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

In the Matters of	)	
	)	
Deployment of Wireline Services Offering Advanced Telecommunications Capability	)	CC Docket No. 98-147
	)	
Petitions of Bell Atlantic Corporation And U S West Communications Inc. For Relief from Barriers to Deployment of Advanced Telecommunications Services	)	CC Dockets No. 98-11, 98-26
	)	
Petition of Ameritech Corporation to Remove Barriers to Investment in Advanced Telecommunications Technology	)	CC Docket No. 98-32
	)	
Petition of the Association for Local Telecommunications Services (ALTS) for a Declaratory Ruling Establishing Conditions Necessary to Promote Deployment of Advanced Telecommunications Capability Under Section 706 of the Telecommunications Act of 1996	)	CC Docket No. 98-78
	)	
Southwestern Bell Telephone Company, Pacific Bell, and Nevada Bell Petition for Relief from Regulation Pursuant to Section 706 of the Telecommunications Act of 1996 and 47 U.S.C. § 160 for ADSL Infrastructure and Service	)	CC Docket No. 98-91

COMMENTS OF NORTHPOINT COMMUNICATIONS INC.

Ruth Milkman
Daniel Segal
The Lawler Group
7316 Wisconsin Avenue, Suite 400
Bethesda, MD 20814
(301) 654-9737

Steven Gorosh
Vice President and General Counsel
NorthPoint Communications, Inc.
222 Sutter Street, Suite 700
San Francisco, CA 94108
(415) 403-4003

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EXECUTIVE SUMMARY

NorthPoint applauds the Commission's proposed rulemaking. The specific remedies to improve loop and collocation availability will go a long way towards ensuring widespread deployment of advanced services by competitive DSL providers like NorthPoint. The measures advanced by the Commission also respond to the ILECs' requests for regulatory relief by relieving ILEC advanced data service subsidiaries of resale and unbundling obligations, while providing competing providers with guarantees that the ILECs will not advantage their own advanced services by leveraging their control over monopoly bottleneck elements. Thus, the proposed rulemaking will promote the deployment of advanced services by enabling vigorous competition among all providers.

DSL CLECs have been expanding at an unprecedented pace; NorthPoint, for instance, has begun providing service in three cities in the last three months and plans to serve another twenty-two metropolitan areas within eighteen months. This ambitious schedule will provide both business and residential customers with broadband alternatives within the very near future. The specific loop and collocation remedies proposed by the Commission will be of great help to NorthPoint and other data CLECs in deploying broadband alternatives, and NorthPoint urges the Commission to include each and every one in its final order.

NorthPoint also agrees with this Commission's conclusion that ILECs should be relieved of their section 251(c)(4) resale and unbundling obligations only if they provide their advanced services through a true "arm's length" subsidiary. No credence is owed ILEC claims that a separate affiliate requirement will hamper widespread deployment of advanced services by eliminating efficiencies. The ILECs' dogged repetition of this claim

comes with little to no supporting evidence. In fact, the alleged "inefficiencies" cited by the ILECs appear to be no more than the excessive loop and collocation charges and delays they impose on CLECs. U S WEST, for instance, is rapidly deploying its ADSL service throughout its service territory while simultaneously excluding competitors through arbitrary restrictions on their ability to order collocation. NorthPoint suspects that exclusionary policies like these would be short-lived if U S WEST were required to treat its advanced services affiliate in the same fashion as competing providers. A separate affiliate thus provides the best framework for competition in advanced data services.

Even more specious are the ILECs' claims that advanced services will not be deployed at all if a separate subsidiary is required. Data CLECs, for instance, are deploying advanced services at breakneck speed even though they have none of the advantages cited by the ILECs. More telling still, Ameritech already is providing advanced services through a separate subsidiary – Ameritech Advanced Data Services – demonstrating that the ILECs can and will deploy advanced services through a separate affiliate.

