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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Price Cap Performance Review for Local Exchange Carriers	)	CC Docket No. 94-1
	)	
Treatment of Operator Services Under Price Cap Regulation	)	CC Docket No. 93-124
	)	
Revisions to Price Cap Rules for AT&T	)	CC Docket No. 93-197

COMMENTS OF THE SOUTHERN NEW ENGLAND TELEPHONE COMPANY

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SUMMARY

SNET's comments respond to the Commission's LEC Pricing Flexibility NPRM to address issues of particular importance to SNET due to the unique economic and competitive circumstances in Connecticut. SNET supports the comments and proposals filed today by USTA that reasonably transitions price cap LECs to a regulatory framework consistent with the evolving competitive marketplace.

SNET urges the Commission to expedite rule changes that relax pricing and rule restrictions imposed on price cap LECs. These changes will benefit the consumers of telecommunications services as the result will be lower prices and will encourage LECs to continue investing in new technologies and network infrastructure. By developing a transition plan that encompasses these three phases of regulation, LECs can compete with alternative providers to respond to their customers' needs. Specifically, SNET encourages the Commission to:

(1) Recognize that many states are far ahead of the Commission in adopting procompetitive policies and procedures;

(2) Allow LECs as an option to adopt state rules regarding the classification of competitive services and relevant market areas;

(3) Make price cap rule changes now that relax unnecessary pricing restrictions and modify rules that quicken a LECs response to customer needs. Especially important are the elimination of Part 69 waivers, shorter notice periods for restructured services, the availability of alternative pricing plans, increased pricing flexibility for zones pricing plans and volume discounts.

(4) Adopt rules that allow LECs to receive streamlined regulatory treatment coincident with the presence of alternative providers for comparable services. Connecticut's legislative and regulatory rules may offer the Commission a reasonable model for streamlining services, and

(5) Adopt rules that allow LECs to receive nondominant regulatory treatment when there is evidence that LECs no longer have market power for their services. SNET suggests six requirements that, when implemented by a LEC, support nondominant carrier treatment.

The benefits of competition are beyond debate. The proposals made by SNET today, if adopted by the Commission, will go far toward achieving the Commission's long standing goal of bringing these benefits to consumers.

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COMMENTS OF
THE SOUTHERN NEW ENGLAND TELEPHONE COMPANY

The Southern New England Telephone Company (SNET) respectfully submits these comments to respond to the Federal Communications Commission's (Commission's) LEC Pricing Flexibility NPRM.[1]

I. Introduction

The Commission raises many issues of great importance and consequence to the telecommunications industry and especially consumers. SNET concurs with the comments filed today by USTA that respond to over one hundred issues on which the Commission seeks comment. USTA's comments present reasonable proposals that will

[1] In the Matter of Price Cap Performance Review for Local Exchange Carriers, CC Docket No. 94-1; Treatment of Operator Services Under Price Cap Regulation, CC Docket No. 93-124; Revisions to Price Cap Rules for AT&T, CC Docket No. 93-197, Second Further Notice of Proposed Rulemaking in CC Docket No. 94-1, Further Notice of Proposed Rulemaking in CC Docket No. 93-124, and Second Further Notice of Proposed Rulemaking in CC Docket No. 93-197, FCC 95-393, released September 20, 1995, (LEC Pricing Flexibility NPRM).

allow price cap local exchange carriers ("LECs") to transition to a regulatory framework to address competition. In these comments, SNET responds to certain issues of particular importance due to the unique economic and competitive circumstances it faces.

First, SNET urges the Commission to expedite price cap rule changes to relax unnecessary pricing restrictions imposed on price cap LECs. Secondly, SNET proposes that LECs should be subject to streamlined regulation coincident with the presence of alternative providers for comparable services. Third, SNET recommends that the Commission include in its rule revisions, a mechanism that will allow LECs nondominant treatment when there is sufficient evidence that LECs no longer have market power. By developing a transition plan that encompasses these phases of regulation, the Commission will provide consumers of telecommunications services vast benefits as competitive market forces move prices towards costs and encourage efficient investment in infrastructure.

