument as a red herring; the issue is not whether the ILEC desires to have its competitor as its tenant. The CLPs argued that Congress has taken away that argument by mandating that collocation be provided, and the FCC's Rules require that collocation be provided at TELRIC cost. The CLPs asserted that if an ILEC

can build space at a cost of $7.26 per square foot per month or lease it at a cost of $1.00 per square foot, it is self-evident that an efficient provider would lease it at a cost of $1.00 per square foot per month. The CLPs argued that the additional $6.26 per square foot per month is reflective of inefficient expenditures, which may not be considered in a TELRIC analysis.

Finally, the CLPs noted that the ILECs attempted to impeach witness Feldman's use of a market capitalization rate of .10 for his ACF by pointing out that the Commission had adopted higher ACFs in the UNE cost docket. The CLPs argued, however, that ACFs must be specific to the element costs, and the Commission has not previously established an approved ACF for collocation floor space.

The CLPs contended that witness Feldman corrected the ILECs' floor space cost studies for cageless racks, security charges, relay racks, and cabinets in the same manner as he corrected the ILECs' floor space cost studies for caged collocation for essentially the same reasons. The CLPs also noted that witness Feldman corrected Sprint's cost study for cageless rack space because it contained an incorrect multiplication of the floor space by 9.8. The CLPs also stated that on cross-examination, witness Feldman corrected the figures contained in his Exhibit LF-6 for cageless collocation space, and he explained that the rate listed in his exhibit was intended to be a rate per rack, rather than a rate per linear foot of rack.

The CLPs recommended that the Commission conclude, for the reasons they set forth under their proposed Finding of Fact No. 3, that the adjustments proposed by witness Feldman are well supported. The CLPs also noted that Sprint did not challenge witness Feldman's assertion that Sprint's calculation of cageless rack space contained an incorrect multiplication of the floor space by 9.8. Therefore, the CLPs proposed, the ILECs' floor space rates for cageless racks, security charges, relay racks, and cabinets should be based on the adjustments proposed by witness Feldman in his testimony and Exhibits LF-4, LF-5, and LF-6.

The New Entrants asserted in their Brief that central office floor space should not lease for more than $1.00 per square foot per month. The New Entrants noted that they provided evidence from the following sources that $1.00 per square foot per month is the correct rate: (1) the Raleigh real estate market; (2) the ILECs' leases of central office and switching equipment space; and (3) analysis of Verizon's actual construction costs.

The New Entrants argued that central offices are categorized as Class B office shell space which are offices that do not require unusual construction for floor strength or heating, ventilation, and air conditioning. The New Entrants noted that although the ILECs claim that central office space requires reinforced flooring and additional HVAC, they failed to present an engineer who could testify competently on these subjects. The New Entrants maintained that even if central office space did require reinforced flooring and additional HVAC, these costs would amount to just $0.10 to $0.20 per square foot per month. The New Entrants asserted that Class B office shells in the Raleigh market, one of the most

expensive markets in North Carolina, lease for approximately $1.00 per square foot per month.

The New Entrants also contended that the ILECs lease central office space for themselves from third parties for $0.20 to $0.80 per square foot per month. The New Entrants asserted that the fact that suitable space is available for lease at affordable prices by rational businesses earning a profit is overwhelming evidence that the costs proposed by the ILECs are grossly inflated.

Finally, the New Entrants asserted that while the Verizon model proposes a rate that is over twice the market rate, when the Verizon model is adjusted to actual costs and reflects an annual charge factor of 10%, the resulting rate is approximately $1.00 per square foot per month. The New Entrants maintained that this amount, like the ILECs' leases for central office space and market data from Raleigh, confirms the accuracy of the corrections made by the New Entrants.

New Entrants witness Birch stated in rebuttal testimony that BellSouth, Sprint, and Verizon are proposing to charge many multiples in excess of the market rate for Class B "office shell" space. Witness Birch noted that BellSouth is proposing $7.26 per square foot, Sprint is proposing $5.94 per square foot, and Verizon is proposing $2.04 per square foot. Witness Birch alleged that the rates proposed by the ILECs are simply inconsistent with the real estate market in Raleigh.

Witness Birch admitted on cross-examination that prior to the work he performed for the CLPs in this proceeding, he had not appraised any telephone central offices and had not visited any central offices. He also admitted that when he toured the central offices, he could not look at the concrete floor and tell how dense or strong it was.

Further, witness Birch stated that he does not know if a CLP who wanted to collocate equipment could use any office building in downtown Raleigh for that purpose. He also admitted that he did not have a statewide average per square foot rental rate for Class B office space.

Witness Birch stated that extraordinary power, heating, ventilating, and air conditioning needs would be considered trade fixtures that either the tenant would have to put in at his own expense and absorb the loss when he moved out or take it with him.

Witness Feldman noted that Sprint used a software program from RS Means to create a per square foot amount and then adjusted that amount by applying security costs. Then, witness Feldman noted, Sprint increased the per foot investment by applying egress factors, common space factors, and a fill factor. Witness Feldman explained that Sprint applied an annual charge factor and a common cost factor to get a rate per square foot.

The Public Staff commented in its Proposed Order that in an interesting shift, the CLPs recommended rates for floor space using an approach that reflects market-based

pricing. The Public Staff noted that in making this argument, the CLPs essentially recommend that the Commission reject its prior approach to TELRIC pricing and adopt a hybrid approach in which TELRIC prices apply to some rate elements while market-based prices apply to other rate elements.

The Public Staff argued that what the CLPs seem to ignore with their approach is that market-based pricing is in constant flux and noted that the CLPs have not, of course, proposed that the ILECs be given any flexibility to modify the market-based prices that were proposed for floor spacing when market conditions change. Nor, the Public Staff noted, have they indicated whether the market-based prices recommended in this docket are based on an equilibrium between supply and demand, an excess of supply, or even an excess of demand. The Public Staff recommended that the Commission find that long-run incremental cost pricing, which is the basis of TELRIC studies, relies upon the premise that costs are calculated for a period long enough to smooth out any period differences in costs over time. The Public Staff noted that beginning with the cost studies filed in Docket No. P-100, Sub 133b, through the studies filed in Docket No. P-100, Sub 133d, the Commission has found that rates should reflect costs using the TELRIC approach. The Public Staff maintained that the CLPs have not presented sufficient evidence to reject TELRIC-based rates for floor space.

The Public Staff also noted that BellSouth has completely revised the methodology used in its calculation of the proposed rates for floor space. The Public Staff argued that the RS Means cost data used by BellSouth in its original collocation cost study is the reasonable level of building investment for BellSouth and, accordingly, the Commission should order that the building investment used by BellSouth in its September 1999 cost study should be substituted for the building investment reflected in the September 2000 cost study for calculating the floor space costs for physical collocation, virtual collocation, and adjacent collocation.

Also, the Public Staff indicated that Sprint's workpaper notes that the rate for floor space includes the costs of security and that this cost is recovered in the building ACF and should not be included separately. The Public Staff noted that Sprint used an unusable space factor of 25% which it then compounded by an egress factor of 25% and further with an unoccupied space factor of 80%. The Public Staff commented that witness Feldman testified that these factors will cause Sprint to overrecover the costs associated with common spaces. The Public Staff agreed with witness Feldman that the egress and unoccupied space factors should be excluded from the calculation of floor space investment. The Public Staff also agreed with witness Feldman that a common space (or unusable space) factor of 20% rather than 25% should be applied to Sprint's investment amounts. The Public Staff argued that the 20% factor appears to be more reflective of the actual amount of common space.

Sprint noted in its Proposed Order that the second greatest cost to collocate in a central office is floor space. Sprint maintained that there are two correct ways for recovering costs for floor space. Sprint stated that it uses the RS Means Cost

Works 2000, a nationally recognized construction estimator, to determine these costs. Sprint maintained that these costs include any collocation site preparation, and all of the costs are recovered on a monthly recurring basis. Sprint also noted that another acceptable method, which Verizon used, is to base the monthly recurring charge on the current booked investment of the building and then charge a make ready nonrecurring fee for upgrade of the central office where the CLP will be located.

Sprint argued that a third, but incorrect method, was used by BellSouth. Sprint stated that *BellSouth's methodology is not reasonable because a building addition* inherently costs more per square foot than construction of a new building. Sprint maintained that even though BellSouth uses forward-looking building costs, it adds site preparation fees when, based upon FCC Rule 51.323(f)(3), the cost of construction projects should already have been taken into consideration.

Sprint argued that clearly the preferred manner of determining floor space rates is Sprint's methodology because it is based on reconstruction costs recovered over a period of time, thus allowing for lower up-front costs to CLPs.

Sprint witness Mitus agreed on cross-examination that Sprint leases central office space in five locations in North Carolina. Witness Mitus also agreed that one of the leases in Fayetteville is $3,000 per month for 9,701 square feet of space which calculates out to $0.32 per square foot per month. Witness Mitus noted that Sprint is responsible for upgrading the building, preparing all maintenance costs, preparing all janitorial services, and all leasehold improvements. Witness Mitus stated that he did not know how much leasehold improvement was put into that office but that the cost would have to be added to the monthly rental fee.

Verizon maintained in its Proposed Order that floor space costs are incurred to provide environmentally conditioned floor space to the collocator, based on an average cost per square foot, plus costs to account for shared floor space. Verizon stated that it developed its average floor space costs per square foot of $2.02 by calculating the building investment amounts, square footage, and monthly maintenance/utility expenses of a selected sample of central offices by varying switching technology and size utilized by Verizon across the state of North Carolina. Verizon explained that the representative sample of central offices was selected based on line size, wire center, and whether the building was purchased or built after 1945. Witness Richter stated in direct testimony that Verizon used index factors from RS Means, "Building Construction Cost Data 55 Annual Edition 1997", an industry publication on building construction cost data, to bring the original building investments and subsequent investments in the building to present value, and then divided the present value by the total square footage of the building to determine the cost per square foot.

Verizon argued that New Entrants witness Birch's use of Class B office space costs as a proxy for central office space costs is completely unfounded. Verizon noted that witness Birch admitted that most, if not all, Class B office space does not have 12 foot

ceilings, generators, trickle charge batteries, reinforced floors, or can be rented out in nine square foot increments. Verizon also stated that witness Birch admitted that he only examined Class B office space in Raleigh, ignoring admittedly different market rates in other North Carolina cities. Verizon asserted that witness Birch's suggestion that office space for lawyers is comparable to collocation space for telephone equipment for the purposes of determining a market rate for floor space is utter nonsense.

Verizon maintained that in developing their floor space costs, the New Entrants have failed to recognize that the specialized market for telecommunications space transcends the traditional real estate categories familiar to witness Birch. Verizon concluded that collocation floor space is not comparable to typical commercial real estate space and should not be priced in the same way.

Verizon also argued that witness Feldman's adjustments to Verizon's floor space costs are also unrealistic and unsupported. Verizon noted that witness Feldman suggested a 56% reduction in Verizon's per square foot cost for floor space without offering any credible support for this reduction. Verizon concluded that witness Feldman's proposed cost adjustments, based in part on witness Birch's flawed market analysis and other, unsupported assumptions, should be rejected in favor of the costs and prices Verizon has submitted in this proceeding.

Verizon witness Ellis noted in direct testimony that Verizon's cost study develops an average floor space cost based on the existing central offices in North Carolina using a forward-looking methodology. Witness Ellis explained that since the real estate market varies considerably within a state or town, obtaining current market information for each central office is difficult. Therefore, witness Ellis noted, central office investments were brought to current dollars by adjusting for inflation and other factors through the use of the RS Means Index.

In rebuttal testimony, witness Ellis noted that New Entrants witness Birch's testimony was based on a review of two BellSouth central offices, his research on tenant installation costs for Class B office space, and his experience in the Raleigh real estate market. Witness Ellis argued that none of those factors justify revisions to Verizon's company-specific figures on floor space costs.

Witness Ellis agreed on cross-examination that according to a lease Verizon has for central office space in Durham, the monthly rental rate is $375.50 for 468 square feet of space which calculates to a rental rate of $0.80 per square foot per month. However, witness Ellis maintained that she does not know what type of equipment Verizon places in the leased space and stated that the leased buildings are not central offices. After being presented with evidence from counsel for the New Entrants, witness Ellis agreed that the leased Durham building is used for switching equipment and that switching equipment typically is mounted on racks. Witness Ellis also noted that the leased space is unconditioned space and that any upfits or construction required for the equipment would have to be done by Verizon.

Further, witness Ellis agreed that the Verizon lease of office space in Fontana Village of $250 per month calculates out to $0.48 per square foot per month, however, she indicated that she did not know whether switching equipment was placed there.

The Commission notes that this issue considers a significant cost for collocation. The Commission notes the following after a review of the record of evidence:

- The ILEC cost studies from 1999 to 2000 show wide variances in the proposed cost for floor space.
- The Commission does not believe that market rates can be considered TELRIC.
- It is concerning that the market rate for Class B office space in Raleigh is $1.00 per square foot and BellSouth and Sprint especially are proposing rates **many times** that amount.
- There is evidence in the record that the ILECs lease central office space for $0.20 to $0.80 per square foot per month.
- It is also concerning that BellSouth is proposing $7.26 per square foot, Carolina is proposing $5.94 per square foot, and Central is proposing $6.00 per square foot while Verizon is proposing $2.02 per square foot. BellSouth is proposing a rate almost three times as much as Verizon and Carolina and Central are proposing rates around two times as much as Verizon.

The Commission believes that there is adequate evidence to conclude that BellSouth's proposed rate of $7.26 per square foot and Carolina and Central's proposed rates of $5.94 and $6.00, respectively, are overstated and unreasonable. However, the Commission does not believe that it is appropriate to apply the $1.00 market rate proposed by the CLPs since that is a market rate and is not in conformity with a TELRIC methodology. The Commission also believes that it is reasonable to have differences in the floor space rates depending upon the ILEC. Therefore, the Commission finds it appropriate to instruct BellSouth and Carolina/Central to re-examine their floor space cost studies and re-file proposed rates that are more aligned with (1) the market rate of $1.00, (2) the rates the ILECs themselves receive for leased central office floor space, and (3) Verizon's proposed floor space rate of $2.02 per square foot. The Commission finds it appropriate to approve and adopt Verizon's proposed floor space rate for Verizon.

COMMISSION CONCLUSIONS - Rate Issue No. 1 - Rate for Floor Space: The Commission finds it appropriate to instruct BellSouth and Carolina/Central to re-examine their floor space cost studies and re-file proposed rates that are more aligned with (1) the market rate of $1.00, (2) the rates the ILECs themselves receive for leased central office floor space, and (3) Verizon's proposed floor space rate of $2.02 per square foot. Further, the Commission hereby approves and adopts Verizon's proposed floor space rate for Verizon.

Rate Issue No. 2 - Availability Fee/Application Fee for Collocation

BellSouth witness Hendrix stated in his cost issue rebuttal testimony that BellSouth cannot find any reason why the recent FCC Order on Reconsideration would require a different rate structure (i.e., separate rate elements for an application and for project management as proposed by CLP witness Feldman) and since no cites were provided to support this statement, BellSouth cannot agree.

Witness Hendrix noted that BellSouth currently does have separate application fees and space preparation fees. Witness Hendrix maintained that even though witness Feldman considered BellSouth's categories of rate elements as outdated, the only change he made was to change the name of the term "firm order processing" to "project management." Witness Hendrix also noted that witness Feldman removed the rate element that recovers the cost for the optional space availability report and did not give a reason for such removal.

BellSouth witness Caldwell maintained that witness Feldman did not offer detailed information on his statement that BellSouth's rate structure reflects "outdated ideas of collocation" and that BellSouth witness Hendrix did support the rate structure that BellSouth is proposing. Witness Caldwell also noted that witness Feldman proposed substantial reductions in the work times BellSouth proposed and that the reductions should be ignored because they were not supported by any evidence, nor reflective of the costs BellSouth incurs.

On cross-examination, witness Caldwell explained that the application fee consists of more than just looking to see if there is space available in any given central office.

The New Entrants argued that a fee for determining whether collocation space is available defies common sense because it is widely known that space is available in most central offices. Also, the New Entrants asserted, to attempt to charge a fee in the few cases where space is not available is most inequitable, because ILECs are already required by FCC Order to maintain a document on their websites indicating all premises that are full.

The New Entrants noted that the ILECs argue that their space availability fees include certain engineering expenses. However, the New Entrants argued, those engineering expenses should be included as part of an engineering fee during construction and not an application fee to determine whether space is available.

The New Entrants argued that application fees for the leasing of office space do not exist in the real estate market. The New Entrants noted that the ILECs admit that they are not aware of any such availability fee being charged when they lease central office and switching equipment space.

New Entrants witness Birch stated in rebuttal testimony that he has never heard of landlords demanding nonrefundable application fees before advising prospective tenants whether space is available for lease. Witness Birch stated that advising a prospective tenant as to what space is available in a building is a function provided by management without any specific charge to that prospective tenant and that such application fees simply do not exist in the Raleigh office market.

New Entrants witness Feldman stated in rebuttal testimony that under Paragraphs 13-26 of the FCC's Order on Reconsideration, there are two distinct functions relating to the application for and project management of collocation in an ILEC's central offices. One function, he explained, relates to the initial application. Witness Feldman stated that the work performed in processing the application to obtain a firm order is appropriate for inclusion in an application fee. Witness Feldman maintained that the work that occurs after a firm order for collocation has been made is appropriate for inclusion in a project management fee. Witness Feldman argued that the reason for separating out the two fees is that if a CLP cannot place a firm order or decides not to place a firm order, that CLP should not have to pay for costs associated with project management.

Witness Feldman stated that he proposed two distinct fees and adjusted the time estimates by the ILECs to remove overstatements. Witness Feldman proposed the following rates:

Rate Element	ILEC Rate	New Entrants Rate
Application Fee - Sprint	$3,789.60	$136.91
Augment Application Fee - Sprint	$1,292.92	$82.97
Project Management Initial - Sprint	None proposed	$2,574.15
Project Management Augment - Sprint	None proposed	$266.52
Application Fee - Verizon	$1,217.52	$338.20
Project Management - Verizon	$1,128.53	$602.76
Application Fee - BellSouth	$3,741.00	$157.19
Augment Application Fee - BellSouth	$1,920.31	$110.12
Project Management Initial - BellSouth	$1,196.00	$1,445.11
Project Management Augment - BellSouth	None proposed	$305.88

The CLPs included a proposed Finding of Fact No. 5 — ILECs should not charge an availability fee for collocation space. They may, however, impose a fee for reasonable engineering costs that are incurred in connection with the construction of collocation space — in their Joint Proposed Order.

The CLPs argued that availability fees have no place in the leasing of office space, and availability fees for the leasing of office space do not exist in the real estate market. The CLPs maintained that the ILECs must not be allowed to impose an onerous and inequitable term on CLPs making lawful requests to collocate. The CLPs contended that a fee for determining whether space is available defies common sense because it is widely known that space is available in most central offices. The CLPs also maintained that to attempt to charge a fee in the few cases where space is not available is most inequitable, especially in view of the fact that ILECs are already required to maintain a publicly available document on their websites indicating all premises that are full and must update such a document within 10 days of the date at which a premises runs out of physical collocation space.

The CLPs argued that advising a prospective tenant as to what space is available in a building is a function provided by management without any specific charge to that prospective tenant. The CLPs maintained that imposing such fees as part of the application process, before the CLP is told whether space is available, would serve as a barrier to entry. The CLPs noted that while the ILECs argue that their space availability fees include certain engineering expenses, this engineering should be included as part of an engineering fee during construction, not an application fee to determine whether space is available. The CLPs maintained that it is illogical to require a CLP to pay a fee to determine if space is available when, as Verizon admitted, space is available in every one of its central offices in North Carolina.

The CLPs recommended that the Commission conclude that engineering expenses associated with the construction of collocation space should be recovered as part of an engineering fee during construction, not an application fee to determine whether space is available.

The Public Staff noted in its Proposed Order that some of the proposed changes, such as witness Feldman's proposal to require the application fee to be broken into two components and charged separately, completely change the manner in which the ILECs calculated their cost studies. However, for the most part the Public Staff commented, the reasoning given by the CLPs for these changes is to be consistent with the Texas collocation tariff. The Public Staff stated that it does not believe that being consistent with the Texas collocation tariff is a sufficient reason to require a modification of the ILECs' cost studies. The Public Staff stated that it agrees that CLPs need to be aware of the manner in which they incur charges for collocation services, however requiring the ILECs to provide a clear explanation and description of each of the rate elements should be sufficient. Therefore, the Public Staff recommended that the Commission find that the collocation rate elements as proposed by the ILECs are appropriate.

The Public Staff noted that witness Feldman testified that BellSouth had included excessive labor hours in its application fee costs, however, a review of the cost study for the application fee shows more than 51 hours of labor costs plus an additional nonrecurring rate additive of over $1,000. The Public Staff stated that although the

application rate is considerably less than the rate produced in the September 1999 cost study, the hours reflected in the application fee are excessive. The Public Staff stated that it agrees, in part, with witness Feldman's position that BellSouth has reflected too much labor cost in its application fee.

The Public Staff noted that a review of Sprint's workpapers indicates that the cost in calculating the application fee for Carolina reflects 77 hours of labor and that the Public Staff believes that this represents an excessive amount of labor and does not reflect an on-going level. The Public Staff argued that Sprint should be capable of processing an application fee using much less labor. The Public Staff recommended that the Commission conclude that Sprint should recalculate the application fee with one-half of its proposed NASC and Administrative labor and that engineering labor should not exceed 10 hours and Legal labor should not exceed two hours. The Public Staff maintained that this provides Sprint sufficient time to process Application filings made by CLPs.

Verizon maintained in its Proposed Order that New Entrants witness Birch opined that application fees are not charged to evaluate typical office space and therefore such fees should not be assessed for collocation analysis. Verizon argued that witness Birch ignored the fact that providing traditional office space and providing collocation space are very distinct undertakings. Verizon maintained that provision of collocation space not only involves a market quite different from that of providing traditional office space, it entails engineering analysis of the collocator's special needs and additional costs. Verizon noted that even witness Birch admitted as such. Verizon argued that as such, application fees are standard in collocation agreements and tariffs, sanctioned by both the FCC and state commissions.

Verizon also noted that it incurs costs to plan and engineer CLPs' requests for collocation space within a central office. Verizon noted that engineering costs are recovered through the application fee.

Verizon witness Ellis agreed on cross-examination that Verizon is proposing that a $1,200 application fee be paid in North Carolina even though space is available in every Verizon central office at least in some amount.

The Commission notes that in Finding of Fact No. 21 of this Order, the Commission concluded that it is appropriate to alter Section 2.6 of the CLP Standard Offering to require the ILECs to provide additional information on their websites. Among the requirements of revised Section 2.6 is for the ILECs to post a document which lists all premises that are without available space. Therefore, the Commission believes that the CLPs' statement that the ILECs are already required to maintain a publicly available document on their websites indicating all premises that are full and must update such a document within 10 days of the date at which a premises runs out of physical collocation space is reasonable. However, the Commission also agrees with Verizon that providing collocation space is distinctly different than providing traditional office space. Further, the Commission is

concerned about the labor hours reflected in the cost studies (51 hours for BellSouth and 77 hours for Sprint) as noted by the Public Staff. The Commission believes that 24 hours (or three, eight-hour days) is a reasonable level of labor hours for ILECs to process collocation applications. Therefore, the Commission concludes that the ILECs should revise their cost studies for application fees to reflect no more than 24 labor hours.

COMMISSION CONCLUSIONS - Rate Issue No. 2 - Availability Fee/Application Fee for Collocation: The Commission concludes that the ILECs should revise their cost studies for application fees to reflect no more than 24 labor hours.

Rate Issue No. 3 - Construction of Cage

The CLPs included a proposed Finding of Fact No. 6 — The rates for the construction of cage enclosures should be those proposed by Sprint — in their Joint Proposed Order.

The CLPs noted that they advocate the application to all ILECs of Sprint's proposed charge of $1,584.61 for ILEC construction of a cage enclosure for a 10 foot by 10 foot space.

The CLPs proposed that the Commission find that if Sprint can contract with an outside vendor to construct a cage for a nonrecurring cost of less than $1,600, it is not credible that Verizon's proposed rate of more than $4,000 and BellSouth's proposed recurring rate of $192.79 per month represent properly calculated TELRIC costs. The CLPs noted that BellSouth witness Caldwell even admitted that it was possible that the physical life of the cage might be as long as 10, 20, or even 30 years, and that if the monthly recurring rate proposed by BellSouth remained in effect for even 10 years, BellSouth would receive approximately $23,000 in revenues for the cage construction. The CLPs argued that there is no basis for the Commission to believe that the contractors that will build a cage for Sprint at a cost of less than $1,600 would charge appreciably more to construct a cage for BellSouth or Verizon. Therefore, the CLPs recommended that the Commission find it appropriate to apply Sprint's proposed nonrecurring costs of $559.81 per cage and $25.37 per linear foot to all three ILECs.

The New Entrants noted in their Brief that Sprint is proposing a rate of approximately $1,600 to install a collocation cage that is 10 feet long on each side of a square space. The New Entrants stated that the rate includes engineering fees and costs for construction of the wire mesh and is a one-time, nonrecurring charge. The New Entrants noted that BellSouth is proposing a recurring charge which may well result in costs of $10,000 to $25,000 per cage and Verizon is proposing a nonrecurring charge of over $4,000. The New Entrants maintained that both of these charges are unreasonable and reflect the inflated nature of the rates being proposed in this proceeding.

The New Entrants asserted that in the face of Sprint's $1,600 charge and in the absence of evidence showing that Sprint's costs are lower than the other ILECs, the costs proposed by BellSouth and Verizon reflect inefficient practices and should be rejected.

Verizon maintained that its Collocation Cost Study examines the two elements necessary to build a collocator's cage: the cage enclosure itself and the cage gate providing access and security to the cage. Verizon noted that its cost for the cage enclosure, including the fencing, poles, and the other items necessary to build a cage, is between $7.66 per square foot for a 100 square foot cage or larger and $10.93 per square foot for the smallest cage; Verizon's cost for the cage gate is $471.53. Verizon explained that these costs were derived by averaging contractor invoices for collocation jobs in Verizon central offices in Texas and California. Verizon maintained that by representing a number of different collocation jobs, the invoices provide a representative sample of the costs likely to be incurred for cage enclosures and gates going forward. Verizon noted that the costs from the contractor invoices were adjusted through an area modification factor obtained from National Construction Estimator to provide a North Carolina-specific cost.

