State of Florida

Public Service Commission

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-M-E-M-O-R-A-N-D-U-M-

DATE: OCTOBER 22, 2003

TO: DIRECTOR, DIVISION OF THE COMMISSION CLERK & ADMINISTRATIVE SERVICES (BAYÓ)

FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (T. BROWN, J. BROWN, MUSKOVAC, VICKERY)
OFFICE OF THE GENERAL COUNSEL (TEITZMAN, B. KEATING, ROJAS)

RE: DOCKET NO. 981834-TP - PETITION OF COMPETITIVE CARRIERS FOR COMMISSION ACTION TO SUPPORT LOCAL COMPETITION IN BELLSOUTH TELECOMMUNICATIONS, INC.'S SERVICE TERRITORY.

DOCKET NO. 990321-TP - PETITION OF ACI CORP. D/B/A ACCELERATED CONNECTIONS, INC. FOR GENERIC INVESTIGATION TO ENSURE THAT BELLSOUTH TELECOMMUNICATIONS, INC., SPRINT-FLORIDA, INCORPORATED, AND GTE FLORIDA INCORPORATED COMPLY WITH OBLIGATION TO PROVIDE ALTERNATIVE LOCAL EXCHANGE CARRIERS WITH FLEXIBLE, TIMELY, AND COST-EFFICIENT PHYSICAL COLLOCATION.

AGENDA: 11/03/03 - REGULAR AGENDA - POST-HEARING DECISION - PARTICIPATION IS LIMITED TO COMMISSIONERS AND STAFF

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\981834.RCM

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LIST OF ACRONYMS AND ABBREVIATIONS USED IN THE RECOMMENDATION

AC	Alternating Current
ADR	Alternative Dispute Resolution
ADSL	Asymmetrical Digital Subscriber Line
a/k/a	Also known as
ALEC	Alternative Local Exchange Company (a/k/a CLEC)
ASR	Access Service Request
AT&T	AT&T Communications of the Southern States
BDFB	Battery Distribution Fuse Bay
BellSouth or BST	BellSouth Telecommunications, Inc.
BFFO	Bona Fide Firm Order
BOC	Bell Operating Company
BR	Brief
CFR or C.F.R.	Code of Federal Regulations
CLEC	Competitive Local Exchange Carrier (a/k/a ALEC)
CO	Central Office
Covad	DIECA Communications, Inc. d/b/a Covad Communications Company
d/b/a	Doing business as
DC	Direct Current
DLC	Digital Loop Concentrator or Digital Loop Carrier
DN	Docket Number
DSL	Digital Subscriber Line
DSLAM	Digital Subscriber Line Access Multiplexer
EXH	Exhibit

F.S.	Florida Statutes
FCC	Federal Communications Commission
FDN	Florida Digital Network, Inc. d/b/a FDN Communications
FPSC	Florida Public Service Commission
GTEFL	GTE Florida, Inc. (now Verizon)
HDSL	High Bit-Rate Digital Subscriber Line
ICA	Interconnection Agreement
ID	Identification
IDLC	Integrated Digital Loop Carrier
IDSL	ISDN Digital Subscriber Line
ILEC	Incumbent Local Exchange Company
IOF	Interoffice Facilities
IP	Interconnection Point
ISDN	Integrated Services Digital Network
LEC	Local Exchange Company
LOF	Lack of Facilities
LSC	Local Service Confirmation
LSR	Local Service Request
NID	Network Interface Device
No.	Number
OSS	Operation Support Systems
PDB	Power Distribution Board
POD	Production of Documents
POI	Point of Interconnection
POT	Point of Termination
POTS	Plain Old Telephone Service

PSC	Public Service Commission
PUC	Public Utilities Commission
RT	Remote Terminal
SDSL	Symmetric Digital Subscriber Line
SMEs	Subject Matter Experts
Sprint	Sprint-Florida, Inc.
TELRIC	Total Element Long-Run Incremental Cost
TR	Transcript
UNE	Unbundled Network Element
Verizon	Verizon Florida Inc.
xDSL	"x" distinguishes various types of DSL

CASE BACKGROUND

By Proposed Agency Action Order No. PSC-99-1744-PAA-TP, issued September 7, 1999, the Commission adopted a set of procedures and guidelines for collocation, focused largely on those situations in which an incumbent local exchange company (ILEC) believes there is no space for physical collocation. The guidelines addressed: A. initial response times to requests for collocation space; B. application fees; C. central office tours; D. petitions for waiver from the collocation requirements; E. post-tour reports; F. disposition of the petitions for waiver; G. extensions of time; and H. collocation provisioning time frames.

On September 28, 1999, BellSouth filed a Protest/Request for Clarification of Proposed Agency Action. That same day, Rhythms filed a Motion to Conform Order to Commission Decision or, in the Alternative, Petition on Proposed Agency Action. Commission staff conducted a conference call on October 6, 1999, with all of the parties to discuss the motions filed by BellSouth and Rhythms, and to formulate additional issues for the generic proceeding to address the protested portions of Order No. PSC-99-1744-PAA-TP. By Order No. PSC-99-2393-FOF-TP, issued December 7, 1999, the Commission approved proposed stipulations resulting from that call and identified the portions of the protested Order that could go into effect by operation of law.

Thereafter, the Commission conducted an administrative hearing to address collocation issues beyond the issues addressed in the approved collocation guidelines. By Order No. PSC-00-0941-FOF-TP, issued May 11, 2000, the Commission rendered its post-hearing decision on these additional issues. Therein, the Commission addressed the following topics: 1) ILEC responses to an application for collocation; 2) the applicability of the term "premises"; 3) ILEC obligations regarding "off-premises" collocation; 4) the conversion of virtual to physical collocation; 5) response and implementation intervals for changes to existing space; 6) the division of responsibilities between ILECs and collocators for sharing and subleasing space between collocators and for cross-connects between collocators; 7) the provisioning interval for cageless collocation; 8) the demarcation point between ILEC and ALEC facilities; 9) the parameters for reserving space for future use; 10) whether generic parameters may be established for the use of administrative space; 11) equipment obligations; 12) the timing and detail of price quotes; 13) ALEC participation in price quote

development; 14) the use of ILEC-certified contractors by ALECs; 15) the automatic extension of provisioning intervals; 16) allocation of costs between multiple carriers; 17) the provision of information regarding limited space availability; 18) the provision of information regarding post-waiver space availability; 19) forecasting requirements for CO expansions and additions; and 20) the application of the FCC's "first-come, first-served" Rule upon denial of waiver or modifications.

On May 26, 2000, Verizon filed a Petition for Reconsideration. BellSouth and Sprint also filed separate Motions for Reconsideration and Clarification of the Commission's Order. On June 7, 2000, Sprint filed its Response to Verizon and BellSouth's Motions for Reconsideration. BellSouth also filed its Response to Sprint's Motion for Reconsideration and/or Clarification. MCI/WorldCom and Rhythms Links also filed timely Responses to all three Motions for Reconsideration. In addition, that same day FCCA and AT&T filed a Joint Response to the Motions for Reconsideration and a Cross-Motion for Reconsideration. On June 14, 2000, BellSouth filed its Response to FCCA and AT&T's Cross-Motion for Reconsideration. By Order No. PSC-00-2190-PCO-TP, issued November 17, 2000, the various motions for reconsideration and/or clarification were addressed by the Commission. By that Order, this Docket was left open to address pricing issues for collocation, which is one of the purposes of this current proceeding.

By Order No. PSC-02-1513-PCO-TP, issued November 4, 2002, the procedural schedule and hearing dates were established for this phase of this proceeding in which the remaining technical and pricing issues regarding collocation will be addressed. Thereafter, by Order No. PSC-03-0288-PCO-TP, issued March 4, 2003, Staff's Motion to Revise Order Establishing Procedure was granted.

On May 15, 2003, Verizon and Sprint (Joint Movants) filed an Emergency Joint Motion to Strike, or in the Alternative for an Extension of Time (Joint Motion). By Order No. PSC-03-0702-FOF-TP, issued June 11, 2003, the Commission approved the agreement reached between the parties and staff to resolve the Joint Motion to Strike, or in the Alternative Grant an Extension of Time. By Order No. PSC-03-0776-PCO-TP, issued July 1, 2003, the procedural schedule was modified to reflect the agreement reached between the parties and the Commission's staff. At that time, the proceeding was divided such that the Commission would address the technical

issues first, then the costing and pricing issues. Prior to the hearing on the technical issues, which took place on August 11-12, 2003, the parties were able to reach stipulations on Issues 1B, 1C, and 2A through 2D. The stipulation language for these issues and any related discussion can be found in this recommendation under the "Stipulations" heading, and also in the hearing transcripts, Volume 1, pp.9-34. The parties continue to pursue additional stipulations. A hearing on the pricing issues is scheduled for January 28-30, 2004.

STIPULATIONS

The stipulated language for Issues 1B, 1C, and 2A through 2D appears below. Staff notes that these stipulations were approved by the Commission as a preliminary matter at the hearing which took place on August 11-12, 2003. (TR 9-34)

Issue 1B: When should billing of monthly recurring charges begin?

Stipulated Language: If the CLEC accepts the collocation space before or within the time designated by the interconnection agreements between the CLEC and the ILEC, or if there is no ICA between the parties, or the ICA is silent on the period allowed for a walk-through, or the arrangement was ordered out of the ILEC's tariff within 15 calendar days after the space ready date, billing of monthly recurring charges should begin in the next billing cycle and should include prorated charges for the period from the CLEC acceptance date to the bill issuance date.

If the CLEC does not conduct a walk-through within the time designated by the ICA, or if there is no ICA between the parties, or the ICA is silent on the period allowed for a walk-through, or the arrangement was ordered out of the ILEC's tariff within 15 calendar days after the space ready date, billing of monthly recurring charges should begin in the next billing cycle and should include prorated charges for the period from the space ready date to the bill issuance date.

If the CLEC conducts the walk-through but does not accept the collocation space, the ILEC and the CLEC should work together to resolve any problems with the space.

If the CLEC occupies the collocation space prior to the space ready date, billing should begin in the next billing cycle and should include prorated charges for the period from the CLEC occupancy date to the bill issuance date. Disputes concerning the reasonableness of an acceptance or refusal of space should be resolved under the parties' ICA. If the dispute cannot be resolved by the parties pursuant to their ICA, it should be submitted to the Commission for resolution.

Issue 1C: What cancellation charges should apply if an ALEC cancels its request for collocation space?

Stipulated Language: When the CLEC cancels its request prior to the space ready date, there will not be a cancellation charge. All parties agree the CLEC will be responsible for reimbursing the ILEC for costs specifically incurred by the ILEC on behalf of the cancelling CLEC up to the date that the written notice of cancellation is received.

Issue 2A-2D: (2A) Should an ALEC be required to justify its space reservation needs to the ILEC when an ILEC is forced to consider a building addition to accommodate future space requirements? (2B) Under what conditions should an ILEC be allowed to reclaim unused collocation space? (2C) What obligations, if any, should be placed on the ALEC that contracted for the space? (2D) What obligations, if any, should be placed on the ILEC?

Stipulated Language: An ILEC will be allowed to reclaim unused collocation space when the ILEC's central office is at or near space exhaustion and a CLEC cannot demonstrate that the CLEC will utilize the space within a reasonable time. In the event of space exhaust or near exhaust within a premise, the ILEC must provide written notice to the CLEC requesting that the CLEC release nonutilized collocation space to the ILEC when 100 percent of the space in the CLEC's collocation arrangement is not being utilized.

The CLEC within 20 days of receipt of a written notification from the ILEC, shall either, one, return the nonutilized collocation space to the ILEC, in which case the CLEC shall be relieved of all obligations for charges for that portion of the collocation space so released; or, two, provide the ILEC information to demonstrate that the space will be utilized within 18 months from the date the CLEC accepted the collocation space.

Disputes concerning the ILEC's claim of exhaust, or near exhaust, or the CLEC's refusal to return requested collocation space should be resolved by parties pursuant to the parties' interconnection agreements. If the dispute cannot be resolved by the parties pursuant to their ICA, it should be submitted to the Commission for resolution.

ISSUE 1A: When should an ALEC be required to remit payment for non-recurring charges for collocation space?

RECOMMENDATION: The non-recurring application fees should be billed within 30 days of the date when the ILEC provides an application response. Non-recurring charges associated with processing the firm order for collocation preparation should be billed within 30 days of ILEC confirmation of the CLEC's firm order. All other non-recurring charges should be billed within 30 days after the product or service is provided. An ILEC should permit a CLEC to subcontract the construction of its collocation space with contractors approved by the ILEC and the ILEC should not unreasonably withhold approval. **(MUSKOVAC)**

POSITION OF THE PARTIES

BELLSOUTH: ALECs should pay promptly after billing. The ILEC should bill as follows: Application Fees - when it provides an Application Response; charges for the BFFO, cable installation, cable records, and security access administration-when the ALEC submits its BFFO; all other services-after the service is provided.