The LEC Pricing Flexibility NPRM seeks comment on "changes to interstate access price regulation to respond to changes in the market for these services and to rely more heavily on market forces to achieve our public policy goals." The Commission's intent in this proceeding is to benefit consumers by: (1) encouraging market-based prices that reflect the costs of service; (2) encouraging efficient investment and innovation; (3) encouraging competitive entry in the interstate access and related local exchange markets; and (4) permitting us to regulate noncompetitive markets in the most efficient and least intrusive way."[2]

[2] LEC Pricing Flexibility NPRM, para. 1.

There is already substantial competition for SNET's services from alternative providers not encumbered by artificial pricing rules and regulations. The imposition of rules that shackle SNET and all LECs in a competitive environment necessitates immediate response and relief from the Commission.

Of paramount importance to SNET, and as discussed more fully below, is the ability to price services in a manner that meets customer's needs. In Connecticut, state regulatory changes are clearly preceding the pace of federal changes and yet, customers continue to make decisions regarding their telecommunications providers and services, regardless of whether these services are regulated in the state or federal jurisdiction.

The Commission's proposed changes are intended to encourage the development of competitive conditions in both the interstate and the related local exchange markets. To accomplish the intended goals, the Commission should adopt rules that provide exchange carriers streamlined or preferably nondominant regulation coincident with competitive presence. As competitive alternatives proliferate, the Commission must expedite price cap rule changes for the LECs as it has done for AT&T in determining that it is no longer dominant.

The Commission should not, however, wait to make regulatory changes for the price cap LECs, as it did in the case of AT&T in its measure of lost market share. Unlike AT&T, SNET is not facing competition solely from smaller, upstart carriers. SNET's new competitors are large, established entities which arguably already have more market power than SNET. Another important factor supporting the immediate need to streamline regulations for LECs' access services is that, unlike long distance end users,

access customers' revenues are far more concentrated and much less flexible. Loss of one major access customer represents millions in revenues, and unlike end users, access customers cannot be easily "won back" with a one-time check offer.

II. Connecticut's Competitive and Economic Conditions Warrant Immediate Pricing Reform.

A. Competition Is Authorized For Nearly Every Aspect Of Telecommunications Services In The State Of Connecticut.

The existence of competition in Connecticut is evidenced by the fact that over one hundred telecommunications service providers ("TSPs") have either obtained Certificates of Public Convenience ("CFCN") or have applications pending before Connecticut's Connecticut Department of Public Utility Control ("DPUC") to offer an array of telecommunications services. The TSPs seeking to operate in Connecticut range from small resellers to major interexchange carriers ("IXCs"). Several advertisements circulating in Connecticut are attached (see Attachment I) that demonstrate the types of activity taking place in Connecticut today.[3]

In 1994, the Connecticut General Assembly ("Assembly") enacted legislation that opened Connecticut to competition in nearly every aspect of telecommunications services, the first in the nation to permit such a broad scope of competitive offerings.[4]

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[3]Page 1 of 4 is a copy of a $40.00 AT&T gift certificate received by John Sievers, President of SNET' s General Business Group, page 2 of 4 is an MCI marketing campaign targeting Connecticut, page 3 of 4 is an LCI International campaign that promotes its 6 second billing capability, and page 4 of 4 is a coupon that provides for 15 minutes of free long distance with MCI with purchase of two packages of Keebler crackers.

[4]Public Act 94-83, Connecticut General Statute §16-247.

The Assembly empowered the DPUC to define and administer the technical and procedural components of telecommunications competition within the State, and, on September 22, 1995, an Order was released that complied with the Assembly's directives. To date, the DPUC has certified five companies to provide local exchange telephone service in Connecticut and two additional companies have applications pending.[5] As an example, Sprint Telecommunications Venture ("STV") represents a partnership between Sprint and the CATV companies TCI, Comcast, and Cox Cable with the potential for TCG to join.[6] This partnership represents a formidable facility based competitor combining an inter-exchange carrier, CATV companies and an alternative access provider. The facilities of STV's cable affiliate cover over 50% of the State of Connecticut.

