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In such cases, the incumbent LEC shall be required to provide virtual collocation, except at points where the incumbent LEC proves to the state commission that virtual collocation is not technically feasible. If virtual collocation is not technically feasible, the incumbent LEC shall provide other methods of interconnection and access to unbundled network elements to the extent technically feasible.

(f) An incumbent LEC shall submit to the state commission, subject to any protective order as the state commission may deem necessary, detailed floor plans or diagrams of any premises where the incumbent LEC claims that physical collocation is not practical because of space limitations. These floor plans or diagrams must show what space, if any, the incumbent LEC or any of its affiliates has reserved for future use, and must describe in detail the specific future uses for which the space has been reserved and the length of time for each reservation. An incumbent LEC that contends space for physical collocation is not available in an incumbent LEC premises must also allow the requesting carrier to tour the entire premises in question, not only the area in which space was denied, without charge, within ten days of the receipt of the incumbent's denial of space. An incumbent LEC must allow a requesting telecommunications carrier reasonable access to its selected collocation space during construction.

(g) An incumbent LEC that is classified as a Class A company under § 32.11 of this chapter and that is not a National Exchange Carrier Association interstate tariff participant as provided in part 69, subpart G, shall continue to provide expanded interconnection service pursuant to interstate tariff in accordance with §§ 64.1401, 64.1402, 69.121 of this chapter, and the Commission's other requirements.

(h) Upon request, an incumbent LEC must submit to the requesting carrier within ten days of the submission of the request a report indicating the incumbent LEC's available collocation space in a particular LEC premises. This report must specify the amount of collocation space available at each requested premises, the number of collocators, and any modifications in

the use of the space since the last report. This report must also include measures that the incumbent LEC is taking to make additional space available for collocation. The incumbent LEC must maintain a publicly available document, posted for viewing on the incumbent LEC's publically available Internet site, indicating all premises that are full, and must update such a document within ten days of the date at which a premises runs out of physical collocation space.

(i) An incumbent LEC must, upon request, remove obsolete unused equipment from their premises to increase the amount of space available for collocation.

[61 FR 45619, Aug. 28, 1996, as amended at 64 FR 23241, Apr. 30, 1999; 65 FR 54438, Sept. 8, 2000]

EFFECTIVE DATE NOTE: At 65 FR 54438, Sept. 8, 2000, § 51.321 was amended by revising paragraph (f), effective Oct. 10, 2000. For the convenience of the user, the superseded text is set forth as follows.

§ 51.321 Methods of obtaining interconnection and access to unbundled elements under section 251 of the Act.

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(f) An incumbent LEC shall submit to the state commission, subject to any protective order as the state commission may deem necessary, detailed floor plans or diagrams of any premises where the incumbent LEC claims that physical collocation is not practical because of space limitations. An incumbent LEC that contends space for physical collocation is not available in an incumbent LEC premises must also allow the requesting carrier to tour the entire premises in question, not just the area in which space was denied, without charge, within ten days of the receipt of the incumbent LEC's denial of space.

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§ 51.323 Standards for physical collocation and virtual collocation.

(a) An incumbent LEC shall provide physical collocation and virtual collocation to requesting telecommunications carriers.

(b) Whenever an incumbent LEC objects to collocation of equipment by a requesting telecommunications carrier for the purposes within the scope of

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section 251(c)(6) of the Act, the incumbent LEC shall prove to the state commission that the equipment will not be actually used by the telecommunications carrier for the purpose of obtaining interconnection or access to unbundled network elements. An incumbent LEC may not object to the collocation of equipment on the grounds that the equipment does not comply with safety or engineering standards that are more stringent than the safety or engineering standards that the incumbent LEC applies to its own equipment. An incumbent LEC may not object to the collocation of equipment on the ground that the equipment fails to comply with Network Equipment and Building Specifications performance standards or any other performance standards. An incumbent LEC that denies collocation of a competitor's equipment, citing safety standards, must provide to the competitive LEC within five business days of the denial a list of all equipment that the incumbent LEC locates at 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. This affidavit must set forth in detail: the exact safety requirement that the requesting carrier's equipment does not satisfy; the incumbent LEC's basis for concluding that the requesting carrier's equipment does not meet this safety requirement; and the incumbent LEC's basis for concluding why collocation of equipment not meeting this safety requirement would compromise network safety. Equipment used for interconnection or access to unbundled network elements includes, but is not limited to:

(1) Transmission equipment including, but not limited to, optical terminating equipment and multiplexers, and

(2) Equipment being collocated to terminate basic transmission facilities pursuant to §§ 66.1401 and 64.1402 of this chapter as of August 1, 1996.