SPRINT: The ALEC should pay the non-recurring application fee and space report fee up front. The ALEC should be required to remit 50% of the nonrecurring charges for all remaining elements at the time the firm order is placed and 50% upon acceptance of the collocation arrangement.

VERIZON: The ALEC should submit an application fee at the same time it files its collocation application. Once Verizon approves the application, the ALEC should pay 50% of the nonrecurring charges associated with the requested collocation arrangement; the ALEC should pay the remaining 50% after the arrangement is completed.

AT&T: The Application fee should be billed within 30 days of acceptance of space availability; the NRCs for processing the firm order for collocation preparation should be billed within 30 days of the Firm Order, and the other NRCs should be billed within 30 days of acceptance.

COVAD: ILECs will bill for application fees, within 30 days of Application Response; for processing collocation orders, within 30 days of ILEC confirmation of the CLEC's Firm Order; and for

collocation equipment, within 30 days of Space Acceptance Date. A CLEC may act as a certified vendor for the ILEC.

FDN: Agree with AT&T and Covad.

STAFF ANALYSIS: This issue deals with when non-recurring charges should be paid by CLECs. The parties specifically define what elements are considered non-recurring charges. Staff notes that Covad and FDN's arguments are limited to their respective post-hearing briefs.

PARTIES' ARGUMENTS

BellSouth

BellSouth witness Gray describes what BellSouth considers non-recurring (one-time in nature) charges: application fees, the Bona Fide Firm Order (BFFO), cable installation, cable records, security access administration, access card or key replacement, a space availability report, and security escort service. (TR 45) Specifically, witness Gray asserts:

- Billing of the application fee when BellSouth provides its Application Response is appropriate because the application fee is designed to recover the costs associated with assessing the ALEC's space requirements and developing the associated price quote. (Gray TR 46-47)

- The non-recurring fees associated with the Bona Fide Firm Order, cable installation, cable records, and security access administration are billed at the time the ALEC submits its Bona Fide Firm Order. (Gray TR 47)

- The assessment of the non-recurring fees for the replacement of a security access card or key, the provision of a space availability report and/or security escort service occurs after BellSouth has provided the ALEC with the requested product or service. (Gray TR 48) BellSouth expects payment for these charges within 30 calendar days of the billing date. (Gray TR 72)

- Additionally, there are cross-connect fees which are assessed by BellSouth on both a non-recurring and a monthly recurring basis, depending on the type (2-wire, 4-wire, DS-1, DS-3, 2-fiber, or 4-fiber) and number of cross-connects ordered by the ALEC. BellSouth would not begin billing these non-recurring charges or monthly charges until after the Local Service Request (LSR) or Access Service Request (ASR) had been completed and the requested cross-connects installed as requested. (Gray TR 71)

These activities represent one-time events that take place early in the provisioning process, and BellSouth argues that it is appropriate for BellSouth to be paid at the time the provisioning period begins. (BellSouth BR at 5)

Sprint

According to Sprint witness Davis, "Sprint requires payment for the application NRC (non-recurring charge) up-front, prior to beginning the research driven by the ALEC's application." (TR 343) Sprint witness Fox describes non-recurring charges as one-time charges intended to cover material and labor needed to provision unbundled network elements, including collocation. (TR 276) Non-recurring costs associated with requests for collocation include location design and engineering, materials and material handling, installation labor, DC power plant configurations, HVAC system evaluation, and security cage construction. (Fox TR 276) It is Sprint's position that 50% of the non-recurring charges should be remitted by the CLEC at the time the firm order is placed, and the remaining 50% upon acceptance of the collocation arrangement. (Fox TR 277) Witness Fox further states:

> A partial payment of these (construction) costs is appropriate to ensure that Sprint recovers its costs to prepare the space requested by the ALEC. Costs that are incurred immediately, e.g. materials and labor, are covered by the up-front amount . . . The 50% is not considered a deposit, but rather a payment to cover direct expenses. (TR 277)

In its brief, Sprint addressed a question raised by a Commissioner at the hearing. Specifically, Sprint was asked if it has an objection to a CLEC's certified vendor performing

collocation installation work in its central office. (BR at 5) Sprint replied:

> Sprint does not object to CLECs performing their space arrangement work, in accordance with FCC regulations. FCC Rule 51.323 (j) states "An incumbent LEC shall permit a collocating telecommunications carrier to subcontract the construction of physical collocation arrangements with contractors approved by the incumbent LEC, provided, however, that the incumbent LEC shall not unreasonably withhold approval of contractors. Approval by an incumbent LEC shall be based on the same criteria it uses in approving contractors for its own purposes." (BR at 5)

However, Sprint asserts in its brief that it restricts CLEC work to just their collocation space. Sprint does all the common area work to ensure its technical standards are met and there is consistency in quality between collocators. (Sprint BR at 5-6)

Sprint believes the application fee and space report fee should be treated separately and paid up-front. (Sprint BR at 3-4) Regarding other NRCs, Sprint compares its billing practices to that of a tenant/landlord relationship. In his summary before the Commission, Sprint witness Fox stated:

> To draw an analogy to a vacation, it is no different than a snowbird coming to Florida and making arrangements with their landlord for carpets, painting, and decorations. The landlord incurs expenses to order the material and initiate the desired work, and would normally require a portion of the costs up front. Accordingly, Sprint believes that receipt of a check for 50 percent of the estimated NRCs at the time the order is received from the ALEC (sic) [is appropriate]. (TR 301)

Verizon

In his summary before the Commission, Verizon witness Bailey states that Verizon's position is similar to Sprint's. (TR 492) Sprint charges an application fee up-front and then 50% of the remainder of the non-recurring charges should be provided with the firm order, and 50% should be billed once the space is turned over. (Bailey TR 492) In his direct testimony, witness Bailey states that Verizon will begin to prepare the space upon receipt of the

initial 50% payment, which establishes the CLEC's commitment to proceed with the requested collocation and covers a portion of Verizon's up-front costs to prepare the collocation space. (TR 457) According to witness Bailey, Verizon Florida is seeking to be adequately compensated if the CLEC later decides to cancel its collocation request. (TR 471)

In its brief, Verizon gives three reasons as to why an application fee should be submitted with a collocation application:

- First, Verizon should be permitted to recover the costs it incurs to process a collocation application from the cost-causing ALEC.

- Second, Verizon should not have to process an application unless the ALEC has a definite business plan to collocate at Verizon's premises.

- Third, up-front application fees are quite common in commercial transactions and the ALECs have offered no reason for departing from this practice. (Verizon BR at 3-4)

Verizon also argues in its brief that the FCC agrees with its 50/50 proposal finding that:

> [I]t is not unreasonable for LECs to require interconnectors to pay up to 50 percent of the cost of construction or other nonrecurring costs before commencement of work. Based on the record, we are convinced that advance payment of up to 50 percent of the construction costs would not only cover the LEC's initial construction costs, but help to ensure that LECs recover all their construction costs from the interconnectors. We agree . . . that the advance payment of up to one-half of the construction or other nonrecurring costs is a reasonable requirement that is consistent with standard commercial construction contracts.[1] (Verizon BR at 5)

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[1] Second Report and Order, *In the Matter of Local Exchange Carriers' Rates, Terms, and Conditions for Expanded Interconnection through Physical Collocation for Special Access and Switched Transport*, 12 FCC Rcd 18730 ¶ 41 (1997).

AT&T

At the hearing, AT&T witness King summarized AT&T's position:

> [B]illing for the application fee should commence upon receipt of the ILEC's application response indicating that the space is available, the assessment of space has been completed, and also includes a firm price quote. Billing for space preparation should commence when the ILEC confirms the ALEC's firm order for collocation. Otherwise, following cost causation principles, any other applicable nonrecurring charge should commence upon completion of the activity, service, or UNE requested by the ALEC. (King TR 623)

The main difference between witness King's proposal and the Sprint/Verizon 50/50 proposal is how costs associated with construction work are assessed. BellSouth does not have this concern because it allows certified vendors, which can include CLECs certified by BellSouth, to perform this work on their own behalf or at their own direct expense. (AT&T BR at 3) In its brief, AT&T further states:

> The obvious solution for this "problem" is to allow the CLECs to use certified vendors, which may include CLECs so certified by the ILEC, to perform this work. This gets the ILECs out of the construction and financing business and enables the CLECs to pay for their own construction on whatever basis works for them subject to the acceptable duty to use certified vendors who will perform the construction pursuant to applicable standards. (BR at 3)

During cross-examination at the hearing, witness King stated that construction charges should not begin until the CLEC has control of the space regardless of whether the ILEC has previously incurred costs. (TR 700) Witness King also acknowledged that a CLEC should pay for any nonrecoverable expenses incurred if a CLEC withdraws its collocation request. (TR 700)

Covad

Covad presents its arguments on this issue solely in its post-hearing brief. Covad's position is similar to AT&T's and

BellSouth's. It contends that the application fees should be billed within the next available billing cycle of the date when the ILEC provides an application response, and the firm order should be billed within the next available billing cycle of the date on which the ILEC confirms the CLEC's firm order for collocation. (BR at 3) In addition, Covad offers the following language regarding "other" non-recurring charges:

> Non-recurring charges for other collocation equipment and services (e.g., cable installation, cross-connects, etc.) will be billed within a 30-day billing cycle of the date that the CLEC has accepted the requested collocation space with the provisioned other collocation equipment and services (Space Acceptance Date). If provisioning of other collocation equipment and services occurs after the Space Acceptance Date, the CLEC will be billed within a 30-day billing cycle of the date that the CLEC has accepted the provisioned other collocation equipment and services (i.e., the date the CLEC has tested and interconnected its facilities to the ILEC). (Covad BR at 3)

Covad also states that if a CLEC is a certified vendor, no ILEC may preclude said CLEC from running and terminating its own power facilities and installing other collocation equipment. (BR at 3) "When Covad, as a BellSouth certified vendor, does its own work in a Miami collocation, it is significantly less expensive than when Verizon does the same work in a Tampa collocation.[2]" (Covad BR at 2) Covad requests the Commission to reject Sprint and Verizon's 50/50 proposal and "oblige them to cease their monopolistic policy of refusing a properly certified CLEC from running and terminating its own power." (Covad BR at 2-3)

FDN

In its brief, FDN agrees with the positions taken by AT&T and Covad. (FDN BR at 4)

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[2] See Covad response to Verizon's First Set of Interrogatories, No. 11, FPSC Docket Nos. 981834-TP and 990321-TP, filed June 3, 2003 (Showing a mark-up by Verizon for 50 feet of #4 power cable of 80% over the cost for the same equipment in Miami).

ANALYSIS

The record indicates the parties agree that application and firm order fees are non-recurring charges and should be billed as such. (TR 46-47, 343, 492, 623) However, they differ as to when those charges should be billed and paid. Staff believes that Sprint and Verizon have not made compelling arguments as to why the application fee should be paid "up-front" and not within 30 days of the ILEC providing an application response. Staff agrees with the position taken by BellSouth, AT&T, Covad, and FDN. "Billing of the application fee when [the ILEC] provides its Application Response is appropriate because the application fee is designed to recover the costs associated with assessing the ALEC's space requirements and developing the associated price quote." (Gray TR 46-47) We believe it makes sense to bill the application fee when these activities have been completed; moreover, by billing in this manner ILECs would avoid having to refund the fee if the application were not a Bona Fide Application or if there was no space available in the requested central office. (Gray TR 47)

Along those same lines, staff believes the firm order should be billed within 30 days of the ILEC confirming the CLEC's firm order. The firm order indicates the CLEC's intent to proceed with the equipment installation in the central office requested on the application. (Gray TR 47) Again, staff believes it makes sense for the ILEC to determine if the CLEC's equipment requests can be fulfilled and bill the CLEC for the firm order within 30 days of the date the ILEC confirms the CLEC's request.

The main difference between the parties lies in what they describe as "other" non-recurring charges--charges specifically associated with space preparation/construction. As noted above, Sprint and Verizon believe 50% of those charges should be paid at the time the firm order is placed, and the remaining 50% upon acceptance of the collocation arrangement by the CLEC. (TR 277, 492) The other parties agree these "other" charges should be paid within 30 days of the service or product being provided. (TR 71-72, 700) According to the record, the principal reason Sprint and Verizon both seek 50% of these charges when the firm order is placed is to recover costs that are incurred immediately associated with space preparation. Verizon witness Bailey states that this practice "establishes the ALEC's commitment to proceed with the requested collocation." (TR 471) Staff believes the fact that the CLEC is filing an application and firm order for a collocation

arrangement obviously establishes its commitment. Staff believes the impetus behind Sprint and Verizon's 50/50 proposal is to ensure cost recovery if the CLEC later decides to cancel its collocation request. (Bailey TR 471) Those concerns have been dealt with in the stipulated Issue 1C[3]. Therefore, staff agrees with BellSouth, AT&T, Covad, and FDN that the Sprint/Verizon 50/50 proposal, relating to "other" non-recurring charges, should be rejected.

