July 30, 1999

Mr. Jon Reel 4476 8769 1351
Common Carrier Bureau Policy Division
Federal Communications Commission Portals
445 12th Street, SW, 5th Floor
Washington, DC 20554 4476 8769 1340
VIA FEDERAL EXPRESS

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Dear Jon:

Pursuant to our telephone conversion, MGC supplies the following information on CLEC Access to sub-loops.

Sub-loops are accessed at either an ILEC structure (A "hut" if above ground or a "vault" if below ground) or a wire cross-connect panel in a pedestal or cabinet.

In the case of a hut or a vault, the CLEC can collocate a multiplexor or service terminal inside, where space is available. MGC has done this in two Sprint/Centel huts in Las Vegas, Nevada. In any case, the CLEC would bring a cable from a nearby non-ILEC building or structure for termination on the cross-connect panel. This arrangement might be appropriate, for example, in a multi-building apartment complex.

Respectfully submitted,

Scott Sarem

Scott A. Sarem
Asst. Vice president, Regulatory Affairs
MGC Communications, Inc.
(702) 310-4406

cc: Magalie R. Salas

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July 29, 1999

Magalie R. Salas, Secretary
Federal Communications Commission
445 12th Street, S.W., Room TWB-204
Washington, DC 20554

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Re: ***Ex Parte*, CC Docket Nos. 96-98, 95-185**

Dear Ms. Salas:

Pursuant to Section 1.1206(b)(2) of the Commission's Rules, MGC Communications, Inc. ("MGC") submits this notice, in the above-captioned docketed proceedings, of an oral and written *ex parte* made on July 27, 1999 and July 28, 1999 with the following parties:

1. July 27, 1999: Chris Libertelli, Sanford Williams, Jon Reel, and D. Anthony Mastando of the Policy Division of the Common Carrier Bureau.
2. July 27, 1999: Sarah Whitesell Commissioner Tristani's legal advisor on Common Carrier issues.
3. July 27, 1999: Bill Bailey, Commissioner Furchtgott-Roth's legal advisor on Common Carrier issues.
4. July 27, 1999: Kyle Dixon, Commissioner Powell's legal advisor on Common carrier issues.
5. July 28, 1999: Dorothy Atwood, Chairman Kennard's legal advisor on Common Carrier issues.
6. July 28, 1999: Linda Kinney, Commissioner Ness' legal advisor on Common Carrier issues.

The presentation was made by Scott A. Sarem, Assistant Vice President of Regulatory Affairs and John Boersma, Senior Vice President of Operations, from MGC. During the meeting the parties discussed MGC's need for certain unbundled network elements. These proposed network elements were detailed in presentation materials and include information regarding the following topics:

- Access to unbundled loops, including loops located behind remote switches, access nodes, integrated digital loop carriers, etc.;
- Network interface devices and inside wire;
- Interoffice transport;
- Dark fiber;
- Cross-connects being included as part of the local loop; and
- Sub-loop unbundling as well as the ILECs' ability to provision sub-loops.

Pursuant to Sections 1.1206(b)(2), an original and two copies of this *ex parte* notification and the accompanying presentation materials are provided for inclusion in the public record of the above-referenced proceeding. Please direct any questions regarding this matter to the undersigned.

Respectfully submitted,

Scott A. Sarem
Asst. Vice president, Regulatory Affairs
MGC Communications, Inc.
(702) 310-4406

Enclosure
cc: Kent Heyman
John Boersma

July 26, 1999

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Magalie R. Salas, Secretary
Federal Communications Commission
445 12th Street, S.W., Room TWB-204
Washington, DC 20554

Re: ***Ex Parte*, CC Docket Nos. 96-98, 95-185**

Dear Ms. Salas:

Pursuant to Section 1.1206(b)(2) of the Commission's Rules, MGC Communications, Inc. ("MGC") submits this notice, in the above-captioned docketed proceedings, of an oral an written *ex parte* made on July 22, 1999, during a telephone call with Jonathan Reel of the Policy Division of the Common Carrier Bureau. The presentation was made by Scott A. Sarem of MGC. During the meeting the parties discussed MGC's need for sub-loop unbundling and ILECs' ability to provision sub-loops. Pursuant to Sections 1.1206(b)(2), an original and two copies of this *ex parte* notification are provided for inclusion in the public record of the above-referenced proceeding. Please direct any questions regarding this matter to the undersigned.