(3) Digital subscriber line access multiplexers, routers, asynchronous transfer

(c) Nothing in this section requires an incumbent LEC to permit collocation

of equipment used solely for switching or solely to provide enhanced services; provided, however, that an incumbent LEC may not place any limitations on the ability of requesting carriers to use all the features, functions, and capabilities of equipment collocated pursuant to paragraph (b) of this section, including, but not limited to, switching and routing features and functions and enhanced services functionalities.

(d) When an incumbent LEC provides physical collocation, virtual collocation, or both, the incumbent LEC shall:

(1) Provide an interconnection point or points, physically accessible by both the incumbent LEC and the collocating telecommunications carrier, at which the fiber optic cable carrying an interconnector's circuits can enter the incumbent LEC's premises, provided that the incumbent LEC shall designate interconnection points as close as reasonably possible to its premises;

(2) Provide at least two such interconnection points at each incumbent LEC premises at which there are at least two entry points for the incumbent LEC's cable facilities, and at which space is available for new facilities in at least two of those entry points;

(3) Permit interconnection of copper or coaxial cable if such interconnection is first approved by the state commission; and

(4) Permit physical collocation of microwave transmission facilities except where such collocation is not practical for technical reasons or because of space limitations, in which case virtual collocation of such facilities is required where technically feasible.

(e) When providing virtual collocation, an incumbent LEC shall, at a minimum, install, maintain, and repair collocated equipment identified in paragraph (b) of this section within the same time periods and with failure rates that are no greater than those that apply to the performance of similar functions for comparable equipment of the incumbent LEC itself.

(f) An incumbent LEC shall allocate space for the collocation of the equipment identified in paragraph (b) of this

section in accordance with the following requirements:

(1) An incumbent LEC shall make space available within or on its premises to requesting telecommunications carriers on a first-come, first-served basis, provided, however, that the incumbent LEC shall not be required to lease or construct additional space to provide for physical collocation when existing space has been exhausted;

(2) To the extent possible, an incumbent LEC shall make contiguous space available to requesting telecommunications carriers that seek to expand their existing collocation space;

(3) When planning renovations of existing facilities or constructing or leasing new facilities, an incumbent LEC shall take into account projected demand for collocation of equipment;

(4) An incumbent LEC may retain a limited amount of floor space for its own specific future uses, provided, however, that neither the incumbent LEC nor any of its affiliates may 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;

(5) An incumbent LEC shall relinquish any space held for future use before denying a request for virtual collocation on the grounds of space limitations, unless the incumbent LEC proves to the state commission that virtual collocation at that point is not technically feasible; and

(6) An incumbent LEC may impose reasonable restrictions on the warehousing of unused space by collocating telecommunications carriers, provided, however, that the incumbent LEC shall not set maximum space limitations applicable to such carriers unless the incumbent LEC proves to the state commission that space constraints make such restrictions necessary.

(g) An incumbent LEC shall permit collocating telecommunications carriers to collocate equipment and connect such equipment to unbundled network transmission elements obtained from the incumbent LEC, and shall not require such telecommunications carriers to bring their own transmission facilities to the incumbent LEC's

premises in which they seek to collocate equipment.

(h) An incumbent LEC shall permit a collocating telecommunications carrier to interconnect its network with that of another collocating telecommunications carrier at the incumbent LEC's premises and to connect its collocated equipment to the collocated equipment of another telecommunications carrier within the same premises provided that the collocated equipment is also used for interconnection with the incumbent LEC or for access to the incumbent LEC's unbundled network elements.

(1) An incumbent LEC shall provide, at the request of a collocating telecommunications carrier, the connection between the equipment in the collocated spaces of two or more telecommunications carriers. The incumbent LEC must permit any collocating telecommunications carrier to construct its own connection between the carrier's equipment and that of one or more collocating carriers, if the telecommunications carrier does not request the incumbent LEC's construction of such facilities. The incumbent LEC must permit the requesting carrier to construct such facilities using copper or optical fiber equipment.

(2) An incumbent LEC shall permit collocating telecommunications carriers to place their own connecting transmission facilities within the incumbent LEC's premises outside of the actual physical collocation space, subject only to reasonable safety limitations.

(i) As provided herein, an incumbent LEC may require reasonable security arrangements to protect its equipment and ensure network reliability. An incumbent LEC may only impose security arrangements that are as stringent as the security arrangements that incumbent LECs maintain at their own premises for their own employees or authorized contractors. An incumbent LEC must allow collocating parties to access their collocated equipment 24 hours a day, seven days a week, without requiring either a security escort of any kind or delaying a competitor's employees' entry into the incumbent LEC's premises. Reasonable security

measures that the incumbent LEC may adopt include:

(1) Installing security cameras or other monitoring systems; or

(2) Requiring competitive LEC personnel to use badges with computerized tracking systems; or

(3) Requiring competitive LEC employees to undergo the same level of security training, or its equivalent, that the incumbent's own employees, or third party contractors providing similar functions, must undergo; provided, however, that the incumbent LEC may not require competitive LEC employees to receive such training from the incumbent LEC itself, but must provide information to the competitive LEC on the specific type of training required so the competitive LEC's employees can conduct their own training.

