## A. The Intended Role Of The FCC (NPRM - II.A.)

### 1. Develop Specific Guidelines In Limited Areas (NPRM - II.B.2. & II.G.)

There are only a limited number of places within Section 251 where the Commission is authorized to engage in substantive rulemaking. Section 251(d)(2) states that, in determining what network elements should be unbundled and made available by carriers, the Commission shall consider, "at a minimum," (1) whether access to proprietary network elements is necessary, and (2) whether unavailability of such elements would impair the ability of other carriers "to provide services they seek to offer."[38] The "at minimum" language suggests that the Commission is free to consider factors beyond the two specifically enumerated within the section before requiring carriers to unbundle any particular network element.

Section 251(g) empowers the Commission to supersede pre-existing carrier equal access restrictions and obligations via regulations prescribed after the date of enactment.[39] Likewise, the Commission is given express authority in the areas of number portability,[40] cost recovery for numbering administration and number portability,[41] the North American

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[38] 47 U.S.C. Section 251(d)(2).

[39] 47 U.S.C. Section 251(g).

[40] 47 U.S.C. Section 251(b)(2).

[41] 47 U.S.C. Section 251(e)(2).

Numbering Plan,[42] and deciding which LECs should be treated as ILECs for purposes of the Act.[43] In no other place within Section 251, however, is the Commission instructed or expressly permitted to engage in substantive rulemaking. Section 251(d)(1) authorizes the Commission to "establish regulations to implement the requirements" of Section 251,[44] but as demonstrated below Congress intended only broad, flexible implementation regulations, not a comprehensive set of substantive rules expanding upon the content of the Act.

### 2. Develop An Open, Flexible Framework To Let Incentive-Based Negotiations Work (NPRM - I.B.)

As observed above, it is apparent that Congress intended the private sector negotiation process to be the engine of change in moving the communications industry to a more competitive era. Thus, it should be clear that the main role envisioned by Congress for the FCC was to create an open, flexible framework within which the incentives carefully built into the law are permitted to work in motivating carriers to effectuate negotiated interconnection agreements for local service competition.

The legislative history makes this even clearer. As stated in the Findings of S.652:

> Achieving full and fair competition requires strict parity of marketplace opportunities and responsibilities on the part of incumbent

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[42] 47 U.S.C. Section 251(e)(1).

[43] 47 U.S.C. Section 251(h)(2).

[44] 47 U.S.C. Section 251(d)(1).

> telecommunications service providers as well as new entrants into the telecommunications marketplace, provided that any responsibilities placed on providers should be the minimum required to advance a clearly defined public policy goal.[45]

Through the various specific provisions of the Act, Congress has already identified the "minimum" responsibilities properly placed on telecommunications providers to advance Congress's public policy goal of increased local service competition via voluntarily negotiated carrier interconnection agreements.

The wording of the Act itself also demonstrates that Congress did not intend for the Commission in this proceeding to create more than a general framework to support the negotiation process, or to create numerous additional "national standards." Section 251(d)(1) states that "[w]ithin 6 months after the date of enactment . . . the Commission shall complete all actions necessary to establish regulations to implement the requirements of this section."[46] "This section" is a reference to Section 251, which deals only with the obligations imposed upon various categories of carriers by the Act.

The Act makes no mention within Section 251 of an FCC role regarding implementation procedure. Rather, all of the language on that subject is provided within Section 252 of the Act. Nowhere within the Act does Congress give the Commission the responsibility or authority to promulgate rules that change or expand upon the

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[45] S.652 at Section 5(9) (emphasis added).

[46] 47 U.S.C. Section 251(d)(1) (emphasis added).

implementation procedures set forth within Section 252. Yet, the NPRM delves deeply into Section 252 issues, and even Section 253 issues dealing with state barriers to entry.[47] The Commission should acknowledge the role Congress intended for it and refrain from asserting regulation in areas where Congress has already established the national policies to fulfill its pro-competitive goals.