Although AT&T has not yet filed for a local certificate of public convenience, they have announced plans to seek permission to offer bundled local, long-distance, and wireless services in the State of Connecticut stating that "**The Connecticut move would be AT&T's most aggressive thus far.**"[7] [Emphasis Added]

The DPUC has authorized a plan for "unbundling" of specific telephone company network services and network service elements. The DPUC's decision outlines

[5]Brooks Fiber, TCG, MCI Metro, MFS, and Cable and Wireless currently have been granted certificates of public convenience and necessity to provide local exchange service within Connecticut by the DPUC. Cablevision LightPath, and STV and have filed applications that are still pending with the DPUC. TCG has a switch that is operational and a state tariff offering switched and special access services. STV also has a tariff offering access services on file and pending with the state DPUC.

[6] TCG is owned jointly by TCI, Comcast and Cox Cable.

[7] Wall Street Journal, October 27, 1995, A3.

the services that will be unbundled, the prices for the unbundled services, compensation among the various providers for calls terminating on their individual networks, resale of local service, number portability, and other issues related to the smooth integration of competition. The DPUC comments that:

> "What sets Connecticut apart, aside from the sweeping nature of its competitive offerings, is the manner in which it has undertaken its regulatory responsibilities. Following the 1994 legislation, the DPUC undertook numerous cases to first establish policy and then procedure for the implementation of competitive telecommunications services. It set up its "vision" for the competitive telecommunications environment and has vigorously pursued goals to make that vision a reality. Already addressed in prior proceedings are issues regarding the criteria necessary for certification as a competitive provider and making competitive service available statewide, even in the less populous areas."[8]

As further evidence of the accelerated pace of competition in Connecticut, SNET is one of the first, if not the first, LEC in the country to begin the implementation of intrastate equal access. Connecticut's conversion began in November of this year and the entire state will be converted by year-end 1996.

Regarding the potential for loss of interstate revenues due to competition, SNET is even more vulnerable than other price cap LECs as SNET, historically, has had the highest number of interstate access minutes of use ("MOU") per access line. Since SNET's service area is a single, relatively small state, the geographic concentration of these minutes makes SNET's revenues even more vulnerable. For example, just two of

[8]DPUC NEWS LINE, released September 22, 1995.

SNET's one-hundred and twenty-five wire centers account for over 23% of SNET's total interstate traffic and 65% of SNET's current "zone 1" traffic.[9]

Given the status of competition in Connecticut, it is critical that the rules under which it operates allow SNET to compete on equal footing with its competitors. In order to survive in this new telecommunications marketplace, SNET must compete on the same basis as its competitors that are unencumbered by access rate structure rules, price cap limitations, tariff notification, cost support requirements or even the need to characterize their services as "interstate," "intrastate," "access" or "local exchange."

Merely simplifying the introduction of new services, providing marginal new pricing flexibility or revising the existing basket and band structure is clearly not sufficient. More extensive and meaningful rule changes must be made to allow LECs to compete with other telecommunications providers in today's market. Like USTA, SNET urges that the Commission not be timid in its approach to implementing adaptive regulation for price cap LECs.

B. In Spite Of The Fact That The Connecticut Economy Lags The National Economy, Competitors View It As A Desirable Market.

Connecticut entered the recent recession sooner than the rest of the country and its recovery continues to lag the national economy. This trend is expected to continue, making growth prospects poor. Defense cuts have hurt local companies such as United

[9] SNET's Request For Approval Of Revised Zone Density Pricing Plan, filed on February 28, 1995. SNET requested approval to revise its zone density pricing plan to more accurately reflect current measures of traffic and costs among SNET's serving wire centers.

Technologies Corp. and General Dynamics, major employers in Connecticut. The Hartford area has been hard hit by weakness in the insurance industry, while lower Fairfield county, with its concentration of Fortune 500 headquarters, has suffered from corporate downsizing and relocation.