(j) An incumbent LEC shall permit a collocating telecommunications carrier to subcontract the construction of physical collocation arrangements with contractors approved by the incumbent LEC, provided, however, that the incumbent LEC shall not unreasonably withhold approval of contractors. Approval by an incumbent LEC shall be based on the same criteria it uses in approving contractors for its own purposes.

(k) An incumbent LEC's physical collocation offering must include the following:

(1) *Shared collocation cages.* A shared collocation cage is a caged collocation space shared by two or more competitive LECs pursuant to terms and conditions agreed to by the competitive LECs. In making shared cage arrangements available, an incumbent LEC may not increase the cost of site preparation or nonrecurring charges above the cost for provisioning such a cage of similar dimensions and material to a single collocating party. In addition, the incumbent must prorate the charge for site conditioning and preparation undertaken by the incumbent to construct the shared collocation cage or condition the space for collocation use, regardless of how many carriers actually collocate in that cage, by determining the total charge for site preparation and allocating that charge to a collocating carrier based on the per-

centage of the total space utilized by that carrier. An incumbent LEC must make shared collocation space available in single-bay increments or their equivalent, i.e., a competing carrier can purchase space in increments small enough to collocate a single rack, or bay, of equipment.

(2) *Cageless collocation.* Incumbent LECs must allow competitors to collocate in any unused space in the incumbent LEC's premises, without requiring the construction of a cage or similar structure, and without requiring the creation of a separate entrance to the competitor's collocation space. An incumbent LEC may require collocating carriers to use a central entrance to the incumbent's building, but may not require construction of a new entrance for competitors' use, and once inside the building, incumbent LECs must permit collocating carriers to have direct access to their equipment. An incumbent LEC may not require competitors to use an intermediate interconnection arrangement in lieu of direct connection to the incumbent's network if technically feasible. In addition, an incumbent LEC must give competitors the option of collocating equipment in any unused space within the incumbent's premises, and may not require competitors to collocate in a room or isolated space separate from the incumbent's own equipment. An incumbent LEC must make cageless collocation space available in single-bay increments, meaning that a competing carrier can purchase space in increments small enough to collocate a single rack, or bay, of equipment.

(3) *Adjacent space collocation.* An incumbent LEC must make available, where physical collocation space is legitimately exhausted in a particular incumbent LEC structure, collocation in adjacent controlled environmental vaults, controlled environmental huts, or similar structures located at the incumbent LEC premises to the extent technically feasible. The incumbent LEC must permit a requesting telecommunications carrier to construct or otherwise procure such an adjacent structure, subject only to reasonable safety and maintenance requirements. The incumbent must provide power and

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physical collocation services and facilities, subject to the same non-discrimination requirements as applicable to any other physical collocation arrangement. The incumbent LEC must permit the requesting carrier to place its own equipment, including, but not limited to, copper cables, coaxial cables, fiber cables, and telecommunications equipment, in adjacent facilities constructed by the incumbent LEC, the requesting carrier, or a third-party. If physical collocation space becomes available in a previously exhausted incumbent LEC structure, the incumbent LEC must not require a carrier to move, or prohibit a competitive LEC from moving, a collocation arrangement into that structure. Instead, the incumbent LEC must continue to allow the carrier to collocate in any adjacent controlled environmental vault, controlled environmental vault, or similar structure that the carrier has constructed or otherwise procured.

(l) An incumbent LEC must offer to provide and provide all forms of physical collocation (*i.e.*, caged, cageless, shared, and adjacent) within the following deadlines, except to the extent a state sets its own deadlines or the incumbent LEC has demonstrated to the state commission that physical collocation is not practical for technical reasons or because of space limitations.

(1) Within ten days after receiving an application for physical collocation, an incumbent LEC must inform the requesting carrier whether the application meets each of the incumbent LEC's established collocation standards. A requesting carrier that resubmits a revised application curing any deficiencies in an application for physical collocation within ten days after being informed of them retains its position within any collocation queue that the incumbent LEC maintains pursuant to paragraph (f)(1) of this section.

(2) Except as stated in paragraphs (l)(3) and (l)(4) of this section, an incumbent LEC must complete provisioning of a requested physical collocation arrangement within 90 days after receiving an application that meets the incumbent LEC's established collocation application standards.

