STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

GTE North Incorporated	**)**	
	)	**ICC Docket No. 00-0511**
Proposed establishment of collocation tariffs.	**)**	
	)	
	)	**(consol.)**
GTE South Incorporated	**)**	
	)	**00-0512**
Proposed establishment of collocation tariffs.	**)**	
	)	

REPLY BRIEF OF THE STAFF

OF THE ILLINOIS COMMERCE COMMISSION

April 3, 2001

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NOW COMES the Staff of the Illinois Commerce Commission ("Staff"), by and through its attorneys, and, pursuant to 83 Ill. Admin. Code 200.800 and direction of the Hearing Examiner, submits is Reply Brief in this proceeding.

I. INTRODUCTION and SUMMARY OF STAFF'S POSITION

Verizon filed Proposed Collocation Tariffs to allow the collocation of CLEC equipment in to Verizon central offices in the State of Illinois. Pursuant to Section 9-201 of the Illinois Public Utilities Act ("PUA"), 220 ILCS § 5/9-201, the Commission suspended the proposed tariff and set the tariff for investigation. Upon review by Staff, it finds that Verizon has failed to prove the justness and reasonableness of its rates and terms of the tariff. See Section 9-201 (provides that ". . .the burden to establish the justness and reasonableness of the proposed rates or other charges, classifications, contracts, practices, rules or regulations, in whole and in part, shall be upon the utility . . .")

Pursuant to the Telecommunication Act of 1996 (hereinafter referred to as "the Act") an ILEC is to allow a CLEC to collocate onto its premises under terms and conditions that are just, reasonable and nondiscriminatory. 47 U.S.C. §251(c)(6). Under a just and reasonable standard, an ILEC is to provide interconnection to a competitor in a manner as efficient as it provides itself. Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket 96-98, at ¶218 (release #: FCC 96-325) (released: August 1, 1996) (hereinafter referred to as "First Report and Order"). The FCC stated that the nondiscriminatory standard applies to terms and conditions that the ILEC imposes upon other CLECs as well as itself. See id.

Collocation is one of the means by which the Act accomplishes its goal of increasing competition in the telecommunications market. See id. With the market still in the process of moving towards competition, it the Commission should modify tariffs to meet the just, reasonable and nondiscriminatory standard so as to promote collocation and competition. See First Report and Order, ¶558 (provides "that states should have the flexibility to apply additional collocation requirements that are otherwise consistent with the 1996 Act and our implementing regulations."). Upon reviewing Verizon's tariff, Staff recommends the following revisions: (1) that the fill factor for number of collocators at a central office be adjusted to eight, because a factor of four is not just and reasonable, and does not reflect the likelihood of growth in collocation going forward; (2) that the administrative duties imposed through Verizon's proposed Host/Guest relationship be stricken as unjust and unreasonable, to the extent they require collocators to undertake risks and duties that are properly Verizon's; (3) that the loaded labor rates be adjusted because they are unjust and unreasonable, to the extent that the "loaded" portion properly are shared and common costs; (4) that the provisioning interval be changed to the interval identified herein because the current proposal is unjust and unreasonable, in that they reflect incorporation of an interim period, which longer than the FCC's mandated periods; (5) that the forecasting requirements be stricken as unjust and unreasonable, because the release of that type of information is not needed for collocation; (6) that a CLEC be allowed to negotiate which space it collocates into and can collocate with the ILEC because Verizon's proposal is unjust and unreasonable; (7) that the CLEC have at least three site inspections because Verizon's proposal of one inspection is proposal is unjust and unreasonable because it is inconsistent with existing FCC Orders and places little to not burden upon Verizon; (8) that the tariff include minimum standards for those contractors that CLECs would use to provision collocation space on their behalf, because to not provide this information to a CLEC is unjust and unreasonable. Without these provisions in Verizon's tariffs, collocation and competition will be inhibited.

The intent of the Telecommunications Act of 1996 is for the number of collocations throughout the country to grow to a number that allows competition. This would mean increasing the number of collocators in Verizon's central offices well beyond the current level of 0.062 collocators per office it currently experiences.. Verizon IB at 6. In the current economic downturn, CLECs are having a difficult time staying in operation, see generally Tr. 257-58. The conditions Verizon seeks to impose are unjust and unreasonable or discriminatory and need to be modified, or stricken, so that CLECs can compete.

