

NANCY B. WHITE  
General Counsel-Florida

BellSouth Telecommunications, Inc.  
150 South Monroe Street  
Room 400  
Tallahassee, Florida 32301  
(305) 347-5558

July 17, 2000

RECEIVED-TPSC  
10 JUL 17 PM 3:33  
RECORDS AND  
REPORTING

Mrs. Blanca S. Bayó  
Director, Division of Records and Reporting  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

**Re: Docket No. 000780-TL (Petition for Waiver - J. T. Butler CO)**

Dear Ms. Bayó:

Enclosed is an original and fifteen copies of BellSouth Telecommunications, Inc.'s Petition for Permanent Waiver for Physical Collocation in the J. T. Butler Central Office which we ask that you file in the above-referenced matter.

A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return the copy to me. Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely,

*Nancy B. White*  
Nancy B. White *(BN)*

APP \_\_\_\_\_  
CAF \_\_\_\_\_  
CMP I. Watt cc: All Parties of Record  
COM \_\_\_\_\_ Marshall M. Criser III  
CTR \_\_\_\_\_ R. Douglas Lackey  
ECR \_\_\_\_\_  
LEG I  
OPC \_\_\_\_\_  
PAI \_\_\_\_\_  
RGO \_\_\_\_\_  
SEC I  
SER \_\_\_\_\_  
OTH \_\_\_\_\_

RECEIVED & FILED  
*[Signature]*  
FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE  
08614 JUL 17 8  
FPSC-RECORDS/REPORTING

**CERTIFICATE OF SERVICE**  
**Docket No. 000780-TL**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via U.S. Mail this 17th day of July, 2000 to the following:

Staff Counsel  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

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Richard Melson  
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6933 South Revere Parkway  
Suite 100  
Englewood, CO 80112  
Tel. No. (303) 476-2203  
Fax. No. (303) 476-2272

James Cuckler  
Rhythms Links, Inc.  
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Sugar Hill, GA 30518

Mr. John G. Kerkorian  
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d/b/a Mpower Communications  
Corp.  
Two Premier Plaza  
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Nashville, TN 37219

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Tallahassee, FL 32301-1525  
Atty. for BlueStar Networks, Inc.

Mr. John B. Glicksman  
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Fran Urbania  
Adelphia Business Solutions  
DD1 Plaza II  
500 Thomas Street  
Bridgeville, PA 15017

Adelphia Business Solutions  
6263 Phillips Highway  
Jacksonville, FL 32810

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: BellSouth Telecommunications, ) Docket No.: 000780-TL  
Inc.'s Petition for Permanent Waiver of )  
Physical Collocation in the J. T. Butler )  
Central Office )  
\_\_\_\_\_ ) Filed: July 17, 2000

**BELLSOUTH TELECOMMUNICATIONS, INC.'S  
PETITION FOR TEMPORARY WAIVER**

BellSouth Telecommunications, Inc. ("BellSouth"), files this Petition for Permanent Waiver in accordance with Order No. PSC-99-1744-PAA-TP, issued on September 7, 1999 ("PSC Order"), the Telecommunications Act of 1996 (the "Act") and the Federal Communications Commission's ("FCC") First Report and Order (the "Order"). Pursuant to this authority, BellSouth requests a permanent exemption from the physical collocation requirements as set forth in the Act, in the Order and in the PSC Order for the J. T. Butler Central Office ("CO") located at 4500 Salisbury Road, Jacksonville, Florida. BellSouth seeks this exemption from the Florida Public Service Commission ("FPSC") on the grounds that it is unable to meet physical collocation requests due to issues arising between BellSouth and the landlord of the building, as detailed in the Post-Tour Report and Exhibit 1, attached hereto.

1. The J. T. Butler CO is housed in space BellSouth leases. The building (known as The Paragon Building) in which the office is housed also houses other tenants. BellSouth leases approximately 5000 square feet for use as a central office. The J. T. Butler CO contains the full array of equipment necessary to provide telecommunications services.