Respectfully submitted,

Scott A. Sarem
Asst. Vice president, Regulatory Affairs
MGC Communications, Inc.

Enclosure
cc: Jonathan Reel via fax (202) 418-0637

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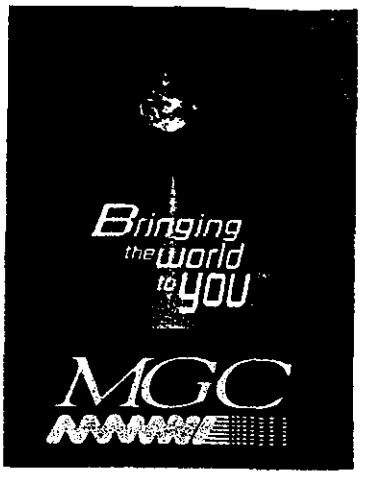

July 23, 1999

Mr. Jonathan Reel
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Via Fedex and fax (202) 418-0637

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Re: Sub-Loop Unbundling CC Docket Nos. 96-98, 95-185

Jonathan:

Pursuant to our telephone conversation, MGC Communications, Inc. ("MGC"), submits the following information in support of requiring ILECs to provide sub-loop unbundling of local loops.

First, sub-loop unbundling is technically feasible. MGC has attached a drawing of how sub-loop unbundling typically occurs. (See exhibit 1) MGC and other CLECs are collocated in ILEC central offices where they access the unbundled loop. In some cases, ILECs have deployed Integrated Subscriber Line Concentrators ("ISLC") to more efficiently serve certain customers. Generally, these ISLC's or junction boxes or D-4 channel banks are connected to the ILEC central office through a feeder cable. Then, the sub-loop is provisioned through the distribution cable. The sub-loop is provisioned from the ISLC to the customer. The CLEC will have accessed the ILEC ISLC or junction box by provisioning its own feeder cable (transport) from the ILEC central office or any other point. GTE has detailed how it would provision such an arrangement in a letter dated April 16, 1998 to Mark Peterson, MGC's Western Region President from Ellen Robinson, GTE's Director of Wholesale Markets. (See exhibit 2) In that letter, under the heading "UNE loops Served from a GTE Pair gain Location (remote), March 4, 1998)," GTE details how it may provide sub-loops through a D-4 channel bank (another term for an ISLC or a junction box).

Some ILECs may argue that they have no space available at an ISLC or junction box. That simply is not true. MGC is willing to allow the ILEC to manage its connection at the ISLC (much like virtual collocation) and the ILEC may allow CLECs to use ILEC warehoused space for fiber termination (However, fiber termination equipment may not take up more than a shelf or two on an equipment rack). Also, some ILECs may argue that CLECs presence in an ISLC or junction box may interfere with the ILEC network. Again, this assertion is flawed based on the recent FCC 706 Ruling (FCC 99-48) in CC Docket 98-147.

In that Docket in paragraphs 34 to 36, the Commissions detailed equipment safety requirements that require all CLEC collocated equipment to be NEBS compliant. NEBS compliance creates a presumption of safety to the ILEC network.. Additionally, the Commission ruled that ILECs may not place additional safety standards on CLECs that they do not require of themselves. (See attached excerpts from FCC 99-48 attached as exhibit 3).

This letter is meant to provide support for sub-loop unbundling. If you have nay questions, please do not hesitate to contact me at (702) 310-4406.