In fact, Ameritech and NorthPoint are in general agreement on how an advanced services affiliate should be structured. NorthPoint and Ameritech have jointly developed a document (attached to both NorthPoint's and Ameritech's comments) listing their points of agreement. That these two diverse – and historically adverse – market participants can agree on how a separate subsidiary should be structured provides compelling evidence that the separate subsidiary requirements proposed by the Commission are neither inefficient nor overly complicated. Both companies agree that the Commission's proposed separate subsidiary requirements will minimize dangers of discrimination and cross-subsidization by

the ILECs. Both companies agree that the ILECs' requests for regulatory relief are best met by providing them with the opportunity to compete on the same terms as their competitors, while allowing them to retain advantages such as tremendous name recognition, access to capital, and joint marketing flexibility. Both NorthPoint and Ameritech thus support the bulk of the Commission's separate subsidiary framework. NorthPoint and Ameritech are also in agreement about most of the Commission's proposed loop and collocation remedies.

Recent events, however, require that the Commission address another – and even more crucial -- aspect of advanced services deployment. Since comments were filed on the ILECs' petitions for relief under section 706, several ILECs (Bell Atlantic, BellSouth, GTE and Pacific Bell) have tariffed ADSL service. Not one of these tariffs reflects a single penny of the exorbitant loop and collocation costs necessary to provide xDSL service, and which the ILECs impose on xDSL CLECs. This has created a "price squeeze" under which ILECs' charges to competing CLECs for the unbundled network elements necessary to provide competitive DSL service are <u>more</u> than the full retail charge of the ILECs' service.

GTE, for instance, provides its ADSL service for as little as $29 per month. By contrast, in California, CLECs must pay GTE almost $19 for an unbundled digital loop necessary to compete, as well as an average of almost $50,000 for collocation in each central office. Similarly, BellSouth charges as little as $45 per month for their ADSL service in Florida, while it charges CLECs like NorthPoint $41.50 for the unbundled loop necessary to provide competing services. Thus, a CLEC's costs for loops and collocation exceed GTE's and BellSouth's prices for ADSL service, <u>before</u> the CLEC recovers costs

of equipment and overhead. Obviously, facilities-based competition cannot exist where it costs CLECs more for a piece of an ILEC's DSL service than it costs retail customers for the entire service.

In order to reduce this anticompetitive disparity and encourage the ILECs to reduce the costs of the wholesale elements necessary to provide competing services, NorthPoint urges the Commission to mandate the following four requirements:

First, this Commission should require ILECs that provide advanced services on an integrated basis to impute the same loop and collocation prices they charge CLECs. Imputation will ensure that the ILECs' ADSL prices reflect the same inputs charged competitors, ensuring the ILECs will not enjoy an arbitrary pricing advantage. As this Commission has already recognized, an imputation rule is the appropriate tool to guard against such anticompetitive cross-subsidization. (No such rule is necessary if the ILEC furnishes its ADSL service through a separate subsidiary, because by definition the advanced services affiliate is required to purchase these elements at arm's length.) NorthPoint notes, moreover, that if the ILEC does impute the costs of unnecessary unbundled network elements, it will have a powerful incentive to reduce the costs of those inputs. This will result in even more vigorous competition and promote widespread deployment of xDSL service.

Second, where an ILEC refuses to adopt a separate subsidiary arrangement, the Commission should require that it tariff that product on a wholesale basis – with an appropriate retail discount – within 30 days of the Commission's order in this proceeding (or before providing xDSL service). To date, the ILECs have studiously ignored this Commission's mandate that ILECs providing advanced services on an integrated basis are

subject to section the resale and unbundling requirements of the 1996 Telecommunications Act.