The Commission agrees with the New Entrants that in the face of Sprint's proposed nonrecurring costs of $559.81 per cage and $25.37 per linear foot and in the absence of evidence showing that Sprint's costs are lower than BellSouth's and Verizon's, the costs proposed by BellSouth and Verizon reflect inefficient practices and should be rejected. Therefore, the Commission finds it appropriate to apply to BellSouth and Verizon, Sprint's proposed nonrecurring charge of $559.81 per cage and $25.37 per linear foot for ILEC construction of a cage enclosure.

COMMISSION CONCLUSIONS - Rate Issue No. 3 - Construction of a Cage: The Commission concludes that it is appropriate to apply Sprint's proposed nonrecurring charge of $559.81 per cage and $25.37 per linear foot for construction of a cage to BellSouth and Verizon.

Rate Issue No. 4 - DC Power

BellSouth next addressed witness Feldman's allegations that there are flaws in BellSouth's method of developing the costs associated with power. BellSouth noted that MCIm witness Bomer was also critical of BellSouth's power cost development. BellSouth recommended that the Commission disagree with the allegations by witnesses Feldman and Bomer.

BellSouth alleged that witness Feldman was incorrect in his statement on the power issue that BellSouth applied power costs as a loading to all rates elements. BellSouth stated that there is no support for his statement in BellSouth's cost study. BellSouth noted that the supporting equipment and power loading is only applied to those elements that involve central office equipment, not all elements.

BellSouth noted that witness Feldman also suggested that BellSouth consider some revenue offset in its loading factor development. BellSouth stated that its witness Caldwell noted that witness Feldman's suggestion is mixing apples with oranges. BellSouth maintained that the loading factor was designed by BellSouth to identify investments and that clearly revenues are not investments and, therefore, a one-to-one relationship between the two does not exist. BellSouth argued that it makes no sense to subtract the revenues from the power investment.

BellSouth also commented that witness Feldman further adjusted BellSouth's cost per fused amp to account for the error in usage versus billed per amp fuse charge. BellSouth argued that its cost study reflects the costs incurred in order to provide the incremental power drawn by the CLP's equipment. BellSouth noted that the redundant power leads are required to do this and, therefore, the investment for the two leads is appropriately considered in BellSouth's cost study. However, BellSouth maintained, it only applies the charges on a per fused amp basis, not twice the fused amp amount as witness Feldman implied.

BellSouth noted that witness Feldman also made other adjustments to BellSouth's power calculations, and BellSouth argued that those too are invalid. BellSouth maintained that witness Feldman's reduction in the cost per kilowatt hour and change in efficiency factor appear arbitrary and do not reflect the costs BellSouth will incur in order to provide power to CLP's on a going-forward basis.

BellSouth also argued that witness Feldman's proposed annual cost factor of .20 is not appropriate. BellSouth stated that as witness Caldwell observed, in the calculation of BellSouth's Plant Specific factor, expenses related to the maintenance of power equipment are normally considered for central office equipment and this expense identifies the costs related to the transmission of power for the central office equipment.

BellSouth noted that witness Feldman's Exhibit LF-6.3 concerns power calculations. BellSouth argued that the information labeled "BellSouth's Proposal" is not BellSouth's calculation and witness Feldman should not have presented it as such. BellSouth contended that witness Feldman evidently took certain outputs from BellSouth's cost study and forced them into a spreadsheet, thus distorting the other values not obtained from BellSouth's study. BellSouth also questioned witness Feldman's representations of BellSouth's annual charge factor and common cost factor.

BellSouth maintained that MCIm witness Bomer also had criticisms of BellSouth's proposed power costs. BellSouth noted that witness Bomer testified that power should be charged "on a per fused ampere basis, taking into account the rated capacity of the equipment actually installed." BellSouth stated as witness Caldwell testified that fused refers to the protection device rating and that protection devices are fuses or circuit breakers, with fuses being the most common. BellSouth maintained that rated indicates the amount of current the equipment is expected to draw during normal operating conditions and that protection devices are selected at 1.5 times the power drain for fuses.

BellSouth observed that telecommunications equipment requires power in much the same way that the television in one's home does - when it is on, it pulls about the same amount of power all the time. Therefore, BellSouth maintained, if the telecommunications equipment were rated at 20 amps, it would be protected at 30 amps.

BellSouth noted that its witness Caldwell testified that BellSouth developed the recurring costs for power based on the assumption that the charge would be per fused amp and, therefore, BellSouth's cost study accounts for the difference between fused capacity and rated capacity.

Witness Caldwell explained that BellSouth developed the recurring costs for power based on the assumption that the charge would be per fused amp. Witness Caldwell noted that BellSouth's costs study accounts for the difference between fused capacity and rated capacity. Witness Caldwell maintained that BellSouth's cost study contains a Protection Device Adjustment factor of 67% which reflects the relationship between fused and rated capacities (Fused = 1.5 x Rated). Witness Caldwell asserted that by multiplying the Average Monthly Cost per kilowatt hour by the 67% (1/1.5), this relationship is recognized and ensures that the CLP is not overcharged.

Witness Caldwell also addressed the comments of witness Feldman concerning BellSouth's power cost.

The CLPs included a proposed Finding of Fact No. 7 — The nonrecurring and monthly recurring rates for DC power should be adjusted in accordance with the testimony of the New Entrants witness Feldman, and should be based upon amps used, rather than amps fused — in their Joint Proposed Order.

The CLPs noted that witness Feldman identified and corrected a number of errors in each of the ILECs' cost studies regarding power.

The CLPs noted that for Sprint, witness Feldman identified the following errors:

(1) Double charging for the establishment of leads to the battery distribution fuse bay (BDFB).

(2) Circularly including the recovery of power costs to provide power, resulting in an excessive ACF.

(3) Overstating investment costs for the power plant.

(4) Charging for power on the basis of amps fused, rather than amps used.

(5) Limiting the increments of power to 50, 100, and 200 amp leads, instead of more standard increments, such as 20, 40, and 60 amps.

(6) Using an excessive ACF to establish its monthly rate.

The CLPs further noted that witness Feldman identified in Verizon's power cost studies the following errors:

(1) An error in its formula used to calculate per amp investment.

(2) Use of excessive installation times for DC power cable pulls.

(3) Use of excessive installation times to install the power facility at a central office.

(4) Circularly including the recovery of power costs to provide power, resulting in an excessive ACF.

(5) Failing to provide for the purchase of DC power in increments of less than 40 amps.

Finally, the CLPs also noted that witness Feldman identified the following errors in BellSouth's power cost studies:

(1) Use of embedded, rather than forward-looking, investments.

(2) Application of power costs as a loading to all rate elements without any offset for anticipated revenues derived through power charges.

(3) Charging for power supplied through both the primary and secondary lead, even though only one lead will be used at a time.

(4) Use of an excessive cost for commercial AC power.

The CLPs maintained that the issue of what rates should apply to the provision of DC power by BellSouth to MCIm's collocation space was transferred from the Parties' arbitration to this proceeding. The CLPs stated that the Parties' original Interconnection Agreement which was approved by the Commission contemplates pricing power on a per used ampere basis and, thus, the rate to be applied should apply on a per used ampere basis, taking into account the rated capacity of the equipment actually installed in the collocation space. The CLPs noted that BellSouth concedes that the rate for DC power was established by the Commission on a per ampere basis, but argues that MCIm should not be assessed based on what amperes MCIm uses. Instead, the CLPs maintained, BellSouth would include additional language, taken from its internal, self-serving procedures, into the original Interconnection Agreement between MCIm and BellSouth. The CLPs noted that BellSouth has proposed rates on a per fused ampere capacity basis. The CLPs also maintained that BellSouth proposes to charge a large up-front nonrecurring charge for construction of power supply plus a recurring rate that also will reflect the cost

of the power supply. The CLPs argued that this method represents a double recovery of the costs by BellSouth, is obviously inconsistent with the approach taken by the Commission in establishing rates, and would allow BellSouth to recover from MCIm more than MCIm's share of the costs. The CLPs concluded that BellSouth should bill MCIm a recurring rate per amp equal to the forward-looking cost of power supply times the number of amps consumed by MCIm.

The CLPs maintained that BellSouth is mistaken when it argues that power costs, like floor space costs, must be calculated by reference to the cost that the ILEC actually will incur, without reference to any efficiency requirement. The CLPs asserted that BellSouth is apparently operating on the premise that the Eighth Circuit's decision is effective.

The CLPs alleged that BellSouth's proposal charges for power usage on the premise that 67% of the fused amperage will be used and that this accounts for the fact that the actual drain on a fuse will not exceed 67% of the fuse's amperage rating. However, the CLPs contended, this factor does not account for the fact that two redundant power leads and fuses are used to deliver power to each equipment item. The CLPs maintained that it is appropriate to measure the power consumption of the CLP by taking 67% of the amperage of one of the two fuses which amounts to 33% of the combined amperage rating of the two fuses.

The CLPs stated that a similar adjustment should also be made for Verizon, which also conceded that it was charging for power for both of two redundant leads. The CLPs noted that while Verizon contended that the CLP has the option not to order the second lead, the fact that the CLP has this option does not entitle Verizon to charge an above-TELRIC price if the CLP, in fact, orders redundant leads.

The CLPs recommended that the Commission conclude that power should be charged for on the basis of per amps used, rather than amps fused. The CLPs noted that this is how power is calculated by the Texas Public Service Commission. The CLPs asserted that the Parties all recognize that fuses are installed that significantly exceed the power actually drawn by the CLP's equipment. The CLPs maintained that BellSouth acknowledges this fact by employing a 67% adjustment factor which would result in a charge for 40 amps of power even though the fuse was rated at 60 amps. The CLPs noted that Verizon charges on the basis of amps used. The CLPs stated that while recognizing that its fuses exceed the power of the CLP's equipment, Sprint seeks to justify charging for fused amps by calling the excess amperage a "fill factor." The CLPs argued that they do not agree that this concept has validity here. The CLPs contended that if a CLP installs equipment that draws at a maximum 40 amps of power, and Sprint chooses to install a 60 amp fuse, the fuse may provide a desirable safety margin, but Sprint is not required to provide 60 amps of power. Rather, the CLPs maintained, Sprint is only required to provide 40 amps of power and should not be permitted to charge a CLP for providing an additional 20 amps of power that the CLP does not want and cannot use.

The CLPs also argued that power should be offered in single amp increments. The CLPs noted that BellSouth and Sprint offered to do so in their original proposals and that while Verizon originally offered 40 amp increments, in rebuttal it agreed to offer single amp increments.

The CLPs also noted that Verizon stated that its allegedly excessive work times are valid because they were provided by subject matter experts (SMEs). The CLPs argued that there is a conflict as to the appropriate times between Verizon's unsworn SMEs, who did not submit testimony and were not available for cross-examination, and New Entrants witness Feldman.

In conclusion, the CLPs recommended that the Commission should adopt the monthly recurring and nonrecurring rates for DC power costs proposed by witness Feldman but with a correction of BellSouth's common cost factor, and that the DC power rates should be based on amps used, rather than amps fused.

The New Entrants also argued in their Brief that the ILECs' proposed power costs are unreasonable. The New Entrants stated that AC power costs the ILECs approximately $2.18 per amp. The New Entrants argued that the ILECs convert this power to DC power and then transmit this electricity to CLPs through batteries. The New Entrants maintained that for this conversion and transmission, the ILECs propose rates that are many multiples of their power costs.

The New Entrants argued that the cost-based rate for DC power is approximately $3.50 per amp. The New Entrants also maintained that power should be charged on the basis of electricity used, not on the size of multiple fuses or redundant lines. The New Entrants stated that although hesitant to admit it, Verizon itself charges for power based on amps used. The New Entrants further noted that power costs are recovered in several network elements and, hence, the rates for power to collocation equipment are just one of the ways in which the ILECs are compensated for power.

New Entrants witness Feldman stated in rebuttal testimony that Sprint used RS Means estimated costs, as well as equipment prices from vendors and estimated costs from subject matter experts, to tabulate power related to investment within a central office. Then, witness Feldman maintained, Sprint went through a series of calculations to come up with rates for both AC power and DC Power on a nonrecurring and recurring basis. Witness Feldman proposed corrections which would have the rates for collocation power of $4.48 per used amp rather than $17.41 proposed by Sprint.

The Public Staff recommended in its Proposed Order that the Commission reject witness Feldman's proposal to require ILECs to charge DC power based on the amount of amps used. The Public Staff maintained that if costs are calculated on a basis of fused amps, then it is appropriate to reflect fused amps as the rate element. The Public Staff commented that if the DC power costs are calculated on a basis of used amps, then used amps are appropriate to use as the rate element. In either case, the Public Staff asserted,

there should be no difference to CLPs as to whether the proposed rates are based on per fused or per used amps, so long as the costs are reflected appropriately for each in the cost study. The Public Staff maintained that with the charges required by its other recommendations, it believes that the costs and rate elements are appropriately matched for the ILECs' cost studies.

The Public Staff noted that witness Feldman did point out one problem with the ILECs' studies that BellSouth at least partially corrected. The Public Staff explained that the problem is the inclusion of costs associated with DC power in the annual charge factors (ACF) used to calculate the rates for collocation. The Public Staff commented that as witness Feldman pointed out, since DC power is charged for separately in the collocation studies, the ACF for calculating DC power should properly exclude any expense associated with DC power. The Public Staff commented that witness Feldman noted that BellSouth has appropriately excluded the expense associated with DC power from the ACF used to calculate its DC power rate element.

The Public Staff argued that since DC power is recovered in a specific rate element, there appears to be no basis for any collocation rate elements reflecting costs associated with DC power. The Public Staff noted that it is unclear whether costs associated with DC power are included in any ACF other than the digital switching ACF, which was used to calculate the specific DC power rate elements. However, the Public Staff believes that it is prudent for the ILECs to review the calculation of ACFs and remove, to the extent necessary, any costs associated with DC power, as BellSouth did for its digital switching ACF.

Concerning power costs, the Public Staff recommended that the Commission decline to adjust the investment per amp used by BellSouth in its study and note that the rate element proposed by BellSouth for DC power reflects fused amps, not used amps.

The Public Staff also stated that it concurs with witness Feldman's assessment that BellSouth's input amount for AC power cost is excessive and recommended that the Commission find that based upon tariffed rates for commercial power in North Carolina, BellSouth's cost of power should not exceed $.06 per kilowatt hour.

The Public Staff maintained that it is unpersuaded by witness Feldman's arguments concerning Sprint's proposed rates for DC power. The Public Staff commented that a review of the workpapers filed by BellSouth, Verizon, and Sprint, shows comparable per amp investment amounts for the ILECs' studies.

The Public Staff also noted that Sprint failed to make an adjustment to its investment per amp, as was done by BellSouth, to reflect the use of rate elements on a per fused basis instead of a per used basis. The Public Staff commented that since Sprint proposes to charge for DC power on a fused amp basis, an adjustment to its DC power investment per amp is necessary. The Public Staff stated that the adjustment should

divide the per amp investment contained in Sprint's workpapers by 1.5 to recognize this standard engineering practice.

The Public Staff maintained that Sprint appears to have slightly overstated a reasonable rate for its cost of commercial power, and the Commission should require Sprint to revise its cost study to reflect a cost per kilowatt-hour that does not exceed $0.06.

Concerning witness Feldman's criticisms of Sprint's proposed rates for AC outlets and overhead lighting, the Public Staff stated that it believes that the costs for AC outlets and overhead lighting are included in the building ACF. The Public Staff maintained that Sprint is recovering these costs in its floor space rate elements.

Sprint explained that telecommunications equipment runs on DC power and that different ILECs do not have the same DC power costs because DC power costs vary based on the sizes of central offices. Sprint maintained that BellSouth enjoys economies of scale as BellSouth serves more densely populated urban areas while Sprint serves more sparsely populated rural areas. Logically, Sprint asserted, BellSouth's DC power costs should be lower than Sprint's. Sprint argued that care must be taken in comparing costs from company to company and even greater care must be taken with costs from country to country. Sprint argued that New Entrants witness Feldman's testimony on the appropriate cost per amp figure was based on price quotes from a company in Canada and is not useful in this proceeding in North Carolina for obvious reasons.

Sprint maintained that other errors in witness Feldman's testimony included his allegations that Sprint is double charging for DC power redundancy and that Sprint double recovers for DC power. Sprint argued that its cost studies for DC power were conformed with real world experience and that Sprint built each element of its power cost analysis from the ground up using Sprint's current engineering standards as they are the best predictors of forward-looking costs.

Verizon contended in its Proposed Order that collocation equipment runs off of DC power. Verizon noted that the DC power facility is comprised of material and labor costs incurred to provide DC power to the collocator's area. Verizon stated that the power plant cost to provide DC power for a central office was calculated using central office switch requirements based on the line size of the central office. Verizon also explained that the DC power facility costs to be recovered through nonrecurring charges are those for installing the power cables that run from the battery distribution fuse bay (BDFB) to the collocator's individual location. Verizon noted that the hours reflected in Verizon's power plant model are those necessary to provision the type of power plant needed to furnish power for various size switches.

Verizon argued that New Entrants witness Mitus incorrectly contended that Verizon is double recovering for power by grossing up power investment and charging on a per fuse amp basis. Verizon stated that although he correctly stated that the cost per amp for the DC power plant is developed using an 80% operating capacity, he apparently

misunderstood Verizon's DC power provisioning and billing practices. Verizon explained that under its practices, CLPs are not billed at the fuse rate even though the fuse placed at the BDFB is larger than necessary to provide the amps requested by the CLP. Verizon noted that this larger fuse is installed to compensate for the peaks experienced in provisioning power. However, Verizon contended, it is receptive to providing and billing in smaller amp increments or even single amp increments.

Verizon also argued that New Entrants witness Feldman provides no substantive evidence for his claims that Verizon's costs are overstated and does not appear to grasp the complexities of pulling, wrapping, and tying down power cables. Verizon maintained that without conducting any studies of his own, witness Feldman arbitrarily reduces Verizon's hours required to install various power facilities such as cables. Verizon contended that power cables, unlike flexible voice transmission cables, are very rigid and heavy, and thus difficult to handle. Verizon maintained that they cannot be pulled but must be slowly passed often from floor to floor, and placed in relay racks 10 feet off the floor. Verizon also noted that normally power cables are not placed in a straight line, but must be bent around central office structures and equipment. Verizon argued that it may take five to 10 people to complete these tasks and not just one or two as witness Feldman implied. Verizon asserted that its cost estimates are provided by subject matter experts who are engaged in power cable placement and have extensive experience in performing the tasks at issue. Verizon concluded that there is no reason to supplant the Verizon experts' well-considered estimates with witness Feldman's own unsubstantiated opinions.

In direct testimony, Verizon witness Richter explained that the DC power facility includes the power cables run from the BDFB to the collocator's individual location. Witness Richter noted that the size of the cables will be engineered in accordance with the requested amps, the voltage drop, and the distance to the collocator's area and that the cables can be provided by the collocator or purchased from Verizon. Witness Richter maintained that the cost of installing the required power cables is based on the loaded labor rate for a Central Office Equipment (COE) Installer in North Carolina and the hours-per-unit to perform this activity.

Witness Richter also explained that the costs associated with the DC power facility element is comprised of material and labor costs incurred to provide DC power to the collocator's area. Witness Richter noted that costs also will be incurred to extend power from the power plant to the collocator's area BDFB, including material and labor costs for the associated power cable, fuse panels, relay racks, and distribution bays.

On cross-examination, witness Richter agreed that it is the norm in the industry to have two sets of power leads to central office equipment. He also stated that witness Mitus' testimony that Verizon is double recovering for DC power by both grossing up the DC power investment and charging on a per fuse amp basis is in error. Witness Richter explained that witness Mitus misinterpreted Verizon's cost study and that Verizon does not bill on the fuse of the amp and that Verizon bills based on the CLPs requested amperage.

On cross-examination, Verizon witness Steele agreed that Verizon is proposing to charge on per amps used as opposed to per amps fused.

The Commission, after reviewing the record of evidence, has the following comments and conclusions:

- It appears that all of the Parties agree to provide power in single amp increments if so desired by the CLPs.
- The Commission does not believe that it is appropriate to reflect power costs separately in the ACF and therefore the Commission will require each ILEC to review its calculation of the ACF and remove any power expense from the ACF.
- The Commission notes that Verizon argued that its cost estimates are provided by subject matter experts who are engaged in power cable placement and have extensive experience in performing the tasks at issue. The Commission agrees with Verizon that there is no reason to supplant the Verizon experts' well-considered estimates since the evidence presented by the CLPs was unpersuasive. However, the Commission notes that as the ILECs have significant knowledge to develop cost studies, they also have significant incentive to overstate proposed rates.
- The Commission concludes that the ILECs should input AC power costs from the applicable electric tariffs.
- The Commission notes that BellSouth and Sprint reflect power of per fused amp and Verizon reflects power based on amps used. It is the Commission's understanding that the term "per fused amp" means that the collocator's equipment has a protection device rating and more amps are used to provide this protection. The Commission also believes that there is credible evidence that the protection device rating is necessary. Therefore, the Commission agrees with BellSouth and Sprint that power costs should be based on "per fused amp" rather than "per amp used."

COMMISSION CONCLUSIONS - Rate Issue No. 4 - DC Power: The Commission finds it appropriate to:

(1) require the ILECs to provide power in single amp increments if requested by a CLP to do so;
(2) require each ILEC to review its calculation of the ACF and remove any power expenses from the ACF;
(3) require the ILECs to use AC power costs from the applicable electric tariffs; and
(4) require ILECs to charge power costs on a "per fused amp" basis.

Rate Issue No. 5 - Rates for Cross-connects

The CLPs included a proposed Finding of Fact No. 8 — The rates for cross-connects should be those proposed by the New Entrants — in their Joint Proposed Order.

The CLPs noted that there are two types of cross-connects at issue in this case: (1) a cross-connect that includes the cost of both the common frame and a POT bay, and (2) a cross-connect that connects a CLP appearance to the appearance of another CLP. The CLPs alleged that none of the ILECs properly prepared a cost study for the nonrecurring cost of such cross-connects, the cost of both types of which should be equal. The CLPs noted that Sprint prepared no cost study at all, and Verizon submitted a study of the installation of a fiber optic cable across an office from one location to another. The CLPs stated that BellSouth provided a cost study for cross-connects to an intermediate distribution frame but not to a main distribution frame. The CLPs alleged that BellSouth's study is irrelevant since the FCC has ruled that an ILEC cannot require a CLP to use an intermediate distribution frame.

The CLPs asserted that the requirement of Section 251(c)(6) of TA96 that ILECs provide physical collocation of equipment necessary for interconnection at the premises of the LEC should be read to require an ILEC to afford a CLP interconnection at the ILEC central office with other CLPs' networks as well as with the ILEC network, provided the other CLPs have interconnection points at the premises of the LEC. The CLPs maintained that under the literal definition of the statutory language, cross-connection between CLPs is interconnection at the premises of the LEC.

The CLPs argued that requiring ILECs to provide CLP-to-CLP cross-connection under Section 251(c)(6) is consistent with the structure of the statute.

The CLPs recommended that the Commission adopt the costs of MDF, DSX-1, DSX-3, and Optical cross-connects as calculated by witness Feldman and also permit the CLPs to perform their own cross-connects.

The ILECs presented rates for cross-connects in their cost studies but their prefiled testimony does not address the rate element specifically.

The Commission does not believe that adequate evidence was presented on the appropriate rates for cross-connects. Therefore, the Commission finds it appropriate to instruct the Parties to attempt to negotiate rates for cross-connects. The Commission directs the Parties to file negotiated rates for cross-connects for inclusion in the Standard Offering by January 28, 2002 and if such rates are not negotiated, directs the Parties to instead file Supplemental Briefs discussing this issue in more depth by February 11, 2002.

COMMISSION CONCLUSIONS - Rate Issue No. 5 - Rates for Cross-connects: The Commission hereby instructs the Parties to attempt to negotiate rates for cross-connects. The Commission directs the Parties to file negotiated rates for cross-connects for inclusion in the Standard Offering by January 28, 2002 and if such rates are not negotiated, directs the Parties to instead file Supplemental Briefs discussing this issue in more depth by February 11, 2002.

Rate Issue No. 6 - Cable Installation

BellSouth argued that New Entrants witness Feldman's corrections and recalculation of BellSouth's proposed collocation rates should not be adopted by the Commission. BellSouth contended that witness Feldman's corrections to Section 6.5 should be rejected since the record reflects that the CLPs and the ILECs have met several times to discuss the processes associated with physical collocation in the central office. BellSouth noted that neither the Parties nor the Commission listed this cabling issue as an issue that needed resolution and that it would be inappropriate to add another issue at this late date. BellSouth also argued that witness Feldman's rationale that the FCC's Order on Reconsideration obligates ILECs to provide cabling and connections is simply not based on any language that BellSouth finds in that Order. BellSouth argued that there are no words in the paragraphs referenced by witness Feldman which state that ILECs are obligated to install connections to the distribution frame. Therefore, BellSouth noted that it did not develop and propose rate elements for this purpose.

The CLPs included a proposed Finding of Fact No. 9 — Cable installation shall be made available at the rates proposed by the New Entrants in Exhibit LF-4.0 — in their Joint Proposed Order.

The CLPs maintained that Sprint's proposed costs for cable installation which Sprint referred to as cross-connects when installed by Sprint are reasonable. The CLPs argued that it is important to have a rate for the installation by the ILEC of a cable from the CLP's collocation to the main distribution frame. The CLPs asserted that since BellSouth and Verizon failed to submit cost studies for these rate elements, Sprint's costs should be applied to cable installation when installed by the other ILECs as well.

The CLPs noted that neither Sprint, BellSouth, nor Verizon presented testimony on this issue.

The CLPs maintained that it is important to have a rate for the installation by the ILEC of a cable from the CLP's collocation to the MDF. The CLPs recommended that the Commission conclude that Sprint's costs for the installation of such cable by Sprint is reasonable and that since BellSouth and Verizon did not submit cost studies for these rate elements, that the Commission should apply Sprint's costs to cable installation when installed by the other ILECs as well.