(3) An incumbent LEC need not meet the deadline set forth in paragraph (l)(2) of this section if, after receipt of any price quotation provided by the incumbent LEC, the telecommunications carrier requesting collocation does not notify the incumbent LEC that physical collocation should proceed.

(4) If, within seven days of the requesting carrier's receipt of any price quotation provided by the incumbent LEC, the telecommunications carrier requesting collocation does not notify the incumbent LEC that physical collocation should proceed, then the incumbent LEC need not complete provisioning of a requested physical collocation arrangement until 90 days after receiving such notification from the requesting telecommunications carrier.

[61 FR 45619, Aug. 28, 1996, as amended at 64 FR 23242, Apr. 30, 1999; 65 FR 54439, Sept. 8, 2000]

EFFECTIVE DATE NOTE: At 65 FR 54439, Sept. 8, 2000, § 51.323 was amended by revising paragraphs (b) introductory text, (f)(4), and (k)(3), and by adding paragraph (l), effective Oct. 10, 2000. For the convenience of the user, the superseded text is set forth to follow.

§ 51.323 Standards for physical collocation and virtual collocation.

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(b) An incumbent LEC shall permit the collocation of any type of equipment used or useful for interconnection or access to unbundled network elements. Whenever an incumbent LEC objects to collocation of equipment by a requesting telecommunications carrier for the purposes within the scope of section 251(c)(6) of the Act, the incumbent LEC shall prove to the state commission that the equipment will not be actually used by the telecommunications carrier for the purpose of obtaining interconnection or access to unbundled network elements. An incumbent LEC may not object to the collocation of equipment on the grounds that the equipment does not comply with safety or engineering standards that are more stringent than the safety or engineering standards that the incumbent LEC applies to its own equipment. An incumbent LEC may not object to the collocation of equipment on the ground that the equipment fails to comply with National Equipment and Building Specifications performance standards. An incumbent LEC that denies collocation of a competitor's equipment, citing safety standards, must provide to the competitive LEC within five business days of the denial a list

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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. Equipment used for interconnection and access to unbundled network elements includes, but is not limited to:

* * * * *

(f) * * *

(4) 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;

* * * * *

(k) * * *

(3) *Adjacent space collocation.* An incumbent LEC must make available, where space is legitimately exhausted in a particular incumbent LEC premises, collocation in adjacent controlled environmental vaults or similar structures to the extent technically feasible. The incumbent LEC must permit the new entrant to construct or otherwise procure such an adjacent structure, subject only to reasonable safety and maintenance requirements. The incumbent must provide power and physical collocation services and facilities, subject to the same nondiscrimination requirements as applicable to any other physical collocation arrangement. The incumbent LEC must permit the requesting carrier to place its own equipment, including, but not limited to, copper cables, coaxial cables, fiber cables, and telecommunications equipment, in adjacent facilities constructed by either the incumbent LEC or by the requesting carrier itself.

§ 51.325 Notice of network changes: Public notice requirement.

(a) An incumbent local exchange carrier ("LEC") must provide public notice regarding any network change that:

- (1) Will affect a competing service provider's performance or ability to provide service;
(2) Will affect the incumbent LEC's interoperability with other service providers; or
(3) Will affect the manner in which customer premises equipment is attached to the interstate network.

(b) For purposes of this section, interoperability means the ability of two or

more facilities, or networks, to be connected, to exchange information, and to use the information that has been exchanged.

(c) Until public notice has been given in accordance with §§ 51.325 through 51.335, an incumbent LEC may not disclose to separate affiliates, separated affiliates, or unaffiliated entities (including actual or potential competing service providers or competitors), information about planned network changes that are subject to this section.

(d) For the purposes of §§ 51.325 through 51.335, the term services means telecommunications services or information services.

[61 FR 47351, Sept. 6, 1996, as amended at 64 FR 14148, Mar. 24, 1999]

§ 51.327 Notice of network changes: Content of notice.

(a) Public notice of planned network changes must, at a minimum, include:

- (1) The carrier's name and address;
(2) The name and telephone number of a contact person who can supply additional information regarding the planned changes;
(3) The implementation date of the planned changes;
(4) The location(s) at which the changes will occur;
(5) A description of the type of changes planned (Information provided to satisfy this requirement must include, as applicable, but is not limited to, references to technical specifications, protocols, and standards regarding transmission, signaling, routing, and facility assignment as well as references to technical standards that would be applicable to any new technologies or equipment, or that may otherwise affect interconnection); and
(6) A description of the reasonably foreseeable impact of the planned changes.

(b) The incumbent LEC also shall follow, as necessary, procedures relating to confidential or proprietary information contained in § 51.335.

[61 FR 47351, Sept. 6, 1996]

§ 51.329 Notice of network changes: Methods for providing notice.

(a) In providing the required notice to the public of network changes, an