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2. To date, BellSouth has received eight inquiries for collocation space, five of which have become firm orders. BellSouth has space available in the office within which to fill these requests, however, as explained in Exhibit 1, attached hereto, and in the Post-Tour Report, BellSouth is unable to resolve issues with the landlord in a manner such that physical collocation is available without harm to BellSouth and to customer service.

3. Under the Act, Incumbent Local Exchange Companies (“ILECs”) have the following obligation:

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 the premises of the local exchange carrier, except that the carrier may provide for virtual collocation if the local exchange carrier demonstrates to the State Commission that physical collocation is not practical for technical reasons or because of space limitations.

47 U.S. § 251( c )(b). Thus, an ILEC is required to provide physical collocation unless it is “not practical for technical reasons or because of space limitations.” Id. The term “space limitations” encompasses two factors: first, ILECs are entitled to consider space already in use by the ILEC at the time the collocation request is made; second, ILECs are entitled to “retain a limited amount of floor space for defined future uses” (Order, Par. 604). Without the latter element, competitive entrants “could prevent incumbent LECs from serving their customers effectively.” Id. The term “technical reasons” has not been defined by the FCC or by this Commission.

4. Due to the landlord-tenant issues in the J. T. Butler CO, BellSouth is unable to provide physical collocation to ALECs.

5. In an effort to identify space currently available for physical collocation, BellSouth employed the following procedure:

1. BellSouth determined in the total square footage within the facility;
2. BellSouth determined the unavailable space (i.e., restrooms, hallways, stairs, etc.);
3. BellSouth determined assigned space currently occupied by the BellSouth switch, transmission, power and other equipment, as well as necessary administrative space;
4. BellSouth determined the space reserved for future defined uses necessary to adequately serve BellSouth customers, including consideration given to BellSouth's future switch growth plans;
5. BellSouth identified any unusable space (such as basements subject to flooding); and
6. BellSouth determined available collocation space by subtracting Items 2-5 from item 1.

6. Attached hereto is the space assessment worksheet that details the procedure set forth above. (Exhibit 2). This exhibit also identifies the central office language identifier, the identity of the requesting ALECs and the amount of space sought, the total amount of space at the premises and floor loading requirements. Also attached hereto as Exhibit 3 are floor plans that contain the remaining information required by the PSC Order.

7. There is space reserved for defined future use for BellSouth to meet the growing needs of its customers through the year 2001. The projects include

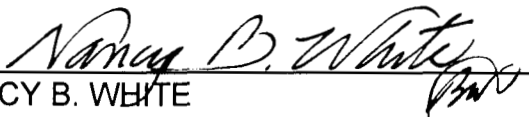
incremental additions to the existing switching system, frame and transmission equipment. These projects will use the remaining space in the facility.


8. The J. T. Butler CO is unavailable in a practical sense for physical collocation and for this reason should be excluded from the collocation requirements. BellSouth will, of course, offer virtual collocation in the J. T. Butler CO. BellSouth also requests, however, that the Commission exempt BellSouth from the requirement of converting virtual collocation arrangements to physical collocation arrangements for the same reasons set forth above.

WHEREFORE, having demonstrated good cause for its request, BellSouth asks that the Commission grant its Petition for Waiver and exempt BellSouth from the obligation to offer physical collocation in the J. T. Butler CO and exempt BellSouth from converting virtual collocation and arrangements to physical collocation arrangements in this office.

Respectfully submitted this 27th day of July, 2000.

BELLSOUTH TELECOMMUNICATIONS, INC.