II. ARGUMENT

A. Fill Factor

Verizon maintains that four (4) is a reasonable fill factor. Verizon justifies this number on its current conditions in Illinois -- less than 2 collocators per central office in Illinois – compared to the national average of four, Staff Ex. 5.0P.

Verizon's did not develop its initial estimate of four by forecasting. Rather, Verizon's estimate was based on a national average (absent the number of collocations for its New York central offices) in March 2000, not on a forecast of growth in Illinois. Verizon has not demonstrated a correlation between the number of CLECs collocating nationwide and the number of CLECs collocating in Verizon's Illinois service territories. Further, Verizon did not consider the number and financial abilities of the state certified CLECs in Verizon-Illinois' territory. As Staff mentioned in its rebuttal testimony, a conservative estimate of fill factor benefits no party other than Verizon. Staff Ex. 2.1 at 2. Given the special nature of collocation in promoting competition, the Commission should adopt Staff's fill factor of eight. Staff IB at 20-21.

B. Host/Guest

Verizon states that the shared collocators decide how the shared arrangement will work, how augmentations will take place, and how unused space is allocated, etc. See Verizon IB at 8. Staff concurs in this position. However, Verizon states that Staff's proposal places Verizon in the middle of negotiations between the Host and Guest, for example when they arrange for augmentation, Verizon IB at 8, or choosing "roommates" for CLECs.

That is **not** Staff's position regarding the Host/Guest relationship. Verizon attempts to counter Staff's argument that the Host should not be performing Verizon's administrative functions, by advancing an efficiency argument. To clarify Staff' position -- Staff only rejects the administrative duties that Verizon imposes upon the Host, such as ordering and collecting the monthly recurring costs and non-recurring costs from the Guests. See Tariff No. 12 §2.2; and 2.3; see also, Staff's IB at 7-9. Verizon tries to avoid addressing Staff's real argument, by asserting the claim that Staff seeks to have Verizon involved individually with each CLEC, which of course is inefficient and interferes with agreements between

CLECs. This is an exaggeration of the involvement Staff seeks Verizon to have in providing collocation space in its central offices.

Contrary to Verizon's argument, Staff testified that CLECs who share a collocation space should discuss situations that affect the space they share, Tr. 65, lines 7-9, and that Verizon should be involved in those negotiations if it affects **Verizon's** network, see Tr. 65, lines 16-18. At the hearing Staff witness Omoniyi was questioned about his "vision of shared collocation", see Tr. 74, but he did not address the complete scope in which Verizon should interact with collocated CLECs. What Staff witness Omoniyi clearly advocated at the Hearing was that Verizon be involved in those negotiations between CLECs when the CLECs decision involves, or affects, Verizon's network, Tr. 65. A negotiation that one would think Verizon would demand to be involved in, regardless of their impact on the efficiency of the negotiation. In no way does Staff intend to force Verizon to mediate negotiations between CLECs who share a space. In this case, Staff is not challenging the extent to which Verizon should be involved in the CLECs negotiations.

In summary, Staff advocates, that references to the aforementioned administrative tasks imposed upon a Host CLEC be stricken from sections 2.2 and 2.3, and stricken from any other sections of Tariff No. 12 that rely upon, or refer to, the Host/Guest relationship.

C. Labor Rates

Verizon claims that Staff Witness Hanson misapplies the definition of "common costs". See Verizon IB at 14 (citing First Report and Order,¶. 676); 47 C.F.R. § 51.505 (c)(1). Verizon advocates that costs be attributed directly to individual elements to the greatest extent possible. However, the allocation Verizon proposes (1) did not explain in sufficient detail how specific functions are needed to provide these elements, Staff IB at 22-23, and (2) the costs Staff challenges[1] appear to artificially inflate the costs, and accordingly the rates associated with collocation with common costs.

Pursuant to Section 9-201 of the PUA, Verizon has the burden to prove its proposed costs. 220 ILCS 5-9/201. The FCC also acknowledged that a carrier bears that burden because it has access to the "cost information necessary to calculate the incremental cost[s]" and because of this asymmetry in information the ILEC "must prove to the state commission the nature and magnitude of any forward-looking cost that it seeks to recover." First Report and Order, ¶. 680.