The Commission notes that as with cross-connects, insufficient evidence was presented on this issue. The Commission also questions whether there is a difference between cross-connects and the issue of cable installation. Therefore, the Commission finds it appropriate to instruct the Parties to attempt to negotiate rates for cable installation. The Commission directs the Parties to file negotiated rates for cable installation for inclusion in the Standard Offering by January 28, 2002 and if such rates are not negotiated, directs the Parties to instead file Supplemental Briefs discussing this issue in more depth by February 11, 2002.

COMMISSION CONCLUSIONS - Rate Issue No. 6 - Cable Installation: The Commission hereby instructs the Parties to attempt to negotiate rates for cable installation. The Commission directs the Parties to file negotiated rates for cable installation for inclusion in the Standard Offering by January 28, 2002 and if such rates are not negotiated, directs the Parties to instead file Supplemental Briefs discussing this issue in more depth by February 11, 2002.

Rate Issue No. 7 - Security Costs

BellSouth also addressed the issue of security costs. BellSouth noted that MCIm witness Bomer testified that "security charges should not be assessed for collocation in central offices with existing card key systems." BellSouth commented that apparently MCIm believes that if a card reader already exists, then assessment of security charges in these offices has no basis in cost. BellSouth recommended that the Commission not endorse MCIm's position on security costs. BellSouth also recommended that the Commission not adopt witness Bomer and witness Mitus' proposal of recovering security costs based on square footage.

BellSouth proposed that the Commission find that the correct allocator should be one that bears some relationship to what caused the cost to be incurred. BellSouth argued that clearly there is no direct relationship between security access costs and the square footage occupied.

BellSouth also maintained that its proposal to pro-rate the cost of the security system based on the number of providers in the central office is consistent with rulings of the FCC.

BellSouth witness Caldwell stated in rebuttal testimony that WorldCom witness Messina incorrectly implied that if a card reader already exists, then assessment of security charges in these offices has no basis in cost. Witness Caldwell maintained that the development of forward-looking economic costs is not dependent on an analysis of when something has actually been deployed. Instead, witness Caldwell maintained, economic costs are based on long-run incremental costs that identify the forward-looking replacement cost of the equipment.

Witness Caldwell stated that she did not agree with witnesses Messina and Mitus that security costs should be recovered based on square footage. Witness Caldwell argued that cost methodology dictates that the costs should bear some relationship to the action that caused the costs to be incurred, not based on the relationship of the benefits derived by each party. Witness Caldwell questioned whether a CLP who occupies 500 square feet "benefits" more than another CLP who occupies 100 square feet. Witness Caldwell asserted that BellSouth's proposal to pro-rate the cost of the security system based on the number of providers in the central office is consistent with rulings of the FCC.

The CLPs included a proposed Finding of Fact No. 12 — ILECs may recover forward-looking costs for security pro rata on a per square foot basis across all usable space in the central office, as part of the recurring floor space charge — in their Joint Proposed Order.

The CLPs noted that MCIm proposed that the following language be added to Attachment 5, Section 7.3 of its Interconnection Agreement with BellSouth:

> BellSouth shall recover the costs for security for the Premises pro rata on a per square foot basis across all usable space in the Premises.

The CLPs noted that BellSouth has been upgrading its security systems for its own purposes throughout its network, and now seeks to recover costs from CLPs for having previously installed card reader systems in central offices. The CLPs alleged that when BellSouth or any other ILEC decides to install a new card reader system, it does so mainly because it has chosen to protect its equipment, not to protect collocators' equipment. The CLPs conceded that to the extent that both BellSouth and the collocators benefit from reasonable security measures, a reasonable allocation of the forward-looking costs between them should be developed and a reasonable allocation must bear some relationship to the benefits derived by each party. The CLPs asserted that BellSouth's preferred allocation method based on a per capita allocation is not reasonable and is arbitrary because it bears no relationship to the different level of benefits derived by each carrier which is related to the area occupied from a security system.

The CLPs maintained that to the extent that ILECs are permitted to assess CLPs for security costs, those costs should be part of the recurring monthly space charges, and should be based on forward-looking principles rather than the retrofitting of existing central office configurations. The CLPs asserted that a carrier that occupies a good deal of space and protects a large amount of telecommunications equipment should be assessed a greater share of the security costs than a carrier that occupies a small space and is protecting only a small amount of equipment. Therefore, the CLPs maintained, a pro rata allocation of security costs based on the square footage occupied by the ILEC and each collocator in the central office is reasonable.

The CLPs noted that the FCC has ruled in its Advanced Services Order that an ILEC may adopt reasonable security measures to protect their central office equipment and that, hence, the FCC expects that state commissions will permit ILECs to recover the costs of implementing these security measures from collocating carriers in a reasonable manner. The CLPs asserted that these FCC provisions support MCIm's position that the costs of new security card systems should be allocated on a pro-rata basis, based on the square footage that the new entrant occupies relative to the total space that the card system is designed to secure.

The CLPs noted that the Florida Public Service Commission ruled in support of the position advocated by MCIm on the issue of compensation for security measures. The Florida Commission ruled as follows:

> First, we are persuaded and so find that the costs of security arrangements, site preparation, and other costs necessary to the provisioning of collocation space incurred by the ILEC that benefit only a single collocating party in a central office should be paid for by that collocating party . . . (R)ecovering costs only from the party that benefits will eliminate the burden on ILECs and other collocators of paying for costs of collocation they did not cause to be incurred.
>
> Second, we find it appropriate that the costs of security arrangements, site preparation, and other costs necessary for the provisioning of collocation space incurred by the ILEC that benefit both current and future collocating parties shall be recoverable by the ILEC from current and future collocating parties. In this case, these costs shall be allocated based on the amount of floor space occupied by a collocating party, relative to the total collocation space for which site preparation was performed.
>
> Third, we find that the costs of security arrangements, site preparation, and other costs necessary for the provisioning of collocation space incurred by the ILEC that benefit current or future collocating parties and the ILEC shall be recoverable by the ILEC from current and future collocating parties, and a portion shall be attributed to the ILEC itself. We note that the ALEC's addressed their concerns over security issues that not only benefit collocating parties, but also benefit the ILEC. Acknowledging those concerns, we shall require that when multiple collocators and the ILEC benefit from modifications or enhancements, the cost of such benefits or enhancements shall be allocated based on the amount of square feet used by

the collocator or the ILEC, relative to the total usable square footage in the central office.

The CLPs concluded by recommending that the Commission find that assuming that an ILEC's security enhancements provide benefits to both the ILEC and the CLPs, the forward-looking costs should be allocated to parties on a per square foot of occupancy basis, as part of the recurring floor space charge. Further, the CLPs proposed that the Commission conclude that a pro-rata cost-based rate adequately allows ILECs to recover the costs of a security system.

The Public Staff noted in its Proposed Order that another area of contention concerns security costs. The Public Staff commented that testimony was submitted on the appropriate methodology to allocate these costs as well as when the costs should be recovered by the CLPs.

The Public Staff argued that with regard to the manner in which security costs should be recovered, when considered in a vacuum, the BellSouth and Verizon proposals provide for a reasonable approach to allocating security costs. However, the Public Staff stated that the Commission would be remiss if it failed to recognize the tremendous difference in square footage used by the CLPs versus the space used by the ILECs. The Public Staff maintained that this vast difference makes the per capita proposals of BellSouth and Verizon considerably less reasonable than the allocation per square foot used and recommended by Sprint.

The Public Staff stated that it does not necessarily question the costs for security included in the studies filed by the ILECs, however, to the extent that security costs are recovered through the building ACF when calculating the cost of floor space, adding a separate rate element for assessing security costs would constitute double recovery of this cost item. The Public Staff noted that it is persuaded that security costs, which are a necessary part of the cost of central offices, have long been incurred by the ILECs in the normal course of business and will be recovered by the ILECs through the floor space rate element and included in the building ACF. Therefore, the Public Staff maintained, having separate rate elements for assessing security costs constitutes a double recovery of these costs.

The Public Staff also noted that Verizon included numerous costs associated with security and that these items range from costs associated with securing cabinets, which are used wholly by Verizon, to the installation of card readers and cameras in the central offices. The Public Staff stated that it is not convinced by Verizon's arguments that securing cabinets which Verizon only uses is a cost that should be borne by CLPs. In any event, the Public Staff argued that security costs are normal costs of operating a central office and should be included in the building ACF used to calculate the floor space cost.

The Public Staff also recommended that the Commission find that the cost of providing security cards or keys to the CLPs should not be included in the normal security

costs. The Public Staff proposed that the Commission find that the cost of security cards or keys is a cost incremental to the provision of collocation spaces and should be recovered by the ILECs through a separate rate element.

The Public Staff noted that it already proposed that, in general, security costs are covered in the common and shared factors that are applied to the collocation rate elements. However, the Public Staff stated, CLPs should be assessed an amount for security cards or keys which they obtain for entry into the ILECs' central offices or remote terminals. The Public Staff commented that in reviewing the proposed rates of BellSouth for security cards and keys, it concluded that the rate for these items are excessive. The Public Staff noted that in reviewing the workpapers filed by BellSouth, there are three areas in which the costs appear to be overstated:

(1) The material cost of the card or key should be reviewed. Any cost exceeding $2.00 for a card or key appears to be excessive on its face and the Public Staff has seen no justification presented by BellSouth for the higher costs included in its study.

(2) The postage costs included by BellSouth, which exceed $3.00 for both the card and key, also appear to be excessive. The Public Staff believes that a more reasonable on-going postage cost would not exceed $2.00.

(3) BellSouth has vastly overstated the labor cost.

The Public Staff recommended that the Commission have BellSouth review the support for the nonrecurring rates for security cards and keys, for activation, administrative changes, and replacement and make appropriate modifications to ensure that these rates do not exceed $20.00. The Public Staff noted that this is comparable to the $15.00 per security card rate recommended by Sprint.

The Public Staff recommended that the Commission conclude that costs exceeding $20.00 for security cards and keys are excessive and do not reflect long run incremental costs. Therefore, the Public Staff proposed, Verizon should be required to review the support for the nonrecurring rates for security cards and keys, for activation, administrative changes, and replacement and make appropriate modifications to ensure that these rates do not exceed $20.00. Also, the Public Staff noted that its recommendation is comparable to the $15.00 rate recommended by Sprint.

Sprint maintained in its Proposed Order that security measures should be calculated on a per square foot basis, not on the per capita basis argued by BellSouth and Verizon. Sprint noted that this is in line with the Florida Commission's and Sprint's methodology.

The Commission notes that BellSouth stated in its Opening Statement at the hearing

> . . . [central] offices are really, truly the nerve centers of networks that incumbent companies like BellSouth have built over many, many decades. Needless to say, not just anyone can walk off the street and stroll through one of our central offices. Security is very tight, access is guarded, and people really who are the folks that work on this equipment are highly trained and highly skilled.

Therefore, it appears that at least for BellSouth, security measures have been implemented in central offices long before TA96 was enacted.

The Commission notes that there are both recurring and nonrecurring charges to address for security costs. For recurring costs, the Commission agrees with the CLPs and Sprint that it is appropriate to pro rate security costs on the basis of square footage. The Commission believes that this is a reasonable and appropriate methodology to allocate costs and ensures that carriers pay costs based on the amount of square footage that is protected by these security measures.

Concerning nonrecurring charges, the Commission agrees with the Public Staff that the cost of security cards or keys is a cost incremental to the provision of collocation spaces and should be recovered by the ILECs through a separate rate element. The Commission also finds credible the Public Staff's analysis of how the security card and key charges for BellSouth and Verizon appear overstated. The Commission believes that security card and key charges should be uniform among the ILECs and that there is no reason such costs should vary. Therefore, the Commission concludes that the appropriate nonrecurring rate for security cards and keys is $15.00 as proposed by Sprint.

The Commission is also persuaded, as is the Public Staff, that security costs, which are a necessary part of the cost of central offices, have long been incurred by the ILECs in the normal course of business and will be recovered by the ILECs through the floor space rate element and included in the building ACF. Therefore, the Commission agrees with the Public Staff that having separate rate elements for assessing security costs constitutes a double recovery of these costs. The Commission finds it appropriate to require the ILECs to review the calculations of the ACF and remove security costs from that calculation. The Commission notes that since it is ordering separate rate elements for security costs it would be inappropriate to allow the ILECs to also include security costs in their calculations of the ACF.

COMMISSION CONCLUSIONS - Rate Issue No. 7 - Security Costs: The Commission:

(1) concludes that it is appropriate to allocate security costs to carriers based on square footage occupied in the central office as a recurring charge;

(2) concludes that the appropriate nonrecurring rate for security cards and keys is $15.00 per card or key issued; and

(3) concludes that the ILECs should review their calculations of the ACF and remove any security costs.

Rate Issue No. 8 - Augmenting

The Public Staff noted that it previously recommended adding the appropriate rates to charge for augmenting collocation spaces and modifying application and that the ILECs should revise their proposed rates accordingly.

The Commission notes that as with cross-connects and cable installation, insufficient evidence was presented on this issue. Therefore, the Commission finds it appropriate to instruct the Parties to attempt to negotiate rates for augmenting. The Commission directs the Parties to file negotiated rates for augmenting for inclusion in the Standard Offering by January 28, 2002 and if such rates are not negotiated, directs the Parties to instead file Supplemental Briefs discussing this issue in more depth by February 11, 2002.

COMMISSION CONCLUSIONS - Rate Issue No. 8 - Augmenting: The Commission hereby instructs the Parties to attempt to negotiate appropriate rates for augments. The Commission directs the Parties to file negotiated rates for inclusion in the Standard Offering by January 28, 2002 and if such rates are not negotiated, directs the Parties to instead file Supplemental Briefs discussing this issue in more depth by February 11, 2002.

Rate Issue No. 9 - Adjacent Collocation

The Public Staff noted that Sprint proposed to set rates on a case-by-case basis for adjacent onsite costs, asserting that it has received no requests for adjacent collocation. The Public Staff commented that this lack of demand should not excuse Sprint from the need to file rates for adjacent collocation as neither Verizon nor BellSouth have received much demand, if any, for adjacent collocation but they have proposed rates as required by the FCC. The Public Staff argued that Sprint should do so as well.

The Commission again notes that insufficient evidence was presented on this issue. Therefore, the Commission finds it appropriate to direct the Parties to file negotiated rates for adjacent collocation for inclusion in the Standard Offering by January 28, 2002 and if such rates are not negotiated, directs the Parties to instead file Supplemental Briefs discussing this issue in more depth by February 11, 2002.

COMMISSION CONCLUSIONS - Rate Issue No. 9 - Adjacent Collocation: The Commission finds it appropriate to instruct the Parties to attempt to negotiate appropriate rates for adjacent collocation. The Commission directs the Parties to file negotiated rates for inclusion in the Standard Offering by January 28, 2002 and if such rates are not negotiated, directs the Parties to instead file Supplemental Briefs discussing this issue in more depth by February 11, 2002.

Rate Issue No. 10 - Premises Space Report

Verizon noted that a CLP that has been denied collocation space in a central office may require Verizon to prepare a Premise Space Report for any specific office. Verizon contended that in compiling the Premise Space Report, Verizon incurs costs for the engineers to visit a particular central office and to create a detailed report explaining the space availability in that central office. Verizon maintained that its costs of providing such a report were determined by examining the estimated amount of time that it would take the Network Designer and Building Services and the Local Network Designer to complete the comprehensive evaluation necessary to produce the report. Verizon contended that the amount of time was multiplied by the appropriate employee's North Carolina labor rate to determine the cost. Verizon maintained that for a comprehensive evaluation, the costs is $5,411.20. Verizon noted that the rate for the report takes into account that additional collocators could request the report and the price is $1,217.52. Verizon argued that once again, witness Feldman inappropriately reduced the hours necessary to produce the Premises Space Report and that his arbitrary cost reductions fail to account for the effort required for that task.

The Commission notes that no other Party presented evidence concerning this issue. The Commission also questions what additional information would be provided in the Premises Space Report that the ILEC would not already be required to provide in Sections 2.3.1 and 2.3.2 (See Finding of Fact No. 22) and Section 2.2 (See Finding of Fact No. 24). With this observation, the Commission finds it appropriate to direct the Parties to file negotiated rates for a Premises Space Report for inclusion in the Standard Offering by January 28, 2002 and if such rates are not negotiated, directs the Parties to instead file Supplemental Briefs discussing this issue in more depth by February 11, 2002.

COMMISSION CONCLUSIONS - Rate Issue No. 10 - Premises Space Report: The Commission hereby instructs the Parties to attempt to negotiate appropriate rates for a Premises Space Report. The Commission directs the Parties to file negotiated rates for inclusion in the Standard Offering by January 28, 2002 and if such rates are not negotiated, directs the Parties to instead file Supplemental Briefs discussing this issue in more depth by February 11, 2002.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 48

ISSUE 50: What are the appropriate terms and conditions for shared collocation, including allocation of indemnities?

ISSUE 75 (Sprint 1): Whether ILECs should be required to accept payment from the Guest CLP for charges applicable to collocation space?

POSITIONS OF PARTIES

ALLTEL: ALLTEL did not address this issue.

AT&T: AT&T stated that terms and conditions should be: (1) Both CLPs must have interconnection agreements with the ILEC, (2) the ILEC may not increase the cost of site preparation or nonrecurring charges above the cost of provisioning a cage of similar dimension for a single party, (3) the Standard Offering should provide for shared collocation based on FCC rules, (4) ILECs should not enter into leases purporting to prohibit federally-protected activity, (5) actual problems with ILEC leases should be addressed through the waiver process, and (6) there should be reciprocal language concerning liability for shared collocation space. ILECs should be required to accept payment directly from the Guest CLP in a shared arrangement, but the Host CLP remains the ultimate responsible party.

BELLSOUTH: The appropriate terms and conditions are those as set forth in Section 3.3 of BellSouth's Standard Offering. This allows for shared collocation arrangements but places primary responsibility on the Host, including an indemnity provision regarding Guests except in case of ILEC gross negligence or willful misconduct.

MCIm: MCIm did not address this issue in its Brief.

NEW ENTRANTS: New Entrants took the same position as AT&T.

PUBLIC STAFF: The Host CLP should be responsible for payment to the ILEC of all charges associated with rental of a shared collocation space. Application and site preparation charges should be prorated and billed separately to each CLP based on the percentage of shared space that is used by the CLP. ILECs are prohibited from signing leases that would keep them from fulfilling their collocation obligations. BellSouth's proposed language limiting liability to gross negligence and willful misconduct is inequitable and unnecessary.

SPRINT: Sprint believed that the Host collocator should be the sole interface and responsible party to the ILEC for the purpose of submitting applications for initial and additional equipment placements for all CLPs in a shared space, for assessment and payment of all rates and charges for the space, and for the purpose of safety and security requirements.

VERIZON: A CLP Host may share caged collocation arrangements with other CLPs, but the Host is sole interface with the ILEC for applications, payments, and safety and security arrangements. However, the Guest may arrange directly with the ILEC for provision of interconnecting facilities, provision of services, access to UNEs and the ILEC will bill the Guest for these services.

WORLDCOM: WorldCom took the same position as AT&T.

DISCUSSION

Sections 3.5, 3.5.1, 3.5.2, and 3.5.3 of the Standard Offering set forth provisions for shared caged collocation. These address (1) procedures for giving notice to the ILEC concerning the sharing of collocation space; (2) the responsibilities of the "Host" and "Guest" collocators and ILEC; and (3) total and prorated costs for shared space.

BellSouth witness Hendrix testified: "The appropriate terms and conditions for shared collocation are set forth in Section 3.4 of the standard [BellSouth physical collocation] agreement." The BellSouth agreement would allow shared collocation unless the BellSouth premises were located in leased space where the lease prohibited such sharing of space. CLP witness Gillan suggested that ILECs should simply avoid entering into leases that "prohibit activity that is expressly provided for under federal law."

Witness Gillan testified that BellSouth had not indicated that it was willing to prorate charges, particularly application fees, for shared collocation spaces. Such proration is consistent with the FCC's requirement that "the ILEC may not increase costs above the cost of provisioning space for a single party." He also recommended that ILECs be required to accept separate payments from the host CLP and each guest CLP for its portions of the shared collocation space, with the host CLP retaining overall responsibility for ensuring that all floor space charges are paid. Mr. Gillan further argued that the administrative burdens CLPs would face in accepting and accounting for payments from guest CLPs were unreasonable and should be borne by the ILECs.

Sprint witness Hunsucker described the CLP proposal as "the insertion of an ILEC into a commercial arrangement (i.e., subleasing of floor space) that has been voluntarily entered into by two CLPs," adding that:

> the host collocator should be the sole interface and responsible party to the ILEC for the purpose of submitting applications for initial and additional equipment placements for all CLPs collocated in the shared space, for assessment and payment of rates and charges applicable to collocation space (e.g., floor space) and for purposes of ensuring that all applicable safety and security requirements are met.

Witness Hunsucker contended that the CLPs' position on accepting payments from shared collocators failed to take into account the inconveniences that this arrangement would place on ILECs. He illustrated his argument with the following example:

> Let's assume that the Host CLP originally places a collocation order for 300 square feet of collocation space. Subsequently, the Host CLP enters into a voluntary commercial arrangement with three guest CLPs -- Guest 1, Guest

> 2 and Guest 3 for 20 square feet, 30 square feet and 50 square feet respectively. In this example, Sprint would require the Host CLP to provide payment for all 300 square feet of floor space on a monthly basis, while the CLPs would (at the CLP option), require Sprint to accept payment from four CLPs, track and match the payments to the 300 square feet of space originally requested and provided to the Host CLP and perform bill validations to ensure that all of the floor space has been paid for. To complicate matters even more, the CLPs are free to change their subleasing arrangements on a daily basis by modifying existing Guest CLP space or by adding new Guest CLPs to the equation. Each and every time, the ILEC would have to be notified to ensure that its internal tracking systems are modified to ensure proper matching of payments to the exact floor space being utilized by each CLP. This is clearly burdensome to the ILEC. The practical result of such an arrangement is to place the ILEC in the position of being the billing and audit agent for the Host CLP. . . ."

The Public Staff's view was that the Host CLP should be responsible for payment to the ILEC of all charges associated with rental of shared collocation space. Application and site preparation changes should be prorated and billed separately to each CLP based on the percentage of shared space used by the CLPs. The ILECs should be prohibited from signing leases that would keep them from fulfilling their collocation obligations, and BellSouth's proposed language limiting liability to gross negligence and willful misconduct goes too far.

The Commission agrees with Sprint and BellSouth that the CLPs' proposal to require ILECs to accept payments from individual CLPs for floor space charges related to shared collocation could pose significant administrative burdens for the ILECs. While Paragraph 41 of the *Advanced Services Order* requires ILECs to "permit each competitive LEC to order UNEs and to provision service from that shared collocation space, regardless of which competitive LEC was the original collocator," it does not obligate ILECs to bill each individual CLP for the fraction of shared collocation space that it uses. As Sprint suggested, such an arrangement could easily be interpreted as requiring the ILECs to painstakingly measure the space occupied by each CLP in a shared collocation space every month, and to calculate, bill, and collect the monthly charges without receiving any compensation for these services. Accordingly, the Commission finds it appropriate to require the Standard Offering to be revised to require the host CLP to pay the ILEC directly for all charges associated with the rental of a shared collocation space, unless the host CLP and the ILEC work out another mutually acceptable arrangement.

Paragraph 41 of the *Advanced Services Order* does, however, require ILECs to prorate other charges for construction and conditioning of shared collocation space. It says, in part:

> In addition, the incumbent must prorate the charge for site conditioning and preparation undertaken by the incumbent to construct the shared collocation

> cage or condition the space for collocation use, regardless of how many carriers actually collocate in that cage, by determining the total charge for site preparation and allocating that charge to a collocating carrier based on the percentage of the total space utilized by that carrier. In other words, a carrier should be charged only for those costs directly attributable to that carrier.

Accordingly, ILECs and CLPs should be directed to develop Standard Offering language consistent with this requirement. For example, CLPs that apply for a single caged collocation space as a group should be billed individually for their application and site preparation costs, prorated in proportion to the relative amount of collocation space they are requesting. With respect to the CLPs' concern regarding leases, the Commission believes that ILECs should forbear from signing any leases that would keep them from fulfilling the collocation obligations imposed on them by the FCC.

Turning to the issue of allocation of indemnities, BellSouth proposed that the host indemnify and hold BellSouth harmless from all claims, actions, causes of action, of whatever kind or nature arising out of the presence of the guest in the collocation space except if caused by BellSouth's gross negligence or willful misconduct. The CLPs oppose BellSouth's proposal because it is inconsistent with Section 17 of the Standard Offering and would absolve BellSouth in some instances when its negligence does not rise to the level of gross misconduct. Witness Hendrix admitted on cross-examination that the current BellSouth collocation attachment does include reciprocal language as to the allocation of indemnities, but that its proposed language is not reciprocal.

BellSouth has not explained why it should not be liable for negligence that is not gross or for misconduct that is not willful. It is unclear why the ordinary rules regarding liability for negligence and misconduct should not apply. It troubles the Commission that under BellSouth's proposal the allocation of indemnities will not be reciprocal, but will only accrue to the benefit of BellSouth. The Commission finds it appropriate to reject BellSouth's proposed language that limits its liability only to acts of gross negligence or willful misconduct regarding guest collocators because it is inequitable and unnecessary. Thus, no change is necessary to the Standard Offering in regard to allocation of indemnities for Guest/Host collocation arrangements.

CONCLUSIONS

The Commission concludes that the Host CLP in a shared collocation arrangement is responsible for the payment to the ILEC of all changes associated with the removal of a shared collocation space. However, application and site preparation changes should be prorated and billed separately to each CLP based upon the CLPs' percentage of shared space used. ILECs should not be allowed to sign leases that would impair them in fulfilling their collocation obligations and proposed language limiting liability of ILECs only to acts of gross negligence or willful misconduct regarding Guest collocators should be rejected.

No change is necessary to the Standard Offering regarding the allocation of indemnities for Guest/Host collocation arrangements.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 49

ISSUE 51: Under what circumstances may the ILEC designate the location of an adjacent collocation arrangement such that the arrangement will not interfere with access to existing or planned structures?

POSITIONS OF PARTIES

ALLTEL: ALLTEL did not take a position on this issue in its Brief.