Best Regards,

Scott A. Sarem
Asst. Vice President, Regulatory Affairs
MGC Communications, Inc.

cc: Magalie Roman Salas, FCC

EXHIBIT 1

Sub-Loop Unbundling

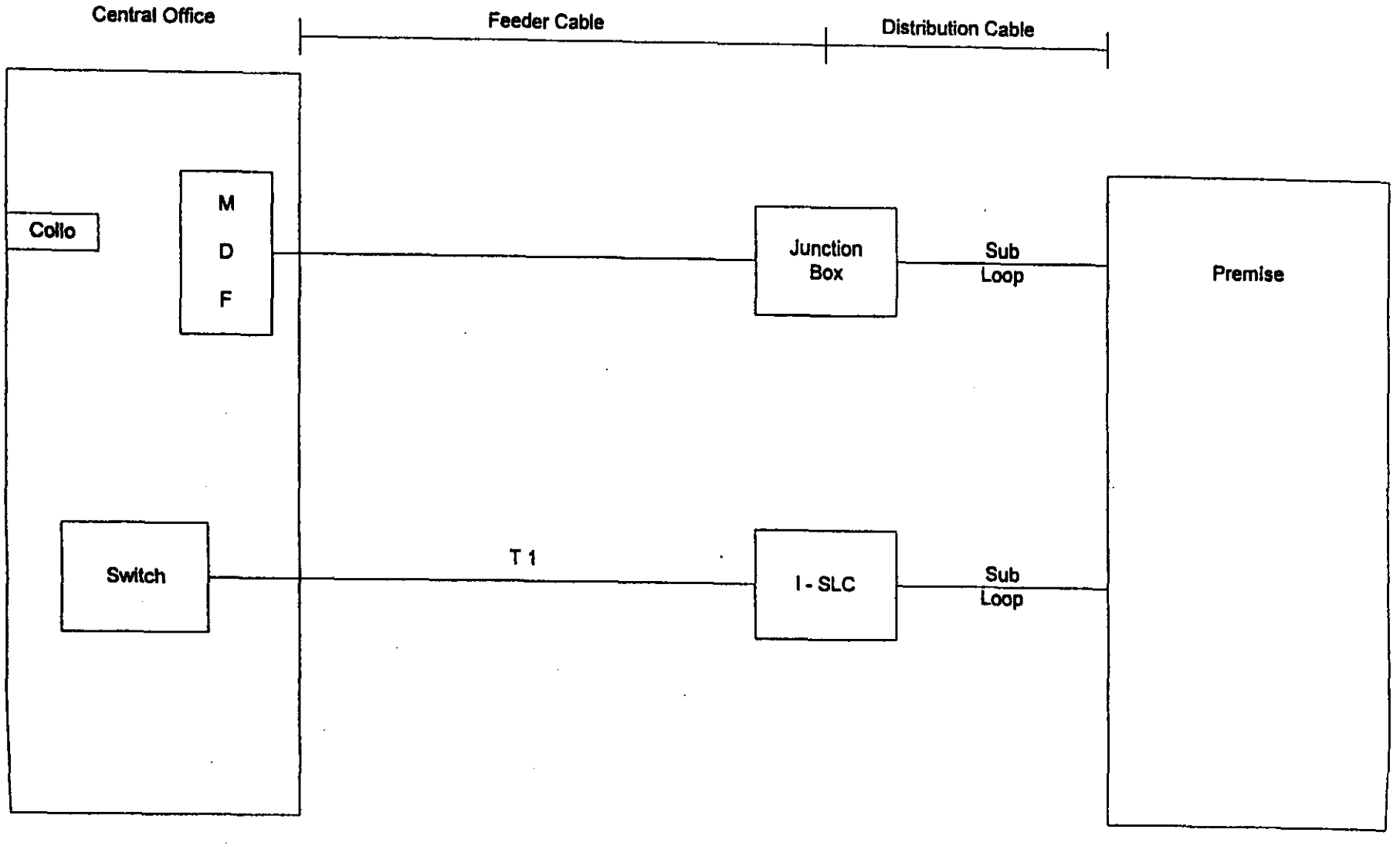

EXHIBIT 2

Ellen Robinson
Director - Wholesale Markets

GTE

GTE Network Services

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Thousand Oaks, CA 91362
805 372-8845
Fax: 805 373-6248