Shared and common costs are costs incurred by incumbents in the provision of local exchange service that are not directly attributable to a particular element of that service.[2] The FCC acknowledges that under TELRIC there will be fewer joint or shared costs because TELRIC provides costs for individual elements, whereas under Total Service Long Run Incremental Cost ("TSLRIC") or LRSIC, the cost is determined by service. First Report and Order, ¶682.

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[1] Staff recommends that direct support, direct supervision, indirect supervision, indirect support functions, tools, motor vehicles, dispatch and direct departmental expenses be stricken from Verizon proposed loaded labor rate. See Staff IB at 23.

[2] Common costs are costs "incurred in connection with the production of multiple products or services, and remains unchanged as the relative proportion of those products or services varies", see Local Competition Order ¶ 676, for example the facilities and functions that support all operations of the business, such as accounting, human resources, and the cost of general purpose computers, MCI Telecommunications Inc. et al. v. Pacific Bell, et al., 1998 U.S. Dist. LEXIS 17556 at 106 (Docket No. C 97-0670 SI, No. C 97-1756 SI, No. C 97-1757 SI) (N.D. Cal. Sept. 29, 1998). Joint costs, which are sometimes

Using a TELRIC methodology it is possible that an ILEC could allocate common costs to individual elements to such an extent that the collocation costs are artificially inflated, thus discouraging competitors from entering the market. The FCC addressed this and concluded that it would be reasonable to "allocate only a relatively small share of common costs to certain critical network elements, such as the local loop and collocation, that are the most difficult for entrants to replicate promptly (i.e., bottleneck facilities). Allocation of common costs on this basis ensures that the prices of network elements that are least likely to be subject to competition are not artificially inflated by a large allocation of common costs." First Report and Order, ¶696. The FCC recognizes the critical role that collocation plays in the development of local competition, and the fact that if a CLEC wants to enter Verizon's market that CLEC has no real choice with whom to collocate its equipment. Verizon's inappropriate inclusion of shared and common costs into its loaded labor rates has the impact of increasing the costs of collocation activities, and thereby could inhibit the growth of the number of competitors.

For the costs to be reasonably attributed to the labor rates Verizon needs to specifically explain how the costs are attributed to each function, First Report and Order, ¶691, and that the costs are not attributed to multiple products or services, and remains unchanged as the amount of the products or services vary, id. ¶ 676. Verizon provided a table for GTE Telephone Operations Labor and Overhead Rates ("Labor Table"), Section 7 – page 5, to summarize the Fully Loaded, or hourly, Rate for eleven separate labor groups. These labor groups are used in Section 6 of Verizon's EIS Cost Study for determining

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also referred to as "shared costs," are costs that are incurred in the provision of two or more services. MCI Telecom., 1998 U.S. Dist. LEXIS 17556 at 106.

Non-recurring and Monthly Costs; therefore these costs are directly passed along to the CLEC. The Labor Table sums sixteen columns in determining the Fully Loaded Labor Rate. Explanations of what direct support, direct supervision, indirect support and indirect supervision were supplied in Attachment BKE-1 of Verizon Witness Ellis Rebuttal Testimony. These columns, or classifications (as they are titled in BKE-1), are the labor rates associated with the Supervisor and the support staff for that supervisor, and the Indirect Supervisor, and the support staff for that Indirect Supervisor. In estimating a construction job, the labor rates for these people are not provided since they are one step removed from the actual work. Typically, these costs are included in the overhead, otherwise known as the "common costs." Moreover, Staff cannot determine if the Labor Rates for each of these categories, justly and reasonably reflects the actual cost, since Verizon has not defined what an "Indirect Supervisor" is, nor how many support staff there are, nor what their function really is.

Staff also disputes the Direct Departmental Expenses for the same reason, it is unclear what actions or supplies these expenses are attributed to so that Staff can determine if the allocated cost in the Labor Table is just and reasonable. A similar rationale applies to the cost items of tools, motor vehicles, and dispatch, and thus should not be included in common costs.

Based on the foregoing reasons, Staff contends that direct support, direct supervision, indirect supervision (three columns), indirect support functions (three columns), tools, motor vehicles, dispatch and direct departmental expenses are all functions that can reasonably be attributed to multiple products or services, or remains unchanged as the amount of the products or services that the charge is being allocated to varies. First Report and Order, ¶676; 47 C.F.R. §51.505(c)(1). Since Verizon has not met its burden of showing that these costs are not common costs, they should be removed from the Fully Loaded Rate as calculated in the Labor Table.

