

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on June 24, 1999

COMMISSIONERS PRESENT:

Maureen O. Helmer, Chairman
Thomas J. Dunleavy
James D. Bennett
Leonard A. Weiss

CASE 99-C-0715 - Ordinary Tariff Filing of New York Telephone Company to Provide for the Introduction of Cageless Collocation Open Environment (CCOE); rates and regulations for Adjacent Structures; and, clarifications and modifications to existing collocation offerings.

CASE 95-C-0657 - Joint Complaint of AT&T Communications of New York, Inc., MCI Telecommunications Corporation, WorldCom, Inc. d/b/a LDDS WorldCom and the Empire Association of Long Distance Telephone Companies, Inc. Against New York Telephone Company Concerning Wholesale Provisioning of Local Exchange Service by New York Telephone Company and Sections of New York Telephone's Tariff No. 900.

ORDER APPROVING TARIFF FILING ON A PERMANENT
BASIS AND REQUESTING COMMENTS

(Issued and Effective June 28, 1999)

BY THE COMMISSION:

INTRODUCTION

On March 31, 1999, the Federal Communications Commission (FCC) released its First Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 98-147 (the Order) which imposed further national collocation rules that apply to all telecommunications services, including advanced services and traditional voice services. On May 21, 1999, New York Telephone Company d/b/a Bell Atlantic-New York (BA-NY or the company) filed tariff revisions, shown on Appendix 1, to comply with this Order. The proposed revisions provide for the introduction of Cageless

Collocation Open Environment (CCOE); rates and regulations for adjacent structures; and, clarifications and modifications to existing collocation offerings. In addition, on June 2, 1999, the company filed tariff revisions, shown on Appendix 2, to withdraw its Collocation Line of Sight Escort (CLOSE) service, because it is being replaced by a cageless collocation offering.

Covad Communications Company expressed several concerns relating to this filing. In addition, ACI Corporation submitted written comments.

THE FCC ORDER

The FCC Order established additional measures for obtaining interconnection and access to Unbundled Network Elements and set standards for Physical and Virtual collocation. The collocation rules set forth in the Order are to serve as minimum standards. The Order however, permits states to adopt additional requirements.

Interconnection and Access to Unbundled Networks

Specifically, the incumbent local exchange company (ILEC) is now required to provide certain information when physical collocation is not practical due to space limitations; allow the competing local exchange company (CLEC) to tour the entire premises of a central office where they are denied physical collocation; submit a plan within 10 days of a request on how the ILEC plans to provide space; have a public document available on the Internet showing what central offices are full; and, upon request, remove obsolete equipment.

Standards for Physical and Virtual Collocation

The FCC's Order also established procedures to use when an ILEC objects to the use of particular CLEC equipment. The Order states that the ILEC cannot object on the grounds that the equipment does not comply with performance or reliability standards or does not comply with all the National Equipment and

Building Specifications. If BA-NY denies collocation of a CLEC's equipment citing safety standards, BA-NY must show that all its equipment meets or exceeds the safety standards. ILECs must allow CLECs to interconnect with each other and cannot impose more stringent security requirements on the CLECs than it imposes on itself. Three additional forms of collocation were also required, namely, Shared, Cageless and Adjacent collocation.

BA-NY'S TARIFF FILINGS

The Company's proposed tariff, filed on May 21, 1999, implements the following: the introduction of Cageless Collocation Open Environment (CCOE); the introduction of rates and regulations for Adjacent Structures; the clarifications and modifications to existing collocation offerings pursuant to the Order, including the introduction of a Site Survey/Report Fee; and, minor textual and CLEC point of contact changes. The June 2, 1999, tariff revisions withdraw the company's Collocation Line of Sight Escort (CLOSE) service.

Cageless Collocation Open Environment (CCOE)