Vicki –
John –
Kent –
Mike M. –
Scott –
Pls review / comment
– Mark

April 16, 1998

Mr. Mark Peterson
President - Western Region
3400 Inland Empire Boulevard
Suite 201
Ontario, CA 91764

Dear Mark:

This letter is in response to your correspondence dated March 20,1998. Each of the issues you described are addressed below.

Provisioning

On April 3, 1998 GTE representatives met with John Boersma and you to review a revised process for provisioning. Larry Walton, Director - Service Fulfillment, explained the VIVID procedures which were implemented last week. Beginning Monday, April 13, VIVID began confirming orders, identify jeopardy and reporting on achieved commitments - jeopardy and due dates missed due to GTE or MGC actions. VIVID will report jeopardies to the NOMC for NOMC rescheduling of the jeopardy. A report will be released daily and will be modified as industry standards are developed. GTE will confirm results based on the VIVID center reports. As Larry explained, the VIVID center is an internal work group which is responsible for coordinating the provisioning process. They are not intended to be a customer contact point; your established contacts will remain the same. Additionally, all DAC-FAC activity will be handled by our Ontario office. This work group will have the training necessary to efficiently process UNE orders. As agreed, MGC will continue to provide GTE a list of orders, including the due date when possible, to ensure we are capturing all order activity.

changes should improve to date

Mark Heitzman, Manager - NOMC, provided the status on issues related to NOMC order processing. The NOMC representatives were also trained on VIVID procedures last week.

These steps will ensure a substantial improvement in our provisioning results; a follow up meeting will be held in May to review results for April.

Parity

GTE's Due Date Policy

Resale:

GTE will provide the same due dates for any and all resale services ordered by a CLEC with the same due date that a GTE retail end user receives in a given geographical area for like and comparable services. These due dates do not apply to any Unbundled Network Element (UNE) service.

UNE Loop Installation Intervals - No Field Visit:

GTE will provide a 3 day standard interval for all CLEC unbundled loops providing POTS for conversions where a field visit is not required. Standard intervals quoted will be based on business days from application date to completion date. UNE loops providing advanced services, i.e. DS1, ISDN, etc. will receive due dates equal to like and similar special services provided to GTE end users.

UNE Loop Installation Intervals - Field Visit:

GTE will use the due date provided by Due Date Manager when available for all UNE POTS loops not behind pair gain devices. If Due Date Manager is not available in a given area, a default of a 5 business day interval will be used.

UNE Loop Installation Intervals - Integrated Pair Gain:

GTE will provide a 5 day standard interval for UNE POTS loops served from a pair gain device where facilities are available. Where existing physical or universal loop carrier does not exist, GTE will notify CLEC within 48 hours of receipt of the order. The CLEC may opt to use the BFR process, a monthly recurring charge, or cancel the order.

The UNE loop behind pair gain procedure is enclosed for your review.

Remote Location Information and Other Network Information

GTE has declined to disclose to MGC the location of pair gain facilities within the network because this information is not available on a global basis. The information becomes available on a circuit by circuit basis only when the LSR is received in the NOMC. ?

The NOMC service representative validates whether the particular UNE loop requested is served behind a pair gain. This data is available on a CSR for California accounts only and is identified as a *"070003: CXS DC01:SYS2:CXR"* record on the CSR. However, some training may be required to understand the information provided on the CSR.

GTE has investigated MGC's request to provide data on a global basis. The data is not available. Investigation has revealed that the source of the data is available in MARK but would require program modifications to retrieve on a global basis. GTE requires $3 to $5 thousand dollars to do an Order Of Magnitude (OOM) to determine total costs to provide data MGC is requesting. If MGC is interested in paying for an OOM review, GTE will consider the review.