D. Provisioning Interval

1. Provisioning Interval for caged collocation should be 65 business days (90 calendar days)

Verizon argues that the seventy-six (76) day provisioning interval, and those provisioning intervals prior to the seventy-sixth day are reasonable and consistent because the FCC approved this period when it granted Verizon a waiver of the federal ninety (90) day standard[3], Verizon IB at 16-17. Further, it argues that the steps involved in the provisioning process require that much time, id. at 18.

Verizon's reliance upon the In the Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket No. 98-147, *2000 FCC LEXIS 5944*, RELEASE-NUMBER: DA 00-2528 (November 7, 2000), (hereafter "Waiver Order") is misplaced because the Order stated that the extension of time granted Verizon was for an interim period, Waiver Order, ¶12, and that State Commissions are not bound by the Waiver Order and can adopt other time intervals, id. ¶11; Staff IB at 11.

Verizon tries to support its seventy six business day interval with the proposition that New York's interval is a good example for Illinois to follow since both areas are demographically diverse. Verizon IB at 17. This argument misses the point. Both areas may be demographically diverse, but Verizon's New York service territory does not, in any way, resemble its GTE service territory in Illinois. Verizon territory in New York includes New York City, Verizon-Illinois includes towns such as Sycamore, Carbondale, Freeport, Bloomington and Marion. Staff Ex. 3.0P. It would be surprising if Verizon's GTE territory in Illinois had 10% of the access lines that Verizon serves in New York. It clearly has 1% of the collocation agreements. Furthermore, what is also relevant, and is lacking from Verizon's testimony, is proof of any similarity between New York and Illinois in availability of materials, or labor. Material and labor is what

determines the actual provisioning interval. See Verizon IB at 18(citing Verizon Ex. 5.0 at 10). Therefore, Verizon's reliance on demographic diversity, or the similarity between New York and Illinois does not truly reflect the appropriateness of a provisioning interval.

Verizon claims that 105 calendar days – three and one-half months – is a reasonable period of time to provision a collocation space. Verizon IB at 18. However, the FCC considered these steps in the Collocation Reconsideration Order, and decided that a typical and reasonable provisioning interval is ninety (90) calendar days from receipt of an application, and has set this as the National Standard. Collocation Reconsideration Order, ¶28. In setting this interval the FCC found that ILECs have had ample time to refine their process to meet this interval, or deadline. Id. at 24. Additionally, the FCC interval is the complete time required to provision a space. See id. The FCC reasoning for this is to

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[3] FCC Order on Reconsideration and Second Further Notice of proposed Rulemaking, CC Docket No. 98-147, and Fifth Further Notice of Proposed Rulemaking, CC Docket No. 96-98 (released August 10, 2000)

provide incentive to an ILEC to expedite the design, planning, price quotes and construction. See id. Verizon's tariff plainly states that the seventy six (76) business days is a typical provisioning of a space, just what was contemplated in the Collocation Reconsideration Order. See Tariff No. 12 § 4.1(A). Therefore, Verizon should not be granted an exception to the ninety (90) days set forth therein.

Staff recommends the use of the National Standard of ninety (90) calendar days from the date of application, which is the equivalent of sixty-five (65) business days.

2. Provisioning Interval for cageless collocation should be 47 business days (45 calendar days from date CLEC commits to collocate)

Verizon argues that the provisioning interval for cageless collocation should be the same interval as caged collocation – seventy-six (76) business days. Verizon IB at 21. Verizon states that the difference between the two types of collocation is the cage, and that the cage is constructed and installed in parallel with other tasks. See id.

The FCC, and other state commissions, have drawn a distinction between provisioning intervals for spaces that are conditioned (do not require major construction to provide a collocation space), and unconditioned (requiring major construction to provide a space to collocate). Collocation Waiver Order, ¶13; Investigation of Southwestern Bell Telephone Company's Entry into the Texas InterLATA Telecommunications Market, Proj. 16251 Order No. 51 (released August 18,1999) (hereinafter referred to as "SWBT Collocation Order"). Conditioned spaces take less time than unconditioned spaces to

(hereinafter referred to as "Waiver Order").

provision. See id. Verizon has not made that distinction in their provisioning interval. Staff recommends that there be a distinction.