CCOE is a form of physical collocation in which CLECs can place their equipment in approved and designated conditioned space which is to be in a separate lineup, typically a minimum of 10 feet from working BA-NY equipment and not in space reserved by BA-NY. The company will work cooperatively with each CLEC to develop an equipment layout with the company reserving the right to designate the specific location. If the location that is chosen is where BA-NY equipment is secured, the provisioning interval for CCOE is 76 business days; where BA-NY equipment is not secure, the interval is 105 business days. CLECs must use installation vendors that are approved by BA-NY when technically feasible; comply with the Network Equipment Installation Standards of BA-NY; and, provide drawings and record updates and conform with the company's technical Engineering Specifications and Network Equipment Building Systems (NEBS). The CLEC must abide by all BA-NY security practices and will be required to

sign a confidentiality agreement in order to gain access to the company's building(s). Access will be provided 24 hours a day, seven days a week, and unless an emergency exists, the CLEC must provide no less than 30 minutes notice for a manned facility and 60 minutes notice for an unmanned facility. When there is no security¹ in place, BA-NY will provide an escort at no charge to the CLEC. The CLEC must adhere to all entrance and exit requirements and is restricted to direct access to its arrangement, including the central office space housing its CCOE equipment. BA-NY plans to submit a cageless security rate at a later date². Finally, CLEC personnel must be accompanied by a qualified BA-NY representative in all manhole and vault locations.³

Adjacent Structure Collocation

Adjacent Structure Collocation will be permitted when the company has no space available for Physical or Virtual Collocation. A CLEC may construct or procure Controlled Environment Vaults, or similar adjacent structures where technically feasible, and must use BA-NY approved vendors. The CLEC will be responsible for complying with all federal, state and local regulations and obtain all permits. Any construction by the CLEC must comply with BA-NY technical specifications related to environmental safety and grounding specifications. BA-NY reserves the right to inspect the CLEC's structure and any non-conformance must be remedied. The CLEC will provide the

¹ According to BA-NY, security in this context means its equipment is protected in some way, for example, by a cage or some other divider, from the CLEC equipment.

² The Cageless Security Rate will be a rate to cover the costs that BA-NY incurs to secure its equipment from the CLEC employing CCOE. This rate element will be proposed as a temporary rate with full examination to occur in Case 98-C-1357, also known as, the Elements '99 proceeding.

³ This requirement also appears in the company's tariff for Physical Collocation (P.S.C. 914-Original Page 1.11, paragraph 5.1.6(F)).

company with access 24 hours a day, seven days a week. BA-NY will make available power and physical collocation support services. All costs incurred by BA-NY associated with the CLEC's deployment of an adjacent structure will be recovered on an individual case basis. The CLEC will be responsible for all expenses incurred by BA-NY at the time they occur or for any ongoing expenses that result relating to zoning approval and permit acquisitions.

Other Changes

Additional changes have been proposed that pertain to Physical, Virtual and Microwave Collocation. More specifically, these changes relate to space limitations; technical, security and safety requirements; insurance requirements; and, the introduction of a new charge, the Site Survey/Report Fee.

Upon receipt of a request for physical collocation, BA-NY will inform a CLEC within eight business days of receipt of an application, if space is available. If space is not readily available, the CLEC will be notified within 20 business days if space could be made available. If no space is available, the CLEC may tour the central office in question within 10 business days of BA-NY's denial after signing a confidentiality agreement. No further tours of a central office will be given if a central office has been deemed by the Commission to be exempt due to space exhaustion. The BA-NY website will be updated within 10 business days of a central office running out of space. If there is obsolete equipment in a central office, it must be removed upon a reasonable request from a CLEC or by Commission order.

Once collocation is established by a CLEC, it may place equipment necessary for interconnection or access to Unbundled Network Elements (UNEs) in its multiplexing node. The CLEC may also collocate Digital Subscriber Line Access Multiplexers (DSLAM), routers, Asynchronous Transfer Mode (ATM) Multiplexers and remote switching modules. No equipment shall be placed in a multiplexing node that is designed exclusively for switching or

enhanced services and is not necessary for interconnection or access to UNEs.

The CLECS must conform to the same specific risk, safety and hazard standards which BA-NY imposes upon itself. CLEC equipment, however, is not required to meet the same performance and reliability standards as BA-NY imposes upon itself.

The CLEC is to abide by all BA-NY security practices. In addition, BA-NY will provide information to the CLEC on the type of security training required, so CLEC employees may complete such training.

On June 8, 1999, BA-NY filed revisions to this filing which also introduced language that would permit a CLEC whose net worth exceeds \$100,000,000 to self insure and thereby assume the coverages, protections and payments that otherwise would be assumed by BA-NY.

The company has proposed a Site Survey/Report with an associated fee of \$1,557.45 (the rate is based on the labor rates approved in Phase 3 of Case 98-C-1357). This report will be provided to those CLECs who request it and sign a confidentiality agreement. It will indicate the available Physical Collocation space in a central office, the number of CLECs currently collocated in that office, modifications in the use of space since the last report requested and measures being taken to make additional space available.

