**Section 790.330 Collocation**

a) Each ILEC has the duty to provide, on rates, terms, and conditions that are just, reasonable, and nondiscriminatory, for physical collocation of equipment necessary for interconnection or access to unbundled network elements at any technically feasible point at the premises of the ILEC, except that the ILEC may provide for virtual collocation if the ILEC demonstrates to the Commission that physical collocation is not practical for technical reasons or because of space limitations.

b) Parties entitled to collocate. Parties entitled to collocate at ILEC locations shall include any entity to which the Commission has issued a certificate under Section 13-401, 13-403, 13-404, or 13-405 of the Act.

c) The telecommunications carrier requesting physical collocation is responsible for obtaining any necessary certifications or approvals from the Commission prior to providing telecommunications service by using the physical collocation space. An ILEC may not refuse to process an application for collocation space submitted by a competitor while that competitor's State certification is pending. Additionally, an ILEC may not refuse to process an application for collocation space and shall not refuse to provision the collocation space submitted by a competitor prior to a final approved interconnection agreement.

d) Equipment that can be collocated. An ILEC shall permit the collocation of any type of equipment for interconnection or access to unbundled network elements in a manner consistent with the Act and Federal Act. Equipment necessary for interconnection and access to unbundled network elements includes, but is not limited to:

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

2) Equipment being collocated to terminate basic transmission facilities pursuant to 47 CFR 64.1401 and 64.1402 as of August 1, 1996. No later amendments or editions are included in this incorporation; and

3) Digital subscriber line access multiplexers, routers, asynchronous transfer mode multiplexers, and remote switching modules (also known as remote switching centers).

e) Physical collocation offerings. An ILEC's physical collocation offerings must include, at least, the following:

1) Caged collocation;

2) Shared collocation. Shared collocation arrangements must be consistent with the following:

A) Telecommunications carriers sharing physical collocation space may, at their option:

i) enter into a sublease type arrangement where the first telecommunications carrier acts as an interface between the ILEC and other telecommunications carriers sharing the first telecommunications carrier's collocation space; or

ii) each have a direct business or contractual relationship with the ILEC for ordering unbundled network elements, provisioning service, and collocating for the purpose of interconnection to the ILEC's network.

B) The ILEC may not restrict or otherwise influence with whom a telecommunications carrier may share its physical collocation space so long as the entity sharing the telecommunications carrier's collocation space is another telecommunications carrier and the sharing of the collocation space is technically feasible and complies with Section 790.220 of this Part.

C) Telecommunications carriers sharing physical collocation space shall decide among themselves what portion of the space available for sharing will be used by each telecommunications carrier and whether and how the telecommunications carriers will reimburse each other for any previously paid collocation space preparation costs.

D) Telecommunications carriers shall notify the ILEC as to the portion of the shared collocation space being occupied by each telecommunications carrier for the ILEC's billing purposes.

E) The ILEC may not interfere with any agreement, including an agreement to cross-connect, among telecommunications carriers sharing physical collocation space so long as the agreement does not conflict with any federal or State requirements.

F) If each telecommunications carrier has a direct business relationship with the ILEC, the ILEC shall submit separate bills to each telecommunications carrier sharing the physical collocation space.

G) The ILEC may not increase the cost of site preparation or nonrecurring charges above the cost of providing such a space of similar dimensions and material to a single collocating telecommunications carrier. The ILEC must prorate the charge for site conditioning and preparation undertaken by the ILEC to construct the shared collocation space or condition the space for collocation use, regardless of how many telecommunications carriers actually collocate in that space, by determining the total charge for site preparation and allocating that charge to a collocating telecommunications carrier based on the percentage of the total space utilized by that telecommunications carrier;

3) Cageless collocation. With regard to cageless collocation, an ILEC must not require competitors to use an intermediate interconnection arrangement in lieu of direct connection to the ILEC's network, if technically feasible;

4) Adjacent space collocation. With regard to adjacent space collocation, an ILEC must:

A) Permit the requesting carrier to construct or otherwise procure structures for adjacent space collocation, subject only to reasonable safety and maintenance requirements.

B) Provide power and physical collocation services and facilities, subject to the same nondiscrimination requirements as applicable to any other physical collocation arrangement.

C) 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 ILEC or by the requesting carrier itself.

