

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
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)	
Deployment of Wireline Services Offering)	CC Docket No. 98-147
Advanced Telecommunications Capability)	
)	
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)	

**OPPOSITION OF THE ASSOCIATION FOR
LOCAL TELECOMMUNICATIONS SERVICES**

The Association for Local Telecommunications Services (“ALTS”), pursuant to the Public Notice (“Notice”) in the above captioned proceeding, released October 19, 2000, hereby files its opposition to SBC Communications Inc.’s (“SBC’s”) and Qwest Corporation’s (“Qwest’s”) petitions for conditional waiver.

Both SBC and Qwest¹ seek waivers of the 90-day provisioning interval adopted in the Commission’s *Collocation Recon Order*.² In the absence of a contrary interval established by a state commission or negotiated by the parties, the Commission ruled that ILECs must provide collocation to a requesting CLEC within the national 90-day interval.³ The Commission also required ILECs to amend their state tariffs or Statements of Generally Available Terms and Conditions (“SGATs”) to bring them “into compliance with the national standards,” stating that an ILEC may concurrently file “its request, if

¹ The Commission did not specifically seek comment here on BellSouth’s Petition for Clarification or in the Alternative for a Waiver; however, the arguments herein apply to that petition as well as Verizon’s Petition for Conditional Waiver.

² In the Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, *Order on Reconsideration and Second Further Notice of Proposed Rulemaking and Fifth Further Notice of Proposed Rulemaking*, CC Docket Nos. 98-147, 96-98 (rel. August 10, 2000) (*Collocation Recon Order*).

any, that the state set intervals longer than the national standards as well as all supporting information.”⁴ Furthermore, the Commission required ILECs to offer the 90-day interval to CLECs when negotiating a future interconnection agreement or amending an existing agreement with a change-of-law provision, except where a state has set its own interval.⁵

The Commission should not succumb to ILEC regulatory posturing. Qwest, for one, takes great care in claiming that it did not commit to a 90-day interval as the Commission noted in its order; however, Qwest’s protests ring hollow.⁶ Qwest announced in a press release that it “will now offer collocation space within 90 days of Qwest's receipt of a CLEC's request for collocation provided that sufficient space is available.”⁷ There were no conditions named in that release, but Qwest now seeks to qualify that commitment by stating that it “cannot provision space within 90 days in many circumstances,” and providing a litany of additional conditions.⁸ Qwest heralded its new policy as a “landmark initiative” to “give competitors faster, easier access to customers,”⁹ but the Commission should recognize it for what it is—more ILEC stalling and attempts to hinder competition.

The ILECs continue to argue vehemently that they cannot meet the 90-day interval; however, this alone does not provide “good cause” for granting their waivers. The Commission made quite clear in its *Collocation Recon Order* that because the 90-day interval may not be achievable through current ILEC processes, “many incumbent

³ *Id.* ¶ 33.

⁴ *Id.* ¶ 36.

⁵ *Id.* ¶ 33-34.

⁶ Qwest Petition for Clarification or, in the Alternative, Reconsideration at 2.

⁷ See Qwest Communications Announces Landmark Initiative To Open Local Communications Markets (rel. Sept. 19, 2000), <http://www.qwest.com/about/media/story.asp?id=328>.

⁸ Qwest Petition for Clarification or, in the Alternative, Reconsideration at 2.

ILECs will have to improve their collocation provisioning performance significantly in order to meet this interval.”¹⁰ Thus, it is not sufficient for the petitioning ILECs to explain their current processes and flatly announce that the 90-day interval is not achievable. The Commission has already reviewed such data and arguments and “select[ed] this provisioning interval based on a balancing of competing considerations.”¹¹ Furthermore, grant of these waivers is not necessary because the Commission’s order provides the means for ILECs to obtain relief of the national 90-day interval either on a case-by-case basis or across the board by presenting proper evidence to a state commission.¹² Thus, there is no justification for waiving the requirement while the Commission considers the ILECs’ Petitions for Reconsideration.