The remaining issue is whether a CLEC may act as a certified vendor for the ILEC. Staff notes that Verizon did not address this issue. BellSouth allows this practice. As noted above, Sprint does not object to CLECs performing their own collocation installation work. (Sprint BR at 5) Staff agrees with Covad that this practice often will be less expensive. However, staff also agrees with Sprint that CLECs should be restricted to work in their collocation space, as the ILEC is responsible for all the common area work. (Sprint BR at 5-6) Therefore, in accordance with FCC regulations, staff believes an ILEC should permit a CLEC to subcontract the construction of its collocation space with contractors approved by the ILEC and the ILEC should not unreasonably withhold approval. (Sprint BR at 5)

CONCLUSION

The non-recurring application fees should be billed within 30 days of the date when the ILEC provides an application response. Non-recurring charges associated with processing the firm order for collocation preparation should be billed within 30 days of ILEC confirmation of the CLEC's firm order. All other non-recurring charges should be billed within 30 days after the product or service is provided. An ILEC should permit a CLEC to subcontract the construction of its collocation space with contractors approved by the ILEC and the ILEC should not unreasonably withhold approval.

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[3] Stipulated Issue 1C: What cancellation charges should apply if an ALEC cancels its request for collocation space? When the CLEC cancels its request prior to the space ready date, there will not be a cancellation charge. All parties agree the CLEC will be responsible for reimbursing the ILEC for costs specifically incurred by the ILEC on behalf of the cancelling CLEC up to the date that the written notice of cancellation is received. (TR 11-14)

ISSUE 3: Should an ALEC (hereafter CLEC) have the option to transfer accepted collocation space to another CLEC? If so, what are the responsibilities of the ILEC and CLECs?

RECOMMENDATION: Yes, a CLEC should be allowed to transfer collocation space to another CLEC under the following conditions: (1) the central office is not at or near space exhaustion; (2) the transfer of space should be contingent upon the ILEC's approval, who will not unreasonably withhold permission; (3) there are no unpaid collocation balances between the ILEC and the transferring CLEC; and (4) the transfer of the collocation space is in conjunction with the CLEC's sale of all, or substantially all, of the in-place collocation equipment to the acquiring CLEC.

The responsibilities of the transferring CLEC should include: (1) submitting a letter of authorization to the ILEC for the transfer; (2) entering into a transfer agreement with the ILEC and acquiring CLEC; and (3) returning all access devices to the ILEC. The responsibilities of the acquiring CLEC shall include: (1) submitting an application to the ILEC for transfer of the collocation arrangement; (2) satisfying all legal requirements of its interconnection agreement with the ILEC; (3) submitting a letter to the ILEC for the assumption of services; and (4) entering into a transfer agreement with the ILEC and transferring CLEC. It is the responsibility of the ILEC to ensure that the above responsibilities are completely satisfied and the transfer of space is done as quickly as possible. **(MUSKOVAC)**

POSITION OF THE PARTIES

BELLSOUTH: Yes, if the central office is not in space exhaust and the ALEC is selling its in place collocation equipment. Otherwise transfers should only be allowed with Commission approval when the transfer is part of the transfer of all (or substantially all) of the transferring ALECs' assets.

SPRINT: If the ALEC has accepted space from the ILEC but is not going to use the space and a waiting list exists, the ALEC must relinquish that space. If there is no waiting list, the CLEC may not transfer space without the approval of the ILEC.

VERIZON: An ALEC should be allowed to transfer collocation space to another ALEC provided it is in conjunction with the sale of the in-place collocation equipment to the same ALEC, the transfer does not

avoid required payments to Verizon, and Verizon approves the transfer, such approval not to be unreasonably withheld.

AT&T: Yes. If a CLEC has collocation space from an ILEC, and its requirements for collocation have changed, the CLEC should be allowed to transfer this space to another CLEC. The new CLEC should submit an application for a collocation records change.

COVAD: Yes, the transfer should be allowed if: (1) the central office is not at or near space exhaustion; (2) the ILEC approves (such approval not to be unreasonably withheld); (3) there are no unpaid balances; and (4) the transfer is in conjunction with the sale of the in-place collocation equipment.

FDN: ALECs should be able to transfer collocations without undue interference. Where space exhaust exists, potential arbitrage should be reviewed, but sales of a market should be a safe harbor. A transferor ALEC is generally responsible for unpaid, undisputed collocation bills. A records change application should be filed with the ILEC.

STAFF ANALYSIS: Staff notes that, based on the cross-examination at the hearing, the parties appear to be very close to agreement on this issue. The issue addresses whether a CLEC should have the option to transfer its collocation space to another CLEC and what should be the responsibilities of both the ILECs and CLECs in that circumstance. The general consensus is that transfers should be allowed under reasonable conditions.

PARTIES' ARGUMENTS

BellSouth

In his summary at the hearing, BellSouth witness Gray states that BellSouth agrees that a CLEC should be allowed to transfer collocation space to another CLEC if the central office is not at space exhaust and the transfer of the collocation space is in conjunction with the CLEC's sale of in-place collocation equipment to the acquiring CLEC. (TR 95) Witness Gray further explains that if the central office is at space exhaust, the CLEC should only be allowed to transfer collocation space if the transfer is part of a transfer of all or substantially all of the transferring CLEC's assets to the other CLEC and the Commission has approved the transfer. (TR 95) Witness Gray provides an outline in his direct

testimony of the primary responsibilities of the CLEC (CLEC-1) that would be transferring its collocation space to another CLEC (CLEC-2):

- Notifying BellSouth that it will be transferring ownership of some (or all) of its existing collocation arrangements to CLEC-2 without changing the type of existing collocation arrangement.
- Submitting a letter of authorization to BellSouth for the transfer and release of its existing facilities.
- Entering into a transfer agreement with BellSouth and CLEC-2.
- Returning all access devices (keys and cards) to BellSouth. (TR 64)

In addition, witness Gray outlines the responsibilities of CLEC-2 (the acquiring CLEC):

- Submitting an application to BellSouth for transfer of the collocation arrangement.
- Satisfying all of the legal requirements of its interconnection agreement with BellSouth.
- Submitting a letter to BellSouth for the assumption of services.
- Entering into a transfer agreement with CLEC-1 and BellSouth.
- Re-stenciling all of the equipment and facilities. (TR 65)

Sprint

Sprint is one of the parties that appears to have changed its position under cross-examination and in its post-hearing brief. A Commissioner questioned Sprint witness Fox, "[I]f the ILEC is in a situation of no exhaust of collocation space, would Sprint agree with the general proposition that a CLEC could transfer its collocation to another CLEC subject to the ILEC's approval, and that such approval would not be unreasonably withheld?" (TR 317-318) Witness Fox stated that Sprint would agree to the transfer in that situation. (TR 318)

In its brief, Sprint distinguishes between a transfer in an office where space exhaustion is not an issue and an office where space is exhausted and there is a waiting list for space. (Sprint BR at 7) "In the latter, Sprint believes that allowing a CLEC to transfer its space to a[nother] CLEC, not first in line on a waiting list, violates the first come, first served obligations imposed upon ILECs by the FCC and this Commission. (Order No. PSC-00-0941-FOF-TP at page 107, FCC Rule 51.323(f)(1))" (Sprint BR at 7)

Verizon

Verizon also shifted from its initial position of objecting to CLEC-to-CLEC space transfers. At the hearing, Verizon witness Bailey explained in his summary:

> [T]here should not be a rule that says the ALECs can transfer space without Verizon's permission; however, that doesn't mean that Verizon would withhold that permission unreasonably. The starting point for this process should be the methodology that BellSouth laid out in their testimony[4]. In addition to that, Verizon - there's[sic] two other points that Verizon would like to see addressed. The first has to do - Verizon would require that neither of the transferring parties have large unpaid balances . . . The second point that we would like addressed is, what is the disposition of the collo space? Is it at or near exhaust? (TR 493)

In its brief, Verizon outlines the following conditions (similar to BellSouth's) that transferring and acquiring CLECs must meet before Verizon will approve the transfer:

- The transferring CLEC must be selling its in-place collocation equipment along with the collocation space to the acquiring CLEC. (Verizon BR at 6)

- The acquiring CLEC must submit a transfer application to the ILEC. (BR at 6)

[4] (Gray TR 62-66)

- The acquiring CLEC must agree to reimburse the ILEC for any operational and/or administrative costs incurred by Verizon to implement the transfer. (BR at 6)

- A CLEC should not be permitted to transfer its collocation space without payment of outstanding balances accrued in relation to its interconnection and use of ILEC space, or that may otherwise be required to be paid to the ILEC by contract or applicable law as a condition of transfer. (BR at 6-7)

AT&T

In his summary at the hearing, AT&T witness King states that a CLEC should be allowed to transfer collocation space, and this process is primarily a records change activity. (TR 623-624) Under cross-examination, witness King states that he agrees with BellSouth witness Gray's direct testimony regarding this issue except for the language addressing the application fee. (TR 637) Witness King further states that the only issue he had with witness Gray's testimony was the application fee itself, because if it is a transfer of all space then it is more of a records change and a full application fee is not warranted. (TR 636-637)

Covad

In its brief, Covad states "the Parties appear to be very close to agreement on this issue." (Covad BR at 3) The proposed language in its brief is very similar to the language used by BellSouth and AT&T in this issue. (Covad BR 3-4)

FDN

In its brief, FDN agrees with the overall consensus of the parties that a CLEC should be allowed to transfer collocation space to another CLEC. FDN is wary of ILECs gaining some advantage through the proposed approval process.

> [A] transfer event should not generate any new ILEC controls. In other words, to the extent that an ILEC may have any right to request that an ALEC move or relinquish space, those rights may exist notwithstanding the transfer. A transfer should not prompt a change to the ILEC's position or status, and a transfer should not be

delayed while an ILEC "reviews" the layout of its affected COs. (FDN BR at 6)

ANALYSIS

As noted above, the parties appear to be very close to agreement on this issue, and the general consensus is that transfers should be allowed subject to reasonable conditions. Through the course of the hearing, Sprint and Verizon changed their positions from not allowing the transfer of collocation space between CLECs to allowing transfer arrangements with reasonable ILEC approval. Staff agrees with AT&T that the primary issue for ILECs in transfer situations is to ensure that their record keeping is up-to-date so that they know who is responsible for the space and who should be billed. (AT&T BR at 4) However, AT&T witness King expressed concerns regarding BellSouth's requirement that the acquiring CLEC should be responsible for an application fee as if it were ordering a new collocation arrangement. (TR 63, 636-637) Staff believes some sort of transfer of records/application fee may be appropriate but the record is very limited relating to what this fee should be. Therefore, this matter should be left for the parties to negotiate. Staff believes there is no question that the ILEC needs to be involved in some capacity regarding CLEC-to-CLEC collocation transfers. Staff believes its recommendation provides a fair and equal balance between the parties' proposals.

CONCLUSION

A CLEC should be allowed to transfer collocation space to another CLEC under the following conditions: (1) the central office is not at or near space exhaustion; (2) the transfer of space should be contingent upon the ILEC's approval, who will not unreasonably withhold permission; (3) there are no unpaid collocation balances between the ILEC and transferring CLEC; and (4) the transfer of the collocation space is in conjunction with the CLEC's sale of all, or substantially all, of the in-place collocation equipment to the same CLEC.

The responsibilities of the transferring CLEC should include: (1) submitting a letter of authorization to the ILEC for the transfer; (2) entering into a transfer agreement with the ILEC and acquiring CLEC; and (3) returning all access devices to the ILEC. The responsibilities of the acquiring CLEC shall include: (1) submitting an application to the ILEC for transfer of the

collocation arrangement; (2) satisfying all legal requirements of its interconnection agreement with the ILEC; (3) submitting a letter to the ILEC for the assumption of services; and (4) entering into a transfer agreement with the ILEC and transferring CLEC. It is the responsibility of the ILEC to ensure that the above responsibilities are completely satisfied and the transfer of space is done as quickly as possible.

ISSUE 4: Should the ILEC be required to provide copper entrance facilities within the context of a collocation inside the central office?

RECOMMENDATION: An ILEC should be required to allow entrance facilities for a CLEC's copper cable only in those rare instances where the CLEC demonstrates a necessity and that entrance capacity is not at or near exhaustion in the particular central office associated with the collocation. **(VICKERY)**

POSITION OF THE PARTIES

BST: Generally, no. Consistent with the FCC's Rules in CC Dockets 96-98 and 91-141, ILECs are not required to accommodate requests for non-fiber optic facilities to be placed in the ILEC's entrance facilities unless the Commission determines in a particular case that this placement is necessary.

SPRINT: Whether or not an ILEC provides copper entrance facilities within the context of a central office collocation should be at the discretion of the ILEC.

VERIZON: An ILEC should be required to terminate ALEC copper entrance facilities to the ALEC's collocated equipment only if the ALEC can demonstrate that using copper (rather than fiber) entrance facilities is necessary, and that the ALEC's need outweighs the ILEC's safety and space exhaust concerns.

AT&T: Yes. Copper technology, including copper entrance facilities, is still an integral part of the telecommunications industry. The ILECs still use copper technology within their networks to provide both basic and advanced services such as the ongoing deployment of DSL technology. A CLEC should be allowed the same opportunity.