Cageless collocation has been ordered in other states for far less than seventy-six (76) business days. In Texas, Southwestern Bell Telephone ("SWBT") provides cageless collocation within seventy (70) calendar days of agreeing on the cost when SWBT provisions the space, and fifty-five (55) calendar days if a CLEC provisions the space, Collocation Reconsideration Order, ¶17 (citing SWBT Collocation Order). See Attachment A. In making this recommendation Staff assumes that the space is "active", or conditioned (i.e. space that does not require major construction). The Texas PUC drew a distinction between active and inactive collocation spaces, however, without sufficient explanation, the Texas PUC doubled the period of time for spaces not listed on the tariff. See id. Without sufficient explanation, Staff views this doubling of time as unreasonable and probably related, or relevant, to those unlisted central offices. Staff recognizes that additional time is needed for provisioning unconditioned spaces, and thus recommends adding an additional twenty-one (21) calendar days, or fifteen (15) business days. Collocation Waiver Order, ¶13 (stating that the New York Commission added 15 business days or 21 calendar days for major construction). Therefore, an unconditioned cageless space should be provisioned in sixty-six (66) calendar days or forty-eight (48) business days.

Therefore, Staff recommends that the provisioning interval **for cageless collocation in a conditioned space** be forty-five (45) calendar days from the date that theCLEC notifies Verizon that it wants to proceed with the collocation (which is the equivalent of 33 business days). A forty-five (45) day period is in keeping with the FCC's intent to provide incentives to ILECs to expedite the design, planning, price quotes and construction of collocation space. Collocation Reconsideration Order, ¶25. **A cageless collocation for an unconditioned space** should be sixty-six (66) calendar days from the date that the CLEC notifies Verizon that tit wants to proceed with the collocation (which is the equivalent of 48 business days). As an alternative, Staff recommends that the provisioning interval be no greater than the provisioning interval established in the SWBT Collocation Order – seventy (70) calendar days when Verizon provisions the space, or fifty-five (55) calendar days when the CLECs contractor provisions the space, measured from the date the CLEC notifies Verizon that it wants to proceed (50 business days and 41 business days respectively).

Staff does not challenge the fourteen business day period in which Verizon will perform engineering and notice of acceptance to the CLEC. Although, Staff will note that this is greater then the eight (8) business days (which equates to a difference of 6 business days or 8 calendar days.) Verizon is required to comply with in New York. See Collocation Waiver Order, ¶13. Adding that fourteen (14) business day period, Staff's recommendation for a Complete Provisioning Interval in business days is a cageless collocation of a conditioned space within forty-seven (47) business days (33 business days+14 business days), and cageless collocation of an unconditioned space within sixty-two (62) business days of application (48 business days + 14 business days).

3. Conclusion

Therefore, Verizon's Tariff No. 12 should be modified to provide the following provisioning interval from date of application:

	Calendar Days	Business Days
Caged Collocation:	90	65
Cageless Collocation		
conditioned space:	63	47
unconditioned space:	84	62

Additionally, the parties should be allowed to negotiate intervals they feel are appropriate. If the parties are unable to agree on an interval, then the intervals above should automatically become effective.

E. Forecasting

Verizon proposes that a CLEC provide a two year forecast of demand semi-annually. Verizon IB at 21-22. Verizon argues that the forecast opens and encourages communication between the CLEC, Verizon and affected vendors, see id. at 22, and improves efficiency by encouraging parties to plan ahead, see id. at 23.

The Collocation Reconsideration Order para 39 states that an ILEC may require a CLEC to forecast its physical collocation demands. However, a forecast is not needed, and unreasonable. Staff IB at 16-17. Verizon admitted that it would provision space without a forecast, Tr. 201-02, presumably if the CLEC provides the square footage of the area it requires. A delay in provisioning the space because a forecast is not provided is anti-competitive, Staff IB at 16-17, as discussed below.