Third, this Commission should require that ILECs tariff a service offering whereby the ILEC accepts split-off voice traffic from CLECs that provide voice and data over a single loop. One of the most economical ways of providing xDSL service to price-sensitive residential customers is to use a single loop for voice and data service. This enables the customer to obtain both services without purchasing a second loop – an important cost savings in states like Texas where an unbundled digital loop costs as much as $35. Some ILECs have addressed this problem by deploying a "single-loop" ADSL service using a "splitter." CLECs currently are being artificially restrained from providing comparable one-loop products by the ILECs' refusal to place the splitter at the most efficient place in the central office and to carry the split-off voice traffic over the ILEC network. Accordingly, the Commission should mandate that the ILECs tariff a service offering that allows CLECs to hand-off the "split-off" voice traffic at the same rates the ILEC charges itself for the service.

Fourth, this Commission should convene a joint state/federal proceeding to focus on how the dramatic disparities between the loop and collocation prices charged in the different states will affect the rapid deployment of advanced services.

With the adoption of these four simple steps, as well as the proposed loop and collocation remedies proposed in the NPRM, this Commission will have laid a framework that will promote the rapid deployment of advanced services, to the benefit of all Americans.

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COMMENTS OF NORTHPOINT COMMUNICATIONS, INC.

As detailed below, NorthPoint Communications supports virtually all the tentative conclusions proposed in the Commission's Notice of Proposed Rulemaking ("NPRM") in this proceeding. The separate affiliate provisions will provide ILECs with relief from unbundling and resale requirements, while creating a level playing-field among all advanced services providers. In addition, the proposed loop and collocation remedies will

help ensure that CLECs are able to quickly deploy broadband alternatives. These steps will go a long way towards ensuring widespread broadband deployment.

However, this Commission must confront one remaining – and even more critical -- issue. As explained below, in order to prevent "price squeezes" on competitive facilities-based providers, this Commission should: (1) require ILECs that offer advanced services on an integrated basis to impute the prices of monopoly inputs such as loops and collocation; (2) require ILECs that offer advanced services on an integrated basis to tariff the advanced service for resale – at an appropriate discount – within thirty days (or before initiating service); (3) require that all ILECs accept split-off voice traffic from CLECs at the same rates they charges themselves; and (4) convene a state-federal advisory board to focus on the dramatic disparities in the pricing of loops and collocation, which currently threaten the widespread deployment of advanced services.

I. MINIMUM COLLOCATION STANDARDS BASED ON "BEST PRACTICES" WOULD PROMOTE THE WIDESPREAD DEPLOYMENT OF ADVANCED SERVICES

In is July 23 ex parte on the ILECs' section 706 petitions, NorthPoint proposed 23 "best practices" that would provide CLECs' with easier access to the loops and collocation necessary to provide advanced services. NorthPoint is encouraged to see most -- if not all -- of these remedies in the proposed NPRM, and urges the Commission to mandate these "best practices" as minimum national standards.

Currently, one of the greatest limitations on CLECs' ability to provide xDSL service is the alleged lack of collocation space. Moreover, even where the ILEC makes collocation space available, CLECs face excessive ILEC-induced delays. A combination of anticompetitive and arbitrary ILEC procedures for ordering, purchasing, and delivering

physical collocation cages, for instance, often increases the total time to obtain cages to well over a year. These delays greatly limit customer choice yet could easily be remedied by simply eliminating the more arbitrary ILEC practices and requiring that all ILECs adhere to minimum national standards. NorthPoint thus supports national standards based on existing "best practices." NPRM ¶¶ 123-124. Such standards will accelerate deployment of xDSL services by promoting the most efficient use of collocation space. NorthPoint agrees, moreover, with the Commission's tentative conclusion that the states should be allowed to adopt more stringent standards. NPRM ¶ 124.

Availability of collocation is, however, only half the story. CLECs also require cost-effective collocation. The current system is characterized by a total absence of parity. NorthPoint has been charged non-recurring collocation charges ranging from $10,000 to over $300,000 for a single cage. These charges are the single largest barrier to entry into a particular market and uniform standards would facilitate entry by competitors that are trying to do business in several states. By contrast, the recent ILEC ADSL tariffs reveal that ILECs are imputing no collocation charges for their own services. For competition to develop, the wholesale charges for collocation must be decreased and ILECs must impute to their own services the collocation charges they collect from CLECs.