COVAD: An ILEC shall permit a collocated CLEC to terminate copper entrance facilities to its collocated equipment only if the CLEC can demonstrate that the use of copper (rather than fiber) facilities is warranted. Disputes concerning the CLEC's showing should be resolved under the parties' interconnection agreement (ICA).

FDN: Agree with AT&T and Covad.

STAFF ANALYSIS:

PARTIES' ARGUMENTS

BellSouth

BellSouth witness Milner argues that the FCC has taken a position on ILEC responsibilities regarding non-fiber optic facilities and that FCC rule 51.323(d)(3) says in part the incumbent LEC shall ". . . [p]ermit interconnection of copper or coaxial cables if such interconnection is first approved by the state commission." (TR 127) He continues in his testimony regarding the FCC's delegation to the state commission by quoting an order issued by this Commission that stated "[w]e have considered the fact that entrance facilities have a certain capacity per central office and that allowing copper cabling could accelerate the entrance facility exhaust interval. Therefore, ILECs shall be allowed to require an ALEC to use fiber entrance cabling after providing the ALEC with an opportunity to review evidence that demonstrates entrance capacity is near exhaustion at a particular central office." (TR 128) In addition, witness Milner elaborates that bringing copper cable through BellSouth entrance facilities is counter to the current trend in telecommunications whereby cables and equipment are being reduced in size. (TR 128)

Witness Milner provides "one notable" exception where copper entrance facilities would be utilized. He describes an "adjacent collocation" situation where a CLEC on the same parcel of land as a BellSouth central office would use copper cable because of space exhaust in the central office, and the CLEC is unable to locate fiber multiplexing equipment for termination and must use copper cabling for interconnection. (TR 129)

In his rebuttal testimony, witness Milner argues that the FCC intended for state commissions to consider the use of copper entrance facilities on a "location by location" basis and that to date, witness Milner is unaware of any CLEC that has made a showing for copper entrance facilities before any commission within BellSouth's nine-state territory. (TR 145) He continues that the FCC placed a great deal of importance on the decisions made by state commissions regarding collocation copper entrance cabling and that its universal application would undermine the importance the FCC had placed on this very issue. (TR 145)

Sprint

Sprint witness Fox says that the FCC and FPSC provided guidance on how an ILEC should allow CLECs to use copper entrance facilities. (TR 288) He states that an order was issued in this docket where the Commission held that a CLEC could use copper entrance facilities unless the ILEC demonstrated the entrance facilities were at or near exhaust. (TR 288) He further elaborates that the Commission reconsidered this decision and issued Order No. PSC-00-2190-PCO-TP[5] that clarified copper entrance facilities only applied to adjacent collocation outside of the central office. (TR 289)

Witness Fox argues that the use of copper entrance facilities by CLECs for collocation should be at the discretion of the ILEC. (TR 289) He concludes that "Sprint considers any inner duct, outside cable duct, cable vault space, as a valuable space resource just as it does floor space. Each request for use of entrance facilities should be considered on a case-by-case basis using similar criteria as floor space use." (TR 289)

In his rebuttal testimony, witness Fox states that "[b]oth the FCC and the FPSC have made rulings on the limited use of copper entrance facilities by collocators. . . ." (TR 297) He says that the key consideration is that copper cabling is really inefficient in its use of duct space in the entrance facility. He believes AT&T's position ignores the fact that space is at a premium, and copper cable takes up more space in a central office. (TR 297) Witness Fox concludes that the ILECs are responsible for managing the central office and should make the decision on whether copper entrance facilities may be used by a CLEC. (TR 298)

Upon cross-examination, witness Fox further elaborates that not only must conduit space be considered, but also "main frame space" where the copper entrance cable would be terminated must also be considered. He responds to the "bottom line" question

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[5]Order No. PSC-00-2190-PCO-TP, issued November 17, 2000, Docket No. 981834-TP, In Re: Petition of Competitive Carriers for Commission action to support local competition in BellSouth Telecommunications Inc.'s service territory; and Docket No 990321-TP, In Re: Petition of ACI Corp. d/b/a Accelerated Connections Inc. for generic investigation to insure that BellSouth Telecommunications Inc., Sprint-Florida, Incorporated, and GTE Florida Incorporated comply with obligation to provide alternative local exchange carriers with flexible, timely, and cost-efficient physical collocation.

posed by AT&T by saying that copper entrance cabling should be evaluated on a case-by-case basis and the decision not to allow copper cabling would not be arbitrary. (TR 321)

Verizon

Verizon witness Bailey states an ILEC is not required to provide copper entrance facilities and that Verizon will allow a CLEC to bring fiber optic facilities into the ILEC's premises, "but it should not be forced to provide copper facilities which take up significantly more space within the ILEC manhole and conduit system than fiber facilities." He observes that fiber systems can transport high volumes of traffic over a single fiber pair and that this increases the availability of conduit space. (TR 462) Witness Bailey contends that increasing conduit space to accommodate additional copper cabling is a labor intensive activity and is covered within Verizon's tariff sections 19.4.3.D and 19.4.3.E.

In his rebuttal testimony, witness Bailey lists two basic concerns with allowing CLECs to bring copper entrance facilities into a Verizon central office: safety and space exhaust. (TR 479) He says that when lightning strikes a copper cable, Verizon takes "all precautions required by industry standards and electric safety codes to manage its plant in a manner that minimizes these risks." (TR 480) He contends that copper entrance facilities, when maintained by CLECs without supervision and coordination with Verizon, "present an increased safety risk" and are highly conductive. By contrast, fiber optic cables are non-conductive and therefore significantly reduce the risks as compared to copper cabling being brought into the central office. (TR 480)

In witness Bailey's cross-examination by Covad's counsel, he placed additional emphasis on safety issues associated with copper cabling and the fact that the connection to a customer's home is the distribution copper loop that is in the ground and that it is used to provide DSL service today. (TR 522) However, the connection out of Covad's collocation space to Covad's network is almost always fiber; witness Bailey elaborated the "wire coming in from the person's home is copper." (TR 523)

Witness Bailey addressed space requirement differences for copper and fiber cabling by providing two visual aids, a piece of a 3000-pair copper cable and a 24-strand fiber optic cable. He elaborated that the 3000-pair copper cable could carry 3000 voice

grade circuits whereas only four strands of the fiber optic cable were needed to provide 32,000 voice grade circuits. (TR 545) The difference in cross-section diameters of the two types of cable was explained as one could place many more 24 strand fiber optic cables in the space occupied by the 3000 pair copper cable. (TR 545)

AT&T

AT&T witness King states that a CLEC should be allowed the same opportunity to use copper plant as the ILEC in the context of a collocation within the central office. (TR 585) In his rebuttal testimony he states that he does not agree that the trend is toward fiber optic facilities and the efficiencies that such facilities offer. He further elaborates that copper entrance facilities "remain an integral part of the telecommunications network" and that application for copper entrance facilities by a CLEC is very rare. (TR 621)

During cross-examination, witness King asserts that the copper entrance facility question would start first with the ILEC and if the ILEC is unwilling, then the issue should be brought before the Commission for resolution. He further states that he was asking the Commission to make a "general ruling in this proceeding" that it is feasible for CLECs to use copper entrance facilities. (TR 646)

Covad

Covad supports AT&T's position and argument. However, in its brief Covad states that "placing the burden on the CLEC to show copper is warranted and creating a presumption that fiber should be used for entrance facilities should be sufficient to limit those instances where a CLEC can meet its burden of showing copper is warranted over fiber." (Covad BR at 5)

ANALYSIS

Based on the record, it appears the use of copper entrance facilities by CLECs is a rare occurrence and that the ILECs are all in agreement that a case-by-case consideration is appropriate if and when CLECs ever make a request. The record indicates that within BellSouth's nine-state region, no CLEC has made a showing for the use of copper entrance facilities. (Milner TR 145) AT&T and Covad both provide testimony that indicates the use of copper

entrance facilities should be justified by the CLEC. (King TR 624, Covad BR at 5)

The FCC and this Commission have both provided guidance on this matter. The FCC specifically delegated the responsibility to state commissions within FCC Rule 51.323(d)(3) which says in part the incumbent LEC shall "...[p]ermit interconnection of copper or coaxial cables if such interconnection is first approved by the state commission." BellSouth recognized and cited the authority delegated to the state commissions in its argument above. Sprint cited Order No. PSC-00-2190-PCO-TP in which this Commission clarified that its decision regarding copper entrance facilities only applied to adjacent collocation outside of the central office.

In addition, the record contains arguments describing the safety issues and space concerns such as conduit availability, space exhaust, and the main distribution frame exhaust that should be considered. Staff believes these arguments are all valid and should be considered when evaluating a CLEC request to utilize copper entrance facilities associated with its collocation.

Staff recognizes there may be situations where a CLEC's request for copper entrance facilities is warranted. However, staff believes wholesale authority to allow unfettered application is not warranted.

CONCLUSION

An ILEC should be required to allow entrance facilities for a CLEC's copper cable only in those rare instances where the CLEC demonstrates a necessity and that entrance capacity is not at or near exhaustion in the particular central office associated with the CLEC's collocation.

ISSUE 5: Should an ILEC be required to offer, at a minimum, power in standardized increments? If so, what should the standardized power increments be?

RECOMMENDATION: Yes. Depending on the technical feasibility, commercial availability, and safety limitations, DC power should be provided in 5-amp increments from 5 amps up to 100 amps. Given industry standard fuse sizing, DC power of 70 amps or greater may be provisioned directly from the ILEC main power board. **(VICKERY)**

POSITION OF THE PARTIES

BST: Yes, an ALEC may obtain power from BellSouth in all available power increments from 10 amps to 100 amps. If, however, the CLEC installs its own BDFB inside its collocation space to order power directly from BellSouth's main power board a standard 225 amp power feed is required.

SPRINT: ILECs should offer power consumption on a load amp basis in single amp increments in an amount equal to what the ALEC orders. DC power connection charges can fairly and reasonably be offered in standardized increments.

VERIZON: Verizon does not oppose allowing ALECs to order power in standardized increments, as long as ALECs order and maintain a specified minimum amperage. Verizon currently offers DC Power in per-amp increments, but requires a minimum of ten amps for each ALEC arrangement. Fuses should be offered in industry standard sizes.

AT&T: Power should be offered in one (1) amp increments, with fuse size increments of 5, 10, 15, 20, 25, 30, 40, 50, 60, 70, 80, 90, 100, 120, 150, 180, 200, 225 amps, and above as available. Upon request, fuse sizes of 70 amps or greater should be provisioned from the ILEC power distribution board.

COVAD: Yes. Power as defined for purpose of billing "per amp" should be offered in one (1) amp increments. ILECs should be required to provision power in fuse size increments of (5) amps and above, as available from the market.

FDN: Agree with AT&T and Covad.

STAFF ANALYSIS: Staff believes Issue 5 is limited to the provisioning of DC power in standard increments in relation to the battery distribution fuse board (BDFB) and main power board, and should not to be commingled with the DC power consumption found within Issues 6A and 6B.

PARTIES' ARGUMENTS

BellSouth

BellSouth witness Milner argues that a CLEC may order DC power in increments from as small as 10 amps to as large as 225 amps using a combination of industry standard fuse sizes. (TR 146) He explains that BellSouth offers DC power in three basic configurations and they are as follows:

1. From BellSouth's Battery Distribution Fuse Board (BDFB) in all available power increments from 10 amps to 100 amps.
2. A 225-amp feed from BellSouth's main power board to the CLEC's own BDFB in its collocation space.
3. A feed from BellSouth's BDFB to the CLEC's BDFB in power increments ranging from 10 amps to 100 amps. (TR 130-134)

In his rebuttal testimony, he explains BellSouth does not support protection devices smaller than 225 amps from the main power board because of "inherent standardization" and a Telcordia/Bellcore study of arcing in central offices that was prompted by the Hinsdale incident (i.e., a devastating fire in a Chicago central office). (TR 147)

During cross-examination by Covad counsel, witness Milner says that BellSouth should only be required to offer power in 10-amp increments. However, he agreed that 5-amp fuse sizes were available. (TR 161) In addition, witness Milner, during AT&T's cross-examination, says that previously, BellSouth only offered 60-amp feeds from its BDFB, but that a vendor had found a way to use a different fuse type and now it offers a 100-amp feed from its BDFB. (TR 227) AT&T counsel asked witness Milner whether or not the paralleling of fuses constituted a violation of the National Electric Code, section 240.8. He argues it does not because the holders are manufactured and as long as the same fuse type is used

in the same kind of holder, one can add the fuses together to reach the desired fusing level. (TR 253)

Sprint

Sprint witness Davis argues there are two components to DC power, consumption and DC power cable connections. The power consumption should be measured in amps used on a monthly basis; the DC cable connections involve the placement and maintenance of cabling required to deliver DC power to the CLEC's collocation space. (TR 334) He advocates that DC power consumption should be offered on a "load amp basis" in single amp increments, based on what the CLEC needs/orders and that load amp refers to the power needs of the equipment. (TR 334) During cross-examination by AT&T, he reiterated that the load amp is the amount of power the CLEC orders which is developed by the CLEC's engineers and becomes a part of the CLEC collocation application. (TR 405) In addition, witness Davis says Sprint offers DC power cable connections for fuse sizes of 30 amps and below, for fuse sizes between 35 and 60 amps, fuse sizes between 70 and 100 amps, and for fuse sizes between 125 and 200 amps. (TR 335)

Verizon

Verizon witness Bailey states that Verizon is not opposed to offering power in standardized increments as long as CLECs order and maintain a specified minimum amperage. (TR 463) He says Verizon offers DC power in per-amp increments, but requires a minimum of 10 amps for each CLEC collocation. (TR 463) The 10-amp minimum is required in order for Verizon to recover its costs. Witness Bailey says Verizon agrees to sell power on a per amp basis, and the 10-amp minimum is consistent with the bulk nature of the costs of provisioning power and therefore minimizes the threat of stranded investment.

