

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

 In the Matter of : DOCKET NO. 981834-TP
 :
 Petition of Competitive :
 Carriers for Commission :
 Action to support local :
 competition in BellSouth :
 Telecommunications, Inc.'s :
 service territory. :

Petition of ACI Corp. d/b/a : DOCKET NO. 990321-TP
 Accelerated Connections, Inc. :
 for generic investigation to :
 ensure the 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. :



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VOLUME 6

Pages 823 through 1013

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PROCEEDINGS: HEARING

BEFORE: COMMISSIONER J. TERRY DEASON
COMMISSIONER SUSAN F. CLARK
COMMISSIONER E. LEON JACOBS

DATE: Thursday, January 13, 2000

TIME: Commenced at 8:30 a.m.

LOCATION: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: JANE FAUROT, RPR
FPSC Division of Records and Reporting
Chief, Bureau of Reporting

APPEARANCES: (As heretofore noted.)

I N D E X

WITNESSES

NAME	PAGE
MICHAEL MOSCARITOLO	
Direct Examination by Mr. Goodpastor	827
Prefiled Direct Testimony Inserted	830
Prefiled Rebuttal Testimony Inserted	846
Cross Examination by Mr. Carver	856
Cross Examination by Ms. Caswell	874
Cross Examination by Mr. Buechele	885
Redirect Examination by Mr. Goodpastor	887
ANDREW LEVY	
Direct Examination by Mr. Kerkorian	895
Prefiled Direct Testimony Inserted	898
Cross Examination by Ms. White	923
Cross Examination by Ms. Caswell	939
Cross Examination by Ms. Stern	944
DAVID A. NILSON	
Direct Examination by Mr. Buechele	946
Prefiled Direct Testimony Inserted	949
Prefiled Rebuttal Testimony Inserted	970
Cross Examination by Ms. White	1002
Cross Examination by Ms. Caswell	1011

EXHIBITS - VOLUME 6

NUMBER		MKD.	RCVD.
21	Exhibits to Mr. Moscaritolo's Testimony	829	894
22	South Florida Building Code	865	894
23	Composite Exhibit	890	

1 P R O C E E D I N G S

2 (Transcript follows in sequence from Volume 5.)

3 COMMISSIONER DEASON: Mr. Goodpastor, you may
4 call your witness.5 MR. GOODPASTOR: Covad would like to call Michael
6 Moscaritolo.
7 Thereupon,

8 MICHAEL MOSCARITOLO

9 was called as a witness on behalf of Covad Communications
10 Company and, having been duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MR. GOODPASTOR:

13 Q Mr. Moscaritolo, have you been previously sworn
14 in this docket?

15 A Yes, I have.

16 Q And you realize you are still under oath?

17 A Yes, I do.

18 Q Can you tell the Commissioners and everyone else
19 in the room your name and business address?20 A My name is Michael Moscaritolo, my business
21 address is 13 Mills Point, Middleton, Massachusetts.22 Q And could you also tell us your employer and what
23 position you occupy with that employer?24 A My employer is Covad Communications Company. I
25 am Director of Network Deployment for the east coast.

1 Q And are you the same Michael Moscaritolo who
2 filed 16 pages of direct testimony in this docket?

3 A Yes, I am.

4 Q And did that direct testimony contain one
5 exhibit?

6 A Yes, it does.

7 Q And you are the same Michael Moscaritolo who has
8 filed 8 pages of rebuttal testimony in this docket, isn't
9 that correct?

10 A Yes, that is correct.

11 Q And that rebuttal testimony contained two
12 exhibits?

13 A That is correct.

14 Q Do you have any changes or corrections to your
15 testimony at this time?

16 A No, I do not.

17 Q If I asked you the same questions listed in your
18 prefiled testimony, would you give me the identical
19 responses as you sit here today?

20 A Yes, I would.

21 MR. GOODPASTOR: At this time, Mr. Chairman, we
22 would move to have Mr. Moscaritolo's testimony inserted into
23 the record.

24 COMMISSIONER DEASON: Without objection it shall
25 be so inserted.

1 MR. GOODPASTOR: We would also like to mark
2 Exhibits MM-1, MM-2, and MM-3 to Mr. Moscaritolo's testimony
3 as the next composite exhibit in this docket.

4 COMMISSIONER DEASON: That will be Composite
5 Exhibit 21.

6 (Composite Exhibit Number 21 marked for
7 identification.)

8 MR. GOODPASTOR: At this time we tender Mr.
9 Moscaritolo for cross-examination.

10 COMMISSIONER DEASON: No summary?

11 MR. GOODPASTOR: Oh, I'm sorry.

12 COMMISSIONER DEASON: I was hoping.

13 THE WITNESS: We have a very brief summary.

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1 **I. INTRODUCTION**

2 **Q: PLEASE STATE YOUR NAME AND TITLE.**

3 A: My name is Michael Moscaritolo. I presently serve as Director, Network
4 Deployment, Eastern Region for Covad Communications Company ("Covad").

5 **Q: PLEASE DESCRIBE YOUR QUALIFICATIONS AND EXPERIENCE AS**
6 **THEY PERTAIN TO THIS PROCEEDING.**

7 A: I received my Bachelors degree in Engineering from Northeastern
8 University and a degree in Mechanical Engineering from Wentworth Institute. I
9 have served as Director for Covad since May 1998. Before joining Covad, I held
10 a number of senior management positions during my 27 year career with Bell
11 Atlantic (formally NYNEX). In my last position, as Regional Director of
12 Network Engineering for Bell Atlantic Mobile, a billion-dollar Cellco partnership
13 company, I was responsible for all network deployment functions necessary to
14 construct the largest wireless communications network in the northeast market.

15 As Director of Asset Management for NYNEX, I consolidated and
16 merged the regional real estate, fleet management and
17 administrative and corporate service functions for five corporate
18 owned companies. I managed work groups exceeding 300 employees,
19 managed the building engineering functions for 300 plus locations and
20 administered a \$62 million rental budget. During this time frame I also instituted
21 major improvements in space planning, acquisition and disposal, and the design
22 and construction disciplines necessary to support a 15 million square foot leased
23 property portfolio.

24 I also served as Vice President of Acquisition and Development of
25 NYNEX Properties Company; a full service real estate brokerage company

1 dedicated to the development of space for speculative and corporate needs, as
 2 well as the management of 60 million square feet of corporately owned and leased
 3 property.

4 **II. PURPOSE OF THIS TESTIMONY**

5 **Q: WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

6 A: The purpose of my testimony is to provide informed responses to the list of issues
 7 identified by the Commission in Appendix A to *Order Establishing Procedure*,
 8 Order No. PSC-99-1991-PCO-TP in consolidated Docket Nos. 981834-TP and
 9 990321-TP, with a particular emphasis on how the resolution of those issues will
 10 affect the offering of competitive Digital Subscriber Line (“DSL”) services in
 11 Florida.

12 **Q: PLEASE SUMMARIZE YOUR TESTIMONY.**

13 A: My testimony will

- 14 • Discuss the need for pro-competitive collocation policies;
- 15 • Explain the benefits of adopting a flat-rate collocation application procedure;
- 16 • Suggest pro-competitive terms for conversion of virtual collocation
 17 arrangements to cageless collocation arrangements;
- 18 • Suggest cageless collocation provisioning intervals of 45 calendar days when
 19 space and power is available;
- 20 • Suggest that the space reservation policies applicable to the ILECs also should
 21 apply to ALECs’ reservation of space;
- 22 • Describe the types of equipment that ILECs must allow an ALEC to collocate;
- 23 • Describe the need for an ALEC to have access to the invoices and other cost
 24 information relating to an ILEC’s price quote for collocation;

- 1 ● Describe the problems associated with allowing an ILEC to unilaterally
- 2 extend the collocation provisioning interval without first obtaining an order
- 3 from the Commission;
- 4 ● Suggest rules for collocation when an ILEC contends that only a portion of an
- 5 ALEC's requested space is available.

6 **III. THE NEED FOR PRO-COMPETITIVE COLLOCATION RULES.**

7 **A. The Lack of Competitive Terms for Collocation Has Created a** 8 **Significant Barrier to Entry for ALECS.**

9 **Q: HOW DO THE TERMS UNDER WHICH AN ILEC PROVIDES** 10 **COLLOCATION AFFECT AN ALECS ABILITY TO COMPETE?**

11 A: The terms under which an ILEC provides collocation are limiting factors
 12 of the speed at which an ALEC can get to market. Determining the availability of
 13 collocation space in an ILEC's network and collocation of an ALEC's equipment
 14 within that space is the first physical step taken by an ALEC seeking to enter a
 15 particular region for the purpose of providing competitive services. A facilities-
 16 based ALEC cannot contemplate providing service in a particular region until its
 17 collocation space is provisioned, the appropriate interconnection between the
 18 ILEC's network and the ALEC's network is established, and the ALEC's
 19 equipment is activated. Most other aspects of an ALEC's business, such as sales,
 20 marketing, and service delivery, cannot begin in earnest until all aspects of
 21 collocation are complete.

22 **Q: HOW DOES AN ILEC'S RELIABILITY IN PROVISIONING** 23 **COLLOCATION SPACE AFFECT AN ALEC'S ENTRY INTO A** 24 **MARKET?**

25 Because several other divisions of an ALEC's business rely upon the
 26 provisioning of collocation space, the reliability of an ILEC in meeting
 27 provisioning intervals is critical to an ALEC's business. To appropriately plan

1 marketing strategies, sales efforts, and staffing needs, an ALEC must be able to
 2 reasonably predict when its collocation space in a region will be provisioned.
 3 Accordingly, for true competitive entry to be possible, an ILEC must not only
 4 commit to competitive provisioning intervals, it also must meet those
 5 commitments consistently.

6 **Q: ACCORDING TO YOUR EXPERIENCE, HAVE BELLSOUTH AND GTE**
 7 **FLORIDA PROVIDED COMPETITIVE TERMS AND CONDITIONS FOR**
 8 **COLLOCATION IN FLORIDA?**

9 A: No. For example, according to data collected by Covad from August 28,
 10 1999 to the present, the median collocation provisioning interval—*i.e.*, the time
 11 elapsed between the date an ILEC receives an ALEC's application for collocation
 12 and the date the ILEC delivers completed collocation space to the ALEC—
 13 provided by BellSouth to Covad in Miami, Florida is 253 calendar days, *i.e.*, over
 14 8 months. In some instances, BellSouth's provisioning interval for Covad's
 15 collocation space exceeded 10 months.

16 Similarly, GTE Florida provides collocation space to Covad in a median
 17 interval of 184 calendar days in Florida, *i.e.* over 6 months. In some instances,
 18 BellSouth's provisioning interval for Covad's collocation space exceeded 7
 19 months.

20 This information shows that firm guidelines are necessary for ALECs to
 21 receive collocation on pro-competitive terms. Although the FCC did not set
 22 specific collocation intervals in its March 31, 1999 Order, it noted the significant
 23 competitive harm suffered by ALECs that are forced to wait six to eight months
 24 for collocation space. (FCC Order 99-48 ¶ 54 ("The record in the proceeding
 25 reflects significant competitive harm suffered by new entrants whose collocation
 26 space is not ready for as long as six to eight months after their initial collocation

1 request is submitted to the incumbent LEC.”.) “We emphasize the importance
 2 of timely provisioning, and we are confident that state commissions recognize the
 3 competitive harm that new entrants suffer when collocation arrangements are
 4 unnecessarily delayed.” (*Id.*)

5 **IV. RESPONSES TO THE COMMISSION’S TENTATIVE LIST OF ISSUES.**

6 **A. Issue 1: ILEC Response to a Complete and Correct Collocation** 7 **Application.**

8 **Q: WHEN SHOULD AN ILEC BE REQUIRED TO RESPOND TO A** 9 **COMPLETE AND CORRECT COLLOCATION APPLICATION?**

10 A: An ILEC should be required to respond to a complete and correct
 11 collocation application within ten (10) calendar days of its receipt of the
 12 application. The Federal Communications Commission expressly set this
 13 interval in First Report and Order, *In the Matters of Deployment of Wireline*
 14 *Services Offering Advanced Telecommunications Capability*, CC Docket No. 98-
 15 147 (Mar. 31, 1999) (“FCC Order 99-48”): “We view ten days as a reasonable
 16 time period within which to inform a new entrant whether its collocation
 17 application is accepted or denied.” (FCC Order 99-48 ¶ 55.)

18 **Q: WHAT INFORMATION SHOULD BE INCLUDED IN THE ILEC’S** 19 **RESPONSE TO THE ALEC’S COLLOCATION APPLICATION?**

20 A: Within the ten calendar days prescribed by the FCC, an ILEC should be
 21 required to provide all necessary information for an ALEC to place a firm order
 22 for collocation. The response should include without limitation, a cost estimate
 23 for the collocation space.

24 **Q: IS TEN CALENDAR DAYS SUFFICIENT TIME FOR AN ILEC TO** 25 **PROVIDE THIS INFORMATION?**

26 A: Yes. To comply with the ten calendar day response prescribed by the
 27 FCC, and ILEC merely needs to determine if the requested space is available and

1 to estimate the cost of provisioning that space. Determining space availability is
2 simple. By maintaining central office records in a reasonable manner, an ILEC
3 should be able to determine space availability in a matter of hours, if not minutes.

4 Preparing a cost estimate should not require an excessive amount of time
5 either. Indeed, the cost of each element of collocation is listed in detail in the
6 Collocation Attachment to BellSouth's standard interconnection agreement.

7 **B. Issue 2: An Alternative Procedure for Submitting and Processing**
8 **Collocation Applications.**

9 **Q: PLEASE DESCRIBE BELL SOUTH'S STANDARD PROCEDURE FOR**
10 **SUBMITTING AND PROCESSING COLLOCATION APPLICATIONS.**

11 **A:** BellSouth uses a "two-tier" application process for collocation that
12 requires both an application interval and a provisioning interval. The intervals
13 run in series—i.e., the firm order interval does not begin until the application
14 interval expires. In the first tier, an ALEC submits a collocation application to
15 BellSouth, BellSouth, determines space availability, prepares a cost estimate and
16 provides this information to an ALEC. Under BellSouth's proposed collocation
17 agreement, BellSouth demands 42 calendar days (30 business days) to complete
18 this process.

19 In the second tier, after receiving the information provided by BellSouth in
20 response to the collocation application, the ALEC submits a firm order for the
21 collocation space. BellSouth begins provisioning the collocation space upon
22 receiving the firm order from the ILEC. Under BellSouth's proposed collocation
23 agreement, BellSouth demands a provisioning interval of 126 calendar days (90
24 business days) when space and power is readily available and an interval of 182
25 calendar days (130 business days) when space and power is not readily available.

1 Thus, under BellSouth's procedure, an ALEC must wait a minimum of
2 168 calendar days from the date of application to receive its requested collocation
3 space. In cases where space and power is not readily available, BellSouth will not
4 commit to providing collocation space in less than 224 calendar days. Moreover,
5 any delay in the application interval necessarily creates a delay in the provisioning
6 interval, because the provisioning interval does not begin until an ALEC receives
7 BellSouth's response to the application.

8 **Q: DO OTHER ILECS PROVIDE A MORE EFFICIENT PROCEDURE FOR**
9 **OBTAINING COLLOCATION SPACE?**

10 A: Yes. Covad uses a flat-rate collocation application procedure with US
11 West. Attached as Exhibit A is an excerpt of Covad's Interconnection Agreement
12 with US West. The flat-rate procedure eliminates the delay associated with an
13 ILEC's preparation of a cost estimate for the requested collocation space.
14 Because US West is implementing this procedure in its region, the policy is
15 presumptively feasible in the regions of other ILECs, including BellSouth and
16 GTE Florida.¹

17 **Q: PLEASE DESCRIBE THE FLAT-RATE COLLOCATION APPLICATION**
18 **PROCEDURE TO WHICH YOU REFER.**

19 A: Under a flat-rate collocation application procedure, the parties agree upon
20 a flat-rate to be charged initially for standard cageless collocation arrangements in
21 two-, four-, and six-bay increments. When an ALEC desires collocation space in
22 a central office, it submits its application with a deposit of 50% of the flat-rate
23 price. The ILEC begins provisioning the requested collocation space immediately
24 upon receipt of the ALEC's collocation application. During the ILEC's

1 preparation of the collocation space, the ILEC also prepares its cost estimate.
 2 Upon delivery of the collocation space, the parties “true-up” (up or down) the
 3 price of the collocation space according to the cost estimate prepared by the
 4 ILEC.

5 For example, assume that the parties agree on the following flat-rate prices
 6 for standard cageless collocation arrangements:

7	2-bay cageless	\$10,000
8	4-bay cageless	\$15,000
9	6-bay cageless	\$25,000.

10 If an ALEC needed a 4-bay cageless collocation space, it would submit its
 11 collocation application with a 50% deposit of \$7,500. The ILEC’s network
 12 engineering department would begin provisioning the ALECs collocation request
 13 immediately upon receipt. While the ILEC’s network engineering department
 14 completes provisioning, the ILEC’s costing department prepares the cost estimate.
 15 When the ILEC delivers the space, the cost estimate is compared with the flat-rate
 16 paid. The ALEC then pays the amount due according to the cost estimate.

17 **Q: WHY DO YOU BELIEVE THAT THE FLAT-RATE APPLICATION**
 18 **PROCEDURE IS MORE EFFICIENT THAN THE PROCESS**
 19 **PRESENTLY USED BY BELLSOUTH?**

20 A: The flat-rate application procedure is more efficient than BellSouth’s
 21 present process for two reasons. First, the flat-rate procedure eliminates the
 22 unnecessary delay associated with BellSouth’s application interval. Because the
 23 ILEC provisions the space *during* its preparation of the cost estimate, the time
 24 required to prepare the cost estimate does not delay the provisioning of

¹ Under FCC Order 99-48, “the deployment by any incumbent LEC of a collocation arrangement gives rise to a rebuttable presumption in favor of a competitive LEC selling collocation in any incumbent LEC premises that such an arrangement is technically feasible.” (FCC Order 99-48 ¶ 45.)

1 collocation space. In short, the flat-rate process allows the application interval
2 and the provisioning interval to proceed in parallel, instead of in series.

3 Second, the flat-rate application process eliminates the ILEC's concern
4 with responding to an ALEC's application within the time required by the FCC.
5 Because the parties agree to a flat-rate for the collocation space, an ILEC can
6 begin to prepare the collocation space immediately upon receipt of an ALEC's
7 application, without having to prepare a cost estimate to begin provisioning the
8 space. Because space preparation begins immediately, the ILEC has the entire
9 collocation provisioning interval during which to prepare the cost estimate.

10 **Q: HAVE THE ILECS AGREED TO CONSIDER ADOPTING THIS**
11 **PROCEDURE?**

12 A: In negotiations with Covad, BellSouth has agreed to consider adopting a
13 flat-rate collocation application procedure. I understand from BellSouth that its
14 collocation Product Team presently is reviewing this proposal to determine
15 appropriate flat-rate prices.

16 **C. Issue 5: Terms and Conditions for Converting Virtual Collocation to**
17 **Cageless Collocation.**

18 **Q: WHAT TERMS AND CONDITIONS SHOULD APPLY TO THE**
19 **CONVERSION OF VIRTUAL COLLOCATION OF CAGELESS**
20 **COLLOCATION?**

21 A: An ALEC should be able to submit a written request to convert an existing
22 virtual collocation arrangement to a cageless collocation arrangement.
23 Conversion should *not* require the relocation of an ALEC's equipment even if the
24 ALEC's equipment is in the same line-up as the ILEC's equipment. Relocation of
25 equipment merely delays the conversion and increases its costs. *See Order*
26 *Directing Tariff Revisions, Case Nos. 99-C-0715 & 95-C-0657, New York Public*

1 Service Commission (Aug. 3, 1999) (“Spending time and effort to move a virtual
2 arrangement from one area of a central office to another would be an unnecessary
3 and time-consuming burden.”). Because BellAtlantic is implementing this policy
4 under order from the New York Public Utility Commission, the policy is
5 presumptively feasible in the regions of other ILECs, including BellSouth and
6 GTE Florida.²

7 An ALEC’s request for conversion of virtual collocation space should not
8 be subject to the ILEC’s standard application fee because the amount of work
9 required to process an conversion application should be much less than the work
10 required to process a standard collocation application.

11 Because the conversion of virtual collocation to cageless merely requires
12 an ILEC to provide a CLEC with access to the collocation space, an ILEC should
13 be required to complete the conversion within 10 calendar days of receiving an
14 ALEC’s request for conversion.

15 An ALEC may be required to pay a fee, determined under federal pricing
16 standards, to the ILEC to address any reasonable costs associated with the
17 conversion. However, if the ALEC was forced to request a virtual collocation
18 arrangement after June 1, 1999, the effective date of FCC Order 99-48, an ALEC
19 should not be required to pay any costs associated with the conversion of the
20 arrangement to a cageless arrangement. After June 1, 1999, ILECs have an
21 affirmative duty to make cageless collocation available to ALECs “as soon as
22 possible, without waiting until a competing carrier requests a certain arrangement,
23 so that competitors will have a variety of collocation option from which to

² Under FCC Order 99-48, “the deployment by any incumbent LEC of a collocation arrangement gives rise to a rebuttable presumption in favor of a competitive LEC selling collocation in any incumbent LEC premises that such an arrangement is technically feasible.” (FCC Order 99-48 ¶ 45.)

1 choose.” (FCC Order 99-48 ¶ 40.) Because many ILECs failed to comply with
 2 their duty under the FCC Order to provide cageless collocation, an ALEC often
 3 must request virtual collocation merely to provide service from a particular
 4 central office. Accordingly, the ALEC should not be required to incur the
 5 additional expense of conversion merely because the ILEC did not comply with
 6 the FCC Order.

7 **D. Issue 8: Cageless Collocation Provisioning Intervals.**

8 **Q: WHAT IS THE APPROPRIATE PROVISIONING INTERVAL FOR**
 9 **CAGELESS COLLOCATION?**

10 A: When space and power are readily available, an ILEC should provision
 11 cageless collocation space within 45 calendar days. When space and power is not
 12 readily available, an ILEC should provision cageless collocation space within 90
 13 calendar days. US West presently provides these provisioning intervals to Covad
 14 under its interconnection agreement. (Ex. A.) Because US West provides these
 15 intervals, such intervals are presumptively feasible in the regions of other ILECs,
 16 including BellSouth and GTE Florida.³

17 Similarly, Southwestern Bell Telephone Company (“SWBT”) provides
 18 cageless collocation in active collocation space in 55 calendar days if an ALEC
 19 installs its own racking, and in 70 calendar days if the ILEC installs the racking.
 20 *Order No. 51, Approving Time Intervals for Provisioning Collocation Under*
 21 *Revised Physical Collocation Tariff*, Project No. 16251, Public Utility
 22 Commission of Texas (Aug. 18, 1999). If active collocation space is not readily
 23 available, SWBT provides cageless collocation in 140 calendar days.

³ Under FCC Order 99-48, “the deployment by any incumbent LEC of a collocation arrangement gives rise to a rebuttable presumption in favor of a competitive LEC selling collocation in any incumbent LEC premises that such an arrangement is technically feasible.” (FCC Order 99-48 ¶ 45.)

1 **E. Issue 10: What are reasonable parameters for reserving space for future**
2 **LEC and ALEC use?**

3 **Q: HAS THE FCC ADDRESSED SPECE RESERVATION POLICIES?**

4 A: Yes. Under FCC Rules, an ILEC must allow an ALEC to reserve space
5 for future use under the same policies and procedures the ILEC applies to itself.

6 **Q: WHAT LIMITATIONS DO ILECS PLACE UPON ALECS REGARDING**
7 **RESERVATION OF SPACE?**

8 A: Under BellSouth's proposed collocation agreement, an ALEC must place
9 operational equipment within its collocation space and connect with BellSouth's
10 network within 180 days of delivery of the space. Although BellSouth does not
11 label this provision as a space reservation policy, the provision effectively
12 prevents an ALEC from reserving space for future growth for a period of over six
13 months. If BellSouth and other ILECs allow themselves to reserve space for
14 expected growth within a period greater than six months, the policy applicable to
15 ALECs should be revised to parity with the policy applied to ILECs.

16 **Q: SHOULD ILECS BE REQUIRED TO DISCLOSE PLANS FOR FUTURE**
17 **GROWTH?**

18 A: If an ILECs plans for future growth will result in less space available for
19 collocation of competitors, then the ILEC should be required to disclose those
20 plans as soon as they are developed. Presently, no mechanism exists for an
21 ALEC to verify an ILEC's claim that collocation space is unavailable because of
22 space reservations for future ILEC growth. By requiring an ILEC to disclose this
23 information on a website or through a filing with the Commission as soon as it is
24 developed, an ILEC will have less incentive to use space reservation as a means
25 of wrongfully denying an ALEC's request for collocation space.

1 **F. Issue 12: Types of Equipment Allowed in Collocation Arrangements.**

2 **Q: WHAT TYPES OF EQUIPMENT ARE THE ILECS OBLIGATED TO**
3 **ALLOW IN PHYSICAL COLLOCATION ARRANGEMENT?**

4 A: Under FCC Order 99-48, an ILEC must “permit collocation of all
5 equipment that is necessary for interconnection or access to unbundled network
6 elements, regardless of whether such equipment includes a switching
7 functionality, provides advanced services capabilities, or offers other
8 functionalities.” (FCC Order 99-48 ¶ 28.) A ILEC may not refuse to permit
9 collocation of any equipment that is “used or useful” for either “interconnection
10 or access to unbundled network elements, regardless of other functionalities
11 inherent in such equipment.” (*Id.*) An ILEC may not refuse to permit
12 collocation of any type of equipment “unless they first ‘prove to the state
13 commission that the equipment will not be actually used by the
14 telecommunications carrier for the purpose of obtaining interconnection or access
15 to unbundled network elements.’” (*Id.*) Thus, “this rule requires incumbent LECs
16 to permit competitors to collocate such equipment as DSLAMs, routers, ATM
17 multiplexers, and remote switching modules.” (*Id.*)

18 **G. Issue 14: ALEC Participation in Preparation of Price Quotes.**

19 **Q: SHOULD AN ALEC HAVE THE OPTION TO PARTICIPATE IN THE**
20 **DEVELOPMENT OF THE ILEC’S PRICE QUOTE?**

21 A: Yes. At a minimum, the ILEC should be required to deliver to the ALEC
22 copies of all invoices relating to the preparation of the ALEC’s requested space.
23 Without this information, an ALEC cannot verify the amounts charged by the
24 ILEC for space preparation and determine whether such amounts are reasonable.
25 The FCC has determined that disclosure of cost information “is necessary for the

1 requesting carrier to determine whether the rates offered by the incumbent LEC
2 are reasonable.” (FCC Order 96-325 ¶ 155.)

3 **H. Issue 16: Unilateral Extension of Provisioning Intervals By the ILECs.**

4 **Q: SHOULD AN ILEC BE ABLE TO UNILATERALLY EXTEND THE**
5 **COLLOCATION PROVISIONING INTERVALS?**

6 A: Absolutely not. If an ILEC is unable to provision collocation space within
7 the interval determined by the Commission, and an ALEC will not agree to
8 extend the provisioning interval, the ILEC should be required to file a request
9 with the Commission for an extension of the interval. In this request, the ILEC
10 should have the burden to prove that its satisfaction of the provisioning interval is
11 technically infeasible, and the request for extension is not due to a failure of the
12 ILEC, including without limitation, a failure to devote appropriate resources to its
13 Wholesale Division, a failure to plan reasonably for anticipated collocation
14 demands, or a failure to request a building permit only when reasonably
15 necessary.

16 If ILECs are allowed to unilaterally extend the provisioning interval
17 without Commission involvement, ILECs will be able to delay the provisioning of
18 competitors’ collocation space with impunity. For example, BellSouth subscribes
19 to the policy that provisioning intervals should not include any time required to
20 obtain a building permit. This policy has resulted in the filing by BellSouth of
21 unnecessary building permit applications, improperly delaying the turnover of
22 several of Covad’s collocation spaces in Florida. For example, in the summer of
23 1999, BellSouth refused to activate Covad’s collocation spaces, claiming that the
24 building permit required to provision the space was still being processed. After
25 further investigation by Covad, we discovered that the permits had not been

1 approved because (1) BellSouth had a crack in the sidewalk in front of one of its
2 central offices, and (2) BellSouth had failed to construct the required disabled
3 access ramp to its central office. Neither of these permitting problems related to
4 issues regarding Covad's collocation space. Indeed, Covad believes that
5 BellSouth unnecessarily filed applications for these permits.

6 Moreover, BellSouth has agreed in negotiations that a building permit is
7 not required for Covad's standard cageless collocation arrangement. Thus,
8 BellSouth does not need an automatic extension of the provisioning intervals for
9 permitting or for any other reason.

10 **I. Issue 18: Partial Space Availability.**

11 **Q: IF INSUFFICIENT SPACE IS AVAILABLE FOR A COLLOCATION**
12 **REQUEST, SHOULD AN ILEC BE REQUIRED TO DISCLOSE THE**
13 **AMOUNT OF SPACE AVAILABLE?**

14 **A:** Yes. If Covad submits a request for 6 bays of collocation space, and only
15 4 bays are available, Covad will seek to collocate in the available 4 bays. I
16 understand that most other ALECs have the same collocation policies. If an
17 ALEC has decided to collocate in a particular central office, its ultimate desire is
18 to provide service from that central office. Thus, in most cases, the ability to
19 collocate in less space than originally requested is better than no collocation in
20 that central office at all.

21 An ILEC should notify the ALEC if only a portion of the requested space
22 is available, and then proceed to provision such space without delay. No
23 additional application, fee, or interval should be required by the ILEC.

