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

In the Matter of Local Exchange Carriers' Rates, Terms, and Conditions for Expanded Interconnection Through Virtual Collocation for Special Access and Switched Transport	)	CC Docket No. 94-97 Phase II

DIRECT CASE

BellSouth Telecommunications, Inc. ("BellSouth") hereby files its direct case in response to the Commission's order.[1] This aspect of the continuing investigation of LEC collocation tariffs seeks information concerning direct cost components of the rates for virtual collocation service and inquires into the reasonableness of LEC rate structures and provisioning terms and conditions.[2] BellSouth's response to specific cost and rate queries, denominated "information requirement(s)," is attached as Exhibit 1 to this filing. Completed Direct Cost Information Charts are contained at Exhibit 2. Annual cost factors are contained in Exhibits 3A, 3B and 3C.

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[1] Order Designating Issues for Investigation, CC Docket No. 94-97, Phase II, DA 95-2001, released September 19, 1995 (hereinafter "Designation Order").

[2] Phase I of this proceeding elicited further information regarding overhead loadings and, in particular, any differences in loading factors applied to virtual collocation and ostensibly "comparable" LEC services. Order Designating Issues for Investigation, CC Docket No. 94-97, 10 FCC Rcd 3927 (1995). In compliance with this order, BellSouth filed its direct case on March 21, 1995, and a reply to oppositions on April 11, 1995.

The questions propounded in Phase II of this undertaking reflect the same misconceptions which distorted the comparative analysis of LEC switched/special access services and terms of collocation in Phase I. That is, the Commission continues to insist on absolute parity of rate levels and rate structures between the interconnection arrangements offered to competitive access providers and the switched/special access services provided to LEC end user customers. The continuing exhortation for LECs to identify and justify all differences amply demonstrates the Common Carrier Bureau's predilection to view any variable as presumptively unreasonable and sustainable only through an extraordinary level of proof. Some examples will reveal the overly simplistic and flawed nature of this approach.

One item BellSouth and other LECs must address concerns differences in cost recovery method between maintenance and repair expenses attributable to interconnector equipment and similar expenses incurred for equipment used to provision DS1 and DS3 services.[3] The Commission correctly observes that BellSouth and other LECs generally develop direct maintenance costs through application of an annual cost factor (ACF) to direct investment. From this premise the Commission infers that a similar methodology has been employed to derive maintenance costs for collocated equipment. LECs are asked to explain their procedure for

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[3] Designation Order, para. 30(b).

calculating direct investment in such equipment where they have purchased or leased it from the collocator for a nominal amount. Any differences between cost recovery methods employed for collocated equipment and LEC services must likewise be identified and explained.

The Commission errs in its primary assumption that like methods can be (or should be) applied to recover costs associated with the maintenance of BellSouth equipment and equipment employed in a virtual collocation arrangement. Since BellSouth has no direct investment in collocated equipment, it must recover these maintenance costs through a time and materials rate. In addition, maintenance costs of BellSouth equipment are recovered through the averaged local channel rate.[4] By contrast, no rate averaging is employed for collocated equipment on the premise that one interconnector should not be assessed a rate predicated upon the maintenance/repair history of equipment chosen by a second interconnector.

Questions directed to the cost recovery of cable installation charges provide yet another example of the futility in attempting to compare that which is not readily comparable.[5] Again LECs are required to explain (i.e., justify) any differences in the manner in which cable

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[4] Maintenance cost is calculated by applying a maintenance annual cost factor to the investment for the individual service.

[5] Id. at 34(a).

installation costs are recovered through virtual collocation rates _vis a vis_ rates for DS1 and DS3 services. In fact, different cost recovery methods are employed, because costs attributable to cable installation are not incurred in the same manner for collocated and LEC services. To provision any virtual collocation arrangement, cable dedicated to the interconnector's use must be pulled from a serving manhole through the central office vault to the collocator's equipment. Thus, for any virtual collocation arrangement, costs are uniquely incurred in furnishing cabling, support structures, etc. By contrast, a cable addition is not required each time BellSouth establishes a new DS1 or DS3 circuit. Instead, the Company makes a projection of total service demand and provisions its central offices accordingly. Cabling and associated costs are determined in the aggregate and spread across all services employing the facilities for which costs are incurred.