From a competitor's perspective, however, Connecticut still is a desirable market due to its small geographic size, high population density and high per capita income. Although personal income has stagnated, Connecticut continues to have one of the highest per capita income levels in the nation. Although traditional drivers of growth are weak, the expectation is that new customer services will become an important driver of growth. The future of the Company depends on its ability to effectively compete.

Given the regulatory support for competition in Connecticut, the number of competitors, and the demographics of the Connecticut marketplace, the Commission should recognize that regulatory relief in the federal area should be a high priority. Rule changes are needed now to permit the migration to full competition in a reasoned and informed way.

III. The Commission Should Immediately Adopt Price Cap Rule Changes.

SNET supports the Commission's initiatives to change the current price cap plan for exchange carriers without regard to the current level of competition to allow for more pricing flexibility to meet customer requirements and expectations. SNET, again, supports the comments being filed today by USTA and offers below, comments specific to needs of SNET in its competitive environment.

A. The Part 69 Waiver Roadblock Must Be Either Eliminated Or Streamlined To Avoid The Delay Of New Service Introductions.

SNET supports the Commission's proposal to eliminate the need for waiver of Part 69 rules.[10] Elimination of this requirement will encourage the timely introduction of new services to meet customers' needs. SNET suggests that new service introductions should be presumed lawful and in the public interest. If a party opposes or disagrees that the public would benefit from the introduction of the new service, the party opposing should bear the burden of justifying its claim. SNET recently filed a Part 69 waiver request to introduce a new SONET-based Switched transport service known as SNET SONET Network Service to provide customers with increased reliability and bandwidth in a very cost-effective manner.[11] The rate structure proposed mirrors SNET's SONET tariff for dedicated transport that took effect November 20, 1995. Although no parties filed any comments opposing SNET's Part 69 waiver request, the Commission has not released an order that approves SNET's request. Given the disappointing history of LECs' Part 69 waiver requests, SNET cannot even assure its customers on the availability of future service offerings. Adding insult to injury, CAPs are free to offer their SONET services absent Part 69 Waivers and through filing streamlined tariffs.[12]

The Commission suggests an improvement of the process by allowing a single LEC to first file for a Part 69 waiver and then allowing others to certify their intent to use

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[10] LEC Pricing Flexibility NPRM, para. 70.

[11] SNET's Petition For Expedited Waiver Of Part 69 Rules, filed October 6, 1995.

[12] For example, Teleport has a SONET-based interstate tariff, F.C.C. No. 1 called "OmniLink Service."

the same rate element structure.[13] SNET supports the Commission's proposal with the exception of "the same rate structure." SNET suggests that LECs should be allowed to propose their own cost-based structure and that these should be assumed granted or approved on an expedited fourteen day waiver cycle. The Commission's proposed mechanism pressures LECs to use an uniform rate structure that may not match the cost characteristics of a specific LEC. SNET strongly believes the rate structure for a given service is dictated by the marketplace and should not be mandated by the Commission. While major access customers may have strong preferences for uniform nationwide access structures, LECs should have the freedom to define a rate structure that is congruent with its needs. If LECs do not properly balance its customers versus its own needs, customer dissatisfaction and demand loss will result.

As discussed in more detail below, the only instance when it may be appropriate for the Commission to suggest a specific rate structure is for mandated, Track 1 services. But even in these cases, LECs should be given the latitude to deviate to meet customer market specific circumstances. For example, it may be reasonable for a LEC to structure an interstate access service to conform with an existing intrastate service.

If the Commission does not eliminate the Part 69 waiver requirement altogether, it is crucial that it establish a time limitation e.g., fourteen days, for approval or denial of a waiver. Further, the waiver should be presumed lawful - particularly when no opposing comments have been filed. The same flexibility should be granted to petitions for Zone

[13] LEC Pricing Flexibility NPRM, para. 71.

Plan changes.[14] As a condition of such flexibility, LECs should be required to inform existing customers of proposed changes.

To speed the introduction of new services, LECs should also be allowed (but no required) to file a waiver concurrently with a proposed tariff. The inclusion of added tariff detail at the LEC's option would aid customers and the Commission in evaluating the merits of the waiver request.