In his rebuttal testimony, witness Bailey says that a CLEC should not dictate to the ILEC whether to provision power feeds of 70 amps or greater directly from the main power board or from a BDFB. (TR 483) He says that BDFBs are designed to relieve congestion on the main power board, to shorten distribution cable lengths, and are not designed to accommodate power feeds of greater than 70 or in some cases 60 amps. (TR 483) Under cross-examination, he said that if a CLEC needed a feed for more than 60

amps they would get it directly from the main power board to the CLEC's own BDFB. (TR 568)

AT&T/Covad and FDN

AT&T witness King states that power should be offered in one amp increments. He argues that ILECs should be required to provision power in fuse size increments of 5, 10, 15, 20, 25, 30, 40, 50, 60, 70, 80, 90, 100, 120, 150, 180, 200, 225 amps and above as available from the market. Fuse sizes greater than 70 amps should be provisioned from the main power board if requested by the CLEC. (TR 585)

ANALYSIS

The ILECs indicate DC power is being provisioned from either the BDFB or the main power board and that the BDFB is limited to 60 or 70 amps, and BellSouth witness Milner testifies that his company has the capability of offering 100 amps at the BDFB. The record also indicates the main power board has gained greater fusing capacity as commercial products became available and currently is limited to 225 amps for CLEC DC power feeds. (TR 227, TR 147, TR 335)

Staff believes, based on the arguments above, that the parties are very close on this issue. For example, as BellSouth states above, 5-amp fuses are commercially available which demonstrates that BellSouth has the capability of meeting a CLEC's request for provisioning DC power in increments as small as 5 amps. However, BellSouth does limit the feed to 100 amps from the BDFB and 225 amps from the main power board due to inherent standards and the Telcordia/Bellcore study which suggested greater amperages significantly increased arcing and the possibility of fires within central offices. (TR 147)

Sprint says it can offer DC power connections ranging from 30 amps and below, 35 amps to 60 amps, 70 to 100 amps, and 125 to 200 amps. Staff believes the ranges proposed by the CLECs which are 5, 10, 15, 20, 25, 30, 40, 50, 60, 70, 80, 90, 100, 120, 150, 180, 200, and 225 amps can be gleaned from the range Sprint provides. (TR 335)

Verizon states it is not opposed to offering power in standardized increments, but that the CLEC maintain a "minimum of

10 amps" for cost recovery purposes. Staff believes Verizon's 10-amp minimum is unwarranted because cost recovery is not the issue here and is being addressed in part two of this docket. The issue is whether or not an ILEC should offer DC power in standard increments, and what should be the standard increments. (TR 463)

The record is clear that ILECs presently offer DC power in ranges from 10 amps to 225 amps, and that a minimum fuse size of 5 amps is commercially available for use within the BDFB. (TR 147) Although the ILECs have somewhat different approaches to provisioning of DC power, in all cases the key factors were commercial availability and technical feasibility. Presently, the ILECs do not provision DC power in a 5-amp minimum at the BDFB even though there is a commercially available fuse. However, the record is silent as to any CLEC actually requiring 5 amps to power its collocation space. However, staff believes the record indicates that it is technically feasible to fuse DC power in a minimum of 5 amps at the BDFB. The record also indicates a wide range of provisioning choices were available to the CLEC and staff believes BellSouth's three basic configurations detailed above allow the greatest flexibility in meeting CLEC DC power provisioning requirements.

CONCLUSION

Depending on the technical feasibility, commercial availability, and safety limitations, DC power should be provided in 5-amp increments from 5 amps up to 100 amps. Given industry standard fuse sizing, DC power of 70 amps or greater may be provisioned directly from the ILEC main power board.

ISSUE 6A: Should an ILEC's per ampere (amp) rate for the provisioning of DC power to an ALEC's collocation space apply to amps used or fused capacity?

ISSUE 6B: If power is charged on a per-amp-used basis or on a fused capacity basis, how should the charge be calculated and applied?

RECOMMENDATION: An ILEC's per ampere (amp) rate for DC power provided to a CLEC's collocation space should be based on amps used, not fused. Charges for DC power should be calculated and applied based on the amount of power that the CLEC requests it be allowed to draw at a given time. An ILEC should also allow a CLEC, at the CLEC's option, to order a power feed that is capable of delivering a higher DC power level but to fuse this power feed so as to allow a power level less than the feed's maximum to be drawn by the CLEC; the CLEC must specify the power level it wishes to be able to draw. **(J-E BROWN)**

POSITION OF THE PARTIES

BST(6A): The per amp charge should apply to the fused capacity of the ALEC's equipment in its collocation space. Since protection devices are sized at 1.5 times the anticipated drain, the recurring power rate is assessed by BellSouth by applying a 0.67 multiplier to the fused capacity.

BST(6B): The rate for DC power should be calculated and applied on a per-amp basis. The charge by BellSouth should reflect the difference between fused capacity and rated capacity by using an adjustment factor of .67. This factor reflects the 1/1.5 relationship of fused capacity to rated capacity.

SPRINT(6A): The most feasible method is to bill based on the amount of power ordered by ALECs to power their collocation equipment. This ensures that the ILECs recover their costs to provide the requested power and equates to billing on the basis of amps "used" without the costs of metering or otherwise estimating power usage.

SPRINT(6B): A monthly recurring charge representing the ILEC's cost to produce one load amp of DC power should be applied to load amps ordered. The cost of a load amp is comprised of two components: the cost of the DC power plant itself, including the

cost of a generator for providing backup power and the cost of the commercial AC power, which is converted to DC power within the power plant.

VERIZON(6A and 6B): DC power rates should be applied to the load amps ordered by the ALEC, not on a measured basis. If the Commission adopts a measuring approach (which it should not), only electric utility costs should be charged on a measured basis, not infrastructure costs.

AT&T(6A): The ILEC's "per ampere" power rate should be based on the CLEC's per DC amp usage.

AT&T(6B): Following cost-causation pricing principles, the charges should be applied on the basis of meters, if elected and paid for by the CLEC, or on the basis of an adjusted List 1 Drain surrogate that reflects the List 1 Drain adjusted downward in the range of appropriately 50-67% to prevent over-recovery.

FDN(6A): Agree with AT&T's position.

FDN(6B): Where power is not metered at the ALEC's option, then (1) power should be charged per amp used, (2) the ILEC cannot bill for a redundant feed as it does the primary feed and (3) the maximum billing must be based on the collocated equipment's power draw.

COVAD(6A): An ILEC's per amp rate for the provisioning of DC power to a CLEC's collocation space may apply to either amps used or fused; however, in no event may an ILEC's billing structure recover more for electrical usage or provisioning than a CLEC's actual usage or an ILEC's actual costs.

COVAD(6B): A CLEC should have two available power billing structures from which it may elect to compensate the ILEC for power: Average Expected Use or Metered Power. Under both structures, a CLEC may elect to pay a plant infrastructure charge as a MRC or a NRC.

STAFF ANALYSIS: Staff notes that the recommendation for issues 6A and 6B is combined due to each of the participating parties' conjunct testimony on the subject of provisioning DC power and because of the complementary nature of the two issues. This issue addresses whether an ILEC's per ampere (amp) rate for the

provisioning of DC power to an CLEC's collocation space should apply to amps used or fused capacity, and if power is charged on a per-amp-used basis or on a fused capacity basis, how should the charge be calculated and applied.

PARTIES' ARGUMENTS

BellSouth

BellSouth witness Milner maintains that the per amp charge should apply to the fused capacity of the equipment a CLEC installs in its collocation space. (TR 134) In his explanation of the manner in which BellSouth charges for DC power capacity based on the power requirements of the telecommunications equipment being served, BellSouth witness Milner states:

> Fuse type protection devices are sized at 1.5 times the anticipated drain to ensure that the equipment can be operated at its full capacity without operating the protection device while allowing the protection device to safely clear any fault conditions(short circuits or overloads) that may occur. For purposes of billing, the recurring power rate assessed by BellSouth includes a 0.6667 multiplier to take into account the fact that an CLEC would not normally use the full capacity of the protection device. In other words, although telecommunications circuits for DC power are engineered to match the power requirements of the equipment served, with a fused protection device that is sized at 1.5 times the anticipated load (or drain), the recurring rate per fused amp is also ratcheted down by a 0.6667 multiplier (which is calculated as 1.0 divided by 1.5) to take into account the fact that an ALEC does not normally use the full capacity of the protection device (and therefore, should not be charged for the additional capacity). So, the ALEC is not paying for any more power capacity than what the equipment requires. (TR 135)

Witness Milner believes that the metering of central office power to each CLEC's collocation arrangement is not economically feasible for a CLEC, assuming that the CLEC is engineering its power circuits to match its equipment demand, because usage-based billing and the measuring systems would result in increased power

costs for the CLECs. (TR 135-136) Witness Milner further argues that "under usage based billing system, if the ALEC requested a large amount of power capacity, the ILEC would be forced to incur a significant expense to provide the requested capacity. Then, if actual usage were less than what was requested, the ILEC would never receive adequate compensation for this investment." (TR 136) Moreover, witness Milner points out that this Commission has previously determined that the billing of DC power on a fused amp basis, instead of a per-load basis, is appropriate.[6] (TR 137) Therefore, BellSouth witness Milner concludes that BellSouth's fused capacity proposal is superior to other suggested plans. (TR 139)

Sprint

Sprint witness Davis believes that offering DC power consumption based on load amps ordered is superior to "amps fused." (TR 337) Witness Davis asserts that the most feasible method of billing for DC power consumption is to bill based on the amount of power the CLEC declares on its application that it needs to power its equipment in the collocation space. He maintains that this approach equates to an estimation of power usage on a monthly basis, or otherwise billing on the basis of amps used without the added cost for the ILEC to meter, which witness Davis contends is a "costly and cumbersome" process. (TR 337) Sprint witness Davis claims that billing based on the number of load amps ordered by the CLEC erases any concerns the CLEC may have that it could be paying for more power than its equipment could use. (TR 337)

Sprint witness Davis believes that a Monthly Recurring Charge (MRC) representing the ILEC's cost to produce one load amp of DC power should be applied to load amps ordered. (TR 337) Witness Davis explains that the DC power cost per load amp is comprised of two components: the DC power plant itself, and the cost of the commercial AC power which is converted to DC power within the power plant. (TR 338) Sprint witness Davis concludes that a total cost is determined by adding the sum of the power

[6] Petition by MCImetro Access Transmission Services LLC and MCI WorldCom Communications, Inc. for arbitration of certain terms and conditions of a proposed agreement with BellSouth Telecommunications, Inc concerning interconnection and resale under the Telecommunications Act of 1996, Docket No. 000649-TP, Order No.PSC-01-0824-FOF-TP. (March 30, 2001) ("MCI Arbitration Case").

plant and commercial AC power to the specific common costs. (TR 338)

Verizon

Verizon witness Bailey believes that consistent with Verizon's tariff,[7] the per amp rate should be based on what the CLEC orders. (TR 466) Witness Bailey adds that when a CLEC orders power from Verizon, it "specifies the load(the typical drain, based on manufacturer's specifications) and the fused capacity(how much of a power spike the fuses should accommodate)." (TR 466) Witness Bailey points out that Verizon typically engineers the fuse to 1.25 or 1.50 times the load. (TR 464) Verizon witness Bailey believes the appropriate method of charging for DC power is on a per-load-amp basis, rather than charging for the total fused amps or measuring a used amount. (TR 466) He notes that because Verizon fuses each power feed based on the CLEC's application, if a CLEC abuses this pricing structure and consistently draws more power than it requested, Verizon should continue to have the ability to audit power usage and impose penalties for any abuses. (TR 466)

Verizon witness Bailey proposes that the monthly recurring charge for DC power should be calculated on a per-load-amp basis as opposed to a per-fused-amp basis. (TR 466) He believes that the monthly recurring charge should recover the investment in installed power plant infrastructure, labor and material to extend cabling from the power plant to the Battery Distribution Fuse Bay (BDFB), fuses and fuse panels on the BDFB, and an allocated utility cost. (TR 466-467) Verizon witness Bailey suggests that the per amp charge should be applied for each load amp ordered by the CLEC. (TR 467)