The disparities noted above make any legitimate comparison of cost recovery methods and rate structures between LEC and collocator services problematic at best. The Commission's effort to achieve conformity between these offerings makes the burden of justification imposed on BellSouth and other LECs not merely difficult, but impossible of attainment.[6] Nowhere is this more evident

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[6] In so doing, the Commission exceeds its statutory authority. As courts have made clear, the Commission may not lawfully deny carriers cost recovery by creating

than in the section related to training charges, where justification is demanded both from LECs who employ a system based upon actual expenditures incurred and from LECs who recover training expenses through averaged rates.[7] The Commission is apparently unwilling to acknowledge the reasonableness of either approach, notwithstanding its own mandate for LECs to file "specific rates or time and materials charges."[8]

The "just and reasonable" standard of the Communications Act does not require a forced equivalence between rates, terms and conditions of collocator-provided services on the one hand and LEC-provided services on the other. Service comparisons are not of themselves antithetical to a just result and can be useful where common elements are identified. Nevertheless, a virtual collocation tariff (like any other tariff), must ultimately be judged on its own merits, i.e., the filing carrier's demonstration that it has accurately identified direct and shared costs, adopted appropriate rate structures for cost recovery, developed reasonable terms and conditions of service, etc. BellSouth's virtual collocation offering

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impossible burdens of proof. See, e.g., Southwestern Bell Tel. Co. v. FCC, 28 F.3d 165, 172 (D.C. Cir. 1994).

7 Id. at para. 70 (a) and (b).

8 In the Matter of Ameritech Operating Companies Revisions to Tariff F.C.C. No. 2 et al., CC Docket No. 94-97, DA 94-1421, Order, released December 9, 1994, para. 47.

easily meets this standard.

Virtual collocation is essentially a wholesale offering of a few discrete components of BellSouth's end-to-end DS1/DS3 retail offerings. There is no statutory requirement nor economic theory which dictates that BellSouth's wholesale and retail services must reflect identical rates or provisioning terms.[9] To constrain BellSouth in this manner will foster an artificial competitive climate and create distortions in the very exchange access market the Commission hopes to nurture. At least, this will be the result if BellSouth's competitors simultaneously enjoy unlimited discretion in their selection of cost recovery mechanisms, levels of general overhead assignment, service provisioning terms, etc.[10]

CONCLUSION

Notwithstanding a commonality of some elements, collocation arrangments differ substantially from LEC end-to-end tariffed offerings. The Commission's effort to

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[9] Indeed, the collocator will take non-specific costs of a competitive offering and spread these across all retail services. There is no reason why BellSouth should be denied this flexibility.

[10] The limitations the Commission seeks to impose on BellSouth marketing decisions may be likened to requiring an automobile dealership which also sells automobile parts to assign the same level of overhead, employ the same cost recovery method and charge the same price for every tire it sells, without regard to whether the tire is sold individually or as part of a fully equipped automobile. Be they applied to automobiles or telecommunications, such measures will stifle initiative and depress the growth of competition.

impose identical cost and rate structures is highly artificial and will lead to distortion of the market for competitive exchange access services. Any investigation must therefore focus on the intrinsic characteristics of virtual collocation arrangements: the type and level of costs incurred, the existence (or not) of a rational relationship between the manner in which costs are incurred and proposed methods for cost recovery, adherence (or not) to the Commission's cost causation principles, etc. Evaluated under these criteria, BellSouth's virtual collocation tariff clearly meets statutory standards.

Respectfully submitted,

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EXHIBIT 1

BellSouth must explain why, when it amended its tariff to remove its nonrecurring equipment installation charge, it provided an "estimate of additional engineering" that, according to BellSouth's D&J, "might be necessary" in the provision of virtual collocation service. BellSouth must clarify whether any charges for "additional engineering" are already included in its charge for provisioning the virtual collocation arrangement. Designation Order, para. 26(d).

Although BellSouth will not undertake to install collocated equipment, it will remain responsible for installation project management and coordination. Resulting costs, which are recovered through the "additional engineering" charge, are defined as follows:

--Labor costs for negotiating equipment installation with the collocator's vendor, initiating central office engineering, performing DSX frame assignment for tie facilities, initiating the collocator equipment inventory, modifying documentation to accommodate collocator-initiated changes to the firm order;

--Labor costs for completing equipment inventory, provisioning TIRKS facilities;

--Labor costs for issuing facility and equipment work documentation/TIRKS design;

--Labor costs for coordinating loop facility placement with the collocator;

--Labor costs for coordinating with vendor and oversight of equipment installation.