### B. The Intended Role Of The States (NPRM - II.A.)

#### 1. Primary Responsibility For Implementation -- Mediation, Arbitration, Approval (NPRM - II.A.)

The role that state commissions are to play in bringing about a more competitive communications industry is detailed by Congress in the Act. They are to review and act on all negotiated interconnection agreements, to mediate for carriers upon request to facilitate the negotiation process, to arbitrate any issues that carriers are unable to resolve through negotiation, and to review and act on all previously negotiated or arbitrated agreements submitted to them by the parties for approval.[48] In short, Congress has given state commissions the critical task of directly overseeing implementation of the obligations contained in Section 251 in the first instance.

The only circumstance in which the FCC is asked to engage in these activities is where a state commission fails or declines to act as directed by Section 252, and even in

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[47] See, e.g., NPRM, paras. 22, 34-41.

[48] 47 U.S.C. Sections 252(e)(1), (a)(2), (b)(1) and (4), and (e)(4), respectively.

those cases it is evident that the FCC is acting not as an independent federal agency but rather "in the shoes" of the state commission under the specific terms of Section 252.[49] Furthermore, the Act does not grant the FCC authority to review Section 252 state commission decisions for aggrieved parties, positing that authority instead in the federal courts.[50]

The only FCC "review" of such state decisions under the Act is within the context of a BOC's petition for in-region interLATA relief pursuant to Section 271.[51] Even in that context, the FCC is not authorized to invalidate a prior state commission finding but rather is to make an independent judgment as to whether the carrier has met its competitive checklist requirements and the other specific requirements of Section 271 for purposes of granting Section 271 interLATA relief.[52] Thus, if the FCC were to find in a Section 271 proceeding that a BOC's previously state-approved Section 251 interconnection agreement had failed to meet one or more of the Section 251 requirements, although that decision ultimately might control (pending appeal) for purposes of the BOC's interLATA relief request, it would in no way disturb the previous state approval of that carrier's interconnection agreement.

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[49] 47 U.S.C. Section 252(e)(5).

[50] 47 U.S.C. Section 252(e)(6).

[51] 47 U.S.C. Section 271.

[52] 47 U.S.C. Section 271(d)(3).

That Congress intended for the state commissions to play the predominant regulatory role in implementing the Act is clear. For that reason, the FCC should not adopt any of the regulations discussed in the NPRM that would effectively supersede state authority in the areas expressly granted to the states by Congress (e.g., the tentative conclusion that the FCC has sole jurisdiction over both interstate and intrastate aspects of interconnection, service, and network elements,[53] and the tentative conclusion that Section 251 empowers the FCC to regulate certain intrastate charges, classifications, practices, services and facilities).[54]

### 2. Fulfill Historic Responsibility Regarding Universal Service And Intrastate Services (NPRM - II.A.)

Under the 1996 Act, state commissions continue to have their historic responsibilities to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers.[55] The NPRM appears to assume, contrary to the statutory language, that those are now the FCC's responsibilities. Nothing in the Act supports that interpretation, nor

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[53] NPRM, para. 37.

[54] Id., para. 39. The Act provides that state commissions, in reviewing arbitrated carrier interconnection agreements, must verify conformity with the FCC's Section 251 implementation regulations (Section 252(e)(2)(B)), but that does not constitute Congressional authority for the FCC to regulate the entire Section 251 and Section 252 processes nor was it Congress's intent to grant that authority.

[55] 47 U.S.C. Sections 152(b), 253(b), 252(e)(3) and 252(f)(2).

the NPRM's proposal to assert jurisdiction over several areas of traditional state commission responsibility (i.e., quality of service, intrastate interconnection, intrastate pricing, universal service, etc.). Indeed, such an interpretation is contrary to established FCC policy.[56] The NPRM's expansive view of the Commission's authority is contrary to law, past Commission policy, and the authority that the Act reserves to the states.

Another area intended to be left to the states is implementation of Section 252(i) of the Act. The NPRM seeks comment on whether Section 252(i) allows competitors to pick and choose among the various elements of a LEC's state-approved interconnection agreement, or whether they must agree to all the same terms and conditions to which the previous competitor agreed.[57] The Act answers this question directly. Section 252(i) states that "interconnection, service[s], or network element[s] provided under an agreement approved under this section" must be made available to any other party "upon the same terms and conditions as those provided in the [previously approved] agreement."[58]

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[56] In the Matter of MTS and WATS Market Structure, CC Docket No. 78-72, Phase IV, 1985 FCC LEXIS 4138, 43, 57 Rad. Reg. 2d (P&F) 721 (adopted December 19, 1984) ["state regulatory commissions... will play the primary role in ensuring universal service"].