24 In addition, space exhaustion verification procedures of both the FCC and
25 this Commission should apply when an ILEC denies *any* portion of an ALEC's
26 space request. Thus, although an ILEC should begin provisioning the amount of

1 available space, it also should verify that the full amount of space requested by
2 the ALEC is unavailable. Without such a requirement, an ILEC could circumvent
3 space exhaustion verification procedures merely by denying most ,but not all, of
4 an ALEC's application for collocation space.

5 **Q: DOES THIS CONCLUDE YOUR TESTIMONY?**

6 **A:** Yes.

1 **I. INTRODUCTION**

2 **Q: PLEASE STATE YOUR NAME AND TITLE.**

3 A: My name is Michael Moscaritolo. I presently serve as Director, Network
4 Deployment, Eastern Region for Covad Communications Company ("Covad").

5 **Q: HAVE YOU PREVIOUSLY SUBMITTED TESTIMONY IN THESE**
6 **PROCEEDINGS?**

7 A: Yes. I submitted direct testimony.

8 **II. PURPOSE OF TESTIMONY**

9 **Q: WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

10 A: The purpose of my rebuttal testimony is to rebut the direct testimony of
11 the witnesses for BellSouth Telecommunications, Inc. ("BellSouth") and GTE
12 Florida, Inc. ("GTE").

13 **III. THE ILECS HAVE NOT REBUTTED THE PRESUMPTION THAT**
14 **COVAD'S PROPOSED COLLOCATION INTERVALS ARE**
15 **TECHNICALLY FEASIBLE.**

16 **A. The Commission Should Adopt Covad's Proposed Collocation**
17 **Application Arrangement.**

18 **Q: AT PAGE 5, LINES 22-24 OF THE TESTIMONY OF JERRY HENDRIX,**
19 **BELLSOUTH CONTENDS THAT IT WILL PROVIDE AN**
20 **"APPLICATION RESPONSE" WITHIN 30 CALENDAR DAYS OF**
21 **RECEIPT OF A COMPLETE APPLICATION AND FEE. IS THIS**
22 **CONTENTION CONSISTENT WITH YOUR EXPERIENCE WITH**
23 **BELLSOUTH?**

24 A: No. According to the Interconnection Agreement Amendment proposed
25 by BellSouth to Covad, "BellSouth will provide a comprehensive written
26 response within thirty (30) *business* days [*i.e.*, 42 calendar days] of receipt of a
27 complete application" from an ALEC. Paragraph 6.2 of the proposed Collocation
28 Amendment attached as Exhibit JDH-1 to the testimony of Jerry Hendrix contains
29 an identical interval of thirty (30) *business* days.

1 **Q: ACCORDING TO YOUR REVIEW OF THE TESTIMONY OF JERRY**
2 **HENDRIX, IS BELL SOUTH'S PROPOSED APPLICATION RESPONSE**
3 **INTERVAL NECESSARY?**

4 A: No. According to Mr. Hendrix's testimony, the primary purpose of the
5 42-day Application Response interval is to allow BellSouth sufficient time to
6 prepare a cost estimate for the provisioning of the requested collocation space.
7 (Hendrix Dir. at 5, l. 3 - 4) ("Each of these organizations estimates the cost of
8 provisioning the supporting infrastructure required by the collocation request.");
9 (Hendrix Dir. at 15, l. 9 - 16.) Mr. Hendrix, however, also reveals that
10 BellSouth's "price estimate is subject to true up at the time actual costs are
11 available." (Hendrix Dir. at 5, l. 16.) Thus, BellSouth's Application Response
12 interval results in only a non-binding "price estimate" for the ALEC as opposed to
13 a binding "price quote."

14 Because BellSouth provides only a non-binding price estimate, the
15 proposed Application Response interval is unnecessary. Indeed, the parties could
16 achieve the same result without such delay merely by implementing the flat-rate
17 collocation application arrangement described in my direct testimony. (*See*
18 *Moscaritolo Dir. at 7 - 9.*) Because BellSouth's procedure allows it to "true-up"
19 its price estimate at the time actual costs are available, the 42-day delay associated
20 with BellSouth's preparation of the price estimate serves no useful purpose. The
21 parties easily could avoid such delay simply by agreeing upon a flat-rate price for
22 collocation that will be trued-up or down to appropriate costs when such
23 information becomes available. In the end, the fee paid by the ALEC under the
24 flat-rate arrangement would be identical to the fee paid under BellSouth's
25 proposed procedure.

1 **Q: AT PAGE 17 OF THE TESTIMONY OF KEITH MILNER, BELLSOUTH**
 2 **CONTENDS THAT IT “MEET[S] THE FCC’S REQUIREMENT TO**
 3 **ALLOW ANY OTHER COLLOCATION ARRANGEMENT THAT HAS**
 4 **BEEN MADE AVAILABLE BY ANOTHER ILEC” UNLESS IT REBUTS**
 5 **THE PRESUMPTION OF FEASIBILITY BEFORE A STATE**
 6 **COMMISSION. IS THIS CONSISTENT WITH YOUR EXPERIENCE**
 7 **WITH BELLSOUTH?**

8 A: No. Covad proposed the flat-rate collocation application arrangement
 9 implemented by US West and Covad to BellSouth’s negotiators over two (2)
 10 months ago. Covad did not receive a definitive response from BellSouth until
 11 November 19, 1999. A true and correct copy of BellSouth’s response is attached
 12 hereto as Exhibit B. In its response, BellSouth contends that it cannot implement
 13 the US West arrangement because such implementation would require BellSouth
 14 to provide the same competitive terms to every ALEC. This position is contrary
 15 to FCC Order 99-48. Indeed, by adopting Order 99-48, the FCC intended the
 16 widespread implementation of pro-competitive collocation arrangements. (FCC
 17 Order 99-48) (“We believe this ‘best practices’ approach will promote
 18 competition.”)

19 Importantly, BellSouth’s response does not state that BellSouth has
 20 rebutted the presumption of feasibility of the US West arrangement before this
 21 Commission or any other state commission.

22 **B. The Commission Should Adopt Covad’s Proposed Collocation**
 23 **Provisioning Intervals.**

24 **Q: AT PAGE 13 OF THE TESTIMONY OF JERRY HENDRIX, BELLSOUTH**
 25 **CONTENDS THAT NO DIFFERENCE EXISTS BETWEEN THE**
 26 **NECESSARY PROVISIONING INTERVALS FOR CAGED AND**
 27 **CAGELESS COLLOCATION. ACCORDING TO YOUR EXPERIENCE,**
 28 **IS THIS STATEMENT CORRECT?**

29 A: Absolutely not. Because cageless collocation requires much less labor
 30 than standard caged collocation, the amount of time required to provision cageless
 31 collocation is significantly shorter. For example, the construction of a cage,

1 which is the interval-limiting task in the provisioning of caged collocation, is not
2 required for cageless collocation. This means that cageless collocation does not
3 require the ILEC to locate ALEC collocation space separate from its own
4 equipment line-ups, to design a cage and its support structure, to procure cage
5 materials, to install cage support structures, construct an entrance to the cage, to
6 erect the cage itself, or to perform the extra labor of running appropriate cabling
7 through the cage.

8 **Q: AT PAGE 14, LINES 4 – 11 OF THE TESTIMONY OF JERRY HENDRIX,**
9 **BELLSOUTH CLAIMS THAT FACTORS OTHER THAN THE**
10 **ERECTION OF A CAGE CONTROL THE TIME REQUIRED TO**
11 **PROVISION COLLOCATION SPACE. ACCORDING TO YOUR**
12 **EXPERIENCE, IS THIS STATEMENT CORRECT?**

13 A: No. Mr. Hendrix claims that collocation intervals are controlled by the
14 time required to upgrade ventilation systems, to upgrade power supplies, to build
15 cross connects, and to “condition” space. Upgrades to power supplies and
16 ventilation systems, however, generally are not required to provision cageless
17 collocation space. Rarely does the provisioning of cageless collocation space
18 require the upgrade of both power and ventilation capacities.

19 The building of cross connects is a simple procedure and should not
20 require a reasonably capable technician more than one or two hours to complete.

21 Mr. Hendrix’s reference to the term “space conditioning” is too vague to
22 evaluate. Thus, it is impossible to determine whether this allegedly required labor
23 actually extends the necessary provisioning interval

24 Even if the completion of such tasks were the limiting steps in the
25 provisioning of collocation, which they are not, the ILEC may perform such tasks
26 in parallel, instead of in series, significantly reducing the total amount of time

1 required to complete the work requested. In any event, the ILEC should be able
2 to complete such tasks within the interval proposed by Covad..

3 **Q: DO OTHER ILECS PROVIDE SHORTER PROVISIONING INTERVALS**
4 **FOR CAGELESS COLLOCATION IN COMPARISON WITH CAGED**
5 **COLLOCATION?**

6 A: Yes. Under Covad Interconnection Agreement with US West, US West
7 provides cageless collocation intervals that are shorter than its caged collocation
8 intervals. Similarly, SWBT's cageless collocation interval in Texas is shorter than
9 its caged collocation interval.

10 **IV. BELLSOUTH HAS NOT COMPLIED WITH THE FCC'S ORDERS**
11 **REGARDING CAGELESS COLLOCATION.**

12 **Q: AT PAGE 5 OF KEITH MILNER'S TESTIMONY, BELLSOUTH**
13 **PURPORTS TO LIST THE REQUIREMENTS OF FCC ORDER 99-48. IS**
14 **THIS LIST ENTIRELY ACCURATE?**

15 A: No. Mr. Milner omits significant pro-competitive requirements of FCC Order 99-
16 48. Under FCC Order 99-48,

- 17 • ILECs must make cageless collocation arrangements "available to
18 competitors as soon as possible," FCC Order 99-48 ¶ 40, and must
19 process a competitor's cageless collocation application regardless of
20 whether the parties have executed an interconnection agreement for
21 that arrangement, FCC Order 99-48 ¶ 53;
- 22 • ILECs must allow a CLEC that has been denied collocation because of
23 space limitations "to tour the entire premises in question, not just the
24 room in which space was denied, without charge, within ten days of
25 the denial of space," FCC Order 99-48 ¶ 57;
- 26 • although the ILEC may take reasonable security measures, the ILEC
27 may not require competitors to use separate rooms or floors and "may

1 not utilize unreasonable segregation requirements to impose
2 unnecessary additional costs on competitors,” FCC Order 99-48 ¶42;
3 • an ILEC may not impose security arrangements that are more stringent
4 than those applied to their own employees or contractors; FCC Order
5 99-48;
6 • an ILEC may not refuse to permit collocation of equipment on the
7 grounds that it does not meet performance, rather than safety,
8 requirements, FCC Order 99-48 ¶ 35.

9 **Q: HAS BELLSOUTH COMPLIED WITH THESE REQUIREMENTS?**

10 A: No. For example, BellSouth required Covad to enter into an amendment
11 of its Interconnection Agreement before provisioning Covad’s collocation
12 requests in (1) MIAMFLPL; (2) WPBHFLGR, and (3) NDADFLGG, which were
13 originally the subject of a BellSouth request for waiver of collocation obligations.
14 Indeed, on May 28, 1999, shortly after BellSouth admitted that collocation space
15 existed in these offices, Covad submitted its request for such space. Because of
16 BellSouth’s requirement of an amendment, however, BellSouth did not start
17 provisioning Covad’s requests for cageless collocation in these offices until after
18 November 5, 1999. Thus, Covad was unable to offer services from those central
19 office for over 5 months after BellSouth announced availability of cageless
20 collocation space in those central offices.

21 The proposed collocation amendment attached as Exhibit JDH-1 to the
22 testimony of Jerry Hendrix also contains several provisions that Covad believes
23 violate FCC Order 99-48. Rather than cataloguing each violation, Covad has
24 prepared a redlined copy of the collocation amendment proposed by BellSouth to

1 Covad. A true and correct copy of this redlined copy is attached hereto as Exhibit
2 C.

3 **V. THE COMMISSION SHOULD REJECT THE UNNECESSARY EXPENSE**
4 **AND DELAY ASSOCIATED WITH BELL SOUTH'S PROPOSED TERMS**
5 **FOR CONVERSION OF VIRTUAL COLLOCATION SPACE.**

6 **Q: AT PAGE 8, LINES 8 – 10 OF THE TESTIMONY OF JERRY HENDRIX,**
7 **BELL SOUTH CLAIMS THAT AN APPLICATION FOR CONVERSION**
8 **OF A VIRTUAL COLLOCATION ARRANGEMENT SHOULD BE**
9 **EVALUATED "JUST AS AN APPLICATION FOR PHYSICAL**
10 **COLLOCATION WOULD." IS THIS CORRECT?**

11 A: No. The evaluation of a request to convert virtual collocation space to
12 cageless collocation space does not involve the same tasks as the evaluation of a
13 request for new collocation space. Indeed, if an ALEC already has obtained a
14 virtual collocation arrangement, the issues of space availability, location of
15 equipment, installation of equipment, and necessary ventilation and power
16 requirements, among others, have already been determined. Thus, the application
17 interval and the application fee should be significantly less than the interval and
18 fee for new collocation requests.

19 **Q: AT PAGE 8, LINES 16 – 17 OF THE TESTIMONY OF JERRY HENDRIX,**
20 **BELL SOUTH CLAIMS THAT "THERE CAN BE NO CHANGE TO OR**
21 **CONVERSION OF THE VIRTUAL ARRANGEMENT THAT COULD**
22 **CAUSE THE ARRANGEMENT TO BE LOCATED IN THE AREA OF**
23 **THE PREMISES RESERVED FOR BELL SOUTH FORECASTED**
24 **GROWTH." IS THIS CONSISTENT WITH FCC ORDER 99-48?**

25 A: No. Under FCC Order 99-48, ILECs must allow ALECs to collocate in
26 any available space, to the extent technically feasible, and may not require
27 competitors to collocate in space that is separate from their own equipment.
28 BellSouth's proposal to move an ALEC's equipment after it is already deployed
29 as a virtual arrangement, for any reason, violates this requirement.

30 **Q: AT PAGE 8, LINES 18 – 21 OF THE TESTIMONY OF JERRY HENDRIX,**
31 **BELL SOUTH MAINTAINS THAT THE CONVERSION OF A VIRTUAL**

1 **ARRANGEMENT MUST NOT IMPACT THE ILECS' ABILITY TO**
2 **SECURE ITS OWN FACILITIES. IS THIS CONSISTENT WITH FCC**
3 **ORDER 99-48?**

4 A: No. Mr. Hendrix's reference to "the ability to secure [BellSouth's] own
5 facilities" apparently refers to BellSouth's contention that it may construct a cage
6 around its own equipment. In the situation of the conversion of a virtual
7 arrangement, such a measure would not be allowed under FCC Order 99-48.
8 Under the Order, an ILEC may not utilize unreasonable segregation requirements
9 to impose unnecessary additional costs on competitors. FCC Order 99-48 ¶ 42.
10 Because reasonable security could be provided through other, less costly means,
11 an ALEC should not be required to move its equipment from the ILECs line-up
12 upon conversion of a virtual arrangement to a cageless arrangement.

13 **Q: DOES THIS CONCLUDE YOUR TESTIMONY?**

14 A: Yes.

1 BY MR. GOODPASTOR:

2 Q Mr. Moscaritolo, could you please summarize your
3 direct and rebuttal testimony in this docket?

4 A Thank you. Good afternoon. And I will keep my
5 summary very, very brief. Basically, our testimony is going
6 to address the need for a pro-competition competitive and
7 collocation policies that support speed to market. That the
8 intervals for collocation need to be timely and that when
9 space and power is available that interval should be less
10 than 45 days. This is being demonstrated today by both U.S.
11 West and Bell Atlantic in a 55-day interval by SBC in the
12 State of Texas.

13 The limited resources of an ILEC to provide
14 collocation is a very correctable situation by hiring more
15 vendors and/or personnel to handle the ALECs. That the need
16 for flat-rate pricing is an absolute. That for an ILEC to
17 take 30 days or more to provide an estimate that is subject
18 to true-up later is an unnecessary delay and needs to be
19 eliminated. Again, the best practice as is cited by both
20 U.S. West and Bell Atlantic reinforces the 45-day interval,
21 and those clocks, by the way, start at application
22 submission.

23 We want to address the conversion of virtual to
24 cageless. That we do not believe it is necessary to pay an
25 application fee, that the simple matter of submitting a

1 written letter to the ILEC should be sufficient. Again, the
2 New York Public Service Commission has in place orders that
3 allow conversion of virtual to cageless collocation in
4 place. In fact, the New York State Public Service
5 Commission has addressed the caging of the ILECs' equipment
6 and viewed it as being unnecessary due to the fact that
7 there are other security measures available to them such as
8 security cameras, key cards, et cetera.

9 That to force an ALEC to relocate its equipment
10 to another location within the central office creates a
11 hardship. It creates a hardship to both the ALEC's
12 customers that could possibly be out of service, and it
13 creates a financial hardship to the CLEC if it has to
14 duplicate its equipment before it can relocate.

15 We also want to briefly touch on space
16 reservations in the basically all I've heard here is six
17 months use it or lose it, with a two-year window of
18 opportunity. And, again, and long as there is parity, covad
19 is agreeable to that.

20 And last would be cost allocation and need for
21 the ILECs to provide cost breakdowns with supporting backup,
22 and without this data it is impossible for an ALEC to know
23 exactly what is being charged.

24 That is my summary. I'm available to answer any
25 questions.

1 MR. GOODPASTOR: Okay. Now we tender the witness
2 for cross-examination.

3 MR. CARVER: Thank you.

4 CROSS EXAMINATION

5 BY MR. CARVER:

6 Q Good afternoon, Mr. Moscaritolo.

7 A Good afternoon.

8 Q Did I pronounce your name correctly?

9 A Moscaritolo, correct.

10 Q My name is Phil Carver, and I represent
11 BellSouth. Let me ask you, first of all, if you could turn
12 to Page 5 of your direct testimony.

13 A Yes.

14 Q Now, you state at Page 5 of your testimony that
15 the FCC has prescribed a ten-day interval for the ILEC to
16 make the initial response to an ALEC's collocation request,
17 is that correct?

18 A Yes, it is.

19 Q And in support of that you cite to FCC Order
20 99-48, Paragraph 55, correct?

21 A That is correct.

22 Q And in the future I may refer to this as the
23 collocation order, if I do you will know that this is the
24 order I'm referring to.

25 Do you have a copy of that order with you?

1 A Yes, I do.

2 Q Could you please turn to Paragraph 55. And what
3 I would like for you to do is to begin with the second
4 sentence in that paragraph that begins with the words, "both
5 GTE," and just read aloud the next two sentences.

6 A "Both GTE and Ameritech state that they respond
7 to physical collocation requests within ten days by advising
8 the requesting carrier whether space is available or not.
9 We view ten days as a reasonable time period within which to
10 inform a new entrants whether its collocation application is
11 accepted or denied."

12 Q So what the FCC says here is reasonable is the
13 practice of within ten days saying your request is accepted
14 or your request is denied, correct?

15 A Correct.

16 Q And what Covad wants in response to this initial
17 request is quite a bit more information than that, correct?

18 A No, it is not. All we are looking for is yes or
19 no.

20 Q Well, do you not also say in your testimony that
21 you believe that the initial response should include
22 everything necessary to allow you to place a firm order,
23 including cost estimates?

24 A No. What Covad is suggesting is that if we do
25 flat rate pricing, that money is -- once you say yes, that

1 money is exchanged, the clock has started at application
2 submission.

3 Q Okay. Let's go back to the actual language of
4 your testimony. Again, Page 5, Lines 20 through 22. You
5 say, "Within the ten calendar days prescribed by the FCC, an
6 ILEC should be required to provide all necessary information
7 for an ALEC to place a firm order for collocation. The
8 response should include without limitations a cost estimate
9 for the collocation space." Did I read that correctly?

10 A Yes, you have.

11 Q Now, providing a cost estimate for the
12 collocation space is different than just saying your request
13 is accepted or your request is denied, wouldn't you agree?

14 A Yes, I do agree that that is what is written
15 here.

16 Q I'm sorry?

17 A Yes, I do agree.

18 Q So to go back to my other question, what Covad is
19 asking for goes beyond what the FCC said is reasonable to
20 provide in ten days, correct?

21 A What the FCC said was reasonable to provide in
22 ten days was whether space was or was not available.

23 Q Okay, thank you. Now, the FCC didn't say that
24 ten days is the only reasonable time frame even for this
25 very limited response, did they?

1 A No, the FCC said it was a reasonable time frame.

2 Q And Exhibit B to the collocation order is a set
3 of new rules that were set by the FCC at the time the order
4 was entered, correct?

5 A I'm sorry?

6 Q Exhibit B to the order -- in other words, what
7 I'm asking you is the collocation order has amended
8 collocation rules attached to it, is that correct?

9 MR. GOODPASTOR: Counsel, could you provide us a
10 copy of that order?

11 MR. CARVER: Do I have a what?

12 MR. GOODPASTOR: A copy of that order with the
13 attachment. I don't believe Mr. Moscaritolo's copy has the
14 attachment.

15 MR. CARVER: Let me check to make sure it is on
16 there.

17 BY MR. CARVER:

18 Q Let me just ask the question this way. Do you
19 know if the FCC set amended collocation rules at the time
20 that it entered its order?

21 A No, I do not.

22 Q Okay. So I assume you can't answer my next
23 question, but let me just confirm. If you don't know
24 whether or not they set rules, you would not be able to tell
25 me anything about the content of those rules?

1 A That is correct.

2 Q Let's turn to a different part of your testimony.
3 Your direct testimony, Page 12, Lines 4 through 5. And here
4 you say that under FCC rules an ILEC must allow an ALEC to
5 reserve space for future use under the same policies and
6 procedures that the ILEC applies to itself, is that correct?

7 A That is correct.

8 Q And I believe a little bit later on this page you
9 say that this requirement that would be applied to both,
10 that is what is necessary for parity, correct?

11 A Could you just point out where I say that?

12 Q Well, it's somewhere on -- well, rather than
13 doing that, let me just ask the question this way. Do you
14 think that is what is required by parity?

15 A Yes, I do.

16 Q Okay. Now, I believe you also state in your
17 testimony that ILECs should be required to disclose plans
18 for future growth if the growth will mean that the space
19 that is available for collocation will be reduced, is that
20 correct?

21 A The ILEC should be required to disclose anything
22 that will affect the ALECs' ability to locate within that
23 central office, correct.

24 Q So that is a yes?

25 A Yes.

1 Q Just so the record is clear, if you could say yes
2 or no before you give me an explanation, I would appreciate
3 it. Assuming the question can be answered that way.

4 A Yes.

5 Q Okay. Now, do you believe that ALECs should also
6 have to disclose future growth plans that would result in a
7 reduction in the available collocation space?

8 A Yes, I believe in parity.

9 Q Okay. So, just to clarify, though, so the growth
10 forecasts, you would have no objection to Covad providing
11 that to BellSouth and to other collocators?

12 A I would have no objection to parity, no.

13 Q Let me go back. I apologize, but my question was
14 whether you would be willing to provide something and you
15 said you would have no objection to parity. Are you
16 distinguishing the question or is that just a yes?

17 A The answer to your question is yes, Covad would
18 not have any problem in providing future growth information
19 to the ILEC if the ILEC in turn was providing that same
20 information to Covad.

21 Q And do you believe that the ALECs should share
22 this information with one another, also?

23 A No, I do not.

24 Q Okay. Let's switch to a different area. Do you
25 contend that permits are not needed in Florida for cageless

1 physical collocation?

2 A I believe that the building permit issue is a
3 case-by-case basis that is best determined by the subject
4 matter experts in that arena, and I believe that if it has
5 an impact to the interval all parties should be involved in
6 that process.

7 Q So are you saying that you don't have sufficient
8 expertise to say whether or when a building permit would be
9 required for physical cageless collocation?

10 A Again, I believe it is a case-by-case basis. I
11 believe that one needs a subject matter expert to review the
12 building code.

13 Q So then sometimes it would be required, other
14 times it wouldn't be required, but you are not really in a
15 position where you can discuss with me the specifics of when
16 it would be and when it wouldn't, is that what you are
17 telling me?

18 A I do not have the South Florida Building Code in
19 front of me, no, so I would be unable to address any
20 hypothetical case.

21 Q If I were to provide you with a copy of that, do
22 you believe you have sufficient expertise to read it and
23 tell me what it requires?

24 MR. GOODPASTOR: I object to the extent that the
25 question calls for a legal conclusion. This witness is not

1 a legal expert. He is an operational expert.

2 COMMISSIONER DEASON: There has been an objection
3 to the question.

4 MR. CARVER: I think many of the witnesses in the
5 case, and this one particularly deal with things like
6 building codes, construction codes. It's a part of what
7 they do, it's a part of their testimony. More to the point
8 this is addressed very specifically --

9 COMMISSIONER DEASON: Objection overruled. To
10 the extent the witness has information or knowledge he may
11 answer the question.

12 THE WITNESS: I do not have a copy of the South
13 Florida Building Code.

14 BY MR. CARVER:

15 Q Okay. Let me -- we will get back to the building
16 code. I will provide you with a copy in just a moment. But
17 before we do that, let me ask you, is there an employee who
18 works for you named Bill Bosenhoffer (phonetic)?

19 A Bosenhoffer, yes.

20 Q Okay. And is he responsible for collocation
21 matters at Covad?

22 A He is a program manager who is responsible for
23 network deployment, and one of the functions under network
24 deployment is collocation.

25 Q Do you know if he met last year in Fort

1 Lauderdale with a BellSouth employee and with the chief
2 mechanical inspector of Broward County, that is a Mr.
3 George Stavro (phonetic)?

4 A Yes, I believe it was approximately six months
5 ago that they met to discuss several building permit issues.

6 Q And do you know if the building inspector, Mr.
7 Stavro specifically told Mr. Bosenhoffer that any mechanical
8 additions in the central office would require a permit?

9 A I'm unaware of that conversation.

10 Q Do you know if Mr. Stavro told Mr. Bosenhoffer in
11 the same conversation that any electrical or grounding
12 additions would require a permit?

13 A I need some clarification when you say electrical
14 and grounding. Are we talking about a minus 48 volt
15 negative feed that BellSouth is providing that BellSouth
16 would then seek a building permit from the County of Dade?

17 Q Well, unfortunately I can't interpret what Mr.
18 Stavro was referring to. I'm simply asking you if you know
19 if he made the statement?

20 A No, I'm not aware of that.

21 Q Okay. Now, I would like to show you a copy of
22 the South Florida Building Code. If I may take just a
23 moment to hand these out.

24 MR. CARVER: Could I have this marked for
25 identification, please.

1 COMMISSIONER DEASON: Yes. It will be identified
2 as Exhibit Number 22.

3 (Exhibit Number 22 marked for identification.)

4 BY MR. CARVER:

5 Q Mr. Moscaritolo, I have opened the building code
6 to the page that I'm going to ask you about, which is 45-6.
7 But before we get to that, if you could just flip back to
8 the beginning and tell me if the cover page on this reflects
9 the title page for the South Florida Building Code?

10 A It says the South Florida Building Code.

11 Q Okay. And if I could direct your attention to
12 the section entitled permits and inspection, Section 4505.
13 Specifically, 4505.1(a), entitled permits required. Do you
14 see that section?

15 A Yes.

16 Q Could you read that section, please?

17 A "It shall be unlawful to perform or commence any
18 installation of light, heat, power, or low voltage system,
19 either permanently or temporary wiring, or to make
20 extensions in or to change existing installations of light,
21 heat, power, or low voltage systems upon premises inside,
22 outside, in or attached to buildings or structures of any
23 character without having filed an application and obtained
24 an electric permit therefor from the appropriate electrical
25 divisions."

1 Q Now, let me ask you, if we apply this standard,
2 can you give me an example of any instance in which cageless
3 collocation could be done without the requirement of an
4 electrical permit?

5 A I would believe that it would only be required if
6 I asked for a light, heat, power, or a low voltage system.

7 Q That requires either permanent or temporary
8 wiring, is that correct?

9 A That is correct.

10 Q So your testimony is that there would not need to
11 be a permit pulled if there was no installation of light, no
12 installation of heat, no installation of power, no low
13 voltage systems, and no temporary wiring, correct?

14 A That's how I read it, yes.

15 Q And my question to you is do you know, based on
16 your experience with collocation, how frequently it is going
17 to be able to do cageless physical collocation without
18 pulling a permit under this section?

19 A Again, I believe it is a case-by-case basis. I
20 don't think you can generally answer it for all of the
21 central offices located in southern Florida. If the space
22 was pre-conditioned, I was using frame lighting, I don't
23 understand why I would ever have to file for a building
24 permit or why BellSouth elects to file for a building
25 permit.

1 Q And so it is your testimony that you would never
2 need to file for an electrical permit under this provision
3 to do cageless collocation?

4 A No, what I just said for clarification is if I
5 was in pre-conditioned space and I wasn't seeking any
6 additional light, heat, power, or low voltage system, either
7 permanently or temporary wiring, or to make extensions in or
8 changes to, I would not have to seek a building permit.

9 Q Now, when you say pre-conditioned space, you are
10 basically assuming that all of the work necessary to
11 provision the collocation space would be done before you
12 make your collocation request, correct?

13 A Well, I'm assuming that if BellSouth was customer
14 focused and was trying to satisfy their customers and they
15 had application submissions, they wouldn't do building
16 permits on a one-for-one basis. That they would
17 pre-condition the entire office at the one time.

18 Q Okay. So you think that if a building permit is
19 needed for collocation, then BellSouth just needs to go
20 ahead and do all the work in that building at one time and
21 get all the permits and have the space sitting there in case
22 someone wants it?

