

## FCC Adopts New Rules Giving Competitors Broader Access to Facilities

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**WASHINGTON, D.C. - December 12, 2000** - The FCC has recently adopted new regulations setting national standards for the provisioning of collocation requests by competing carriers. The national standards are meant to apply where state regulatory commissions have failed to implement their own collocation standards. Deployment of Wireline Services Offering Advanced Telecommunications Capability, Order on Reconsideration, FCC 00-297 (released Aug 10, 2000, Collocation Reconsideration Order). In a collocation arrangement, a competitor leases space at an incumbent local exchange carrier's ("ILEC") premises for its equipment. The FCC's collocation rules are meant to ensure that multiple, competing providers have access to incumbent facilities necessary to provide voice and advanced data telecommunications services. The FCC views facilities access by competitors as essential to promote competition and thereby bring more choices, lower prices, and increased innovation to consumers.

In its Collocation Reconsideration Order, the FCC adopted new regulations to ensure that competitors can obtain collocation in a timely and efficient manner. The FCC's goal in the Collocation Reconsideration Order was to ensure that ILECs provide physical collocation on terms and conditions that are just, reasonable, and nondiscriminatory in all states, rather than just those states that have established their own application processing and provisioning standards for physical collocation. Accordingly, the FCC explained that the national standards for processing physical collocation applications and provisioning physical collocation arrangements shall apply except to the extent a state commission has affirmatively set alternative standards.

Specifically, the new collocation regulations provide that where neither the state nor the parties to an interconnection agreement set a different standard, an ILEC is required to inform the requesting telecommunications carrier whether a collocation application has been accepted or denied within ten calendar days after receiving the application. In addition, an ILEC is required to provide physical collocation, including cageless collocation, no later than 90 calendar days after receiving an acceptable collocation request (except where a state sets its own standard or a requesting carrier and an ILEC agree to an alternate standard). To the extent physical collocation space is exhausted in a particular ILEC structure, the Order requires an ILEC to permit a competing ILEC to construct adjacent structures on land owned or controlled by the ILEC.

To effectuate the standards set forth in the Collocation Reconsideration Order, the FCC required ILECs to file with the state commission any amendments necessary to bring their physical collocation tariffs setting forth the rates, terms, and conditions under which the ILEC provides physical collocation, or their Statements of Generally Available Terms ("SGAT") into compliance with the national standards. These amendments were due by November 9, 2000, with the FCC's new national collocation provisioning standards scheduled to become effective by January 8, 2001. It is important to note, however, that an ILEC is not required to file such SGAT or tariff amendments in states that have affirmatively established their own application processing and provisioning standards for physical collocation on either an interim or permanent basis.

In the aftermath of the FCC's Order, several large ILECs -- including: SBC Communications Inc., Qwest Corporation, and Verizon Communications -- have requested that the FCC grant them waivers from certain of the new requirements.

Specifically, each of the ILECs have requested a waiver of the new 90-day provisioning interval set by the FCC. The FCC granted the waivers finding that such action would give state

commissions additional time to evaluate whether different intervals are more appropriate in their states. At the same time, however, the FCC stressed that it would be unfair to competing providers to allow ILECs to continue their poor collocation provisioning performance which the FCC found had "substantially delayed many competitive LECs' efforts to obtain physical collocation and has impeded competitive LECs' ability to provide facilities-based service in much of the country." Therefore, the FCC conditioned the waivers on the ILECs' commitment to meet reasonable alternative provisioning intervals. To be deemed reasonable, Verizon's, SBC's, and Qwest's commitments must include application processing and provisioning deadlines for physical collocation that are significantly shorter than those under the ILECs' current unacceptable practice.

Upon review, the FCC approved the alternative provisioning interval proposals submitted by the ILECs noting that proposed application processing and provisioning intervals generally are significantly shorter than those prevalent in the industry prior to the adoption of the FCC's national standards. The FCC found that the commitments made by the ILECs will provide meaningful relief to many competitive LECs in the interim, without forcing Verizon, Qwest, or SBC to implement the national standards prior to any federal or state consideration of their arguments that the current standards are unreasonably short. Of course, the FCC made clear that to the extent any state has affirmatively specified different application processing or provisioning intervals for operations within that state, the ILECs are obliged to implement the alternative intervals in that state.

Although, for now, the FCC has liberally granted the requested waivers, there is no indication that FCC will relent in its continuing efforts to ensure that competitive providers are given full and expeditious access to ILEC facilities through collocation or otherwise. Indeed, the FCC explicitly noted with emphasis that the granting of the waivers in no way diminishes their determination that national collocation provisioning standards are essential in the absence the adoption of affirmative standards on a state level.

The on-going efforts by the FCC to implement collocation and other facilities access standards bears close scrutiny in the near future. Already, the FCC has issued additional Notices of Proposed Rulemaking seeking comments on collocation-related issues important to local competition, including issues relating to what equipment an incumbent must allow a competitive LEC to physically collocate, and how physical collocation space should be assigned (Second Further Notice of Proposed Rulemaking in CC Docket No. 98-147 ); and whether the Commission's local competition rules should be modified or clarified, particularly those applying to the transport, loop, and subloop elements, in light of the deployment of new network architectures by incumbent LECs (see Fifth Further Notice of Proposed Rulemaking in CC Docket No. 96-98).

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