Verizon states that the information provided Verizon assists the CLEC in its "rollout plans", and that "vendors and contractors that are impacted by high volumes of activity can begin planning and can better position themselves to react to the marketplace." Verizon IB at 22. However, if this information benefits the CLEC, vendors and contractors in forecasting a volume of work, does it not follow that it also benefits Verizon. This information provides Verizon information about a CLECs rollout plans, the volumes they anticipate for various services. By mandating that the CLEC give their forecasts to Verizon they are essentially providing Verizon a look in to their business plan. A competitor of Verizon should not be forced to give Verizon information that may benefit Verizon and be to the detriment of that competitor. If a CLEC chooses to give its forecast to Verizon in the name of improving communications and being proactive that is that company's choice, but a CLEC should not be forced to give Verizon that information. This is unreasonable because it gives Verizon information that it would not otherwise be provided.

Therefore, Staff recommends that §4.2 <u>Forecasting and Use of Data</u>, of Tariff No. 12 be stricken, and all references to "forecast(s)" or §4.2 be stricken from the remainder of the tariff. .

F. Collocation Conditions

In their Initial Brief, Verizon asserts the right to designate where a CLEC shall collocate its equipment, and refuses to be obliged to share the same equipment bays with CLECs. <u>See</u> Verizon IB at 26; <u>see also</u> Tariff No. 12 §4.2(B). Verizon relies on <u>GTE Service Corp. v. FCC</u>, 205 F. 3d 416 (D.C. Cir. 2000) which rejected an FCC ruling that cageless physical collocation could not be segregated in separate rooms or floors because "[t]he FCC offers no good reason to explain why a competitor, as opposed to the

LEC, should choose where to establish collocation on the LEC's property" . . . It is one thing to say that CLECs 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." GTE, 205 F.3d at 426. Although the D.C. Circuit's interpretation of the FCC ruling prohibits CLECs' from "picking and choosing" the location of its equipment on an ILEC premises, there is no language in this decision granting ILECs' the absolute right to designate CLEC equipment locations. Moreover, GTE argues that this absolute authority is contrary to the Telecommunications Act of 1996. Id.

The rationale in GTE cannot be applied to the present case. In GTE, the Court examined paragraph 42 of the FCC Collocation Order, which states, in part, that ILECs:

> "must give competitors the option of collocating equipment in any unused space within the incumbent's premises, to the extent technically feasible, and may not require competitors to collocate in a room or isolated space separate from the incumbent's own equipment."

Collocation Order, ¶42. Since the FCC could not furnish a sensible reason for requiring an ILEC to give up property rights, the GTE Court determined that permitting CLECs to "pick and choose" their locations might result in an unnecessary taking. This docketed matter is distinguishable from the GTE case because Staff clearly does not advocate a taking. In other words, Staff is not placing the CLECs right to collocation space above the property rights of the ILECs. In fact, Staff seeks to balance the interests of both parties, and advocates the CLEC and ILEC negotiate which space the CLEC should collocate into, as opposed to one party commanding the other. Additionally, the FCC stated that compensation based on the TELRIC methodology, which is how Verizon is being compensated under this tariff, satisfactorily grants the ILEC compensation for the loss of the collocated space. First Report and Order, ¶617.

Additionally, permitting Verizon total discretion to designate equipment locations and not obligating them to share the same equipment bays with the CLECs is discriminatory and contrary to the Telecommunications Act of 1996. Section 251(c)(6) states that an ILEC shall allow collocation under terms and conditions that are just, reasonable and nondiscriminatory. 47 U.S.C. § 251(c)(6). The terms of the tariff are not just, reasonable and nondiscriminatory if they state a manner of collocation for a CLEC that is less efficient than the manner Verizon provides collocation to itself or others. First Report and Order, ¶218. Not giving a CLEC some voice in deciding what space it could collocate into treats them differently than how Verizon is able to treat itself. Giving the CLEC a choice of locations is analogous to a landlord giving a prospective tenant a choice of vacant apartments. The example is different from this case in that a prospective tenant can find another apartment complex to rent in the same town, whereas a CLEC has no other central offices to choose from.

For the foregoing reasons, Verizon's argument should be dismissed. Since a CLEC cannot truly negotiate a collocation space with Verizon from a position equal to Verizon, Staff recommends a procedure, such as below, be used to allocate spaces within the central office. Verizon should provide the CLEC a choice of three (3) spaces for collocation. The spaces shall be available for collocation at the time of application, of the size requested by the CLEC, and it must be technically feasible for a CLEC to collocate in, and interconnect with the network from, that space. Of the three spaces chosen by Verizon, the CLEC will choose which space it will collocate into. This proposal is just and reasonable, because it gives each party a voice as to which space to collocate.