23 A Well, I believe a building permit covers the
24 entire structure.

25 Q Could I have a yes or no to that one? Is that

1 what you are saying, that BellSouth --

2 A Could you repeat your question, please.

3 MR. GOODPASTOR: I object to the extent that you
4 are interrupting the witness. If you could please just let
5 the witness give his answer, and if it includes a yes or no
6 he can provide that at the end. But if he could just
7 complete his answer before you interrupt.

8 MR. CARVER: No, what I would request is that the
9 witness comply with the procedural order and give me a yes
10 or no first.

11 COMMISSIONER DEASON: And I request that both the
12 counsel and the witness realize the hour that we are here
13 on, and just try to cooperate and let's move this along.

14 Repeat your question and the witness, please
15 answer yes or no to the extent possible and then explain
16 your answer and don't interrupt each other.

17 BY MR. CARVER:

18 Q Let me see if I understand your testimony. And
19 if I do, then we can move on. I want to make sure I'm
20 clear. I asked you before assuming that we have a situation
21 where there are applications filed for collocation and then
22 those applications are fulfilled by construction, would you
23 agree with me that in those circumstances a building permit
24 is going to have to be pulled a good deal of the time,
25 perhaps all the time, correct?

1 A Yes. If you are making extensive changes as
2 described here, you would have to pull a building permit.

3 Q Thank you. I think you answered my
4 question. Now, as to building permits more generally, let's
5 assume hypothetically that a permit is required in a
6 particular instance, and that's clear, that's a given.

7 A Accepted.

8 Q And the permit cannot be obtained within the time
9 frame or within -- well, the time frame to provision the
10 collocation that is set by the Commission?

11 A Is that another assumption?

12 Q Yes, that is an assumption.

13 A Yes.

14 Q I just want to be sure I understand your
15 position. You believe that in this circumstance BellSouth
16 should nevertheless have to come to the Commission and ask
17 for an extension of the provisioning interval even when it
18 is absolutely clear, one, that a permit is required and,
19 two, that one can't be obtained in time, is that correct?

20 A No, that is not necessarily correct. I think the
21 point we are trying to make is I believe that information
22 should be shared with the ALEC so that the ALEC can then
23 make a marketing decision as to whether to or not to secure
24 space within that central office. That time to market is
25 essential.

1 Q Okay. But what if it is clear that a permit
2 can't be pulled and BellSouth shares the information with
3 the ALEC and the ALEC says I don't care, you have an
4 interval, you either meet the interval or you go to the
5 Commission and ask for more time. You believe that in that
6 circumstance, in other words, if the ALEC doesn't agree,
7 BellSouth should have to ask for an extension?

8 A Yes, I think that is reasonable.

9 Q Let's talk a little bit about collocation space
10 and provisioning of partial space. In other words, a
11 situation in which, let's say Covad requests space and
12 BellSouth can't comply with your request completely, but we
13 can give you some space. And I believe you say on Page 15,
14 Lines 21 through 23, that in this instance, quote, an ILEC
15 should notify the ALEC if only a portion of the requested
16 space is available and then proceed to provision such space
17 without delay, is that correct?

18 A I'm sorry, what lines were they?

19 Q It's Page 15, Lines 21 through 23.

20 A Correct.

21 Q Now, before provisioning the partial space,
22 shouldn't the ILEC confirm that this is what the ALEC wants?

23 A Yes, it should.

24 Q And taking the time to contact the ALEC and to
25 make sure that is what they want would require some amount

1 of time, although perhaps not a lot, correct?

2 A That is correct.

3 Q And it is certainly possible, isn't it, that the
4 ALEC -- well, actually it's probably -- I will say it is
5 probable that if the ALEC can't get the space they want,
6 then they are going to have to redo their plans to
7 accommodate what they can get, correct?

8 A I cannot speak for all of the ALECs. I can only
9 address it from Covad's perspective, and we have those plans
10 readily available.

11 Q Okay. Well, let's say, for example, that you had
12 equipment that you wanted to collocate that took up 400
13 square feet, and that was your plan. And there were only
14 200 square feet available. Obviously you couldn't put in
15 that 200 square feet what you intended to, right?

16 A Again, I would prefer to address strictly what
17 Covad's collocation arrangements -- I mean, if I may change
18 your example. I mean, Covad typically requests four bays of
19 cageless collocation. And if the ILEC were to come back to
20 me and say I can only provide you with three bays, Covad has
21 plans in hand to make that decision within an hour's time
22 frame. The same for two bays, the same for one bay.

23 Q So you are saying that you can make any decision
24 about how to use partial space in an hour?

25 A Yes.

1 Q And is that because of the nature of the
2 collocation that you do?

3 A It is both the nature of the collocation we do
4 and the fact that I make the decision.

5 Q Now, you are aware, of course, that the rules
6 that the Commission is making as a result of this proceeding
7 will apply to all ALECs, not just Covad, correct?

8 A Yes, I understand that.

9 Q Now, let me ask you how much space do you think
10 it would take to collocate a Remote Switching Unit?

11 A Covad does not collocate remote switching units,
12 and you are out of my level of expertise.

13 Q Assume for purposes of my question that it takes
14 500 square feet. If a collocator requested 500 square feet
15 to locate a Remote Switching Unit and only 300 feet were
16 available then obviously they would have to do something
17 with that space other than locate the Remote Switching Unit,
18 right?

19 A I would assume so.

20 Q And if they wanted that space, it would take them
21 a certain amount of time to decide what alternate use they
22 would make of it, correct?

23 A Again, based upon your assumption, I'm assuming
24 so.

25 Q And, again, if you accept my assumption that they

1 are going to make some use of that space, it will take them
2 some time to make alternate plans for what they are going to
3 do with 300 feet, correct?

4 A Again, I'm not an expert in remote switching
5 and/or what other ALECs elect to do or not do. I'm
6 assuming, yes, it would take some time, possibly, to study
7 whether they were going to put in a remote switching module.
8 I don't know.

9 Q Well, let me ask the question this way. When you
10 say in your testimony that BellSouth should proceed to
11 provision such space without delay, you are not suggesting,
12 are you, that BellSouth should go ahead and provision the
13 space according to the original plan without giving the ALEC
14 time to decide what they want to do with the smaller amount
15 of space, are you?

16 A No. What I'm suggesting is that there has to be
17 conversation between the ILEC and the ALEC to come to a
18 mutually agreeable solution.

19 Q And the time frame for that conversation and for
20 the change in plans, to the extent it is going to be
21 embodied in a rule that applies across-the-board, that
22 interval should be appropriate not only for Covad, but for
23 all ALECs to change whatever their plans may be, wouldn't
24 you agree with that?

25 A I would agree with that. But I believe the rules

1 are worst case examples all of the time. That we could
2 always use shorter intervals. That if the rule is 30 days,
3 and we could do it in an hour, we should take an hour and
4 not the 30 days.

5 Q Well, do you believe the rule should be an hour?

6 A That's not what I said. I think that the rule
7 should be established by the Commission and the rule has to
8 satisfy all of the ALECs.

9 Q I know you have told me that your experience is
10 limited to Covad, but let me ask you this, do you have
11 enough experience with collocation generally to know how
12 much time it would take for planning and rearrangement of
13 some of the more complicated arrangements that other
14 collocators might be doing?

15 A Honestly, I do not.

16 MR. CARVER: Thank you. That's all I have.

17 CROSS EXAMINATION

18 BY MS. CASWELL:

19 Q Good afternoon, Mr. Moscaritolo. Would you agree
20 that placement of a firm order by the ALEC triggers the
21 start of the provisioning interval?

22 A No. Again, our experience with Bell Atlantic is
23 that the application submission triggers the time frame.

24 Q So you believe that the ILEC should have an
25 obligation to start provisioning collocation before the ALEC

1 has made any financial commitment to that space?

2 A We believe that the submission of an application
3 fee should trigger that event.

4 Q So your answer would be yes, you would expect the
5 ILEC to go forward with that arrangement without you having
6 made any firm commitment to that space, is that correct?

7 A Yes, that is my answer. That is correct.

8 Q And without the ILEC even having given you an
9 answer on space availability or price, correct?

10 A Yes, that is correct. That is what is occurring
11 today in the Bell Atlantic footprint.

12 Q And that is your recommendation as well here?

13 A Yes, that is my recommendation as well here.

14 Q But at the same time I think you have cited with
15 approval a U.S. West flat-rate collocation approach, and
16 under that approach, isn't it true that you are required to
17 submit 50 percent of the collocation price before the ILEC
18 begins any provisioning?

19 A Yes, that is correct. However, the clock starts.

20 Q I'm sorry, what did you just say?

21 A The 45-day clock has started, yes.

22 Q So, again, in the U.S. West approach, which you
23 have cited with approval, the clock would not begin until
24 you submit that firm order which is the 50 percent NRCs,
25 right?

1 A I believe -- and I'm not sure of this, but I
2 believe the clock starts with the submission of the
3 application.

4 Q I'm going to look at your direct testimony,
5 because I think that indicates something different. I am
6 looking at Page 7, and I guess what it says here is that
7 when an ALEC desires collocation space it submits its
8 application with a deposit of 50 percent of the flat rate
9 price?

10 A Correct.

11 Q So that would mean -- that is the firm order, in
12 other words, correct?

13 A That is correct, yes.

14 Q So you are okay with an approach that says we
15 start the provisioning interval with a firm order, is that
16 right?

17 A Yes. The answer is if, in fact, we go to flat
18 pricing, and I submit 50 percent with the application fee,
19 yes.

20 Q And what if you submit 50 percent a week after
21 you submit the application fee, when should the provisioning
22 interval begin?

23 A A week later.

24 Q Right. So the triggering event is your
25 submission of the 50 percent NRC, correct?

1 A Yes, I will agree with that.

2 Q Okay. And under that assumption, isn't it true
3 that virtually all the sites Covad requested in Florida of
4 GTE were completed within 90 days of Covad's firm orders for
5 the sites?

6 A If I may, I would like to look at my back-up
7 information.

8 Q Sure.

9 A I show elapsed times from a minimum of 64 days to
10 a maximum of 134 days.

11 Q Did you say 134 days?

12 A Correct.

13 Q And is that from the -- again, is that from the
14 firm order date?

15 A Yes, that is.

16 Q And what offices would be 134 days?

17 A Unfortunately, I don't have that level of
18 information available to me here.

19 Q Okay. Maybe I should ask it this way, didn't GTE
20 turn over or at least complete the site preparation in the
21 vast majority of those offices by December 23rd?

22 A GTE provided space to Covad so Covad could
23 install its equipment. And I did not personally see these
24 offices, but my understanding is that the DS-0 cable as well
25 as the DS-1 and DS-3 cable, and power cable were not

1 provided.

2 Q By December 23rd?

3 A Correct.

4 Q In how many offices, in how many situations was
5 that?

6 A This would be in all situations I understand.

7 Q In every one of those 23 --

8 A I have to qualify it. I personally did not make
9 the inspection of these offices.

10 Q Did anybody inspect the offices?

11 A Yes, Bill Bosenhoffer made the inspections.

12 Q Okay. And I think you have said that Covad
13 hasn't placed any equipment at all, right?

14 A Covad is in the process of placing the equipment
15 Monday starting.

16 Q So it hasn't done anything yet?

17 A Correct.

18 Q And do you know if it has applied for any of its
19 security badges?

20 A I believe they requested security badges for the
21 certified vendors, yes.

22 Q In your testimony you have stated that GTE
23 Florida provides collocation space to Covad in a median
24 interval of 184 calendar days in Florida. When your
25 testimony was filed, GTE hadn't provided you any space, had

1 it?

2 A That is correct, yes.

3 Q So how could you make that statement about a
4 median interval for provision of space when we hadn't even
5 provided you anything?

6 A I believe we were using North Carolina and other
7 GTE locations.

8 Q But it said GTE Florida, so would you like to
9 amend your testimony or strike that sentence?

10 A Yes, I would. May I just reference --

11 Q Your direct testimony at Page 4, Lines 16 and 17.

12 A Based upon the information you bring to light,
13 yes, I would agree with you.

14 Q Okay. So that sentence just isn't true, right?

15 A The GTE Florida section of that sentence is not
16 true.

17 Q Okay. And I think you said earlier that it was
18 your belief that we had prepared the space with anywhere
19 from 64 days to 134 days from the firm order date, but we
20 haven't even hit day 134 have we yet?

21 A This is based upon the information that GTE is
22 providing back to Covad on when the space will be available.

23 Q But hasn't the space been made available?

24 A No, some of the space -- I have spaces that won't
25 be available until the end of January.

1 Q But wasn't that an estimated date?

2 A Provided to us by GTE.

3 Q Right. It's not -- and that may not necessarily
4 be the actual date. Do you have any knowledge whether these
5 dates changed and were moved forward, in fact, from the
6 projected dates?

7 A Actually the answer to that is yes and no, some
8 have moved forward and some have moved back.

9 Q Do you know how many moved back?

10 A Unfortunately, I do not have that information
11 available to me here today.

12 Q So you are just projecting that 134-day period
13 for some unspecified amount of offices, is that right?

14 A No, the 134 days is based upon the information
15 provided to Covad by GTE.

16 Q Again, wasn't that information provided, those
17 projected dates provided at the start when you made the
18 applications?

19 A They were dates provided when we made the
20 applications, and those dates have been revised. There are
21 a series of conversations that take place almost weekly to
22 try and narrow down when the date will occur.

23 Q And, again, you don't know how many -- okay,
24 let's move on. The U.S. West approach that you support is
25 much the same as a tariff, isn't it?

1 A I believe it is, yes.

2 Q So would it be fair to say that you support a
3 tariffed approach to collocation?

4 A Yes, that would be very fair to say.

5 Q Do you have any cageless -- I'm sorry, do you
6 have any caged collocation arrangements in Florida?

7 A Yes, Covad does have caged collocation
8 arrangements in the State of Florida.

9 Q And is the equipment you have placed in those
10 caged arrangements similar to the equipment you are placing
11 in your cageless arrangements?

12 A It would be exactly the same with the exception
13 of the hub offices.

14 Q Okay. At Page 3, Lines 29 through 30 of your
15 rebuttal testimony, you state that cageless collocation
16 requires much less labor than standard caged collocation.
17 Besides construction of the cage, what labor does caged
18 require that cageless does not?

19 A In our cageless collocations, Covad provides a
20 simple chrome block for termination of all cabling as
21 opposed to a caged collocation where the ILECs were
22 providing remote POT or SPOT bays.

23 Q Does that require a lot more labor than --

24 A Considerable. It is a double cable run by both
25 -- the ILEC has to run cable and Covad would then have to

1 run cable back to the ILEC provided SPOT and/or POT bay.

2 Q Do you know if that is typical of cageless
3 arrangements that other ALECs have?

4 A I believe the answer to that is yes, but I really
5 cannot speak for other ALECs.

6 Q Do you have any virtual collocation arrangements
7 in Florida?

8 A Yes, Covad does have a virtual collocation
9 arrangement in the State of Florida.

10 Q Just one?

11 A Just one.

12 Q And is the equipment there the same as you would
13 have in a cageless arrangement?

14 A Yes, it is exactly the same with the exception
15 then, again, of the chrome block termination.

16 Q I think you have stated that when space and power
17 are readily available an ILEC should provision cageless
18 collocation within 45 days. What does readily available
19 mean to you?

20 A That the space has been pre-conditioned.

21 Q And pre-conditioned in turn means what?

22 A The air conditioning, lights, floor, rack.

23 Q And if those conditions aren't present, would you
24 accept a 90-day provisioning period for cageless?

25 A I believe that 90 days is longer than is

1 absolutely necessary. I believe it should be 76.

2 Q Did you say seventy --

3 A 76.

4 Q How do you come up with 76?

5 A That is what Bell Atlantic uses.

6 Q Okay. But didn't you also cite with approval a
7 Southwest Bell practice which provides space in 140 days if
8 no active collocation space is readily available?

9 A I believe -- I would have to look at the order,
10 but I believe that is what it says.

11 Q So why would you recommend something as short as
12 76 days when you would accept 140 days?

13 MR. GOODPASTOR: Counsel, can you refer us to the
14 portion of the testimony?

15 MS. CASWELL: I think it is his direct testimony
16 at 11. It's down at the bottom of the page, Lines 22 and
17 23.

18 THE WITNESS: On Page 11?

19 MS. CASWELL: Yes, at Page 11. And it says if
20 active collocation space is not readily available, SWBT
21 provides cageless collocation in 140 calendar days.

22 COMMISSIONER CLARK: Who is waiting on whom here?

23 MS. CASWELL: I'm waiting on him to answer the
24 question.

25 COMMISSIONER CLARK: That's what I thought. He

1 is waiting on you.

2 THE WITNESS: Oh, I'm sorry. I was actually
3 waiting on you. If you would repeat the question.

4 BY MS. CASWELL:

5 Q My question was if you will accept 140 days in
6 that situation, then why are you recommending 76 in
7 ostensibly the same situation where there is no readily
8 available space and power in the office?

9 A I will answer this way. This is a very dynamic
10 business that is changing daily, and what may have been
11 applicable a month ago may not be applicable today. And I
12 think we have to use the best practices demonstrated by all
13 of the ILECs and constantly review them to move this process
14 along.

15 Q But you didn't recommend that 76 days anywhere in
16 your testimony, did you?

17 A When my testimony was filed, I don't believe that
18 was available to us.

19 Q Okay. Doesn't the amount of air conditioning,
20 heat, ventilation, and power depend on the type of equipment
21 an ALEC installs?

22 A Yes, it does.

23 Q And would you expect every ALEC to be installing
24 the same kind of equipment?

25 A No, I would not expect every ALEC to install the

1 same type of equipment.

2 MS. CASWELL: That's all I've got. Thank you.

3 COMMISSIONER DEASON: Staff.

4 MR. BUECHELE: Your Honor, may I inquire on the
5 building code? I will be very quick.

6 CROSS EXAMINATION

7 BY MR. BUECHELE:

8 Q Mark Buechele for Supra Telecom. Now, you were
9 asked an opinion based upon something that was presented to
10 you that purported to be the South Florida Building Code.
11 And in particular you were read a provision that said any
12 changes to low voltage systems required a building permit.
13 Could you turn to Page 45-3?

14 And on Section 4502-3 there is a definition of
15 low voltage systems, which says it shall include
16 fiber-optics, telephone, et cetera, et cetera, and all other
17 systems 77 volts or less. Now, on the face of that alone
18 this would include the 48 volt supply that goes to a
19 person's house when you disconnect the wire to provision new
20 service, is that correct?

21 MR. CARVER: Could I have that reference again
22 that you are referring to?

23 MR. BUECHELE: 4502.3.

24 MR. CARVER: Thank you.

25 THE WITNESS: I would assume that is correct.

1 BY MR. BUECHELE:

2 Q And the section then further references a Section
3 402, which is not provided here. And then a section, it
4 references a Section 4503, which then is just below that
5 which references numerous other building codes which are not
6 provided here.

7 Since it's obvious that BellSouth does not pull a
8 building permit every time they provision new service to a
9 customer, is it fair to say that BellSouth did not provide
10 you sufficient information in this document to determine
11 when a building permit is required in a central office
12 environment, particularly cageless collocation?

13 A Yes.

14 MR. CARVER: I'm going to object to this. This
15 is not proper cross-examination. He is basically sort of
16 conducting a redirect on someone else's witness, but leading
17 him as he goes. This is something that counsel for Covad
18 could perhaps do, but this is not cross examination.

19 COMMISSIONER DEASON: Are you finished?

20 MR. BUECHELE: Just one more question.

21 COMMISSIONER DEASON: No, you're finished.

22 MR. BUECHELE: Okay. Thank you, Your Honor.

23 COMMISSIONER DEASON: Staff.

24 MS. KEATING: Staff has no questions.

25 COMMISSIONER DEASON: Commissioners.

1 whether the work which may or may not require a building
2 permit under the code is required to provision Covad's
3 space?

4 A No. BellSouth and Covad have not been able to
5 reach that accommodation.

6 Q Has BellSouth ever told you that Covad's space
7 would not be delayed by a building permit issue and then
8 changed the story?

9 A Yes, they have.

10 Q Could you describe that?

11 A As I just described to the Commissioner,
12 BellSouth has explained to Covad that a building permit
13 would not be required for Covad's cageless collocation
14 arrangement, but then we were told several weeks, months
15 later that a building permit was required because of some
16 activity that BellSouth was undertaking in the building.

17 Q Now, Mr. Moscaritolo, if you will refer to your
18 direct testimony at Page 11, Line 22 and 23.

19 A Yes.

20 Q And that is the term or the Southwestern Bell
21 tariff that GTE's counsel just asked you questions about,
22 isn't that correct?

23 A That is correct, yes.

24 Q And in Line 22 it refers to a term called active
25 collocation space?

1 A Yes, it does.

2 Q Is that something that is defined in the
3 Southwestern Bell tariff?

4 A I believe the answer to that is yes.

5 Q And that may or may not be the same definition
6 that you were referring to according -- under the U.S. West
7 agreement with Covad, isn't that correct?

8 A Yes, I believe that is correct.

9 Q Would you refer to Page 4 of your direct
10 testimony, and at Line 17 of Page 4 of your testimony you
11 refer to a median interval of 184 calendar days in Florida
12 that GTE provides cageless collocation, is that correct?

13 A That is correct.

14 Q Now, are you aware that GTE issued discovery
15 requests regarding that statement in your testimony?

16 A Yes, I am aware of that.

17 Q And did you assist your counsel in preparing
18 responses to those discovery requests?

19 A Yes, we did.

20 Q And did those responses include responses to
21 interrogatories?

22 A Yes, they did.

23 Q And did Covad also produce documents in response
24 to GTE's discovery requests?

25 A Yes, they have.

1 MR. GOODPASTOR: May I approach the witness,
2 Commissioner?

3 COMMISSIONER DEASON: Yes.

4 BY MR. GOODPASTOR:

5 Q Mr. Moscaritolo, I have just handed you two
6 documents, one is entitled Covad's responses to objections
7 -- or objections and responses to GTE's interrogatories, is
8 that correct?

9 A Yes, that is correct.

10 Q And the other document is a letter from your
11 counsel to counsel for GTE enclosing documents produced in
12 response to discovery request by GTE, isn't that correct?

13 A That is correct.

14 MR. GOODPASTOR: At this time, Commissioner, we
15 would like to have these two documents assigned composite
16 exhibit numbers as rebuttal exhibits.

17 COMMISSIONER DEASON: They will be identified as
18 Exhibit 23.

19 (Composite Exhibit Number 23 marked for
20 identification.)

21 MR. GOODPASTOR: And I apologize, I don't have
22 copies right now because I did not anticipate having to use
23 these exhibits.

24 BY MR. GOODPASTOR:

25 Q Now, in response to interrogatories, Covad

1 explains how it came up with the number 184 days as a median
2 provisioning interval for GTE's collocation space, isn't
3 that correct?

4 A I'm sorry.

5 Q In response to the interrogatories --

6 A Yes, it does. I'm sorry.

7 Q And in the other document, including documents
8 produced by Covad, it contains a chart showing the
9 particular intervals that GTE responded to?

10 A Yes, it does.

11 Q Now, when you put the term 184 calendar days in
12 your testimony, was that information accurate on the date
13 you filed your testimony?

14 A It was accurate to the point we were using GTE
15 provided dates, yes.

16 Q And so the 184 days, does that refer to the
17 intervals that GTE stated that it would provide cageless
18 collocation space to Covad in Florida?

19 A Yes, they do.

20 Q And does that interval include any time required
21 for Covad to respond to either a price quote or any other
22 documentation from GTE?

23 A No. All of the time frames whenever it was
24 within Covad's control were removed from the calculations.

25 Q So the interval, however, does include the time

1 between Covad's submission of an application and GTE's
2 providing of a price quote?

3 A Correct.

4 Q And the interval also includes the time between
5 Covad's submission of its deposit and GTE's intended
6 delivery of the collocation space, isn't that correct?

7 MS. CASWELL: I'm sorry, I'm going to have to
8 object. He is leading the witness here, and it is his own
9 witness. I don't think that is proper.

10 COMMISSIONER DEASON: There has been an objection
11 to the manner in which you are asking your questions. I
12 tend to agree.

13 MR. GOODPASTOR: I will rephrase the question.

14 COMMISSIONER DEASON: Very well.

15 BY MR. GOODPASTOR:

16 Q Does your statement of 184 days in the
17 corresponding documents produced related to that statement
18 include an application interval?

19 A The 184 days includes the application interval
20 and it includes the time from the firm order check being
21 returned to GTE until GTE was provisioning the space.

22 Q Is Covad proposing that if an ILEC and Covad
23 agree that a collocation interval needs to be extended
24 because of a permit requirement that an ILEC is still
25 required to file for a waiver in that situation?

1 A I believe the answer to that is yes.

2 Q But you would agree with me that if Covad agreed
3 with an ILEC that the extension that they require was
4 reasonable and was required by a reasonable permit, that a
5 waiver would not be required?

6 A Yes, I would agree with that.

7 COMMISSIONER DEASON: Counsel, you are leading
8 your witness again.

9 MR. GOODPASTOR: I apologize.

10 BY MR. GOODPASTOR:

11 Q You participate in other PSC hearings regarding
12 collocation, is that correct?

13 A That is correct.

14 Q Does the FCC limit -- or does the FCC order
15 regarding advanced services or cageless collocation, which
16 we have referred to in this docket, does that limit the ILEC
17 to providing collocation on terms stated in that order or
18 can an ILEC provide collocation on terms that are actually
19 better for an ALEC?

20 A Yes, my understanding of the FCC order is that it
21 is a floor, not a ceiling. And that an ILEC may elect to do
22 more for its customer than what the FCC is stating.

23 MR. GOODPASTOR: I have no further questions.

24 COMMISSIONER DEASON: Exhibits.

25 MR. GOODPASTOR: At this time we move for the

1 entry of composite exhibits including 21.

2 COMMISSIONER DEASON: Without objection, Exhibit
3 21 is admitted.

4 MR. GOODPASTOR: And Composite Exhibit 23.

5 COMMISSIONER DEASON: I'm not going to allow you
6 to move that exhibit at this time. When you can provide
7 copies to the Commissioners, the court reporter, and all
8 parties then I will allow you to move the exhibit.

9 MR. GOODPASTOR: Certainly.

10 COMMISSIONER DEASON: And I will take up any
11 objections at that time.

12 MR. CARVER: BellSouth moves 22.

13 COMMISSIONER DEASON: Without objection? Hearing
14 no objection, Exhibit 22 is admitted. Thank you. You may
15 be excused, and we will take a ten minute recess.

16 (Exhibits 21 and 22 admitted into evidence.)

17 (Brief recess.)

18 COMMISSIONER DEASON: Call the hearing back to
19 order. I believe MGC's witness is scheduled next.

20 MR. KERKORIAN: That is correct. MGC calls
21 Andrew Levy.

22 Thereupon,

23 ANDREW LEVY

24 was called as a witness on behalf of MGC Communications and,
25 having been duly sworn, testified as follows:

DIRECT EXAMINATION

1

2 BY MR. KERKORIAN:

3 Q Good afternoon, Mr. Levy. Would you please state
4 for the record your name and business address?

5 A My name is Andrew Levy, my business address is
6 3301 North Buffalo Drive, Las Vegas, Nevada.

7 Q And your employer?

8 A MGC Communications.

9 Q What is your position with MGC?

10 A I am Vice President of National Network
11 Deployment.

12 Q Now, did you cause to be filed in this docket
13 direct testimony?

14 A Yes, I did.

15 Q Do you have any changes or clarifications you
16 wish to make with respect to the direct testimony filed?

17 A Yes, I do. On Page 6, the response to Issue 3,
18 Line 12, the word unused should be stricken and replaced by
19 the word usable.

20 Q Anything else?

21 A Yes, there is one other. It is a general
22 clarification. The response to Issue 5 assumed -- the first
23 paragraph assumed a conversion of virtual to physical, and I
24 assumed physical not to include cageless collocation, so I
25 want to clarify that if cageless is considered a form of

1 physical collocation, that MGC's position is it should be
2 and unconditionally converted from virtual to cageless at
3 the ALEC's request. And I do discuss that a bit in
4 subsequent paragraphs to that answer.

5 MS. CASWELL: I'm sorry, could you tell us where
6 that is in your testimony?

7 THE WITNESS: Yes. It's Page 8, the first full
8 paragraph. It responds to Issue Number 5, and it's not
9 really a change, it's more of a clarification.

10 MS. CASWELL: So, just for my understanding, you
11 are not including cageless in that physical collocation?

12 THE WITNESS: Yes. To me cageless is distinct
13 from physical, and I answered the question with little
14 interpretation of what physical is, which I guess would be
15 somewhat termed as caged collocation.

16 MS. CASWELL: Okay. And back on Page 6 you made
17 another change that I didn't catch. Was it on Line 12?

18 THE WITNESS: Line 12, the word unused. That is
19 a typo, it should say usable.

20 MS. CASWELL: I see. Thank you.

21 BY MR. KERKORIAN:

22 Q Mr. Levy, with those changes, if you were asked
23 the same questions that are reflected in your direct
24 testimony today, would you give the same responses?

25 A Yes, I would.

1 MR. KERKORIAN: Mr. Chairman, at this point I
2 would like to insert the direct testimony of Mr. Levy into
3 the record.