D) Give an interconnecting carrier that has initiated collocation in an adjacent space or facility the option of remaining in the adjacent space collocation arrangement or moving into the relevant central office or other premises upon space becoming available inside the relevant central office or other premises; interconnecting carriers opting to move shall pay costs associated with the move.

i) If the area occupied by the interconnecting carrier's adjacent space collocation arrangement is necessary to the ILEC's plans to expand its premises, the interconnecting carrier should be required to move to another collocation location.

ii) In such instances, the ILEC shall pay costs associated with the move.

f) Security. Telecommunications carriers with collocation at an eligible structure shall have access to their physically collocated equipment 24 hours a day, seven days a week, without an escort. An ILEC shall not delay a telecommunications carrier's entry into the eligible structure or access to its physically collocated equipment. ILECs will provide telecommunications carriers with collocation at an eligible structure with reasonable access to restroom facilities and parking. An ILEC may establish certain reasonable security arrangements to protect its equipment from harm and ensure network security and reliability. Reasonable security measures employed by an ILEC include, but are not limited to, enclosing its equipment in its own cage, installing security cameras or other monitoring systems, requiring a telecommunications carrier's personnel to use badges with computerized tracking systems, or other reasonable security measures. An ILEC choosing to implement reasonable security arrangements may require a telecommunications carrier to pay only for the least expensive, effective security option that is viable for the physical collocation space assigned. An ILEC may also require telecommunications carriers' employees to undergo the same level of security training, or its equivalent, that the ILEC's own employees, or third party contractors providing similar functions, must undergo.

g) Space allocation and exhaustion. ILECs shall apply the same space reservation policies to telecommunications carriers as it applies to itself. ILECs shall:

1) Offer space on a first-come, first-served basis to all telecommunications carriers;

2) Unless otherwise agreed upon by the ILEC and telecommunications carrier, notify the carrier, within ten calendar days after the request for physical collocation, if the request for collocation space has been granted or denied;

3) If the request for collocation is granted, provide the quotation of the applicable nonrecurring and recurring rates, and the estimated construction interval, with the notification that the request is granted. If the requesting carrier accepts the quotation, it must inform the ILEC of that acceptance within seven calendar days after receiving the ILEC's price quotation. If the requesting carrier meets this deadline, the provisioning interval will begin on the date the ILEC received an acceptable collocation application. Access to the physical collocation space by the requesting carrier shall be allowed within 30 calendar days after submission of an acceptable collocation application. If the requesting carrier fails to meet this deadline, the provisioning interval will begin on the date the requesting carrier informs the ILEC that physical collocation should proceed; in which case, access to the physical collocation space by the requesting carrier shall be allowed within 30 calendar days after the requesting carrier informs the ILEC that physical collocation should proceed;

4) If the request is denied for reasons other than technical feasibility or space exhaustion, the ILEC must specify in detail any deficiencies leading to the request denial. The requesting carrier must cure any deficiencies in its application within ten calendar days after receiving the collocation denial, if it wants to retain its place in the ILEC's collocation queue;

5) Respond to a telecommunications carrier's first ten collocation applications within ten calendar days. If the telecommunications carrier submits 11 to 15 applications requesting collocation, the ILEC must respond within 15 calendar days. For every five requests above 15, the quotation interval will increase five calendar days;

6) Allow telecommunications carriers to place facilities in collocation space and connect equipment to facilities of other telecommunications carriers in the collocation space, as described by the FCC, within the time intervals specified or agreed to in the applicable tariff, interconnection agreement, or Commission order;

7) Offer a physical collocation arrangement until unused space is filled to capacity, such that no ILEC premises can accommodate any technically feasible physical collocation alternative. ILECs shall not wait until a physical collocation application is submitted to request a waiver under subsection (h) for a particular facility. Physical collocation applications submitted pending the resolution of a waiver request under subsection (h) may be held until the waiver request is resolved. In the event that space becomes available during the waiver request proceeding, held applications shall be processed on a first-come, first-served basis;

8) Not reject subsequent collocation requests due to lack of space, but shall offer a virtual collocation arrangement in lieu of the physical collocation arrangement unless the ILEC has obtained a waiver under subsection (h). The provisioning of virtual collocation may be postponed until a pending waiver request under subsection (h) is resolved. When providing virtual collocation, an ILEC shall, at a minimum, install, maintain, and repair collocated equipment identified in subsection (d) 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 ILEC itself.