GTE is investigating the possibility of providing SAG database information to MGC.

Interim Tracking and Management of MGC Loop Orders to GTE

This process is superseded by the implementation of VIVID procedures. Kent?

Non-Recurring Charges

The adaption of the AT&T agreement by MGC is all inclusive. While GTE can not renegotiate pieces of the agreement, we will determine the legal and regulatory flexibility relative to renegotiating a new contract.

We are committed to providing quality service to our customers and appreciate your willingness to work with us to achieve that goal. If you wish any clarification of the information provided, please contact me at (805) 372-8845.

Ellen Robinson

BR:lan
Enclosure

UNE Loops Served From a GTE Pair Gain Location (Remote), March 4, 1998

GTE will use the following process for provisioning of UNE Loops behind a pair gain facility:

1. GTE will first use all available, spare physical or pair gain facilities to provision any CLEC request for a UNE loop.

2. Upon exhaust of all available spares, GTE will notify CLEC of the lack of facilities, using the Jeopardy Report.

3. CLEC may choose to cancel the pending order or issue a bonafide request (BFR) to GTE to construct pair gain facilities to complete the provisioning of the UNE loop. In both cases, CLEC must notify the NOMC of their intent by the use of a Supplemental LSR.

4. CLEC will provide a BFR to their Account Manager. After receipt of the BFR, the GTE Account Manager will provide to CLEC a price quote and due date for installation of a D-4 channel bank or similar pair gain for UNE loops. The price quote will be provided within 30 days of receipt of a valid BFR.

5. CLEC may choose to accept or reject the BFR proposal. If rejected, the pending service order(s) for UNE loops for that particular serving location will be canceled.

6. If CLEC chooses to accept the BFR proposal, GTE will construct the pair gain and notify CLEC of the new UNE Loop service order due date by the use of the Jeopardy process. The CLEC D-4 channel bank or pair gain will be dedicated to the CLEC for its own use. GTE will keep assignment control and will own, maintain and repair the D-4 type facility.

7. When the available pair gain facilities for the dedicated CLEC pair gain are exhausted, GTE will follow the above described procedure to notify CLEC.

As an alternative to the BFR process, where the CLEC would pay for an entire channel bank, and it would then be dedicated for their use, GTE is willing to offer the option of a Monthly Recurring Charge (MRC) for UNE loops behind pair gains.

A benefit of the MRC option to the CLEC would be that the time frame to process a BFR would be eliminated. There would be no dedicated banks for the CLEC, therefore, in many instances, facilities would be available, as GTE would monitor pair gain fill and use best efforts to install pair gain in advance of anticipated service orders. In some cases, there may be delays in provisioning due to the time frame needed to order and install pair gain, similar to GTE retail end users who order special services provided thru the pair gain.

An additional benefit to the CLEC would be the flexibility that the MRC procedure would allow the CLEC. The CLEC could add and subtract UNE loops by pair gain location without having to invest dollars up front prior to ordering the loops.

The MRC charge for UNE loops will vary by state. This charge varies from around $9.00 to $16.00. This charge will be added by the NOMC to every UNE loop served behind pair gain, if the CLEC chooses to use this process in lieu of the BFR process. The CLEC will be notified on the Local Service Confirmation (LSC) of the MRC until such time as the CLEC has the capability to identify end users served by pair gain locations during the preorder process. The MRC on the LSC will allow the CLEC to accept or cancel the service order prior to provisioning.

GTE is offering the CLEC the option of either 1) the BFR process to pay for installation of dedicated pair gains to serve the UNE loops, or 2) the use of an MRC for all loops behind a pair gain. GTE is not willing to offer this option based upon location. This option is CLEC specific.

Should the CLEC choose the MRC process, GTE would need a few weeks to implement the complete procedure.

