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**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UT 150

In the Matter of the Collocation Service)
Tariffs filed by GTE NORTHWEST)
INCORPORATED, Advice No. 675.) ORDER

DISPOSITION: APPLICATION FOR RECONSIDERATION DENIED

On December 30, 1999, GTE Northwest Incorporated (GTE) filed tariff Advice No. 675, specifying rates, terms and conditions for collocation service.

At its February 8, 2000 regular public meeting, the Public Utility Commission of Oregon (Commission) adopted a Staff recommendation to suspend GTE's proposed collocation tariff for investigation. The tariff was suspended in Order No. 00-080, entered February 11, 2000.

On March 15, 2000, GTE filed an application for reconsideration of Order No. 00-080. GTE requests that the tariff be allowed to take effect subject to refund. In support of its petition, GTE states that its tariff (a) provides an alternative to the contract negotiation and arbitration process required under the Telecommunications Act of 1996; (b) offers an optional, expeditious means of obtaining the new forms of physical collocation required by the Federal Communications Commission (FCC) in its *Advanced Services Order*; and (c) protects requesting carriers because the tariff is subject to refund.

On March 31, 2000, AT&T Communications of the Pacific Northwest, Inc., AT&T Local Services on behalf of TCG Oregon (jointly, AT&T) and the Western States Competitive Telecommunications Coalition¹ (Coalition) filed responses opposing GTE's application for reconsideration. These parties contend that GTE's tariff (a) is inconsistent with the collocation requirements established by the FCC and (b) that GTE's proposal to make the tariff subject to refund will not provide sufficient assurances upon which competitors can base business decisions. AT&T and the Coalition request that the suspension order remain in effect until the Commission resolves all outstanding issues.

¹ The Western States Competitive Telecommunications Coalition consists of Advanced TelCom Group, Inc., Covad Communications Company, GST Communications, Inc., Electric Lightwave, Inc., Rhythms Links, Inc., NorthPoint Communications, Inc. and New Edge Network, Inc., dba New Edge Networks.

The Staff also filed comments in response to the petition. Staff does not oppose lifting the suspension order provided that (a) no carrier is required to use the tariff; (b) the tariff is not presumed just and reasonable; (c) the only revenue subject to refund is that collected under the tariff; and (d) carriers with existing interconnection agreements should not be bound by the terms of the tariff.

Prehearing conferences were held in this docket on March 16 and April 6, 2000. At the first conference, the parties agreed to a proposal by the Administrative Law Judge to bifurcate the case into two proceedings; one to investigate generic collocation issues common to all incumbent local exchange carriers and another to address rate issues specific to GTE's filing. At the second conference, the parties were asked to respond to questions relating to whether the Commission should proceed with the investigation of GTE's tariff or whether collocation issues should be addressed in another type of proceeding. Comments have been filed by the parties concerning the issues.

The Commission finds that GTE's application for reconsideration of Order No. 00-080 should be denied. GTE's collocation tariff was suspended because it involves several controversial issues requiring investigation. The Staff report adopted at the February 8, 2000 public meeting indicates that there are roughly 70 rate elements in the proposed tariff. The supporting documents and cost studies are extensive and are expected to take several months to analyze. Moreover, as noted above, both AT&T and the Coalition claim that the tariff contravenes numerous provisions in the *Advanced Services Order*. Although GTE disputes these claims, it acknowledges that there are numerous legal and factual disputes that need to be addressed in the later stages of this proceeding.² The Commission is unwilling to allow GTE's filing to take effect until we are confident that it is consistent with the Act and the FCC's collocation rules.³

The Commission is not persuaded that "subject to refund" provisions of the GTE tariff are sufficient to hold competitive carriers harmless. AT&T and the Coalition assert that the tariff imposes unnecessary nonrecurring costs and contains a number of other provisions that discourage competition. We cannot assess the validity of these claims without further investigation.

As a final matter, the comments filed by AT&T, Coalition and Staff in response to the questions posed at the second prehearing conference recommend that the Commission dismiss GTE's proposed tariff and initiate an investigatory proceeding to consider collocation issues. The Commission intends to issue a decision regarding this matter in the near future.

²GTE April 21, 2000 Comments at 6.

³ On March 17, 2000, the United States Court of Appeals for the District of Columbia Circuit issued a decision remanding portions of the FCC's *Advanced Services Order*. See *GTE Service Corp. v. FCC*, No. 99-1176 (D.C.C. Mar. 17, 2000). Thus, any collocation requirements adopted by the Commission must also comply with the Court's mandate and revised rules promulgated by the FCC on remand.

ORDER

IT IS ORDERED that the application for reconsideration filed by GTE Northwest Incorporated on March 15, 2000 is denied.

Made, entered, and effective _____.

Ron Eachus
Chairman

Roger Hamilton
Commissioner

Joan H. Smith
Commissioner

A party may appeal this order to a court pursuant to ORS 756.580.