4 COMMISSIONER DEASON: Without objection, it shall
5 be so inserted.

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2 **Q1. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3 A. Andrew C. Levy, MGC Communications, Inc., 3301 Buffalo Drive, Las Vegas, Nevada,
4 89129.
5

6
7 **Q2. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND WORK**
8 **EXPERIENCE.**

9 A. I am Director of Network Services – East for MGC Communications, Inc., a Nevada
10 Corporation (hereinafter “MGC”). MGC is a facilities-based alternative local exchange
11 carrier (“ALEC”) certificated in Florida, which provides local and long distance services
12 primarily to small business and residential customers.
13

14
15 I hold a B.A. in Economics and Political Science from Washington University and a J.D.
16 from Emory University. I am an inactive member of the State Bar of Georgia. Before
17 joining MGC, I served as Vice President of Savoy Capital, Inc., a Houston-based
18 investment and advisory firm. Prior to that I served as Director of Contracts and counsel
19 with ValuJet Airlines, Inc., an Atlanta-based airline.
20

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22
23 In my current position as Director of Network Services - East, I have responsibility for
24 collocation throughout the MGC network which includes Nevada, Illinois, Georgia, and
25 Florida in addition to new markets in Texas, Michigan, Wisconsin, Ohio and Tennessee.
26
27
28

1 **Q3. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

2 A. The purpose of my testimony is to describe MGC's position regarding collocation related
3 policies used by BellSouth and to provide examples of the long intervals as well as the
4 excessive collocation costs that result from these policies.
5

6
7 **Q4. COMMISSION ISSUE 1: WHEN SHOULD AN ILEC BE REQUIRED TO**
8 **RESPOND TO A COMPLETE AND CORRECT APPLICATION FOR**
9 **COLLOCATION AND WHAT INFORMATION SHOULD BE INCLUDED IN**
10 **THAT RESPONSE?**
11

12
13 A. Upon receipt of a complete and correct application, an ILEC should respond to the
14 collocator within ten business days. The response should include whether space is
15 available and in what forms (physical, cageless or virtual) in addition to the cost
16 appropriate for the type of collocation requested. This interval is currently adhered to by
17 Ameritech, Southwestern Bell and Pacific Bell. A more detailed breakdown of costs
18 should be provided, upon request, within ten additional business days. In the event that
19 an ALEC requests a more detailed cost breakdown, the interval for submittal of a "firm
20 order commitment" ("FOC") should not start until after receipt of the more detailed
21 response.
22
23

24
25 The most efficient method of handling collocation requests, whether for an initial request
26 or for subsequent requests or "augment," is when pricing is subject to established rates
27 under a tariff, as opposed to "individual case basis" or "ICB" pricing. In states that have
28

1 established pricing for collocation, the collocator knows before submitting the application
2 exactly how much the space preparation will cost before the application is submitted. In
3 such cases, the only information received in the application response is whether space is
4 available. This is how the collocation application process for new space works in
5 Georgia, Illinois, Wisconsin, Ohio, Michigan and Texas.
6

7
8 Unfortunately, despite the simplicity afforded by tariff pricing, BellSouth remains unable
9 to provide a prompt response to collocation requests in Georgia as well as Florida where
10 their delays in responding to requests are typically at least two months. However, in
11 Illinois, Ameritech consistently responds within ten business days. Pacific Bell, though
12 collocation space preparation fees are not tariffed, manages to respond within five to ten
13 business days with both space availability and cost information. (They manage to
14 respond so quickly because all the pricing has been established in advance for a particular
15 central office.)
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18
19 After receiving a written response, the ALEC should be allowed a reasonable amount of
20 time in which to submit a FOC, which thereby commits the ALEC to the work detailed in
21 the request. This FOC should include payment of a percentage of the total cost of the
22 work as detailed in the ILEC's response. BellSouth, GTE and Ameritech each permit the
23 collocator 30 days to submit a FOC in response to an application response, but this
24 interval could be as short as 15 business days without undue harm to the ALEC.
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1 There are two main causes for BellSouth's inability or unwillingness to respond to
2 requests for collocation within a short period of time, such as the proposed ten business
3 days. ICB pricing requires the ILEC to price out each request separately. This typically
4 requires the ILEC to look at each application individually and make cost assumptions for
5 each request which can vary depending on the amount of cross connects or power
6 requested in the application, as well as many other variables.
7

8
9 This process is by nature lengthy but can be sped up in two ways. First, eliminate the
10 need for the process by establishing set pricing for all collocation elements so that each
11 request can be priced out within minutes as opposed to weeks or months. Again, the
12 collocator could also determine the costs by referring to the tariff. Second, hire more
13 people to obtain the information required to be collected in order to prepare a price quote.
14 The application fee of \$3,850 per application could certainly allow the ILEC to hire more
15 qualified personnel in order to speed up the process. Shortening the interval would
16 benefit all parties: the ALEC by getting them in business sooner, the consumers by giving
17 them more choices and competition sooner, the ILEC by generating wholesale revenue
18 sooner.
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23 **Q5. COMMISSION ISSUE 2: IF THE INFORMATION INCLUDED IN THE ILEC'S**
24 **INITIAL RESPONSE IS NOT SUFFICIENT TO COMPLETE A FIRM ORDER,**
25 **WHEN SHOULD THE ILEC PROVIDE SUCH INFORMATION OR SHOULD**
26 **AN ALTERNATIVE PROCEDURE BE IMPLEMENTED?**
27
28

1 A. The ILEC should always provide sufficient information in their response to an
2 application to enable the ALEC to submit a FOC with the knowledge of exactly what
3 charges will be incurred. This information should be provided as detailed above, in the
4 response to Commission Issue 1.
5

6
7 **Q6. COMMISSION ISSUE 3: TO WHAT AREAS DOES THE TERM "PREMISES"**
8 **APPLY, AS IT PERTAINS TO PHYSICAL COLLOCATION AND AS IT IS**
9 **USED IN THE ACT, THE FCC'S ORDERS, AND FCC RULES?**
10

11
12 A. The term "premises" applies to any space in a central office that is ^{usable} ~~unused~~ for the
13 maintenance of telecommunications equipment and, therefore, is available for physical
14 collocation. The term also includes the ILEC's property outside of the central office
15 building, but within its property line. External space, typically a parking lot or
16 undeveloped land, can be utilized for either above ground or below ground structures that
17 can house telecommunications equipment. Examples of above ground use would include
18 cabinets and trailers. Examples of below ground use would include controlled
19 environmental vaults ("CEVs").
20
21

22
23 If there truly is no more space for physical collocation inside a central office structure,
24 the ILEC is obligated to permit a collocator to utilize any space within its property line in
25 order to install telecommunications equipment and interconnect with the ILEC. This
26 space is extremely valuable because it is typically close enough to the central office
27 building so that the ALEC can reach the ILEC main distribution frame ("MDF") via a
28

1 copper connection through a manhole. The ability to use copper to reach the MDF
2 deteriorates for technical reasons the farther away from the MDF the collocater's
3 equipment resides. Therefore, the space on an ILEC's property is extremely valuable,
4 albeit less desirable than inside the central office, because it can make the difference
5 between being able to serve the consumers served out of a particular central office or not.
6
7

8 **Q7. COMMISSION ISSUE 4: WHAT OBLIGATIONS, IF ANY, DOES AN ILEC**
9 **HAVE TO INTERCONNECT WITH ALEC PHYSICAL COLLOCATION**
10 **EQUIPMENT LOCATED "OFF-PREMISES"?**
11

12
13 A. The ILEC is obligated to interconnect with an ALEC that houses its equipment in some
14 sort of off-site or adjacent collocation arrangement. Interconnection is technically
15 feasible and therefore, should be mandatory. All that is required for such an
16 interconnection is conduit space in an ILEC manhole near the central office building
17 where copper from the ILEC can be spliced to copper from the ALEC. Such a meet point
18 arrangement would allow the ALEC to reach the MDF and therefore access unbundled
19 loops.
20
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23 **Q8. COMMISSION ISSUE 5: WHAT TERMS AND CONDITIONS SHOULD APPLY**
24 **TO CONVERTING VIRTUAL COLLOCATION TO PHYSICAL**
25 **COLLOCATION?**
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1 A. Converting a typical virtual collocation arrangement to a typical physical collocation
2 arrangement would be practically impossible. Virtual collocation in its typical form
3 results in an ALEC installing equipment in an existing lineup in a central office alongside
4 or in the same general area where the ILEC has its own equipment. In most virtual
5 collocation arrangements, the ALEC is not permitted to access its equipment. In fact, the
6 equipment is often sold to the ILEC for a nominal amount (typically \$1) with the ALEC
7 retaining a right to repurchase the equipment for the same amount. Therefore, the ILEC
8 owns the equipment and they are required to do all necessary maintenance functions.
9
10 The typical physical collocation involves leasing floor space from the ILEC inside a
11 central office where the ALEC installs its own equipment in order to interconnect with
12 the ILEC's network. To convert a typical virtual collocation to a typical physical
13 collocation would entail building a cage around the existing virtually collocated
14 equipment and moving any other equipment in order to free up sufficient space. This is
15 unlikely to be possible.
16
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18
19 It is possible, however, for an ALEC to get many of the qualities typically associated
20 with physical collocation other than the granting of self contained floor space. For
21 example, in Las Vegas, Sprint, the local ILEC, permits MGC technicians to access its
22 collocated equipment on a 24 by 7 basis even though all its collocations are considered
23 virtual and the equipment is typically located in a lineup that includes Sprint transmission
24 or switching equipment. While this is not as desirable as physical collocation, it is far
25 superior to the typical virtual collocation with its constraints on access.
26
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1 The Sprint arrangement is similar to most forms of cageless collocation in that the ALEC
2 has the ability to access its equipment, even though it resides in a lineup with ILEC
3 equipment. BellSouth should adopt similar rules. In doing so, any collocation that is
4 currently virtual could be converted to the Sprint form of cageless collocation and s
5 would enjoy many of the benefits physical collocation affords.
6

7
8 **Q.9. COMMISSION ISSUE 6: WHAT ARE THE APPROPRIATE RESPONSE AND**
9 **IMPLEMENTATION INTERVALS FOR ALEC REQUESTS FOR CHANGES TO**
10 **EXISTING COLLOCATION SPACE?**
11

12
13 **A.** Changes to existing collocation arrangements can take many forms and the appropriate
14 response and implementation intervals vary depending on the form of the change.
15

16
17 In the event an ALEC has a physical collocation or rights to certain space, whether floor
18 space or space within a rack that contains its equipment, and has vacant space available,
19 the ALEC should not have to request permission to install any NEBS compliant
20 telecommunications equipment. The ALEC, in such event, should not even have to
21 notify the ILEC of the installation of its equipment. This is currently not BellSouth's
22 process. In fact, not only does an ALEC need to request permission to install equipment
23 in its own physical collocation cage, it must also pay BellSouth an application fee of
24 \$1,600. This fee is charged when the ALEC is not requesting anything from BellSouth,
25 but is merely notifying them about certain equipment additions or removals.
26
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1 However, most change (or augment) applications involve requests for more cross
2 connects or "tie downs" from the ILEC or additional DC power. DS0, DS1 and DS3 tie
3 downs permit the ALEC to order unbundled loops (DS0s), or interoffice transport or
4 trunking (DS1s and DS3s). Requests for more DC power are made in order to power
5 additional equipment or because existing equipment is increasing the power needs due to
6 increased sales success. (Typically the draw of telecommunications equipment increases
7 with the amount of subscribers.)
8

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11 As stated in the response to Commission Issue 1, the ideal process is to establish prices
12 for collocation elements as opposed to ICB pricing. In such case, there is no need for any
13 response, much less a response interval. If the prices are established according to a tariff,
14 the ALEC knows before submitting the application exactly what it will be charged for the
15 type and quantity of the elements requested. This would also obviate the need for a
16 response from the ILEC and for a FOC from the ALEC. For example, when Ameritech
17 in Illinois receives an augment application, it proceeds to provision the request and it is
18 usually ready within their standard interval of ten weeks. There is no response from
19 Ameritech unless it is to clarify certain issues on the application. The same process is
20 utilized by Pacific Bell.
21
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23
24 Such a process also obviates the need for a large application fee, as currently charged by
25 BellSouth, since the handling of the request would simply be an administrative burden
26 imposed on the ILEC instead of an engineering burden. As a case in point, Ameritech
27 charges \$302.50 and Pacific Bell does not impose any charge. Unfortunately, ICB
28

1 pricing is currently utilized in Florida, leading to large application charges, uncertainty
2 regarding pricing, generally high collocation charges and significant delays.

3
4
5 In any event, after receiving a request for such changes, the ILEC should be required to
6 respond to the ALEC within 10 business days and this response should include all costs
7 associated with the request. As described in response to Commission Issue 1, above, the
8 ALEC should have a 15 to 30 calendar day interval in which it can provide a FOC for the
9 request. Once a firm order has been placed, the interval for provisioning this request
10 should be no more than 30 calendar days. Sprint has consistently provisioned such
11 requests within 30 days or less. Ameritech's interval is ten weeks and Pacific Bell's is 80
12 calendar days. Ameritech's and Pacific Bell's intervals are too long, but both are better
13 than BellSouth's 90 calendar days. It may not seem like much difference, but BellSouth
14 typically takes months to even respond to an augment request, whereas both Ameritech
15 and Pacific Bell start working on the request immediately. Therefore, Ameritech's
16 interval from application to completion date is ten weeks and Pacific Bell's is 80 days,
17 but BellSouth's is four and a half months at a minimum, but usually closer to six to eight
18 months.
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23 For example, after submitting an application for an augment request, MGC is forced to
24 wait at least 30 business days simply to receive a response from BellSouth on the
25 application request. In the event that MGC submits more than three applications within a
26 two week period for any type of collocation request for central offices in the same state,
27 the interval becomes "negotiated" according to the interconnection agreement. Of
28

1 course, because an ALEC like MGC has little negotiating leverage, there is not much to
2 negotiate and typically BellSouth responds at its own pace.

3
4
5 It has been very common for MGC to wait for three months to receive a response from
6 BellSouth to augment applications. We currently have 11 applications for augments that
7 were submitted on June 16, 1999 and four that were submitted on July 15, 1999 for which
8 MGC is still waiting for a response from BellSouth. These applications request
9 additional tie downs and, in some cases, additional power. The absurdly long intervals
10 imposed by BellSouth are indefensible (see Sprint, Ameritech and Pacific Bell examples,
11 above, of significantly shorter intervals) and serve to slow the growth of competition.
12
13

14 **Q.10. COMMISSION ISSUE 7: WHAT ARE THE RESPONSIBILITIES OF THE ILEC**
15 **AND COLLOCATORS WHEN:**
16

- 17 **A. A COLLOCATOR SHARES SPACE WITH, OR SUBLEASES**
18 **SPACE TO, ANOTHER COLLOCATOR;**
19 **B. A COLLOCATOR CROSS-CONNECTS WITH ANOTHER**
20 **COLLOCATOR.**
21

- 22
23 A. In situation "A," the ILEC must treat the sublessee as a separate collocator by giving it its
24 own ACTL (carrier identification code within a central office), tie downs and power. The
25 sublessee must be billed separately for any unbundled loops, interoffice transport,
26 trunking, and power it utilizes.
27
28

1 Pacific Bell has a procedure that should serve as a model for this type of shared
2 arrangement. A collocator wishing to share a cage with an existing collocator submits an
3 application to Pacific Bell requesting the necessary tie downs. Pacific Bell provides these
4 tie downs to the host cage and these tie downs are entered into their databases as
5 belonging to the sublessee. Therefore, anything ordered against the carrier facility
6 assignments associated with these tie downs is billed to the appropriate collocator, the
7 sublessee. This is critical since if the host collocator were forced to share its tie downs
8 with a sublessee, the complexity associated with billing would for all intents and
9 purposes make the shared arrangement undesirable.
10
11

12
13 Unfortunately, Pacific Bell does not provide separate power leads to the sublessee;
14 instead the host is billed for this. There is no technical nor business reason, however,
15 why an ILEC could not provide the power and tie downs, or anything else requested, to
16 the sublessee and bill it separately. BellSouth should adopt this model. Encouraging
17 shared space is a win for all parties. The consumer gets more choices, the sublessee is
18 permitted to enter the market and compete, and the use of precious central office space is
19 maximized. This also benefits BellSouth since it can prolong capital expenditures
20 associated with building expansions required by the exhaustion of floor space.
21
22

23
24 In situation "B," any cross connect between ALEC's for the purpose of interconnection
25 should be permitted and the ALEC's should have the right to physically make such cross
26 connects without BellSouth's participation.
27
28

1 **Q11. COMMISSION ISSUE 8: WHAT IS THE APPROPRIATE PROVISIONING**
2 **INTERVAL FOR CAGELESS PHYSICAL COLLOCATION?**

3
4
5 A. Upon receipt of a firm order, cageless collocation should be provisioned within 30
6 calendar days. In Las Vegas, all MGC collocations are "cageless" (as described above in
7 the response to Commission Issue 5) and the space is consistently available within 30
8 days. The interval for cageless collocation should be significantly shorter than for a
9 physical collocation since there is no cage or room construction involved. All that is
10 required is for the necessary cabling and power to be made available within that time.
11 For most requests, 30 days is more than sufficient time to provision these elements. This
12 is especially true when, as in BellSouth's cageless process, the ALEC runs the voice,
13 power and signal cables. In this case, the only thing the ILEC must do to prepare for the
14 collocator's installation is to identify within its databases the carrier facility assignments
15 to be given to the collocator. This can be done in a matter of days or even hours.
16
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18

19 **Q12. COMMISSION ISSUE 9: WHAT IS THE APPROPRIATE DEMARCATION**
20 **POINT BETWEEN ILEC AND ALEC FACILITIES WHEN THE ALEC'S**
21 **EQUIPMENT IS CONNECTED DIRECTLY TO THE ILEC'S NETWORK**
22 **WITHOUT AN INTERMEDIATE POINT OF INTERCONNECTION?**

23
24
25 A. Without a point of termination ("POTs") bay between the ALEC and the ILEC, it is
26 difficult to identify a demarcation point. In such case, each cable becomes a type of
27 meet-point since the ALEC is not permitted to reach the ILEC end and the ILEC is not
28

1 permitted to reach the ALEC end. The only way to establish a demarcation point is to
2 require that a POTs bay be utilized where the ILEC cables to one side and the ALEC to
3 the other. This scenario is preferred and works well since the entire purpose of having a
4 POTs bay in a common area of the central office gives both companies an established
5 demarcation point.
6

7
8 However, if there is no POTs bay, establishing a demarcation point would be less
9 important if the ALEC were permitted to do all of its wiring between its equipment and
10 the ILEC termination destination: the MDF for DS0s; and DSX1 and DSX3 ports for the
11 DS1s and DS3s. Currently, however, Ameritech is the only ILEC in MGC's serving
12 areas that permits the ALEC to wire from end to end including the MDF. Permitting an
13 ALEC to do the complete wiring assures a higher quality of service and cabling errors are
14 subsequently discovered, there is no one to blame but the ALEC itself.
15
16

17
18 BellSouth currently utilizes POTs bays and Pacific Bell and Southwestern Bell give
19 ALECs a choice of having a POTs bay or going "POTless." Neither Sprint nor GTE
20 provide POTs bays.
21

22
23 **Q. 13. COMMISSION ISSUE 10: WHAT ARE REASONABLE PARAMETERS FOR**
24 **RESERVING SPACE FOR FUTURE ILEC AND ALEC USE?**
25

- 26
27 **A.** There should be no ability for either the ILEC or ALECs to reserve space in a central
28 office. However, if there must be a reservation policy, it should not in any way favor the

1 ILEC or any affiliated companies or subsidiaries of the ILEC. It should be applied
2 neutrally to all interested collocators, including the ILEC.
3

4
5 **Q. 14. COMMISSION ISSUE 11: CAN GENERIC PARAMETERS BE ESTABLISHED**
6 **FOR THE USE OF ADMINISTRATIVE SPACE BY AN ILEC, WHEN THE ILEC**
7 **MAINTAINS THAT THERE IS INSUFFICIENT SPACE FOR PHYSICAL**
8 **COLLOCATION? IF SO, WHAT ARE THEY?**
9

10
11 A. There is no more economically efficient use of space within an ILEC central office than
12 use for the purpose of housing telecommunications equipment. The central office is the
13 only location in which an ALEC can reach unbundled loops and therefore, offer services
14 which are competitive to those of the ILEC. For this reason, all space within a central
15 office should be used for this purpose, with the exception of minimal amounts of work
16 space for technicians that work in that office and bathrooms to be used by that staff and
17 collocators. There should be no other space reserved for functions other than
18 telecommunications space.
19

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21
22 **Q.15. COMMISSION ISSUE 12: WHAT TYPES OF EQUIPMENT ARE THE ILECS**
23 **OBLIGATED TO ALLOW IN A PHYSICAL COLLOCATION**
24 **ARRANGEMENT?**
25

26
27 A. Pursuant to FCC Order ("706 Order," Order 99-48, in Docket 98-147, issued 3/31/99,
28 para. 28), the ILEC must permit the collocation of any equipment that is "used or useful"

1 for either interconnection or access to UNEs regardless of other functions the equipment
2 may be able to perform. Further, the ILEC may not limit the ALECs' ability to use all
3 the features, functions and capabilities of its collocated equipment, including switching
4 and routing features and functions.
5

6
7 MGC believes the ALEC should be permitted to install any equipment that meets NEBS
8 level 1 compliance, regardless of its functionality. The ILEC may have an interest in
9 knowing what equipment is installed within its central office in order to ensure there is
10 sufficient heating, ventilation and air conditioning ("HVAC"). This purpose can be
11 served by the ALEC submitting an application giving notice to the ILEC of its intent to
12 install additional equipment. This application should not need any acceptance or require
13 any fee.
14
15

16
17 BellSouth currently requires ALECs to submit an application which includes an
18 application fee. The ALEC is not permitted to install the additional equipment until
19 BellSouth formally responds to the application and grants permission. This policy is
20 grossly unfair and anti-competitive.
21
22

23 **Q.16. COMMISSION ISSUE 13: IF SPACE IS AVAILABLE, SHOULD THE ILEC BE**
24 **REQUIRED TO PROVIDE PRICE QUOTES TO AN ALEC PRIOR TO**
25 **RECEIVING A FIRM ORDER FOR SPACE IN THE CENTRAL OFFICE (CO)?**
26
27
28

1 **A. IF AN ILEC SHOULD PROVIDE PRICE QUOTES TO AN ALEC PRIOR**
2 **TO RECEIVING A FIRM ORDER FROM THAT ALEC, WHEN SHOULD**
3 **THE QUOTE BE PROVIDED?**
4

5 **B. IF AN ILEC SHOULD PROVIDE PRICE QUOTES TO AN ALEC PRIOR TO**
6 **RECEIVING A FIRM ORDER FROM THAT ALEC, SHOULD THE QUOTE**
7 **PROVIDE DETAILED COSTS?**
8

9
10 A. Yes. The ALEC needs to receive a price quote before it can be prepared to make the
11 business decision of whether to submit a FOC committing itself to the space. It is
12 unreasonable to expect an ALEC to commit itself to space when it has no idea what it
13 will ultimately cost. Again, the key is to get away from ICB pricing and make all such
14 elements tariffed. In such case, the ALEC knows up front how much space will cost and
15 the only question it needs answered by the ILEC is whether space is available.
16
17

18 **Q.17. COMMISSION ISSUE 14: SHOULD AN ALEC HAVE THE OPTION TO**
19 **PARTICIPATE IN THE DEVELOPMENT OF THE ILEC'S PRICE QUOTE,**
20 **AND IF SO, WHAT TIME FRAMES SHOULD APPLY?**
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22

23 A. MGC has no opinion on this issue other than to stress again that if all collocation
24 elements were tariffed, there would be no need to develop price quotes.
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1 **Q.18. COMMISSION ISSUE 15: SHOULD AN ALEC BE PERMITTED TO HIRE AN**
2 **ILEC CERTIFIED CONTRACTOR TO PERFORM SPACE PREPARATION,**
3 **RACKING AND CABLING, AND POWER WORK?**
4

5
6 A. Yes. The ALEC should be able to do any installation work within a central office that is
7 currently being done by ILEC personnel or authorized vendors working on behalf of the
8 ILEC. The ILEC should have the right to review any plans in advance of the beginning
9 of actual construction work. This is typically been done in the form of a method of
10 procedure or "MOP" meeting which would occur in advance of any installation activity.
11 If these vendors are authorized by the ILEC, presumably they are knowledgeable about
12 the procedures permitted by that ILEC and whether they work for the ILEC or the ALEC
13 should be immaterial. However, in the event that the ALEC manages this process, there
14 should only be a nominal fee paid to the ILEC for reviewing the plans in advance of
15 space preparation.
16
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19 **Q.19. COMMISSION ISSUE 16: FOR WHAT REASONS, IF ANY, SHOULD THE**
20 **PROVISIONING INTERVALS BE EXTENDED WITHOUT THE NEED FOR AN**
21 **AGREEMENT BY THE APPLICANT ALEC OR FILING BY THE ILEC OF A**
22 **REQUEST FOR AN EXTENSION OF TIME?**
23
24

25 A. Currently this issue is handled through "negotiation" between the ILEC and ALEC.
26 However, since the ALEC has little or no leverage, it is difficult to consider it a true
27 negotiation. Typically, the ILEC will simply inform the ALEC that it will not be able to
28

1 provision within the interval and provides a due date that is beyond the standard interval.
2 Often this occurs late in the interval period rather than “up front,” or at the beginning.
3 When this occurs, the ALEC does not have a lot of recourse other than to escalate the
4 matter to higher levels at the ILEC or complain to the Commission. These courses of
5 action have rarely resulted in the date actually being changed to meet the standard
6 interval.
7

8
9 If the ILEC were required to ask for written permission from the ALEC in order to miss
10 their standard interval, this would give the ALEC some leverage in this process. The
11 result might be to enable a more effective negotiation between the parties. Therefore, the
12 ILEC should never be able to extend its provisioning intervals without the need for
13 agreement by the ALEC, such agreement taking the form of a response to a filing by the
14 ILEC.
15
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17

18 **Q.20. COMMISSION ISSUE 17: HOW SHOULD THE COST OF SECURITY**
19 **ARRANGEMENTS, SITE PREPARATION, COLLOCATION SPACE REPORTS,**
20 **AND OTHER COSTS NECESSARY TO THE PROVISIONING OF**
21 **COLLOCATION SPACE, BE ALLOCATED BETWEEN MULTIPLE**
22 **CARRIERS?**
23

24
25 A. These costs should be entirely paid for by the ILEC. These costs enable the ILEC to
26 generate revenue from wholesale customers. Why should the customers pay for these
27 improvements which allow the ILEC to generate revenue and profits from these same
28 customers? Obviously, these costs will be passed on to the ILEC’s wholesale customers,

1 but it should be in the form of recurring charges and there should be no separate profit
2 center surrounding these expenses which allow the ILEC to get into the wholesale
3 business.
4

5
6 **Q.21. COMMISSION ISSUE 18: IF INSUFFICIENT SPACE IS AVAILABLE TO**
7 **SATISFY THE COLLOCATION REQUEST, SHOULD THE ILEC BE**
8 **REQUIRED TO ADVISE THE ALEC AS TO WHAT SPACE IS AVAILABLE?**
9

10 A. Yes. The ALEC should not have to submit an application with a fee to request physical
11 space only to be rejected and have to do the same for cageless and then again for virtual,
12 if no space is available. Pacific Bell and Southwestern Bell's applications allow the
13 ALEC to submit a first, second and third choice for type of collocation. Therefore, if
14 physical collocation is the ALEC's first request and cageless is the second, if no physical
15 space is available, Pacific Bell and Southwestern Bell will respond to the application
16 denying physical but approving cageless. At that point, it is the ALEC's decision as to
17 whether it wants to proceed by submitting a firm order.
18
19

20
21 BellSouth, however, uses a different procedure. The ALEC is currently required to send
22 in a separate application and fee for each type of collocation requested. This results in
23 excess costs to the ALEC and also slows down the process of collocating in a central
24 office since each application must be processed and the ALEC must wait for BellSouth's
25 response before it sends in another application for a different type of collocation.
26
27
28

1 **Q.22. COMMISSION ISSUE 19: IF AN ILEC HAS BEEN GRANTED A WAIVER**
2 **FROM THE PHYSICAL COLLOCATION REQUIREMENTS FOR A**
3 **PARTICULAR CO, AND THE ILEC LATER MAKES MODIFICATIONS THAT**
4 **CREATE SPACE THAT WOULD BE APPROPRIATE FOR COLLOCATION,**
5 **WHEN SHOULD THE ILEC BE REQUIRED TO INFORM THE COMMISSION**
6 **AND ANY REQUESTING ALECS OF THE AVAILABILITY OF SPACE IN**
7 **THAT OFFICE?**
8

9
10
11 A. The ILEC should inform the Commission and any collocators who have previously been
12 rejected for physical collocation (regardless of whether the ALEC ultimately decided to
13 proceed with virtual collocation due to the denial of a physical application) at least 3
14 months before the additional space is ready for ALEC occupancy. The advance notice
15 will enable the ALEC to re-visit their interest in collocating in the particular central office
16 to determine if that interest remains.
17

18
19 **Q.23. COMMISSION ISSUE 20: WHAT PROCESS, IF ANY, SHOULD BE**
20 **ESTABLISHED FOR FORECASTING COLLOCATION DEMAND FOR CO**
21 **ADDITIONS AND EXPANSIONS?**
22

23
24 A. Forecasting future growth of current collocators can be done by requesting three to five
25 year forecasts from these companies when applications are submitted. Many ILECs
26 including Ameritech, Pacific Bell and Southwestern Bell use the application in this
27 manner and these companies rely on the forecasts to factor in future space needs. MGC
28

1 has no opinion on how to forecast space needs from new collocators that have not yet
2 submitted applications expressing interest in collocation in a particular central office.
3

4
5 **Q.24. COMMISSION ISSUE 21: APPLYING THE FCC'S "FIRST-COME, FIRST-**
6 **SERVED" RULE, IF SPACE BECOMES AVAILABLE IN A CENTRAL OFFICE**
7 **BECAUSE A WAIVER IS DENIED OR A MODIFICATION IS MADE, WHO**
8 **SHOULD BE GIVEN PRIORITY?**
9

10
11 A. The first collocator request for physical collocation that was rejected should be first in
12 line and have the first opportunity to submit a FOC for a cage in the new space. This
13 should continue one by one down the line until FOCs are submitted for the amount of
14 space that has become available. Once all formerly rejected applicants have a chance to
15 submit a FOC for physical collocation, then it should be published to any new collocators
16 who had not previously applied for space.
17

18
19 A similar process has been employed by Pacific Bell in response to the collocation space
20 constraints experienced in California. For example, if ten requests for physical
21 collocation had been rejected and the modification created space for eight new cages, the
22 first eight applications that were rejected would have the opportunity to claim the space.
23 These eight collocators are given 30 days to decide whether they will submit a FOC for
24 the space. If seven decide to accept the space, then Pacific Bell would approach the ninth
25 rejected collocator and offer the remaining space to that applicant.
26
27
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1 Again, if the space is tariffed, the process moves much more quickly.
2

3 **Q.25. DOES THIS CONCLUDE YOUR TESTIMONY?**
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5 A. Yes, it does.
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1 BY MR. KERKORIAN:

2 Q Mr. Levy, could you provide us with a brief
3 summary of your testimony?

4 A Yes, thank you. Thank you for accommodating my
5 schedule. There are three main issues that I want to focus
6 on. My testimony answered all questions or issues, but
7 there are three main ones that are covered in several that I
8 think are important enough to stress.