BellSouth provides an estimate of additional engineering costs to the collocator with the application response document.

Additional engineering costs are distinct from VEIS provisioning costs, which BellSouth recovers through the Application Fee and cable installation charges. The following activities are associated with processing a VEIS request and are recovered through the Application Fee:

--Labor costs for meeting with customer to determine collocation requirements, initiating questionnaire, preparing total cost estimate for VEIS arrangement and obtaining customer concurrence with same, negotiating completion date, insuring correct billing;

--Labor costs for determining floor space availability, sufficiency of cross-connect capacity, and earliest completion date;

--Labor costs for determining space assignment, reviewing central office records, making field visit to assess cabling, cable rack and riser requirements, determining central office power plant capacity;

--Labor costs for verifying conduit availability;

--Labor costs for establishing customer account in CABS.

Costs recovered through cable installation charges are enumerated in BellSouth's response to paragraph 34(a).

These LECs [i.e., Ameritech, Bell Atlantic, BellSouth, GTE, SWB, and US West] must specify whether their virtual collocation cable installation charges recover costs associated with labor, cabling support structures, testing equipment, and engineering. These LECs must discuss whether they recover the same types of costs in the rates for their comparable DS1 and DS3 services, and explain any differences. In addition, these LECs must explain any differences between their recovery of cable installation costs in their virtual collocation rates and their recovery of cable installation costs in their rates for their comparable DS1 and DS3 services. These LECs must reference the applicable sections of their special access and switched transport tariffs. Designation Order, para. 34(a).

Two rate elements comprise BellSouth's virtual collocation cable installation charges. These are the nonrecurring Cable Installation Charge (Per Cable) element and the recurring Cable Support Structure (Per Cable) element. The Cable Installation Charge recovers labor cost to engineer the cabling, cable rack and riser work necessary to the interconnection arrangement; labor cost to prepare for manhole entry, clear ducts, pull collocator fiber into the central office vault and splice fiber; and vendor travel time and labor cost associated with cable installation.[1] The Cable Support Structure element recovers annual costs associated with total investment in cable support structure[2] and land and building investment (central office land and building occupied by this structure). Annual cost factors are applied to these investment categories to derive depreciation, income tax, cost of money, maintenance, administration and ad valorem tax.

The same types of cost are incurred to provision BellSouth's DS1 and DS3 services and are likewise recovered in service rates. Labor costs for engineering and cable installation are a component of total fiber cable investment. This investment is apportioned among all services (including DS1 and DS3) which use the cable and is subsequently recovered as a direct service cost. Annual costs attributable to DS1 and DS3 services (depreciation,

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[1] See BellSouth Transmittal No. 223, Attachment A, Workpaper 3A, September 1, 1994.

[2] "Cable support structure" investment encompasses all facilities from the central office vault to the point of interconnection to VEIS terminating equipment, including material, engineering and installation costs for the support structure.

income tax, etc.) are calculated by applying annual cost factors to the fiber cable investment directly assigned to these services.

Different cost recovery methods are mandated by differences in the manner in which costs are incurred to provision expanded interconnection arrangements and competitive BellSouth services. To provision EIS, BellSouth must place fiber cable dedicated to the use of the collocated equipment. The cost of support structures is likewise uniquely incurred for the benefit of each EIS arrangement. By contrast, when provisioning for its own needs, BellSouth constructs network additions sized to accommodate many services, ranging from voice grade to high capacity and from switched and special access to local service. Investment in fiber cable and support structure is not uniquely identifiable with a specific service and must therefore be apportioned to all services benefitting from the investment.

For purposes of this discussion, "comparable" BellSouth services are identified as the DS1 Local Channel 49/72 Months and the DS3 Switched Transport Local Channel. Rates for the DS1 element are located at Section 7.5.9 of BellSouth Telecommunications, Inc. Tariff F.C.C. No. 1. Applicable DS3 rates are at Section 6.8.1.

> The LECs must compare their virtual collocation provisioning charges (e.g., charges for service order processing and design engineering) with any provisioning charges they impose on customers of their comparable DS1 and

DS3 services. If the virtual collocation provisioning charges exceed those imposed on customers of the LECs' comparable DS1 and DS3 services, the LECs must justify the additional charges assessed for virtual collocation service. Designation Order, para. 42(a).