A. The Commission Should Require the ILECs to Permit the Collocation of All Equipment Used for Interconnection or Access to Unbundled Network Elements

The ILECs' routinely argue that advanced telecommunications equipment (such as xDSL equipment) should not be placed in collocation cages, even where the equipment is used for "interconnection or access to unbundled network elements." Local Interconnection Order, ¶ 579. Even after collocation space is obtained, ILEC

"gatekeeping" thus can preclude the CLEC from using the most efficient equipment available. NorthPoint urges the Commission to allow CLECs to collocate any equipment that is used for interconnection or access to unbundled network elements. NPRM at ¶ 129.

In particular, the Commission should clarify that DSL CLECs may collocate DSLAMs, which multiplex customer traffic from multiple xDSL lines onto a single DS-3. This Commission already has mandated that "transmission equipment such as optical terminating equipment and multiplexers, may be collocated on LEC premises." Local Interconnection Order, ¶ 580 (emphasis added). Nonetheless, several ILECs initially refused to allow NorthPoint to collocate its DSLAM. To eliminate time-consuming and counterproductive disputes, this Commission should mandate that CLECs may place transmission equipment like the DSLAM in their collocation cages.

The Commission should also clarify that CLECs can place remote monitoring equipment and order remote management facilities to the collocation cage. ILECs, by definition, employ on-site technicians to monitor their CO equipment. CLECs, by contrast, rely on remote access management systems to monitor their equipment, since CLEC technicians cannot be stationed in ILEC COs. Several ILECs have attempted to ban remote access management equipment from collocation cages on the grounds that it "could" be used for switching purposes. This flies in the face of the Act. If equipment is "'used' or 'useful'" for interconnection or to provide access to unbundled network elements, then the ILEC must permit collocation. There is no exception for equipment

that meets this criterion but that also could be used to provide enhanced services.[1] This can severely damage a CLEC's ability to provide xDSL service, since the remote access management equipment allows a CLEC to identify service troubles. Similarly, in order to use the remote access management equipment, the CLEC must be able to order retail service such as POTS lines to the collocation space. (Without these retail services, the CLEC has no means of accessing the remote access management equipment.)

In addition, where the ILEC chooses to establish an advanced services affiliate, the ILEC should be required to allow CLECs to collocate equipment to the same extent as its advanced data services affiliate. As the Commission has already suggested, any other standard would violate the ILECs' non-discrimination obligations under the Act. NPRM ¶ 130.

NorthPoint also supports the Commission's conclusion that CLECs should be allowed to collocate switching equipment. (¶ 129). That ability, however, should be limited to packet-switching equipment, which is significantly smaller than circuit-switched voice equipment. (A packet-switch is the size of a small refrigerator while a local

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[1] The Commission has previously concluded that under section 251(c)(6) of the 1996 Telecommunications Act, incumbent LECs must permit the collocation of equipment that is "'used' or 'useful'" for interconnection to unbundled network elements. The FCC further clarified that:

> Even if the collocator could use other equipment to perform a similar function, the specified equipment may still be 'necessary' for interconnection or access to unbundled elements under section 251(c)(6). We can easily imagine circumstances, for instance, in which alternative equipment would perform the same function, but with less function or at a greater cost. A strict reading of the term "necessary" in these circumstances could allow LECs to avoid collocating equipment of the interconnector's choosing, thus undermining the procompetitive purposes of the Act.