9 The first one is speed. The barriers that slow
10 entry into markets by ALECs such as MGC need to be removed.
11 The two main barriers are the response interval for
12 applications and the provisioning intervals for either
13 augments, or cageless, or physical space, although my
14 testimony did not touch on caged physical. As it states in
15 my testimony, we believe that the response interval for
16 applications should be shortened to ten business days. We
17 believe that the ILEC provisioning intervals should be 30
18 calendar days for augments or cageless collocation.

19 And throughout the testimony we state, and I
20 would like to reiterate again that we believe the best way
21 to shorten intervals in general is by adopting a tariff
22 approach to pricing as opposed to individual case basis
23 pricing. In addition, the ALECs need to be able to hold the
24 ILECs accountable when they do miss dates. And ALECs need
25 to have rights that are easily exercisable in such an event,

1 and this is also addressed in response to Issue 16.

2 Throughout my testimony I cite examples of how
3 other ILECs in other states provision collocation
4 arrangements, and I would like to encourage the Commission
5 to adopt the best practices used in other states by other
6 ILECs, and in some cases improve on them in the State of
7 Florida.

8 The second central issue is space. MGC believes
9 there is always a way to find collocation space. ILECs need
10 to better utilize their space by removing
11 nontelecommunication functions from central offices and the
12 employees that support such functions. Also, remove unused
13 and old equipment that in many cases has been converted to
14 digital equipment, but analog switches that are sitting
15 there taking up space. And we have seen instances where
16 ILECs are unwilling to move quickly to do so.

17 In addition, adjacent -- well, excuse me, let me
18 back up. We also need to see if ILECs can work with ALECs
19 to find creative solutions to space problems. We have done
20 that in many instances with Sprint in Las Vegas. Examples
21 would include placing transmission equipment in a switching
22 line-up on a temporary basis until new space was available
23 and things of that nature.

24 But we have always found a way to find
25 collocation space. Adjacent and off-premises collocation

1 should always be options. And, again, we believe that
2 virtual collocation should be made cageless at the option of
3 the ALEC, and we have done this with Sprint in Las Vegas.

4 The third issue is nonrecurring versus recurring
5 charges. I believe that nonrecurring charges should be for
6 costs incurred by the ILEC for work that is not usable by
7 other collocators if the space is vacated by the ALEC. An
8 example for that might be certain DS-0, DS-1, DS-3 cabling
9 and the labor associated with that. However, recurring
10 charges should cover costs incurred by the ILEC for work
11 that is done that can be used for future holders of
12 collocation space. And examples of that would include power
13 plant additions, HVAC improvements.

14 MR. KERKORIAN: Thank you. Mr. Levy is tendered
15 for cross-examination.

16 COMMISSIONER DEASON: Ms. White.

17 MS. WHITE: Yes.

18 CROSS EXAMINATION

19 BY MS. WHITE:

20 Q Mr. Levy, my name is Nancy White, I represent
21 BellSouth Telecommunications. I'm going to jump around a
22 little at first, because I wanted to ask you about some
23 things that were in your summary. You said that augments
24 should be done in 30 days. Can you define an augment?

25 A Yes. I would define an augment as being a change

1 to an existing arrangement. In other words, MGC would be
2 currently collocated in a central office, whether in a
3 virtual, physical, or cageless form, that is irrelevant, and
4 we are asking for -- in some cases asking for something
5 additional to be done by the ILEC, in other cases simply
6 notifying them that we are installing additional equipment,
7 as BellSouth treats that as an augment, as well.

8 Q Would you agree that not all augments will be the
9 same?

10 A Absolutely.

11 Q So you could have situations where you have
12 augments that are significant enough that it will take more
13 than 30 days?

14 A I suppose it is conceivable. If I had 100 square
15 feet of space and I asked for an additional 500 square feet
16 of space in an office, and that space was unavailable,
17 BellSouth would treat that as an augment, because I am
18 already in that office. And, yes, in that case perhaps 30
19 days would be unusual. Most augments, however, are
20 additional cross connects, additional power, or notification
21 of the ILEC that we are installing additional equipment
22 inside of our cage.

23 Q So the time interval might depend on the type and
24 the nature of the augment?

25 A Yes, I think you are right.

1 Q Okay. Now, in your summary you also talked about
2 old equipment and that it should be removed from the central
3 office. What if that old equipment is still in use and
4 providing service?

5 A I think I qualified that statement with equipment
6 that had been converted and therefore was old and unused.

7 Q Okay. And, I'm sorry, it has been a long day so
8 I may just have misheard. You also talked about something
9 called off-premises collocation in your summary. Is the
10 term off-premises collocation contained in the FCC's
11 Advanced Services Order?

12 A I am unsure of that.

13 Q In your testimony you state that the term
14 premises includes property outside a central office building
15 but within the property line. Do you recall that?

16 A That is correct, yes.

17 Q What is the basis for that statement?

18 A The basis of that statement is that any property
19 that is controlled by the ILEC, in other words, either the
20 building itself and the interior of the building or the
21 exterior of that building, typically a parking lot, I
22 believe should be contained in that definition.

23 Q Okay. Well, would you agree with me that in the
24 federal regulations premises is defined as buildings or
25 structures that house ILEC network facilities?

1 A I read that section quite some time ago in
2 advance of preparing my testimony. So without having a copy
3 of it I couldn't agree to that.

4 Q I will be happy to provide you one. It's Section
5 51.5.

6 A Yes, I see it.

7 Q And now I have forgotten my question, but I think
8 it was would you agree that the definition of premises in
9 Section 51.5 of the federal regulations refers to buildings
10 or structures that house ILEC network facilities?

11 A And all structures that house common LEC
12 facilities, yes, I would agree with you.

13 Q Okay. Now, in your testimony you also discuss
14 sharing or subleasing space with another collocator. Would
15 you agree that the FCC's Advanced Services Order allows
16 sharing or subleasing of caged collocation only?

17 A I have general of knowledge of that. I believe
18 that that is the case.

19 Q And would you agree that when two ALECs are
20 sharing or subleasing a caged collocation space that they
21 will have to agree on terms and conditions between
22 themselves?

23 A I think that that really depends on an
24 ILEC-by-ILEC basis. Pacific Bell in California has a policy
25 on how this is accomplished so, you know, that is the only

1 ILEC that we have entertained the possibility of doing that.
2 And so in that case there is actually some structure that
3 does exist.

4 Q Okay. And can you expand on what you mean by
5 structure?

6 A Well, I question I mean that there is a
7 predetermined policy as to how to handle those things.
8 There is an agreement entered into with BellSouth -- excuse
9 me, with Pacific Bell, and then the host and guest to use
10 the terms used earlier, are free to make whatever agreements
11 between them as they see fit.

12 Q But it would be important for those two ALECs to
13 have an agreement between themselves, right?

14 A I think that that would be left to the judgment
15 of those two ALECs.

16 Q Okay. In your testimony you state that you don't
17 believe anybody, an ILEC or an ALEC should be able to
18 reserve space for future use, is that correct?

19 A That is correct.

20 Q And what is the basis of that statement?

21 A The basis of that statement, which I think was
22 elaborated on in the interrogatory that I submitted, is that
23 I believe that reserving space creates inefficiencies in the
24 allocation of space. It adds delay and complication, and we
25 just believe that the simplest, most effective, most

1 efficient use of that space is to have it free for whoever
2 needs it when they choose to make a firm order commitment.

3 Q Okay. Well, let's talk about some practical
4 aspects of not allowing reservation of space for future use.
5 What you are saying is that -- is it possible that under
6 your scenario of no reservation of space for future use that
7 the building could become full, both with ILEC and ALEC
8 equipment, and that customers might not get served because
9 there was no room in the buildings to place equipment to
10 serve them?

11 A I don't believe that any ILEC would allow that to
12 happen. It is not in their interest.

13 Q I'm sorry?

14 A It is not in their interest to allow that to
15 happen.

16 Q So you are saying don't allow anybody to reserve
17 space. And if you get close to running out of space, ILEC,
18 you must just start building and addition to protect
19 yourself?

20 A That is correct.

21 Q Okay. Would you agree that BellSouth is still
22 the carrier of last resort in Florida?

23 A I'm not familiar with that term. If that is a
24 legal term, I couldn't comment on it. BellSouth is clearly
25 the dominant carrier, at least in South Florida where we

1 operate.

2 Q You have a law degree, don't you, Mr. Levy?

3 A Yes, I do. But I do not work in MGC as an
4 attorney. I am an inactive member of the Bar of Georgia.

5 Q And I won't push you on that, but you have got
6 more legal background than a lot of witnesses who give legal
7 opinions.

8 A More legal background than any non-lawyer
9 witnesses. I guess that is fair to say.

10 Q In your direct testimony you talk about a minimal
11 amount of work space. I think this is on Page 16 of your
12 direct, Lines 15 through 18.

13 A Yes, I see it.

14 Q You state that all space within a central office
15 should be used for the purpose of housing telecommunications
16 equipment with the exception of minimal amounts of work
17 space for technicians that work in that office and bathrooms
18 to be used by that staff and collocators.

19 A That is correct.

20 Q Now, are you asking this Commission to look at
21 each central office in Florida and determine what the
22 minimal amount of space, work space for the technicians that
23 work in each office are? That is a horrible question, but
24 at this time I'm not sure I can do better.

25 A No, I understand what you are asking me. No, I

1 don't think that I'm -- we are not asking the Commission to
2 go do that in advance, go visit every single office and make
3 that determination. But we are asking that they impose
4 guidelines that state exactly what I suggested in my
5 testimony, that minimal amounts, only what is necessary be
6 used for nonessential -- to use another term used earlier --
7 telecommunications functions.

8 And in the event that we are denied space in a
9 central office, and we do have the right to request a tour,
10 and we do a tour, then perhaps in that circumstance the
11 Commission would have the ability to say, and analyze that
12 one office and determine whether or not there is perhaps
13 space that is being used for nonessential functions and make
14 a determination that that should be changed.

15 Q So if BellSouth denied MGC space in a central
16 office and MGC came with the staff -- BellSouth filed a
17 waiver and MGC came to take a tour with the Commission staff
18 and BellSouth, is what you are saying in this testimony that
19 MGC might argue that, well, the bathroom is too big for the
20 number of people that work in this office, so you ought to
21 take some of the bathroom space away?

22 A I think that is probably highly unlikely.
23 However, if I did walk in and saw multiple conference rooms
24 and multiple offices used by perhaps BellSouth staff that
25 has nothing to do with the functions of that particular

1 central office, those would be examples that I would point
2 to.

3 Q How many BellSouth central offices have you been
4 in in Florida? I mean, you personally been inside?

5 A I have been in at least three that come to mind
6 right now.

7 Q On Page 17 of your testimony, you talk about that
8 MGC believes it should be allowed to install any equipment
9 it wants to in the central office regardless of
10 functionality, is that correct?

11 A That is correct.

12 Q Wouldn't you agree that the FCC has stated in its
13 Advanced Services Order that there is no requirement for an
14 ILEC to allow placement of equipment used exclusively for
15 enhanced services?

16 A My understanding was that it was used exclusively
17 for switching. And, again, I'm going by memory, but yes, I
18 am aware of that limitation.

19 Q Well, you are aware of a switching limitation,
20 but not an enhanced services limitation?

21 A I recall the limitation based on switching, not
22 enhanced services. But I would also ask you to define
23 enhanced services.

24 Q All right. Let me hand you, if I could, a copy
25 of the FCC's Advanced Services Order and ask you to look at

1 Paragraph 30.

2 A I mean, if your point is am I asking for more
3 than what the FCC has put in their order, yes, that is
4 correct, I am. So does that answer your question?

5 Q Well, let's look at Paragraph 30.

6 A I'm sorry, Paragraph 3?

7 Q 30.

8 A 30. Okay.

9 Q And would you agree that they have said the
10 exception is for switching -- exclusively for switching or
11 for enhanced services?

12 A Yes, I agree, that's what it says.

13 Q Right. And I understand MGC wants something
14 more?

15 A That is correct.

16 Q On Page 18 of your direct testimony you talk
17 about -- I'm sorry, at this point I don't remember whether
18 it is tariffed pricing or standard pricing. But that MGC
19 would like to see a tariff filed on collocation prices, is
20 that correct?

21 A That is correct.

22 Q And you would expect the tariff to cover every
23 situation that might arise, every collocation arrangement
24 situation that might arise?

25 A Every is a big word. I would say that I would

1 expect the tariff to cover most collocation requests.
2 Perhaps there would be an exclusion for certain situations
3 where there would be extraordinary preparation, space
4 preparation required. That would be perhaps one exclusion.
5 But, you know, the great, great majority, yes, I would
6 expect that to be covered under a tariff.

7 Q Let me ask you this question, if BellSouth filed
8 a tariff for physical -- caged physical, cageless physical,
9 and virtual collocation, and adjacent collocation, would MGC
10 buy-out of that tariff every time? In other words, would it
11 say I don't like the tariff price, I want to negotiate with
12 you, BellSouth, for this specific arrangement?

13 A If you are asking me if we were going to apply
14 for one of those three types of collocation, is that your
15 question?

16 Q No, I think my question is if there is a tariff
17 in existence then is MGC going to take the prices out of the
18 tariff for the collocation arrangements it seeks with
19 BellSouth, or is it going to say, BellSouth, I want to
20 negotiate these collocation prices with you?

21 A You know, I guess I would be speculating, because
22 that isn't the case now, and I guess it would certainly
23 depend on what the prices would be in the tariff. But, no,
24 I would expect that -- in all other states I can tell you
25 where we do have tariffs we order right out of the tariff.

1 Q Okay. Now, are you familiar with the
2 Telecommunications Act?

3 A Yes.

4 Q And would you agree, subject to check, that
5 Section 252 of the Telecommunications Act requires ILECs to
6 negotiate for various -- negotiate with ALECs for various
7 things?

8 A Yes. However, I have yet to experience a true
9 negotiation with an ILEC. And what I mean by that is where
10 there are at least close to equal negotiating bargaining
11 power on each side.

12 Q Well, since that is not the nature of my
13 question, I'm going to let that slide. But would you agree
14 that one of the things that 252 requires negotiation of is
15 collocation?

16 A Yes.

17 Q So, in your mind, if BellSouth files a tariff for
18 collocation and tells all the ALECs we have got a tariff for
19 collocation, you've got to buy out of there, would that be
20 in conformance with Section 252?

21 A I think it probably would. I think that as long
22 as an ALEC -- and, I mean, I'm offering a pseudo-legal
23 opinion on something of which I know very little, but I
24 believe that if you gave the ALEC the option to either order
25 out of the tariff or -- and this could be negotiated as part

1 of their interconnection agreement, to give the ALEC the
2 option to order either out of the tariff, or individual case
3 based pricing, or any other pricing formula which is
4 negotiated, then I don't see any problems.

5 Q Okay. So, I guess, from what I understand from
6 that answer is that is MGC looking to be able to order out
7 of a tariff, the option of ordering out of a tariff or
8 ordering on an ICB basis, and an option of doing a third
9 thing?

10 A No. MGC is looking for predictability which
11 enables speeding up of intervals. And the way that we have
12 seen that that is best done is when there is a tariff filed
13 with the state so that before we even order any element of
14 collocation we know exactly how much it is going to cost and
15 this eliminates the need for any kind of application
16 response interval of which BellSouth has quite an excessive
17 one where they determine all of these different costs
18 because they do have to do things on an individual case
19 basis. So, in light of the reality of the way it really
20 works, we are looking for a tariff until a better approach
21 is found.

22 Q I'm going to move on to security. You state in
23 your testimony that security costs should be borne by the
24 ILEC, is that correct?

25 A That is correct.

1 Q And would you agree with me that the FCC's
2 Advanced Services Order states that they expect state
3 commissions will allow the ILECs to recover their security
4 costs?

5 A Yes, I do. And the answer to that question I
6 don't recall exactly, I think it is the answer to Issue 17.
7 I clearly state here that obviously these costs will be
8 passed on to the ILEC's wholesale customers, which would be
9 the ALECs. What I was getting at there was that any major
10 improvements should not be billed to the ALEC. We have
11 received in the past in another state a bill for \$1.7
12 million for a ten-by-ten cage. That is the kind of flagrant
13 abuse that I was getting at.

14 Q In your direct testimony, you also talk about
15 forecasts, and I think it is all on Page 22 of your
16 testimony, Lines 24, that you believe that ALECs can
17 forecast future growth and submit those with their
18 applications to the ILECs, is that correct?

19 A Not only do I believe it, but it is done today.

20 Q Okay. Is it your position that the ILECs can use
21 that as one factor in planning out future additions to a
22 central office?

23 A Yes.

24 Q Would you agree that an ILEC should not rely
25 solely on ALEC collocation forecasts for planning out

1 building additions?

2 A Yes, I would agree with that, and there is
3 clearly other factors that need to be evaluated, including
4 the ILEC's own space needs.

5 Q Okay. What if BellSouth builds out to meet the
6 demand projected in the ALECs' forecasts and the demand
7 doesn't materialize. Who is going to pay for the building
8 addition?

9 A Well, the ILEC is going to pay the upfront costs
10 for the building addition and they are going to recover a
11 great amount, if not all of those costs with charges to
12 other -- or wholesale customers, such as ALECs. And the
13 assumption in your question clearly, I think, would be that
14 the only reason they would have paid that building expansion
15 was because there were ALECs in the office. And if they did
16 it without that, then I would say that that was poor
17 business judgment on the part of BellSouth.

18 Q And one final question. This is on -- you state
19 in your testimony that MGC would allow -- would prefer three
20 month prior notice to a CO building addition being ready, is
21 that correct?

22 A That's correct, but -- yes, that's correct.

23 Q If something came up that -- say BellSouth told
24 MGC on March 1st that, all right, we believe we have got a
25 building addition that is going to be ready by June 1st, is

1 that three months? Yes, June 1st. And on March 3rd,
2 something happened. Either, you know, there was a breakdown
3 with the vendor, the construction company went on strike,
4 something happened and obviously it is going to affect the
5 building addition deadline. So it is going to delay the
6 addition. Would BellSouth be liable to the ALEC for not
7 having the addition ready in the 90 days that they said they
8 would?

9 A Liable? In what form are you using the word
10 liable?

11 Q I'm using that just in a very general term.

12 A I wouldn't expect compensatory or punitive
13 damages in the legal sense, no. But would I expect -- in
14 your example of two days later after you have informed us
15 that there would be space, and if you came back in two days
16 and say no, that something has come up, you know, no, I
17 don't think we would -- I like to think we are pretty
18 reasonable. If it was a month later, then that might be a
19 different story. And especially since by that point we
20 would have submitted a firm order and a check and relied on
21 -- and perhaps purchased equipment relying on BellSouth's
22 original information. So that would be a different
23 scenario.

24 Q Okay. Well, what if in my example BellSouth
25 tells MGC on March 1st the space is going to be ready on

1 June 1st. On April 3rd, the construction crew goes on
2 strike.

3 A Well, I guess that would be -- I need to take off
4 -- using my lawyer's hat, I would say that is force majeure.
5 But taking that off for a second, you know, I think that
6 clearly there are situations that are beyond everybody's
7 control and that may or may not be one. I would like to
8 have that kind of problem.

9 MS. WHITE: Thank you. That's all I have.

10 MS. CASWELL: Mr. Levy, I just have a couple of
11 questions.

12 CROSS EXAMINATION

13 BY MS. CASWELL:

14 Q I think it is your position that even if the ILEC
15 has a collocation tariff there is no need for any kind of
16 response on the ILEC's part to an ALEC's request for
17 collocation, is that right?

18 A No, I don't think that is right. I think that
19 that would be right if we were talking specifically about
20 augments. And by augments -- I'm sorry, let me clarify
21 further. By augments, because the typical augment is asking
22 for more cabling, more power, in the event that you are
23 already in a central office.

24 Q Okay. Well, maybe I need you to clarify
25 something in your testimony. I'm looking at Page 10 of your

1 direct testimony at Lines 11 through 13, and it says, "The
2 ideal process is to establish prices for collocation
3 elements as opposed to ICB pricing. In such case there is
4 no need for any response, much less a response interval."
5 You are only referring there to changes?

6 A No. Now that you have pointed me to that part of
7 my testimony, no, I tend to agree that the only reason that
8 there would be a response required, which would be, yes,
9 there is space available -- I mean, certainly if that is a
10 response, that is what we would certainly expect to get.

11 Q Okay. And you have proposed a provisioning
12 interval of just 30 days for cageless collocation, is that
13 right?

14 A That is correct.

15 Q And do you know that this Commission has a 60-day
16 interval for provision of virtual collocation?

17 A Yes.

18 Q And what would be the justification for having a
19 provisioning interval that is 30 days shorter than even
20 virtual?

21 A Well, I would encourage the Commission to revisit
22 that 60-day interval. You know, cageless comes in many
23 different forms depending on what state you are talking
24 about. The State of Florida, we currently do not have any
25 cageless collocation arrangements at this particular time.

1 There are some that are coming due very shortly, but I think
2 what you have to look at are the elements that need to be --
3 the different work elements that need to be performed by the
4 ILEC in preparing that space. And BellSouth in Atlanta, in
5 Georgia there is little, very little preparation of that
6 space that is required by BellSouth for virtual or cageless
7 collocation. The great bulk of the work is done by the
8 ALEC. And in such cases I think 30 days is more than
9 adequate time.

10 Q You said that cageless collocation takes many
11 different forms, what did you mean by that?

12 A Well, for instance, in Las Vegas where Sprint is
13 of the incumbent carrier, cageless in that location means
14 placing your equipment in an ILEC rack -- or, excuse me, in
15 a rack that in some cases may be in a line-up that has only
16 ALECs, in many other cases it's in a rack maybe sitting
17 right next to Sprint's own equipment. Which in most cases
18 that I have seen is a little different than cageless in
19 other states.

20 In some states they do cageless where they
21 separate a part of the building and create one large caged
22 area which is only for ALECs who collocate there in a
23 cageless arrangement. So those are a couple of examples.

24 Q Okay. So would you agree that the provisioning
25 interval should depend on the type and amount of work needed

1 to do a particular type of cageless arrangement?

2 A No, I wouldn't agree with that. At least not
3 following up to the example that I just provided. I think
4 that in the case -- and I believe this is how it is done in
5 Florida, this is certainly how it is done in Georgia with
6 BellSouth. BellSouth gives us a place in their central
7 office facility which is in the BellSouth part of the
8 office, and MGC has to provide all the labor to run all the
9 cables; power, signal, and voice cables. Being that there
10 is really nothing else to cageless but that, what is left
11 for BellSouth to do is to identify the space, and perhaps do
12 a cross-connect on their end and we are ready to go.

13 So I think that that would be an example where
14 there is minimal work that is required. If we are talking
15 about a situation where an ILEC needs or their policy is to
16 build out a certain area of the building specifically for
17 cageless space, which is by no means what we are advocating,
18 we believe cageless should be just like virtual except for
19 you do have 24 by 7 access to your equipment. But if that
20 was the case then I could see instances where perhaps it
21 would take a bit longer if that office never had had that
22 space prepared before.

23 Q You wouldn't expect to see much difference in the
24 equipment placed in a cageless arrangement as opposed to a
25 caged arrangement, would you?

1 A No.

2 Q And I think it is also your position that the
3 ALEC should not have to notify the ILEC when it installs new
4 equipment, is that right?

5 A No, I think that my position is that we could
6 understand if there was a requirement to notify and we would
7 accept that requirement. But what we object to is the
8 requirement to request permission, so to speak, to be able
9 to put that equipment in.

10 Q And, again, I'm looking at your direct testimony
11 at 9, Lines 21 and 22, and maybe I have misunderstood. But
12 you're talking about installation of NEBS compliant
13 telecommunications equipment, and it says the ALEC in such
14 event should not even have to notify the ILEC of the
15 installation of its equipment. Are you revising that
16 position?

17 A No, that is still my belief. However, further in
18 that -- I believe it is in that same response, or maybe a
19 response in another part of the testimony, I do, you know,
20 basically agree that we would be willing to file an
21 application as a notification, not as a request.

22 Q Okay. Assume that you get a collocation
23 arrangement today, and your business is much more successful
24 than you had anticipated. And you know that you are going
25 to need to place more equipment in ten months or you are

1 going to have to turn customers away.

2 Don't you think in that instance you should have
3 some opportunity to reserve that space for that additional
4 equipment that you know you are going to need ten months
5 down the line?

6 A I have yet to see a case where an office truly
7 has no space. And so you are assuming at the end of ten
8 months there really is no space there, so I do not agree
9 with that assumption. However, if I did believe that we
10 needed more space in ten months, I would be applying for
11 that space right now. Not reserving it, but applying for
12 it.

13 Q So you would be willing to get it and pay for it?

14 A Yes.

15 MS. CASWELL: Okay. That's all I've got.

16 MS. MASTERTON: No questions.

17 COMMISSIONER DEASON: Staff.

18 CROSS EXAMINATION

19 BY MS. STERN:

20 Q Hello, Mr. Levy. My name is Marlene Stern, and I
21 just have a few questions on behalf of staff. The first
22 question references your response to staff's interrogatories
23 Question 1A, and you can take a minute to review that if you
24 like?

25 A Sure. I'm ready.

1 Q You say in your response permitting the ILEC or
2 ALECs to reserve collocation space results in complications
3 and more delays in entering the market or expanding a
4 company's presence. Could you give a little or be a little
5 more specific with respect to what you mean by complications
6 and delays?

7 A Sure. Let's take an example where, for instance,
8 we operate in Illinois, and Ameritech in Illinois has a
9 reservation policy. Let's take an example where the space
10 for physical collocation has truly been exhausted, however
11 there is space for 400 foot cages that had been reserved by
12 other ALECs.

13 Well, when I apply to Ameritech they are first
14 going to -- before they can respond to me on whether I have
15 space or not, which they typically do within ten days, now
16 they are going to have to go to each of these four ALECs, or
17 at least there are going to have -- I don't know if they do
18 all four at once or if they go in order of which they
19 reserve the space, one through four. They are going to have
20 to go to them, and then they are going to have to wait for
21 them to get back to them and let them know if they are going
22 to exercise their right to that space.

23 Meanwhile, I'm sitting here wasting time trying
24 to get to market, and it is causing me a delay. So that is
25 about as good an example as I can give you for that.

1 Q Okay. Thank you. Does MGC Communications
2 prepare a business plan for future business operations?

3 A Yes. It seems like it changes every few months.
4 But, yes, we plan as best we can.

5 Q Okay. Does MGC take into consideration what
6 central offices have available collocation space when
7 developing a business plan?

8 A No, I would say that that is not a consideration.
9 We look at markets, we do not decide whether to go into a
10 market or not based on availability or unavailability of
11 collocation space. We have yet to see a situation where we
12 have had a -- a significant portion of any application has
13 been rejected for physical collocation space. I assume that
14 if we -- if we did experience that, then certainly we would
15 take that into consideration. But at this point in time,
16 no, we decide on a particular market based on marketing
17 reasons and then we go in and we try and get space
18 everywhere we need it.

19 MS. STERN: Okay, thanks. That's all.

20 COMMISSIONER DEASON: Commissioners. Redirect.

21 MR. KERKORIAN: No redirect.

22 COMMISSIONER DEASON: Okay. And we have no
23 exhibits. Okay. You may be excused.

24 Mr. Nilson is the next scheduled witness.

25 Thereupon,

1

DAVID A. NILSON

2

was called as a witness on behalf of Supra

3

Telecommunications Information Systems, Inc. and, having

4

been duly sworn, testified as follows:

5

DIRECT EXAMINATION

6

BY MR. BUECHELE:

7

Q Could you please state your name and business

8

address for the record?

9

A David Nilson, my business address is 2620

10

Southwest 27th Avenue, Miami, Florida.

11

Q And who are you employed by and what is your

12

position?

13

A Supra Telecommunications, I'm the Chief

14

Technology Officer.

15

Q Okay. And did you submit direct testimony of 22

16

pages in this case together with an exhibit?

17

A I did.

18

Q And did you submit rebuttal testimony of 28

19

pages?

20

A I did.

21

Q And do you have any corrections or changes to

22

that testimony?