The following provisioning charges apply to VEIS:

Application Fee (Per Location)	$2848.30
Cable Installation Charge (Per Cable)	$2750.00
Cross-Connect Per DS1	$ 155.00 First
	$ 14.00 Additional
Cross-Connect Per DS3	$ 151.90 First
	$ 11.83 Additional

The following provisioning charges apply to DS1 and DS3:

DS1 Local Channel	$ 866.47 First
	$ 486.83 Additional
DS3 Switched Transport Local Channel	$ 870.50 First
	$ 427.88 Additional

DS1/DS3 provisioning charges recover the direct costs of issuing the service order, processing the service order, initiating billing, engineering facilities associated with the individual circuit, connect and testing, and employee travel to the customer premises. These charges do not address other engineering and cable installation costs which for VEIS are recovered through the Application Fee and Cable Installation Charge. In the case of BellSouth services, such engineering and cable installation costs are included in total fiber cable investment and recovered through DS1/DS3 local channel rates. See response to paragraph 34(a).

The LECs must specify whether they recover provisioning costs associated with their comparable DS1 and DS3 services through overhead loadings or through direct assignment to particular rate elements. In their responses, the LECs must reference the applicable sections of their special access and switched transport tariffs. Designation Order, para. 42(b).

As stated in BellSouth's response to paragraph 42(a) those items designated "provisioning costs" in the case of VEIS are recovered in two ways from DS1 and DS3 services: (1) as nonrecurring "first" and "additional" charges; and (2) as a component of total fiber cable investment which is assigned to recurring local channel rates.

The LECs that recover the costs of providing power to interconnector-designated equipment in their rates for virtual collocation service must identify and describe the particular power costs recovered in each nonrecurring and recurring virtual collocation rate elements [sic]. LECs must specify whether they recover these power costs through overhead loadings and/or through direct assignment to particular virtual collocation rate elements. Designation Order, para. 46(a).

Costs of providing power to interconnector equipment are directly assigned to the VEIS Floor Space-Per Ampere monthly rate element. This rate recovers all costs of providing standard 48 DC power per ampere, which constitutes the primary power source for collocated equipment.

The LECs required to respond to (a), above, must explain whether they recover power costs in their rates for comparable DS1 and DS3 services. If so, the LECs must specify whether they recover these costs through overhead loadings or through direct assignment to the rate elements for the comparable DS1 and DS3 services. LECs must reference the applicable sections of their special access and switched transport tariffs. Designation Order, para. 46(b).

Costs of the DS1 Local Channel and the DS3 Switched Transport Local Channel include a loading for power. A

Miscellaneous Common Equipment and Power (MCE&P) factor is applied to circuit equipment investment to produce total circuit investment. This factor is developed as a ratio having as its numerator common equipment investment in the central office and as its denominator total circuit account investment.

LECs that established separate power rate elements for virtual collocation service, but not for their comparable DS1 and DS3 services, must explain why this is reasonable. In addition, any LECs that bundle power costs into other rate elements for virtual collocation service, but not for their comparable DS1 and DS3 services, must explain why this is reasonable. Designation Order, para. 46(c).

In a VEIS arrangement collocated equipment is owned by the CAP and leased by BellSouth for a nominal charge. Hence, there is no rate element for collocated equipment and no means of recovering the cost of power supplied to such equipment except through a separate rate element. By contrast, for DS1/DS3 local channels the cost of power is recovered as a loading on circuit and central office equipment associated with the local channel rate elements. In this manner, costs attributable to power requirements are spread across all services which benefit from the basic equipment investment.

BellSouth, Ameritech, CBT, and any other LEC that recovers the costs of floor space in its rates for virtual collocation service, must describe the particular floor space costs recovered in their [sic] nonrecurring and recurring virtual collocation rate elements. These LECs must specify whether they recover these floor space costs through overhead loadings or through direct assignment to particular virtual collocation rate elements. Designation Order, para. 52(a).

Floor space costs attributable to a VEIS arrangement are recovered through the VEIS Floor Space-Per Square Foot recurring rate element. These costs are the investment required to support collocated equipment, including lighting; overhead racks; bay framing; AC power outlets; and other miscellaneous items. Also included are the investments for central office building floor space and land occupied by the collocated equipment.