Report and Order, Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, 11 FCC Rcd15499, 15794 at ¶ 579 (1996) ("Local Interconnection Order"). NorthPoint considers remote monitoring equipment necessary to access its unbundled network elements. Accordingly, under the Local Interconnection Order, remote monitoring equipment may properly be placed in NorthPoint' collocation space. NorthPoint thus proposes that CLECs be allowed to collocate integrated equipment that is used for interconnection or access to unbundled network elements but that also contains switching functions. NPRM at ¶ 129.

exchange switch can occupy an entire room.) This will provide some guarantee that no one provider will monopolize the collocation space in an end office. However, in order to make the most efficient use of scarce collocation space, NorthPoint supports the Commission's tentative conclusion (at ¶ 131) that if switching equipment is permitted to be collocated, no one provider should be allowed to monopolize the space. In particular, an advanced services affiliate of an ILEC should not be allowed to collocate its switching equipment if there is only enough room at the central office for one carrier to collocate such equipment.[2] NPRM ¶ 132.

Safety Standards. Both CLECs and ILECs have a strong and shared interest in ensuring that all equipment placed in their central offices meets industry safety standards, such as the Level 1 standards of the National Equipment and Building Specifications ("NEBS") standards promulgated by Bellcore. Bell Atlantic, however, is requiring CLECs to meet far more stringent NEBS Level 2 and 3 standards. This is entirely inappropriate since these standards deal almost exclusively with equipment reliability, not equipment safety. Ameritech agrees that ILECs have no legitimate reason in requiring that CLEC equipment meet specific reliability standards. Appendix at 4. Such concerns are properly left to the mutual agreement of the CLECs, their customers, and their equipment providers. By requiring certification to NEBS Levels 2 and 3, the ILECs condemn CLECs and their equipment vendors to months of testing, at a cost of hundreds of thousands of dollars, significantly delaying xDSL CLECs' ability to provide innovative broadband services. NorthPoint thus proposes that – regardless of what standard the

[2] NorthPoint also agrees with this Commission's tentative conclusion that the ability to collocate enhanced services equipment will not further promote broadband deployment. It is transport in the last mile – and not enhanced services – that remains the barrier to the widespread deployment of advanced services.

ILEC adheres to -- the ILECs be allowed to require NEBS Level 1 compliance, but not NEBS Level 2 or 3. NPRM ¶ 115.

NEBS Level 1 compliance should not be mandated nationwide, however. NorthPoint supports this Commission's tentative conclusion that where the incumbent LECs uses equipment that does not mean NEBS requirements, CLECs should be allowed to collocate the same or similar equipment. NPRM ¶ 134. To ensure that this is feasible, NorthPoint also endorses this Commission's tentative conclusion that incumbent LECs should be required to publish all the equipment they use. NPRM ¶ 134. The Texas Public Utility Commission has required that Southwestern Bell Telephone list all equipment used within the CO, and there is no valid reason for why other ILECs cannot publish similar lists. This simple remedy would help to prevent discrimination by allowing independent verification that the ILECs are not using equipment they have prohibited CLECs from using.

B. Cost-Effective Physical Collocation and Alternate Collocation Arrangements are Necessary for Widespread Deployment of DSL Service

NorthPoint supports the Commission's proposed steps to make more efficient use of collocation space.

1. Collocation Alternatives. CLECs currently insist on physical collocation simply because most ILECs make no comparable solution available. ILECs, of course, have little reason to develop creative solutions since they can move their own xDSL equipment into central offices without worrying about space limitations, intervals, or imputed costs. CLECs have suggested numerous alternatives that would promote broadband service deployment if made available under reasonable terms and conditions.

Given the ILECs' reluctance to agree to such solutions, however, it is apparent that regulatory assistance is required.