AT&T: The ILEC may only designate the location of an adjacent collocation arrangement if the placement requested by the CLP would not be technically feasible. The ILEC has the burden of demonstrating that such location is not technically feasible. Also, zoning and municipal (state or local) regulations may give the ILEC certain rights or obligations to control the construction and location of adjacent collocation space. But the ILEC may not reserve space or plan uses for adjacent space without taking collocation demand into account.

BELLSOUTH: The ILEC should retain sole discretion to designate the location of an adjacent collocation arrangement because only the ILEC can determine if the location may interfere with access to existing or planned structures or facilities on the premises property.

MCIm: MCIm did not take a position on this issue in its Brief.

NEW ENTRANTS: The New Entrants supported the position taken by AT&T on this issue.

PUBLIC STAFF: The ILEC may not unfairly discriminate between itself and CLPs or between distinct CLPs; however, the ILEC ultimately has the right to designate the site of adjacent collocation arrangements, subject to the FCC's revised rules governing space designation. The Commission should encourage the parties to negotiate these details. If the CLP believes that the ILEC has unreasonably refused to honor its reasonable request, the CLP may file a complaint with the Commission.

SPRINT: Sprint accepted the position taken on this issue by the CLPs to the extent it is consistent with the terms and conditions of the Standard Offering filed with the direct testimony of Sprint witness Hunsucker, it is included in the Standard Offering, and the Standard Offering is made applicable to all parties in its entirety.

VERIZON: The ILEC shall designate the location of an adjacent collocation arrangement such that the arrangement will not interfere with access to existing or planned structures.

Adjacent arrangements shall be available only where space within the central office is legitimately exhausted, subject to technical feasibility. The ILEC and CLP shall mutually agree on an adjacent location, but agreement is conditioned on zoning or other state and local regulations, as well as reasonable safety and maintenance requirements.

WORLDCOM: WorldCom supported the AT&T position on this issue.

DISCUSSION

The CLPs contended that the parties should mutually agree on the placement of an adjacent collocation arrangement, unless it is technically infeasible, and that the ILEC bears the burden of proving technical infeasibility. The CLPs acknowledged that zoning and municipal regulations may give an ILEC some control over the construction and location of adjacent collocation space. The CLPs also contended that the ILECs should not be allowed to reserve or plan uses for adjacent collocation space without taking the demand for collocation into account.

BellSouth contended that the ILECs should have the sole discretion of determining where adjacent collocation will be sited, because only the ILECs can determine whether the site will interfere with access to existing or planned structures or facilities on the premises.

Verizon asserted that the CLPs' proposal that the ILECs may designate the locations of adjacent arrangements only when the CLPs' requests are technically infeasible is far too restrictive. Verizon explained that the ILECs designate all collocation spaces on their property, including spaces adjacent to central offices.

In its Proposed Order, the Public Staff contended that the ILECs may not unfairly discriminate between themselves and CLPs or between distinct CLPs; however, the ILECs ultimately have the right to designate the site of adjacent collocation arrangements, subject to the FCC's revised rules governing space designation. According to the Public Staff, the Commission should encourage the parties to negotiate these details. If a CLP believes that an ILEC has unreasonably refused to honor its reasonable request, the CLP may file a complaint with the Commission.

Based on the language from the *GTE* case cited in the discussion of Issue No. 2 *supra,* the Commission determines and concludes that the ILECs may choose where to establish collocation on their own property. It is impermissible for the ILECs to discriminate unfairly between themselves and CLPs or between distinct CLPs; however, the ILECs ultimately have the right to designate the sites of adjacent collocation arrangements, subject to the FCC's revised rules governing space designation. The Commission also encourages the Parties to negotiate these details and state that if a CLP believes that an ILEC has inappropriately refused to honor its reasonable request, the CLP may file a complaint with this Commission. The Commission finds it appropriate to require

the Parties to negotiate mutually agreeable language for Section 3.6 of the Standard Offering to reflect these conclusions.

CONCLUSIONS

The Commission concludes that the ILECs ultimately have the right to designate the sites of adjacent collocation arrangements, subject to the FCC's revised rules governing space designation; i.e., 47 CFR 51.323(f)(7). The Commission also encourages the Parties to negotiate these details and state that if a CLP believes that an ILEC has inappropriately refused to honor its reasonable request, the CLP may file a complaint with this Commission. Further, the Commission requires the Parties to negotiate mutually agreeable language for Section 3.6 of the Standard Offering to reflect these conclusions.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 50

ISSUE 52: Under what circumstances may the ILEC designate the location of the cageless collocation arrangement within the central office?

POSITIONS OF PARTIES

ALLTEL: ALLTEL did not take a position on this issue in its Brief.

AT&T: The ILEC may designate the location of cageless collocation equipment in its central office. When a CLP has a virtual collocation arrangement and wants to convert it to physical cageless collocation, however, the ILEC's right to designate is limited. Moreover, the sole purpose of requiring a separate entrance is to increase the CLPs' costs. Verizon has not justified the need categorically for a separate entrance.

BELLSOUTH: The ILEC should designate the location of the cageless collocation arrangement within its central office premises in all cases. There is nothing in the Act or the FCC rules that allows the CLP to designate the location. Further, the D.C. Circuit Court and the FCC have ruled that the ILEC, rather than the CLP, shall determine where the CLP's physical collocation equipment should be placed within a central office. Removing such control from the ILEC would result in a chaotic use of available space, as each CLP would make decisions in its best interest without regard to the interests of the ILEC or other CLPs.

MCIm: MCIm did not take a position on this issue in its Brief.

NEW ENTRANTS: The New Entrants supported the position taken by AT&T on this issue.

PUBLIC STAFF: The ILEC has the right to designate the placement of cageless collocation space in its central office. The ILEC may separate a CLP's collocation equipment from its own equipment only if the proposed separated space is: (a) available

in the same or shorter time frame as nonseparated space; (b) at a cost not materially higher than the cost of nonseparated space; and (c) is comparable, from a technical and engineering standpoint, to nonseparated space. The ILEC may require such separation measures only when warranted by legitimate security concerns, or operational constraints unrelated to the competitive concerns of the ILEC or its affiliates or subsidiaries.

SPRINT: Sprint accepted the position taken on this issue by the CLPs to the extent it is consistent with the terms and conditions of the Standard Offering filed with the direct testimony of Sprint witness Hunsucker, it is included in the Standard Offering, and the Standard Offering is made applicable to all parties in its entirety. In consideration of the FCC's *Collocation Remand Order*, Sprint proposed to revise the first sentence of Paragraph 3.1 of the Standard Offering to read as follows:

> The ILEC shall offer Collocation Space to allow the CLP to collocate the CLP's equipment and facilities, without requiring the construction of a cage or similar structure, and without requiring the creation of a separate entrance to the Collocation Space that would add delays or materially higher costs than an arrangement without a separate entrance.

VERIZON: The ILEC shall designate the location of cageless collocation within a central office, including prohibiting commingling of CLP equipment with existing ILEC lineups. The ILEC shall assign collocation space to CLPs in a just, reasonable, and nondiscriminatory manner. In consideration of the FCC's *Collocation Remand Order*, the ILEC shall assign cageless collocation space in accordance with the provisions of 47 CFR 51.323(f)(7)(A)-(D) and 47 CFR 51.323(i)(4)(i)-(v). The ILEC shall allow the CLP direct access to its equipment and facilities 24 hours a day, seven days a week without need for a security escort. The ILEC may require the CLP's employees and contractors to use a central or separate entrance, so long as the employees and contractors of the ILEC's affiliates and subsidiaries will be subject to the same restriction. The ILEC should designate the space available for cageless collocation in single bay increments.

WORLDCOM: WorldCom supported the AT&T position on this issue.

DISCUSSION

On this issue, the CLPs contended that they may designate the location of cageless collocation equipment within the central offices. Verizon, BellSouth, and, ultimately, the Public Staff contended that the *GTE* decision gave ILECs the right to designate the placement of caged and cageless equipment in their central offices.

Pursuant to the remand, the FCC revised its rules regarding designation of the location of cageless collocation and arrangement within the ILECs' central offices. The provisions of 47 CFR 51.323(f)(7)(A)-(D) and 47 CFR 51.323(i)(4)(i)-(v) govern the circumstances under which an ILEC may designate the location of cageless collocation

arrangements within central offices. An ILEC must assign collocation space to requesting carriers in a just, reasonable, and nondiscriminatory manner, according to the following principles: (1) an ILEC's space assignment policies and practices must not materially increase a requesting carrier's collocation costs; (2) an ILEC's space assignment policies and practices must not materially delay a requesting carrier's occupation and use of the ILEC's premises; (3) an ILEC must not assign physical collocation space that will impair the quality of service or impose other limitations on the service a requesting carrier wishes to offer; and (4) an ILEC's space assignment policies and practices must not reduce unreasonably the total space available for physical collocation or preclude unreasonably physical collocation within the ILEC's premises.[8] To be consistent with the *GTE* decision, and to balance the ILECs' security concerns with the CLPs' competition concerns, the FCC further concluded that an ILEC may require the separation of equipment from its own equipment only if each of the following conditions is met: (1) either legitimate security concerns, or operational constraints unrelated to the ILEC's or any of its affiliates' or subsidiaries' competitive concerns, warrant such separation; (2) any physical collocation space assigned to an affiliate or subsidiary of the ILEC is separated from space housing the ILEC's equipment; (3) the separated space is available in the same or shorter time frame as nonseparated space; (4) the cost of the separated space to the requesting carrier will not be materially higher than the cost of the nonseparated space; and (5) the separated space is comparable, from a technical and engineering standpoint, to nonseparated space.[9] The issue raised by the CLPs as to what happens when a CLP has a virtual collocation arrangement which it wants to convert to physical collocation has been addressed and decided in conjunction with Issue No. 39. If a CLP believes that it is being treated in a discriminatory manner by an ILEC in the siting of its collocation equipment, it may file a complaint with the Commission. The Commission finds it appropriate to require the Parties to negotiate mutually agreeable language for Section 3.1 of the Standard Offering to reflect these conclusions.

CONCLUSIONS

The Commission concludes that the ILECs have the right to designate the placement of cageless collocation equipment in their central offices; provided, however, that such designation is done in a just, reasonable, and nondiscriminatory manner which is consistent with the provisions of 47 CFR 51.323(f)(7)(A)-(D) and 47 CFR 51.323(i)(4)(i)-(v). The Commission also encourages the Parties to negotiate these details. The Commission reaffirms the decision previously reached in conjunction with Issue No. 39 on the issue raised by the CLPs as to what happens when a CLP has a virtual collocation arrangement which it wants to convert to physical collocation; i.e., the appropriate terms and conditions for conversion from virtual collocation to physical collocation. If a CLP believes that it is being treated in a discriminatory manner by an ILEC in the siting of its collocation equipment, the CLP may file a complaint with this

[8] 47 CFR 51.323(f)(7)(A)-(D)
[9] 47 CFR 51.323 (i)(4)(i)-(v)

Commission. The Commission also requires the Parties to negotiate mutually agreeable language for Section 3.1 of the Standard Offering to reflect these conclusions.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 51

ISSUE 53: What are the appropriate terms and conditions for the placement of entrance facilities?

POSITIONS OF PARTIES

ALLTEL: ALLTEL did not take a position on this issue in its Brief.

AT&T: The collocator will place its entrance facilities (copper or fiber) at a point (cable vault or manhole) that is mutually agreeable to the parties and physically accessible by the ILEC and CLP. The cable will be spliced into fire-retardant riser cable and connected to the collocator's equipment. The ILECs have not explained why the Standard Offering is not reasonable. Microwave facilities may be used for interconnection where technically feasible.

BELLSOUTH: CLPs may elect to place CLP-owned or CLP-leased fiber entrance facilities into the collocation space but they may not place nonfiber optic cable entrance facilities. Some copper cables currently enter BellSouth central offices. These older cables are associated with BellSouth's loop facilities. Entrance facilities for CLPs, on the other hand, are a form of interconnection. All of BellSouth's interconnection trunk cables entering BellSouth central offices are optical fiber facilities. The rules regarding an ILEC's collocation obligation under the Act established by the FCC in its First Report and Order clearly state that the ILEC has no obligation to accommodate nonfiber optic entrance facilities (that is, copper entrance facilities) unless and until such interconnection is first ordered by the state commission. This analysis should be done on a case-by-case basis by the Commission after the Commission has had an opportunity to review the CLP's need for copper facilities at a particular premises.

MCIm: MCIm and the other CLPs are entitled to use any technically feasible entrance cable, including copper facilities.

NEW ENTRANTS: The New Entrants supported the position taken by AT&T on this issue.

PUBLIC STAFF: The CLPs may place their owned or leased entrance facilities into the collocation space, but they are required to provide entrance facilities that meet the ILEC's standards. The FCC only requires ILECs to allow fiber optic cable for interconnection. Copper and coaxial cable are limited to adjacent collocation situations and are otherwise left to the discretion of the state commissions.

SPRINT: Sprint accepted the position taken on this issue by the CLPs to the extent it is consistent with the terms and conditions of the Standard Offering filed with the direct testimony of Sprint witness Hunsucker, it is included in the Standard Offering, and the Standard Offering is made applicable to all parties in its entirety.

VERIZON: The CLPs may elect to place CLP-owned or leased entrance facilities into the collocation space. The parties will mutually designate points of interconnection in close proximity to the building housing the collocation. The CLPs will provide and place fiber cable at the point of interconnection of sufficient length to be pulled through conduit, cable vault, and through the central office to the collocator's equipment location. A CLP may request that either the ILEC or a vendor authorized by the ILEC install fiber entrance facility cable.

WORLDCOM: WorldCom supported the AT&T position on this issue.

DISCUSSION

Section 5.2 of the Standard Offering describes the CLPs' position concerning the use of entrance facilities:

> Entrance Facilities. The CLP may elect to place CLP-owned or CLP-leased entrance facilities into the Collocation Space. The CLP will designate the point of interconnection in close proximity to the building housing the Collocation Space, such as an entrance manhole or a cable vault which are physically accessible by both parties. The CLP will provide and place fiber cable at the point of interconnection of sufficient length to be pulled through conduit and into the splice location with the ILEC inspector present. The CLP will provide fire retardant fiber cable, at parity with the ILEC's practices, that is approved for inside and outside use per manufacturers specifications at the point of interface (manhole) of sufficient length to be pulled through the conduit and cable vault to the CLP's equipment in the collocation space. If the CLP's cable is not fire retardant, the ILEC will install a fire retardant riser cable from the cable vault to the CLP's equipment in the collocation space. The CLP will splice the entrance cable to the fire retardant riser cable in the cable vault with an ILEC inspector present. If the cable has a metallic member, at the ILEC's option, either the ILEC or the CLP will ground the metallic member. If Fiber Optic Cable (FOC) is routed into the switching and/or transmission environment and the FOC is provisioned with a metallic shield or with metallic strength member, such metallic shield/strength members must be isolated and bonded to the designated OSP ground at the point of entry into the office environment (cable vault). Placement of the cable will be at the discretion of the ILEC. The CLP must contact the ILEC for instructions prior to placing the entrance facility cable in the manhole. The CLP is responsible for maintenance of the entrance facilities. At the

> CLP's option, the ILEC will accommodate where technically feasible a microwave entrance facility pursuant to separately negotiated terms and conditions. The ILEC will permit copper or coaxial cable as the transmission medium except where the ILEC can demonstrate to the CLP that use of such cable will impair the ILEC's ability to service its own customers or subsequent CLPs.

In response to Verizon's statement that it is the obligation of the CLP rather than the ILEC to install fire retardant riser cable from the cable vault to the CLP's equipment, CLP witness Gillan stated that "the CLPs do not necessarily disagree with this statement, as a general matter, however, the CLPs note that Verizon has not articulated why the Standard Offering is unreasonable in this respect." Witness Gillan further testified that CLPs are generally entitled to use any technically feasible entrance cable, including copper facilities. Copper facilities are necessary to provide xDSL when adjacent or offsite collocation is employed. Furthermore, the CLPs remarked that BellSouth acknowledged that copper cables enter ILEC central offices today, and this clearly demonstrates technical feasibility. Hence, the CLPs believe that there should be a presumption that copper cables should be allowed.

BellSouth witness Milner contended that the FCC's *Advanced Services Order* states that "[t]he ILEC has no obligation to accommodate non-fiber optic entrance facilities (that is, copper entrance facilities) unless and until such interconnection is first ordered by the state commission." He pointed out that, while some copper cables currently enter BellSouth central offices, "going forward our technology choice is fiber optic cable, so for our -- both for our interconnection trunking we use fiber optics as well as for our loop facilities. In other words, we don't place new copper loops. We use fiber optic cable out to a midpoint, digital loop carrier equipment, and then copper loop distribution that goes onto the premises." Witness Milner asserted that no CLP should be permitted to place copper entrance facilities, except to adjacent collocation arrangements, since this would accelerate the exhaust of entrance facilities at BellSouth's offices at an unacceptable rate.

Verizon witness Ries raised two objections to the Standard Offering's language concerning the placement of entrance facilities. First, the proposal specifies that if the CLP's fiber cable is not fire retardant, the ILEC will install a fire retardant riser cable from the cable vault to the CLP's equipment room in the collocation space. It is not the ILEC's obligation to satisfy this requirement for the CLP. Second, Section 5.2 of the Standard Offering would permit the use of copper entrance facilities. The diameter of equivalent copper cable is much larger than fiber cable and this inefficiently would require additional conduit and subduct space. The ILEC should allow copper entrance facilities only for onsite adjacent collocation, and only when sufficient duct space is available to accommodate the request, the arrangement is technically feasible and the arrangement meets ILEC safety requirements.

In its Proposed Order, the Public Staff took the position that the CLPs may place their owned or leased entrance facilities into the collocation space, but they are required

to provide entrance facilities that meet the ILEC's standards. According to the Public Staff, the FCC only requires ILECs to allow fiber optic cable for interconnection. Copper and coaxial cable are limited to adjacent collocation situations and are otherwise left to the discretion of the state commissions.

47 C.F.R. Section 51.323(d)(3) requires an ILEC providing physical collocation, *virtual collocation, or both, to allow for the interconnection of copper or coaxial cable if the* state commission first approves such interconnection. This point was addressed as follows in the Florida Public Service Commission's (Florida PSC's) *Order for Reconsideration:*

> In its Motion, BellSouth seeks clarification of our decision to allow ILECs to require alternative local exchange companies (ALECs) to use fiber entrance cabling only after the ILEC proves that the entrance capacity is near exhaustion at a particular central office. BellSouth seeks clarification to the extent that it believes that we intended to limit situations in which an ALEC could use copper entrance cabling to those in which the ALEC is using a controlled environmental vault (CEV) or some similar type of structure on the same land where BellSouth's central office is located, a collocation arrangement referred to by BellSouth as adjacent collocation. BellSouth explains that only in adjacent collocation arrangements is an ALEC unable to use fiber. BellSouth further explains that in ¶ 44 of the FCC's Advanced Services Order, FCC Order 99-48, the FCC stated that adjacent collocation is available when the space inside the central office (CO) is exhausted. In collocation situations within the CO, BellSouth maintains that fiber optic entrance cabling must be connected to a fiber optic terminal, or multiplexer, inside the CO in order to connect to the network. However, in adjacent collocation situations, BellSouth contends that there is no room for the fiber optic connection, and therefore, copper should be allowed between the CO and the ALEC's CEV.
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> * * *
>
> Upon consideration of the foregoing, we make the requested clarifications regarding the use of copper entrance cabling. We find that the Order could be misconstrued, as the parties have indicated. As such, we clarify our decision in that it only addresses the use of copper entrance cabling within the context of collocation outside of a CO, but does not reach the issue of copper cabling in other situations. In rendering this clarification, we also clarify that only collocation between an ALEC's CEV and an ILEC CO was considered in our decision.

The Commission believes the Standard Offering generally provides a good format for achieving guidelines that meet the administrative, technical and safety issues associated with collocation. However, the CLPs have failed to provide sufficient evidence

that copper cable should generally be allowed other than in an adjacent collocation situation. The Florida PSC's *Order For Reconsideration* clarifies that the use of copper entrance facilities only addressed situations where collocation was outside of a central office, and did not reach the issue of copper cabling in other situations.

The Commission believes that the unfettered use of copper entrance facilities, as requested by the CLPs, would accelerate the exhaust of ILEC central office entrance conduit and subduct. There are no FCC rules regarding fire retardant cable, but the CLPs are aware that they are required to meet the same safety standards that apply to ILECs. Thus, the burden should be on the CLPs to provide and install fire retardant riser cable. Central office entrance facilities should be limited to fiber optic cable unless the ILEC and CLP mutually agree to placement of copper entrance facilities or the CLP can convince the Commission, in a complaint proceeding, to authorize such placement at a particular premises on a case-by-case basis.

CONCLUSIONS

The Commission concludes that the CLPs have failed to provide sufficient evidence that copper cable should generally be allowed other than in an adjacent collocation situation. Thus, central office entrance facilities should be limited to fiber optic cable unless the ILEC and CLP mutually agree to placement of copper entrance facilities or the CLP can convince the Commission, in a complaint proceeding, to authorize such placement at a particular premises on a case-by-case basis. Further, the Commission finds it appropriate to require the CLPs to provide and install fire retardant riser cable. The Commission also requires the Parties to negotiate mutually agreeable language for Section 5.2 of the Standard Offering to reflect these conclusions and those subsequently addressed in conjunction with Issue No. 70.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 52

ISSUE 54: What are the appropriate terms and conditions for the placement of dual entrance facilities?

POSITIONS OF PARTIES

ALLTEL: ALLTEL did not take a position on this issue in its Brief.

AT&T: Dual entrances provide an opportunity to prevent some network failures. Section 5.2 of the Standard Offering does not require dual entrances. It requires parity. If multiple entry points are available, and if the collocator desires, multiple entry points will be made available. The collocator will use the ILEC's certified vendor for engineering and installation. All shared cost incurred by the CLP will be prorated, based upon the number of cables placed in the entry points by the involved parties.

BELLSOUTH: BellSouth will provide at least two interconnection points at each premises where there are at least two such interconnection points available and where capacity exists.

MCIm: MCIm did not take a position on this issue in its Brief.

NEW ENTRANTS: The New Entrants supported the position taken by AT&T on this issue.

PUBLIC STAFF: The ILECs shall provide two interconnection points for each ILEC premises where there are at least two entry points for the ILEC's cable facilities and where space is available.

SPRINT: Sprint accepted the position taken on this issue by the CLPs to the extent it is consistent with the terms and conditions of the Standard Offering filed with the direct testimony of Sprint witness Hunsucker, it is included in the Standard Offering, and the Standard Offering is made applicable to all parties in its entirety.

VERIZON: The ILEC will permit two interconnection points at each premise whenever there are two such interconnection points available for the ILEC cable.

WORLDCOM: WorldCom supported the AT&T position on this issue.

DISCUSSION

Section 5.2.1 of the Standard Offering provides the proposed conditions under which ILECs shall provide dual entrance facilities:

> Dual Entrance. The ILEC will permit the CLP to designate and the ILEC will provide at least two interconnection points at each Premise wherever there are at least two such interconnection points for the ILEC cable. The ILEC will also provide nondiscriminatory access to any entry point into the Premises in excess of two points in those locations where ILEC also has access to more than two such entry points. Where such dual points of entry are not immediately available, the ILEC shall perform work as is necessary to make available such separate points of entry for the CLP at the same time that it makes such separate points of entry available for itself. In each instance where ILEC performs such work in order to accommodate its own needs and those specified by the CLP in the CLP's written request, the CLP and the ILEC shall share the costs incurred by pro-rating those costs using the number of cables to be placed in the entry point by both the ILEC and the CLP(s) in the first twelve (12) months.

CLP witness Gillan asserted that "Whenever multiple entry points are available to the ILEC, they must similarly be available to the CLP." In his rebuttal testimony,

witness Gillan pointed out that physically diverse entrances into a wire center provide redundancy and survivability in case of network failures (e.g., if there is a cable cut at one entrance, the overall service is not affected). He also pointed out that Section 5.2.1 does not require that there be dual entrances, but merely requires parity; i.e., if there are multiple entry points then the ILEC must provide access to those points to CLPs.

BellSouth witness Milner stated in his rebuttal testimony that:

> BellSouth has no obligation to provide for second entrances to its central office buildings where only one exists. BellSouth will provide at least two points at each premise where there are at least two such interconnection points available and where capacity exists. Upon receipt of a request for physical collocation, BellSouth will provide the CLP with information regarding BellSouth's capacity to accommodate dual entrance facilities. If conduit in the serving manhole(s) is available and is not reserved for another purpose for utilization within 12 months of the receipt of an application for collocation, BellSouth will make the requested conduit space available for installing a second entrance facility to CLP's arrangement. The location of the serving manhole(s) will be determined at the sole discretion of BellSouth. Where dual entrances are not available due to lack of capacity, BellSouth will so state in its response to the CLP's application.

Verizon witness Ries testified that dual entrances are usually defined as two entry points for cable facilities, which allow a carrier to have diversity with its cable routes. However, the CLPs suggest in Section 5.2.1 of the Standard Offering that if an ILEC has additional entry points to a central office, the CLP should have access to all those multiple points. Witness Ries goes on to say that entry for the CLPs at all these points is unnecessary for any legitimate purpose. The ILEC may have multiple entry points to connect to multiple destinations within its network, as well as to fulfill multiple interconnection requirements with various carriers. The CLP does not require multiple points to connect to its single collocation node. Under FCC Rules, the ILEC will provide two entry points, when two points are available.

In its Proposed Order, the Public Staff took the position that the ILECs must provide two interconnection points for each ILEC premises where there are at least two entry points for the ILEC's cable facilities and where space is available.

47 C.F.R. Section 51.323(d)(2) states that an ILEC must:

> Provide at least two such interconnection points at each incumbent LEC premises at which there are at least two entry points for the incumbent LEC's cable facilities, and at which space is available for new facilities in at least two of those entry points.

The Commission is of the opinion that ILECs are required by FCC rules to provide at least two interconnection points for each ILEC premises where there are at least two entry points for the ILEC's cable facilities and where space is available. If the ILEC's central office has at least two entry points and space is available, the Commission believes that this will allow for redundancy and survivability and will provide for parity between the requesting CLP and the ILEC. If there are less than two entry points available or if there is no entry space available, the ILEC shall provide the requesting CLP a tour of the entry facilities only (cable vault, manhole, etc.). Should the ILEC's central office require *additional entry facilities and construction, then the ILEC shall consider the CLP's request* for additional entry facilities in its planning and design of the new entry facilities. Costs for these new facilities should be shared by the ILEC and requesting CLP on a use cost basis determined by negotiations between the two companies.