The LECs required to respond to (a), above, must explain whether they recover the costs of floor space in their rates for their comparable DS1 and DS3 services. If so, the LECs must specify whether they recover floor space costs through overhead loadings or through direct assignment to the rate elements for their comparable DS1 and DS3 services. The LECs must reference the applicable sections of their special access and switched transport tariffs. Designation Order, para. 52(b).

Rates for DS1/DS3 services include direct cost loadings for land and buildings. These loadings are calculated by applying appropriate loading factors to the circuit and central office equipment investment for each service. Similarly, bay and racking, AC power outlet and miscellaneous equipment costs generated by DS1/DS3 service provision are recovered through the MCE&P factor discussed in BellSouth's response to paragraph 46(b) or separately identified and included in DS1/DS3 service investment.

LECs that established separate floor space rate elements for virtual collocation service, but not for their comparable DS1 and DS3 services, must explain why this is reasonable. In addition, any LECs that bundled floor space costs into other rate elements for virtual collocation service, but not for their comparable DS1 and DS3 services, must explain why this is reasonable. Designation Order, para. 52(c).

Because there is no rate element for collocated equipment, floor space costs attributable to such equipment must be recovered through a separate rate element. By contrast, analogous costs of DS1/DS3 services are recovered through loadings on circuit and central office equipment associated with the local channel rate elements. This method enables floor space costs to be spread across all services which benefit from the basic equipment investment.

The Bureau requires the LECs subject to this investigation to provide the cost of money factor used for their virtual collocation services and for the comparable DS1 and DS3 services with the lowest overhead loadings. The LECs must justify any differences in these cost of money factors. In their responses, the LECs must include the interest rate, depreciable life, and time period (in years) for computing the present discounted value. Designation Order, para. 55.

BellSouth employed a cost of money factor of 13.34 percent for VEIS and for "comparable" DS1 Local Channel and DS3 Switched Transport Local Channel rates. This percentage is an incremental cost factor based upon the market value of debt and equity at the time the VEIS cost study was developed. BellSouth did not compute a present discounted value for any rate element.

Several LECs charge an averaged per diem charge for training expenses. These LECs must comment on whether it is reasonable to establish a generally available averaged per diem charge for travel expenses that would include: food, lodging, transportation, training seminar costs, and technician wages. These LECs also must discuss whether it is reasonable to develop a nonrecurring charge that recovers these travel expenses. Designation Order, para. 70(a).

Although BellSouth continues to favor individual case basis (ICB) pricing as the most effective cost recovery mechanism for training expenses, the Commission has mandated "specific rates or time and materials charges."[3] This requirement necessarily entails use of an averaged rate structure, which in some cases will produce over-recovery, and in other cases under-recovery, of actual training costs. Within these constraints BellSouth has employed reasonable assumptions and methodology to develop tariffed training charges.

The LECs should comment on whether it is reasonable to tariff rate structures that will avoid double recovery of training costs if a subsequent interconnector requests the same equipment, or if the LEC subsequently acquires the interconnector-designated equipment for use in its own network. Designation Order, para. 70(c).

Training costs are assessed to a collocator choosing to employ equipment not in use in the wire center where collocation is requested. Collocators who select equipment currently in use in the wire center (whether by BellSouth or another CAP) will not be charged for training.

BellSouth does not offer pro-ration of training charges, which would require implementation of a costly and burdensome tracking system. Moreover, the use of particular equipment in one BellSouth wire center does not remove the necessity of training technicians in a second wire center where the equipment is being introduced.

The LECs must address whether it is reasonable to use the LECs' costs to train their technicians to service

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[3] In the Matter of Ameritech Operating Companies Revisions to Tariff F.C.C. No. 2 _et al._, CC Docket No. 94-97, DA 94-1421, _Order_, released December 9, 1994, para. 47.

equipment used to provide the LECs' comparable DS1 and DS3 services as a guideline in developing interconnector training expenses. Designation Order, para. 70(d).

Vendor schools are employed to train technicians on collocator equipment and on equipment supporting DS1 and DS3 services. Vendor rates are applicable to both training requirements and comparable costs are incurred for travel and living expenses.

Any LEC that filed an averaged rate to recover airline expenses associated with training must describe in detail its method of computing the averaged rate. Designation Order, para. 70(e).