NorthPoint's experience suggests that if a means of collocation is feasible for one ILEC, it is feasible for all. NorthPoint thus supports the Commission's tentative conclusion (at ¶ 139) that if one type of collocation is offered by one ILEC, there should be a presumption that it is technically feasible for every other ILEC to offer it. For example, BA recently filed a tariff for SCOPE, which appears to be virtually identical to U S WEST's SPOT offering. Accordingly, NorthPoint proposes that every ILEC should be required to offer all forms of collocation, including, but not limited to, the shared and cageless versions discussed in the NPRM.

a) Sharing. One of the simplest remedies proposed by the Commission, and one that is wholeheartedly endorsed by NorthPoint, is that this Commission require ILECs to permit CLECs to share their collocation space (e.g. multiple collocators within a single open or locked cabinet). This should also be extended to allow subleasing arrangements where the ILEC permits CLECs to sublet part of their collocation cages to other customer. Currently, most ILECs prohibit such arrangements. Accordingly, any CLEC that wishes to access another's collocation cage thus may do so only indirectly by relying on the collocated CLEC for all ordering and provisioning of UNEs. These administrative difficulties effectively prohibit such arrangements. Allowing a formal subleasing process would allow each CLEC to obtain its own UNE ordering identification code and thus allow for more effective use of existing collocation space.

b) Non-standard space configurations. Likewise, NorthPoint agrees that CLECs should be able to request space configured in any arrangement and of any size. As this

Commission has concluded (at ¶ 137), allowing CLECs to request space in increments less than 100 square feet will ensure more efficient use of scarce collocation space. For instance, if NorthPoint can request an 11x9 space rather than the standard 10x10, it can fit an additional two racks (more than 1100 customers). The Commission, would, however, limit the total area of the cage to no more than 100 square feet so as to ensure no carrier can acquire all the collocation space. Ameritech agrees with NorthPoint that collocation areas of less than 100 square feet should be available where mutually beneficial. Appendix at 3.

c) Cageless common collocation. NorthPoint also supports the Commission's proposal to require common collocation, where several CLECs share a common space. Ameritech agrees with NorthPoint that cageless physical collocation should be an option for negotiation. Appendix at 3. While common collocation can allow a CLEC to deploy service effectively, it is far less attractive than physical collocation, which allows a CLEC to maintain complete and exclusive control over its equipment. Addressing security issues is thus a paramount concern. See NPRM ¶ 141. NorthPoint agrees, however, that these concerns can be resolved. Id. NorthPoint suggests that concealed video cameras and computerized, tracked badges will be adequate to ensure that safety concerns are met. NorthPoint notes, however, that those few ILECs that do allow common collocation – such as BellSouth and Pacific -- charge rates that are comparable or proportionally more expensive than those for physical collocation. Common collocation requires less space and thus should be much cheaper and quicker than physical collocation.

To date, CLECs have focused on obtaining physical collocation space in order to ensure that they are able to install and maintain their own equipment. Virtual collocation

arrangements currently are the only alternative in most states. Currently, however, virtual collocation --where the CLEC's equipment is intermixed with the ILEC's and the ILEC owns, installs and maintains the equipment -- severely limit the CLEC's ability to respond to service problems and its flexibility to deploy new services. In addition, the pricing of virtual collocation arrangements is rarely made cost-effective. In California for instance, NorthPoint was originally quoted more than $100,000 for a virtual collocation arrangement, of which the vast majority was for training ILEC employees to maintain NorthPoint's equipment.[3] Virtual collocation arrangements in which the CLECs can own, install and access their own equipment would not pose the same disadvantages and would provide many of the benefits of physical collocation. Ameritech agrees that CLECs should be able to purchase their own equipment for virtual collocation, and use installation contractors to install that equipment. Ameritech also agrees that CLECs should not be charged for training ILEC technicicans, and that CLECs should be able to use their own technicians to service virtually collocated equipment. Appendix at 3. Accordingly, this Commission should require the ILEC's development of virtual collocation arrangements where the CLEC can own, install and maintain its own equipment.