G. On-Site Inspections

Verizon argues that three (3) site visits, as Staff recommends, is not necessary. See Verizon IB at 27. Verizon states that much of the provisioning interval relates to time to design changes, order and ship materials, and that visits would be fruitless. See id.

A CLEC should be able to access the site, or central office where it is collocating, to conserve time, money and reduce delays. Staff IB at 19; see also Collocation Reconsideration Order, ¶59 (stating "Access to the collocation space will help the requesting carrier promptly identify any defects in the incumbent LECs work and thus reduce collocation delays."). The two additional visits advocated by Staff could allow a CLEC to reduce delays, and the visits are not overly burdensome on Verizon, Staff Ex. 1.01 at 11, and may not always be used. Additionally, Verizon requires site visits be escorted by a Verizon employee, and compensated pursuant to labor rates stated in the tariff. See Tariff No. 12 sect. 4.1(A); and sect. 14.

To restrict a CLEC to one visit is unnecessary. If anything, this is anti-competitive. Fewer visits by the CLEC allows problems to fester and delays to occur, as acknowledged by the FCC, and noted above; all to Verizon's benefit, and the CLECs loss. Therefore, the language in section 4.1(A), and any other section of Tariff No. 12, that limits a CLEC to one (1) visit to a central office, should be stricken.

H. CLEC Contractor Standards

Verizon argues that the tariff does not need to include minimum criteria by which it will accept a CLECs contractor to provision a collocation space. Verizon IB at 28. First, Verizon states that it cannot bar a contractor that is provisioning a space on behalf of a CLEC, for that fact the tariff lacks criteria by which to evaluate contractors. See id. Second, Verizon states that the FCC does not require an ILEC to enumerate a standard for contractors. See id.

It does not seem reasonable that Verizon would allow any contractor into its facilities that a CLEC chooses to provision its space. For the security of its facilities, would Verizon not want to exclude contractors that are not properly licensed, or who have damaged their central offices when performing previous collocation work.

Verizon's argument could be interpreted as giving a CLEC the freedom to choose any contractor it wants. However, Staff does not think this is proper and believes that there will be times when Verizon will attempt to prohibit a contractor, and as stated above, would be justified in prohibiting contractors in some situations. Those situations when Verizon is justified in prohibiting a contractor need to be identified and the CLEC notified of those instances. If the CLEC is not notified, they may have a right to challenge the prohibition or get a new contractor. Under, either scenario the CLECs collocation is delayed.

Section 251(c)(6) requires an ILEC to allow a CLEC to collocate under terms that are nondiscriminatory. 47 U.S.C. § 251(c)(6). For this to occur the CLEC must be treated the same as Verizon would treat itself. To accomplish this, the CLEC needs to know the minimum standards, or criteria, by which Verizon would hire its own contractors.

An additional benefit is that the CLEC can minimize conflict, and improve cooperation with Verizon by hiring contractors it would approve. Moreover, this reduces the potential for delays in provisioning collocation space.

Contractor criteria need to be added to the tariff so a CLEC is not unjustly delayed, so the CLEC can hire contractors that Verizon would approve of, so the CLEC is treated the same as Verizon treats itself and to minimize conflict between Verizon and the CLEC. Finally, a CLEC needs the ability to choose its own contractor to minimize costs, since security costs can be used to deter CLECs from entering a market. Staff IB at 17-18. Thus, Staff recommends that Verizon include language to Tariff No. 12 stating the criteria which Verizon uses in hiring contractors to perform its collocation work.

I. All Cable Costs Should Be Based On Actual Measurements and Not Estimates

As stated in Staff's Initial Brief, Staff recommends that all cable lengths in the cost elements listed in Verizon Attachment TD-1 and 2 be charged on an actual measurement basis. Any service which uses an estimate of cable length to develop costs should be recalculated with the cable cost component removed. Prices for those services should be developed based on those costs. Verizon should charge its collocation customers cable costs separately.

III. CONCLUSION

For the foregoing reason we request the Hearing Examiner accept Staff's recommendations in their entirety as set forth herein and in its Brief filed March 26, 2001.

Dated: April 3, 2001

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