  
NANCY B. WHITE  
c/o Nancy Sims  
150 South Monroe Street, #400  
Tallahassee, Florida 32301  
(305) 347-5555

  
R. DOUGLAS LACKEY  
675 West Peachtree Street, #4300  
Atlanta, Georgia 30375  
(404) 335-0747

Nancy B. White  
General Counsel - Florida

BellSouth Telecommunications, Inc.  
150 West Flagler Street  
Suite 1910  
Miami, FL 33130  
(305) 347-5558

April 27, 2000

Walter D'Haeseleer  
Director  
Division of Communications  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

RE: **J. T. Butler Central Office**

Dear Mr. D'Haeseleer:

BellSouth presently leases over 5000 square feet in the building located at 4500 Salisbury Road in Jacksonville, Florida for use as a central office (the J. T. Butler Central Office). To date, BellSouth has received eight inquiries for collocation space, five of which have become firm orders.

Unfortunately, the owner of the property views collocation as a sub-lease arrangement. Attachment 1 is a letter from the property manager to BellSouth explaining the owner's position. Pursuant to the lease first executed by BellSouth in 1986, BellSouth is prohibited from assigning the right of occupancy or subletting the premises without the consent of the landlord. Consent will not be unreasonably withheld by the landlord, provided the proposed sublessee has financial standing and stability so as to make the landlord commercially secure. Further, if there are one or more assignments or sublettings by BellSouth to which the landlord consents, any and all renewal options and all options to lease additional space are waived and terminated at the sole discretion of the landlord. Attachment 2 contains the pertinent portion of the lease.

BellSouth has attempted on several occasions to educate the landlord about BellSouth duties with regard to collocation under the Telecommunications Act of 1996. Attachment 3 is a letter from BellSouth to the landlord explaining these obligations and proposing a compromise. To date, we have received no response.

**EXHIBIT 1**

BellSouth is concerned that this dispute is causing delay in the implementation of the collocation arrangements that have been applied for and those that have gone firm order. BellSouth is unclear from a review of the Commission's guidelines, whether it would be appropriate to seek a waiver or an extension of time due to this situation and seeks guidance as to the best course of action.

Sincerely,

Nancy B. White

NBW/vf  
Enclosures





Trammell Crow Company

March 14, 2000

Mr. Don Hollingsworth  
Manager of Real Estate  
BellSouth Telecommunications, Inc.  
BellSouth Tower  
301 W. Bay Street, Suite 10GG1  
Jacksonville, FL 32202

Dear Mr. Hollingsworth:

Per my conversations with Mr. Wayne Mayes, BellSouth is required to give space within their leased premises to a co-locator. The Landlord sees this as a sub-lease and requires the appropriate paperwork to be submitted for approval.

Please have a sublease agreement drawn up between yourself and the co-locator and submit it to me and I will forward it to the Landlord for approval. I understand that this is a time sensitive issue and will forward the information as soon as it is submitted.

Please call me at 281-0003 if you have any questions.

Sincerely,

TRAMMELL CROW COMPANY



Danielle McKinney  
Property Manager  
Butler Pointe

**Attachment 1**

shall not be unreasonable, provided (i) the proposed assignee or sublessee has a financial standing and ability so as to make Landlord completely commercially secure, and (ii) the proposed use and occupancy of the Premises by the proposed assignee or sublessee will be compatible with the nature and operation of the Building.

7. ~~ASSIGNMENT AND SUBLETTING.~~ Tenant shall not assign the right of occupancy under this Lease, or any other interest therein, or sublet the Premises, or any portion thereof, without the prior written consent of Landlord, which the parties agree may be withheld at Landlord's discretion. Tenant absolutely shall have no right of assignment or subletting if it is or has ever been in default of this Lease. Should Landlord elect to grant its written consent to any proposed assignment or sublease (whether by Tenant or by others claiming by or through Tenant), Tenant or such others agree to pay Landlord an administrative fee in a reasonable amount (but not less than \$150.00), plus attorney fees to process and approve such assignment or sublease, and Landlord may prescribe the substance and form of such assignment or sublease.