CONCLUSIONS

The Commission concludes that ILECs are required by FCC rules to provide at least two interconnection points for each ILEC premises where there are at least two entry points for the ILEC's cable facilities and where space is available. If there are less than two entry points available or if there is no entry space available, the ILEC shall provide the requesting CLP a tour of the entry facilities only (cable vault, manhole, etc.). Should the ILEC's central office require additional entry facilities and construction, then the ILEC shall consider the CLP's request for additional entry facilities in its planning and design of the new entry facilities. Further, the Commission concludes that the costs for these new facilities should be shared by the ILEC and requesting CLP on a use cost basis determined by negotiations between the two companies. The Commission also requires the Parties to negotiate mutually agreeable language for Section 5.2.1 of the Standard Offering to reflect these conclusions and those subsequently addressed in conjunction with Issue No. 71.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 53

ISSUE 55: What are appropriate terms and conditions for additions and/or augmentations for requested or in-place collocation space?

ISSUE 81 (Sprint 7): What are the appropriate provisioning intervals for the Augments contained in Sections 9.2 - 9.5?

POSITIONS OF PARTIES

AT&T: AT&T took the same position as the New Entrants and WorldCom.

ALLTEL: The terms and conditions for augmentation of existing collocation agreements reasonably should provide for shorter provisioning intervals, and lower prices, as the

intervals and costs associated with applications for augmentations may be less than the time and cost required for establishment of entirely new collocation arrangements.

BELLSOUTH: The same terms and conditions that apply for an initial collocation request should apply for additions and/or augmentations to requested or in-place collocation space. An application by the CLP is the appropriate method to request any modifications to a collocation space. The application will provide all of the CLP's equipment and service specifications that would allow BellSouth to provision or augment the collocation space. This is necessary because it is BellSouth, rather than the CLP, that must determine the sufficiency of infrastructure systems.

MCIm: This issue was not addressed in MCIm's Brief.

NEW ENTRANTS: It is not reasonable to treat additions or augmentations the same as initial requests for space. An application fee, in particular, is not invariably appropriate, because provisioning for space has already occurred.

PUBLIC STAFF: If a CLP augments its equipment within the initial forecast and no space preparation is required, then no fees or additional intervals should apply. The categories detailed by Sprint are the most reasonable divisions of the different types of augments, as well as the proposed intervals if the CLP submits a blind firm order confirmation and an augment application with the appropriate fees for the requested augment. If a CLP uses a third-party vendor, the interval for administrative work will be 20 days, the same interval as for a minor augment. An ILEC may request an extension of the interval from the Commission within 30 days of the receipt of the firm order.

SPRINT: An addition or augmentation to requested and/or in-place collocation space should adhere to the same equipment standards (NEBS and NEC) that other collocation arrangements include and that augmentations must adhere to appropriate environmental and safety guidelines. Proposed provisioning intervals for augmentations and additions are as follows: (a) 30 days for administrative work, (b) 20 days for simple augments, (c) 45 days for minor augments, (d) 60 days for intermediate augments, and (e) 90 days for major augments.

VERIZON: Verizon proposed that when initial forecasted demand parameters with no additional space preparations are required, no additional charges or additional intervals should apply. When space preparation work (e.g., increase in AC or DC power, generation of additional BTUs, increases in floor space requirements over additional applications) is involved, complete application and engineering fees would apply.

WORLDCOM: WorldCom took the same position as AT&T and the New Entrants.

DISCUSSION

ALLTEL commented in its Brief that the majority of augmentation requests involve less work than requests for initial establishment of a collocation arrangement. ALLTEL stated that BellSouth is unwilling to agree to any provisioning interval shorter than the same 90-day interval it advocates for establishing an entirely new collocation. In concluding its comments, ALLTEL commented that the terms and conditions for augmentation should reasonably and rationally recognize the difference between augmentation of existing arrangements and establishment of entirely new collocations.

BellSouth stated that the same terms and conditions that apply for any collocation request should apply for additions and/or augmentations to requested or in-place collocation space and that an application by the CLP is the appropriate method to request any modifications to a collocation space. BellSouth commented that having all of the CLPs service and equipment information on the augmentation request would allow the ILEC to provision or augment the collocation space. According to BellSouth, it is the ILEC, rather than the CLP, that must determine the sufficiency of infrastructure systems. These infrastructure systems (for example, the power plant) must accommodate all the equipment in the central office, both the ILECs and all collocators. BellSouth further commented, that since a CLP could not know an ILEC's need in this regard, the CLP is not in a position to determine the sufficiency of those infrastructure systems.

In its Brief, BellSouth stated that the ILECs are in a significantly more knowledgeable position than any of the CLPs with respect to the mechanics of the collocation process, because it is the ILEC, obviously, that must administer the space available for collocation in its central offices in a way that is as fair as possible for all parties. Furthermore, BellSouth stated that its central offices are in greater demand because BellSouth serves the larger, more urban areas of North Carolina where competition has emerged and is growing at a rapid rate. BellSouth commented that ILECs like BellSouth have considerably greater experience/responsibility in managing the collocation process than does any particular CLP and, for this reason, have a more realistic grasp of what constitutes safe, efficient collocation and what are the appropriate time frames for provisioning physical collocation requests. BellSouth also stated that it had met current provisioning intervals it had promised to CLPs through individual interconnection agreements. BellSouth stated that the CLPs have not used a significant amount of the space to begin offering competitive services.

The New Entrants commented in their Proposed Order in the Proposed Finding of Fact No. 2 that, Verizon and BellSouth have taken the position that even the simplest augments to collocation space should be treated from a provisioning perspective as though they were a new collocation arrangement. Additionally, the New Entrants stated that augmentations are generally shorter than the standard physical collocation interval because power and permit requirements are not needed. The New Entrants stated that plainly augmentation does not require as much time to provision as a full collocation. Furthermore, the New Entrants commented that augments come in varying sizes and

levels of complexity, and as such, should be treated differently from new applications for collocation space. The New Entrants proposed that the Commission adopt the standards of the Texas PUC which require that small augments be provisioned in 15 days, medium augments be provisioned in 30 days, and larger augments be provisioned in 45 days.

In their Brief, the New Entrants stated that augments to existing collocations typically involve attaching equipment to existing structures with bolts and attaching prepared cables. Accordingly, the New Entrants commented that such augments do not require as much time to provision as a new collocation. However, the New Entrants commented, that the incumbents take the position that even the smallest augment should be treated from a provisioning perspective as though it is a new collocation. The New Entrants concluded that this position is unreasonable and should be rejected.

In the New Entrants' Issues Matrix, the New Entrants stated that it is not reasonable to treat additions or augmentations the same as initial requests for space. Furthermore, the New Entrants commented that unlike other arrangements (caged, cageless, virtual and adjacent) an augmentation should have a shortened interval. The New Entrants also stated that Sprint had proposed 20-30 days for administrative, 45 days for small, 60 days for medium and 60-90 days for large. The New Entrants concluded their comments by stating that it is just as important to standardize the augmentation process as it is to standardize the initial collocation process, to reduce cost and delay. Lastly, the New Entrants stated that unusual circumstances that may necessitate an increased period for provisioning may be processed through a waiver.

In its Brief, Sprint proposed the following intervals for augmentations and additions: (a) 30 days for administrative work, (b) 20 days for simple augments, (c) 45 days for minor augments, (d) 60 days for intermediate augments, and (e) 90 days for major augments. Sprint commented that these intervals afford CLPs meaningful opportunity to compete while still allowing ILECs a reasonable time period for provisioning of augments and additions.

On behalf of Sprint, witness Hunsucker's Rebuttal Testimony provided the following definition of varying augmentations:

> Simple Augments, such as the placement of additional AC convenience outlets, or only a fuse change for additional DC power, should be provided within 20 days of receipt of a complete augment application.
>
> Minor Augments, consisting primarily of interconnection cabling arrangements where the panels, relay racks, and other infrastructure exist should be provided within 45 days of receipt of a complete augment application.
>
> Intermediate Augments, consisting of additional interconnection panels/blocks, cabling, DC power arrangements, where minor infrastructure work is required, should be provided within 60 days of receipt of a complete augment.

Major Augments, requiring major infrastructure work (e.g., cage expansion, power cabling) should be provided within 60-90 days of receipt of a complete augment application.

Verizon stated that the terms and conditions for additions and augmentations to collocation space depend on the nature of the change to the space. Verizon commented that application fees for additions and/or augmentations are applicable where the collocation arrangement has been inspected and turned over to the CLP. The amount of such fees would depend on the magnitude of the requested change. Verizon commented that major augments (e.g., those requiring AC or DC power, adding equipment that generates more BTUs of heat, or increasing caged floor space beyond the CLP's original application) require a complete application and an engineering fee. Verizon further commented that a minor augment fee would apply when a request requires the ILEC to perform certain services or functions on behalf of the CLP, including but not limited to requests to pull cable for CLP to CLP interconnects, DS0, DS1, and DS3 facility terminations.

Verizon in its Brief stated that augmentation requests may or may not require less work than the initial provisioning, and one cannot assume that the interval for an augmentation always will be shorter than the initial setup. Verizon commented that ALLTEL witness Caldwell acknowledged that simply because the request is an augmentation rather than a new request does not by definition decrease the amount of work that an ILEC might have to perform and that work may be greater for an augmentation than it is for an initial request. Verizon further commented that the amount of work required to handle augmentations will vary depending upon the nature of the augment and may cause major modifications in existing HVAC, power, or other infrastructure requirements. Verizon concluded that augment requests should be treated using the standard intervals for collocation provisioning.

Verizon commented that the CLPs attempted to identify a myriad of augments and then pre-determine specific intervals for completing these types of augments. Verizon stated that this recommendation should be rejected in favor of a more realistic and flexible case-by-case process by which augments would be addressed and completed for the CLPs. Verizon stated the augments suggested by the New Entrants do not permit case-by-case analysis of augments and inevitably would be out-of-date quickly given the ever-changing dynamics in the telecommunications industry.

The Public Staff stated that the time to complete augments indeed will vary widely, just as will the time to complete an initial collocation arrangement. Nonetheless, the Public Staff commented that augments will require less time for completion than requests for collocation. The Public Staff stated that it agreed with the CLPs that if a CLP augments its equipment within its initial forecast and no space preparation is required, then no fees or additional intervals should apply. Further, the Public Staff stated that the categories detailed by Sprint are the most reasonable divisions of the different types of augments. The Public Staff commented that if a CLP used a third-party vendor, the interval for

administrative work will be 20 days, the same interval as for a simple augment. The Public Staff concluded its comments stating that it agreed with BellSouth that an ILEC may request an extension of the interval within 30 days of the receipt of the firm order.

The Commission agrees with the Public Staff, in that, the positions of the parties varied widely on the terms and conditions for augments to existing collocation space. Also, the Commission agrees that the categories of augments proposed by Sprint are the most reasonable. The Commission believes that augments, as a practical matter, will be required from time to time and that CLPs should not be unduly delayed in having reasonable requests completed in a timely manner.

CONCLUSIONS

The Commission concludes that if a CLP augments its equipment within the initial forecast and no space preparation is required, then no fees or additional intervals should apply. The categories detailed by Sprint are the most reasonable divisions of the different types of augments, as well as the proposed intervals if the CLP submits a blind firm order confirmation and an augment application with the appropriate fees for the requested augment. If a CLP uses a third-party vendor, the interval for administrative work will be 20 days, the same interval as for a simple augment. An ILEC may request an extension of the interval from the Commission within 30 days of the receipt of the firm order.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 54

ISSUE 56: Should augmentations to existing collocation space be treated differently from new applications for collocation space?

POSITIONS OF PARTIES

AT&T: AT&T took the same position as the New Entrants and WorldCom.

ALLTEL: Procedures for augmentation of existing arrangements should be flexible, should recognize that augmentation of existing arrangements can involve less effort and cost than establishment of a new arrangement. Thus, intervals for augmentation should necessarily be less than intervals for new collocation applications, due to the less demanding tasks and construction requirements involved.

BELLSOUTH: Equipment augmentations should be treated the same as new applications. The amount of work performed by BellSouth in response to the collocator's applications depends on the nature and scope of the request and the particular premises involved rather than whether the equipment will be placed in a "new" collocation arrangement or an augmentation rather than a new request does not necessarily decrease the amount of work that will need to be done to provision the request. In fact, in some cases, the work may be greater than that initially required.

MCIm: This issue was not addressed in MCIm's Brief.

NEW ENTRANTS: There will be variations (less engineering/installation versus more) as to the degree of difficulty and work required of some augmentations. Accordingly, augmentations should be treated differently from new applications for collocation space. Generally, augmentations should be processed and provisioned more quickly and at less cost than new application for collocation space.

PUBLIC STAFF: As discussed in Issue No. 55, if a CLP augments its equipment within the initial forecast and no space preparation is required, then no fees or additional intervals should apply. The categories detailed by Sprint are the most reasonable divisions of the different types of augments, as well as the proposed intervals if the CLP submits a blind firm order confirmation and an augment application with the appropriate fees for the requested augment. If a CLP uses a third-party vendor, the interval for administrative work will be 20 days, the same interval as for a minor augment. An ILEC may request an extension of the interval from the Commission within 30 days of the receipt of the firm order.

SPRINT: Sprint's position pertaining to augmentation and provisioning intervals for augmentation is set forth under Issue No. 55.

VERIZON: Verizon proposes that augmentations to existing collocation space should be treated as follows: 1) if the CLP requests a change in the physical environment, space preparation or an increase in power, the CLP should pay an engineering fee and submit an application; 2) if the CLP requests an augment where the ILEC does some work but the request does not impact the size requirements of the space or require an increase in power supplied, the CLP should pay a minor augment fee and submit an application; and 3) if an augment request does not require additional space preparation by the ILEC and does not result in the original specifications of the CLP's previously filed application being exceeded, such as CLP to CLP connections, the CLP should submit an application with no fee.

WORLDCOM: WorldCom took the same position as AT&T and the New Entrants.

DISCUSSION

ALLTEL commented in its Brief that collocation procedures should establish intervals for augmentation of existing collocations that are rationally related to the nature and extent of the work required by the augmentation. ALLTEL commented that an ILEC should have a shorter provisioning interval for a simple augmentation and a longer interval for a complex augmentation. Furthermore, less demanding tasks and construction requirements are typically involved in augmenting existing collocation arrangements. ALLTEL stated that, therefore less time should be allowed for completion of these tasks.

ALLTEL stated that BellSouth takes the position that augmentations should be treated the same as establishments of new collocation arrangements, with a 90-day interval under ordinary circumstances and a 130-day interval in extraordinary cases. ALLTEL commented that in taking this position BellSouth ignores the fact that augmentation of existing arrangements will generally involve less effort and cost than establishment of a new arrangement. ALLTEL concluded its remarks stating that to rigidly require identical intervals for augmentation and establishment of an entirely new collocation is to arbitrarily and unnecessarily impede the growth of local competition.

BellSouth stated that equipment augmentations should be treated the same as new applications. As stated by BellSouth, the amount of work performed in response to the collocator's application depends on the nature and scope of the request and the particular premises involved rather than whether the equipment will be placed in a "new" collocation arrangement or an augmentation to an existing collocation arrangement. BellSouth commented that simply because a request is an augmentation rather than a new request does not necessarily decrease the amount of work that will need to be done to provision the request. In fact, in some cases, the work may be greater than that initially required.

In the New Entrants' Issues Matrix, the New Entrants stated that BellSouth and Verizon fail to recognize the difference between leasing new space and improving space that is already subject to an existing arrangement. The New Entrants commented that augmentations should be treated differently from new applications for collocation space. As stated by the New Entrants, an augment should be treated differently from a new application because it may not require items such as power and special permits. The New Entrants commented that generally augmentations should be processed and provisioned more quickly and at less cost than new applications for collocation space. Furthermore, the New Entrants stated that it was just as important to standardize the augmentation process as it is to standardize the initial collocation process to reduce cost and delay. The New Entrants further commented that unusual circumstances that may necessitate an increased period for provisioning may be processed through a waiver.

In its Proposed Order, Sprint stated that its position pertaining to augmentation and provisioning was set forth under Issue No. 55. As discussed under Issue No. 55, Sprint agreed with the New Entrants that a request for an addition or augmentation to requested and/or in-place collocation space should adhere to the same equipment standards (NEBS and NEC) that other collocation arrangements include and that augmentations adhere to appropriate environmental and safety guidelines. Because Sprint did not agree with the New Entrants' provisioning intervals, Sprint laid out its proposed provisioning intervals under Issue No. 55.

Verizon stated that the terms and conditions for additions and augmentations to collocation space depend on the nature of the change to the space. Verizon's comments on this issue were presented previously in Verizon's discussion of Issue No. 55. Verizon in its Brief stated that augmentation requests may or may not require less work than the initial provisioning, and one cannot assume that the interval for an augmentation always

will be shorter than the initial setup. Verizon concluded that augment requests should be treated using the standard intervals for collocation provisioning.

Verizon commented that the CLPs attempted to identify a myriad of augments and then pre-determine specific intervals for completing these types of augments. Verizon stated that this recommendation should be rejected in favor of a more realistic and flexible case-by-case process by which augments would be addressed and completed for the CLPs. As presented in the discussion of Issue No. 55, Verizon stated the augments suggested by the New Entrants do not permit case-by-case analysis of augments and inevitably would be out-of-date quickly given the ever-changing dynamics in the telecommunications industry.

The Public Staff combined its discussion of Issue Nos. 55 and 56. As presented in the discussion of Issue No. 55, the Public Staff stated that the time to complete augments indeed will vary widely, just as will the time to complete an initial collocation arrangement. Nonetheless, the Public Staff commented that augments will require less time for completion than requests for collocation. The Public Staff stated that it agreed with the CLPs that if a CLP augments its equipment within its initial forecast and no space preparation is required, then no fees or additional intervals should apply. Further, the Public Staff stated that the categories detailed by Sprint are the most reasonable divisions of the different types of augments. The Public Staff commented that if a CLP used a third-party vendor, the interval for administrative work will be 20 days, the same interval as for a simple augment. The Public Staff concluded its comments stating that it agreed with BellSouth that an ILEC may request an extension of the interval within 30 days of the receipt of the firm order.

As presented in the discussion of Issue No. 55, the Commission agrees with the Public Staff, in that, the positions of the Parties varied widely on the terms and conditions for augments to existing collocation space. Also, the Commission agrees that the categories of augments proposed by Sprint are the most reasonable. The Commission believes that augments, as a practical matter, will be required from time to time and that CLPs should not be unduly delayed in having reasonable requests completed in a timely manner.

CONCLUSIONS

The Commission concludes that if a CLP augments its equipment within the initial forecast and no space preparation is required, then no fees or additional intervals should apply. The categories detailed by Sprint are the most reasonable divisions of the different types of augments, as well as the proposed intervals if the CLP submits a blind firm order confirmation and an augment application with the appropriate fees for the requested augment. If a CLP uses a third-party vendor, the interval for administrative work will be 20 days, the same interval as for a simple augment. An ILEC may request an extension of the interval from the Commission within 30 days of the receipt of the firm order.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 55

ISSUE 57: What are the proper levels of insurance for a CLP to obtain prior to occupying collocation space?

POSITIONS OF PARTIES

ALLTEL: ALLTEL did not address this issue in its Brief.

AT&T: Reasonable and standard amounts of insurance set forth as a compromise in Section 8 of the Standard Offering should be provided by CLPs. Insurance should be provided by an insurer with a Best rating of A- or above who is licensed to do business in all jurisdictions covered by the agreement.

BELLSOUTH: At its sole cost and expense, the CLP must procure, maintain, and keep in force insurance underwritten by insurance companies licensed to do business in the states applicable to the agreement between BellSouth and the CLP and having a Best rating of A- at levels set forth in BellSouth's standard collocation attachment.

MCIm: MCIm did not address this issue in its Brief.

NEW ENTRANTS: The New Entrants agreed with AT&T's position on this issue.

PUBLIC STAFF: The Public Staff stated that the insurance requirements in Section 8 of the Standard Offering are satisfactory.

SPRINT: Subject to the provision that a CLP seeking to self-insure must have adequate net worth (equal to or not less than five times the liability to be self-insured) to cover any liability, Sprint agreed with the position taken by the New Entrants.

VERIZON: A CLP shall carry, and cause subcontractors to carry insurers with a Best rating of not less than A- and licensed to do business in jurisdictions covered by the Standard Offering. Verizon supports the following levels of insurance: workers compensation-$1,000,000; commercial general liability-$1,000,000; business auto-$1,000,000; umbrella or excess liability amounts-$10,000,000; all risk property insurance-full replacement cost. CLPs requesting to self-insure should be reviewed on a case-by-case basis.

WORLDCOM: WorldCom agreed with AT&T's position on this issue.

DISCUSSION

Section 8 of the Standard Offering provides that the CLP and its subcontractors shall carry insurance from an insurer with a Best rating of A- or above who is licensed to do business in all jurisdictions covered by the agreement.

CLP witness Gillan stated that the following provisions should be included in the Standard Offering: the insurance must include workers' compensation insurance with an employer's liability limit of no less than $1,000,000; commercial general liability insurance with coverage for contractual liability and products/completed operations liability of not less than $1,000,000 combined single limit per occurrence; business auto insurance with a limit of no less than $1,000,000 combined single limit per accident; umbrella or excess liability insurance not less than $5,000,000 combined single limit per occurrence and aggregate in excess of the other insurance; and all risk property insurance on a full replacement cost basis. In addition, the CLPs' liability will not be limited to the policy limits, and the CLP must furnish the ILEC with certificates of insurance. The insurance policies will all be primary policies. Finally, a CLP may self-insure if its net worth is at least five times greater than the liability it is self-insuring. According to witness Gillan, these amounts are standard in the industry.

BellSouth proposed that a CLP maintain insurance underwritten by insurance companies licensed to do business in the applicable states and with a Best rating of A-. BellSouth proposed that the coverage must include $10,000,000 of commercial general liability coverage or a combination of $10,000,000 of commercial general liability insurance and excess/umbrella coverage with BellSouth named as an additional insured; workers' compensation and employers' liability coverage of $100,000 per accident, $100,000 per disease, and $500,000 policy limit by disease; and all risk property coverage on a full replacement cost basis insuring all of the CLP's real and personal property in the central office. If the CLP's net worth exceeds $500,000,000, the CLP may be self-insured. According to BellSouth, the CLP may opt to obtain business interruption and contingent business interruption insurance with the understanding that BellSouth assumes no liability for loss of profit or revenues if interruption occurs. Certificates of insurance should be submitted 10 days before commencement of work in the collocation space. The CLP must conform to recommendations made by BellSouth's fire insurance company.

Verizon recommended that CLPs and their subcontractors carry insurers with a Best rating of no less than A- and with a license to do business in the jurisdictions covered by the agreement. They must have $1,000,000 coverage each for workers' compensation, commercial general liability, and business auto coverage, and $10,000,000 coverage for umbrella or excess liability amounts and all risk property insurance (full replacement cost). Verizon also proposed reviewing requests for self-insurance on a case-by-case basis.

The Public Staff stated its support for Section 8 of the Standard Offering as proposed by the CLPs. It reasoned that the CLPs' proposal was the result of negotiations

by the CLPs and Sprint and that the insurance provisions should be reasonable to provide proper insurance coverage for damages by collocators. The Public Staff also supported inclusion in the Standard Offering BellSouth's proposed wording in the section on workers' compensation insurance, the addition of language informing the CLP of its right to procure business interruption and contingent business interruption insurance, the inclusion of a requirement that certificates of insurance be submitted 10 days prior to the commencement of work in the collocation space, and a requirement that the CLP must conform to the recommendations made by an ILEC's fire insurance company.

The major difference in the Parties' proposals is that BellSouth and Verizon are seeking an umbrella policy of at least $10,000,000 and the CLPs recommend that the limits of the policy be no less than $5,000,000. According to BellSouth, it has assessed the level of risk posed by collocators in central offices and the appropriate amount is $10,000,000. BellSouth has also suggested changes to the wording of Section 8 on workers' compensation insurance, the addition of language informing the CLP of its right to procure business interruption and contingent business interruption insurance, the inclusion of a requirement that certificates of insurance be submitted 10 days prior to the commencement of work in the collocation space, and the inclusion of a requirement that a CLP must conform to recommendations made by an ILEC's fire insurance company.

None of the Parties presented the Commission with any data to support either a $5,000,000 or $10,000,000 umbrella policy limit. The CLPs maintained that their proposal is standard in the industry, and BellSouth and Verizon contended that the possible harm caused by collocators is more likely to be covered by $10,000,000 rather than $5,000,000. The Commission notes, as does the Public Staff, that the CLPs' proposal was the result of negotiation by CLPs and Sprint, and is of the opinion that the insurance provisions should be reasonable to provide proper insurance coverage for damages by collocators. Thus, the CLPs' proposed Section 8.1.4 should be included in the Standard Offering.

In addition, the Commission agrees with the Public Staff's position that the Standard Offering should include BellSouth's proposed changes to the wording of the section on workers' compensation insurance (BellSouth's Section 8.2.2) as discussed herein, the addition of language informing the CLP of its right to procure business interruption and contingent business interruption insurance (BellSouth's Section 8.2.4), the inclusion of a requirement that certificates of insurance be submitted 10 days prior to the commencement of work in the collocation space (BellSouth's Section 8.5), and a requirement that the CLP must conform to the recommendations made by an ILEC's fire insurance company (BellSouth's Section 8.6).

CONCLUSIONS

The Commission concludes that the CLPs' proposed Section 8.1.4 should be included in the Standard Offering along with BellSouth's proposed changes to the wording of the section on workers' compensation insurance (BellSouth's Section 8.2.2) as

discussed herein, the addition of language informing the CLP of its right to procure business interruption and contingent business interruption insurance (BellSouth's Section 8.2.4), the inclusion of a requirement that certificates of insurance be submitted 10 days prior to the commencement of work in the collocation space (BellSouth's Section 8.5), and a requirement that the CLP must conform to the recommendations made by an ILEC's fire insurance company (BellSouth's Section 8.6).

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 56

ISSUE 58: What obligations does the ILEC have to notify CLPs with respect to conditions in the central office?