Verizon witness Bailey opines that ILECs should not be required to install meters to measure the actual amperage used by a CLEC. (TR 467) Witness Bailey claims that placing meters in the central office to monitor use on each cable feed is not feasible from a practical or cost standpoint. He adds that metering would impose new costs on the CLEC because additional equipment would be introduced into the collocation configuration,

[7] Verizon's tariff section 19.4.2.C.

along with additional manpower and administrative costs to read meters and bill accordingly. (TR 467) Verizon witness Bailey concludes that "metered power would raise cost and introduce inefficiency without yielding any advantage over Verizon's current practice." (TR 467)

AT&T

AT&T witness King believes that the ILEC's per ampere power rate should be based on the CLEC's actual usage, such as the specified load or amps used. (TR 586) Witness King maintains that since the ILEC incurs its expense from its power supplier based on actual usage, the ILEC, a secondary supplier of power, should charge its customers, the CLECs, based on the actual amperage used by the CLECs' installed equipment. (TR 586) AT&T witness King proposed two methodologies, in order of preference, to capture actual CLEC power usage: (1)metering, and (2)using the List 1 Drain of installed equipment as provided by the equipment vendors. (TR 586) He continues:

> Metering entails the actual placement of meters, or utilization of existing measurement facilities, at the power distribution board (PDB) or the battery distribution fuse bay (BDFB) to measure actual amperage drained by the collocation equipment for which the ILEC is providing the power. Using List 1 Drain entails using the power requirements that the collocation equipment vendor has specified as the maximum steady state drain for the equipment. (TR 586-587)

Witness King notes that the Collocation Application process requires the CLEC to provide to the ILEC the List 1 Drain of installed equipment; therefore, he believes that the Commission should order the use of List 1 Drain specifications as a suitable proxy for actual usage when determining collocation power charges if meters or measuring facilities are unavailable or not economically feasible at the PDB or BDFB. (TR 587)

BellSouth

In his rebuttal testimony, BellSouth witness Milner disagrees with Sprint witness Davis' argument that the most feasible method of billing for DC power consumption is to bill based on the amount of power the CLEC declares on its application

that it needs to power its equipment in the collocation space. (TR 148) BellSouth witness Milner believes that this approach would "fall far short of providing an accurate, reasonable, or credible account of usage and should be rejected." (TR 149) Moreover, witness Milner contends that because there would be no means of determining the validity of the CLEC's stated usage, adopting Sprint witness Davis' proposal would require the metering that Sprint apparently opposes. (TR 149)

BellSouth witness Milner disputes the claim made by AT&T witness King that charging on a "per fused" basis creates opportunities for significant over recovery of the ILEC's cost.[8] (TR 149) Witness Milner counters that "BellSouth provisions power based on a 'per fused amp' basis, but actually bills the ALECs for power based on usage. Even though BellSouth sizes the requested power usage at 1.5 times the anticipated drain (or use) by the ALEC's equipment, BellSouth then backs down the rate by the 0.67 multiplier, which is used in the calculation of the billing." (TR 150) Thus, witness Milner contends that there is no over-recovery as a result of BellSouth's fused amp proposal as AT&T witness King suggests. (TR 150)

Sprint

Sprint witness Davis points out that BellSouth witness Milner testified that ". . . the ALEC is not paying for any more power capacity that what the equipment requires." Sprint witness Davis rebuts BellSouth witness Milner's statement in an example, using his Exhibit JRD-1, which is the exhibit attached to witness Davis' rebuttal testimony. (TR 348) Witness Davis' exhibit illustrates that rate neutrality will only be achieved when the CLEC needs load amps of 10, 20, 30, 40, 60 amps, etc. (TR 349) Sprint witness Davis believes that the CLEC will be overcharged for all other desired loads because available fuses do not match up with the minimum protection needed for the desired load. (TR 349)

Sprint witness Davis reiterates his view that the most feasible method of billing for DC power consumption is to bill based on the amount of power the CLEC orders. (TR 350-351) He asserts that this method is the equivalent of AT&T's alternative

[8] Direct Testimony of AT&T witness Jeffrey King, p. 9.

recommendation of using "List 1 Drain of the installed equipment provided by the equipment vendors."[9] (TR 351) Sprint witness Davis proposes that the CLECs should use the vendor-provided List 1 Drain to determine how much DC power to order. (TR 351)

Verizon

Verizon witness Bailey believes that the practical effect of using List 1 Drain as a proxy for actual usage would be that the CLECs would likely pay for less power than they use. (TR 484) Witness Bailey explains that List 1 Drain represents the manufacturer specifications for normal operating conditions or the minimum amount of power that a fully loaded piece of telecommunications equipment will draw while in use. (TR 484) He continues:

> . . . by proposing to cap power charges at List 1 Drain, Mr. King is actually suggesting that ALECs should not have to pay for any increased power usage caused by non-ideal conditions such as the inevitable surges or spikes in current, or drops in the normal float voltage of the power system. That these increases in power drain are indeed inevitable is illustrated by the fact that manufacturers also specify a List 2 Drain for each piece of telecommunications equipment, which is enough higher than List 1 to account for expected, non-'normal' operating conditions. (TR 484)

Verizon witness Bailey believes that List 2 Drain would clearly be a more realistic proxy for actual power usage than List 1 Drain. (TR 485)

Witness Bailey notes that Verizon does not propose to tie CLECs to any manufacturer-specified drainage level in charging for power; rather, Verizon Florida engineers provision power based on CLEC load and fuse specifications. (TR 485) Witness Bailey affirms that Verizon lets CLECs order power at whatever load they desire; however, witness Bailey cautions that doing so would put the CLECs at risk for equipment failures and/or audit penalties during voltage spikes. (TR 485)

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[9] Id, pp. 9-10.

AT&T

On the other hand, AT&T witness King believes that BellSouth's fused capacity-based billing is a poor proxy for the power actually used by the CLEC. (TR 605) BellSouth requires that CLECs be charged for DC power based on the size of the fuse, which is sized at 1.5 times the anticipated load or "drain" of the CLEC's equipment. (TR 605) For purposes of clarification witness King elaborates:

> The anticipated load or "drain" utilized by BellSouth is the List 1 Drain of the equipment, however the fuse is based on the sum of the List 2 Drains, not the List 1 Drains. The List 2 "Drain" is specified by the manufacturer as the peak drain, which is the maximum amount of power that the equipment will consume when the power plant is in distress and nearing failure. This is in contrast to the List 1 Drain, which is the maximum amount of power that the equipment will draw when the equipment is fully utilized under normal operating conditions. (TR 605)

AT&T witness King claims that there is no predictable correlation between the amount of either actual or average power that a piece of equipment uses and the size of the fuse at either 1.5 times the List 2 or List 1 Drain. (TR 605-606) He believes that the size of the fuse is irrelevant to the actual amount of power used. (TR 606)

AT&T witness King offers three reasons why he believes BellSouth witness Milner's testimony on fused capacity-based billing is misleading. (TR 606) First, witness King asserts that basing the fused capacity on List 2 Drain overstates the amount of power that the CLEC equipment will utilize under normal working conditions because List 2 Drain is specified by the manufacturer as peak drain, which is the maximum amount of current the equipment will draw when the power plant is in distress and nearing failure. (TR 606) Second, witness King contends that CLEC equipment bays are not normally fully equipped when the power is connected, yet the size of the fuse feeding the equipment bay is based on an assumption that the equipment bay is fully equipped. (TR 607) According to witness King, the third issue that contributes to BellSouth's "fused capacity" based overcharges for power is the fact that fuse sizes are not

available in single ampere increments. (TR 607) To better illustrate his point, witness King asked that the parties "assume a piece of ALEC equipment has a specified List 2 Drain of 16 amps, requiring a fuse size of 24 amps (16*1.5). Since there is no 24-amp fuse available, the ALEC would be required to utilize a 30-amp fuse in its place." (TR 607) In this example, BellSouth is applying billing with the assumption that the CLEC is drawing 20 amperes of power (0.6667*30); this equates to a 25% overstatement of fuse capacity actually required, which would be reflected in the billed charges. (TR 607)

Furthermore, AT&T witness King maintains that the option to utilize fuses in 10-amp increments with capacities between 10 amps and 100 amps is only available if the CLEC connects to the BellSouth Battery Distribution Fuse Board (BDFB). (TR 607) He continues, "where the ALEC opts to install its own BDFB in the collocation space and connect its BDFB to the BellSouth Power Distribution Board (PDB), BellSouth requires the ALEC to purchase fuses in 225 amp increments." (TR 607) AT&T witness King believes that this "one size fits all" 225-amp fuse requirement for connection at the BellSouth PDB only exacerbates the problems of the significant mismatch between (1) the fused capacity billed and the fused capacity needed and (2) totally skews the amount of BellSouth billed overcharges for power versus the amount of power actually used by AT&T and the CLEC community. (TR 608)

In addition, AT&T witness King states that AT&T completed surveys of its Florida physical collocation sites to demonstrate that BellSouth's fused-capacity based billing for power has resulted in substantial overcharges to AT&T. (TR 608) Witness King affirms that the surveys included an inventory of the size and number of DC power fuses as well as a reading of the actual current drain at the meter built into the BDFBs installed at the AT&T collocation sites. (TR 608) Witness King notes that the results were that AT&T's primary fuses connected at the BellSouth PDB totaled 18,025 amperes, and the total usage measured at the AT&T BDFBs totaled 666.97 amps. (TR 608) He adds that by applying the BellSouth 0.6667 multiplier for purposes of billing, AT&T could expect to be billed by BellSouth for an equivalent of 12,017 amps rather than the approximately 667 amps actually used by the AT&T equipment in the collocation space; this equates to an overcharge of approximately 1703% over what AT&T's equipment actually used. (TR 608)

AT&T witness King proposes two methodologies to prevent the overbilling of power usage to CLECs. (TR 609-610) The first methodology that AT&T proposes is metering. (TR 610) Witness King believes that the actual metering of the power used by a CLEC's equipment can be performed at the CLEC's collocation space utilizing the existing measurement facilities in the CLEC's BDFB. He asserts that when a CLEC chooses this configuration and has the capability to meter the actual power usage, the monthly recurring billing for power should be based on metered usage. Whether it is economically feasible for a CLEC to establish a meter at its physical collocation site in order to measure the actual usage is a decision that is more appropriately left up to each individual CLEC. (TR 610-611)

Second, when metering is not available or feasible, AT&T witness King proposes that the monthly recurring power charges should be based on the List 1 Drain requirements of the installed equipment. (TR 611) Witness King believes that using List 1 Drain entails using the power requirements that the collocation equipment vendor has specified as the maximum steady state drain for the equipment under normal working conditions. (TR 611) Witness King contends that since the List 1 Drain specifications adequately capture the power requirements of the installed equipment under normal operating conditions, these specifications should be utilized as a suitable proxy for actual usage when determining collocation power consumption. (TR 611) AT&T witness King infers that using List 1 Drain to determine DC power usage will sufficiently minimize, although not completely eliminate, the overcharging that has occurred for collocation power. (TR 611) In its brief, AT&T mentions a List 1 Drain Surrogate that reflects the List 1 Drain adjusted downward in the range of approximately 50-67% to prevent over recovery; however, this proposed percentage adjustment is not supported by any testimony or other record support.

Alternatives Discussed with the Parties at the Hearing

Staff notes that in addition to the proposals offered by the parties in their prefiled testimony, some alternatives were discussed with the parties at the hearing. Of those supplemental proposals, staff believes that two deserve further discussion: (1) separation of infrastructure or plant from power, and (2) incremental increasing of DC power supplied to the collocation space. (TR 193-194; 371; 401-404) The first proposal was

introduced by a Commissioner, wherein he asked if BellSouth had considered giving CLECs the option to "choose one energy charge which includes recovery of infrastructure and an option where they are willing to pay the up-front costs and the recurring metering costs for a more pure energy charge." (TR 193-194) In response, BellSouth witness Milner replied "there have been some discussions between BellSouth and at least two different ALECs" about such a proposal. (TR 194) However, witness Milner added that those discussions have taken quite awhile and are to date not complete. (TR 194)

The second alternative, raised by Sprint witness Davis, was one in which the CLEC orders DC power on a level more commensurate with their current needs. (TR 401) Witness Davis offered that a CLEC can:

> . . . go ahead and up size that cable up front based on some planned or future needs, but then when they request DC power from the ILEC, adjust that amount or request down somewhat to better fit their current needs with their business up front. And then as the business grows, they can then go back and apply for additional DC power, and subject to having the available capacity, all we would have to do is go in and increase that fuse a little bit. (TR 401)

Sprint witness Davis adds that the CLEC will still be charged for DC power based on the requested amount on the application; however, the billed amount respresents the CLEC's determination of its current DC power needs. (TR 405)

ANALYSIS

Staff believes that the appropriate remedy for this issue is one that provides a means for the ILEC to recoup their investment while not overbilling the CLECs for DC power. Staff applied this test to each of the parties' proposed solutions; however, staff believes that none of the prefiled proposals brought before this Commission completely balanced these two goals.