Collocation Line of Sight Escort (CLOSE)

CLOSE is a collocation offering that was filed on December 18, 1998 pursuant to the Commission's November 23, 1998 Opinion No. 98-18 in Cases 98-C-0690 and 95-C-0657. It allowed a CLEC to place its equipment in a BA-NY central office without the construction of a cage. The service required that all provisioning, maintenance and repair activities by CLEC designated personnel be performed under the continuous escort of a qualified BA-NY employee and that CLECs provide a minimum of 48 to 72 hours notice before being able to gain access to a BA-NY

central office. Because many of the provisions of this offering are now in violation of the FCC Order and Cageless Collocation now replaces CLOSE, the company has filed revisions to withdraw this service with the request that they take effect on short notice. Any pending or future applications for CLOSE will be processed as CCOE or SCOPE at the discretion of the requesting CLEC.

COVAD'S INFORMAL COMMENTS

Covad Communications Company (Covad), an active party in Case 97-C-0271, claims that a number of its applications for physical collocation have been rejected, supposedly due to lack of space, which Covad believes is due to BA-NY's segregation requirements and warehousing of space, that is, reserving space unnecessarily far into the future. Covad believes that the proposed tariff permits the company to continue its policy of improperly rejecting applications due to lack of space.

The major issues/concerns raised by Covad are the following: Cageless Collocation is not available if the space is reserved or the network would be put at risk; Cageless Collocators must be in their own separate lineup and be a minimum of 10 feet from a BA-NY rack; how BA-NY will interpret "reasonable" security; whether the security training for CLECs is the same as that required of BA-NY; the requirement of an escort when there are no security measures in place at a particular central office; the level of additional charges that may apply for cageless security in addition to the security card charge; the lack of an established policy for removing obsolete or unused equipment; the reasonableness of the 76 and 105 days interval times for securing BA-NY's equipment when US West is giving Covad a 45 day interval; the reasonableness of protecting against dissemination of information that is competitively sensitive when some of that information may be of value and important to share between other CLECs, if there are issues or facts in question; the costs of the Site Survey/Report should be cost justified;

BA-NY's refusal to offer tours if the Commission has granted an exemption, unless space conditions have changed or if the Commission orders a tour; because BA-NY requires the use of approved vendors, a system for approving new vendors should be in place; and, NEBS standards should not be used as grounds to deny collocation.

ACI CORPORATION'S COMMENTS

ACI Corporation (ACI) believes that the FCC's new collocation requirements would greatly assist DSL carriers in obtaining collocation facilities, but it does not believe that BA-NY's tariff revisions offer the flexibility and ubiquity of the collocation arrangements that the FCC Order mandates.

ACI submitted several CLOSE collocation applications in January 1999 and was not told by the company that CLOSE would be discontinued. Now, it claims, that it will have to start the whole application process again. According to ACI, the cageless offering is not feasible, and, because of the 10 foot limitation, would entail the placement of ACI equipment in a separate room, inflate the costs of collocation and prematurely exhaust space. ACI further states that the completion intervals of 76 business days for secured and 105 business days for unsecured central offices does not reflect the actual work time required for such collocation and could unduly delay delivery. ACI concludes that two different time frames are unwarranted, and BA-NY should be required to make security arrangements within the same time frame. ACI also objects to the escort requirement when no other security measures are in place and believes that a time frame should be provided for when security will be in place. It believes that the escort requirement will impose a time delay in repair and maintenance. Finally, ACI believes that BA-NY's stipulation that Adjacent Collocation will only be made available when Physical and Virtual Collocation space is exhausted violates the meaning of the Order.

DISCUSSION AND CONCLUSION

The intent of the March 31, 1999 FCC Order is to promote innovation and investment by all participants in the telecommunications marketplace and to stimulate competition in the advanced services market. BA-NY's tariff filing comports with this Order in some respects and may be deficient in others. Numerous concerns relating to specific tariff provisions have been discussed with the company. Some of those concerns have been clarified or have been resolved through additional tariff revisions which the company filed requesting that they be permitted to become effective on short notice.

The revised filing offers CLECs collocation opportunities that are not now available and should make collocation easier to obtain, especially in those offices where physical collocation is not available due to space constraints. In order to not delay any benefit CLECs may derive from this filing, we will approve the tariff filing on a permanent basis effective June 29, 1999. In addition, the filing to withdraw CLOSE will be approved on short notice, as requested.