[57] NPRM, paras. 269-7 .

[58] 47 U.S.C. Section 252(i) (emphasis added).

## IV. INTERCONNECTION RULES SHOULD REFLECT TECHNICAL REALITIES AND FACILITATE UNBIASED COMPENSATION ARRANGEMENTS.

### A. Technical Factors (NPRM - II.B.2.)

#### 1. Technical Feasibility Should Not Be Confused With Mere Technical Possibility. (NPRM - II.B.2.)

For purposes of this proceeding, there are two main places in the Act that refer to "technical feasibility." The first is for interconnection of networks at "technically feasible points within the carrier's network,"[59] and the second is for the provision of nondiscriminatory access to network elements on an unbundled basis "at any technically feasible point."[60] In either case, just being "technically possible" is not enough to trigger the interconnection or unbundling requirements of the Act.

The PicturePhone® was technically possible in the 1960s but costs kept it from being broadly marketable; i.e., it was not feasible. The FCC knows well the technical "feasibility" of High Definition Television (HDTV) and the practical problems of getting it to market. If carriers are forced to open systems at too many points just because a new set of elements can be derived that are professed to be "technically feasible," reliability and efficiency may both suffer.

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[59] 47 U.S.C. Section 251(c)(2)(B).

[60] 47 U.S.C. Section 251(c)(3).

A contemporary example of the "feasibility trap" has been Code Division Multiple Access (CDMA) in the United States wireless industry. In 1989, this technology was pronounced to be a twenty-fold improvement over the U.S. analog systems, and that it would be ready for system implementation by late 1990. CDMA was also advertised as a cost effective technology that required fewer and less expensive cells. It was viewed then (and is still viewed today by some) that CDMA as proposed in 1989 is "technically feasible." While perhaps technically possible, this new technology proved to be quite challenging in terms of actual feasibility. The 1990 implementation date was missed. Years passed with only delays, not deployment.

By the winter of 1994, four years after the first promised delivery date, commercial CDMA was still not available, but confidence remained high. Announcements were made that one company would have the benefits of CDMA cellular to the public in early 1995. But by the winter of 1994, the twenty-times capacity of analog technology had dropped to ten times more capacity. The claims of call quality improvement and cost savings were also tempered. The year 1995 came and went without commercial deployment of CDMA. As of last report, it is uncertain whether CDMA will see full scale deployment in its first Market Area before 1997.

This case study is not offered to ridicule CDMA by any means; it is simply offered as an example of the "feasibility trap." Well intentioned start-up firms may ask for interconnection to many points or access to many network elements without realizing or

understanding the economic cost, reliability impacts, and, administrative dilemmas caused by their "technically feasible" proposals. The marketplace, the standards process, and the existing network element structure (loop, cross-connect, port, switching and transport) can accommodate the interconnection and unbundling of network elements called for by the Act in the near term.

In the longer term, technical feasibility should be determined based upon consideration of, but not be limited to, the following:

- o Ability of support systems to administer, provision, maintain, and order without unique or special handling and/or billing;
- o Ability to provide access with the existing network. ILECs should not be required to alter their networks in order to create feasible unbundling interconnection points or capabilities.
- o Ability to deliver network elements which are discrete, stand alone, physical or logical functional components of the existing network, available to meet the requested time frames with current or scheduled technology;
- o Ability to maintain network integrity and security which can be managed without undermining network reliability, increasing the risks of physical damage, service impairment, service degradation, or service outage, or creating a hazard to customers or operating personnel;
- o Ability to provide and maintain quality of service;
- o Assuring that physical and/or logical interconnection points are provided so that they meet the service and network security needs of the requesting service provider, the ILEC network, and the public;
- o Compliance with voluntary national standards;

- o Ability of a future service/technology to successfully complete ILEC field trial evaluation;

- o Circumstances in which the point of access can be achieved in a manner that is consistent with applicable industry standards and protocols for equipment intended for the specific environment in which it is located (i.e., central office, outside plant, etc.) consistent with standards the incumbent provider applies to itself; and

- o Ability to assign liability resulting from improperly designed plant to the responsible party.