POSITIONS OF PARTIES

ALLTEL: ALLTEL did not address this issue.

AT&T: The ILEC should notify the CLP regarding all service affecting conditions in the central office. The notification should recognize that time is of the essence and should be made by expeditious means and confirmed in writing.

BELLSOUTH: BellSouth is agreeable to informing the CLP by telephone of an emergency related activity that BellSouth or its subcontractors may be performing that may substantially affect the CLPs collocation space or supporting circuits. BellSouth will give three calendar days notice before access is required for making BellSouth equipment and building modifications and five business days where BellSouth or its subcontractors are performing non-emergency work that could affect CLP space or circuits.

MCIm: MCIm did not address this issue in its Brief.

NEW ENTRANTS: New Entrants took the same position as AT&T.

PUBLIC STAFF: Section 16.3 of the Standard Offering should be revised to require the ILECs to give CLPs seven calendar days' notice prior to undertaking construction activities which may pose risks to the CLPs service.

SPRINT: Sprint was generally agreeable to the New Entrants position.

VERIZON: For construction activities within the central office for which the ILEC takes or would take action to protect its own equipment, it should notify affected CLPs in the same manner and at the same time that it notifies ILEC personnel.

WORLDCOM: WorldCom took the same position as AT&T.

DISCUSSION

This issue concerns Section 16.3 of the Standard Offering:

> Construction Notification. The ILEC will notify the CLP prior to the scheduled start dates of all construction activities (including power additions or modifications) in the general area of the CLP's Collocation Space with potential to disrupt the CLP's services. The ILEC will provide such notification to the CLP at least twenty (20) calendar days before the scheduled start of such construction activity. The ILEC will inform the CLP as soon as practicable by telephone of all emergency-related activities that the ILEC or its subcontractors are performing in the general area of the CLP's Collocation Space, or in the general area of the AC and DC power plants which support the CLP's equipment. If possible, notification of any emergency-related activity will be made immediately prior to the start of the activity so that the CLP may take reasonable actions necessary to protect the CLP's Collocation Space.

In his direct testimony, CLP witness Gillan proposed adding to Section 16.3 the requirement that notifications of service-affecting conditions be "confirmed in writing." He objected to Verizon's proposal to give only 24 hours' notice prior to "starting construction activities that could potentially cause service outage," and to BellSouth's proposal to provide 48 hours' notice prior to making equipment and building modifications in a CLP's collocation space. He also recommended that ILECs be required to provide notice of possible service-affecting conditions "in a manner that gets to the CLPs immediately."

BellSouth witness Hendrix suggested the following arrangements for alerting CLPs to potential service-disrupting activities:

1. At least 48 hours notice before BellSouth requires "access to the collocation space for purposes of making BellSouth equipment and building modifications (e.g., running, altering or removing racking, ducts, electrical wiring, HVAC, and cables)."

2. Five business days' notice prior to those instances where BellSouth or its subcontractors may be performing non-emergency work that has a substantial likelihood of directly affecting the collocation space occupied by the CLP, or that is directly related to circuits that support CLP equipment.

3. Telephone notification "as soon as practicable" of any "emergency-related activity that BellSouth or its subcontractors may be performing that has a substantial likelihood of directly affecting the collocation space occupied by the CLP, or is directly related to circuits that support CLP equipment."

Witness Hendrix criticized the 20-calendar day notice requirement set forth in Section 16.3, and the provision that requires notice, if possible, prior to any emergency-related activity, as being "totally unreasonable." He also opposed witness Gillan's suggestion that ILECs should be required to provide written notice to the CLPs of possible service-affecting conditions.

The Public Staff's view was that Section 16.3 of the Standard Offering should be revised to require ILECs to give the CLPs seven calendar days notice prior to undertaking construction activities which may pose risks to CLP service.

Verizon witness Ries testified that "Verizon's practice requires that Central Office Engineering and Installation employees notify Central Office personnel at least 24 hours prior to starting construction activities that could potentially cause service outages" and suggested that the same standard that applies to Verizon personnel should apply to CLP personnel. He argued that the 20-day period proposed in Section 16.3 was "entirely too long."

After examining Section 16.3 and evaluating the Companies' testimonies presented on this issue, the Commission concludes that Section 16.3 is acceptable as written, with the sole exception of the 20-calendar day notice requirement for scheduled construction activities that may pose risks to the CLPs' service. We believe that BellSouth's proposal to give five business days notice strikes a reasonable balance between the ILECs' scheduling needs and the CLPs' service concerns. However, we choose to substitute an interval of "seven calendar days" because of the ambiguity of the term "business days" as it is applied to various organizations. A seven-day notice period should allow the CLP adequate time to take measures to protect its equipment, if necessary.

The Commission will not require ILECs to contact CLPs in writing concerning possible service-affecting conditions in the central office. However, ILECs should take care to maintain records which show the dates and times that CLP representatives were contacted and which furnish basic details concerning these contacts.

Accordingly, Section 16.3 should be modified to change the phrase "at least twenty (20) calendar days" to "at least seven (7) calendar days."

CONCLUSIONS

The Commission concludes that Section 16.3 of the Standard Offering should be revised to require the ILECs to give CLPs seven calendar days' notice prior to undertaking construction activities which may pose risks to the CLPs' service.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 57

ISSUE 59: What security measures and safety requirements are reasonable to protect the ILEC premises and the ILEC personnel?

POSITIONS OF PARTIES

ALLTEL: ALLTEL did not address this issue in its Brief.

AT&T: Reasonable security measures have been addressed in the FCC's *Advanced Services Order* regarding an ILEC's protection of its equipment and assets. The use of equipment such as cameras, monitoring systems, badges and badges with computerized tracking systems are reasonable. The proposed Standard Offering contains reasonable security measures.

BELLSOUTH: BellSouth will impose additional specific security and safety measures that are no more stringent than those imposed by BellSouth on its own employees or for authorized contractors.

MCIm: MCIm did not address this issue in its Brief.

NEW ENTRANTS: New Entrants took the same position as AT&T.

PUBLIC STAFF: The *Advanced Services Order* clearly gives each ILEC the right to impose security measures upon the CLPs as long as they are reasonable and no more stringent than the measures it imposes upon itself or its contractors. The Standard Offering should be changed to allow each ILEC to impose additional security requirements on CLP personnel that it feels are necessary to ensure the security and safety of the ILEC premises. These requirements will be no more stringent than the requirements the ILEC places on its own employees or authorized contractors who are allowed access to these premises.

SPRINT: Sprint was willing to accept AT&T's position on this Issue to the extent it is consistent with the terms and conditions of the Standard Offering filed with the direct testimony of Sprint witness Hunsucker, it is included in the Standard Offering, and the Standard Offering is made applicable to all parties in its entirety.

VERIZON: Only ILEC employees, ILEC certified vendors and authorized employees, authorized Guests, or authorized agents of the CLP will be permitted on the ILEC's premises. Verizon will require picture identification and background checks of all CLP employees and agents.

WORLDCOM: WorldCom took the same position as AT&T.

DISCUSSION

This issue concerns the extent to which an ILEC can require a CLP to comply with the ILEC's security standards. The FCC made the following determination regarding security standards in Paragraph 47 of the *Advanced Services Order:*

> We [FCC] conclude, based on the record, that incumbent LECs may impose security arrangements that are as stringent as the security arrangements that incumbent LECs maintain at their own premises either for their own employees or for authorized contractors. To the extent existing security *arrangements are more stringent for one group than for the other, the* incumbent may impose the more stringent requirements. Except as provided below, we conclude that incumbent LECs may not impose more stringent security requirements than these. Stated differently, the incumbent LEC may not impose discriminatory security requirements that result in increased collocation costs without the concomitant benefit of providing necessary protection of the incumbent LEC's equipment.

Section 12 of the Standard Offering addresses security measures. The CLPs believe that the security measures outlined in the Standard Offering are reasonable. CLP witness Gillan opined that BellSouth's measures are unnecessary, and BellSouth has not shown any justification to impose additional measures.

BellSouth witness Hendrix testified as to several areas in Section 12 of the Standard Offering that BellSouth feels are inadequate. Verizon, similarly, argued that the language in the Standard Offering requires less comprehensive background checks than Verizon conducts on its own employees and, therefore, is inadequate.

The Public Staff argued that the *Advanced Services Order* clearly gives each ILEC the right to impose security measures upon the CLPs as long as they are reasonable and no more stringent than the measures it imposes upon itself or its contractors. The Standard Offering should be changed to allow each ILEC to impose additional security requirements on CLP personnel that it feels are necessary to ensure the security and safety of the ILEC premises. These requirements will be no more stringent than the requirements the ILEC places on its own employees or authorized contractors who are allowed access to these premises.

The Commission agrees that the *Advanced Services Order* clearly gives each ILEC the right to impose security measures upon the CLPs as long as they are reasonable and no more stringent than the most stringent measures it imposes upon itself or its contractors. The Commission does not believe that any of BellSouth's or Verizon's additional measures are unreasonable or discriminatory to the CLPs under the FCC's standard. Both companies assert that these requirements are the same measures that they impose on themselves. The Commission concludes that the Standard Offering should be modified to allow each ILEC to impose additional security requirements on CLP

personnel that it feels are necessary to ensure the security and safety of the ILEC premises so long as these requirements are no more stringent than the requirements the ILEC places on its own employees or authorized contractors who are allowed access to its premises.

The Commission does not believe that it is necessary to impose a common set of security measures on all ILECs. To be enforceable, however, an ILEC's security policies (e.g., requirements for background check, etc.) for its own employees or for authorized contractors sought to be imposed on CLPs must be set out in writing to be provided to the CLP. Section 12 of the Standard Offering, therefore, should be rewritten to incorporate by reference the respective ILEC's security policy document.

CONCLUSIONS

The Commission concludes that each ILEC may impose additional security requirements on CLP personnel that it believes are necessary to ensure the security and safety of the ILEC premises so long as these requirements are no more stringent than the requirements the ILEC places on its own employees or authorized contractors who are allowed access to its premises and that Section 12 of the Standard Offering should be amended accordingly.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 58

ISSUE 60: It is appropriate to include an expedited dispute resolution (EDR) procedure in the Standard Offering or should disputes be handled by the Commission according to the Commission-established procedures?

POSITIONS OF PARTIES

ALLTEL: ALLTEL did not address this issue.

AT&T: When adopted, such procedure should be included in the Standard Offering. Given the number of issues in this proceeding, as well as use of EDR in other contexts, the form and extent of EDR procedures should be dealt with in a separate proceeding.

BELLSOUTH: Inclusion of EDR is unnecessary and inappropriate. Current Commission standards are already sufficient.

MCIm: MCIm did not address this issue in its Brief

NEW ENTRANTS: New Entrants took the same position as AT&T.

PUBLIC STAFF: The Commission should not require the inclusion of a provision requiring EDR in the Standard Offering. BellSouth's proposed language is adequate if the language

referring to the reservation of the right to seek judicial review is removed. The parties may agree to use some form of EDR, however.

SPRINT: Sprint was generally agreeable to the New Entrants' position.

VERIZON: Disputes should be handled through normal dispute resolution procedures as identified within the interconnection agreements.

WORLDCOM: WorldCom took the same position as AT&T.

DISCUSSION

In CLP witness Gillan's direct testimony, he proposed that the parties develop an expedited dispute resolution procedure outside of the Standard Offering negotiations and reference it in the Standard Offering to handle disputes arising over collocation. In his rebuttal testimony, he advocated that the Commission establish alternative dispute resolution procedures. BellSouth instead proposed that the Commission hear the disputes with each party reserving its right to seek judicial review of the Commission's decision. Verizon recommended that any dispute be handled by the dispute resolution mechanism set out in the interconnection agreement. The Public Staff opposed the mandatory inclusion of a provision requiring EDR. It endorsed BellSouth's proposed language as adequate if the language referring to the right to seek judicial review is removed.

As an initial matter, the Commission notes that a collocation arrangement may exist prior to an interconnection agreement. Consequently, Verizon's proposal that the dispute resolution mechanism provided in the interconnection agreement should be used to resolve collocation disputes is inadequate. Moreover, the Commission has considered the issue of expedited or alternative dispute resolution previously in the context of arbitration. Although we have not rejected the idea of mandatory EDR per se, we have declined to mandate that the parties resolve disputes through private adjudication and forego the right to seek Commission review of an issue due to lack of record explaining and supporting the process. Accordingly, we will not at this time require the inclusion of a provision requiring alternative or expedited dispute resolution in the Standard Offering. BellSouth's proposed language is adequate if the language referring to the reservation of the right to seek judicial review is removed. It is unclear why such language preserving appeal rights is necessary, when the law already provides such appeal rights. Finally, the Parties are encouraged to mutually agree to use some form of alternative dispute resolution. The Standard Offering should be modified to reflect these conclusions.

In addition, it should be emphasized that in Issue No. 1 it was stated that the Commission would not arbitrate as to the terms which deviate from the Standard Offering. This remains true. The disputes which the Commission might entertain with respect to collocation generally will relate to compliance with the Standard Offering or mutually agreed-upon amendments thereto.

CONCLUSIONS

The Commission concludes that the inclusion of a provision requiring alternative or expedited dispute resolution in the Standard Offering not be required, but that the Parties are strongly encouraged to agree to use some form of alternative dispute resolution.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 59

ISSUE 61: Is it appropriate to include adjacent off-site collocation terms and conditions in the Standard Offering?

POSITIONS OF PARTIES

ALLTEL: ALLTEL did not address this issue in its Brief.

AT&T: Yes. AT&T stated that ILECs should provide both adjacent (on-site) collocation and off-site arrangements when space legitimately exhausts within an ILEC's premises, subject to technical feasibility. Off-site arrangements include CLP-owned or leased structures in proximity (i.e., generally within a city block) to the ILEC central office. The ILEC should perform cabling from the ILEC's premises to the CLP's facilities, prices would be at UNE costs, and ILECs would not be required to provide power to the off-site arrangement. The Texas PUC recognized that if space for physical collocation is legitimately exhausted, the ILEC must offer both adjacent on-site collocation and adjacent off-site arrangements. A collocation method mandated by a state commission is presumptively technically feasible for any other ILEC. Without the requirement to include off-site arrangements, CLPs would be precluded from providing competitive services where physical collocation is not possible at the central office or in an adjacent facility. State commissions have the flexibility to respond to specific issues by imposing additional requirements.

BELLSOUTH: No. It is not appropriate to include terms and conditions for off-site adjacent collocation in the Standard Offering because such "off-site" collocation is neither required nor permitted by the FCC. BellSouth should not be required to provide adjacent collocation in locations that are not on its premises.

MCIM: MCIm took the same position as AT&T.

NEW ENTRANTS: The New Entrants took the same position as AT&T.

PUBLIC STAFF: The Public Staff stated that it agrees with the ILECs that they are not required to provide collocation arrangements for off-site collocation. While the FCC does mandate adjacent collocation in certain circumstances, adjacent collocation differs from off-site collocation. The ILECs are required to interconnect with such facilities. The Commission should decline to go beyond the requirements of the FCC and the Act and set

terms and conditions for off-site collocation at this time. However, the Commission could revisit this issue if a party can demonstrate there is a significant need for off-site collocation.

SPRINT: Sprint stated that this issue has been resolved between Sprint and the New Entrants by adoption of the following language as Section 3.6.6 of the Standard Offering:

> CLP off-site Equipment Arrangement: The CLP shall have the responsibility for the provisioning of all aspects of collocation in their off-site arrangement. The ILEC and the CLP shall have mutual responsibility for the provisioning of interconnection facilities between the ILEC's premises and the CLP's off-site arrangement subject to the terms and conditions of the interconnection agreement between the two parties.

Sprint accepted this resolution of this issue contingent upon inclusion of this provision in the Standard Offering made applicable to all parties.

VERIZON: No. Verizon stated that off-site arrangements are not collocation and should be handled within an interconnection agreement or through a sub-loop unbundling contract.

WORLDCOM: WorldCom took the same position as AT&T.

DISCUSSION

CLP witness Gillan testified that adjacent collocation is one of the required forms of collocation and, as such, the terms and conditions concerning adjacent collocation should be included in the Standard Offering. According to his testimony, when space is legitimately exhausted within an ILEC's premises, ILECs should provide both adjacent (on-site, i.e., under the control of an ILEC) collocation and off-site arrangements. He elaborated that off-site arrangements include CLP-owned or leased structures within a city block of the ILEC central office. He stated that the ILEC should perform cabling from the ILEC's premises to the CLP's premises, while the CLPs were willing to agree that the facilities provided by the ILEC would be subject to UNE pricing considerations and that ILECs would not be required to provide power to the off-site arrangement. In response to an ILEC contention that off-site arrangements constitute interconnection rather than collocation, he argued that the need for off-site arrangements may occur only if space within a central office is legitimately exhausted and there is no adjacent collocation space available. This situation may occur with respect to those central offices that are most in demand for collocation and without an off-site arrangement CLPs could not provide some services. He believed that an interconnection arrangement would be "besides the point" if the absence of an off-site arrangement foreclosed competition in areas served by wire centers that are most attractive to new entrants.

As authority for this request, witness Gillan cited two Texas Public Utility Commission Orders which required an ILEC to provide off-site collocation arrangements as a condition to obtain a recommendation of Section 271 authority. He also noted that the FCC's rule on adjacent collocation, 47 C.F.R. 51.323(k)(3), does not expressly limit its terms to on-site arrangements. In addition, he cited Paragraph 558 of the *Local Competition Order*, which allows states to impose additional collocation requirements. Finally, he quoted 47 C.F.R. 51.321(c), which provides that a presumption exists of technical feasibility if an ILEC has deployed a certain collocation arrangement in another ILEC's premises.

BellSouth witness Hendrix stated that the FCC limited adjacent collocation to those premises in which the ILEC has an ownership interest and excluded land and buildings in which the ILEC has no ownership interest. Therefore, in his opinion, it is not appropriate to include terms and conditions for off-site adjacent collocation in the Standard Offering because such so-called "off-site" collocation is neither required nor permitted by the FCC and BellSouth should not be required to provide adjacent collocation in locations that are not on its premises. He cited Paragraph 42 of the Advanced Services Order, wherein the FCC stated that Section 251(c)(6) requires physical collocation at the premises of the local exchange carrier encompassing land owned, leased, or controlled by an ILEC as well as any ILEC network structure on such land.

Verizon witness Ries also testified that it was not appropriate to include adjacent off-site collocation terms and conditions in the Standard Offering. He stated that terms and conditions for off-site arrangements should be handled as a sub-loop unbundling request and such arrangements do not constitute collocation at the ILEC's "premises" as required by the TA96 and as confirmed by the FCC.

Sprint witness Hunsucker testified at the hearing that the ILECs should not be required to provide off-site arrangements. As noted above, following the hearing Sprint and the New Entrants resolved this issue by adoption of the following language as Section 3.6.6 of the Standard Offering:

> CLP Off-site Equipment Arrangement: The CLP shall have sole responsibility for the provisioning of all aspects of collocation in their off-site arrangement. The ILEC and the CLP shall have mutual responsibility for the provisioning of interconnection facilities between the ILEC's premises and the CLP's off-site arrangement subject to the terms and conditions of the interconnection agreement between the two parties.

In its Proposed Order, the Public Staff agreed with the ILECs that they are not required to provide collocation arrangements for off-site collocation. The Public Staff stated that while the FCC mandates adjacent collocation in certain circumstances, adjacent collocation differs from off-site collocation and ILECs are required to interconnect with such facilities. The Public Staff recommended that the Commission should decline to go beyond the FCC and the Act and set terms and conditions for off-site collocation at this

time and noted that the Commission may revisit this issue if a party can demonstrate there is a significant need for off-site collocation.

The Commission finds it appropriate to decline to set the terms and condition for off-site arrangements for inclusion in the Standard Offering at this time. While the FCC does mandate adjacent collocation in certain circumstances, the FCC has not directly addressed off-site arrangements in terms of collocation and it is not clear what obligations, if any, ILECs have with regard to collocation on premises not owned or controlled by ILECs. Further, as a practical matter, there is no evidence which clearly demonstrates that a need currently exists for collocation on premises not owned or controlled by ILECs. However, if a party can demonstrate a significant need for an off-site arrangement, the Commission may be willing to revisit this issue pursuant to FCC requirements as they then exist.

CONCLUSIONS

The Commission concludes that it should decline to set terms and conditions for off-site arrangements for inclusion in the Standard Offering at this time. However, if a party can demonstrate a significant need for an off-site arrangement, the Commission may be willing to revisit this issue pursuant to FCC requirements as they then exist.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 60

ISSUE 69: Should BellSouth be required to provision caged collocation space (including provision of the cage itself) within 90 days and virtual and cageless collocation within 60 days?

ISSUE 74: *Is it appropriate for BellSouth to exclude permit time from its physical caged* collocation interval the time required to secure the necessary building licenses and permits?

ISSUE 82 (Sprint 8): Should an ILEC be able to exclude from its collocation provisioning interval the time that is required to secure building licenses and permits?

POSITIONS OF PARTIES

ALLTEL: ALLTEL did not address this issue in its Brief.

AT&T: BellSouth should be required to provision caged collocation space within 90 calendar days and virtual and cageless collocation within 60 calendar days of an application for collocation.

BELLSOUTH: BellSouth has proposed that it be required to provision caged and cageless collocation space within 90 calendar days for ordinary conditions and 130 calendar days

for extraordinary conditions upon receipt from the CLP of a bona fide firm order. BellSouth believes that it should be allowed to exclude permit time from its physical caged collocation interval required to secure the necessary building licenses and permits.

MCIm: In its Brief, MCIm stated that the issue of intervals in which collocation requests will be provisioned is a key issue for collocators and ILECs. MCIm advocated a provisioning period of 90 days for caged collocation, commencing with the collocation application; and a provisioning period of 60 days for cageless and virtual collocation, again commencing with the application. MCIm argued that it is reasonable to expect that BellSouth should be required to provision caged collocation space within those periods.

NEW ENTRANTS: The New Entrants filed a Joint Proposed Order with AT&T and WorldCom. Therefore, the position as outlined for AT&T above represents the New Entrants' position on this issue.

PUBLIC STAFF: The appropriate construction and provisioning intervals for caged space, from receipt of a complete application by the ILEC is 90 calendar days. The appropriate construction and provisioning intervals for cageless space, from receipt of a complete application by the ILEC is 75 calendar days. The Public Staff did not address the issue of permit time.

SPRINT: Sprint was willing to accept the New Entrants' position on this Issue to the extent that it is consistent with the terms and conditions of the Standard Offering filed with the direct testimony of Sprint witness Hunsucker, it is included in the Standard Offering, and the Standard Offering is made applicable to all parties in its entirety.

Sprint argued that an ILEC should not be allowed to stop and restart the provisioning clock based on its submission of permit requests. Sprint believes that it is not appropriate to exclude permit-processing times from the ILEC's collocation provisioning interval. Sprint maintained that the ILEC should be required to manage the provisioning of collocation so the permitting process runs concurrently with other work activity the ILEC performs in order to complete the collocation provisioning process as expeditiously as reasonably possible. Sprint stated that if the ILEC is held accountable for the entire collocation provisioning interval, the ILEC will be properly motivated to better manage its work activities and concurrent processes.

VERIZON: Space preparation for cageless, caged, and virtual collocation should be within 76 business days if the application was forecasted properly and the request is made for a standard collocation arrangement. A "standard collocation arrangement" means that the collocation request does not require the ILEC to undertake extraordinary conditioning, remove asbestos, or other special construction activities to implement the arrangement. Virtual collocation has the added requirement for the ILEC to install, test, and turn-up CLP equipment. This should take place within 30 days after the receipt of the equipment.

WORLDCOM: WorldCom filed a Joint Proposed Order with AT&T and the New Entrants. Therefore, the position as outlined for AT&T above represents WorldCom's position on this issue.

DISCUSSION

BellSouth noted in its Brief that one of the major themes in the testimony in this case concerns the provisioning intervals for caged and cageless collocation. BellSouth noted that even AT&T witness Gillan for the CLP Coalition conceded that the Commission can lengthen the "default" intervals adopted by the FCC for collocation provisioning. BellSouth noted that the FCC stated in Paragraph 29 of its Order on Reconsideration:

> We recognize, however, that a state may establish different provisioning intervals, either shorter or longer than the national default standard, based on the facts before that state, which may differ from our record here.

BellSouth argued that its witness Milner provided ample justification for the provisioning intervals recommended by BellSouth based upon BellSouth's real world experience in North Carolina and elsewhere in its region.

BellSouth maintained that two compelling facts were elicited in connection with the testimony concerning provisioning intervals. First, BellSouth noted, no CLP showed that BellSouth was missing current provisioning intervals it had promised to the CLP through individual interconnection agreements. Second, BellSouth commented, even when BellSouth has provisioned collocation space in a good faith, timely manner, the CLPs have not used a significant amount of that space to begin offering competitive services. BellSouth noted that witness Milner's undisputed testimony was that, as of September 2000, almost 38% of the CLPs' physical collocation arrangements in North Carolina did not have service working on their collocated equipment/facilities. BellSouth argued that far from being presented with a record showing that local competition is being harmed by BellSouth's delay in provisioning collocation requests, the Commission is presented with a record that shows that many CLPs are in a "hurry up and wait" mode - they "hurry up" BellSouth to provision their space and then wait until it suits them to begin offering competitive services through that space.

BellSouth stated that in its Advanced Services Order, the FCC declined to adopt provisioning intervals within which ILECs would have to provide collocation. BellSouth maintained that the FCC encouraged state commissions to ensure the ILECs were given specific time intervals within which to respond to collocation requests. BellSouth also specified that the FCC stated in its Order on Reconsideration that it

> should adopt national standards for physical collocation provisioning that will apply when the state does not set its own

> standards or if the requesting carrier and incumbent LEC have not mutually agreed to alternative standards. A state could set its own standards by statute, through an existing or future rulemaking order, by enforcing a state tariff, or by applying the precedent of a state arbitration decision.

BellSouth noted that with respect to provisioning physical collocation arrangements, the FCC concluded that an ILEC should be able to complete any technically feasible physical collocation arrangement, whether caged or cageless, no later than 90 calendar days after receiving an acceptable collocation application. BellSouth stated that the FCC recognized that its 90-day calendar interval was "somewhat tighter than those that certain State commissions have set for caged physical collocation." In fact, BellSouth maintained, the FCC recognized that the New York Public Service Commission, for example, required Bell Atlantic in New York to provide caged and cageless collocation within 76 business days (roughly 105 calendar days) and virtual collocation within 105 business days (roughly 147 calendar days) of receiving a collocation request. BellSouth noted that this interval can be extended by 60 days whenever a CLP does not provide a specific collocation forecast within 90 days prior to the CLP submitting its application.