PLEASE  
*Jan*  
Initial

Notwithstanding any assignment of the Lease, or the subletting of the Premises, or any portion thereof, Tenant shall continue to be liable for the performance of the terms, conditions and covenants of this Lease, including, but not limited to, the payment of Rent and Additional Rent. Consent by Landlord to one or more assignments or sublettings shall not operate as a waiver of Landlord's rights as to any subsequent assignments or sublettings. Landlord shall have the additional option, which shall be exercised by providing Tenant with written notice, of terminating Tenant's rights and obligations under this Lease rather than permitting any assignment or subletting by Tenant.

~~Should Landlord permit any assignment or subletting by Tenant and should the monies received as a result of such assignment or subletting (when compared to the monies still payable by Tenant to Landlord) be greater than would have been received hereunder had not Landlord permitted such assignment or subletting, then the excess shall be payable by Tenant to Landlord, it being the parties' intention that Landlord, and not Tenant, in consideration for Landlord's permitting such assignment or subletting, shall be the party to receive any profit from any such assignment or subletting. If there are one or more assignments or sublettings by Tenant to which Landlord consents, then any and all renewal options to be exercised subsequent to the date of such assignment or subletting and all options to lease additional space in the Building to be exercised subsequent to the date of such assignment or subletting are absolutely waived and terminated at Landlord's sole discretion. In the event of the transfer and assignment by Landlord of its interest in this Lease and/or sale of the Building containing the Premises, either of which it may do at its sole option, Landlord shall thereby be released from any further obligations hereunder, and Tenant agrees to look solely to such successor in interest of the Landlord for performance of such obligations. The provisions of Item 36 hereafter dealing with "Notices" shall be amended to provide the correct names and addresses of the assignee or sublessee. If Tenant is a corporation whose stock is not regularly traded on a bona fide public exchange, and if any transfer, sale, pledge or other disposition of the common stock shall occur which changes the power to vote the majority of the outstanding capital stock of the company, such action shall be considered an assignment under the terms of this Lease. Any breach of this Item 7 by the Tenant will constitute a default under the terms of this Lease, per Item 20 hereof.~~

~~8. ACCESS TO PREMISES. Landlord or its authorized agent or agents shall have the right to enter upon the Premises at all reasonable times for the purposes of inspecting the same, preventing waste, making such repairs as Landlord may consider necessary (but without any obligation to do so except as expressly provided for herein), and showing the Premises to prospective tenants, mortgagees and/or purchasers. If during the last month of the term, Tenant shall have removed all or substantially all of Tenant's property therefrom, Landlord may immediately enter and alter, renovate and redecorate the Premises without elimination or abatement of Rent or incurring liability to the Tenant for any compensation or effects in Rent and charges owed and such acts shall have no effect upon this Lease.~~

PLEASE  
*Jan*  
Initial

Tenant shall have access to the Premises twenty-four (24) hours a day, seven (7) days a week. Landlord shall not have access to the Premises unless accompanied by a representative of Tenant, except in case of emergency.

Attachment 2

March 23, 2000

Ms Danielle McKinney  
Property Manager, Trammel Crow  
4500 Salisbury Road, Suite 180  
Jacksonville, FL 32216

Re: Lease dated August 13, 1986, 4500 Salisbury Road, Jacksonville.

Dear Ms. McKinney:

I have reviewed your letter of March 14, 2000, requesting that BellSouth provide a sublease agreement between each telecommunications company collocator and BellSouth prior to any collocator placing its equipment within the leased premises at the above referenced location.

The use of a sublease may not be the most appropriate means to handle this situation as BellSouth may not be subleasing a specific definable floor area to each collocator. Federal law requires that BellSouth allow competitive telecommunications companies access to our network. The collocator will place items of equipment within the premises and may add or delete this equipment as required.