Absent the improvements suggested above, LECs should be granted permanent blanket Part 69 waivers to offer all forms of transport as both special access and switched access, provided switched access use is technically feasible. This would ease some of the regulatory burden imposed on LECs by the continued but outdated ARMIS distinction. Most importantly, it would provide customers the full benefit of new transport services.

B. If The Commission Requires A Distinction Between Services, SNET Supports A Narrow Definition Of Track 1 Services.

The Commission suggests establishment of a "test" to distinguish new services that require higher versus lower scrutiny.[15] SNET disagrees that there is a need to separate services into separate tracks. The alternative approach where LECs are required

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[14] SNET filed a Request For Approval Of Revised Zone Density Pricing Plan eleven months ago, on February 28, 1995. To date, although uncontested, the Commission has not acted upon SNET's request. Of even greater concern to SNET is the Commission's recent refusal to grant other forms of pricing flexibility unless a LEC demonstrates use of current density zone pricing options.[See, In the Matter of Southwestern Bell Telephone Company Tariff F.C.C. No. 73, Transmittal Nos. 2433 and 2449, CC Docket No. 95-140, paras. 22 and 25.] The Commission's refusal to date to act on SNET's proposed density plan revisions severely circumscribes SNET's ability to utilize even this limited form of pricing flexibility.

[15] LEC Pricing Flexibility NPRM, para. 46.

to make some sort of demonstration for relaxed tariff treatment for every new service filing, is impractical and inefficient, adding another layer of time-consuming procedures on an already burdensome process.

However, if the Commission adopts the two-track classification of services, "Track 1" services should be defined narrowly to include only those services that the Commission requires LECs to file or "mandated" services. The alternative, defining Track 1 services as those "essential to competitors" or as "close substitutes," is also impractical and unnecessary.

New access services, by definition, offer expanded functionality. In an unbundled service element environment, such as in Connecticut, most new services are unlikely to be truly essential to the operation of a competitor. Most will represent new technologies or options that are introduced to enhance the value of its existing access offerings and benefit access customers. Further, many new offerings are minor in nature offering increased functionality without significant additional costs. Given these considerations, it is reasonable to assume that all new services not mandated by the Commission should be afforded streamlined "Track 2" treatment, thus avoiding unnecessary delays and the need to expend both LEC and Commission resources. New service offerings should not be burdened with additional filing requirements when they are deemed to be nonessential services.

On the other hand, defining Track 1 services as those "essential to a competitor," leaves far too much room for debate. Competitors would contend that any new service offering cheaper, faster or better capabilities is "essential." The burden of such a showing

should rest with competitors. Otherwise this "streamlined" approach becomes just another opportunity for competitors to game the regulatory process. If, in the unlikely event a future service is deemed essential, a competitor could make its case either by filing a petition or through the formal complaint process. If the Commission agrees, the service could be defined as a Track 1 service.

SNET objects to defining Track 1 services as any service for which there was not a close substitute. As discussed above, many new services are likely to be options where reasonable substitutes exist. However, in a competitive access environment, LECs strive to distinguish their access product line and attract new customers with services that are unique and without substitute. It seems illogical to discourage this incentive by mandating Track 1 treatment.

Given the reasonable assumption that future Track 2 services simply represent additional customer choices and are not "bottleneck" offerings, a fourteen day notice period should be sufficient.[16]

For the same reasons, a simple direct cost showing is also adequate. However, SNET would suggest that all cost documentation requirements be waived for services which are anticipated to account for less than 1% of a LEC's interstate price cap revenues.

C. A Shortened Notice Period Is Reasonable For Restructured Services.

SNET agrees with the Commission that as competitive circumstances faced by the LECs increase, unreasonably high restructured rates are unlikely.[17] By definition,

[16] LEC Pricing Flexibility NPRM, para. 49.

restructured services have existing (or at least potential) customers that are important to the LEC. Restructures are routinely done in response to customer requests or by the LEC itself to enhance customer service.

A fourteen day notice period should be adequate for rate restructures, however, SNET suggests that restructures resulting in overall revenue decreases should be afforded a shorter notice period, e.g. seven day notice.