23

A Yes, I do. On my direct testimony, Page 6, Line

24

6, the word 20 should say 30. On Page 14, Line 13, again

25

the word 20 should say 30. The third correction, there is

1 an attachment to my direct testimony labeled DAN-1
2 consisting of four pages. That attachment should have been
3 22 pages. However, BellSouth has already introduced the
4 entire document as Exhibit 16. That is the October 8th
5 letter in Exhibit 16.

6 Q Okay. So the exhibit should be the October 8th,
7 1999 letter as part of Exhibit 16?

8 A That is correct.

9 Q Okay. And if I were to ask you the same
10 questions that were asked in your direct and rebuttal
11 testimony, would you give the same answers?

12 A Yes, I would.

13 MR. BUCHELE: At this time I would like to
14 insert the testimony in the record as if record.

15 COMMISSIONER DEASON: Without objection it shall
16 be so inserted.

17

18

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25

1 SUPRA TELECOMMUNICATIONS & INFORMATION SYSTEMS, INC.

2 DIRECT TESTIMONY OF DAVID A. NILSON

3 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

4 DOCKET NOS. 981834-TP AND 990321-TP

5 OCTOBER 28, 1999

6

7

8 Q. PLEASE STATE YOUR NAME AND ADDRESS

9

10 A. My name is David A. Nilson. My address is 2620 SW 27th Avenue, Miami,
11 Florida 33133.

12

13 Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPICITY?

14

15 A. I am the Chief Technology Officer of Supra Telecommunications and Information
16 Systems, Inc. ("Supra").

17

18 Q. PLEASE DESCRIBE YOUR BACKGROUND AND WORK EXPERIENCE.

19

20 A. I have been an electrical engineer for the past 25 years, with the last 21 years spent
21 in management level positions in engineering and quality control departments. In
22 1976, after spending two years working in the microwave industry producing next
23 generation switching equipment for end customers such as AT&T Long Lines and
24 ITT, I was part of a three-man design team that produced the world's first microwave
25 integrated circuit. This job involved extensive work with various government

1 agencies. At that time, our design was considered the “holy grail” of the microwave
2 industry and was placed in production for AT&T within 30 days of its creation. This
3 job also involved communications equipment design work with various government
4 entities covered by United States Department of Defense security restrictions. I spent
5 several years in quality control management, monitoring and trouble-shooting
6 manufacturing process deviations, and serving as liaison and auditor to our regulatory
7 dealings with the government. I spent 14 years in the aviation industry designing
8 communications systems, both airborne and land-based, for various airlines and
9 airframe manufacturers worldwide. This included custom designed hardware
10 originally designed for the Pan American Airlines call centers, and the HF long range
11 communications system controllers used on Air Force One and Two and other
12 government aircraft. In this job I was also responsible for validation design testing
13 and FAA system conformance testing. Since 1992, I have been performing network
14 and system design consulting for various industry and government agencies, including
15 the Argonne National Laboratories. I am the principal architect of Supra’s ATM
16 backbone network and our central office design.

17

18 Q. HAVE YOU EVER PREVIOUSLY TESTIFIED BEFORE THIS COMMISSION?

19

20 A. Yes. I testified in Docket No. 980800-TP.

21

22 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

23 A. The purpose of my testimony is to address the issues identified in this proceeding.

24

1 **ISSUE 1: WHEN SHOULD AN ILEC BE REQUIRED TO RESPOND TO A**
2 **COMPLETE AND CORRECT APPLICATION FOR COLLOCATION AND WHAT**
3 **INFORMATION SHOULD BE INCLUDED IN THAT RESPONSE?**

4
5 Q. IN WHAT TIME FRAME DO YOU BELIEVE AN ILEC SHOULD BE
6 REQUIRED TO RESPOND TO A COMPLETE AND CORRECT APPLICATION
7 FOR COLLOCATION?

8
9 A. Although the FCC did not establish specific provisioning intervals in Order 99-48,
10 CC Docket No. 99-147, it did state that it views ten days as a reasonable time period
11 within which to inform a new entrant whether its collocation application is accepted or
12 denied. The FCC further stated that even with a timely response a new entrant cannot
13 compete effectively unless they have timely access to provisioned collocation space.
14 (FCC Order 99-48 at 55) The Texas PUC already requires Southwestern Bell
15 Telephone Company to provide ALECs with information on space availability within
16 ten days of a collocation request. (at ¶54) In addition, GTE and Ameritech state that
17 they respond to physical collocation requests within ten days. (at ¶55) Supra believes
18 this is reasonable and urges the Commission to require ILECS to respond to physical
19 collocation requests within ten calendar days by advising the requesting carrier
20 whether space is available or not.

21
22 Q. WHAT INFORMATION SHOULD BE INCLUDED IN THE ILEC'S
23 RESPONSE?

24

1 A. The ILEC should be required to state whether or not space is available to meet the
2 conditions of the request. This would provide the ALEC an opportunity to consider
3 modifying its application, if necessary. However, the ALEC should immediately be
4 permitted to do a “walk-through” of the central office to evaluate the feasibility of
5 modifying its request for space.

6

7 In Florida, Sprint schedules an engineering review meeting to determine whether they
8 properly understand the application sufficiently to provide an accurate quotation.
9 Sprint prefers to hold this meeting at the CO in question, if not possible. Supra
10 believes this is reasonable and urges the Commission to require ILECs to hold
11 ALEC/ILEC equipment vendor site visit and engineering meetings at this time to
12 eliminate delays requiring clarification.

13

14

15 **ISSUE 2: IF THE INFORMATION INCLUDED IN THE ILEC’S INITIAL**
16 **RESPONSE IS NOT SUFFICIENT TO COMPLETE A FIRM ORDER, WHEN**
17 **SHOULD THE ILEC PROVIDE SUCH INFORMATION OR SHOULD AN**
18 **ALTERNATIVE PROCEDURE BE IMPLEMENTED?**

19

20 Q. IF THE INFORMATION INCLUDED IN THE ILEC RESPONSE IS NOT SUFFICIENT
21 TO COMPLETE A FIRM ORDER, WHEN SHOULD THE ILEC PROVIDE SUCH
22 INFORMATION OR SHOULD AN ALTERNATIVE PROCEDURE BE IMPLEMENTED?

23

24 A. If the ten-day time frame for a response is adopted by the Commission, all
25 additional information necessary to submit a firm order should be provided by the

1 ILEC within twenty calendar days of the ALEC's application. This information
2 should also include the cost estimates. This cost information is crucial to a ALEC in
3 determining whether or not to file a firm order commitment. The ALEC must know
4 the total cost of space preparation prior to placing a firm order commitment. With
5 collocation application acceptance from the ILEC, a sufficiently detailed cost
6 breakdown must be supplied to allow the ALEC to validate a) their business model
7 and b) that the ILEC is indeed provisioning the infrastructure asked for by the ALEC,
8 and no more. Instead of a single line item for Power, the ILEC should detail
9 separately the cost for cabling, racking, rectifiers, AC modifications, and labor, instead
10 of a single price for space enclosure, costs for HVAC, lighting modification, AC
11 electrical costs, architectural and other engineering planning, and general construction
12 costs. Racking and cabling costs should be broken down showing the lengths of newly
13 constructed runs separately from lengths of existing runs. Prorated costs should
14 always be shown separately from non-prorated costs and should show the ALEC's
15 portion of the whole in case there is reason to recover costs from future collocators and
16 to demonstrate that the first collocator is being forced to pay all the costs of
17 collocation infrastructure.

18

19

20 **ISSUE 4: WHAT OBLIGATIONS, IF ANY, DOES AN ILEC HAVE TO**
21 **INTERCONNECT WITH ALEC PHYSICAL COLLOCATION EQUIPMENT**
22 **LOCATED "OFF-PREMISES"?**

23

1 Q. WHAT OBLIGATIONS, IF ANY, DOES AN ILEC HAVE TO
2 INTERCONNECT WITH ALEC PHYSICAL COLLOCATION EQUIPMENT
3 LOCATED “OFF-PREMISES”?

4

5

6 A. ILECs are clearly obligated, under the Act, to interconnect at any technically
7 feasible point within the carrier’s network. This provision is made to accomplish
8 interconnection and use of unbundled network elements in lieu of providing sufficient
9 space for collocation within the CO properly. Therefore, the ILEC should be required
10 to provide anything that is a technically feasible interconnection or use of facilities
11 within the CO off premises. The alternative is also available to the ILEC, to create
12 more space as if the demand was from within its own organization.

13

14

15 **ISSUE 6: WHAT ARE THE APPROPRIATE RESPONSE AND**
16 **IMPLEMENTATION INTERVALS FOR ALEC REQUESTS FOR CHANGES**
17 **TO EXISTING COLLOCATION SPACE?**

18

19 Q. IN WHAT TIME FRAME SHOULD ILECS BE REQUIRED TO RESPOND TO
20 A ALEC’S REQUEST TO CHANGE AN EXISTING COLLOCATION SPACE?

21

22 A. I believe that a ten-day, or less, response time interval is appropriate. Since the
23 Commission has already determined that physical collocation should be performed
24 within ninety days, a modification to an existing collocation space should take even
25 less time, certainly not more.

1

2

3 **ISSUE 7: WHAT ARE THE RESPONSIBILITES OF THE ILEC AND**

4 **COLLOCATORS WHEN:**

5

6 **A. A COLLOCATOR SHARES SPACE WITH, OR SUBLEASES SPACE TO,**

7 **ANOTHER COLLOCATOR;**

8

9 Q. WHAT ARE THE RESPONSIBILITES OF THE ILEC AND COLLOCATORS

10 WHEN A COLLOCATOR SHARES SPACE WITH, OR SUBLEASES SPACE TO,

11 ANOTHER COLLOCATOR?

12

13 A. The ILEC must provision space and honor service requests to all collocators

14 equally. The ILEC should not be allowed to require ALECs to identify the nature of

15 the business relationship between the collocators or the specific equipment belonging

16 to a given collocator.

17

18 **B. A COLLOCATOR CROSS-CONNECTS WITH ANOTHER**

19 **COLLOCATOR.**

20

21 Q. WHAT ARE THE RESPONSIBILITES OF THE ILEC AND COLLOCATORS

22 WHEN A COLLOCATOR CROSS-CONNECTS WITH ANOTHER

23 COLLOCATOR?

24

1 A. The ILEC must provide shared cable racking, cable routing, and other engineering
2 services. The collocators must provide accurate information regarding the physical
3 characteristics of the copper/fiber transmission path, including size and weight, and
4 must comply with ILEC technical specifications on the manufacture of that
5 transmission path. The ILEC must document the minimum level of technical training
6 required to perform work in the CO. This must be no more stringent than the ILEC's
7 own requirements for its workers. The collocators must mutually agree on the type of
8 cross-connect, division of labor, technical aspects of interconnection, and pricing.

9

10

11 **ISSUE 8: WHAT IS THE APPROPRIATE PROVISIONING INTERVAL FOR**
12 **CAGELESS PHYSICAL COLLOCATION?**

13

14 Q. Should the provisioning interval for cageless physical collocation mirror that of
15 virtual collocation?

16

17 A. Yes. The provisioning of cageless collocation is the same as provisioning for
18 virtual collocation. The equipment for both cageless and virtual collocation is placed
19 in existing lineups. The Commission has already determined that virtual collocation
20 should be provisioned within sixty days; therefore, it is reasonable to assume that since
21 cageless and virtual collocation are provisioned in the same manner, the intervals
22 should also be the same.

23

24 In Florida, Sprint has already told Supra that cageless collocation uses the same rate
25 structures, provisioning intervals, and policies as virtual collocation. The only

1 difference in their eyes is that the ALEC can maintain their own equipment in cageless
2 collocation. All other issues remain the same. This passes the test for technical
3 feasibility.

4

5 **ISSUE 9: WHAT IS THE APPROPRIATE DEMARCATION POINT**
6 **BETWEEN ILEC AND ALEC FACILITIES WHEN THE ALEC'S**
7 **EQUIPMENT IS CONNECTED DIRECTLY TO THE ILEC'S NETWORK**
8 **WITHOUT AN INTERMEDIATE POINT OF INTERCONNECTION?**

9

10 Q. HOW SHOULD THE DEMARCATION POINT BETWEEN AN ILEC'S AND
11 AN ALEC'S EQUIPMENT BE DETERMINED?

12

13 A. As a minimum, for equivalent circuit types, there should be difference between the
14 demarcation point the ILEC uses in connecting its switching and transmission
15 equipment to the network and what the ALEC uses. At the ALEC's option, the ALEC
16 may provision an alternate demarcation point within its collocation space. Further, the
17 ILEC must not require the ALEC to purchase equipment or cross-connects solely from
18 the ILEC.

19

20

21 **ISSUE 10: WHAT ARE REASONABLE PARAMETERS FOR RESERVING**
22 **SPACE FOR FUTURE LEC AND ALEC USE?**

23

24 Q. WHAT PARAMETERS SHOULD APPLY TO ILECS AND ALECS FOR
25 RESERVING SPACE FOR FUTURE USE?

1

2 A. Historically, an ILEC's space reservation was based on growth forecasting in a
3 monopoly environment. ILECs now must take into consideration a decrease in
4 demand due to local competition. Therefore, I believe the parameters should apply
5 equally to both ILECs and ALECs. The FCC's rule §51.323(f)(4) states that an ILEC
6 cannot retain space on terms more favorably than those that apply to ALECs seeking
7 to reserve collocation space for their own future use. No ILEC may reserve space
8 farther in advance than it allows an ALEC to reserve space.

9

10

11 **ISSUE 12: WHAT TYPES OF EQUIPMENT ARE THE ILECS OBLIGATED**
12 **TO ALLOW IN A PHYSICAL COLLOCATION ARRANGEMENT?**

13

14 Q. Did the FCC address what equipment the ILECs are obligated to allow in a
15 physical collocation arrangement?

16

17 A. Yes, the FCC clearly states that ILECS are required to permit collocation of all
18 equipment that is necessary for interconnection or access to unbundled network
19 elements, regardless of whether such equipment includes a switching functionality,
20 provides enhanced services capabilities, or offers other functionalities, provided that
21 the collocator is providing basic telephony service from the same arrangement. The
22 FCC further states that an ILEC may not refuse to permit collocation of any equipment
23 that is "used or useful" for either interconnection or access to unbundled network
24 elements, regardless of other functionalities inherent in such equipment. It is also
25 required that before an ILEC denies an ALEC's equipment, the ILEC must first prove

1 to the state commission that the equipment will not be actually used for the purpose of
2 obtaining interconnection or access to unbundled network elements. The FCC permits
3 equipment, such as DSLAMS, routers, ATM multiplexers, and remote switching
4 modules. In addition, ILECs cannot place limitations of use of all features, functions,
5 and capabilities of collocated equipment. This would also include switching and
6 routing features and functions that may be inherent in this equipment. (FCC Order 99-
7 48 at ¶28)

8
9

10 **ISSUE 13: IF SPACE IS AVAILABLE, SHOULD THE ILEC BE REQUIRED**
11 **TO PROVIDE PRICE QUOTES TO AN ALEC PRIOR TO RECEIVING A**
12 **FIRM ORDER FOR SPACE IN A CENTRAL OFFICE (CO)?**

13

14 Q. SHOULD AN ILEC BE REQUIRED TO PROVIDE PRICE QUOTES TO AN
15 ALEC PRIOR TO RECEIVING A FIRM ORDER FOR SPACE IN A CENTRAL
16 OFFICE (CO)?

17

18 A. The ALEC should be given the option of requesting a price quote on the
19 application. The Commission should also require the ILECS, if requested by the
20 ALEC, to provide three independent estimates. This is consistent with the
21 Commission's decision in Order No. PSC-98-0604-FOF-TP, Docket Nos. 960757-TP,
22 960833-TP, and 960846-TP (at page 145).

23

1 **A. IF AN ILEC SHOULD PROVIDE PRICE QUOTES TO AN ALEC PRIOR**
2 **TO RECEIVING A FIRM ORDER FROM THAT ALEC, WHEN SHOULD**
3 **THE QUOTE BE PROVIDED?**

4

5 Q. WHEN SHOULD AN ILEC PROVIDE PRICE QUOTES?

6

7 A. An ILEC should provide price quotes to ALECs within 30 calendar days of the
8 initial application. Since it is at the point that the ILEC provides the ALEC with a cost
9 quotation, this is a reasonable time frame for the ILEC to provide the detailed cost
10 information that the quotation is based upon.

11

12 **B. IF AN ILEC SHOULD PROVIDE PRICE QUOTES TO AN ALEC PRIOR**
13 **TO RECEIVING A FIRM ORDER FROM THAT ALEC, SHOULD THE**
14 **QUOTE PROVIDE DETAILED COSTS?**

15

16 Q. SHOULD ILECS BE REQUIRED TO PROVIDE DETAILED PRICE QUOTES?

17

18 A. The ALEC should have the option of requesting a detailed price quote. This would
19 allow the ALEC an opportunity to check the quote(s) rather than just accepting the
20 price estimates on its face. The detailed estimate should be itemized sufficiently for
21 the ALEC to determine what elements were considered in the determination of the
22 costs and to detect potential misunderstandings by the ILEC of the ALEC's design.

23

24

1 **ISSUE 14: SHOULD AN ALEC HAVE THE OPTION TO PARTICIPATE IN**
2 **THE DEVELOPMENT OF THE ILEC'S PRICE QUOTE, AND IF SO, WHAT**
3 **TIME FRAMES SHOULD APPLY?**

4

5 Q. SHOULD AN ALEC HAVE THE OPTION TO PARTICIPATE IN THE
6 DEVELOPMENT OF THE ILEC'S PRICE QUOTE, AND IF SO, WHAT TIME
7 FRAMES SHOULD APPLY?

8

9 A. The ALEC should have the option to participate in the development of the price
10 quote. If the ALEC can hire an ILEC-certified contractor to do the work, the ALEC
11 should be allowed to choice to subcontract the work themselves, relieving the ILEC of
12 that portion of the job that the ILEC would subcontract to a certified contractor. The
13 same time frame should apply, as discussed in Issue 13(A), which is ^{Thirty}~~twenty~~ calendar
14 days.

15

16

17 **ISSUE 15: SHOULD AN ALEC BE PERMITTED TO HIRE AN ILEC**
18 **CERTIFIED CONTRATOR TO PERFORM SPACE PREPARATION,**
19 **RACKING AND CABLING, AND POWER WORK?**

20

21 Q. SHOULD AN ALEC BE PERMITTED TO HIRE AN ILEC CERTIFIED
22 CONTRATOR TO PERFORM SPACE PREPARATION, RACKING AND
23 CABLING, AND POWER WORK?

24

25

1 A. Rule 51.323(j) states:

2 An incumbent LEC shall permit a collocating telecommunications
3 carrier to subcontract the construction of physical collocation
4 arrangements with contractors approved by the incumbent LEC,
5 provided, however, that the incumbent LEC shall not unreasonably
6 withhold approval of contractors. Approval by an incumbent LEC
7 shall be based on the same criteria it uses in approving contractors
8 for its own purposes. (CFR 47)

9 Therefore, an ALEC should be allowed to hire contractors to perform space
10 preparation, racking and cabling, and power. I also contend that ILECs should not
11 assess a nonrecurring charge for power. As the Commission correctly concluded,
12 "...Power plant expansions are more appropriately recovered in recurring charges
13 because they will benefit both BellSouth and future collocators. Therefore, power
14 plant investment shall not be included in any space preparation charge assessed to a
15 collocator. (Order NO. PSC-98-0604-FOF-TP, page 155).

16

17

18 **ISSUE 16: FOR WHAT REASONS, IF ANY, SHOULD THE PROVISIONING**
19 **INTERVALS BE EXTENDED WITHOUT THE NEED FOR AN AGREEMENT**
20 **BY THE APPLICANT ALEC OR FILING BY THE ILEC OF A REQUEST**
21 **FOR EXTENSION OF TIME?**

22

23 Q. SHOULD THE PROVISIONING INTERVALS FOR COLLOCATION BE
24 EXTENDED WITHOUT THE NEED FOR AN AGREEMENT BY THE

1 APPLICANT ALEC OR FILING BY THE ILEC OF A REQUEST FOR
2 EXTENSION OF TIME?

3

4 A. Other than acts of God, I cannot foresee a reason that would warrant an extension
5 of time. However, if the ILEC has a situation where it cannot meet the required
6 interval for provisioning, it should file an emergency petition with the Commission
7 requesting an extension of time. This petition should detail the circumstance(s) that is
8 causing the delay. Because time is an important factor for ALECs, the extension
9 should only be granted for extreme emergency situations which are clearly out of the
10 ILEC's control.

11

12

13 **ISSUE 17: HOW SHOULD THE COSTS OF SECURITY ARRANGEMENTS,**
14 **SITE PREPARATION, COLLOCATION SPACE REPORTS, AND OTHER**
15 **COSTS NECESSARY TO THE PROVISIONING OF COLLOCATION SPACE,**
16 **BE ALLOCATED BETWEEN MULTIPLE CARRIERS?**

17

18 Q. HOW SHOULD THE COSTS OF SECURITY ARRANGEMENTS, SITE
19 PREPARATION, COLLOCATION SPACE, BE ALLOCATED BETWEEN
20 MULTIPLE CARRIERS?

21

22 A. The FCC states that ILECS must allocate space preparation, security measures, and
23 other collocation charges on a pro-rated basis so the first collocater in a particular
24 incumbent premises will not be responsible for the entire cost of site preparation. The
25 FCC further states that if an incumbent LEC implements cageless collocation

1 arrangements in a particular central office that requires air conditioning and power
2 upgrades, the incumbent may not require the first collocating party to pay the entire
3 cost of site preparation. The Order also requires the incumbent to develop a system of
4 partitioning the cost by combining, for example, the amount of conditioned space
5 actually occupied by the new entrant with the overall space conditioning expenses.
6 The Order also indicates that it is up to the state commissions to determine the proper
7 pricing methodology. (Order No. 99-48, ¶51)

8

9 The Commission has already determined that the ALEC may be required to pay for
10 maintenance of, and the access devices to a security device, that is already installed.
11 The Commission declined to require ALECs to fund the installation of new security
12 devices (card readers). (Order No. PSC-98-0604-FOF-TP, page 158)

13

14 As I stated earlier in my testimony, the Commission has already determined that the
15 expansions in power plant are more appropriately recovered in recurring charges
16 because both BellSouth and future collocators will benefit from the upgrade. The
17 Commission concluded that power plant investment will not be included in any space
18 preparation charge assessed to a collocator. (Order No. PSC-98-0604-FOF-TP, page
19 155)

20

21 Supra filed a grievance with the FCC on September 20, 1999, against BellSouth for its
22 collocation practices and procedures. Supra is seeking mediation and possible
23 acceptance to the FCC's Accelerate Docket process. In response to Supra's filing, the
24 FCC requested BellSouth to provide a breakdown of the collocation cost estimates
25 provided to Supra. BellSouth did not provide a detailed breakdown but rather a cost

1 summary. As illustrated in Exhibit DAN-1, which is the cost breakdown BellSouth
2 provided to the FCC, BellSouth is requiring Supra to absorb the entire cost of power
3 infrastructure upgrades and “space enclosure” in all four central offices. BellSouth is
4 requiring Supra to absorb the entire costs of racking and cabling in one office, and the
5 majority in the other three (these four central offices were part of the collocation
6 waiver dockets). These prorated percentages are not in proportion to either the
7 number of collocators, or the ratio of floor space Supra is occupying versus all other
8 collocators, whether collocating at the same time or in total! BellSouth clearly states
9 in its footnotes to this exhibit, “There are no prorated costs as Supra is the only
10 collocator that will utilize this area of the ... central office.” However, in three of the
11 offices, there are 5, 6, and 7 collocators applying for collocation in that office at the
12 same time. Requiring Supra to pay the entire cost for collocating in these offices is a
13 direct contradiction of the FCC order which states that the first collocator in a
14 particular incumbent premises will not be responsible for the entire cost of site
15 preparation. In fact, BellSouth is currently assessing a non-recurring charge for
16 power. This is also contrary to the Commission’s decision that power cannot be
17 recovered through a nonrecurring charge. (Order No. PSC-98-0604-FOF-TP, page
18 155).

19

20 I believe the costs for collocation should be allocated based on the amount of space
21 occupied by the ALEC and a portion should be shared by all ILECs since they also
22 benefit from the upgrades, and profit from the ALEC’s business expansion. As
23 required by the FCC, the first collocator should not bear the cost for the entire cost of
24 site preparation. The Commission should determine the proper pricing methodology
25 so the ILECs cannot impose unreasonable and unnecessary costs on any ALEC.

1

2 As stated in the FCC Order, the Commission may also want to consider adopting the
3 approach taken by Bell Atlantic, which permits smaller competing providers the
4 opportunity to pay collocation costs on an installment basis. This would be a proactive
5 approach the Commission could take in advancing competition in Florida.

6

7

8 **ISSUE 18: IF INSUFFICIENT SPACE IS AVAILABLE TO SATISFY THE**
9 **COLLOCATION REQUEST, SHOULD THE ILEC BE REQUIRED TO**
10 **ADVISE THE ALEC AS TO WHAT SPACE IS AVAILABLE?**

11

12 Q. IF INSUFFICIENT SPACE IS AVAILABLE TO SATISFY THE
13 COLLOCATION REQUEST, SHOULD THE ILEC BE REQUIRED TO ADVISE
14 THE ALEC AS TO WHAT SPACE IS AVAILABLE?

15

16 A. Yes. If the total amount of space requested is not available, the ILEC should let
17 the ALEC know how much space is available. If the ILEC responds that there is
18 insufficient space, the Commission should require the ILEC to follow the procedures
19 for demonstrating space depletion—filing a petition of waiver as identified in Order
20 No. PSC-99-1744-PAA-TP, Docket No. 981834-TP. In any event, the Commission
21 should take action to determine if the ILEC has accurately assessed the availability of
22 space. This would ensure that ILEC equipment or a subsidiary's equipment, such as
23 video equipment used to provide entertainment offerings (movies by phone), was not
24 taking up valuable space that should be used for collocation of competitive
25 telecommunications equipment. As soon as an ILEC responds to an application for

1 collocation stating that there is insufficient space, then a walk-through of the central
2 office should be performed by Commission staff, the denied carrier, and the ILEC. A
3 determination must be made concerning space that the ILEC is reserving for future
4 use, and what type of equipment has been collocated for subsidiaries.

5

6

7 **ISSUE 19: IF AN ILEC HAS BEEN GRANTED A WAIVER FROM THE**
8 **PHYSICAL COLLOCATION REQUIREMENTS FOR A PARTICULAR CO,**
9 **AND THE ILEC LATER MAKES MODIFICATIONS THAT CREATE SPACE**
10 **THAT WOULD BE APPROPRIATE FOR COLLOCATION, WHEN SHOULD**
11 **THE ILEC BE REQUIRED TO INFORM THE COMMISSION AND ANY**
12 **REQUESTING ALECS OF THE AVAILABILITY OF SPACE IN THAT**
13 **OFFICE?**

14

15 Q. IF AN ILEC HAS BEEN GRANTED A WAIVER FROM THE PHYSICAL
16 COLLOCATION REQUIREMENTS FOR A PARTICULAR CO, AND THE ILEC
17 LATER MAKES MODIFICATIONS THAT CREATE SPACE THAT WOULD BE
18 APPROPRIATE FOR COLLOCATION, WHEN SHOULD THE ILEC BE
19 REQUIRED TO INFORM THE COMMISSION AND ANY REQUESTING ALECS
20 OF THE AVAILABILITY OF SPACE IN THAT OFFICE?

21

22 A. The ILEC should notify the Commission and any requesting carriers of the
23 availability of space in the central office.

24

25

1 **ISSUE 20: WHAT PROCESS, IF ANY, SHOULD BE ESTABLISHED FOR**
2 **FORECASTING COLLOCATION DEMAND FOR CO ADDITIONS OR**
3 **EXPANSIONS?**

4

5 Q. SHOULD A PROCESS BE ESTABLISHED FOR FORECASTING
6 COLLOCATION DEMAND FOR CO ADDITIONS OR EXPANSIONS?

7

8 A. Yes. ILECs should be required to keep a list of all ALECs who have requested
9 collocation. When the ILEC begins planning for central office expansion, the ILEC
10 should contact each carrier on the list to determine the level of interest in, and amount
11 of, collocation space. With this information, the ILEC can better project the amount of
12 additional space that should be constructed.

13

14

15

16

17

18 **ISSUE 21: APPLYING THE FCC'S "FIRST-COME, FIRST-SERVED" RULE,**
19 **IF SPACE BECOMES AVAILABLE IN A CENTRAL OFFICE BECAUSE A**
20 **WAIVER IS DENIED OR MODIFICATION IS MADE, WHO SHOULD BE**
21 **GIVEN PRIORITY?**

22

23 Q. HOW SHOULD THE COMMISSION APPLY THE FCC'S "FIRST-COME,
24 FIRST-SERVED" RULE IN A CENTRAL OFFICE WHERE A WAIVER HAS
25 BEEN DENIED?

1

2 A. If space become available in a central office because a waiver is denied or
3 modifications are made, the ILEC should offer the available space to the first carrier
4 that requested space. However, to determine the first carrier, the ILEC should be
5 required to maintain a list of all carriers who have requested space in the order they
6 were received.

7

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1 SUPRA TELECOMMUNICATIONS AND INFORMATION SYSTEMS, INC.

2 REBUTTAL TESTIMONY OF DAVID A. NILSON

3 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

4 DOCKET NOS. 981834-TP AND 990321-TP

5 NOVEMBER 19, 1999

6

7 Q. PLEASE STATE YOUR NAME AND ADDRESS

8

9 A. My name is David A. Nilson. My address is 2620 SW 27th Avenue, Miami,
10 Florida 33133.

11

12 Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?