9) Remove all unused obsolete equipment from the ILEC premises and make such space available for collocation before making a determination that space in the premises is legitimately exhausted. The ILEC may not make only minimal or token use of otherwise obsolete equipment to avoid having to remove the particular equipment and make space available for collocation. The removal of unused obsolete equipment shall not cause a delay in the ILEC's response to a telecommunications carrier's application or in provisioning collocation arrangements.

A) In making the determination of whether space is legitimately exhausted, the ILEC may retain a limited amount of floor space for its own uses. Specifically, the ILEC may reserve space for transport equipment for one year of anticipated growth, space for digital cross-connect system equipment for three years of anticipated growth, and space for switching, power, and main distribution frame equipment for five years of anticipated growth. In those premises where collocators existed on May 1, 2003, the space reservation time limits shall be calculated beginning on May 1, 2003. In those premises where collocators did not exist on May 1, 2003, the space reservation time limits shall be calculated beginning on the date upon which the first telecommunications carrier applied for collocation in the particular premises.

i) An ILEC may petition the Commission for and receive a variance from the space reservation limits contained in this subsection (g)(9)(A) for a particular ILEC facility upon a showing by the ILEC and a finding by the Commission that the limits would unreasonably impair the operation and functioning of that facility.

ii) If granted, a variance will be effective for a period of up to two years from the date of the order granting the variance. An ILEC may file for and be granted more than one variance and more than one extension of the variance period. Any extension(s) of the variance period shall be for no longer than two years.

B) The ILEC may not reserve space for equipment for itself, or for advanced or interLATA services affiliates or other ILEC affiliates or for future use by the ILEC or its affiliates, under conditions that are more favorable than those that apply to other telecommunications carriers seeking to reserve collocation space for their own use. Before denying a request for physical collocation on the grounds of space limitation, the ILEC shall relinquish space used or reserved for future use in the central office that is not directly related or integral to the day-to-day operation and functioning of the central office. An ILEC shall also relinquish any space held for future use before denying a virtual collocation request on the grounds of space limitation, unless the ILEC proves to the Commission that virtual collocation at that point is not technically feasible.

C) When planning renovations of existing facilities or constructing or leasing new facilities, an ILEC shall consider projected demand for collocation of equipment, including any forecasts submitted by collocating telecommunications carriers.

D) Upon request by a telecommunications carrier, an ILEC shall provide, within ten calendar days after the submission of the request, a statement indicating the ILEC's available collocation space in a particular ILEC premises. The statement shall specify the amount of collocation space available at each requested premises, the number of current collocators, and any modifications in the use of the space since the last requested statement. The statement shall identify the amount of space being reserved by the ILEC for specific future use and a description of that specific future use. The statement shall also identify any measures that the ILEC is taking to make additional space available for collocation at that particular premises;

10) Denial of an application for collocation. There shall be a rebuttable presumption that space is available for physical collocation in an ILEC's premises.

A) An ILEC 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 ILEC applies to its own equipment. The ILEC must post on its publicly available website a list of all compliant equipment located at its premises. The ILEC shall update the list either on a monthly basis or each time new compliant equipment is added, but in no case less often than on a monthly basis.

B) If an ILEC denies a collocation request, any charges collected with the application will be returned to the telecommunications carrier, except for any amount recovering the ILEC's cost to review the application. The ILEC shall provide, subject to any appropriate proprietary protections, the following information with the notification of the denial:

i) a possible future space relief date, if applicable;

ii) Central Office Common Language Identifier, where applicable;

iii) total amount of space at the premises;

iv) detailed floor plans, accompanied with proper legend and scale to assist in the interpretation of the floor plan and sufficient measurements to interpret size and spacing, including measurements of the ILEC's premises, showing space housing ILEC network equipment, non-regulated services space, and administrative offices; space housing obsolete unused equipment; space occupied by ILEC affiliates; space that does not currently house ILEC equipment or administrative offices but is reserved by the ILEC for future use by the ILEC or its affiliates; space occupied by and/or reserved for collocating telecommunications carriers for the purpose of network interconnection or access to unbundled network elements (including identification of each collocating telecommunications carrier); space, if any, occupied by third parties for other purposes, including identification of the uses of such space; identification of turnaround space for switch or other equipment removal plans and timelines, if any; any planned central office rearrangement/expansion plans, if applicable; and remaining space, if any; and

v) description of other plans, if any, that may relieve space exhaustion, including plans showing any adjacent space not technically considered as part of premises.