D. Alternative Pricing Plans Are Necessary For LECs To Respond To Customer Needs.

SNET supports treating alternative pricing plans (APPs) distinct from "new" or "restructured" service treatment. These pricing plans should be subject to minimal regulation as they benefit consumers by offering efficient pricing and increased customer options. These plans should be approved as a separate category of services effective on fourteen days' notice with no cost support.

SNET agrees with the recommendation made by USTA in its comments that APPs offered on a promotional basis for a period of less than ninety days should be effective on fourteen days' notice and if introduced as a permanent tariff offering, also approved on fourteen days' notice. Subscription to an APP, like any access offering (and unlike end user long distance service), is likely to involve a significant customer commitment such as volume or term conditions. Access customers are also likely to face

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[17] LEC Pricing Flexibility NPRM, para. 51.

significant costs to issue ASRs and reconfigure their networks. Any doubt raised by a temporary regulatory status is unacceptable to SNET and its customers.

However, LECs should get prompt credit for the "headroom" created by APPs, since APPs represent price reductions that are in effect. Thus, SNET suggests that LECs be allowed to incorporate APPs into price caps six months following the tariff effective date, or upon the next annual filing, whichever is sooner.

E. Lower Band Limits Should Be Eliminated.

SNET supports the elimination of the lower service band limits in the price cap plan. In practice, the Commission has granted many below-band waivers, including SNET's, with no evidence of negative competitive effects or predatory pricing claims.

The incentives for predatory pricing practices have also decreased significantly since the initial price cap proceeding due to the establishment of more stringent Price Cap Index levels (greater X factors) and of more service categories.

The burden of proof for below band filings should be shifted to the petitioner. LECs, such as SNET, require the same flexibility to react quickly to market changes and institute rate reductions as their competitors.

F. Additional Pricing Flexibility Should Be Allowed.

SNET strongly supports the proposals that USTA presents in its comments that promote additional pricing flexibility for the LECs. SNET agrees with USTA that the Commission should expand zone density pricing, allow LECs to further restructure

access elements, and target customers on a volume basis.[18] In order to effectively respond to the current competitive Connecticut marketplace, SNET is evaluating the feasibility of offering an optional access pricing plan to its customers that goes beyond the USTA's proposal. SNET's plan represents an economically efficient pricing alternative to the current switched access pricing structure. This alternative would allow SNET to pass onto switched access customers, the value associated with both the intrastate and interstate usage volumes that specific end users generate on SNET's network.

With increased competition, LECs must have the ability to introduce market-based pricing plans that meet customer needs. LECs will remain viable service providers if the Commission makes reasonable steps to modify its access rules to allow LECs needed flexibility.

G. Price Cap Baskets Should Be Modified.

A more economically efficient switched access rate structure will result in new basket and band preferences. One of the problems with the current basket and band structure has been its on-going churn. The Commission should strive for simplicity and some consistency.

SNET considers services such as Directory Assistance, High Capacity (Hi-Cap) DS1 and DS3 services, and SONET services to be highly competitive and as such, should

[18] For example, GTE filed a Petition For Waiver Of Part 69 Of The Commission's Rules To Geographically Deaverage Switched Access Charges, filed on November 27, 1995. This plan called ZonePlus provides geographic deaveraging of switched access rates and structured volume discounts in five study areas.

be removed from price cap regulation. Local Switching services will very soon be in the same category in Connecticut. The DS1 and DS3 subcategories should be eliminated. Particularly if the Commission retains the Hi-Cap service category there is little concern about LECs utilizing "headroom" to increase prices on other services. Market pressures exist for all types of Hi-Cap services and DS1 and DS3 presently account for virtually all Hi-Cap revenues. As USTA states, the current zone density pricing limits in these categories provide sufficient safeguards to limit price changes between zones within a service category.