We are mindful of the numerous issues raised concerning this tariff filing, and we will invite comments from interested parties on whether the tariff comports with the FCC Order.

The Commission orders:

1. The tariff schedules, PSC No. 914 filed by New York Telephone Company, d/b/a Bell Atlantic-New York, set forth in Appendix 1, shall become effective on a permanent basis, on June 29, 1999.

2. The tariff schedules, PSC No. 914 filed by New York Telephone Company, d/b/a Bell Atlantic-New York, set forth in Appendix 2, shall become effective on less than statutory notice on June 29, 1999.

3. Interested parties are invited to submit comments on this filing within ten days of the issuance of this order. Comments should be filed with the Acting Secretary to the

CASES 99-C-0715 and 95-C-0657

Commission (15 copies) and should be served upon the active party list in Case Nos. 98-C-0690, 95-C-0657, 94-C-0095, 91-C-1174, 96-C-0036 and 98-C-1357.

4. The requirement of Section 92(2) of the Public Service Law as to newspaper publication is waived.

5. These proceedings are continued.

By the Commission,

(SIGNED)

DEBRA RENNER
Acting Secretary

Filing by: New York Telephone Company
Revisions to: P.S.C. No. 914 - Telephone

Preface

2nd Revised Page No. 2

Contents

5th Revised Page No. 8.1

4th Revised Page No. 8.2

Original Page No. 8.3

Section 5

8th Revised Page No. 1

2nd Revised Page No. 1.1

1st Revised Page No. 1.2

2nd Revised Page Nos. 1.3 and 1.4

1st Revised Page Nos. 1.8, 1.10 and 1.12

2nd Revised Page No. 1.17

1st Revised Page No. 1.27

2nd Revised Page Nos. 1.28 through 1.32

4th Revised Page No. 1.33

1st Revised Page No. 1.34

Original Page No. 1.35

2nd Revised Page No. 2

3rd Revised Page No. 3

2nd Revised Page No. 7

Original Page No. 7.1

2nd Revised Page No. 8

3rd Revised Page No. 10

2nd Revised Page No. 14

1st Revised Page Nos. 24 through 26

4th Revised Page Nos. 48 and 49

3rd Revised Page No. 49.1

2nd Revised Page No. 52

Original Page Nos. 60.1, 60.2 and 74 through 84

Section 10

2nd Revised Page Nos. 9.1, 9.2 and 15

3rd Revised Page No. 16

Original Page Nos. 27 through 33

Issued: May 21, 1999

Effective: June 20, 1999**

Preface

3rd Revised Page No. 2

Contents

7th Revised Page No. 8.1

Section 5

2nd Revised Page Nos. 1.8 and 1.12

1st Revised Page No 1.16

2nd Revised Page No. 1.27

3rd Revised Page Nos. 1.28 and 1.29

4th Revised Page Nos. 49.1

1st Revised Page Nos. 60.1, 74, 75 and 80

Issued: June 8, 1999

Effective: July 8, 1999*/**

*To become effective on June 20, 1999, on short notice.

**Postponed to June 29, 1999 by Supplement No. 31.

PUBLIC NOTICE: Newspaper publication waived; the company is sending copies of this filing to all active parties in Cases 98-C-0690, 95-C-0657, 94-C-0095, 91-C-1174, 96-C-0036 and 98-C-1357.

Filing by: New York Telephone Company
Revisions to: P.S.C. No. 914 - Telephone

Contents

6th Revised Page No. 8.1
1st Revised Page No. 8.3
2nd Revised Page No. 10

Section 5

9th Revised Page No. 1
1st Revised Page No. 61
2nd Revised Page No. 62
1st revised Page Nos. 63 through 66
2nd Revised Page Nos. 67 and 68
1st revised Page No. 69
2nd Revised Page Nos. 70 through 72
1st Revised Page No. 73

Section 10

2nd revised Page Nos. 23 through 26

Issued: June 2, 1999

Effective: July 2, 1999***

***To become effective on June 3, 1999, on short notice.

PUBLIC NOTICE: Newspaper publication waived, the company is sending copies of this filing to all active parties to Cases 98-C-0690, 95-C-0657, 94-C-0095, 91-C-1174, 96-C-0036 and 98-C-1357.