The ILECs argue that they should not be required to amend their SGATs where a state commission has merely allowed the SGAT to go into effect but has not affirmatively established a provisioning interval in that state. There is no basis for this argument because it is clear that the Commission intended for the 90-day interval to take effect unless a state commission has affirmatively established a contrary interval. There would have been no reason for the Commission to include the language in paragraph 36 if it had not intended to impact those SGATs that went into effect absent an affirmative ruling by the state commission. Moreover, if the Commission intended to grandfather all existing or approved intervals, it would not have required ILECs to offer CLECs the national interval as an amendment to interconnection agreements with change-of-law provisions and through amendments to their existing collocation tariffs. While an SGAT may

⁹ See Qwest Communications Announces Landmark Initiative To Open Local Communications Markets (rel. Sept. 19, 2000), <http://www.qwest.com/about/media/story.asp?id=328>.

¹⁰ *Id.* ¶ 28.

¹¹ *Id.* ¶ 27.

establish lawful rates and terms by which an ILEC operates, it in no way establishes state or federal policy law. SGATs must be amended to conform with changes in the law, and the Commission's adoption of a the 90-day national interval meets the criteria even though it is a default rule that applies only where no state law has been established. Therefore, the Commission should not grant the petitions for waiver and should enforce its requirement that ILECs amend their tariffs and SGATs to conform to the 90-day interval within 30 days of the effective date of the *Collocation Recon Order*, unless a state commission affirmatively "specifies" other provisioning intervals.¹³

ALTS also opposes SBC's request for "waiver" of the 90-day interval to institute staggered intervals based on the number of collocation requests submitted by an individual carrier.¹⁴ SBC couches its request as a waiver; however, the remedy it seeks clearly goes beyond that of a waiver and should not be considered through this venue. Moreover, SBC's claim that its proposal serves the interests of the CLECs seeking collocation is nothing but self-serving.¹⁵ What would adequately serve the CLECs' interests is for SBC to comply with the 90-day interval rather than continually seeking to delay CLEC collocation requests.

The Commission specifically addressed SBC's concern that it may be inundated with a large number of collocation requests and thus may be unable to fulfill those requests within the established intervals, noting that such cases may be appropriate for a state commission to review and extend the deadlines.¹⁶ The Commission further stated that extension of the application processing deadline would not automatically extend the

¹² *Id.* ¶ 33.

¹³ *Collocation Recon Order* ¶ 36.

¹⁴ SBC Petition for Conditional Waiver at 2.

¹⁵ *Id.* at 4.

90-day provisioning deadline and “an incumbent LEC must complete all technically feasible collocation arrangements within 90 calendar days, unless the state sets or the parties have agreed to a different deadline.”¹⁷ There is no reason to assume that the mere number of applications that an individual CLEC submits will cause provisioning of those orders to be technically *infeasible*. Under SBC’s proposal, Carrier A and B who each submitted five applications within a 5-day period should both receive timely provisioning within 90 days. On the other hand, if during another 5-day period Carrier A submitted 10 applications and Carrier B submitted none, yet the total number of applications submitted was the same as the previous 5-day period, Carrier A would be penalized by having *all 10* of its orders delayed. This result is unwarranted, and there is no doubt that SBC’s proposal is intended to discourage CLECs from submitting multiple orders for collocation as it is not rationally related to whether provisioning of those orders is technically feasible. As the Commission explained in its order, where an ILEC receives an extraordinary number of applications, it may submit that information to the state commission and request an extension of the provisioning deadline.¹⁸ Thus, there is no justification for granting SBC’s request.

¹⁶ *Collocation Recon Order* ¶ 37.

¹⁷ *Id.*

¹⁸ *Collocation Recon Order* ¶ 37.

CONCLUSION

For the foregoing reasons, the Commission should deny Qwest's and SBC's Petitions for Conditional Waiver.

Respectfully Submitted,

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