BellSouth maintained that consistent with the FCC's view as expressed in its Order on Reconsideration, the Commission should engage in a "balancing of competing considerations" when it addresses these two provisioning intervals. BellSouth recommended that the Commission recognize the potential benefits from timely deployment by CLPs of advanced services and other telecommunications services that will compete with ILEC offerings. On the other hand, BellSouth proposed that the Commission ensure that any provisioning intervals it adopts are grounded in reality and recognize that ILECs are not in total control of the processes that result in a completed physical collocation arrangement. BellSouth proposed that the Commission establish provisioning intervals for North Carolina based on the record developed in this state which would be consistent with the FCC's Order on Reconsideration. BellSouth noted that the FCC stated in its Order on Reconsideration that a state commission may establish different provisioning intervals, either shorter or longer than the national default standards, based on the facts before that state which may differ from the record before the FCC.

BellSouth argued that an ordinary condition would exist when the space within an ILEC's premises has sufficient telecommunications infrastructure to house the telecommunications equipment the CLP intends to place and preparation of collocation space under these conditions does not involve any environmental work, shipping intervals, removal of equipment, or other conditions outside an ILEC's control that negatively impact the provisioning interval. BellSouth maintained that infrastructure systems include floors capable of supporting equipment loads, heating, ventilating and air conditioning systems, and electrical systems. BellSouth noted that if an ILEC encounters any conditions not expressly provided for in its definition that it considers to be an extraordinary condition, in the absence of agreement between the parties, BellSouth proposed that the ILEC be

allowed to petition the Commission for any extension of the provisioning interval to 130 calendar days.

BellSouth noted that its witness Milner testified that there are three critical phases that BellSouth must complete to provide space for collocation in North Carolina: (1) design; (2) building construction; and (3) telecommunications power and infrastructure completion. BellSouth argued that it cannot commence any building construction activities until necessary North Carolina building permits have been obtained. BellSouth stated that witness Milner strongly disagreed with the CLPs' suggestion that provisioning intervals could be shortened by requiring ILECs to "pre-condition" collocation space, first because such a practice unfairly puts financial risk on an ILEC by having to prepare space in case a CLP may at some point in the future want to use that space and second because it would be impossible to execute effectively. BellSouth stated that witness Milner maintained that no ILEC could reasonably possess all of the needed information and would sometimes guess wrong and the result would be that the ILEC would make expenditures for collocation that would never be recovered. BellSouth recommended that the Commission find that it is not reasonable to require ILECs to precondition collocation space.

BellSouth further noted that witness Milner testified that another factor controlling overall provisioning intervals is the time required for ILECs to obtain building permits. BellSouth argued that the interval for obtaining required building permits is in most cases out of an ILEC's control and that BellSouth has experienced permitting intervals that range from 15 days to 60 days. BellSouth maintained that witness Milner testified that exclusion of permit time from the provisioning interval by the Commission would not encourage BellSouth to be less diligent in managing the permitting process.

BellSouth recommended that the Commission find that the permit interval should be excluded from provisioning intervals because the permit interval is in the critical path for provisioning collocation space, yet is not under the ILEC's control. Further, BellSouth proposed that the Commission conclude that the appropriate construction and provisioning intervals for caged and cageless collocation space in North Carolina are 90 calendar days for ordinary conditions and 130 days for extraordinary conditions from receipt of a bona fide firm order.

BellSouth witness Hendrix stated on cross-examination that BellSouth's proposed interval is longer than what the FCC has established in its Order but argued that BellSouth is wanting to do what is appropriate for this state. Witness Hendrix testified that ". . . the FCC strongly urged [was for] the states to look at the issues for their states and make some judgement as to what is appropriate."

Further on cross-examination, witness Hendrix agreed that BellSouth's Interconnection Agreement with ITC^DeltaCom presented as New Entrants Cross-Examination Exhibit 8 stated that a request for cageless physical collocation will be made available within 30 days after receipt by BellSouth of a complete and accurate bona fide firm order. However, witness Hendrix stated, he does not believe BellSouth would

have entered voluntarily into this agreement and believes that it may be the result of an arbitration order in one of the BellSouth states. Witness Hendrix stated that inserting this language would not be something that BellSouth would have just done without being obligated to do so by a state commission order.

Addressing permits, BellSouth witness Milner agreed on cross-examination that of 28 collocations at the BellSouth Morgan Street central office, only three permits were required. When asked whether he was familiar with the City of Raleigh's express permitting where you can make an appointment and get a permit issued within two days after the review of the filing, witness Milner stated that he was not aware of that and that he personally does not submit requests for permits.

In addressing the MCIm/BellSouth arbitration issue concerning provisioning intervals deferred to this docket, the CLPs noted in their Joint Proposed Order that BellSouth is advocating 90 calendar days for physical collocation and not to exceed 60 days for virtual collocation, commencing in either instance from the firm order. The CLPs argued that cageless collocation, by definition, should be easier to provision than caged collocation and that BellSouth has given no justification as to why cageless collocation cannot be accomplished in less than 90 days. The CLPs maintained that cageless and virtual collocation are set up physically the same way and, thus, any time frame in which cageless collocation can be provisioned is also appropriate for virtual collocation. The CLPs argued that because certain considerations related to space availability and configuration, as well as not having to construct a cage, are different for cageless and virtual collocation than for caged collocation, cageless and virtual collocation should be subject to a shorter interval. The CLPs maintained that given these points and the FCC's Collocation Reconsideration Order, MCIm, like the New Entrants, advocates: (1) a provisioning period of 90 days for caged collocation, commencing with the collocation application; and (2) a provisioning period of 60 days for cageless and virtual collocation, also commencing with the application.

The CLPs noted that the FCC's Collocation Reconsideration Order, consistently with paragraph 55 of the FCC's Advanced Services Order, sets a national maximum standard, to the extent a state commission does not otherwise set its own deadlines, of 10 calendar days for an ILEC to accept or deny a collocation application. The CLPs also commented that the FCC set default national standards of 90 days from the initial application for both cageless and caged collocation.

The CLPs further maintained that although the FCC established a default national standard for collocation provisioning intervals, the FCC also determined that state commissions have authority to establish these provisioning intervals. The CLPs noted that the Commission has the authority to establish maximum collocation provisioning intervals for North Carolina that are different from the 90-day default national interval established by the FCC.

The CLPs argued that the ILECs have presented no persuasive evidence in this proceeding that should prompt the Commission to enlarge the 90-calendar day standard set by the FCC. The CLPs maintained that while the ILECs set forth their positions requesting several more weeks for collocation, they provided no specific evidence as to why they cannot meet the FCC's default national standard in North Carolina. In fact, the CLPs noted, several other states have set shorter intervals thereby demonstrating the feasibility and reasonableness of provisioning intervals of 90 days or less. The CLPs specifically noted that the Washington Utilities and Transportation Commission established rules which require ILECs to complete construction of and deliver collocation space and related facilities within 45 calendar days after the CLP's acceptance of the written quote and payment of one-half of the nonrecurring charges. The CLPs also commented that Qwest has voluntarily agreed to a 45-day provisioning interval for cageless collocation provided a forecast has been given by the CLP, thereby proving that relatively short provisioning intervals are practical.

The CLPs noted that they presented evidence that the ILEC performance in provisioning collocation space in North Carolina has often been slow. The CLPs also argued that they have demonstrated that physical collocation is a relatively routine activity and that the CLPs estimate that the on-site work by ILECs takes three to four days for caged collocation space.

The CLPs further commented that New Entrants witness Wagoner provided a demonstration during the hearing using typical CLP equipment and a standard rack that underscored the routine nature of collocation tasks. The CLPs maintained that the demonstration showed that many collocation engineering and installation tasks are simplified through the common CLP practice of preinstalling CLP equipment in standard rack sizes. The CLPs noted that BellSouth and Verizon provided no convincing evidence as to why collocation provisioning intervals should not be standardized and shortened so that carriers can plan their market entry and order these arrangements without experiencing the unnecessary delay and costs inherent in the current ILEC approach which presumes that collocation must be a highly customized offering justifying lengthy provisioning intervals.

The CLPs noted that BellSouth's most recent position is that the collocation provisioning intervals should be no greater than 90 calendar days for caged and cageless collocation under "ordinary" conditions, and 130 calendar days under all other conditions. The CLPs maintained that BellSouth proposed that ordinary conditions exist when the ILEC premises have sufficient telecommunications infrastructure and the collocation space does not involve any environmental work, shipping intervals, or other conditions outside of BellSouth's control that may negatively impact the provisioning interval. Also, the CLPs noted, BellSouth claimed that obtaining local building permits can take 15 to 60 days and is the "critical path" for provisioning collocation space because BellSouth cannot commence any building construction activities until the permits have been obtained. The CLPs stated that BellSouth concluded that because the permit interval is outside of its control, the permit interval should be excluded from its proposed provisioning intervals.

The CLPs noted that BellSouth's unsupported assertion that 60 days is routinely required for local permits in Raleigh, Charlotte, and other areas in North Carolina was proven incorrect by the CLPs at the hearing. The CLPs noted that they presented evidence that local permits are rarely, if ever, required for collocation. The CLPs noted that they demonstrated that at BellSouth's central office on Morgan Street in Raleigh, BellSouth produced only three permits for 28 collocations and that it is not clear that any of those permits relate directly to those collocations. Further, the CLPs maintained, the evidence reveals that even if permits were required under some extraordinary circumstances, the required permits can be obtained in eight days as opposed to the 60 days alleged by BellSouth. The CLPs also noted that Verizon and Sprint both agreed with the CLPs that local permitting is generally not required for collocation. Based on the foregoing, the CLPs recommended that the Commission conclude that the need to obtain local permits, if any, does not justify extending the FCC's default provisioning intervals.

The CLPs further commented that BellSouth and Verizon both contended that provisioning intervals for cageless collocation should be the same as for caged collocation. The CLPs noted that they advocated that while 90 days from the application is reasonable for caged collocation, 60 days is more appropriate for cageless collocation. The CLPs noted that they presented evidence that cageless collocation takes less time because the cage does not have to be installed and grounded, and the CLP is responsible for cabling and equipment installation. The CLPs argued that since cageless collocation involves less work by the ILEC, the provisioning interval for cageless collocation should be shorter. The CLPs noted that other states have imposed shorter intervals and that BellSouth has contracted with ITC^DeltaCom to provide a 30-day interval for cageless collocation. The CLPs recommended that based on the evidence presented, the Commission conclude that the provisioning interval for cageless collocation in North Carolina should be 60 days from the collocation application date.

In conclusion, the CLPs recommended that the Commission find that the maximum provisioning intervals should begin at the time that the ILEC receives a collocation application and that collocation space must be ready for CLP occupancy by the expiration of the interval. The CLPs proposed that the Commission adopt the following provisioning intervals for insertion in the Standard Offering:

Caged collocation	90 calendar days
Cageless collocation	60 calendar days

The CLPs maintained that MCIm's proposal of 90 calendar days from the application to provision caged collocation, and 60 calendar days from the application to provision cageless and virtual collocation, is consistent with these intervals. The CLPs further argued that MCIm's proposed contract language with regard to the response to an application, including a firm price quote, is also consistent with these intervals. The CLPs maintained that the intervals for provisioning caged and cageless collocation should assume that the CLP will respond within seven days of receiving a firm price quote; if the CLP does not respond within the seven days, any additional days used by the CLP to

respond to a firm price quote should be added to the total provisioning interval (i.e., if the CLP takes 10 days to respond to the firm price quote, then the overall provisioning interval should be 90 days plus an additional 3 days (10 days - 7 days) or 93 days).

CLP Coalition witness Gillan stated in rebuttal testimony that he chose to address the issue of provisioning intervals separately from the other issues since intervals are a very important competitive dimension of collocation and addressing the issue separately would give the issue the prominence it deserves. Witness Gillan also observed that the *FCC has now set national maximum intervals that should be reflected in the Standard* Offering wherever the interval in the Standard Offering would otherwise exceed the national maximum.

Concerning cageless collocation, witness Gillan maintained that cageless collocation should be subject to a shorter interval because it should be no more complicated to provide than making available space for the ILECs' own equipment. Witness Gillan noted that the Georgia Public Service Commission recognized that it is practical to have a significantly shorter interval for cageless collocation when compared with caged collocation.

During cross-examination, witness Gillan stated that the CLPs' primary recommendation is to adopt a 90-calendar day provisioning interval for caged collocation and a 60-calendar day interval for cageless collocation. He explained that the CLPs do not care about the designation or distinction between active and inactive space [**COMMISSION NOTE:** See Issue No. 19] as long as the provisioning intervals are established at 90 and 60 calendar days. Witness Gillan stated that if BellSouth would *agree to the CLPs' proposed provisioning intervals then the CLPs would agree to remove* Section 3.2 concerning active collocation space from the Standard Offering. However, BellSouth counsel stated that BellSouth cannot agree to remove the Section concerning active collocation space.

CLP witness Wagoner stated in his summary at the hearing that Mpower, his employer, has 11 collocation sites in Charlotte in BellSouth central offices. Witness Wagoner stated that Mpower began submitting applications in the January 2000 time frame and that actual space ready dates for those collocations were at the end of July 2000, with acceptance in early August 2000. Witness Wagoner stated that Mpower received a response from BellSouth to its applications on March 22, 2000 and Mpower submitted its firm order with payment in April 2000. Witness Wagoner noted that the collocations were not completed until August 4, 2000 which was 115 days later. Witness Wagoner testified that the long time frames for collocation "definitely hinder our ability to enter into a new market."

During cross-examination, witness Wagoner agreed that Mpower has an *Interconnection Agreement with BellSouth in which collocation terms and conditions are* set out. Witness Wagoner further stated that he was not aware that Mpower revised its January 2000 applications for collocation in Charlotte on February 21, 2000. Witness

Wagoner admitted that under the Interconnection Agreement, BellSouth has 30 business days to respond to a revised collocation application. He also agreed that if Mpower revised its application on February 21, 2000, then BellSouth's response on March 22, 2000 was within the allowed interval. Also, witness Wagoner admitted that under the Interconnection Agreement, BellSouth has 120 days from the receipt of a firm order to provision collocation space. Witness Wagoner agreed that August 4, 2000 (the date the collocation space was completed) was within the 120 days of the April 10, 2000 firm order date.

Witness Wagoner did concede on cross-examination that collocation arrangements can vary from CLP to CLP.

Concerning building permits, witness Wagoner stated on cross-examination that he does not know what permits BellSouth would need to install a cage in its own space. Witness Wagoner stated that the only permitting issues he has experienced were with Sprint in Florida where they were building a brand new building, not constructing in an existing building.

MCIm stated in its Brief that the issue of intervals in which collocation requests will be provisioned is a key issue for collocators and ILECs. MCIm noted that BellSouth initially proposed an ICB basis with regard to provisioning but later changed its position to advocate intervals based on business days. Now, MCIm asserted, BellSouth advocates 90 calendar days for physical collocation and "not to exceed" 60 days for virtual collocation, commencing in either instance from the firm order. MCIm stated that Verizon seeks to provide physical collocation in 76 business days, commencing upon the application (i.e., about 107 calendar days from the application, if there are no holidays). MCIm noted that Sprint requests 90 days and 60 days, respectively, for provisioning caged and cageless collocation, commencing with the firm order, and applicable to conditioned space only (which amounts to 112 calendar days from the application).

MCIm stated that initially it advocated a provisioning period of 45 days for cageless, as well as for virtual collocation, with a provisioning interval of 90 days for caged collocation. MCIm maintained that these periods were to have commenced from the date BellSouth would receive the firm price order. MCIm stated that in the wake of the Order on Reconsideration, MCIm advocates for the purposes of this proceeding a provisioning period of 90 days for caged collocation, commencing with the collocation application and a provisioning period of 60 days for cageless and virtual collocation, again commencing with the application. MCIm noted that its proposed intervals are approximately equivalent to 15 days for a firm price quote, followed upon acceptance by a 45-day provisioning period for cageless or virtual collocation, which was MCIm's initial proposal.

MCIm noted that under the FCC's Order on Reconsideration, the ILEC should complete any technically feasible physical collocation arrangement, whether caged or cageless, no later than 90 calendar days after receiving a collocation application, where space, whether conditioned or unconditioned, is available in the ILEC's premises and the

state commission does not set a different interval or the ILEC and the requesting carrier have agreed to a different interval. MCIm contended that the FCC's 90-day interval is a maximum standard that the FCC presumes ILECs are capable of meeting. Further, MCIm pointed out, the FCC specifically noted that states have the authority to establish collocation provisioning intervals that are different from the national standard established by the FCC.

MCIm explained that cageless and virtual collocation are set up physically the same way. MCIm noted that the main difference between the two is that, with a physical (cageless) arrangement, tape is placed on the floor around a collocator's equipment to identify it, and the collocator itself is allowed access to the equipment; whereas, in a virtual arrangement the ILEC maintains the CLP's equipment. Therefore, MCIm contended, any time frame in which cageless collocation can be provisioned is also appropriate for virtual collocation.

MCIm noted that Alabama requires cageless collocation to be provisioned in 60 calendar days of "a request for cageless collocation." Consequently, MCIm maintained, the interval for cageless collocation should be 60 days, commencing with the application.

The New Entrants stated it their Brief that collocation is a routine activity involving (a) identification of space, and if necessary, (b) installation of a grounded cage. The New Entrants argued that in cageless collocation, the ILEC just identifies space to be made available and provides overhead racking for that space. The New Entrants explained that for caged collocation, the ILEC may also be requested to install a cage, although overhead racking need not be installed within the caged area. The New Entrants maintained that for provisioning of collocation space there are no complex activities, and the process involves just a small amount of work. The New Entrants noted that the FCC has set default standards of 90 days from the initial application for both cageless and caged collocation and encouraged the states to adopt shorter intervals where appropriate.

The New Entrants argued that while 90 days from the application is reasonable for caged collocation, 60 days is appropriate for cageless collocation. The New Entrants argued that cageless collocation involves less work by the ILECs and, therefore, the provisioning interval should be shorter.

The New Entrants noted that although the ILECs set forth their positions requesting several more weeks for collocation, they failed to provide specific evidence as to why they need additional time in North Carolina. The New Entrants stated that US West has agreed throughout virtually all of its region to provide cageless collocation space within 45 days after receiving a requesting telecommunications carrier's deposit when space and power are available. Further, the New Entrants noted, BellSouth has contracted with ITC^DeltaCom for a 30-day interval for cageless collocation.

The Public Staff noted in its Proposed Order that the FCC's Order on Reconsideration mandates that an ILEC should complete any technically feasible collocation arrangement in 90 calendar days after receiving the collocation application.

Sprint did not provide extended discussion on this issue in its Proposed Order and all of its comments are reflected under the Positions of Parties - Sprint.

Sprint witness Hunsucker stated in rebuttal testimony that an ILEC should not be allowed to stop and restart the provisioning clock based on its submission of permit requests. Witness Hunsucker maintained that ILECs should be held accountable for the time required to complete all of the necessary tasks related to the provisioning of physical collocation which includes the time required to obtain necessary building permits. Witness Hunsucker argued that Sprint believes that it is not appropriate to exclude permit-processing times from the ILEC's collocation provisioning interval and that the ILEC should be required to manage the provisioning of collocation so that the permitting runs concurrently with other work activity the ILEC performs in order to complete the collocation provisioning process.

Witness Hunsucker noted that while an ILEC does not have specific control over the actions of permitting officials, it does have complete control over the extent to which it compresses its provisioning processes so that work activities run as concurrently as possible. Further, witness Hunsucker testified that BellSouth asserts its lack of control, but that it possesses substantially more control over the situation than the CLP, who is entirely dependent on the ILEC to provision physical collocation arrangements in a timely manner.

Witness Hunsucker noted that the Louisiana Public Service Commission ordered that BellSouth should not be allowed to exclude permit time from the collocation arrangement time.

On cross-examination, witness Hunsucker agreed that Sprint is not required in many cases to get building permits for collocation.

In answering a question from the Commission, witness Hunsucker stated that Sprint does not believe that the Commission should automatically extend the provisioning interval for permits since ILECs are not required to get building permits in a lot of situations to do collocation. Witness Hunsucker explained that in those instances where permits are required, the ILEC can do a lot concurrently with a lot of the collocation work that the ILEC is required to do. Witness Hunsucker stated that in his opinion, permit time is not a hindrance to the time frames.

Verizon maintained in its Brief that determining the time required to provision collocation space is a continual challenge and that national demand for collocation has doubled each year for the past few years and shows no sign of abating. Verizon stated that it proposes a forecasting process that would define standard parameters for

collocation arrangements and would help assure that collocation space will be provided in a timely manner, assuming the collocation requests align with the CLPs' forecasts. Verizon proposed that CLPs would submit semiannual forecast for future requirements on a rolling two-year period so Verizon and its vendors can proactively identify any spatial problems. Verizon maintained that if it augments it workforce based on these forecasts and after discussions with the CLPs, the CLP should be held accountable for the accuracy of their forecasts.

For unforecasted collocation applications, Verizon proposed that they may cause provisioning delays, but they should not exceed 60 calendar days. Verizon recommended that for forecasts received less that two months prior to the application date, the interval may be postponed as follows:

Forecast Received	Interval Start Date Commences
No Forecast	2 months after application date
Forecast received 1 month prior to app. date	2 months after application date
Forecast received 2 months prior to app. date	1 month after application date

Verizon maintained that each application requires a site visit and a complete review of all forecasted growth requirements as well as pending activity. Verizon noted that given these tasks, Verizon's proposal to respond to a collocation request within eight business days is very reasonable. Verizon stated that its response will include a schedule describing Verizon's ability to meet the collocation request and also include a space assessment and a price quote. Verizon maintained that if the application is deficient, Verizon will ask the CLP for additional information within the eight-day response period. Verizon also proposed that if the CLP applies for space that was previously forecasted, Verizon will provision the collocation space within 76 business days, as opposed to the New Entrants' proposal of 90 calendar days. Verizon stated that although the FCC has recently prescribed that the default measurement should be 90 calendar days from the application date if a state has not established provisioning intervals, as the CLPs admitted at the hearing, "when it comes to intervals, . . . the FCC decision is not a minimum. In other words, states could make the intervals shorter; they could make the intervals longer."

Verizon asserted that its proposed 76-business day interval is a measurement that the FCC has supported on a statewide basis for Verizon unless the New York Public Service Commission chooses to adopt a different interval - which it has not. Verizon argued that the biggest constraint on provisioning collocation space is the time it takes to order and receive material from manufacturers and for vendors to complete installation work. Verizon maintained that given the sharp increase in collocation requests and the resulting difficulty for suppliers and contractors to meet demand timely, a 45 calendar day schedule has become typical just for the engineering, ordering, and receiving of cabling materials necessary for a collocation request. Verizon stated that, in fact, according to its equipment vendor, current projects requiring iron work used for overhead superstructure and cable racking can have lead times of 63 to 84 calendar days to receive material.

Verizon concluded that its proposed 76-business day interval for standard collocation arrangements is reasonable and should be adopted.

Verizon argued that the CLPs' proposed 60-calendar day provisioning interval for cageless collocation is unrealistic. Verizon maintained that space assessments and engineering are required for cageless collocation, just as they are for caged arrangements. Verizon asserted that the only difference between cageless and caged collocation is the construction of the cage and that is neither a critical path item nor a particularly lengthy undertaking. Verizon noted that New Entrants witness Wagoner acknowledged that intervals are determined by considerations that apply equally to caged and cageless arrangements and that vendor delays in processing and shipping material to the ILEC, as well as the availability of contractors to provision the request, can further extend the interval process. Verizon commented that the Florida Public Service Commission acknowledged this basic similarity and required one construction and provisioning interval for all physical collocation.

Verizon maintained that virtual collocation is distinguished from physical collocation (caged or cageless) because the CLP equipment is not segregated from the ILEC's equipment. Therefore, Verizon argued, the time interval for providing virtual collocation (30 days) should be tied to receipt of the equipment, which is typically under the CLP's control.

Verizon stated in its Proposed Order that for Standard Arrangements where the request was properly forecasted six months prior to the application date, the ILEC should provision the caged space and turn over the multiplexing node to the CLP within 76 business days from receipt of the CLP application and associated fee. Verizon *maintained that a standard arrangement means that the collocation request does not* require the ILEC to conduct extraordinary conditioning, remove asbestos, or undertake special construction activities in order to implement the arrangement. Verizon argued that the provisioning intervals for these more complex projects will likely fall outside the normal interval and are negotiated on an individual case basis. Verizon stated that the ILEC will use its best efforts to minimize the time required to condition collocation space and will inform the CLP of the time estimates as soon as possible.

Verizon commented that the biggest constraint on determining the appropriate provisioning interval is external - the time it takes to order and receive material from manufactures and for vendors to complete installation work. Verizon maintained that it has *been standard to experience a 45-calendar day window just for the engineering, ordering,* and receiving of cabling materials required for a collocation request. Verizon noted that it has been informed by its equipment vendor that current projects that require iron work, which is used in overhead superstructure and cable racking, can have lead times of 63 to 84 calendar days to receive material. Verizon stated that as for contractors, ILECs compete with other telecommunications carriers, including the same CLPs, to obtain these services. Verizon noted that during a recent three month period, vendors turned down 150 collocation contracts that Verizon put out for bid in Pennsylvania. Verizon stated that

the 76-business day window proposed by Verizon is the interval that has been approved by the New York State Commission and despite the unrelenting pace of collocation orders, Verizon has been able to meet those intervals with an average of 95% on-time performance and better in New York.

Verizon stated that the construction and provisioning intervals for cageless collocation should be the same as caged collocation because the tasks required to prepare the space are not significantly different. Verizon maintained that the requirements shown under the caged provisioning for the CLP to submit forecasts and meet critical interval dates would apply for cageless collocation as well. Verizon proposed that the appropriate interval for construction and provisioning of cageless space is 76 business days if the application is for a standard arrangement that was properly forecasted and other requests should be negotiated.

