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February 9, 2001

Ms. Maglie Roman Salas, Secretary
Federal Communications Commission
The Portals
445 Twelfth Street SW
Washington, D. C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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

Dear Ms. Salas:

Enclosed are an original and four copies, plus two additional public copies of Cincinnati Bell Telephone Company's Petition for Conditional Waiver of certain requirements adopted in the above referenced proceeding Order on Reconsideration, FCC 00-297 (rel. Aug. 10, 2000). A duplicate original copy of this letter and Petition is provided; please date stamp this copy as acknowledgment of its receipt and return it. Questions regarding this filing may be directed to me at the above address or by telephone at (513) 397-6671.

Sincerely,

Patricia L. Rupich

Patricia L. Rupich
Regulatory Analyst

Enclosure

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

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

PETITION FOR CONDITIONAL WAIVER

Cincinnati Bell Telephone Company ("CBT"), pursuant to Section 1.3 of the Commission's rules, 47 C.F.R. § 1.3, requests a conditional waiver of the 90-day collocation interval established in the *Collocation Reconsideration Order.*[1] Specifically, CBT requests the same conditional waiver that the Commission granted to Verizon and SBC in its November 7, 2000 Memorandum Opinion and Order.[2] As described below, CBT satisfies the requirements for a waiver of the Commission's rules, and therefore, the Commission should grant CBT's request.

I. BACKGROUND

In the *Collocation Reconsideration Order* the Commission established that in the absence of a state standard or an alternative standard mutually agreed to by a requesting carrier and an incumbent local exchange carrier ("ILEC"), the ILEC must provide physical collocation within a

[1] *Deployment of Wireline Services Offering Advanced Telecommunications*, CC Docket No. 98-147, *Order on Reconsideration and Second Further Notice of Proposed Rulemaking in CC Docket No. 98-147,* FCC 00-297, released August 10, 2000 ("*Collocation Reconsideration Order*").
[2] *Deployment of Wireline Services Offering Advanced Telecommunications*, CC Docket No. 98-147, *Memorandum Opinion and Order*, DA 00-2528, released November 7, 2000 ("*Waiver Order*").

90-day interval.[3] Verizon and SBC requested that, in states that have not set their own provisioning intervals, they be allowed to offer collocation consistent with the application processing and provisioning intervals set for Verizon by the New York Public Service Commission. The *Waiver Order* permits Verizon and SBC, in states that have not set their own provisioning intervals, to follow a modified version of the application processing and provisioning interval established by the New York Public Service Commission.[4] This waiver remains in effect until the Commission acts on reconsideration of the *Collocation Reconsideration Order.*

II. GOOD CAUSE EXISTS TO ALLOW CBT TO ADOPT THE MODIFIED NEW YORK PUBLIC SERVICE COMMISSION PROVISIONING INTERVAL

CBT has interconnection agreements with competitive local exchange carriers ("CLECs") in Ohio and Kentucky. Neither of these states has set collocation provisioning intervals. Therefore, currently CBT must provision physical collocation space according to the 90-day interval established in the *Collocation Reconsideration Order.*

CBT can generally meet the 90-day interval where preconditioned space exists, however, it will be unable to satisfy this requirement if it receives a request for collocation in unconditioned space, where build-out is required or extraordinary upgrades must be made, such as HVAC augmentation, new power supplies, or asbestos removal. Since the effective date of the *Collocation Reconsideration Order*, CBT has not had a request involving collocation in unconditioned space or requiring extraordinary upgrades, however, it is concerned that should such a request occur it will not be able to comply with the designated timeframes. For example,

[3] See *Collocation Reconsideration Order* at ¶¶21-31. Specifically, paragraph 29 requires "that, except to the extent a state sets its own collocation provisioning standard or an incumbent LEC and requesting carrier have an interconnection agreement that sets an alternative standard, an incumbent LEC must complete physical collocation provisioning within 90 calendar days after receiving an acceptable collocation application."

in unconditioned space requiring installation of overhead steel it generally takes a contractor about 12 weeks to begin work from the date CBT places a firm order. Allowing another seven to ten days for completion of the work puts CBT outside of the 90 calendar days permitted under the *Collocation Reconsideration Order*, without even factoring in the up-front time for CBT to process the CLEC's application, conduct a site survey, design, engineer, and submit a firm order to the contractor. This scenario assumes that everything goes smoothly from start to finish, meaning that the CLEC's application is clear and no unanticipated problems arise, such as delays in material delivery.

Because most of the work necessary to prepare unconditioned space must be contracted to outside vendors, CBT's ability to expedite the preparation of the space is limited. Although the Commission's rules bind the ILEC to the 90-day interval, that does not necessarily mean that contractors feel compelled to accommodate the ILEC's shortened timeframes. Particularly in CBT's case, as a smaller carrier operating only in one MSA, it does not have the same clout as a larger carrier to compel a contractor to modify its schedule to meet the compressed schedule the existing rules impose on CBT.

CBT submits that it is not practical, nor would it be in the public interest for CBT to expend resources to precondition space in every possible collocation area to accommodate the possibility that a competitive carrier may request collocation. Furthermore, it is not possible to anticipate every type of collocation arrangement that might be requested. Instead, CBT requests that the Commission grant it a waiver of the existing rules and allow CBT to follow the same collocation provisioning intervals that it has authorized for Verizon and SBC to use in states where the state commission has not established its own provisioning intervals. This means that in Ohio and Kentucky CBT would comply with the provisioning intervals adopted by the New

[4] See *Collocation Reconsideration Order* at ¶17.

York Public Service Commission as modified by the *Waiver Order*.[5] The Commission determined that the alternative intervals approved in the *Waiver Order* would not create substantial additional delay in the provisioning of physical collocation space to competitors and that the public interest would be served by granting such conditioned waivers.[6] CBT submits that the same rationale holds true in its case.

Although the *Collocation Reconsideration Order* established a national standard that would apply when a state has not set its own provisioning interval, the *Waiver Order* recognizes that the petitions for reconsideration of the *Collocation Reconsideration Order* raise serious questions about whether a 90-day interval is reasonable in all cases. Therefore, the *Waiver Order* concluded that good cause exists to waive the 90-day interval conditioned upon the ILEC's commitments to meet reasonable alternative provisioning intervals. The alternative collocation provisioning intervals established in the *Waiver Order* would enable CBT to provision most collocation arrangements in a timeframe that the Commission has determined to be an appropriate interval for promoting open competition and would prevent CBT from incurring unnecessary costs to precondition space for which it may never receive a request for collocation. As with the Verizon and SBC waivers, CBT anticipates that this waiver would apply until the Commission acts on reconsideration of the *Collocation Reconsideration Order*.

[5] The *Waiver Order* at ¶15-16 finds that the New York Commission's standards may result in excessively long intervals in instances where a CLEC has not properly forecast its collocation demands. Therefore, the *Waiver Order* allows Verizon and SBC to increase the provisioning interval for a proposed physical collocation arrangement by no more than 60 calendar days in the event a CLEC fails to provide a timely and accurate forecast.
[6] See *Waiver Order* at ¶¶ 9-12.

III. CONCLUSION

Having determined in the *Waiver Order* that the collocation provisioning interval CBT now requests is reasonable and in the public interest, CBT submits that good cause exists for the Commission to grant CBT's request for waiver of the collocation provisioning intervals established in the *Collocation Reconsideration Order*.

Respectfully submitted,

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February 9, 2001