C) If an ILEC denies a collocation request, it must allow a tour of the premises in question upon request of the telecommunications carrier seeking to collocate. The telecommunications carrier may request a tour of the premises to verify space availability or lack of space. The request shall be submitted to the ILEC's representative in writing within five calendar days after receipt of the denial of the collocation request. Unless otherwise agreed to by the telecommunications carrier, the inspection tour shall be conducted within ten calendar days after the receipt of the denial of the collocation request.

D) The ILEC representative will accompany and supervise the telecommunications carrier agent on the inspection tour. If the telecommunications carrier agent believes, based on the inspection tour of the premises, that the denial of collocation space is unsupportable, the telecommunications carrier agent shall promptly so advise the ILEC. The telecommunications carrier and the ILEC shall then each concurrently prepare a report detailing its own findings of the inspection tour. The telecommunications carrier and the ILEC reports shall be concurrently served on each other.

E) Each ILEC shall maintain for two years all applications for physical collocation that were denied. When new space becomes available on or within a particular ILEC premises, the ILEC shall immediately provide written notification to the applicants who applied for, but were denied, physical collocation for those premises (consecutively, in the order in which they originally applied) and make space available to them in the order in which they originally applied. If the space is made available because another telecommunications carrier has terminated its collocation arrangement or the ILEC is executing a plan to remove equipment or convert space, the ILEC shall not wait for the space to be cleared of the equipment before providing notification to outstanding applicants. Applicants receiving notification of newly available space must affirmatively respond to the ILEC in writing within five business days after notification or be deemed to have forfeited the space. No ILEC may assign newly available space to its own subsidiary ahead of telecommunications carriers unless the affiliate had provided a written collocation request to the ILEC before the ILEC received collocation requests from other telecommunications carriers;

11) Permit a requesting telecommunications carrier to subcontract all work associated with collocation cage or rack construction and equipment placement with contractors approved by the ILEC; provided, however, that the ILEC shall not unreasonably withhold approval of contractors and work to be performed. Approval by an ILEC shall occur within 30 calendar days after application to the ILEC and shall be based on the same criteria it uses in approving contractors or work performance for its own purposes. If the telecommunications carrier elects a contractor approved by the ILEC to perform similar work for the ILEC in its central office or other premises, the ILEC will allow the contractor to use any badges or credentials previously granted by the ILEC and will not require the CLEC to apply for or obtain additional approval, badges, or credentials for the contractor.

h) Waiver procedures.

1) ILECs must petition for a waiver of the requirements to provide physical or virtual collocation if the remaining space in a central office that can be used for physical collocation is less than 50 square feet. The Commission shall grant a waiver of the requirements to provide physical or virtual collocation if the FCC has granted a waiver due to lack of space or, after hearings, the Commission finds that the LEC has demonstrated that:

A) a particular location lacks the unused space to provide physical or virtual collocation;

B) all reasonable steps have been taken by the ILEC to reclaim administrative, equipment, maintenance, recreational, and storage space to maximize collocation space availability, including the removal of obsolete unused equipment; and

C) all technically feasible alternatives for a telecommunications carrier to gain access to the ILEC's network, such as location in adjacent structures, have been found to be infeasible.

2) Any ILEC intending to file a petition for waiver of the requirement to provide physical or virtual collocation for a given location shall file a petition with the Commission pursuant to 83 Ill. Adm. Code 200. This petition shall include all relevant information, including, but not limited to: detailed floor plans of the premises, including identification and location of all ILEC and telecommunications carrier equipment; blueprints; and future facility expansion and enhancement information.

3) Within ten calendar days after the date the petition is filed with the Commission, a Commission Staff member shall be allowed to tour the entire premises in question.

4) The ILEC has the burden of proof in showing that these requirements have been met. The ILEC shall submit floor plans, sworn affidavits, written testimony and any other evidence necessary to meet its burden of proof. The ILEC's sworn testimony shall describe and identify:

A) all the ILEC equipment located in the premises in question;

B) the equipment being retired within two years after the date the petition is filed;

C) the expected retirement dates of this equipment;

D) any space reserved for use by the ILEC or any other telecommunications carrier and expected use of reserved space by the ILEC; and

E) the steps taken to provide any alternative physical collocation solution, such as adjacent space collocation, to any requesting telecommunications carriers.

5) Upon completing its review of this information Staff shall provide a report to the Commission recommending either that the Commission accept the ILEC's space exhaust claim or that the Commission undertake an investigation to determine the propriety of its claim.