DOCKET FILE COPY ORIGINAL

RECEIVED

JUL 12 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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

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

OPPOSITION OF AMERITECH TO SPRINT'S PETITION FOR PARTIAL RECONSIDERATION AND/OR CLARIFICATION

Ameritech submits this opposition to the petition filed by Sprint asking for clarification or modification of several aspects of the Commission's order in the above-captioned proceeding.[1] Sprint's requests are overbroad, exceeding either the provisions of the 1996 Act or the bounds of good sense. The petition, in this regard, should, therefore be denied.

I. SPACE OUTSIDE ILEC STRUCTURES IS NOT COLLOCATION "PREMISES".

Sprint asks the Commission to clarify that incumbent local exchange carrier ("ILEC") property located adjacent to an ILEC central office is "premises" subject to the 96 Act's collocation requirements. Sprint's request would have the Commission expand its definition of "premises" in a way that is not consonant with the language of the Act and, therefore, with its authority under the Act. Nor would the result be consistent with the public interest.

No. of Copies rec'd 0+9
List ABCDE

[1] *In the Matter of Deployment of Wireline Services Offering Advanced Telecommunications Services,* CC Docket No. 98-147, First Report and Order, FCC 99-48 (released March 31, 1999) ("Order").

Sprint complains that BellSouth and other ILECs have denied "adjacent space collocation" contrary to the spirit, if not the letter, of the Order. According to the testimony included with Sprint's petition, BellSouth has taken the position that any requirement to permit collocators to construct or procure their own structures on ILEC property outside central offices is inconsistent with the Commission's own definition of "premises" that are subject to collocation requirements. BellSouth is correct. As the BellSouth "witness" pointed out in the testimony, in its First Interconnection Order, the Commission defined "premises" as "structures" "that house LEC network facilities".[2] Space adjacent to ILEC central offices, that does not include an ILEC's own structure, does not fit in that definition. In fact, the Commission's own words recognize that fact since the "adjacent collocation" provisions of the Order apply only "when space is legitimately exhausted in a particular LEC premises."[3] An ILEC's own controlled environmental vault ("CEV") adjacent to a central office would, of course, come within the scope of the definition and would be subject to collocation in its own right, notwithstanding "adjacent collocation" requirements. However, space on the lawn or in the parking lot next to the central office is not "premises" because it is not a structure housing network facilities.

Sprint insists that the Order interprets the §251(c)(6) requirement for collocation "at the premises of the local exchange carrier" to include land surrounding the ILEC's structure.[4] However, such an interpretation would conflict with the provisions of the Act

[2] *In the Matter of the Local Competition Provisions of the Telecommunications Act of 1996,* CC Docket No. 96-98, First Report and Order, FCC 96-325, 11 FCC Rcd. 15499 (released August 8, 1996) ("First Interconnection Order") at ¶573.
[3] Order at ¶ 44.
[4] Petition at 3.

that exempt ILECs from the requirement to offer physical collocation at their "premises" where it is not practical "because of space limitations". There is no evidence that Congress's concept of premises was broader than what was involved in the collocation arrangements that had been implemented prior to the Act. The fact that Congress used two critical terms -- "physical" and "virtual" -- to identify two types of collocation without defining those terms indicates a view of collocation structurally consistent with the past from which those terms derive meaning. And the "premises" involved in historical collocation arrangements under the Commission's expanded interconnection decisions was always the central office – i.e., a building or structure housing LEC network facilities in which space could naturally "exhaust". If Congress had intended "premises" to include the lawn and the parking lot, it likely would not have worried about "space limitations". In fact, a Commission decision to require ILECs to permit collocators to build their own structures "adjacent" to ILEC premises that are exhausted essentially guts the space limitation exemption specifically included by Congress as an essential piece of the legislation.

Moreover, the Act's collocation requirement, by its very terms, is intended to provide competitors with a means of connecting to ILEC facilities – either in an interconnection arrangement under §251(c)(2) or in accessing unbunded network elements under §251(c)(3). Defining lawn and parking lot space as collocation "premises" in this context makes no sense, since there are no ILEC network facilities at those locations to which competitive carriers can connect.