To develop airline expenses BellSouth determined the round-trip airfare based on a seven-day advance notice between three major cities in the BellSouth region (Atlanta, GA; Birmingham, AL; and Miami, FL) and seven cities where major manufacturing vendors conduct training (Raleigh, NC; Richardson, TX; Chicago, IL; Newark, NJ; Herndon, VA; Portland, OR; and Dublin, OH). The vendors were identified through an equipment list provided by interconnectors. BellSouth's airfare rate is an average of the twenty-one fares between the three originating locations and seven terminating locations designated in the study.

All LECs must identify any provisions in their virtual collocation tariffs describing types of equipment to which training charges do not apply because the LECs use such equipment in their own networks. Any LEC that does not currently have such provision or a procedure for identifying such equipment must explain why its approach is reasonable. Designation Order, para. 74(a).

BellSouth wire centers display considerable diversity with respect to the types of equipment they employ. Thus, it would be difficult to generate and maintain a list of equipment types and wire center(s) where each type is present. Moreover, such a list would be of limited utility to collocators, who typically choose a vendor and deploy that equipment over a wide area without regard to the type of equipment used by BellSouth. Should a collocator desire information as to the equipment used in a particular wire center, BellSouth could make this data available in its response to service inquiry.

All LECs must specify the minimum number of technicians that must be trained to maintain and repair interconnector-designated equipment in each central office, and explain why it is reasonable to train this number of technicians. Designation Order, para. 74(b).

The minimum number of technicians to be trained is four. Four technicians are required to provide 24 hour per day, 7 days per week maintenance coverage to collocated equipment.

All LECs must describe their policies regarding training of LEC personnel to maintain and repair interconnector-designated equipment. LECs must discuss the initial training to maintain and repair interconnector-designated equipment, and any subsequent training that is required. Designation Order, para. 74(c).

BellSouth's policy requires attendance at a vendor certified class on the equipment type. Subsequent training would be required only if software or hardware upgrades made to the equipment substantially altered provisioning and maintenance duties and rendered any previous training obsolete.

All LECs must specify the circumstances under which they use outside contractors for installation, maintenance, or repair. In addition, lECs must describe the particular functions performed by these outside contractors. Designation Order, para. 88(a).

BellSouth permits a certified contractor to install equipment in the central office. The installation function includes mounting equipment, interconnecting the equipment to other equipment within the central office, interconnecting the equipment to general distribution frames for interconnection on a service level basis, connecting the equipment to power sources and appropriate grounding, and turn-up and operational tests of the equipment.

All LECs must discuss whether they permit interconnectors to choose from a list of certified contractors available to install, maintain, or repair the interconnector-designated equipment. All LECs must specify how they notify interconnectors of these contractors. Any LEC that does not permit the interconnector to choose from a list of certified contractors must explain the reason for its policy. Designation Order, para. 88(b).

BellSouth provides a list of contractors certified to perform installation work. This list is given to interconnectors when BellSouth forwards the design and planning information for floor space and power requirements.

All LECs must state whether they will honor an interconnector's request that the LEC add to its list a contractor that meets the LEC's certification requirements. Any LEC that will not honor such requests must explain the reason for its policy. The LECs should reference the applicable provisions of their virtual collocation tariffs. Designation Order, para. 88(c).

BellSouth will accept contractor applications for certification and will, upon request, furnish a copy of procedures leading to certification. Satisfaction of the requirements for certification will entitle a contractor to perform installation work within BellSouth central offices. These provisions are contained in BellSouth Tariff F.C.C. No. 1, section 20.18(L).

The LECs must explain how their installation intervals for interconnector-designated equipment comply with the Commission's requirement that, at a minimum, the LECs install interconnector-designated equipment under the same time intervals that apply to installation of comparable LEC equipment. Designation Order, para. 91(a).

BellSouth does not install collocated equipment. Upon the completion of site preparation by BellSouth, installation intervals will be determined through negotiation between CAPs and equipment vendors.

The LECs must discuss whether it would be reasonable to notify interconnectors of the LECs' specific maintenance and repair intervals by including appropriate language in their tariffs. In particular, LECs must comment on whether it would benefit interconnectors, without being unduly burdensome to LECs, to state in their tariffs:

(1) The frequency with which they will perform maintenance and repair of interconnegtor-designated equipment;

(2) The maximum response time to intermittent service outages; and

(3) The restoration priorities if a LEC's wire center is inoperative.
Designation Order, para. 91(b).