2. ILECs should be required to remove obsolete equipment and non-critical administrative offices in COs to increase the amount of space available for collocation. Because the rush for collocation is a very recent phenomenon, freeing up space in COs has received little attention. In the only related state proceeding to date, U S WEST testified

[3] NorthPoint agrees with the Commission's tentative conclusion that competitive LECs must be offered the same virtual collocation arrangements the ILEC provides its advanced services affiliate in order to meet its existing obligation to provide collocation on nondiscriminatory terms and conditions. NPRM ¶ 148.

that it frequently has large, obsolete, older-model switches in its COs which it does not bother to remove until it needs the space for its own uses. U S WEST admitted that it would not remove such equipment when CLECs applied for collocation in these types of COs; instead, it considers the CO to be out of space. In addition to obsolete equipment, the few CO floor plans that have been made public to date also reveal large numbers of administrative offices, which were added when space was not at a premium. Many or all of these offices could be moved to regional administrative office centers with little hardship. Ameritech agrees that removal of inactive equipment and conversion of administrative space is an option that should be considered. Appendix at 2. NorthPoint thus supports the Commission's tentative conclusion (at ¶ 142) that ILECs should be required to remove obsolete equipment and noncritical administrative offices identifiable from CO floor plans.

3. Allocation of Up-front Space Preparation Charges. Several ILECs currently require the first collocator to pay 100 percent of conditioning an office to make it suitable for collocation, (i.e. asbestos removal, additional power, etc.), subject to a rebate when additional CLECs request collocation space in that CO. Since the bill to the "first-mover" can run well over a half million dollars, with no guarantee of a rebate, CLECs have a powerful incentive to wait until someone else has entered the CO before submitting their request. This has led to a reluctance to act first that has diminished consumers' ability to choose among broadband services. The ILECs, moreover, appear to have no mechanism for tracking these refunds. NorthPoint has paid up to three hundred thousand dollars to obtain reconditioned space in a central office, and has yet to receive a penny in refunds. NorthPoint thus supports the approach pioneered by Bell Atlantic in

New York, where the CLEC is responsible only for its share of the cost of conditioning the collocation space, whether or not competing providers are immediately occupying the rest of the space. Ameritech agrees that the average first-in cost should be recovered over time from multiple customers based on demand estimates, and that there should be no "first-in" penalties. Appendix at 3. NorthPoint supports the Commission's proposed conclusion that this standard should apply as minimum requirements nationwide. NPRM ¶ 144.

4. Collocation Space Preparation and Construction. Similarly, the Commission should adopt the "best practices" in terms of construction and space preparation. (¶ 142). Uniform national standards for space preparation and construction would facilitate competition in the marketplace.

5. Arbitrary Limits on Ordering Collocation. Currently, once a CLEC is allowed to purchase physical collocation space, it can expect to wait a minimum of four months to have the cage constructed. Arbitrary ILEC ordering requirements, however, routinely subject CLECs to several month delays before they are even able to purchase collocation space. For instance, US WEST has arbitrarily prevented NorthPoint from ordering collocation for several months by refusing to allow NorthPoint to place an order in any state in which it has not signed an interconnection agreement and obtained State commission approval of the agreement (this also requires that the CLEC be qualified in that State, since the state commission will not approve an interconnection agreement until a CPCN has issued). These steps take a minimum of six months in most states; U S WEST thus has kept NorthPoint from placing a single collocation order in its territory to date. By contrast, Bell Atlantic, Ameritech, and Pacific Bell have tariffed physical

collocation at the state or federal level, which allows a CLEC to order a cage immediately. See also Appendix at 2. Immediate ordering allows the CLEC to have a cage built while it is in the process of obtaining CLEC authority and a signed and approved interconnection agreement during the 4-12 month it takes the ILEC to build the collocation space. Immediate collocation ordering rights thus promotes speedier broadband deployment. NPRM ¶ 144.