In these ways, the expansive definition of premises advocated by Sprint conflicts with the statute and would, therefore, be beyond the scope of the Commission's authority.[5]

Moreover, such a requirement would be problematic for other reasons. A requirement to permit collocators to build their own structures adjacent to ILEC central offices could result in ILEC front lawns and parking lots turning into telecommunications "shantytowns" as collocation huts spring up by the flag pole and the dumpster and perilously close to the handicapped parking space. While local codes and ordinances might protect against some aesthetically obnoxious developments in some cases, their coverage would be spotty at best and would not likely prohibit the clutter of collocation "farms" next to ILEC central offices which could actually inhibit the expansion of the central office buildings and the potential additional "traditional" collocation opportunity that that would provide.

For all of these reasons Sprint's request in this regard should be denied.

II. CLECS SHOULD NOT HAVE UNRESTRICTED DISCRETION REGARDING THE LOCATION OF THEIR COLLOCATION ARRANGEMENTS.

Sprint asks the Commission to clarify that ILECs may not require the construction of a wall or similar structure to separate cageless collocation arrangements.[6] While such a request seems fairly straightforward and consistent with the requirements of the Order,

[5] The Commission has no independent or implied authority to compel the "taking" involved in physical collocation. Therefore, any statutory grant of authority must be specific and narrowly construed. See *Bell Atlantic v. FCC,* 24 F.3d 1441 (D.C. Cir. 1994).
[6] Petition at 4.

Sprint goes on to request that the Commission also clarify "that CLECs are indeed permitted to commingle their equipment with ILEC equipment" and "to commingle CLEC equipment in the same bays as ILEC equipment."[7] These requests are overbroad and should be denied.

With respect to Sprint's request for the general "commingling" of ILEC and CLEC equipment, the Order is already clear that ILECs may not require competitors to use separate rooms or floors where that "serves to increase the cost of collocation and decrease the amount of available collocation space."[8] As the Commission noted:

> The incumbent LEC may not utilize unreasonable segregation requirements to impose unnecessary additional costs on competitors.[9]

Sprint's request, however, is unrestricted in that regard. In other words, Sprint appears to be asking for the Commission to clarify that a collocator can refuse collocation in a designated area and insist on collocation in the middle of an ILEC equipment line-up even when collocation in the designated area does not result in any additional costs or any delay to the collocator or in the depletion of available space for collocation. In those cases, Sprint's request makes no sense.

In response to the 96 Act's collocation requirements and the Commission's First Interconnection Order, many ILECs established designated collocation areas to accommodate competitors' requests. In the case of Ameritech, many of these designated areas are already configured to permit collocators to have unescorted access to their physically collocated equipment 24 hours a day, 7 days a week. In many of these

---

[7] *Id.* at 6.
[8] Order at ¶42.
[9] *Id.*

situations, sufficient space exists to accommodate existing and future collocation requests. If a collocator were to refuse collocation in such an area and to insist on collocation in the middle of an ILEC equipment line-up, it could very well cost more to implement the reasonable security measures that the Order permits the ILEC to undertake. Thus, if any clarification should be made, it is simply that the prohibition against an ILEC's requiring collocation in designated areas applies only when such a requirement would increase collocator costs, result in implementation delays, or result in a "space exhaust" situation.

With respect to Sprint's request to "commingle" CLEC equipment in ILEC equipment bays, as Sprint notes, it had made that request to the Commission previously in its comments in this docket.[10] The Commission refused Sprint's request when it determined that requiring ILECs to make collocation space available in single-bay increments adequately protects collocators from unreasonable space usage requirements.[11] Sprint makes no new argument and offers no new information in support of its request and, because of this and because of the attendant implementation complications, the Commission should not require the sharing bays at this time – especially since Sprint fails to show why such a requirement would be necessary.

III. THE ILEC SHOULD NOT BE DESIGNATED AS THE "INITIAL POINT OF CONTACT" FOR CLAIMS OF SERVICE DEGRADATION.

Styling its request as one for "clarification," Sprint seeks to expand upon the Order's requirement that

[10] Petition at 5.
[11] Order at ¶43.

> (i)f a carrier claims a service is significantly degrading the performance of other advanced services or traditional voice band services, then that carrier must notify the causing carrier and allow that carrier a reasonable opportunity to correct the problem."[12]

In reality, Sprint does not seek "clarification" of the Commission's Order as to this point, but rather seeks to impose yet another new requirement on ILECs. Essentially, Sprint would have the Commission burden ILECs in all cases with additional administrative and resource requirements. Under Sprint's new proposal, ILECs would be required to staff up to receive initial trouble calls from all carriers believing they have experienced interference problems, and to commit new personnel and equipment resources to this new ILEC role as a trouble clearinghouse charged with "notifying other CLEC(s) whenever CLEC services are claimed to be degrading the services of the other CLEC(s)."[13]

In addition to imposing new resource burdens on ILECs, Sprint's new proposed requirement that "the ILEC should always be the initial point of contact"[14] could unfairly increase the ILECs' burden of maintaining customer relations. Sprint would basically position ILECs to bear the brunt of customer wrath in all cases of interference, regardless of whether the ILEC is truly involved in the interference dispute at hand.[15] This result is both unfair and avoidable, and the original recommendation in this aspect of advanced services deployment should be sustained.

