STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE

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October 11, 2000

Hon. Magalie Roman Salas
Secretary
Federal Communications Commission
The Portals II
445 Twelfth St., S.W.
Washington, D.C. 20554

Re: Comments of the New York State Department of Public Service on Second Further Notice of Proposed Rulemaking in CC Docket No. 98-147 and Fifth Further Notice of Proposed Rulemaking in CC Docket No. 96-98.

Dear Secretary Salas:

The New York State Department of Public Service (NYSDPS) submits these comments in response to the Federal Communication Commission's (FCC) Second Further Notice of Proposed Rulemaking in CC Docket No. 98-147 and Fifth Further Notice of Proposed Rulemaking in CC Docket No. 96-98. Specifically, the FCC has solicited comments on measures to facilitate competition in the advanced service market through stronger collocation rules.

As the FCC is aware, the New York State Public Service Commission (Commission) has developed various collocation policies to facilitate telecommunications competition, having approved the nation's first physical collocation offering in 1991. Since that time, the Commission has continued to refine its collocation requirements to improve access by competitors to incumbent telephone company facilities for interconnection and access to unbundled network elements. As discussed below, the Commission has already addressed many of the issues raised in the Second Further Notice of Proposed Rulemaking. For this reason, we appreciate and endorse the FCC's determination that States continue to set their own standards. Moreover, we encourage the FCC to continue this approach as new issues arise affecting collocation and interconnection for advanced service.

1. Cross Connections Between Collocators

The FCC seeks comment on whether "direct" or "indirect" connections between competitors collocated in the incumbent's facilities are authorized under the Telecommunications Act of 1996. Collocators' ability to connect to each other in the incumbent carrier's central office has been assured in New York since 1995.[1] The Commission has required incumbents to provide "indirect" connections between collocated competitors (i.e., using the incumbent's facilities or services) and incumbent carriers may permit "direct" cross-connections (i.e., using the competitors' facilities), if they so choose.[2] Verizon allows collocators to interconnect directly.[3]

2. Collocation in Remote Premises

The FCC seeks comment on collocation issues in remote incumbent terminals. Most recently, the Commission adopted a policy for collocation in remote terminals, which will be made available for the FCC's consideration as soon as it is released. In earlier orders, the Commission required Verizon to provide collocation at any technically feasible point, subject to terms and conditions to be developed in an established Bona Fide Request (BFR) process. Pursuant to that order, Verizon offers collocation interconnection at various points, including SONET rings, mid-span cable meets, end offices, tandem offices, and collocation spaces.[4]

3. Provisioning Intervals

The FCC seeks comment on adopting a national standard for provisioning intervals for various types of collocation, including augmenting existing collocation facilities. As the FCC is aware, the Commission has established installation intervals for physical collocation – 76 business days, and virtual arrangements – 105 business days. The intervals required for augmentation of an existing collocation space is the subject of the soon to be released Commission order.

4. Space Allocation and Reservation Policies

The FCC seeks comment on space allocation and reservation policies. In New York, collocation requests are accepted by an incumbent local exchange carrier (ILEC) on a first come-first served basis.[5] When the ILEC cannot accommodate a specific collocation request because of space exhaustion, the ILEC must make every effort to accommodate the request through

[1] Case 94-C-0095, Order Instituting Framework for Directory Listings, Carrier Interconnection and Intercarrier Compensation (issued September 27, 1995); Case 94-C-0095, Order Clarifying September 27, 1995 Order (issued May 30, 1996).

[2] Case 94-C-0095, Order Instituting Framework for Directory Listings, Carrier Interconnection and Intercarrier Compensation at pp. 9-10 (issued September 27, 1995).

[3] Case 95-C-0657 Order Directing Tariff Changes for Non-Price Terms and Conditions for Collocation at p. 4 (issued March 2, 1998).

[4] Id. at pp. 5-6.

[5] NYT Tariff No. 914 – Telephone §5.1.2(c)

alternative arrangements. The requesting carrier can also request a walk-through of the ILEC facility to determine whether space is actually available. At the request of a competing entity, the Commission will review, on a case-by-case basis, whether an ILEC space exhaustion claim is accurate. Our review considers all space available including the reasonableness of space reserved by the ILEC for future use.[6]

In addition, the Commission has allowed the ILECs to reclaim unused collocation space when it is needed to fulfill another carrier's collocation request. If one carrier's collocation space has been vacant for 60 days and it could be used to fill a pending collocation request from another carrier, the ILEC must give the initial collocator 60 days notice of its intent to reclaim the space. In essence, the original carrier has at least 120 days after the 76 day delivery interval to occupy and avoid losing the space.[7]

In summary, we support the FCC's decision to set national standards only in the absence of State requirements. We agree that in the spirit of cooperative federalism, this approach should continue to be used.

Respectfully submitted,

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[6] Case 95-C-0657, *et al*, at pp. 13-14.

[7] Id. at pp.12-13.