Staff believes that BellSouth's proposed solution often requires CLECs to pay, in some cases, substantially more than the DC power CLECs actually draw. Based on BellSouth witness Milner's testimony, under normal circumstances the CLEC's

equipment will not draw any more than List 1 Drain. Further, at List 2 Drain the equipment will actually fail. Staff is puzzled that BellSouth witness Milner can rationalize how in its power charge, the BellSouth proposal compensates for the fuse versus the List 2 Drain by multiplying the power charge times .6667,[10] when in making that mathematical correction, it adjusts the charge down to the List 2 Drain. (TR 237) Staff notes that List 2 Drain is the "maximum amount of power" that equipment will consume when the power plant is in distress and nearing failure. (King TR 605) Therefore, staff believes that to charge the CLECs for DC power on a per fused amp basis, as BellSouth witness Milner proposes, introduces opportunities for significant over-recovery of the ILEC's true cost. (TR 586)

While staff believes that the Sprint and Verizon proposals are superior to that of BellSouth, a problem can arise where there is a significant discrepancy between the DC power the CLEC orders and the DC power the CLEC actually uses. It appears this problem may be exacerbated if an ILEC both engineers and provisions DC power based on the capacity the CLEC orders on its application to power its collocation equipment. Staff agrees with AT&T witness King that CLEC equipment bays are not normally fully equipped; therefore, the capacity the CLEC declares on its application to power its equipment in the collocation space may not be representative of the amount of power the CLEC uses or needs at the time the CLEC applies for the provisioning of the collocation space. Rather, the capacity the CLEC declares on its application could be a projection of anticipated demand that a CLEC requests should be provisioned now, taking into account the incremental expense of future augmentations. Staff believes that this rational forecasting implemented by CLECs should not be discouraged.

On the other hand, ordering the ILECs to use List 1 Drains as the basis for their per ampere rate for the provisioning of DC power, as AT&T witness King proposes,[11] could result in underbilling. Staff believes that if this Commission were to limit requested power to List 1 Drains, there exists the possibility that greater amounts of DC current may be drawn by a CLEC than is billed. The basis for staff's belief is the unrestricted capability of the CLEC equipment to draw more power.

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[10] Direct Testimony of BellSouth witness W. Keith Milner, p. 12.

[11] See TR 587.

Therefore, staff believes it would be inappropriate to require the use of List 1 Drain in this issue.

Staff believes that although several questions associated with the metering of DC power were identified in this issue, the majority of them are still unanswered. Staff notes that a substantial amount of testimony discussed the viability of metering; however, staff believes that due to the novelty of the metering concept and the limited time available to the parties for discovery on this topic, the record on metering is both incomplete and inconclusive. Staff notes that ILECs provision collocation not out of necessity, but out of obligation; therefore, a lack of incentive may exist to negotiate an economically feasible solution for the CLEC to meter DC power to its collocation space. However, staff is optimistic that the ILECs will nevertheless continue to explore the costs of metering and present those costs to the CLECs. Staff believes that although the metering idea may have its merits, further study is needed and encouraged in order for the parties to make an informed decision about whether metering is an appropriate basis for the application and calculation of DC power charges.[12]

While the proposal to separate infrastructure from power consumption that was discussed at the hearing is conceptually sound, staff believes that paying for power plant infrastructure costs up-front might pose a barrier to entry for most CLECs. Staff believes that Sprint's alternative proposal is the most reasonable option presented. Under Sprint's plan, a CLEC can order its DC power feeds sized to allow for future demand, but initially fused at a level that is commensurate with its current power needs. (TR 401) Staff believes that as the CLEC grows, it can increase fuse sizes, and will not have nearly the costs associated with increasing fuse sizes as the CLEC would have for increasing the capacity of its DC power cables. Therefore, the CLEC would only bear the costs associated with its present DC power needs and could grow more efficiently. (TR 402, 412)

Staff believes that the modified proposal discussed by Sprint at the hearing is a step in the right direction in mitigating this issue. Staff believes that the modified proposal, whereby a CLEC may order a power feed designed to meet a future, higher demand level but initially fusing this power

[12] See TR 415-416.

feed so that a lesser amount of power can be drawn, has merit. Accordingly, staff recommends that an ILEC's per ampere (amp) rate for DC power provided to a CLEC's collocation space should be based on amps used, not fused. Charges for DC power should be calculated and applied based on the amount of power that the CLEC requests it be allowed to draw at a given time. An ILEC should also allow a CLEC, at the CLEC's option, to order a power feed that is capable of delivering a higher DC power level but to fuse this power feed so as to allow a power level less than the feed's maximum to be drawn by the CLEC; the CLEC must specify the power level it wishes to be able to draw.

CONCLUSION

An ILEC's per ampere (amp) rate for DC power provided to a CLEC's collocation space should be based on amps used, not fused. Charges for DC power should be calculated and applied based on the amount of power that the CLEC requests it be allowed to draw at a given time. An ILEC should also allow a CLEC, at the CLEC's option, to order a power feed that is capable of delivering a higher DC power level but to fuse this power feed so as to allow a power level less than the feed's maximum to be drawn by the CLEC; the CLEC must specify the power level it wishes to be able to draw.

ISSUE 6C: When should an ILEC be allowed to begin billing an ALEC for power?

RECOMMENDATION: Billing for power should begin at the same time as the recurring charges as stipulated in Issue 1B.[13] **(MUSKOVAC)**

POSITION OF THE PARTIES

BELLSOUTH: Billing should begin at the same time as the recurring charges as addressed in Issue 1B, i.e., upon space acceptance, if the CLEC conducts a walk through within 15 days of the Space Ready Date; otherwise billing should begin on the Space Ready Date.

SPRINT: An ILEC should be allowed to begin billing an ALEC for power after acceptance of the collocation space, the same as for any other collocation element. Beginning to bill at the time the space is accepted is consistent with how the costs have been incurred.

VERIZON: Power charges should commence when Verizon tenders the collocation space. Power is available to the ALEC at that time

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[13]Stipulated Issue 1B: When should billing of monthly recurring charges begin? If the CLEC accepts the collocation space before or within the time designated by the interconnection agreements between the CLEC and the ILEC, or if there is no ICA between the parties, or the ICA is silent on the period allowed for a walk-through, or the arrangement was ordered out of the ILEC's tariff within 15 calendar days after the space ready date, billing of monthly recurring charges should begin in the next billing cycle and should include prorated charges for the period from the CLEC acceptance date to the bill issuance date.

If the CLEC does not conduct a walk-through within the time designated by the ICA, or if there is no ICA between the parties, or the ICA is silent on the period allowed for a walk-through, or the arrangement was ordered out of the ILEC's tariff within 15 calendar days after the space ready date, billing of monthly recurring charges should begin in the next billing cycle and should include prorated charges for the period from the space ready date to the bill issuance date.

If the CLEC conducts the walk-through but does not accept the collocation space, the ILEC and the CLEC should work together to resolve any problems with the space.

If the CLEC occupies the collocation space prior to the space ready date, billing should begin in the next billing cycle and should include prorated charges from the period from the CLEC occupancy date to the bill issuance date. Disputes concerning the reasonableness of an acceptance or refusal of space should be resolved under the parties' ICA. If the dispute cannot be resolved by the parties pursuant to their ICA, it should be submitted to the Commission for resolution. (TR 9-11) (Emphasis added)

and Verizon has incurred the costs to provide it. The parties stipulated to this result for other MRCs in Issue 1B--there is no reason why power should be different.

AT&T: A CLEC should be billed for power once power is being used by the CLEC. Once equipment is operational, the ILEC (or certified 3rd party representative) will perform a collocation site survey and record the metered power. Unless future augments occur to a collocation site metering surveys could occur quarterly.

COVAD: Under both billing structures outlined in 6B: Billing for infrastructure should be reflected in the 30 day billing period following the Space Ready Date. Billing for electrical power should begin at actual usage.

FDN: Agree with AT&T and Covad.

STAFF ANALYSIS: Staff notes Issue 6C addresses at what point billing for power should commence. Consistent with staff's recommendations in Issues 6A and 6B, the record is not ripe for a decision regarding metering for power. Based on this record, staff believes the cost of power is a recurring charge and, thus, billing should normally begin upon space acceptance, as outlined in the stipulated Issue 1B.

PARTIES' ARGUMENTS

BellSouth

BellSouth witness Milner acknowledges that there is a period of time between when BellSouth has done all its work and turned the space over to the CLEC and when the CLEC ultimately occupies the full capacity of space. (TR 204) The witness addresses this by stating, "All of those things are largely within your (the CLEC's) control as to h[ow] quickly you put equipment in, how quickly you ramp up and put customers on that equipment." (TR 204) Witness Milner also states that billing of power as a recurring charge is a form of cost recovery for space preparation. (TR 151) "To allow otherwise, might encourage ALECs to game the process by requesting that BellSouth perform work to provide the ALEC DC power but then delay paying BellSouth for its work simply because the ALEC's business plans or needs have changed." (Milner TR 152) Witness Milner explains:

> BellSouth has experienced instances in which ALECs that requested collocation space and associated power, for which BellSouth prepared the collocation space and associated power by the ALEC requested date, delayed physically occupying the space for several months thus depriving BellSouth a return on the costs it expended at the ALEC's request. In case of both space preparation and power construction, BellSouth has incurred significant up-front expense. (TR 140)

In summary, DC power is assessed by BellSouth as a recurring monthly charge. Thus, witness Milner asserts that billing should begin as stated in Issue 1B. (TR 139) He believes BellSouth has the right to reimbursement for power beginning on the space ready date or the date the CLEC accepts the space, because prior to the space ready date the ILEC incurs the cost to provide batteries and rectifiers to ensure adequate capacity exists to serve the power demand requested by the CLEC. (Milner TR 140)

Sprint

Sprint witness Davis states power is the same as any other collocation element and billing should begin after the acceptance of the collocation space as the CLEC has the capability of drawing power on that date. (TR 339) "At the time of acceptance of the collocation space, power plant capacity has in effect been placed in service for the ALEC's use." (Davis TR 339) As with BellSouth, the Sprint witness believes ILECs are entitled to a return on the investment that has been made available to the CLECs. (Davis TR 339) Witness Davis describes the costs incurred by ILECs:

> As with other collocation elements, the collocation completion intervals ILECs are held to include making provisions for supplying DC power. This involves providing capacity from the ILEC's DC power plant. The DC power plant consists of rectifiers, batteries, power distribution boards, power cabling, emergency back up generators and the like. These assets represent a substantial investment for which the ILEC incurs carrying costs (including: cost of money, depreciation, property tax, maintenance, etc). (TR 351)

In summary, witness Davis asserts that if DC power should not be billed to the CLEC until the CLEC installs and activates its equipment, CLECs could delay payment by delaying the installation of their equipment. (TR 351) "Requiring ALECs to remit NRCs and MRCs once collocation elements are available is necessary to adequately compensate Sprint for its costs." (Davis TR 351) To ensure that ILECs are appropriately compensated for their provisioning costs, Sprint contends that the DC power monthly recurring charge should begin when the space is turned over to the CLEC. (Sprint BR at 18)

Verizon

Verizon witness Bailey states, "[b]ecause part of Verizon's significant power investment is recovered in the per amp monthly charge, Verizon is entitled to begin recovery of that investment once the ALEC accepts the [collocation] arrangement." (TR 467) The witness disagrees with the CLECs' proposal to bill based on actual usage because that would allow the CLEC to unilaterally delay paying for power when Verizon Florida has incurred unrecovered costs to provision. (Bailey TR 486) Witness Bailey further states that the date that a CLEC installs or activates equipment within its space is not relevant to when Verizon Florida is entitled to cost recovery. (TR 486)

In his pre-filed rebuttal testimony Verizon witness Bailey notes an order by the Massachusetts Department of Transportation and Energy dealing with this issue that states:

> "Verizon's Power Consumption rate element should be assessed upon immediate occupation because Verizon reserves a portion of its DC amp capacity in response to a CLEC's collocation application," and that "[b]y recovering the Power Consumption charge once space is turned over, the cost structure will create an incentive for CLECs to be prudent in seeking to collocate, which will reduce the likelihood of Verizon incurring up-front investments that may go unused and unnecessarily exhausting CO space."[14] (TR 487)

[14]DTE 01-20 Part A, Investigation by the Department of Telecommunications and Energy on its own Motion into the Appropriate Pricing, based upon Total Element Long-Run Incremental Costs, for Unbundled Network Elements and Combinations of Unbundled Network Elements, and the Appropriate Avoided-Cost Discount for Verizon New England, Inc. d/b/a Verizon Massachusetts' Resale Services in the

At the hearing, during his summary, Verizon witness Bailey states ". . . for the reasons that BellSouth and Sprint identified, we believe that the DC power rate should begin at the time space is turned over." (TR 495)

AT&T

AT&T witness King states that a CLEC should be billed for power once power is being provided and used by the CLEC. (TR 588) "To ensure proper cost-recovery requires that the ALEC pay for the power actually consumed when consumed." (King TR 625) Following the proposal by AT&T in Issue 6A to bill for actual amps used, the beginning date for billing should be when the CLEC actually begins to use the space and consume power. (AT&T BR at 15) Along those lines, witness King proposes that the ILEC or certified third party representative perform a collocation site survey and record the metered power. (TR 588) Additionally, witness King states metering could occur quarterly as telecommunications equipment maintains a steady state power drain. (TR 588) Under this scenario, the billing of power would not start until the first usage. (AT&T BR at 16)

Covad

In its brief, Covad outlines a two-part billing structure in Issue 6B. "In order to address both the problem of over billing for electrical usage and the need to compensate the ILEC for the costs it incurs in making power available, Covad proposes the CLECs have two options for power billing." (Covad BR at 8) The two options, "average expected usage" and "metered power," are discussed in Issue 6B. (Covad BR at 8) Accordingly, Covad's position is billing for infrastructure should be reflected in the 30-day billing period following the space ready date, and billing for electrical power should begin at actual usage. (BR at 7)

FDN

In its brief, FDN agrees with the positions taken by AT&T and Covad. (FDN BR at 13)

Commonwealth of Massachusetts at 419 (July 11, 2002), affirmed DTE 01-20-Part A-A, Order on Motions by Verizon Massachusetts, AT&T Communications of New England, Inc., and CLEC Coalition for Partial Reconsideration and Clarification and on Motions by WorldCom, Inc. and Z-Tel Communications for Partial Reconsideration at 419-20 (January 14, 2003).