13

14 A. I am the Chief Technology Officer of Supra Telecommunications and
15 Information Systems, Inc. ("Supra").

16

17 Q. ARE YOU THE SAME DAVID NILSON WHO PROVIDED DIRECT
18 TESTIMONY IN THIS PROCEEDING?

19

20 A. Yes.

21

22 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

23

24 A. I will rebut the direct testimony of BellSouth witnesses Keith Milner and Jerry D.
25 Hendrix.

1

2 Q. ON PAGE 5, LINES 2-3 OF BELLSOUTH WITNESS KEITH MILNER'S
3 TESTIMONY, MR. MILNER STATES THAT BELLSOUTH OFFERS
4 COLLOCATION AT RATES SET BY THE COMMISSION. HAS
5 BELLSOUTH APPLIED THESE RATES TO SUPRA'S REQUESTS FOR
6 COLLOCATION?

7

8 A. Not entirely. One area of contention has been the non-recurring costs for power
9 to be supplied by BellSouth to Supra's collocated equipment. Supra was very
10 surprised at how high the cost estimates are for the four central offices that were part
11 of the Waiver Dockets. Supra asked for a cost breakdown of the collocation. costs
12 estimated by BellSouth. In three of the offices, where there are a total of 5, 6, and 7
13 other collocators that have submitted applications to collocate, Supra has been
14 "prorated" 100 percent of all power upgrade costs of \$344,000. By causing an
15 ALEC to bear 100 percent of the costs of power plant upgrades to support the
16 collocation of 4, 5, and 6 other collocators, BellSouth is in violation of FCC Order
17 98-147, page 51. Additionally, from the cost breakdown, it is evident that BellSouth
18 did not adhere to the Commission's Order that requires BellSouth to recover power
19 infrastructure equipment costs in a recurring charge. (See Order No. 98-0604-FOF-
20 TP, pages 149-151.) The excessive costs incorrectly imposed by BellSouth can only
21 deter competitive entry by any ALEC. This deterrent comes in the form of increased
22 costs affecting the ALEC's business plan and leads to unnecessary litigation costs
23 and delays.

24

1 Q. ON PAGE 7, LINES 3-5, MR. MILNER STATES THAT BELLSOUTH
2 ASSIGNS COLLOCATION SPACE TO AN ALEC TO AVOID POTENTIALLY
3 INEFFICIENT USE OF SPACE. DOES THE METHOD USED BY BELLSOUTH
4 TO ASSIGN SPACE CONCERN YOU?

5

6 A. Yes it does. The FCC made it clear that it wants incumbent LECs (ILECs) to
7 make cost-effective collocation available to ALECs. Further, the FCC stated in
8 Order No. 99-48, that incumbent LECs “must allow competitors to collocate in *any*
9 unused space in the incumbent LEC’s premises....” (§42, emphasis added) This is
10 not a directive by the FCC that an ILEC is allowed to assign or designate whatever
11 space it wants without discussing it with the requesting ALEC. Sprint Florida
12 (Sprint) takes an opposite position on this matter. Once a determination is made that
13 space is available in the office, Sprint schedules a meeting between the ALEC and its
14 engineers, preferably at the central office, to review the ALEC’s application, “So we
15 make sure we understand the application and get the quote right.” In contrast,
16 BellSouth holds no such planning meetings before providing a quotation, and allows
17 no site visit until after the ALEC has issued a firm order and paid one half of the
18 estimated collocation charges up-front. This late date is the first opportunity for the
19 ALEC to determine if any errors have been made in designing the ALECs
20 collocation.

21

22 It also appears that BellSouth has changed its position on the matter. In Docket Nos.
23 960757-TP, 960833-TP, and 960846-TP, BellSouth witness Redmond testified
24 before this Commission that collocators can negotiate the location of the collocation
25 space with BellSouth. BellSouth maintained this same position as recently as the

1 FCC's collocation Order 99-48. In ¶40 of the Order, BellSouth's comments to the
2 FCC in this docket stated that the FCC should "allow the parties to discuss and
3 resolve any issues they may have on a case-by-case basis." However, it has been
4 Supra's experience that there simply is no negotiating on the part of BellSouth.

5

6 Q. ON PAGES 18 AND 19, BST WITNESS MILNER STATES THAT
7 ADJACENT CEVs AND SIMILAR STRUCTURES DO NOT FIT THE FCC'S
8 DEFINITION OF THE TERM ILEC PREMISES. DO YOU AGREE?

9

10 A. Although one could interpret the FCC's definition of premises to be inconsistent
11 with its requirement for adjacent CEVs, that interpretation itself is inconsistent
12 with the spirit of the Telecommunications Act and the intent of the FCC's Order,
13 which is to promote competition. The FCC's requirement is clearly stated in ¶44
14 of Order 99-48, that ILECs must permit requesting carriers the ability to
15 construct or otherwise procure an adjacent structure. The wording of the FCC
16 order does not presuppose ownership of the CEV, as Mr. Milner tries to classify
17 a CEV as violating the definition of premises. Nor does it assume the CEV will
18 NOT house BellSouth network equipment. If BellSouth chose to, they could
19 construct and lease CEVs to ALECs in such a way that it met the definition of
20 premises. By choosing the opposite path, BellSouth appears unwilling to comply
21 with the FCC Order, in a proceeding they were a party to. The FCC further
22 stated that zoning or other local regulations might impose limitations; however,
23 the FCC stated that it relies on the state commission to address such issues.
24 BellSouth has not raised the issue of zoning or local regulations as a problem for
25 adjacent CEVs. BellSouth is using the FCC's definition of premises as a means

1 of avoiding the obvious mandate of the FCC. This Commission should uphold
2 the FCC's Order requiring the collocation of ALECs in adjacent CEVs or other
3 similar structures.

4
5 Q. ON PAGE 4, LINES 24-25, OF BELLSOUTH WITNESS HENDRIX'S
6 TESTIMONY, MR. HENDRIX STATES THAT POWER CAPACITY
7 MANAGEMENT AND BELLSOUTH'S CERTIFIED POWER VENDOR
8 ANALYZED THE IMPACT OF THE APPLICATION ON EXISTING POWER
9 CAPACITY WITHIN THE CENTRAL OFFICE TO DETERMINE WHETHER
10 ADDITIONAL POWER CAPACITY WILL BE REQUIRED. SHOULD
11 BELLSOUTH BE REQUIRED TO OBTAIN MORE THAN ONE ESTIMATE
12 FROM A CERTIFIED POWER VENDOR? WHY?

13
14 A. Yes. Let us make sure we understand the statement. In the South Florida area,
15 BellSouth Power Capacity Management would ask its "turf" vendor to calculate
16 what new power equipment needs to be purchased from and installed by such
17 vendor. Where is the mechanism to control costs in this arrangement? In Order No.
18 PSC-98-0604-FOF-TP, Docket Nos. 960757-TP, 960833-TP, and 960846-TP, issued
19 April 29, 1998, the Commission states that in situations where the ALEC disagrees
20 with BellSouth's ICB space preparation charges, the ALEC may request that
21 BellSouth obtain three additional independent estimates. BellSouth's own internal
22 procurement procedures require three quotations on all projects over \$2500. Instead,
23 BellSouth assigns "turf" vendors. One vendor is given a specific geographic area,
24 and that vendor does all power or construction or installation within that geographic
25 area. Competitive bidding on these projects is non-existent. This bidding would

1 encourage ILEC contractors to provide a more competitive offer. If only one
2 estimate is required from a single contractor, and that contractor knows it has all the
3 business in a given region, there is no incentive to provide a lower, more competitive
4 price.

5

6 Q. ON PAGE 7, LINES 2-3 OF MR. HENDRIX'S TESTIMONY, HE STATES
7 THAT THE RESPONSE WILL ALSO INCLUDE THE CONFIGURATION OF
8 THE SPACE? WHAT DO YOU MEAN BY CONFIGURATION?

9

10 A. I wish I could answer that question. After having applied for and received 19
11 such responses within the last 14 months, space configuration has never been
12 supplied. I have been told that I cannot get space configuration information until
13 after I file a firm order and pay one half of the space preparation charges up front.
14 The reason stated for this is that at the time of the response BellSouth knows it has
15 space in the office, but it does not engineer the job deciding specifics until after a
16 firm order and the one-half prepayment. The ALEC is not allowed to walk through
17 the office to review its space prior to firm order--"Because it may change and move
18 somewhere else once we engineer the job."

19

20 Q. ON PAGE 6, LINES 23-25 OF MR. HENDRIX'S TESTIMONY, HE STATES
21 THAT THE APPLICATION RESPONSE WILL INCLUDE ESTIMATES OF THE
22 SPACE PREPARATION FEES, THE CABLE INSTALLATION FEE (IF
23 APPLICABLE), AND THE ESTIMATED DATE THE SPACE WILL BE

1 AVAILABLE. DOES THE COST ESTIMATE BELLSOUTH PROVIDES THE
2 ALEC ITEMIZE THE CHARGES WITHIN EACH OF THE CATEGORIES?

3

4 A. No. Nor does the response give any information regarding the estimated date the
5 space will be available. BellSouth insists it has the right to negotiate those dates
6 with the ALEC "on an office-by-office basis." The cost estimates provide only a
7 total projected cost for the three sub-categories (space construction--frame, cable,
8 cable support, etc.--and power). There is insufficient cost information available for
9 the ALEC to determine if the cost estimates are reasonable. The ALEC cannot
10 determine what price elements BellSouth used to project the overall estimated cost,
11 nor can an ALEC detect if any potential misunderstandings exist between the ILEC
12 and ALEC over design. A more detailed cost analysis should be provided to the
13 ALEC within thirty calendar days of the initial application.

14

15 In the exhibit DAN-1, attached to my direct testimony, BellSouth produced a cost
16 breakdown for collocation in four of the Florida exemption docket offices. Supra
17 requested this breakdown on the second day following our receipt of the application
18 responses. After three weeks of waiting, a letter of grievance was sent to the FCC.
19 After a total wait of eight weeks, Supra received a partial cost breakdown [Exhibit
20 DAN-1]. The cable and racking breakdowns were never presented, and the power
21 breakdowns for three of the offices are so limited they are useless. In the process of
22 making the breakdown, BellSouth detected a \$63,000 overcharge. Supra further
23 detected that there was a \$51,000 double charge in that same office. Additionally,
24 there were 115 VAC outlets proscribed which Supra had never ordered, but which
25 would require permitting (and attendant delays as documented by BellSouth). There

1 were also prorated charges for the installation of a card reader systems in apparent
2 violation of this Commission's orders in PSC-98-0604-FOF-TP, which ordered
3 reasonable charges for security access devices in central offices with card readers.
4 However, this Commission declined to order ALECs to pay the installation of such
5 systems where they did not already exist.

6

7 This problem was presented in all three of the South Florida central offices, but in
8 the one Central Florida office, it was decided a \$250 dollar key would suffice instead
9 of a prorated share of a \$25,000 card reader system.

10

11 Additionally, the quotes show that BellSouth's concern over a single carrier having
12 to do the power work is misguided. Of the total charges for power infrastructure,
13 more than 98 percent went directly to Lucent or the State of Florida in taxes.

14 BellSouth retained less than 2 percent for engineering, supervision and labor. But
15 worse than that, in PSC-98-0604-FOF-TP, pages 149-151, this Commission ordered
16 BellSouth to sell -48 volt DC power for a recurring rate only, and to train its
17 personnel so that there should be no confusion that non-recurring charges for power
18 infrastructure not be made part of ALEC space preparation charges any longer.

19 All of these issues were hidden in Mr. Hendrix's response, which listed three, large
20 dollar figures. Without a detailed price quote, Supra could not have found these
21 errors and would have been compelled to overpay, or make a decision to back out of
22 the collocation due to excessive costs.

23

1 Q. ON PAGE 5, LINES 15-18, OF WITNESS HENDRIX'S TESTIMONY, MR.
2 HENDRIX STATES THAT BELLSOUTH WILL INFORM AN ALEC
3 WITHIN FIFTEEN (15) CALENDAR DAYS OF RECEIPT OF AN
4 APPLICATION WHETHER ITS APPLICATION FOR COLLOCATION IS
5 ACCEPTED OR DENIED AS A RESULT OF SPACE AVAILABILITY. IS
6 THIS REASONABLE?

7
8 A. No. As stated in paragraph 55 of the FCC's First Report and Order in Docket 98-
9 147, "We view ten days as a reasonable time period within which to inform a new
10 entrant whether its collocation application is accepted or denied." Sprint also
11 concurs with the FCC's findings that ten days is a reasonable time period. As stated
12 by Sprint's witness Cloz in her direct testimony, "This timely response is critical to
13 enabling new entrants to quickly reassess collocation deployment plans such that
14 impacts to the new entrants' marketing plans are minimized." (Page 5, lines 6-8)
15 Because ten days is a reasonable amount of time for the ILEC to determine space
16 availability, I believe the Commission should adopt the ten-day time period as
17 suggested by the FCC and Sprint.

18
19 Q. SHOULD THE SAME TEN-DAY TIME PERIOD APPLY TO
20 APPLICATIONS THAT BELLSOUTH DOES NOT CONSIDER BONA FIDE?

21
22 A. No. BellSouth should notify the ALEC much sooner than ten days if it does not
23 consider the application bona fide and provide the items necessary to make the
24 application bona fide. It seems that 48 hours would be an appropriate interval to
25 determine whether an application is bona fide or not.

1

2 Q. ON PAGE 7, LINES 15-17, YOU STATE THAT TO YOUR KNOWLEDGE
3 BELLSOUTH HAS NEVER OMITTED INFORMATION THAT WAS
4 NECESSARY FOR A COLLOCATION APPLICANT TO MOVE FORWARD
5 WITH A FIRM ORDER. MR. HENDRIX CONTINUES ON LINES 17-18
6 STATING THAT IF AN OMISSION OCCURS, THE ALEC CAN SIMPLY
7 CONTACT ITS ATCC FOR RESOLUTION. DO YOU AGREE WITH MR.
8 HENDRIX'S TESTIMONY?

9

10 A. No. Under the current system there is no way to detect a missing item until after
11 space acceptance and the ALEC is allowed to move into the space. Errors of
12 providing something extra that is not needed are paid for months in advance of their
13 possible detection. Detecting problems at that point can only incur delay and
14 increased costs for both sides. BellSouth states that it provides the necessary
15 information for a collocation applicant to move forward with a firm order. What
16 they do not mention is due to the lack of joint ALEC-ILEC implementation team
17 meetings prior to a firm order, the ALEC will typically be forced to redesign portions
18 of the collocation after a firm order when the space configuration is provided. If the
19 ALEC is located too far from the battery plant, the expected power design must be
20 changed, or costs skyrocket. And once those changes are made, BellSouth requires
21 that the application/response phase start all over again! All this could be avoided
22 with site visits prior to quotation and ALEC-ILEC implementation meetings held
23 prior to quotation, as is done by Sprint-Florida.

24

1 Q. ON PAGE 10, LINES 11-14, OF MR. HENDRIX'S DIRECT TESTIMONY, HE
2 STATES THAT THE RESPONSE INTERVAL FOR A REQUEST FOR CHANGE
3 TO AN EXISTING SPACE SHOULD NOT EXCEED 30 DAYS. DO YOU
4 BELIEVE 30 DAYS IS REASONABLE?

5

6 A. No. In my direct testimony, I stated that ten days or less should be a sufficient
7 response time interval. Because the change requested requires no physical work on
8 the part of the ILEC other than record updates, 30 days is unreasonable. Even Sprint
9 in its testimony, stated that an ILEC should respond to the ALEC within 15 calendar
10 days with a notification that the ILEC's records have been updated to reflect the
11 change. (Closz, page 14) Clearly, the change was completed well before thirty days.

12

13 Q. CONTINUING ON PAGE 10, LINES 15-23, MR. HENDRIX STATES THAT
14 THE IMPLEMENTATION INTERVAL FOR A REQUEST FOR CHANGES TO
15 AN ALEC'S EXISTING COLLOCATION SPACE SHOULD NOT EXCEED 60
16 CALENDAR DAYS, UNDER NORMAL CONDITIONS. NORMAL
17 CONDITIONS SHOULD BE DESCRIBED AS CONDITIONS IN WHICH NONE
18 OF THE FOLLOWING EXIST: MATERIAL EQUIPMENT ORDERING
19 REQUIRED, HVAC OR POWER UPGRADES OR ADDITIONS, ADDITION TO
20 FLOOR SPACE, RACKS, OR BAYS. UNDER CONDITIONS OTHER THAN
21 NORMAL, THE INTERVAL FOR A REQUEST FOR CHANGES TO AN ALEC'S
22 OWN EXISTING COLLOCATION SPACE SHOULD BE THE SAME
23 INTERVAL AS A NEW REQUEST, 90 CALENDAR DAYS. DO YOU AGREE
24 WITH THESE TIME PERIODS?

25

1 A. No. Supra Telecom agrees with Sprint's testimony that the provisioning intervals
2 when changes are required should reflect the actual work involved, but should not
3 exceed 30 calendar days for receipt of the ALEC's request for a change. (Closz,
4 page 14) In addition, Supra objects to the list of exclusions. BellSouth has
5 eliminated virtually all changes, save wiring, to the point of demarcation from the
6 shorter time category, and then set THAT at 60 days. If BellSouth's "turf" vendor
7 policy does not allow them to respond any faster than that, the Commission should
8 order BellSouth to allow ALECs to subcontract and project manage construction of
9 the collocation arrangements based on BellSouth engineered plans and
10 specifications. If BellSouth cannot engineer the job in a reasonable time frame, this
11 Commission should investigate whether downsizing and de-commissioning of
12 engineering groups at BellSouth has left the carrier too shorthanded to support
13 competitive entrants according to the FCC and this Commission's orders.

14

15 Q. ON PAGE 13, LINES 23-24 WITNESS HENDRIX STATED IN HIS DIRECT
16 TESTIMONY THAT BELLSOUTH HAS FOUND THAT ITS PROVISIONING
17 INTERVAL IS NOT CONTROLLED BY THE TIME REQUIRED TO
18 CONSTRUCT AN ARRANGEMENT ENCLOSURE. MR. HENDRIX
19 CONTINUES ON PAGE 5, LINES 9-11 STATING THAT WHEN THE
20 CONSTRUCTION OF AN ARRANGEMENT ENCLOSURE IS NOT REQUIRED
21 OR IS NOT PERFORMED BY BELLSOUTH, ALL OTHER COLLOCATION
22 AREA AND NETWORK INFRASTRUCTURE WORK MUST STILL TAKE
23 PLACE. DO YOU AGREE WITH HIS TESTIMONY?

24

1 A. No. Supra Telecom concurs with Sprint that less time is needed to construct
2 cageless arrangements than to construct caged. BellSouth's own timeline for
3 collocation, presented to this Commission on a number of earlier dockets, shows all
4 space enclosure and permit work being completed before the start of racking and
5 cabling and power construction. Certainly, if the entire step is not performed, Mr.
6 Hendrix cannot possibly be correct. Once again, it comes down to a detailed
7 breakdown of the collocation subtasks. An undetected extra step, like the addition of
8 115 VAC duplex outlets to space construction sub-category could cause even more
9 delay than the construction of an entire forearmed room! The interval should be
10 reflective of the actual work required. (Closz, page 15) This is another delay tactic
11 BellSouth forces on ALECs.

12

13 Q. PLEASE COMMENT ON MR. MILNER'S EXPLANATION OF
14 BELLSOUTH'S SPACE UTILIZATION STANDARDS ON PAGE 25 AND 26 OF
15 HIS TESTIMONY.

16

17 A. What surprises me is Mr. Milner's assertion that ALEC's may reserve space for a
18 two-year total forecast. This is an extremely new situation since last month, and we
19 have yet to actually get any collocations approved with reserved space. Supra
20 factors in space for growth when it applies for collocation. However, for 19 previous
21 applications, BellSouth will only grant Supra enough space to cover the equipment
22 footprint, with no explanation of why the additional space was denied.

23

1 Mr. Milner states on lines 5 and 6 of page 26 that BellSouth will forfeit any reserved
2 space that it will not use within a two-year window, if an ALEC needs it for
3 collocation. As recently as July 20, 1999, BellSouth was denying collocation in the
4 North Dade Golden Glades, and Palm Beach Gardens central office, when by its own
5 testimony before this Commission it had reserved 6 years' growth in the former
6 office, and as much as 25 years' growth for the TOPS switch in the latter office. The
7 Commission should set time periods for reserved collocation space, or nothing has
8 really changed. Why? The Commission must determine the validity of the forecasts
9 made by BellSouth for reserved space. If the forecasts show overly optimistic
10 growth, then requesting carriers will be denied space. If few to no carriers become
11 collocated because of limited space, then BellSouth will experience the loss of only a
12 small percentage of customers. With this small loss, BellSouth will then base its
13 forecast on past history and will not factor in competitive loss, which should be
14 growing every year. Therefore, BellSouth will continue to hold vacant space for
15 future growth. Every time BellSouth can deny space to a requesting carrier, it
16 strengthens its current position by deterring competitive growth. Unless corrected by
17 the Commission, this vicious cycle will repeat itself over and over to the detriment of
18 competition and the benefits thereof to the citizens of Florida.

19

20 Q. DO YOU AGREE WITH MR. MILNER'S CONTENTION THAT GENERIC
21 PARAMETERS CANNOT BE ESTABLISHED FOR THE CONSIDERATION OF
22 ADMINISTRATIVE SPACE FOR COLLOCATION?

23

1 A. No. Mr. Milner states that administrative space is space designated for use other
2 than for directly supporting the installation or repair of equipment. I do not disagree
3 with that or with the examples of such space as shown on page 32, lines 23 and 24.
4 One thing I have found in BellSouth's central offices is that they are constructed in
5 such a manner as to keep out the noise of the equipment areas from certain
6 administrative spaces, such as offices and break rooms. What I do not agree with is
7 when BellSouth claims that a small room is a "training room" when two people can
8 barely hear themselves speak with the door closed. Therefore, the Commission must
9 take into consideration whether the use of the space can actually be performed given
10 the effects of the surrounding environment.

11

12 But further, Mr. Milner's answer clearly sidesteps the issue in contention. The
13 "other" administrative space he did not mention that is taking up switch room and
14 toll area equipment space. I am referring to those vast bins of circuit cards kept as a
15 backup to BellSouth's computerized systems for no good reason: for recyclable
16 waste storage such as circuit packs, bubble wrap, and corrugated cartons; for table
17 and or desk space reserved for vendors' use on an occasional basis; 3, 5 and
18 sometimes even more MAP terminals, with associated desks, file cabinets, printers,
19 and walk areas, per switch. And then to realize those MAP terminals are not even
20 used 12-18 hours per day because the function is handed off to a BellSouth remote
21 Network Operations Center. Modern data networking and management tools offer
22 technologies to reduce all of these things in a cost effective manner.

23

24 To me, this was the administrative space that Mr. Milner was to address in his reply.

25

1 Q. ON PAGE 34 OF HIS DIRECT TESTIMONY, MR. MILNER LISTS THE
2 TYPES OF EQUIPMENT THAT THE FCC'S RECENT ORDER REQUIRES
3 ILECs TO PERMIT IN COLLOCATED SPACE. IS MR. MILNER'S
4 EQUIPMENT LIST ACCURATE?

5

6 A. Yes it is. However, equipment technology is changing rapidly. The Commission
7 should, therefore, not rely on a limited list of equipment available today, but should
8 adopt the forward-looking requirement provided by the FCC. That is, ILECs must
9 permit any piece of equipment, multi-functional or not, that is used or useful for
10 interconnection or access to unbundled elements. The FCC also states that all of the
11 equipment's features, functions, and capabilities may also be used, even if such are
12 not necessary for interconnection or access to unbundled elements. As the
13 Commission uses this standard, it will not be necessary to make an endlessly
14 changing list of equipment permitted for use in a collocated space.

15

16 Q. ON PAGE 15, LINES 12-15, MR. HENDRIX STATES THAT THE
17 ESTIMATE INCLUDES A BREAKOUT OF THE FOLLOWING ELEMENTS:
18 SPACE PREPARATION (e.g., SPACE CONSTRUCTION, CABLE AND CABLE
19 SUPPORT STRUCTURE, POWER BUILDOUT), AND CABLE INSTALLATION
20 (IF THE ALEC OPTS TO PULL ITS OWN ENTRANCE FACILITY TO ITS
21 COLLOCATION ARRANGEMENT). THIS PRICE ESTIMATE IS SUBJECT TO
22 TRUE UP AT THE TIME ACTUAL COSTS ARE AVAILABLE. DO YOU

1 AGREE WITH MR. HENDRIX'S STATEMENT THAT BELLSOUTH
2 PROVIDES A BREAKOUT OF ESTIMATED COSTS?

3

4 A. No. BellSouth does not provide a breakout of costs for space preparation, frame,
5 cable, cable support, etc, or power. BellSouth provides a single cost estimate by
6 each of three sub-categories. Even upon FCC request, Supra Telecom has been
7 unable to obtain a complete and accurate breakdown of costs by central office from
8 BellSouth. The reason for this is that they do not really estimate the costs.
9 BellSouth takes the square footage that the ALEC asks for in the collocation
10 application, multiplies this by several highly controversial factors, and presents this
11 as the estimate for the space preparation and racking and cabling sub-categories of
12 space preparation. Because of this non-existent estimation for the quote, the "true-
13 up" is required to deal with cost overruns that could leave an ALEC paying double
14 the quoted dollar value.

15

16 As Sprint stated in witness Closz's direct testimony, the ALEC should be provided
17 cost support data sufficient to provide an empirical breakdown of the costs involved.
18 (Closz, page 23) I would also add that BellSouth should not assess a nonrecurring
19 charge for power to an ALEC. The Florida PSC has concluded that power plant
20 expansions are more appropriately recovered in recurring charges because they will
21 benefit both BellSouth and future collocators. The Commission further stated that
22 power plant investment shall not be included in any space preparation charge
23 assessed to a collocator. BellSouth currently allocates nonrecurring charges to
24 power which is in direct conflict with the PSC's previous decision. (Order No. PSC-
25 98-0604-FOF-TP, page 155)

1
2 Q. ON PAGE 15, LINES 23-25 AND PAGE 16, LINES 5-9, OF MR. HENDRIX'S
3 DIRECT TESTIMONY, HE STATES THAT THE ILEC'S PRICE ESTIMATE IS
4 AN ESTIMATE OF THE WORK THAT WILL BE DONE BY THE ILEC. AS
5 SUCH, IT IS NOT REASONABLE FOR THE ALEC TO PARTICIPATE IN THIS
6 ESTIMATE OTHER THAN BY PROVIDING DETAILED AND ACCURATE
7 INFORMATION REGARDING THE COLLOCATION ARRANGEMENT IT IS
8 REQUESTING. MR. HENDRIX CONCLUDES THAT GIVEN THE
9 PROCEDURE BY WHICH BELLSOUTH PROCESSES COLLOCATION
10 APPLICATIONS , AND THE FACT THAT THE ESTIMATE REPRESENTS THE
11 COST OF WORK TO BE COMPLETED BY THE ILEC AND ITS CERTIFIED
12 VENDORS, IT WOULD BE INEFFICIENT TO HAVE THE ALEC
13 PARTICIPATE IN THE PRICE ESTIMATE. DO YOU AGREE WITH THIS
14 ASSESSMENT?

15
16 A. No. The ALEC should have the option to participate in the development of the
17 price quote. This includes team meetings, site visits, and mutual agreement on the
18 plan prior to quotation. This is the model used by Sprint, and Supra wholeheartedly
19 endorses it. The ALEC may be able to provide suggestions or alternatives that
20 would serve to reduce the provisioning cost, the need for construction requiring
21 permits, and the overall time to collocate. As Sprint stated in its testimony, another
22 concern might be that there is insufficient documentation of the costs available to
23 gain a complete understanding of the price quote in instances where the price quoted
24 exceeds what was expected for a particular collocation. (Clozs, page 23)

1

2 Q. ON PAGE 16, LINES 16-21, MR. HENDRIX STATES THAT AN ALEC
3 SHOULD BE ALLOWED TO USE A CERTIFIED CONTRACTOR TO
4 PERFORM WORK ON THE ALEC'S DEDICATED COLLOCATION SPACE.
5 THE WITNESS STATES THAT BELLSOUTH'S POLICY ON THE
6 PROVISIONING OF COLLOCATION SPACE ALLOWS AN ALEC TO UTILIZE
7 A CERTIFIED CONTRACTOR TO INSTALL THE SPACE ENCLOSURE AND
8 OTHER ELEMENTS THAT ARE INSIDE THE SPACE LEASED BY THE ALEC
9 THAT ARE DEDICATED TO THAT ALEC AND DO NOT AFFECT
10 BELLSOUTH OR ANOTHER ALEC'S EQUIPMENT. MR. HENDRIX
11 FURTHER STATES ON LINES 23-24 THAT BELLSOUTH'S POSITION IS
12 BASED ON NATIONAL PROPERTY MANAGEMENT INDUSTRY-WIDE
13 PRACTICES FOR BUILDING OWNERS WITH MULTI-TENANT
14 OCCUPANCIES. DO YOU AGREE WITH MR. HENDRIX'S ANALYSIS?

15

16 A. No. An ALEC should be allowed to hire contractors to perform space
17 preparation, racking and cabling, and power which is consistent with Rule 51.323(j),
18 CFR 47. Exhibit DAN-1 to my direct testimony, pages 21-23, clearly shows why
19 BellSouth's position has no merit. On each one of these pages, 98 percent of the
20 dollars spent go directly to Lucent or the State of Florida. BellSouth retains less than
21 2 percent of the monies for engineering, labor, and other. Supra contends that all of
22 BellSouth's complaints on this issue can be solved by BellSouth retaining the
23 engineering and supervisory rights and monies, while letting the ALEC subcontract
24 the work to a certified vendor.

