

ORDER NO. 00-292

ENTERED JUN 02 2000

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**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UT 150

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

**DISPOSITION: TARIFFS PERMANENTLY SUSPENDED;
INVESTIGATIONS OPENED**

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 requested that the tariff be allowed to take effect subject to refund. In support of its application, GTE stated that its tariff (a) provides an alternative to the contract negotiation and arbitration process required under the Telecommunications Act of 1996 (the Act); (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;¹ and (c) protects requesting carriers because the tariff is subject to refund.

On March 31, 2000, AT&T Communications of the Pacific Northwest, Inc., and AT&T Local Services on behalf of TCG Oregon (jointly, AT&T); and the Western States Competitive Telecommunications Coalition (WSCTC)² filed responses opposing GTE's application for reconsideration. Staff also filed comments in response to the petition.

¹ *In the Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability, First Report and Order and Further Notice of Proposed Rulemaking*, CC Docket No. 98-147, 14 FCC Rcd 4761 (rel. March 31, 1999) (*Advanced Services Order*).

² WSCTC 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.

At a prehearing conference on March 16, 2000, parties agreed to bifurcate the case into one proceeding to investigate generic collocation issues common to all incumbent local exchange carriers and into another proceeding to address rate issues specific to GTE's filing. At a second prehearing conference on April 6, 2000, parties were asked to respond to questions concerning whether the Commission should proceed with the investigation of GTE's tariff or whether collocation issues should be addressed in another type of proceeding. Parties filed comments concerning the issues.

On May 2, 2000, GTE filed Advice No. 675, Supplement A with the Commission. The new filing substantially revises the collocation provisions included in GTE's December 30, 1999, filing.

By Order No. 00-240, entered May 5, 2000, the Commission denied GTE's application for reconsideration of Order No. 00-080. The Commission concluded that the collocation tariff should be suspended because it involved several controversial issues requiring investigation, as well as roughly 70 rate elements for which the supporting documents and cost studies must be analyzed. The Commission was unwilling to allow GTE's filing to take effect until we were confident that the filing is consistent with the Act and the FCC's collocation rules. Therefore, the Commission concluded that the suspension order should remain in effect to allow further investigation.

Comments filed by AT&T, WSCTC, and Staff after the April 6 prehearing conference recommend that the Commission dismiss GTE's proposed tariff and initiate an investigation to consider collocation issues. We have considered all parties' arguments and conclude that GTE's tariff should be permanently suspended. We further conclude that the Commission should open separate investigations to address collocation issues requiring consideration under the FCC's *Advanced Services Order*.

We conclude that GTE's tariff filing should be permanently suspended because it does not meet the criteria of a tariff. As GTE has characterized it, the tariff is not mandatory but optional. It therefore amounts merely to a general offer of prices, terms, and conditions that telecommunications carriers may elect to include in their interconnection agreements with GTE. Because GTE's filing is only nominally a tariff, we see no reason to use our suspension authority to process it. Moreover, suspending GTE's filing commits us to the statutory nine-month time frame to process the filing.

As noted above, GTE's filing is complex and could well take longer to process than the suspension period. Further complicating the matter is the fact that GTE's revised collocation proposal substantially modifies its earlier approach. In addition, the U. S. Court of Appeals for the District of Columbia has issued a decision remanding a number of the collocation requirements established by the FCC in the *Advanced Services Order*.³ The court's decision will require the FCC to promulgate revised rules and will further prolong the Commission's investigation of collocation matters.

³ *GTE Service Corp. v. FCC*, No. 99-1176 (D.C.C. Mar. 17, 2000).

The Commission therefore opens two investigations. The first, a generic investigation, will address those issues affecting all incumbent local exchange carriers subject to the FCC's collocation requirements. These issues are detailed in ¶¶19-60 of the *Advanced Services Order*. The timetable for the completing the generic investigation will be established at a prehearing conference. Notice of the prehearing conference will be mailed to all persons on the Commission's telecommunications list.

The second investigation will focus on rate issues specific to GTE. Pursuant to the *Advanced Services Order*, State Commissions must set rates to compensate incumbent LECs for a variety of different collocation costs. Since the underlying costs of provisioning these arrangements may differ from carrier to carrier, it is appropriate to conduct a separate investigation for GTE. At an appropriate time, the Commission will open similar rate investigations for other incumbent LECs subject to the collocation requirements set forth in the *Advanced Services Order*.

The procedural schedule for the GTE rate investigation will also be established at a prehearing conference. As part of that process, GTE should propose rates for each cost or activity identified by the FCC as a matter the State Commission should decide. In making such proposals, GTE is not precluded from recommending the rates currently included in its tariff filing.

ORDER

IT IS ORDERED that:

1. GTE's tariff filings of December 30, 1999, and May 2, 2000, Advice No. 675, are permanently suspended.
2. The Commission will issue a notice opening an investigation into generic collocation issues affecting incumbent LECs as specified in the *Advanced Services Order*.

3. The Commission will issue a notice opening an investigation to determine the rates GTE should charge for provisioning collocation as specified in the *Advanced Services Order*.

Made, entered, and effective _____.

Ron Eachus
Chairman

Roger Hamilton
Commissioner

Joan H. Smith
Commissioner

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order to a court pursuant to applicable law.

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