ANALYSIS

Staff notes that the outcome of this issue depends entirely on the decisions made in Issues 6A and 6B. The Commission has been presented several options regarding whether power should be charged on a per-amp-used basis or on a fused capacity basis and whether power should be metered or ordered, etc. Staff acknowledges the compelling arguments of the CLECs regarding actual usage of power. However, staff believes the record is limited in support of how the actual usage of power can be quantified, and further investigation by the parties needs to take place in order for this Commission to render an informed decision.

As a result, staff agrees with the ILECs' position regarding Issue 6C. The record clearly demonstrates that the ILECs incur up-front costs to provide power to collocating CLECs. Sprint witness Davis outlines the infrastructure needed in preparing power for the space requested by a CLEC, which includes providing capacity from the ILEC's DC power plant. (TR 351) This constitutes an investment by the ILEC for the benefit of the CLEC's business needs. The power that is reserved for a collocating CLEC is only available for use by that specific CLEC and should be treated as any other collocation element.

Therefore, staff believes the billing of power is a recurring charge and should be billed as such. Upon space acceptance the CLEC controls how quickly equipment is installed and available for customer use. (Milner TR 204) To begin billing upon space acceptance also provides CLECs the motivation to move in and "ramp up" as quickly as possible in order to enjoy the economic benefits of providing service to their customers. Staff is somewhat concerned that if billing for power does not begin at actual usage, then if there was a delay, intentional or otherwise, in the CLEC physically occupying the space reserved, the ILECs would stand to lose the return on the investments associated with space preparation and power construction. (Milner TR 140)

CONCLUSION

Billing for power should begin at the same time as the recurring charges as stipulated in Issue 1B.

ISSUE 7: Should an ALEC have the option of an AC power feed to its collocation space?

RECOMMENDATION: Yes, the CLEC should have the option of obtaining AC power for its collocation arrangement. This includes AC convenience outlets for test equipment, AC powering of collocation equipment, and AC power feeds for converting AC to DC as long as they are in accordance with the National Electric Code and the appropriate local building codes. **(VICKERY)**

POSITION OF THE PARTIES

BST: Yes, the ALEC should have the option of obtaining an AC power source in accordance with the requirements of the National Electric Code in those instances in which a local authority having jurisdiction permits this arrangement.

SPRINT: An ALEC should be allowed to use AC power only for equipment testing purposes.

VERIZON: Verizon offers AC convenience outlets for equipment testing purposes. Requests for anything more than that; specifically, requests for either an AC feed to power telecommunications equipment directly or an AC feed for converting AC power to DC power—should be handled on a Bona Fide Request basis.

AT&T/COVAD: Yes, a CLEC should have the option of an AC power feed to its collocation space for convenience outlets, powering of test equipment and for AC powered equipment including equipment that is capable of converting AC power to DC power for telecommunications equipment when such arrangements are permitted by the National Electric Code and appropriate local authorities.

FDN: Agree with AT&T and Covad.

STAFF ANALYSIS:

PARTIES' ARGUMENTS

BellSouth

Witness Milner states that BellSouth already allows the CLEC AC power feeds for its collocation space, provides AC power sources in accordance with the requirements of the National

Electrical Code and local authorities, and has ". . . no objection to the CLEC converting power. . . . " (TR 141, TR 261)

Sprint

Sprint witness Fox states that Sprint only provisions AC power to collocations that use AC powered test equipment, and it is not intended for powering the CLEC's other collocation telecommunications equipment. (TR 291) He argues that almost always, the telecommunications equipment requires DC power, and Sprint cannot control the quality of the AC power as it can with the normal DC power. (TR 291) He states that if a CLEC were to use AC power "beyond testing purposes" it would have to install an uninterrupted power supply (UPS), and Sprint does not allow such installations in the technical floor space due to technical and safety issues such as the fact UPS devices contain acid type batteries which can leak or release harmful gases. (TR 291)

During cross-examination, witness Fox responded to AT&T's question that Sprint's concerns were alleviated if a CLEC placed equipment in its collocation space that used AC power and met all the applicable building requirements, electric code requirements, and other local or governmental regulations. (TR 323) Sprint's primary concerns are about safety, the quality, and the redundancy of the electrical circuit for AC which is not usually found in maintenance outlets used for AC power. (TR 324) Witness Fox did state that Sprint modified its position based on what was said during the hearing and that Sprint would have no objection to providing AC power within the "hypothetical" posed earlier for BellSouth. (TR 326)

Verizon

Verizon witness Bailey argues that a CLEC should not have the option of an AC power feed to its collocation space and that the CLEC should not be permitted to request AC power feeds with the intent to convert AC power to DC power. The conversion of AC power to DC power is a core function of the infrastructure within the central office. He also states that attempts to bypass the core function would require conversion equipment, batteries, generators and special construction to isolate the CLEC power system from the rest of the central office for protection against fire. (TR 469)

In his rebuttal testimony, witness Bailey says it is highly doubtful that a CLEC would actually use any kind of AC powered equipment because virtually all telecommunications equipment is DC powered, and AC powered equipment would be subject to power interruptions. (TR 488)

Witness Bailey states that Verizon can develop a rate for an AC service offering that is not backed up (redundant) as long as the CLEC understands that and accepts such an arrangement (TR 495) In addition, Verizon would not have any objection to a CLEC converting DC power to AC power assuming that the conversion would not have a negative impact on Verizon's equipment or operations. Witness Bailey continues by saying "there's a lot of issues that need to be addressed, but if the conversion could be done and there would be no risk to the Verizon network, then that's something we would consider." (TR 550)

AT&T/Covad

AT&T witness King argues that a CLEC should have the option of an AC power feed because it is essential to enable the CLEC to place AC powered equipment in its collocation space. Also, a CLEC needs to be able to convert AC power to DC and that such a conversion may be more economical than purchasing DC power from the ILEC. (TR 588) Witness King summarizes that once all the questions of batteries, safety concerns et cetera are answered in accordance with the National Electric Code, AT&T should be offered the option of AC power sources. (TR 624)

ANALYSIS

BellSouth already allows the CLEC the option of AC power feeds to the CLEC's collocation space. Sprint and Verizon modified their respective positions as noted in their arguments above and said as long as the CLEC understood and complied with the applicable National Electric Codes and local building codes, they would provide AC power feeds. Staff believes the AC to DC power conversion process, which the CLECs seem to think would be more economical than obtaining DC power from the ILEC power plant, is a reach and may not be warranted at this time because the record contains no evidence indicating it is more economical, but only that it may be more economical. However, staff believes CLECs should have the option of deciding which is more economical

within the constraints of the National Electric Code, local governments and the applicable building codes.

CONCLUSION

Therefore, staff recommends that the CLEC should have the option of obtaining AC power for its collocation arrangement. This includes AC convenience outlets for test equipment, AC powering of collocation equipment, and AC power feeds for converting AC to DC as long as they are in accordance with the National Electric Code and the appropriate local building codes.

ISSUE 8: What are the responsibilities of the ILEC, if any, when an ALEC requests collocation space at a remote terminal where space is not available or space is nearing exhaustion?

RECOMMENDATION: Generally, CLEC requests for collocation space at an ILEC remote terminal in Florida should be treated in the same fashion as central office collocation requests. **(VICKERY)**

POSITION OF THE PARTIES

BST: The ILEC should allow the requested collocation if space exists at the remote terminal. If no space exists, the ILEC (1) should be allowed to file a waiver request if it has not collocated its own equipment; or (2) should augment the space if its own equipment is in the DLC.

SPRINT: If Sprint owns or controls the property upon which the remote terminal (RT) is collocated, the ALEC has the option of adjacent collocation. If space is not available on the property, then the ALEC has the option to establish interconnection between the RT and an equipment location that the ALEC has separately procured.

VERIZON: When space is not available at a particular remote terminal site, the ILEC should follow the same procedures as established by the Commission for handling space exhaust in a central office.

AT&T: ILECs should have the same responsibilities for requests for collocation at a remote terminal as they have for central office collocation including notification to CLECs of remote terminal locations for which space is at exhaust. Notification to the CLECs should also include ILECs' plans to relieve exhaust conditions at remote terminals.

COVAD: Based on the record evidence that no CLEC in Florida has requested remote terminal collocation this Issue should be deferred to another proceeding.

FDN: Agree with AT&T and Covad.

STAFF ANALYSIS:

PARTIES' ARGUMENTS

BellSouth

Witness Milner says that BellSouth permits CLEC collocation at DLC remote terminals if sufficient space exists, and if sufficient space does not exist, it will file a collocation waiver request with the Commission for that DLC remote terminal location. In those situations where it has installed its own DSLAM equipment at that DLC remote terminal location, BellSouth will take whatever action is required to augment the space at the DLC remote terminal. In those rare instances where BellSouth is not able to augment the DLC remote terminal, then BellSouth will provide the CLEC unbundled packet switching at the DLC remote terminal in accordance with FCC Rule 51.319(c)(5). (TR 142) Also, witness Milner says that no CLEC has requested remote terminal collocation in Florida. (TR 205)

Sprint

Witness Fox says if Sprint owns or controls the property upon which the remote terminal is located, the CLEC has the option of adjacent collocation. If space is not available, the CLEC has the option to establish interconnection between the remote terminal and an equipment location that the CLEC has procured separately. He says that Sprint's practices are in accordance with the Commission's decision relating to the Generic Collocation Order at pages 24-26. (TR 292) In cross-examination, witness Fox clarified that Sprint will allow the CLEC to collocate its equipment if there is sufficient space in the cabinet. (TR 326)

Verizon

Verizon witness Bailey says procedures for obtaining remote terminal collocation space should mirror those for a central office. If no space is available in the remote terminal, the CLEC should explore adjacent collocation and establish a network interconnection with its own remote terminal and that of Verizon's remote terminal. (TR 469) He also says Verizon Florida will list on its web site every remote terminal where an application for collocation has been denied due to space

exhaustion. (TR 490) In addition, witness Bailey testified during cross-examination that nobody has ever requested collocation space at a Verizon Florida remote terminal. (TR 538)

AT&T/Covad

Witness King argues the ILEC should notify the CLEC community of remote terminal sites that are exhausted, and the ILEC should provide a plan of action as to when new construction of a remote terminal will be completed. (TR 589) Covad recommends within its post-hearing brief that the Commission should recognize that this issue is "not yet ripe," there is no record evidence, and no CLEC has requested remote terminal collocation within the state of Florida. (Covad BR at 11)

ANALYSIS

In examining the record, staff believes that the ILECs have virtually identical policies in place to deal with physical collocation and remote terminal collocation. However, the record clearly indicates that no CLEC has actually requested or received collocation within an ILEC remote terminal in the state of Florida. (TR 205, TR 538, Covad BR at 11) Staff agrees that, in general, remote terminal collocation requests should be treated in the same fashion as central office collocation requests. Since the record indicates that CLECs have not requested collocation at remote terminals in Florida, making a decision beyond this without a full and concise record would be premature.

CONCLUSION

Generally, CLEC requests for collocation space at an ILEC remote terminal in Florida, should be treated in the same fashion as central office collocation requests.

ISSUE 11: Should these dockets be closed?

RECOMMENDATION: No. These Dockets should remain open to address the pricing issues associated with this proceeding. **(TEITZMAN)**

STAFF ANALYSIS: These Dockets should remain open to address the pricing issues associated with this proceeding.