1

2 Since all of the recognized Class 5 switch vendors are also power vendors, it only
3 makes sense that an ALEC would subcontract power to their switch vendor,
4 achieving greater economy of scale in the price negotiations, finance collocation
5 costs along with switch costs instead of having to pay all collocation costs up front
6 prior to taking possession of the space, and having control of the permitting process.
7 BellSouth has actually assigned Supra a Dade County permit expeditor. The person
8 who lives and works in the State of Kentucky and can do little to help Supra,
9 compared to what a certified Miami contractor can do to expedite permits.

10

11 Once again, BellSouth seeks to obfuscate the issue of permitting multi-tenant
12 dwellings as a means of denying collocation. Based on previous dockets, Supra has
13 met with the Chief Fire inspector of Miami, the Fire Marshal of the City of Miami,
14 and other surrounding communities. According to the City of Miami, it is not an
15 issue of mulitenancy at all. These local authorities told Supra, "We do not require
16 office buildings to construct fire-rated walls between tenants, and in the central
17 office it would just complicate egress from the building and that is all we are
18 concerned with." They further went on to say that if the BellSouth central office was
19 properly constructed with no shortcuts, there would be no requirements for fire-rated
20 walls.

21

22 The appropriate section covering this issue is Section 26-3.6 of the 1994 version of
23 the Life Safety Code Handbook relating to Corridors. There are three exemptions to
24 the corridor requirement.

25 Exception 1. Where exits are available from an open floor area.

1 Exception 2. Corridors need not have a fire resistance rating within a space
2 occupied by a single tenant.

3 Exception 3. Corridors need not have a fire resistance rating within
4 buildings protected throughout by an approved, automatic sprinkler system in
5 accordance with Section 7-7.

6 The Fire Department of the City of Miami told us that if BellSouth had installed an
7 approved sprinkler system, there would be no issue of fire-rated walls between
8 collocators. Indeed, we have viewed the collocation facilities of Level 3 and other
9 "ALEC Hotels" in the City of Miami, and where there is an approved sprinkler
10 system installed, there are no fire-rated walls for separation between tenants. None
11 of the operators of these alternative central offices had any problem with permitting
12 and fire inspectors that required multi-tenant separations. The more research we do
13 on this issue, the easier it seems for BellSouth to make the problem go away.

14

15 Q. ON PAGE 16, LINES 16-31, MR. HENDRIX STATES THAT AN ALEC
16 SHOULD BE ALLOWED TO USE A CERTIFIED CONTRACTOR TO
17 PERFORM WORK ON THE ALEC'S DEDICATED COLLOCATION SPACE.
18 THE WITNESS STATES THAT BELLSOUTH'S POLICY ON THE
19 PROVISIONING OF COLLOCATION SPACE ALLOWS AN ALEC TO
20 UTILIZE A CERTIFIED CONTRACTOR TO INSTALL THE SPACE
21 ENCLOSURE AND OTHER ELEMENTS THAT ARE INSIDE THE SPACE
22 LEASED BY THE ALEC THAT ARE DEDICATED TO THAT ALEC AND
23 DO NOT AFFECT BELLSOUTH OR ANOTHER ALEC'S EQUIPMENT. DO
24 YOU AGREE.?

1

2 A. No. An ILEC need not handle project management and subcontract certified
3 vendors just to maintain the integrity of a building project, as any general
4 contractor knows. We do not deny the ILEC the right to engineer and specify the
5 project, as they propose to do in exhibit DAN-1. We do wish to avoid additional
6 hidden price markups by BellSouth which easily override the better discount they
7 receive from their vendors. However, the project management, selection and
8 price negotiation can most effectively be performed competitively by the ALEC.
9 Sprint's position in this matter would reduce the up front costs of collocation,
10 defer cash flow and allow financing of the collocation construction, give the
11 ALEC control over its project, and relieve the ILEC of its burden of having to
12 perform within specified time frames. And the jobs should take less time--
13 meaning more benefits to the telephone ratepayers of Florida sooner. Supra
14 encourages the Commission to support Sprint's interpretation of 47 CFR.

15

16 Q. ON PAGE 36 LINE 17 THROUGH PAGE 40 LINE 5 MR. MILNER STATES
17 THAT DELAYS DUE TO PERMITTING ARE LEGITIMATE REASONS FOR
18 THE COLLOCATION TIME FRAME TO EXTEND BEYOND THE 60/90
19 DAYS AS ORDERED BY THIS COMMISSION. DO YOU AGREE?

20

21 A. No. There are numerous things BellSouth can do to eliminate this issue.
22 BellSouth witness Mayes and Bloomer testified to these changes over a year ago

1 in Docket No. 980800-TP, and yet the story remains the same. In a cageless
2 collocation arrangement, there are only two construction activities that could
3 require permitting, HVAC work and 115 VAC duplex outlets. A review of
4 testified to these changes over a year ago in Docket No. 980800-TP, and yet the
5 story remains the same. In a cageless collocation arrangement there are only two
6 construction activities that could require permitting, HVAC work and 115 VAC
7 duplex outlets. Supra had to wait 8 weeks and file a grievance before the FCC
8 before we could enough of a cost breakdown to determine that BellSouth,
9 without ever talking to Supra, or our switch vendor Lucent had designed in
10 HVAC and 155VAC outlet installation, thus ensuring that permits would be
11 pulled on our collocation projects. Supra does not need and does not want the
12 115 VAC outlets, particularly if they will cause a "65-103" day delay in the
13 process as testified by witness Mayes in Docket No. 980800-TP. Lucent has
14 stated that there are no special air-conditioning requirements for the 5ESS-2000
15 switches, standard rooms conditions are appropriate. Yet, BellSouth, without
16 consulting with Supra or Lucent has designed major air-conditioning
17 modifications at highly inflated prices that will require permits and engender
18 delay.

19

20 What is worse, the equipment will initially be lightly loaded, only drawing more
21 power and generating more heat as additional subscribers are signed up and the
22 electronics to support that customer are installed. Yet BellSouth forces you to

1 detail the maximum heat release and input power at the time of collocation.
2 Therefore, there are extensive delays at the beginning of collocation to provision
3 HVAC and power that is not expected be used until the end of the forecast
4 period—two years.

5

6 In Supra's mind, BellSouth creates the permitting issue on multiple fronts, and in
7 spite of their testimony here, does nothing to mitigate the problem, even going so
8 far as to hide the need by refusing to provide detailed price quotes, or plans and
9 specification.

10

11 Q. ON PAGES 17-18, MR. HENDRIX STATES THAT IT IS ESSENTIAL FOR
12 SAFETY REASONS THAT ONE CARRIER PERFORM WORK ON POWER
13 PLANT COMMON ELEMENTS. DO YOU DISAGREE WITH MR.
14 HENDRIX?

15

16 A. Yes, but I believe Mr. Hendrix's testimony was lifted verbatim from the
17 BellSouth answer to the FCC regarding Supra's grievance, identified as Exhibit
18 No. DAN-1. As such, I wonder whether Mr. Hendrix can speak authoritatively
19 on the subject. As I have already pointed out, NO CARRIER is working on
20 power plant common elements; Lucent or another "turf" vendor is doing all the
21 work; BellSouth is engineering and supervising. As such, it is much like an
22 architect, general contractor, subcontractor relationship in construction. While
23 the architect retains all credit and blame for the job, one seldom sees the architect

1 running a wheelbarrow of concrete to pour the foundation. The work is
2 contracted and subcontracted through a series of companies.

3

4 Supra would, in the offices cited in DAN-1, use Lucent as a contractor because
5 of our other business relationships. The Lucent switch division would make sure
6 the power group was responsive to our project schedule, and Supra would receive
7 the benefits of combining the switch, power and other equipment into a master
8 financing package and negotiate appropriate discounts. Instead of paying 100
9 percent of the collocation costs prior to being allowed to begin installing
10 equipment, the financed construction would be spread over time minimizing the
11 payments prior to turning up service and generating revenue.

12

13 So the real issue is not safety or confusion, it is merely our Lucent versus their
14 Lucent performing against BellSouth plans and specifications.

15

16 Q. ON PAGE 18, LINES 14-16, WITNESS HENDRIX STATES THAT
17 ALLOWING MULTIPLE CARRIERS TO PERFORM THE COMMON AREA
18 WORK WOULD NOT ONLY SIGNIFICANTLY INCREASE COSTS, e.g.,
19 DUPLICATION OF EFFORT IN PLANNING DESIGN AND CONSTRUCTION;
20 IT WOULD CREATE CHAOS IN THE CENTRAL OFFICE. MR. HENDRIX
21 CONTINUES ON PAGE 19, LINES 4-8, THAT PROTECTION AGAINST
22 NETWORK OUTAGES REQUIRES THAT BELL SOUTH PERFORM COMMON
23 WORK, ESPECIALLY POWER PLANT CONSTRUCTION OF COMMON
24 ELEMENTS. SUCH COMMON ELEMENTS INCLUDE ANY PORTION OF A

1 POWER PLANT SYSTEM THAT IS SHARED OR MAY BE SHARED BY
2 MULTIPLE USERS. DO YOU AGREE WITH MR. HENDRIX'S TESTIMONY?

3

4 A. No. Apparently Sprint disagrees with BellSouth as stated by Witness Cloz. Let
5 us face it; BellSouth is not going to do that work. Look at exhibit DAN-1, pages 21-
6 23. We are talking about who hires Lucent, who negotiates the price, who is Lucent
7 responsible to for performance and timeframe, and over what time period are the
8 monies paid out. All of these issues are fundamental in affecting the cost of entrance
9 for new, competitive carriers. All of these are fundamental methods of causing an
10 ALEC delay, and the delay is long enough the ALEC will go out of business. As I
11 stated earlier, an ILEC shall permit a collocating telecommunications carrier to
12 subcontract the construction of physical collocation arrangements with contractors
13 approved by the ILEC, provided, however, that the ILEC shall not unreasonably
14 withhold approval of contractors. (Rule 51.323(j), CFR 47)

15

16 In the case of the four Florida exemption docket offices documented in Exhibit
17 DAN-1, there is no common elements; Supra is being charged \$25,000 for a new AC
18 electrical entrance panel, unspecified equipment from Lucent, assumed to be
19 rectifiers, batteries, power distribution, more, potentially double charged for racking,
20 and cabling. I see no common element, Supra is being required to build BellSouth
21 an independent power plant, and BellSouth refused to let Supra subcontract the
22 work, by spreading fear that Lucent will cause network outages if subcontracted to
23 Supra, but will not if subcontracted to BellSouth. The suggestion is preposterous.
24 In any event, the issue is moot for power because this Commission has already ruled
25 on the Supra interconnection agreement in PSC-98-0604-FOF-TP and ordered that

1 there be no non recurring power charges in ALEC collocation space preparation
2 charges. BellSouth must comply with the Commission order.

3

4 Q. Does this conclude your rebuttal testimony?

5

6 A. Yes.

7

8

1 BY MR. BUECHELE:

2 Q Do you have a summary that you can give us of
3 your testimony?

4 A Yes, thank you. Commissioners, within the State
5 of Florida there are inconsistencies in the way collocation
6 space preparation charges are assessed to collocators. On
7 the east coast, BellSouth practices have made local building
8 permits a major cause of delay beyond the 90 days deemed
9 reasonable by this Commission.

10 On the west coast, Sprint tells us there is
11 nothing in their space preparation that requires a local
12 building permit to proceed. Such construction is performed
13 when the central office is built or extended.

14 On the west coast of Florida, nonrecurring
15 charges for identical collocations in two different offices
16 cost the same because the ALEC is considered to be
17 purchasing a tariff service. It is relatively easy for an
18 ALEC to predict what the collocation costs will be in a
19 given office prior to filing an application.

20 On the east coast with BellSouth, each
21 collocation is considered to be a custom special job with
22 large variations in nonrecurring costs to collocate
23 identical equipment. It is impossible for the ALEC to
24 predict the nonrecurring costs of collocation and thus
25 determine if they have a viable business case to proceed

1 with collocation.

2 Contrary to this Commission's prior ruling,
3 BellSouth makes all power upgrades a nonrecurring charge
4 even though they seek to keep the upgrades and offer no
5 reduction in the Commission ordered recurring rate.
6 Currently, Sprint holds central office site visit meetings
7 with ALECs and their vendors during the 30-day application
8 response interval to make sure that the collocation
9 quotation delivered at the end of 30 days is accurate and
10 meets both needs of the ALEC and the ILEC. Sprint allows
11 the ALEC to walk through the central office with their
12 selected collocation vendors, equipment vendors.

13 With BellSouth there is no joint engineering
14 meetings held during the application response phase. And
15 site visits are denied until after the ALEC accepts a
16 non-detailed three line item quotation of collocation costs
17 and then pays 50 percent of those funds up front.

18 Surely this concern alone raises the issue of
19 cooperation. With respect to quotations, one ILEC presents
20 an ALEC a detailed price quotation complete with drawings of
21 the collocation space that details the point of demarcation.
22 BellSouth presents a three line item quotation of
23 collocation charges that in our experience have included
24 double charges, nonrecurring charges previously ordered
25 inappropriate by this Commission, and outright errors, yet

1 there is no official mechanism for an ALEC to obtain a
2 detailed cost breakdown.

3 Without supporting cost detail, a collocation
4 price quote can easily become a barrier to entry. With the
5 supporting cost detail an ALEC can identify incorrect
6 charges and detect design errors or misunderstandings.
7 Identifying incorrect charges reduces the cost of providing
8 service that is passed directly to the consumer helping to
9 differentiate the ALEC's service offering. It also
10 decreases an ALEC's time to market, which again reduces
11 costs and helps eliminate customer dissatisfaction due to
12 delays in providing new service.

13 BellSouth has offered to share invoices with the
14 ALEC as part of the true-up process. What Supra is asking
15 is for detailed cost information prior to submitting
16 a firm order confirmation and prior to paying the 50 percent
17 estimated cost, and prior to waiting 90 plus days for the
18 work to be finished perhaps incorrectly before the process
19 begins.

20 Supra Telecom advocates detailed tariffs with
21 prices that can be challenged at the Commission, together
22 with a right to have an ILEC certified contractor perform
23 any or all of the collocation work.

24 Sprint has filed testimony in this docket to
25 support the right of ALECs to subcontract ILEC certified

1 contractors to build their collocation arrangements.
2 BellSouth is asking Supra to sign a 706 compliant amendment
3 to our interconnection agreement, agreeing that a Supra's
4 certified vendor will install Supra's common blocks on
5 BellSouth's main distribution frame, including all
6 associated cabling.

7 Simultaneously, they are testifying in this
8 docket that an ALEC can only subcontract work within their
9 equipment footprint. That work done outside the ALEC
10 equipment footprint, albeit on the ALEC side of the
11 demarcation, must be done under BellSouth's supervision by
12 contractors hired by BellSouth and paid for by Supra.

13 When the engineering supervision, general labor,
14 and project management fees from BellSouth for this work
15 represent less than 2 percent of the total cost, for
16 example, of power infrastructure, it is ludicrous to insist
17 that allowing Supra to contract Lucent to supply the
18 remaining 98 percent of the equipment and installation
19 instead of BellSouth contracting Lucent will in some
20 unexplainable way reduce reliability or safety.

21 At issue here is who can control the pace and
22 hold the contractor responsible for the collocation job, the
23 ILEC or the ALEC. What is at issue here is the up-front
24 payment by the ALEC of space preparation fees that often
25 exceed the staggering sum of one quarter of a million

1 dollars per office, 50 percent paid up front in advance
2 before knowing whether the task is needed or is indeed an
3 error or misunderstanding.

4 Supra believes that it is time this Commission
5 establishes additional guidelines to govern the collocation
6 process statewide and to relieve the burden of arbitrary
7 cost recovery that exists when an ILEC can consider all
8 nonrecurring cost recovery to be assessed on an individual
9 case basis. We have seen in Texas and in other states that
10 the problems an ALEC faces collocating with BellSouth have
11 been eliminated in other states.

12 This is a natural time for that change to be put
13 in place. FCC Order 99-48 has changed the nature of
14 collocation and raised new issues that need interpretation.
15 In addition to the existing disparities between ILEC
16 collocation rules, there are now new collocation categories.
17 One ILEC views cageless collocation as being just like
18 virtual collocation, but the ALEC maintains the equipment.
19 The same tariff, same prices. Another ILEC views cageless
20 collocation rules as more restrictive than caged
21 collocation.

22 We believe that the reduction of the number of
23 collocation items that are charged on an individual case
24 basis is essential. The filing of a detailed ILEC
25 collocation tariff and provision for the ALEC to accept the

1 tariff rate or subcontract the work would meet this need.
2 We ask you to follow the lead of the Texas Commission in
3 this regard. We ask the Commission to create guidelines to
4 avoid delays, provide clarifications of the new categories,
5 and resolve some of our existing problems and
6 inconsistencies. Thank you.

7 MR. BUECHELE: We offer him up for cross
8 examination.

9 COMMISSIONER DEASON: BellSouth.

10 MS. WHITE: Thank you.

11 CROSS EXAMINATION

12 BY MS. WHITE:

13 Q Good evening, Mr. Nilson. Nancy White for
14 BellSouth Telecommunications. As you know, we are in the
15 unenviable position of standing between everybody and the
16 door, so I have attempted to cut down my cross to hopefully
17 be concise and succinct.

18 A Thank you, Ms. White.

19 Q In your testimony I think you talk about that the
20 ALEC should have the option of providing three independent
21 estimates, and that they should participate in the price
22 quote, is that correct?

23 A That is correct.

24 Q How long do you believe it would take to get
25 three independent estimates?

1 A I think three independent estimates take the same
2 time that one independent estimate takes.

3 Q And how long would that be?

4 A That would depend on the nature of the work.

5 Q Who would pay for obtaining the independent
6 estimates?

7 A Pay what charges, ma'am?

8 Q Well, not everybody says we will do an estimate
9 for free. You might get charged for coming up with the
10 estimate by the contractor. If the contractor charges an
11 ALEC for giving them an estimate, who should pay that
12 charge? I'm sorry, let me strike that and try again.

13 If you are going to get -- if you want us to get
14 three independent estimates, and the contractor has a charge
15 for giving the estimate, who should pay that charge?

16 A I have not considered the fact that vendors
17 wishing to do business would ask for a price to provide a
18 quotation. The suggestion of three independent price quotes
19 comes from past proceedings here where we have seen that it
20 is BellSouth's own internal policy to do that for purchases
21 above \$2,500.

22 Q Well, the proceeding that you were talking about
23 where the three independent estimates was mentioned was in
24 an AT&T/MCI arbitration, is that correct?

25 A No, I believe it was one of your policy manuals.

1 Q You said that it was shown in past proceedings in
2 this Commission?

3 A Yes, ma'am.

4 Q Were you talking about an order or a document
5 that was provided?

6 A It was in information introduced in evidence in
7 Docket 98800.

8 Q Do you have a copy of that with you?

9 A I do not.

10 Q Who would choose the contractors from whom the
11 estimates are to be obtained?

12 A I'm sorry, could you repeat that.

13 Q Who would choose the contractors from whom the
14 estimates would be obtained?

15 A Well, the contract would be let on a low-price
16 basis, I would assume.

17 Q Maybe we are going in circles. Let's go to Page
18 12 of your direct testimony. On Lines 19 and 20 you say the
19 Commission should require the ILECs, if requested by the
20 ALEC, to provide three independent estimates, correct?

21 A Yes, ma'am.

22 Q And I would assume that you get those three
23 independent estimates from three different contractors,
24 correct?

25 A Yes, ma'am.

1 Q Okay. Who would choose what contractors you
2 would go to to get those estimates, BellSouth or the ALEC?

3 A I would suggest that that contract would be --
4 that contractor would be selected on the basis of whoever
5 presented the low price quote. That is conventional.

6 Q So are you saying don't go out and seek
7 independent estimates, you are saying go out and bid the
8 collocation job, is that what you are saying?

9 A That is correct.

10 Q Okay. So you are not saying go to a contractor
11 and say, contractor, here is the collocation arrangement,
12 give me a price. You are not doing that, right? You are
13 saying, contractors all over the world, here is the
14 collocation arrangement, give us a bid on it.

15 MR. BUECHELE: I object to that. Obviously it's
16 a list of BellSouth certified contractors.

17 MS. WHITE: Well, he hasn't said that, Mr.
18 Buechele. I mean, I think it is a simple question.

19 BY MS. WHITE:

20 Q Where do the contractors come from, who chooses
21 the contractors?

22 A Ms. White, BellSouth chooses the contractors.
23 You don't allow anybody but certified contractors to do work
24 for yourself or for an ALEC.

25 Q Well, fine. So, BellSouth would go to its list

1 of certified contractors and say all of you may bid on this
2 collocation arrangement, is that what you have in mind by
3 that statement?

4 A That is correct.

5 Q Okay. Would the time taken to obtain those bids
6 count against the response or installation intervals for
7 collocation?

8 A Yes.

9 Q Okay. Now, you also state in your testimony that
10 the ALECs should participate in the price quote, is that
11 correct?

12 A Yes, ma'am.

13 Q And that would include team meetings, site
14 visits, and agreement on the plan prior to quotation, is
15 that correct?

16 A Yes. I am suggesting a process similar to what
17 Sprint already conducts here in the State of Florida where
18 after the first ten days an answer as to whether space is
19 available is presented to the ALEC and a meeting is
20 scheduled at the central office facility to conduct a team
21 meeting.

22 Q Can you tell me whether Sprint bids out the
23 process as you have suggested ILECs should do?

24 A No, ma'am, Sprint collocation charges are
25 presented in a state approved tariff.

1 Q Okay. So the bidding process you are suggesting
2 would only take place if there was no tariff?

3 A That is correct.

4 Q Okay. Would these team meetings and site visits
5 count towards the ILEC's response and provisioning
6 intervals? In other words, would the response or
7 provisioning interval be tolled while these team meetings
8 and site visits were going on?

9 A You have confused me. The intent of the team
10 meeting is to get both sides, the ALEC and the ILEC together
11 to make sure that there is no misunderstandings in the
12 application so that when the quote is rendered at the 30-day
13 interval then it is actually a usable quote that represents
14 the intention of both parties.

15 Q Okay. And what I'm saying is during the 30 days
16 that you say should be allowed for the response to the
17 ALEC's application, the time to do the team meetings, the
18 site visits, that would all be contained within that 30
19 days, correct?

20 A Yes, ma'am.

21 Q Okay. Now, you state that other than acts of God
22 there should be no extension of the provisioning interval
23 for collocation, is that correct?

24 A My intention there is that there would be no
25 extension of the collocation interval without an application

1 to this Commission.

2 Q Okay. What if there is an act of God, would the
3 ILEC still have to come to the Commission for a waiver of
4 the provisioning interval?

5 A No, that's not what I said.

6 Q All right. I'm sorry, could you repeat what you
7 said?

8 A That other than acts of God there should not be
9 extensions of the collocation interval.

10 Q All right, I apologize.

11 A I meant that unilaterally by the ILEC.

12 Q Can you give me some examples of an act of God?

13 A Hurricane Andrew.

14 Q What about Hurricane Irene?

15 A I'm not familiar with Hurricane Irene as I sit
16 here to answer that question.

17 Q So, if I am understanding what you are saying
18 correctly, not all hurricanes would count as an act of God?

19 A I'm saying I'm not familiar with Hurricane Irene.

20 MR. BUECHELE: She is arguing with the witness, I
21 object.

22 MS. WHITE: I'm just trying to understand what
23 the witness is saying. Let me try this question. I will
24 withdraw that.

25 BY MS. WHITE:

1 Q Would all hurricanes count as acts of God?

2 A Yes.

3 Q And I want to be fair and reasonable here, so let
4 me -- if you're talking about a central office that is in
5 Dade County, and a hurricane goes across Dade County, no
6 matter what name it is, that hurricane would count as an act
7 of God for that office, right?

8 A Yes.

9 Q Thank you. What if there is a strike at a
10 contractor's -- the contractor that has been chosen to do
11 the work, what if there is a strike by the employees of that
12 contractor, would that toll the provisioning interval?

13 A If that strike held up the delivery of crucial
14 equipment, I can see that it would be.

15 Q Is it your position that equipment in an ILEC
16 central office that is providing service should be removed
17 in order to allow collocation?

18 A Could you repeat that one more time?

19 Q Yes. Is it your position that equipment that is
20 in an ILEC's central office that is providing service should
21 be removed in order to allow for collocation?

22 A The equipment is providing service?

23 Q Yes.

24 A No.

25 Q In your rebuttal testimony you stated that you

1 met with local authorities in Miami to discuss permitting
2 issues, is that correct?

3 A That is correct.

4 Q And on Page 19 of your rebuttal testimony, I
5 think it is Lines 15 through 18 -- well, I'm totally wrong
6 on that. Give me just a minute. I'm sorry, it's Page 21 of
7 your rebuttal testimony, and it is Lines 15 through 18.

8 A Yes, ma'am.

9 Q You have a sentence in there with quotation marks
10 around it. Is that a quote from someone, or is that just
11 the general sense of the discussion?

12 A That is a quote from the Chief Fire Marshal of
13 the City of Miami.

14 Q Okay. And can you tell me when this quote was
15 made, when the statement was made?

16 A If I had access to my computer at work I
17 certainly could.

18 Q Was it within the last year?

19 A It has definitely been within the last six
20 months.

21 Q Okay. Was it in written context or was it an
22 oral conversation?

23 A It was an oral conversation.

24 Q And who were the parties to the conversation?

25 A Again, to give specific names of the individual

1 fire inspectors, I would have to be back in my office. But
2 it was myself, Angel Liero (phonetic) of Supra's legal
3 department, and a lieutenant and one other officer of the
4 Miami Police Department. I'm sorry, Miami Fire Department.

5 Q The quote states that, quote, we do not require
6 office buildings to construct fire-rated walls. Is a
7 central office an office building?

8 A I have seen it used for such.

9 Q Is a central office an office building in terms
10 of the fire code or the building code?

11 A No.

12 MS. WHITE: I don't have any further questions.

13 Thank you.

14 CROSS EXAMINATION

15 BY MS. CASWELL:

16 Q Mr. Nilson, I am Kim Caswell with GTE, and I
17 think I just have one question. Is it your position that
18 all changes to existing collocation space should be
19 completed in ten days?

20 A All changes to existing?

21 Q Yes, augments, changes. And I think I can refer
22 you to your direct testimony.

23 A I would appreciate that.

24 Q Page 7. Down at the bottom there, Lines 19 and
25 20, the question is posed, "In what time frame should ILECs

1 be required to respond to an ALEC's request?" Maybe I'm
2 misunderstanding. Are you talking about the response
3 interval is ten days?

4 A That is correct.

5 MS. CASWELL: Okay. That's all I've got. Thank
6 you.

7 COMMISSIONER DEASON: Staff.

8 MS. KEATING: Staff has no questions.

9 COMMISSIONER DEASON: Commissioners. Redirect.

10 MR. BUECHELE: Nothing, thank you.

11 COMMISSIONER DEASON: No redirect?

12 MR. BUECHELE: No redirect.

13 COMMISSIONER DEASON: You may be excused. We are
14 going to adjourn for the evening and we will reconvene
15 tomorrow morning at 9:00 a.m. Not 9:30, 9:00 o'clock.

16 MS. WHITE: Not 8:30?

17 COMMISSIONER DEASON: Not 8:30, not 9:30,
18 9:00 o'clock.

19 MS. WHITE: It's a test. Isn't it a test?

20 COMMISSIONER DEASON: That's right.

21 MR. CARVER: Could I ask one question about
22 tomorrow? Of the three witnesses that we have left, are we
23 going back to the order in the prehearing order, in other
24 words, Gillan, Strow and Mills?

25 COMMISSIONER DEASON: That would be my intention.

1 MR. CARVER: I just wanted to confirm.

2 COMMISSIONER DEASON: That's fine.

3 MR. WAHLEN: Commissioner, as I indicated on the
4 break, I'm not going to be able to be here tomorrow, but if
5 you will excuse me for the rest of the hearing I would
6 appreciate it.

7 COMMISSIONER DEASON: You are certainly excused.

8 MR. WAHLEN: Thank you.

9 MS. WHITE: I would like to be excused, as well.
10 I will be leaving it in the capable hands of Mr. Carver and
11 Mr. Edenfield.

12 COMMISSIONER DEASON: Likewise, you are excused,
13 also.

14 MS. WHITE: Thank you.

15 (Transcript continues in sequence with Volume 7)

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1 STATE OF FLORIDA)
2 COUNTY OF LEON)

CERTIFICATE OF REPORTER

3 I, JANE FAUROT, RPR, Chief, FPSC Bureau of
4 Reporting FPSC Commission Reporter,

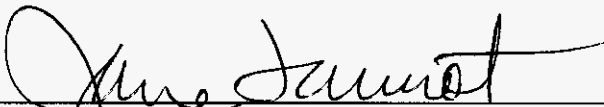
5 DO HEREBY CERTIFY that the hearing in Docket
6 No. 991834-TP and 990321-TP was heard by the Florida
Public Service Commission at the time and place herein
stated; it is further

7 CERTIFIED that I stenographically reported
8 the said proceedings; that the same has been
9 transcribed by me; and that this transcript, Volume
6, pages 823 through 1013, constitutes a true
10 transcription of my notes of said proceedings
and the insertion of the prescribed prefilled
testimony of the witnesses.

11 DATED this 18th day of January, 2000.

12

13



JANE FAUROT, RPR
FPSC Division of Records & Reporting
Chief, Bureau of Reporting

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