The Commission will address (1) the provisioning issue (Issue No. 69) and (2) the issue of building permits (Issue Nos. 74 and 82) separately.

ISSUE 69: The Commission believes that the language in the FCC's Order on Reconsideration is clear - that the national default interval is 90 calendar days, however, states are encouraged to set intervals, ***either longer or shorter***, as they see fit. The Commission notes that BellSouth witness Hendrix implied on cross-examination that BellSouth's proposed interval of 127 calendar days is appropriate for North Carolina. The Commission does not believe that the record of evidence supported either a longer or a shorter interval than the FCC's national default interval of 90 calendar days.

Addressing BellSouth's arguments, the Commission does not believe that it is relevant that BellSouth is not missing current provisioning intervals that it had promised CLPs through individual interconnection agreements. Those interconnection agreements were developed through negotiations while this proceeding represents an ongoing generic process with evidentiary evidence on the issue. Therefore, the Commission does not believe that there is any relevancy to the fact that BellSouth apparently has been meeting its current provisioning intervals as outlined in its interconnection agreements.

Second, the Commission does not believe that BellSouth's arguments that many of the collocation spaces that it has provisioned are not being used to offer competitive services hold any merit. BellSouth noted that as of September 2000, almost 38% of the CLPs' physical collocation arrangements in North Carolina did not have service working on their collocated facilities/equipment. The Commission believes that the purpose of this proceeding is to develop a comprehensive and fair collocation Standard Offering which will allow CLPs to obtain collocation space. TA96 requires ILECs to provide the collocation space, period.

In addition, the Commission believes that there was persuasive evidence that the provisioning of cageless collocation should require less time than caged collocation.

Therefore, the Commission finds it appropriate to adopt a 90-calendar day provisioning interval from the collocation application date for caged collocation and a 60-calendar day provisioning interval from the collocation application date for cageless collocation.

The Commission also notes that Paragraph 26 of the FCC's Collocation Reconsideration Order states:

> . . . We believe that the requesting carrier should be able to inform an incumbent LEC that physical collocation should proceed within seven calendar days after receiving the incumbent LEC's price quotation. If the requesting carrier meets this deadline, the incumbent LEC must comply with the 90 calendar day provisioning interval set forth in paragraph 27, below, or any alternative interval set by a state commission or agreed to by the requesting carrier and the incumbent LEC. If the requesting carrier fails to meet this deadline, the provisioning interval will begin on the date the requesting carrier informs the incumbent LEC that physical collocation should proceed (i.e., makes clear its intent to obtain a particular collocation arrangement from the incumbent) or any alternative date set by a state commission or agreed to by the parties. Restarting the collocation interval when the requesting carrier fails to respond to a price quotation within seven calendar days will facilitate the incumbent LEC's collocation provisioning operations and will prevent the requesting carrier from imposing unnecessary burdens on those operations to the potential detriment of other requesting carriers. [emphasis added]

The Commission finds it appropriate to conclude that if a CLP fails to meet the seven calendar day deadline for a bona fide firm order as outlined in Issue No. 18(m), the overall provisioning intervals of 90 calendar days for caged collocation and 60 calendar days for cageless collocation will be extended by the additional days the CLP takes to place a bona fide firm order. For example, if a CLP takes 10 calendar days to place a bona fide firm order for caged collocation, then the overall provisioning interval will be extended to 93 calendar days (10 days - 7 days = 3 days + 90 days = 93 calendar days).

COMMISSION CONCLUSIONS: The Commission finds it appropriate to establish a provisioning interval of 90 calendar days from the collocation application date for caged collocation and 60 calendar days from the collocation application date for cageless collocation. The provisioning intervals for caged and cageless collocation will be extended for any additional time taken by a CLP beyond the seven calendar day interval established for the CLPs to place a bona fide firm order.

ISSUE 74 AND ISSUE 82: The Commission notes that BellSouth is advocating that the time required to obtain building permits be excluded from the provisioning interval. Further, the Commission notes that both Sprint and Verizon maintained that permits are **not required for collocation**.

The Commission also notes the evidence presented that in BellSouth's Morgan Street central office, only three building permits were produced for 28 collocations and it was not clear that any of those permits related directly to those collocations.

The Commission believes that the record of evidence indicates that the need, if any, to obtain building permits should not extend the collocation provisioning interval, i.e., the time required to obtain a permit should not be excluded from the provisioning interval. However, if an intractable timing problem does in fact exist, then an ILEC may seek a waiver from the Commission upon a showing of extraordinary circumstances.

COMMISSION CONCLUSIONS: The Commission finds it appropriate to generally **not** allow the ILECs to exclude time required to obtain building permits from the provisioning intervals. Thus, the need, if any, to obtain building permits should generally not extend the collocation provisioning interval. If an intractable timing problem does in fact exist, then an ILEC may seek a waiver from the Commission upon a showing of extraordinary circumstances.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 61

ISSUE 70: Are MCIm and other CLPs entitled to use any technically feasible entrance cable, including copper facilities?

POSITIONS OF PARTIES

ALLTEL: ALLTEL did not take a position on this issue in its Brief.

AT&T: AT&T supported the position taken by MCIm on this issue.

BELLSOUTH: CLPs may elect to place CLP-owned or CLP-leased fiber entrance facilities into the collocation space but they may not place nonfiber optic cable entrance facilities. Some copper cables currently enter BellSouth central offices. These older cables are associated with BellSouth's loop facilities. Entrance facilities for CLPs, on the other hand, are a form of interconnection. All of BellSouth's interconnection trunk cables entering BellSouth central offices are optical fiber facilities. The rules regarding an ILEC's collocation obligation under the Act established by the FCC in its First Report and Order clearly state that the ILEC has no obligation to accommodate nonfiber optic entrance facilities (that is, copper entrance facilities) unless and until such interconnection is first ordered by the state commission. This analysis should be done on a case-by-case basis

by the Commission after the Commission has had an opportunity to review the CLP's need for copper facilities at a particular premises.

NEW ENTRANTS: The New Entrants supported the position taken by MCIm on this issue.

MCIm: MCIm and the other CLPs are entitled to use any technically feasible entrance cable, including copper facilities. The FCC allows collocators to use copper cable. A significant amount of copper cable owned by BellSouth certainly enters the BellSouth central offices, and BellSouth does not categorically reject its installation. Thus, the issue is one of parity; the CLPs must be able to bring copper cable into the central offices. The Florida Commission has approved the use of copper entrance cable. The North Carolina Commission should approve the use of copper cable. If BellSouth does not believe that copper cable is feasible in a given instance, it should file an appropriate waiver petition.

PUBLIC STAFF: There is no federal law or rule that requires ILECs to allow CLPs to place copper as an entrance facility. Copper and coaxial cable are limited to adjacent collocation situations and are otherwise left to the discretion of the state commissions.

SPRINT: Sprint accepted the position taken on this issue by the CLPs to the extent it is consistent with the terms and conditions of the Standard Offering filed with the direct testimony of Sprint witness Hunsucker, it is included in the Standard Offering, and the Standard Offering is made applicable to all parties in its entirety.

VERIZON: Other than for an adjacent collocation arrangement, fiber must be used for entrance facilities. Use of other types of entrance facilities would have to be reviewed on a case-by-case basis.

WORLDCOM: WorldCom supported the position taken by MCIm on this issue.

DISCUSSION

Section 5.2 of the Standard Offering describes the CLPs' position concerning the use of entrance facilities. The corresponding provision in the MCIm/BellSouth Interconnection Agreement is Section 7.21.1.

WorldCom witness Bomer testified that MCIm is entitled to use any technically feasible entrance cable, including copper facilities. BellSouth has many copper cables that enter its central offices. Therefore, as a matter of parity and nondiscriminatory treatment, witness Bomer testified that MCIm should be allowed to bring copper cable into the central offices. Copper entrance ducts merely present another factor in considering what space and facilities are available for collocation. Hence there should be a presumption that copper entrance facilities should be allowed. If BellSouth alleges space exhaustion, it may request the Commission to find that copper should not be placed. If copper were eliminated as an entrance facility, CLPs would be forced to install more

expensive fiber optic systems, which would raise everyone's costs, and may cause undue financial burden on a new entrant. Some start-up CLPs could be forced out of business.

CLP witness Gillan stated that CLPs are entitled to use any technically feasible entrance cable, including copper facilities. Since BellSouth acknowledges that copper cables enter ILEC central offices today, that demonstrates technical feasibility. Hence, there should be a presumption that copper entrance facilities are allowed. Witness Gillan further testified: "If BellSouth alleges space exhaustion, it may request the Commission to find that copper should not be permitted. Therefore, as a matter of parity and nondiscriminatory treatment, CLPs should be entitled to bring copper into the central office."

BellSouth witness Milner testified that currently some copper cables enter BellSouth central offices, but these are older cables associated with BellSouth's loop facilities, and all of BellSouth's interconnection trunk cables entering BellSouth central offices are optical fiber facilities. Witness Milner also testified that "the FCC rules regarding an ILEC's collocation obligation under the Act established by the FCC state that the ILEC should only accommodate non-fiber optic entrance facilities if such interconnection is first ordered by the state commission." Witness Milner asserted that no CLP should be permitted to place non-fiber optic (copper) entrance facilities in a premises until the state commission has reviewed the particular circumstances of the premises and the specific needs of the requesting CLP at that location, and has determined that the CLP's needs override BellSouth's and other CLPs' concerns, if any, with entrance space availability in those premises. Witness Milner further asserted that "going forward, our technology choice is fiber optic cable, so for our -- both for our interconnection trunking we use fiber optics as well as for our loop facilities. In other words, we don't place new copper loops. We use fiber optic cable out to a midpoint, digital loop carrier equipment, and then copper loop distribution that goes onto the premises."

Verizon witness Ries testified that a CLP is required to use fiber entrance facilities unless they are being served through an adjacent on-site collocation arrangement. Any requests to use other types of entrance facilities would have to be carefully reviewed on a case-by-case basis to determine technical feasibility and space availability requirements.

In its Proposed Order, the Public Staff took the position that there is no federal law or rule that requires ILECs to allow CLPs to place copper as an entrance facility. According to the Public Staff, copper and coaxial cable are limited to adjacent collocation situations and are otherwise left to the discretion of the state commissions.

47 C.F.R. Section 51.323(d)(3) requires an ILEC providing physical collocation, virtual collocation, or both, to allow for the interconnection of copper or coaxial cable if such interconnection is first approved by the state commission.

The matter of whether CLPs are entitled to use any technically feasible entrance cable, including copper facilities, was previously addressed in conjunction with

Issue No. 53, as well by the Florida PSC in its *Order For Reconsideration*. The Commission believes that the CLPs, including MCIm, have failed to provide sufficient evidence that copper cable should generally be allowed other than in an adjacent collocation situation. The Florida *Order For Reconsideration* clarifies that the use of copper entrance facilities only addressed situations where collocation was outside of a central office, and did not reach the issue of copper cabling in other situations.

As previously stated in conjunction with Issue No. 53, the Commission believes that the unfettered use of copper entrance facilities, as requested by the CLPs, would accelerate the exhaust of ILEC central office entrance conduit and subduct. Central office entrance facilities should be limited to fiber optic cable unless the ILEC and CLP mutually agree to placement of copper entrance facilities or the CLP can convince the Commission, in a complaint proceeding, to authorize such placement at a particular premises on a case-by-case basis.

CONCLUSIONS

The Commission concludes that the CLPs, including MCIm, have failed to provide sufficient evidence that copper cable should generally be allowed other than in an adjacent collocation situation. Thus, central office entrance facilities should be limited to fiber optic cable unless the ILEC and CLP mutually agree to placement of copper entrance facilities or the CLP can convince the Commission, in a complaint proceeding, to authorize such placement at a particular premises on a case-by-case basis. The Commission also requires the Parties to negotiate mutually agreeable language for Section 5.2 of the Standard Offering and Section 7.21.1 of the MCIm/BellSouth Interconnection Agreement to reflect these conclusions.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 62

ISSUE 71: Is MCIm entitled to verify BellSouth's assertion, when made, that dual entrance facilities are not available? Should BellSouth maintain a waiting list for entrance space and notify MCIm when space becomes available?

POSITIONS OF PARTIES

ALLTEL: ALLTEL did not take a position on this issue in its Brief.

AT&T: AT&T supported the position taken by MCIm on this issue.

BELLSOUTH: The FCC's Rule requires BellSouth to provide at least two interconnection points at a premises "at which there are at least two entry points for the incumbent LEC's cable facilities, and at which space is available for new facilities in at least two of those entry points." 47 C.F.R. 51.323(d)(2). The right to tour a premises only applies when an ILEC "contends space for physical collocation is not available" in a given central office.

BellSouth is not denying physical collocation when it does not have dual entrance facilities available. BellSouth should not be required to incur the time and expense of maintaining a waiting list simply because dual entrance facilities may not be available.

NEW ENTRANTS: The New Entrants supported the position taken by MCIm on this issue.

MCIm: MCIm is not requesting a "formal tour" of the central offices; instead, a limited inspection of entrance facilities is what is required, and BellSouth has acceded to that request. MCIm has a right to verify, and should be permitted to verify, BellSouth's assertion that dual entrance facilities are not available. BellSouth should maintain a waiting list for entrance space and notify MCIm when space becomes available.

PUBLIC STAFF: While ILECs are not required to provide central office tours when access to dual entrance facilities has been denied, the Commission should encourage the parties to negotiate this issue. At least two entrance facilities are required, if available, when collocation space is requested by a CLP. If no entrance facility or only one is available when collocation space is requested, then the requesting CLP will be provided documentation (central office floor plans, etc.) on what facilities exist. No federal law or rule requires ILECs to maintain a waiting list for collocation space or entrance facilities.

SPRINT: Sprint accepted the position taken on this issue by the CLPs to the extent it is consistent with the terms and conditions of the Standard Offering filed with the direct testimony of Sprint witness Hunsucker, it is included in the Standard Offering, and the Standard Offering is made applicable to all parties in its entirety.

VERIZON: A CLP may request supporting documentation from the ILEC when it asserts that dual entrance facilities cannot be accommodated, but the CLP is not entitled to visit the central office for such verification. As addressed under Issue No. 54, requests for dual entry should be handled by the ILEC on an individual case basis. The ILEC should not be required to maintain a waiting list.

WORLDCOM: WorldCom supported the position taken by MCIm on this issue.

DISCUSSION

Section 5.2.1 of the Standard Offering provides the conditions under which an ILEC deals with dual entrances to its central offices in a competitive environment. The corresponding provision in the MCIm/BellSouth Interconnection Agreement is Section 7.21.2.

WorldCom witness Bomer, who adopted and sponsored the direct testimony prefiled by witness Messina, testified that a CLP should be permitted to verify, through physical inspection, an ILEC's assertion that dual entrances are not available. This is particularly true when the ILEC is claiming a lack of capacity, and it is a reasonable requirement,

particularly in light of the FCC's similar, but even more expansive rule allowing CLPs to tour an incumbent's premises in order to verify an assertion that physical collocation space is not available. MCIm is not asking for such a tour, but should be allowed to verify a claim that dual entrances are not available by inspecting the entrance locations. Witness Bomer also testified that since the FCC has declared that a denial of space triggers a requirement that an inspection be permitted, it is a reasonable conclusion that a denial of dual entrances, which permit the necessary diversity that a CLP needs, triggers the requirement of permitting verification of that claim.

Addressing whether ILECs must maintain a waiting list for entrance space, WorldCom witness Bomer pointed out that the lack of dual entrances will determine whether collocation is advisable at a given location, and thus maintenance of a waiting list is a reasonable requirement for the ILEC. This Commission has the authority to require ILECs to engage in practices that supplement the minimal standards that the federal rules require.

WorldCom witness Bomer, who also adopted and sponsored the testimony prefiled by witness Lathrop, further stated that, in many instances, a physical inspection is not necessary when dual entrances are lacking. Instead, a visual inspection from the street or drawings provided by the ILEC will document any exhausted entrance facilities at a central office. Witness Bomer remarked that physical inspection is necessary when the entrance facilities are underground and no documented floor plan is available. MCIm is not seeking a formal tour of the entire office, only an inspection of the ducts entering the cable vaults.

BellSouth witness Milner contended that when there is only one entrance point, a CLP can visually verify that another entrance point does not exist by a cursory review of the central office building floor plan; a tour is not necessary. BellSouth has agreed to provide documentation to MCIm verifying the lack of dual entrance facilities. Witness Milner also testified that the FCC rules which obligate an ILEC to provide a tour of its facilities in order to prove that physical collocation space is not available have absolutely nothing to do with the situation where space is available, but dual entry points do not exist. He stated that BellSouth was agreeable if all MCIm wants is a cursory inspection of the cable vault, but BellSouth was not amenable to a tour of the entire building when the purpose of that tour was to verify the existence of two entrance facilities.

Witness Milner further testified that aside from the time and expense associated with maintaining a waiting list for each central office in which dual entrance facilities are not available, there is no reason for BellSouth to maintain such a list when BellSouth has space available for CLP collocation, but does not have dual entrance facilities available. He maintained that if the FCC had intended for the ILECs to maintain a waiting list for dual entrance facilities (as it did for physical collocation space), it would have so stated.

Verizon witness Ries stated that the ILEC should provide supporting documentation when a dual entrance is not available. However, an inspection of the facilities should be

required only if the ILEC asserts that there is no entrance space for any cable facility. Witness Ries testified that the CLP always has the option of leasing facilities from the ILEC in lieu of constructing its own to the ILEC premises. Establishing and maintaining a waiting list is of little benefit and would be unnecessarily burdensome for the ILEC, especially when entrance facility augmentations are an infrequent occurrence.

In its Proposed Order, the Public Staff took the position that while ILECs are not required to provide central office tours when access to dual entrance facilities has been denied, the Commission should encourage the parties to negotiate this issue. According to the Public Staff, at least two entrance facilities are required, if available, when collocation space is requested by a CLP. If no entrance facility or only one is available when collocation space is requested, then the requesting CLP will be provided documentation (central office floor plans, etc.) on what facilities exist. No federal law or rule requires ILECs to maintain a waiting list for collocation space or entrance facilities.

47 C.F.R. Section 51.323(d)(2) states that an ILEC must:

> Provide at least two such interconnection points at each incumbent LEC premises at which there are at least two entry points for the incumbent LEC's cable facilities, and at which space is available for new facilities in at least two of those entry points.

The Commission believes that while the ILECs are technically not required by the FCC to provide inspections when access to dual entrance facilities has been denied, the CLPs, including MCIm, should be entitled to verify the ILEC's assertion, when made, that dual entrance facilities are not available. Dual entrances are physically diverse entrances into a wire center; i.e., having dual entrances provides an opportunity to design redundancy into the network, thereby preventing some network failures (e.g., if there is a cable cut at one entrance facility, the overall service is not affected). MCIm is simply seeking an inspection of the ducts entering the cable vaults. From the testimony of the WorldCom and BellSouth witnesses, it appears that the Parties have come to general agreement on this issue sufficient to allow them to negotiate the appropriate terms and conditions for a satisfactory inspection or tour. The Commission believes that, through good faith negotiations, the ILECs should provide an inspection or tour for the requesting CLP to inspect the cable vaults and entrance manholes of central offices where dual entry facilities are not available. In addition, floor plans for central offices, provided to CLPs on request, could provide enough clarity to verify the number of entrance facilities in a specific central office and thereby avoid the need for a physical tour.

The Commission also believes that it is reasonable to require the ILECs, including BellSouth, to maintain waiting lists for entrance space and notify the CLPs, such as MCIm, when such space becomes available. Regarding MCIm's request for a waiting list, this Commission has the authority to require ILECs to engage in practices that are in addition to and consistent with the minimum standards required by the FCC rules. Because the lack of dual entrances may, as a practical matter, determine whether collocation is

advisable at a given location, it is reasonable and not overly burdensome under the circumstances to require the ILECs to maintain waiting lists. The potential benefits to the CLPs of requiring waiting lists outweigh the potential detriments to the ILECs.

CONCLUSIONS

The Commission concludes that the CLPs, including MCIm, should be entitled to verify the ILEC's assertion, when made, that dual entrance facilities are not available. Through good faith negotiations, the ILECs should provide an inspection or tour for the requesting CLP to inspect the cable vaults and entrance manholes of central offices where dual entry facilities are not available. The Commission further finds it appropriate to require the ILECs, including BellSouth, to maintain waiting lists for entrance space and notify the CLPs, such as MCIm, when such space becomes available. The Commission also finds it appropriate to require the Parties to negotiate mutually agreeable language for Section 5.2.1 of the Standard Offering and Section 7.21.2 of the MCIm/BellSouth Interconnection Agreement to reflect these conclusions.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 63

ISSUE 84 (SPRINT ISSUE 10): Should an ILEC deny priority to a CLP that challenges an ILEC's denial of space should space become available as a result of the challenge?

POSITIONS OF PARTIES

Sprint is the only Party who mentioned this in its Proposed Order. Sprint's position is that the CLP initiating a successful challenge should have priority over available space. FCC rules establish a process whereby CLPs are afforded the opportunity to challenge an ILEC's denial of available space. Specifically, CLPs can tour the entire premises at no charge, and ILECs are required to provide certain information to substantiate lack of space claims.

CONCLUSIONS

The Commission concludes that, because of an insufficient record, it will not make a conclusion regarding this issue at this time. However, consistent with the conclusions previously reached in Finding of Fact No. 20, the Commission finds that procedures for evaluating space denials by the ILECs should be included in the Standard Offering.

IT IS, THEREFORE, ORDERED as follows:

1. That no later than January 28, 2002, the Parties shall jointly file a Standard Offering modified pursuant to the Commission's conclusions in this Order. The modified Standard Offering should include a Table of Contents.

2. That BellSouth's Motion to Allow Expedited Filings of Cost Studies is hereby granted. Therefore, barring any Motions for Reconsideration concerning collocation rates,

BellSouth, Carolina/Central, and Verizon shall refile their cost studies and resulting rates as soon as possible, but in no event later than January 28, 2002. The Public Staff is requested to review the cost studies and resulting rates as soon as possible after they are filed and submit comments on its reviews as soon as possible but in no event later than 30 days after receipt of said cost study and rates.

3. That BellSouth, Carolina/Central, and Verizon shall file hard copies and electronic copies (in Microsoft Excel format) of their collocation rates as set forth herein.

4. That the cost studies and supporting documentation shall be filed by the ILECs in electronic form and shall, upon request, be provided to all Parties subject to previous restrictions on disclosure of information for which proprietary treatment has been requested.

5. That the Parties are hereby instructed to attempt to negotiate appropriate rates for inclusion in the Standard Offering for cross-connects, cable installation, augments, adjacent collocation, and premises space reports by January 28, 2002 and if such rates are not negotiated, the Parties are instructed to file Supplemental Briefs discussing these issues in more depth by February 11, 2002.

6. That, after approval by the Commission, the rates filed pursuant to this Order shall be deemed permanent prices pursuant to Section 252(d) of TA96 for purposes of replacing interim prices adopted in Docket No. P-100, Sub 133d.

7. That BellSouth, Carolina/Central, and Verizon shall, by February 26, 2002, file proposals to refund the difference between revenues collected for services provided under interim prices subject to true-up and revenues that would have been collected under the permanent prices established in this docket.

ISSUED BY ORDER OF THE COMMISSION.

This the 28th day of December, 2001.

NORTH CAROLINA UTILITIES COMMISSION

Geneva S. Thigpen

Geneva S. Thigpen, Chief Clerk

Commissioner William R. Pittman resigned from the Commission effective January 24, 2001, and he did not participate in this decision.

Commissioner Ralph A. Hunt's term ended effective June 30, 2001, and he did not participate in this decision.

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GLOSSARY OF ACRONYMS
Docket Nos. P-100, Sub 133j

AC	Alternating Current
ACF	Annual Charge Factor
Act	Telecommunications Act of 1996
ADR	Alternative Dispute Resolution
ALEC	Alternative Local Exchange Carrier
ALLTEL	ALLTEL Communications, Inc.
AT&T	AT&T Communications of the Southern States, Inc.
BDFB	Battery Distribution Fuse Bay
BellSouth	BellSouth Telecommunications, Inc.
CCXC	*Co-Carrier Cross-Connect*
CDF	Conventional Distributing Frame
CFA	Channel/Connecting Facility Assignment
CLEC	*Competitive Local Exchange Company (Carrier)*
CLLI	Common Language Location Identification
CLP	Competing Local Provider
CLP Coalition	New Entrants (See New Entrants)
CO	Central Office
COE	Central Office Equipment
Commission	North Carolina Utilities Commission
DC	Direct Current
DS0	Digital Signal Level Zero
DS1	Digital Signal Level One
DS3	Digital Signal Level Three
DSX	Digital Signal Cross-Connect

DWDM	Dense Wavelength Division Multiplexing
EDR	Expedited Dispute Resolution
EHG	Environmental Hazard Guidelines
FCC	Federal Communications Commission
FDF	Fiber Distribution Frame
FOC	Fiber Optic Cable
HVAC	Heating, Ventilation, and Air Conditioning
ICB	Individual Case Basis
ILEC	Incumbent Local Exchange Company (Carrier)
LEC	Local Exchange Company (Carrier)
MCIm	MCI Telecommunications Corporation
MDF	Main Distributing Frame
MOPs	Method of Procedures
NEBS	Network Equipment Building Systems
New Entrants	Adelphia Business Solutions, Covad Communications, Inc., Business Telecom, Inc. DSLnet, Inc., Intermedia Communications, Inc., KMC Telecom, Inc., Mpower Communications, Corp., New Edge Networks, XO Communications, Inc., SECCA, US LEC, WorldCom, Inc., AT&T Communications of the Southern States
NPRMs	Non-Penetrating Roof Mounts
NRC	Nonrecurring Charge
POT	Point of Termination
Public Staff	Public Staff-North Carolina Utilities Commission
SECCA	Southeastern Competitive Carriers Association
Sprint	Carolina Telephone and Telegraph Company, Central Telephone Company, and Sprint Communications Company L.P.

SR	Special Report
SWBT	Southwestern Bell Telecommunications
TA96	Telecommunications Act of 1996
Texas PUC	Texas Public Utilities Commission
TR	Technical Requirement
SMEs	Subject Matter Experts
UNE	Unbundled Network Element
Verizon	Verizon South, Inc., f/k/a GTE South, Inc.
WorldCom	WorldCom, Inc., including MCImetro Access Transmission Services, LLC