The Commission's suggestion that a +1% upper limit should be imposed on any service category where a LEC has taken decreased prices more than -15%,[19] is unnecessary. This restriction only serves to strongly discourage those price decreases. Given the likelihood of a declining PCI, such a +1% limit would not only limit future nominal rate increases, it would likely force future decreases that may not be tenable. Further, SNET questions the feasibility of administering such a specific restriction, particularly in the face of on-going basket and service category restructures.

IV. Streamlined Regulation

Connecticut's current legislative and regulatory rules for telecommunications offer a reasonable model for streamlining interstate services. While SNET generally supports the framework proposed by USTA for defining a relevant access market for purposes of measuring competition and granting streamlined regulation, in certain

[19] LEC Pricing Flexibility NPRM, para.105.

circumstances, it may be preferable to adopt competitive market area definitions which mirror those established by State Commissions. As described further below, a structure for defining competition in Connecticut has already been established. Although it is similar to the structure proposed by USTA in that it reflects the dimensions of geography, service and customer, it is unique to Connecticut. The Commission should allow LECs as an option, to adopt state mandated plans for interstate purposes.

The Connecticut General Assembly enacted telecommunications legislation that places Connecticut in the forefront as a competitive marketplace. The legislation directed the DPUC to "regulate the provision of telecommunications services in the state in a manner designed to foster competition and protect the public interest."[20]

The DPUC has classified SNET's state telecommunications services as "competitive," "emerging competitive," and "non-competitive." The criteria used by the DPUC to differentiate between the three classifications may serve as a reasonable model for streamlined regulation of interstate services.

The DPUC's approach to classifying telecommunications services looks at the degree of competition that exists for each service offered by the LEC.[21] Connecticut legislation sets forth eight criteria that must be considered in determining whether to reclassify a telecommunications service as follows:

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[20]Conn. Gen. Stat. 16-247f(a).

[21] Docket No. 94-07-02

(1) Number, size and geographic distribution of other providers of the service;

(2) Availability of functionally equivalent services in the relevant geographic area at competitive rates, terms and conditions;

(3) Financial viability of each company providing a functionally equivalent service in the relevant market;

(4) Existence of barriers to entry into, or exit from, the relevant market;

(5) Other indicators of market power, which may include, but not be limited to market penetration and the extent to which the provider of the service can sustain the price for the service above its cost;

(6) Extent to which other telecommunications companies must rely upon the service to provide their telecommunications services;

(7) Other factors that may affect competition, such as: a regulatory mandate by the federal government; physical facilities construction and/or availability by other providers; and complaints by other providers against the petitioner; and

(8) Other factors that may affect the public interest, such as: the petitioner's interconnection standards, joint facilities use agreements and reciprocal compensation terms with other providers.

Before the DPUC considers these criteria, two conditions must be met. First, the petitioner must demonstrate that the telecommunications service submitted for (re)classification is legally eligible for reclassification, and second, if the service submitted for reclassification as competitive or emerging competitive contains a noncompetitive or emerging competitive function of the petitioner's local telecommunications network, such function must be unbundled.

As discussed more fully in Section V, SNET distills these criteria to six requirements that must be met for a determination of nondominance.

A. LECs Should Be Allowed To Match The Competitive Market Area Definition For Interstate Services With The Current Definition For SNET's State Services.

From an administrative and customer perspective, it may be necessary for LECs to classify both their state and interstate access services along the same geographic boundaries. Otherwise, prices, terms and conditions for a particular service may vary widely based on differences in state and federal definitions of relevant markets. This places LECs at a competitive disadvantage by creating customer confusion and imposing higher administrative costs. Further, it creates opportunities for arbitraging state and federal rates for similar services. Therefore, SNET urges the Commission to recognize previously defined state market areas and allow interstate access services to be matched to these definitions where appropriate.

B. Connecticut Rules Provide Parity Of Relevant Markets For All Providers.

In the LEC Pricing Flexibility NPRM, the Commission seeks comment on the geographic area that should be used for assessing competition and granting regulatory relief under price caps. The Commission asks that comments address whether the relief and flexibility be allowed only in the geographic market where a demonstration of competitive conditions has been made or permitted in an entire study area.[22]

[22] LEC Pricing Flexibility NPRM, para. 123-126.