When we discussed this last week by telephone, you indicated that the landlord has two specific concerns – indemnification and insurance. My suggestion is that we not pursue the use of a sublease agreement but rather request that each prospective collocator provide the landlord with a signed indemnification agreement and certificate of insurance naming the landlord as additional insured prior to you issuing access to the premises. If such a procedure is acceptable to your owner, I would appreciate a copy of the indemnification agreement you would use and a letter stating the insurance requirements of the collocator. These documents can be presented by BellSouth to the prospective collocator when the collocator is inquiring about the availability of BellSouth space in your building for collocation purposes.

Please let me know if this procedure will be acceptable.

Sincerely,

D. W. Hollingsworth

CC: Rhona Reynolds

Attachment 3

## SPACE ASSESSMENT WORK SHEET

### PETITION FOR WAIVER OF COLLOCATION REQUIREMENTS

07/13/2000

1	CENTRAL OFFICE CLLI:	<u>JCVLFLJTB</u>
		Jacksonville J. T. Butler
2	COLLOCATOR AND AMOUNT OF SPACE	<u>Various collocators</u>
		_____
3.	TOTAL GROSS SQ. FT.	<u>4937</u>
4.	FLOOR PLANS - INCLUDING DIMENSIONS - ATTACHED	
	a. BST occupied equipment space	<u>3269</u> sf
	Nonregulated services	<u>0</u> sf
	Administrative offices - not related to installing, repairing, maintaining CO equipment	_____ sf
	b. Retired equipment	<u>0</u> sf
	c. Future BST space reservations	<u>250</u> sf
	Switch	<u>77</u>
	Circuit	<u>7</u>
	Power	<u>105</u>
	Frame	<u>61</u>
	d. Collocation space (Actual and Future**)	_____ sf
	e. Other 3-d party space	<u>0</u> sf
	What is the occupancy	_____
	f. Switch turnaround space	
	Service Yr <input style="width: 80px;" type="text"/>	<u>0</u> sf
	g. Unavailable space	<u>270</u> sf
	Unusable space (See Note)	<u>1148</u>
	Remaining space	<u>0</u> sf
	h. Central office growth plans.	
	Forecast completion	
	Yr	
	Addition <input style="width: 150px;" type="text" value="None available"/>	_____ sf
	Renovation <input style="width: 80px;" type="text"/>	<u>0</u> sf
	i. Any other plans for relieving space exhaust	
	Switch turn around space held to create some growth	
5.	Floor loading	150#sf <u>4937</u> sf
	Power rooms only	350#sf _____ sf

**NOTES**

**1. BST occupies leased space in this multitenant office .  
The owners insist the collocators occupancy must  
provide indemnification, proof of insurance if not  
subleasee of BST**

## SPACE ASSESSMENT WORK SHEET

*2. If BST subleases to the collocators, by BST lease, we lose all BST renewal options for its own space.*

*3. BST leased additional space for collocators & its own use to find the space is unusable. Building codes require sprinklers. Both BST and collocators will not use for equipment under those conditions.*

NAME OF PERSON FILLING OUT FORM:

James D. Bloomer - Manager - Facility Planner  
(PRINT NAME AND TITLE )

TEL. NO. \_904-350-3428





AUTHORIZED BY:

Same as above

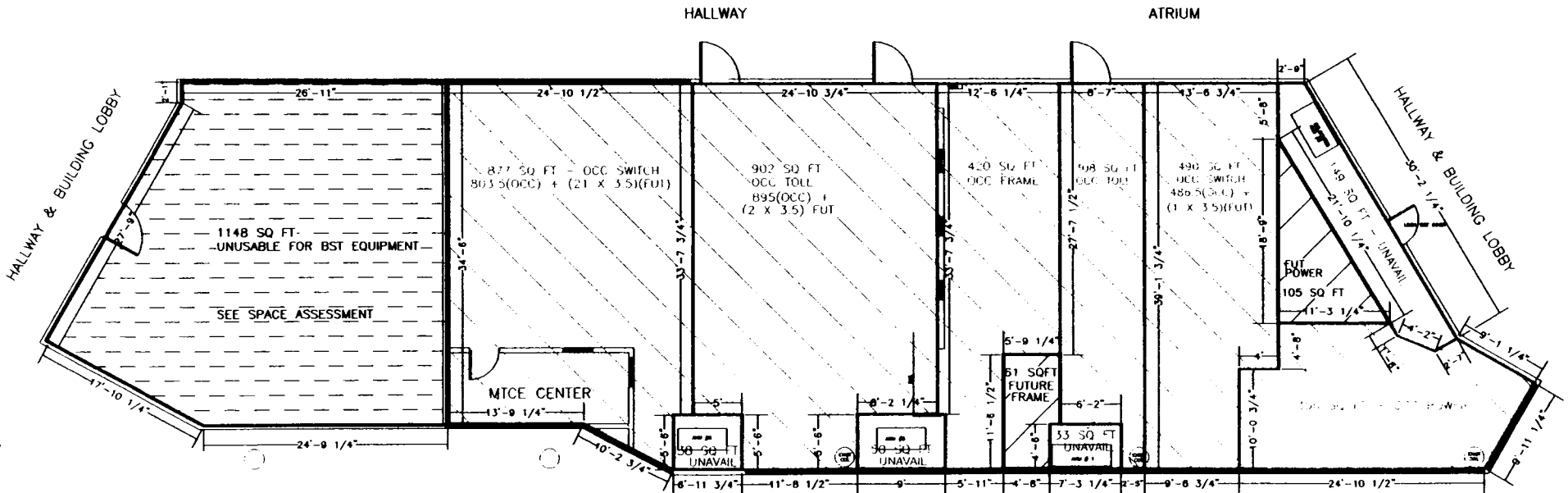
TEL. NO. \_Same as Above

# Exhibit 3

JUNE 28, 2000

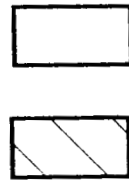
<p>A</p> <p>TOTAL GROSS SQ FT                    4937</p> <p>AIR HANDLING UNIT                    38</p> <p>AIR HANDLING UNIT                    50</p> <p>AIR HANDLING UNIT                    33</p> <p>AIR HANDLING UNIT &amp; TRANSFORMERS 149</p> <hr/> <p>B</p> <p>TOTAL UNAVAILABLE SPACE            270</p> <p>SWITCH                    803.5 + 485.5 = 1290</p> <p>TOLL                        395 + 308 = 1203</p> <p>FRAME                     420</p> <p>POWER                     356</p> <hr/> <p>C</p> <p>TOTAL OCCUPIED SPACE                3269</p>	  	<p>D</p> <p>SWITCH                    (22 X 3.5) = 77</p> <p>TOLL                        (2 X 3.5) = 7</p> <p>FRAME                     61</p> <p>POWER                     105</p> <hr/> <p>E</p> <p>TOTAL RESERVED SPACE                250</p> <p>TOTAL UNUSABLE SPACE                1148</p>	  
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OCC - OCCUPIED  
 FUT - FUTURE  
 UNAVAIL - UNAVAILABLE



JUNE 28, 2000

A	TOTAL GROSS SQ FT	4937
	AIR HANDLING UNIT	38
	AIR HANDLING UNIT	50
	AIR HANDLING UNIT	33
	AIR HANDLING UNIT & TRANSFORMERS	149
B	TOTAL UNAVAILABLE SPACE	270
	SWITCH	803.5 + 486.8 = 1290.3
	TOLL	895 + 305 = 1200
	FRAME	420
	POWER	356
C	TOTAL OCCUPIED SPACE	5269



D	SWITCH	(22 x 3.5) = 77
	TOLL	(2 x 3.5) = 7
	FRAME	61
	POWER	105
	TOTAL RESERVED SPACE	250



E	TOTAL UNUSABLE SPACE	1148
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OCC - OCCUPIED  
 FUT - FUTURE  
 UNAVAIL - UNAVAILABLE