6. Unreasonable Quote Request Policies. While arbitrary ordering restrictions could be easily remedied, this Commission should also address the barrier that is posed by the ILECs quote request policies. Before physical collocation can be purchased, ILECs require CLECs to confirm availability and price by filing a request for quote. Ameritech provides quotes within 10 days regardless of the number of quotes submitted at any time. Other ILECs, however, require dramatically different intervals for providing a quote. For example, it took SBC almost 4 months to provide NorthPoint with quotes for several dozen Central Offices in Texas. This causes unnecessary delay on top of the excessive waits for a cage once an order is placed. The Commission should thus require the ILECs to provide quotes as to both price and availability within 10 days, regardless of the number of quotes submitted at any time.

7. Cage Construction Intervals. After a quote is accepted, the ILEC begins constructing the actual collocation cage. Cage completion intervals for ILECs range from 90 days on up. In non-ILEC offices housing ISP equipment, similar cages generally are constructed in less than 30 days. There is simply no reason for ILECs to take more than 90 days to construct a cage in conditioned space, which generally requires only the extension of power, air conditioning, and the construction of a reinforced steel mesh cage

to separate the cage from the rest of the central office. ILECs, however, currently have no incentive to deliver a cage in a timely manner. Accordingly, the Commission should require the ILECs to deliver cages within 90 days.

In an increasing number of instances, CLECs are told that space could be made available but it must first be conditioned for collocation, e.g., asbestos must be removed, special air conditioning and power must be added. While some ILECs – such as Bell Atlantic South -- condition space within 120 days, others provide conditioning only within 180 days or, worse yet, on a wholly arbitrary "individual case basis." There is no reason to allow some ILECs to unilaterally determine a reasonable interval when others require only 120 days. Accordingly, the ILECs should be required to provide cages in unconditioned space within 120 days.

8. Late Cage Deliveries. Even after a CLEC obtains a promised due date, its problems are not over. NorthPoint has not had a single cage completed and released prior to its planned completion date (regardless of the amount of work required). Moreover, while most of the cages it purchased in Los Angeles were satisfactorily delivered, almost all the cages NorthPoint purchased in New York and San Francisco were either delivered late or had some flaw that rendered them unacceptable. This causes great hardship in terms of carefully planned installation schedules and customer expectations. (While SWBT requires five days to fix flaws in the cage, other ILECs provide no guarantee of when flaws will be fixed.) Currently, neither late nor flawed deliveries are reported and late completion have no consequences. In order to remedy this problem, the Commission should grant every ILEC five days to fix flaws in the cage, but require reporting of missed

cage construction dates, and impose monetary sanctions or other regulatory penalties (such as denial of section 271 relief) when intervals are consistently missed. CLECs' ability to deploy broadband services has been hampered by arbitrary pricing of collocation cages. Application fees vary between $0 (Pacific Bell) and $7500 (Bell Atlantic North). Charges for cage construction range from $10,000 in Georgia to more than three hundred thousand dollars. Power, heating, and ventilation ("HVAC") installation charges can range from $2,000 to $12,000. Other disparities include the monthly recurring costs for the cage, which ranges from $700 to $2,000. These glaring disparities arbitrarily limit the economic viability of providing broadband service to consumers. To police against anticompetitive pricing, regulatory bodies must ensure these arbitrarily high prices are reduced.

C. Space Exhaustion Must be Remedied

NorthPoint also agrees with the Commission's tentative conclusion (at ¶ 146) that ILECs should be required to provide detailed floor-plans and allow walk-throughs to interested CLECs wherever they contend space for physical collocation is unavailable. The FCC's Interconnection Order contemplated that ILECs would submit detailed floor plans when asserting that space was unavailable. Local Interconnection Order, ¶ 585. Few have done so, however, and there thus has been precious little review of the reasonableness of the space limitation claims asserted by ILECs. Accordingly, NorthPoint agrees that the ILECs should be required to provide both the floor plans and allow a walk-through whenever they contend an office is closed. This will allow the State commissions to make determinations based on input from all interested parties. (¶ 146). Ameritech agrees that inspection of floor plans should be permitted. Appendix at 2.