- o Ability to provide elements to multiple parties.

Finally, as alluded to earlier, the Commission should not conclude that the availability of telecommunications equipment "provided by national manufacturers selling to a nationwide market, without substantial regional or state-to-state variation in equipment design," has resulted in a homogenous network among LECs.[61] One LEC's ability to unbundle a particular network element or to interconnect via a specific method is not necessarily evidence of the technical feasibility of providing the same or a similar element on an unbundled basis in another "similarly structured LEC network." It may be technically possible to unbundle an element in both networks but technically infeasible to unbundle in one or the other.

LEC networks have evolved to meet a variety of unique customer, market, state regulatory, and business needs. Telecommunications facilities and equipment vary by manufacturer, age, location, software versions, and other features. The technical

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[61] NPRM, para. 79.

capabilities of one LEC's network may not be fully equal to the capabilities of another LEC's network, even though the basic services that they offer may be quite similar. For example, the fact that two different carriers both offer Caller ID does not warrant the presumption that each carrier's network has precisely the same set of technical capabilities. The two carriers may use different vendors' switches, in which case the underlying technical capabilities of those switches, beyond the ability to provide Caller ID, may be quite different Furthermore, the operational support systems used to provision, operate and maintain the facilities and equipment of the two carriers could be significantly different.

### 2. National Standards Already Exist And Are Used By All Parties And Vendors. (NPRM - II.B.2.)

As noted above, the Act requires interconnection with the local exchange carrier's network at any technically feasible points within the carrier's network, and access to network elements on an unbundled basis at any technically feasible point. Today, many volumes of technical standards for interconnection exist on either side of the switch (i.e., trunk to Public Switched Telephone Network [PSTN] or line to a subscriber), within the loop electronics, and for signaling between offices. These standards lead to the logical conclusion that the basic network elements today are the loop, loop cross-connection, switch port, PSTN interconnection, and local switch transport.[62] Other explicit voluntary

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[62] These five proposed unbundled network elements are described in detail within (continued...)

industry standards developed in accredited standards bodies and industry forums and de facto industry standards define interconnection methods and points between carriers' networks, including Type 1 2 and 2A interconnection between cellular and wireline networks, existing interconnection arrangements between hundreds of independent LEC networks, and interconnection between LECs and IXCs. There are still other standards, such as Signaling System 7 (SS7), which specify signaling protocols for a variety of call types within and between networks, and Synchronous Optical Network (SONET) standards which address the use of different vendors' equipment on opposite ends of a single SONET optical facility.

The presence of standards has allowed for continuous, uninterrupted service as technology has moved from totally mechanical (rotary dial service and step switching) to fully digital (pulse, i.e., "touchtone" and full digital switching and services). However, if the Commission attempts to reinvent standards for interconnection points or methods at this time, or expands the number of network elements beyond those currently supported by the logical division within the PSTN, it may serve only to slow competitive development. Therefore, SBC fully agrees with the Commission's tentative conclusion to identify only a minimum set of network elements initially.[63] The current basic network

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[62](...continued)
Section VI below.

[63] NPRM, para. 77.

architecture provides three distinct elements: loop, switching and transport, and network standards have been established around this basic architecture. Further subdivision of these architectural elements could require redesign of the network architecture and alteration of the existing networks, development of new network equipment devices, development of new testing methodologies, equipment and systems, and the development of new technical industry standards. Standards development work is by nature extremely complex and time consuming and would inevitably create delays. Vendor development of testing equipment or interconnection devices would depend upon completion of standards and could create additional delays.

At least for the near-term, the Commission should not consider interconnection or unbundling to be technically feasible except where industry standards for such interconnection/unbundling already exist. The industry as a whole has the incentive under the Act to develop further timely industry standards for interconnection and unbundling. The Commission is therefore also correct in its tentative decision to leave any further unbundling requirements to the future, "as services, technology, and the needs of competing carriers evolve."[64]

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[64] Id.