Frequency of maintenance and repair is determined by the collocator, which directs the dispatch of BellSouth personnel to perform provisioning and repair on its equipment. Upon receipt by BellSouth, the dispatch to collocator equipment assumes the same priority as any other service outage report.

Restoration priorities are determined by the identity of the service end user, with law enforcement, hospitals and other agencies serving a critical governmental or community function accorded first priority. Remaining services and equipment carry a common priority.

BellSouth does not believe that collocators would benefit from tariff provisions incorporating the above terms.

The LECs must address whether they offer interconnectors the same range of service options that the LECs offer to their comparable services customers. LECs must reference the applicable sections of their tariffs. Designation Order, para. 91(c).

Interconnectors are accorded a broader range of service options than BellSouth access customers. Under VEIS interconnectors may select transmission equipment, designate an installer, order the performance of repair and maintenance functions and negotiate other aspects of service provisioning with BellSouth. See, e.g., BellSouth Telecommunications, Inc. Tariff F.C.C. No. 1, Sections 20.18(E), (F) and (H); 20.20(H). These options are not available to DS1/DS3 customers.

The LECs must explain the policies articulated in their tariffs concerning an interconnector's right of action against the LEC for negligence, gross negligence, willful misconduct, or intentional harm. The LECs must explain why these provisions are reasonable. Designation Order, para. 100(a).

Section 20.26(A) imposes liability on the Telephone Company for damage to collocated equipment or facilities, when caused by the negligence or willful misconduct of the Telephone Company. Liability in this event is limited to the reasonable cost of repair or replacement of the damaged equipment/facilities. Consistent with general liability provisions contained in Section 2.1.3, BellSouth assumes no liability for consequential damages attributable to lost revenues or profits claimed by a collocator or collocator's customer.

BellSouth's liability provision states, inter alia, that the interconnector must indemnify BellSouth against any losses that "may arise out of or be caused by the installation, repair, use or removal" of interconnector provided leased equipment or facilities, or by "any act or omission of BellSouth, its employees, agents, former or striking employees, or contractors..." BellSouth must explain why it is reasonable to require another party to indemnify BellSouth for BellSouth's own negligence. Designation Order, para. 100(b).

BellSouth does not require indemnification by the collocator for negligent acts attributable to BellSouth. The quoted language of Section 20.26(B) and the succeeding provisions of Section 20.26(C) do no more than impose on the collocator responsibility for third-party claims attributable to the presence of the VEIS arrangement in a BellSouth central office. Since the collocator elects to establish expanded interconnection and is the beneficiary of this arrangement, the collocator may reasonably be required to assume the risk of loss incidental to its operations. Moreover, a collocator (like any other business entity or individual) is free to obtain insurance coverage to minimize personal exposure to loss.

Alternatively, if BellSouth must assume the risk occasioned by a collocator's presence in the central office, BellSouth should be permitted to increase its rates for VEIS to reflect this added risk of service provision.

BellSouth's tariff also states that the interconnector "represents, warrants and covenants that it shall not cause or permit any other party to cause any environmental conditions...which violate any federal, state or local law or ordinance, rule or regulation. The collocator shall indemnify...BellSouth from and against any and all liability...arising out of any breach of the foregoing sentence." BellSouth must define the term "environmental conditions," as used in this provision. In addition, BellSouth must explain how an interconnector can reasonably warrant that it will not "permit" another party to cause such an environmental condition. Designation Order, para. 100(c).

These provisions reflect the fact that telecommunications equipment and associated back-up power supply may contain components which are classifiable as hazardous material (e.g., asbestos, mercury, lead, acids). These materials are capable of damaging the environment and/or human health through properties of toxicity, ignitability, corrosivity, or reactivity.

All possible "environmental conditions" cannot be comprehended within a single definition; however, some examples would be generating hazardous waste without a permit, storing hazardous waste longer than permitted, failing to mark or designate certain hazardous material, or allowing a leak or spill of hazardous material.

An interconnector can reasonably warrant that it will not permit a "third party" to allow an environmental condition to exist by having in effect an environmental compliance plan to insure compliance by its own employees and by using due diligence to ascertain that its agents and contractors have necessary permits and other capabilities to comply fully with environmental laws.