EXHIBIT 3

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
	)	
	)	

FIRST REPORT AND ORDER AND FURTHER NOTICE OF PROPOSED RULEMAKING

Adopted: March 18, 1999 **Released: March 31, 1999**

Comment Date: **June 15, 1999**
Reply Comment Date: **July 15, 1999**

By the Commission: Commissioner Furchtgott-Roth dissenting in part and issuing a statement; Commissioner Powell concurring in part and issuing a statement; Commissioner Tristani issuing a separate statement.

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construct their own connecting transmission facilities.[71] We sought comment on any additional steps we might take so that competitive LECs are able to establish cross-connects to the equipment of other collocated competitive LECs.

33. We now revise our rules to require incumbent LECs to permit collocating carriers to construct their own cross-connect facilities between collocated equipment located on the incumbent's premises. No incumbent LECs objected specifically to permitting competitive LECs to provision their own cross-connect facilities. Although we previously did not require incumbent LECs to permit collocating carriers to construct their own cross-connect facilities, we did not prevent incumbent LECs from doing so.[72] Several competitive LECs raise the issue of delay and cost associated with incumbent LEC provision of cross-connect facilities, which are often as simple as a transmission facility running from one collocation rack to an adjacent rack.[73] We see no reason for the incumbent LEC to refuse to permit the collocating carriers to cross-connect their equipment, subject only to the same reasonable safety requirements that the incumbent LEC imposes on its own equipment.[74] Even where competitive LEC equipment is collocated in the same room as the incumbent's equipment, we require the incumbent to permit the new entrant to construct its own cross-connect facilities, using either copper or optical facilities, subject only to the same reasonable safety requirements the incumbent places on its own similar facilities.[75] Moreover, we agree with Intermedia that incumbent LECs may not require competitors to purchase any equipment or cross-connect capabilities solely from the incumbent itself at tariffed rates.[76]

34. Equipment Safety Requirements. In the *Advanced Services Order and NPRM*, we tentatively concluded that incumbent LECs may require that all equipment that a new entrant places on its premises meet safety requirements to avoid endangering other equipment and the incumbent LECs' networks.[77] Certain performance and reliability requirements, however, may not

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[71] *Id.*

[72] 47 C.F.R. § 51.323(h)(1).

[73] *See* e.spire Comments at 25-26; ICG Comments at 16-20; Intermedia Comments at 27-28; Texas PUC Comments at 8; Allegiance Comments at 4.

[74] *See infra* para. 36.

[75] *See* Level 3 Comments at 12.

[76] *See* Intermedia Comments at 38.

[77] *Advanced Services Order and NPRM* at para. 134. Incumbent LECs generally require that equipment collocated at their premises complies with Bellcore's Network Equipment and Building Specifications (NEBS). These specifications, which tend to increase the cost of equipment, include both safety requirements (NEBS Level 1), such as fire prevention specifications, and performance requirements (NEBS Levels 2 and 3).

be necessary to protect LEC equipment.[78] Such requirements may increase costs unnecessarily, which would lessen the ability of new entrants to serve certain markets and thereby harm competition. We tentatively concluded that, to the extent that incumbent LECs use equipment that does not satisfy the Bellcore Network Equipment and Building Specifications (NEBS) requirements, competitive LECs should be able to collocate the same or equivalent equipment. We further tentatively concluded that incumbent LECs should be required to list all approved equipment and all equipment they use.[79]

35. We conclude that, subject to the limitations described herein, an incumbent LEC may impose safety standards that must be met by the equipment to be collocated in its central office. First, we agree with commenters that NEBS Level 1 safety requirements are generally sufficient to protect competitive and incumbent LEC equipment from harm.[80] NEBS safety requirements, originally developed by the Bell Operating Companies' own research arm, are generally used by incumbent LECs for their own central office equipment, so we conclude that NEBS adequately address the safety concerns raised by incumbent LECs when competitors introduce their own equipment into incumbent LEC central offices.[81] We reject SBC's argument that equipment safety and performance standards should vary from location to location and that no general rules of applicability should be imposed.[82] While we agree that equipment safety standards are important to protect incumbent LEC central offices, we also believe that as a matter of federal policy, there should be a common set of safety principles that carriers should meet, regardless of where they operate. We agree with those commenters that contend that NEBS requirements that address reliability of equipment, rather than safety, should not be used as grounds to deny collocation of competitive LEC equipment.[83] Thus, an incumbent LEC may not

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[78] *Id.* at para. 135.