### 3. States Have The Responsibility For Resolving Any Differences Via Arbitration. (NPRM - III.A.)

In any event, Congress has evinced its plain intent that differences between negotiating carriers in all areas, including technical matters, are to be resolved in the first instance by the state arbitration process. The Act provides that, after the specified period of time, any party to a negotiation "may petition a State commission to arbitrate any open issues."[65]

If the parties can neither successfully negotiate nor successfully arbitrate a technical issue, then such issue would most probably not be susceptible of a practical resolution under any circumstance at that point in time. Agencies should not attempt to regulate solutions to technical problems that are not practically solvable even by industry participants who are trying to reach agreement with one another, each of whom has strong market incentives to reach a resolution. This is particularly true now, since the Commission has no way of knowing whether any, much less which, technical problems may arise in the future.

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[65] Id.

### 4. Minimum Federal Standards For Interconnection And Unbundling (NPRM - II.B.2.)

#### a. Minimum Federal Standards For Interconnection (NPRM - II.B.2.)

The purpose of interconnection of carrier networks according to the Act is "for the transmission and routing of exchange service and exchange access."[66] Basic interconnection includes the physical facilities (how to interconnect) and the points of interconnection (where to interconnect). In order to route exchange service calls, the network trunking architecture that traverses the interconnection facility and extends into the interconnecting networks must also be defined in the interconnection negotiation process.

Federal guidelines or models do not need to be developed in this area because explicit and de facto industry standards already exist for the interconnection of local exchange networks with the networks of other local exchange carriers, wireless carriers, competitive access carriers and interexchange carriers. Physical facilities and interconnection alternatives (how to interconnect) are well known in the industry and need no further clarification or definition. Similarly, potential points of interconnection (where to interconnect) are logically defined by the network architecture. For example, the primary points of network interconnection utilized by carriers today include tandem and end office switches for payload delivery and Signal Transport Points (STPs) for

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[66] 47 U.S.C. Section 251(c)(2)(A).

signaling.[67] Finally, basic trunking network architecture has been developed through research and standards work and requires no further definition. The use of one-way versus two-way trunking is service-specific and should be left to individual negotiations. Because of the expected volatility of local networks and the need for clear trunk performance responsibility and control, the use of one-way trunking provides the most efficient and effective architecture at the outset. As networks and traffic patterns stabilize, carriers may wish to convert these trunk groups to two-way.

The FCC has tentatively concluded that the minimum federal standard should provide that interconnection at a particular point will be considered technically feasible within the meaning of section 251(c)(2) if an ILEC currently provides, or has provided in the past, interconnection to any other carrier at that point, and that all ILECs employing similar network technology should be required to make interconnection at such points available to requesting carriers.[68] The conclusion that it is technically feasible for all ILECs to provide network interconnection at a point solely because another ILEC provides it, or "has provided it," should be reconsidered.

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[67] The Commission seeks comment on whether it should apply its proposed rules for local switching elements to tandem switching elements. NPRM, para. 103. This is simply not possible. The tandem switching function is different from the local switching function. Tandem switches provide only trunk interfaces, whereas local switches provide line-side connections. Tandem switches cannot be connected to end-user local exchange customers as are local switches. Local switches offer customer features on a per-line basis, another feature missing from tandem switches.

[68] NPRM, para. 57.

First, the proposed standard could interfere with the Congressionally mandated negotiation process. Since the ILECs would be required to offer interconnection "at any technically feasible point within [any ILEC's] network," the standard would displace entirely the negotiation process with regard to what is "technically feasible" for a given ILEC. All that an LSP would have to request is any interconnection that it knew of that had been offered by another ILEC. However, the ILEC agreeing to an initial offering may have done so through a complex negotiation process, with many qualifying terms and conditions. Mandating that a single instance of interconnection by one is "technically feasible for all" would undermine the concept of negotiation that is so fundamental to the Act.

Second, the proposed minimum federal standard is overbroad because of the mandate that "technically feasible" includes all interconnections provided in the "past." "Past" may include technologies that have been replaced by the natural evolution of the network. An ILEC may plan for the removal or retirement of such equipment but be unable to do so when needed. A continuing requirement that ILECs must offer all "past" interconnection points would stifle overall network evolution and would unreasonably restrict ILEC management decisions.