---

[12] *Id.* at ¶75 (emphasis added). The Commission reached this conclusion at the urging of Sprint and others in the original comment cycle on the Notice of Proposed Rulemaking; see Order, n. 182.

[13] Petition at 6-7.

[14] *Id.* at 7.

[15] Sprint's assertion (at 7) that ILECs' "equipment is always or almost always involved" in service degradation is completely unsupported and illogical. In fact, Ameritech's interconnection agreements generally provide that each party is responsible for its own equipment in collocation arrangements.

IV. THE COMMISSION'S CURRENT RULES ON SPACE RESERVATION ARE ADEQUATE.

Sprint reiterates its requests for the Commission to limit ILEC and CLEC space reservations to one year – and to require that reservations be supported by specific business plans to utilize the space. The Commission declined to adopt Sprint's request in the Order and the Commission should again decline its request in acting on this petition.

Sprint's request is unnecessary. The Commission's rules already impose a non-discrimination requirement on ILECs with respect to space reservation. Specifically, §51.323(f)(4) of the Commissions' rules provides:

> An incumbent LEC may retain a limited amount of floor space for its own specific future uses, provided, however, that the incumbent LEC may not reserve space for future use on terms more favorable than those that apply to other telecommunications carriers seeking to reserve collocation space for their own future use.

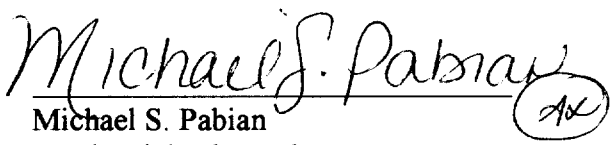
Ameritech has developed such a non-discriminatory policy that has been incorporated into its interconnection agreements. Compliance with this rule ensures that ILECs have only as much flexibility in reserving space as they allow collocators to have in reserving space. Placing a one year limit on space reservation would cause unnecessary disruption to the plans of many CLECs and, and many cases, prevent ILECs from undertaking reasonable network modifications that are necessary more than a year in the future. Long term network planning would be rendered virtually impossible, severely hampering ILECs' ability to provide adequate service to their customers – and to fulfill service performance requirements that have been imposed in some jurisdictions.

While Sprint claims that such restrictions are necessary to avoid anti-competitive space hoarding by both ILECs and CLECs, it also concedes that safeguards already exist

to address these concerns – e.g., central office tours and state commission review of floor plans in space exhaust situations.[16] Clearly, in that context, state commissions would have the authority to examine whether ILEC and CLEC space reservations are justified when they cause the rejection of a collocation request. State commissions can also ensure that ILEC space has been reserved only in accordance with a nondiscriminatory policy. These safeguards provide sufficient protection against any anti-competitive hoarding by either ILEC or CLECs, while at the same time providing both competitors and incumbents with a reasonable ability grow their businesses by reserving a reasonable amount of space for future use.

Therefore, Sprint's request in this regard should be denied.

Respectfully submitted,



Michael S. Pabian
Frank Michael Panek
Counsel for Ameritech
Room 4H82
2000 West Ameritech Center Drive
Hoffman Estates, IL 60196-1025
(847) 248-6044

Dated: July 12, 1999
[MSP0220.doc]

[16] Petition at 8.

CERTIFICATE OF SERVICE

I, Grace Germain, do hereby certify that a copy of the Opposition of Ameritech to Sprint's Petition for Partial Reconsideration and/or Clarification has been served on the party listed on the attached service list, via first class mail, postage prepaid, on this 12th day of July, 1999.

By: Grace Germain

Grace Germain

LEON M KESTENBAUM
JAY C KEITHLEY
H. RICHARD JUHNKE
JAMES W. HEDLUND
SPRINT CORPORATION
1850 M STREET NW, 11TH FLOOR
WASHINGTON DC 20036