[79] In the *Advanced Services Order and NPRM*, we suggested that equipment reliability standards may be better left to the mutual agreement of the competitive LEC, its customers, and its equipment providers. By requiring competitive LECs to satisfy NEBS performance requirements, on top of NEBS safety requirements, competitive LECs may be compelled to engage in unnecessary, costly, and lengthy testing which could delay competitive LECs' ability to provide advanced services. *Advanced Services Order and NPRM* at para. 135 n.253. *See* e.spire Comments at 28 (allowing incumbent LECs to impose NEBS performance requirements imposes "unreasonable, costly and burdensome" requirements on competitive LECs).

[80] *See* MCI Worldcom Comments at 62 (competitive LECs "must be given a level of certainty with respect to acceptable equipment"); Sprint Comments at 13; AT&T Comments at 78.

[81] *See Advanced Services Order and NPRM* at para. 134.

[82] *See* SBC Comments at 18-19.

[83] *See* Covad Comments at 25; AT&T Comments at 78; Sprint Comments at 13; Allegiance Comments at 4; DATA Reply at 22; Intermedia Comments at 37.

refuse to permit collocation of equipment on the grounds that it does not meet NEBS performance, rather than safety, requirements.[84]

36. Second, we conclude that, although an incumbent LEC may require competitive LEC equipment to satisfy NEBS safety standards, the incumbent may not impose safety requirements that are more stringent than the safety requirements it imposes on its own equipment that it locates in its premises.[85] Because incumbent LECs generally have been setting their own rules for the safety standards that collocating carriers must adhere to, we need to adopt measures that reduce incentives for discriminatory action. We agree with commenters' suggestion that an incumbent LEC that denies collocation of a competitor's equipment, citing safety standards, must provide to the competitive LEC within five business days a list of all equipment that the incumbent LEC locates within the premises in question, together with an affidavit attesting that all of that equipment meets or exceeds the safety standard that the incumbent LEC contends the competitor's equipment fails to meet.[86] We find that absent such a requirement, incumbent LECs may otherwise unreasonably delay the ability of competitors to collocate equipment in a timely manner. For example, without this requirement, incumbents could unfairly exclude competitors' equipment for failing to meet safety standards that the incumbent's own equipment does not satisfy, or may unreasonably refuse to specify the exact safety requirements that competitors' equipment must satisfy.

d. Alternative Collocation Arrangements

(1) Background

37. In the *Advanced Services Order and NPRM*, we made several tentative conclusions and sought comment on issues raised by ALTS in its petition contending that the practices and policies that incumbent LECs employed in offering physical collocation impeded competition by imposing substantial costs and delays on competing carriers for space and construction of collocation cages.[87] Based on the record submitted in this proceeding, we now adopt several of our tentative conclusions related to the provisioning of collocation space in incumbent LEC premises.

38. In the *Advanced Services Order and NPRM*, we tentatively concluded that we should require incumbent LECs to offer collocation arrangements to new entrants that minimize

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[84] *See supra* n.79 and accompanying text.

[85] *See* Covad Comments at 24-25; Qwest Comments at 55; AT&T Comments at 78; DATA Reply at 22; Illinois C.C. Comments at 9-10; Sprint Comments at 13; KMC Comments at 15.

[86] *See* Covad Comments at 25 (only with such a procedure in place "will [competitive] LECs be able to know if they are receiving discriminatory treatment"); AT&T Comments at 78; Sprint Comments at 13.

[87] *Advanced Services Order and NPRM* at paras. 136-44. *See* AT&T Comments at 79.