Third, the proposed standard would be difficult to administer because it rests upon the vague notion of "ILECs that employ similar network technology." Which

technologies are "similar" to one another for these purposes may prove to be a very challenging inquiry.

Finally, the proposed standard would be anything but a "minimum" standard. In fact, such a standard would amount to the "cumulative list" of all available interconnection arrangements offered by anyone, at any time, but would be potentially applicable to and thereby mandatory for all. Such an approach would eviscerate the concept of a "minimum federal standard."

The Commission should leave the definition of "technically feasible" to the negotiation and arbitration process, as intended by Congress.

**b. Minimum Federal Standards for Unbundling (NPRM - II.B.2.)**

The basis for identifying the network elements to be provided on an unbundled basis should include the following:

- First, consideration of technical feasibility (as opposed to technical possibility) based on the existing network, including any proprietary information concerns. The Act requires unbundling at technically feasible points, but it does not require alteration of the network to create feasibility, as discussed in Section VI. B.2., infra.

- Second, the utility of the element (to ascertain whether access to the element is necessary).

- Third, whether failure to provide access at a specific level of unbundling would impair the ability of a telecommunications carrier to provide a service it seeks to offer.

Network elements should not have to be provided based solely upon how they might fit into a requesting carrier's plans for building out network facilities. The Act specifies that unbundled elements should be provided in a manner that allows requesting carriers to combine such elements in order to provide telecommunications services. It was clearly the intent of Congress to encourage true facility-based competition. SWBT's proposed initial unbundled network elements, as outlined in Section VI of these Comments, are consistent with these considerations.

**5. National Performance Standards Would Be Counterproductive And Costly. (NPRM - II.B.2.)**

The Commission seeks comment on whether it should establish national performance standards for network provisioning and maintenance. For example, the Commission inquires as to whether it should require ILECs to provide network elements using the appropriate installation, service, and maintenance intervals that apply to ILEC customers and services.[69] SBC urges the Commission to avoid enforcement of national standards for installation, service and maintenance of local exchange lines. ILECs should simply be required to provide the same installation, service and maintenance intervals to competitors as they do to their own customers. Anything beyond that would not be economical, reasonable or practical.

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[69] NPRM, para. 89.

ILEC network provisioning of local exchange lines has been governed by state commissions for many years. ILECs have developed their operations and processes to meet these requirements. When a local exchange customer requests service, due dates for both installation and maintenance are offered based upon availability of resources such as personnel and cable facilities. In rural areas (due to the great distances involved in provisioning) the issue of mandated intervals would cause even greater problems and costs. Compounding the current state rules with overlapping federal rules would significantly affect ILECs' resource requirements and increase their operating costs unnecessarily.

**6. Sub-Loop Unbundling Is Technically Infeasible. (NPRM - II.B.2.)**

It is not technically feasible to unbundle the loop feeder outside plant (feeder) from the loop distribution outside plant (distribution). There are several significant physical, service and security issues that make such unbundling technically infeasible. Generally, the feeder and distribution cables connect at an outside cabinet called a "feeder distribution interface" (FDI). Because the FDI is sized for the ultimate distribution area design, there is no available space inside the FDI to mount additional terminal blocks that would be required to terminate another local service provider's (LSP) feeder or distribution cable. SWBT has a significant number of cables that utilize no FDI. In these cases, the feeder and distribution cables are buried or are on poles and are directly spliced in sealed hardware and therefore are not accessible.

Even if minimum space were available inside the FDI, there are maintenance, safety and security issues that would preclude placing another LSP's cable in such a cabinet. SWBT's outside plant is designed with minimum access points to limit its own technicians' entry into the cables in order to minimize the potential for network problems. The FDI was not designed or intended to be an industry-wide access point. Unbundling the loop at the FDI would necessitate entry by multiple agents into the cabinet, thus creating greater potential for trouble and reduced quality of customer service. These problems would likely increase exponentially as more carriers were permitted to access the FDI.

Some may argue that it is technically possible to build out an additional cross-connect box adjacent to the FDI. However, that option is unrealistic. There are numerous unresolved issues such as how many adjacent FDIs would be needed, how multiple cabinets would be connected, and how right-of-way for the additional cabinets would be obtained, if possible at all.

Furthermore, by separating the feeder from the distribution, the ability to mechanize testing and monitoring from the switch to the end user would be lost. Most network troubles originate in the outside plant. Diminishing the testing and monitoring capabilities of the outside plant would inevitably have a negative effect on customer service. Lack of mechanized testing, and therefore having to dispatch a technician to the

unbundled FDI to test every customer port, would significantly increase the cost of service for the industry.

Neither is it technically feasible to unbundle the multiplexing/concentration from the DS1 transport in a remote terminal fed by copper T1 cables. The DS1s are hardwired into the digital loop carrier, so there is no cross-connect access to accommodate another LSP's DS1. Generally, there is no spare capacity on remote terminal's shelves to terminate other LSPs' T1 cables. Since each remote terminal is mated with a central office terminal (COT) via DS1s, it is not possible to place a network trouble alarm on an LSP DS1 that does not terminate at the COT.

Likewise, it is not technically feasible to unbundle the multiplexing/concentration from DS1s that are fiber-fed and are housed in a controlled environmental vault (CEV). Neither CEVs nor mini-huts or maxi-huts are accessible by LSPs today. CEVs are protected environments, are not manned, have very little "working room," and are not designed for public access Thus, the potential for harm to a carrier's facilities in a CEV due to multiple-carrier access would be far greater than in the case of physical collocation in a LEC central office. Required unbundling at the CEV would require collocation under far different circumstances than intended by the Act and would not result in any significant benefits to the public.

### 7. Sharing Switch Capacity Is Not Feasible In Nearly Half Of SWBT's Network. (NPRM - II.B.2.)

The Commission suggests that one possible way to identify a switching element is to define the element in terms of the capacity of a local switch to switch from line-to-line, line-to-trunk, trunk-to-line, or trunk-to-trunk.[70] SBC urges the Commission not to define the switching element in terms of capacity. Any measure of capacity would be useless and inapplicable to the local switching network element. Each switch is designed based on a forecasted demand of customers, services, features, etc. For optimum utilization of economic resources, shared switch resources (e.g., paths, modules, components, software) are provided to meet the demand in any given area. Moreover, not every port on a switch is equipped for 100 percent of available features. For all of these reasons, an ILEC cannot define, by port, specific and/or dedicated connections from line-to-trunk, line-to-line or trunk-to-trunk.

Additionally, the 1AESS switches which service approximately one-half of SWBT's lines are not technically capable of providing different calling scopes, features, classes of service, and routing on an individual line-by-line basis. Throughout the years, depending upon the switch type, customer base, and demand for services, features, etc., a different investment has been made into each switch. Many older generation switches that provide all the necessary functionalities still remain in the network because they continue to

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[70] NPRM, para. 99.

provide high quality, reliable service and because it is not economical to replace them, but these switches are not technically partitionable.

Furthermore, routing in a switch for interexchange public network traffic is performed based on the interpretation of the NXX digits received on a line. The switch uses the Public Office Dialing Plan assigned to the line to connect to the proper facility for the digits dialed. The Public Office Dial Plan used for a switch is established based on the geographic location of the switching office and its connections to the network for the ports dialing the same NXX. Existing switch platforms are not designed to support assignment of unique Office Dial Plans to support unique routing arrangements based solely upon which switch port is assigned to one of multiple providers.

The NPRM discusses favorably a concept called the "local switching platform," currently being investigated by the Illinois Commerce Commission, as a potential form of switch sharing/unbundling.[71] A review of the testimony filed with the Illinois Commission, however, does not reveal any technical description of the proposal. It is therefore difficult to determine how such a proposed plan would be sized, maintained, provisioned, or costed. For these reasons alone, the FCC should reject mandating such an unbundled structure.

In addition, the proposal would establish rates for the LSP on a cost plus basis. When a LEC upgrades a switching office (for example from a 1AESS to digital), it does

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[71] NPRM, para. 100.