carrier receives an in-kind benefit, namely, access to the other carrier's network for the termination of calls originated by its customers on its network. Indeed, as the Commission acknowledges, a growing number of states have endorsed "bill-and-keep" on at least an interim basis.[99]

a. The Commission Has The Authority To Adopt "Bill-And-Keep" Under The 1996 Act

Section 252(d)(2) makes clear that "bill-and-keep" arrangements satisfy the "duty to establish reciprocal compensation arrangements for the transport and termination of telecommunications" contained in Section 251(b)(5). In particular, Section 252(d)(2) establishes that the pricing standards to be used in the establishment of charges for transport and termination of traffic can not be construed

> to preclude arrangements that afford the mutual recovery of costs through the offsetting of reciprocal obligations, including arrangements that waive mutual recovery (such as bill-and-keep arrangements)[100]

The legislative history pertinent to the duty to establish reciprocal compensation confirms that Congress explicitly contemplated and endorsed the use of "bill-and-keep" arrangements as consistent with the 1996 Act:

* ... the Committee intends that reciprocal

---

[99] Notice at ¶227.

[100] 47 U.S.C. §252(d)(2)(B)(i).

> compensation may include compensation arrangements, including in-kind exchange of traffic ....[101]

* ... any interconnection agreement entered into must provide for mutual and reciprocal recovery of costs, and may include a range of compensation schemes, such as an in-kind exchange of traffic without cash payment (known as bill-and-keep arrangements).[102]

In Section 251(d)(1), Congress directed the Commission to establish regulations implementing the interconnection obligations set forth throughout Section 251, including the reciprocal compensation obligations contained in Section 251(b)(5). Pursuant to the Commission's broad authority to adopt implementing regulations via Section 251(d)(1), and consistent with the interconnection pricing standards set forth in Section 252(d), as discussed above, it is within the Commission's statutory authority to require use of a "bill-and-keep" compensation mechanism for the mutual exchange of telecommunications traffic.

In evaluating interconnection compensation arrangements, Congress directed state commissions to consider such arrangements "just and reasonable" only if the terms and conditions provide for the mutual and reciprocal recovery by each carrier of costs associated with the transport and termination of calls that

---

[101]S. Rep. No. 23, 104th Cong., 1st Sess. at 20 (1995).

[102]H.R. Rep. No. 204, 104th Cong., 1st Sess., pt. 1, at 73 (1995).

originate on the network facilities of the other carrier.[103] As noted above, Section 252(d)(2)(B)(i) specifically recognizes that "bill-and-keep" arrangements may be used to satisfy Section 251(b)(5)'s mandate for reciprocal compensation.

While Section 252 grants state commissions the authority to review and approve all interconnection agreements, the standards for review are those set by the Commission pursuant to Section 251(d) in accordance with the pricing policies articulated in Section 252. Indeed, one of the few grounds for which the state commissions may reject an interconnection agreement adopted by arbitration is failure to comply with "the regulations prescribed by the Commission pursuant to section 251."[104] Accordingly, the fact that interconnection agreements are subject to review and approval by a state commission does not preclude the Commission from promulgating regulations mandating "bill-and-keep" arrangements. TW Comm submits that, should the Commission adopt a "bill and keep" compensation mechanism as a requirement of interconnection agreements, Section 252(d)(2)(B) simply makes it clear to a reviewing state commission that "bill-and-keep" satisfies Section 252(d)(2)(A)'s requirement that each carrier recover costs associated with transporting and terminating traffic that originated on another carrier's network.

---

[103] See Section 252(d)(2)(A)(i).

[104] 47 U.S.C. §252(e)(2)(B).

b. Adopting A "Bill-and-Keep" Approach Will Help Achieve Congress's Goal Of Rapidly Establishing Competition In The Local Exchange Marketplace

Mandating a "bill-and-keep" compensation scheme for the transport and termination of telecommunications traffic between LECs and requesting telecommunications carriers would serve a number of important goals. First, it is likely that pricing will be among the most contentious issues in interconnection negotiations. By adopting a "bill-and-keep" requirement, the Commission would eliminate this contentious issue, thereby facilitating prompt resolution of negotiations and the formulation of voluntary agreements between ILECs and other telecommunications carriers. Second, "bill-and-keep" may be the only method of reciprocal compensation that precludes a price squeeze by the ILECs. "Bill-and-keep" will minimize the opportunity for ILECs to use the compensation mechanism to impose unnecessary and anti-competitive costs upon new competitors.

Third, "bill-and-keep" is administratively simple. Neither the LEC nor the requesting telecommunications carrier will be saddled with the task of developing new billing or accounting systems and no administrative time or expense will be required on an ongoing basis. In addition, "bill-and-keep" can be implemented without the need for complicated and time consuming cost studies and analyses, thereby speeding the development of local exchange competition.

Fourth and perhaps most importantly, "bill-and-keep" is economically efficient. Studies have shown that "bill-and-keep" is justified in either of two situations: (1) traffic is largely balanced in each direction (and the costs associated with measuring slightly out-of-balance traffic would outweigh any benefits associated with the small gain in precision that traffic measurement would afford); or (2) actual interconnection costs are so low that there is little difference between a cost-based rate and a zero rate.[105] Both prongs of this test are satisfied with respect to the transport and termination of traffic between ILECs and other telecommunications carriers.

In most cases, traffic between ILECs and competing LECs will be relatively balanced over time. The primary difference between the traditional traffic interchange requirements and those engendered by the introduction of local competition is that individual carrier service areas are no longer mutually exclusive and non-overlapping. Although it is possible that this distinction may affect the relative flows of traffic during the formative stages of local competition, once established there is no *a priori* basis to expect that the balance and nature of traffic flows will differ significantly from those typical of existing multi-LEC

---

[105]See In the Matter of Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers, *Notice of Proposed Rulemaking*, CC Docket No. 95-185, FCC 95-505 (1996) ("*LEC/CMRS Interconnection Notice*") at ¶61.

traffic -- *i.e.*, it is reasonable to expect that the flow of traffic from the competing LEC to the ILEC will roughly equal the flow in the reverse direction per customer line.

Consequently, it is reasonable, as a threshold matter, to apply the traditional traffic interchange arrangements (*i.e.*, "bill-and-keep") as a prototype for an environment in which multiple and competing local carriers are present. The incremental gains from absolute accuracy and precision are rarely large enough to justify the often substantial incremental transaction costs that would be required to achieve such precision. Absent a large imbalance, the transaction costs (measuring, billing and auditing) are likely to outweigh the additional costs any particular carrier may incur by being the net recipient of terminating traffic. Such costs are likely to have a far greater impact on new entrants than on ILECs because of the relative size differences between new entrants and ILECs.

Moreover, the additional costs to terminate traffic on already overbuilt ILEC networks should be close to zero, and studies have shown that the average incremental cost of local termination on LEC networks is *de minimis* (approximately 0.2 cents per minute).[106] Whereas Section 252(d)(2) requires that transport and termination charges be set on the "basis of a reasonable approximation of the

---

[106]See *LEC/CMRS Interconnection Notice* at ¶61 (citing to Gerald W. Brock, "The Economics of Interconnection: Incremental Cost of Local Usage" (April 1995.))

additional costs" and those costs are *de minimis*, a "bill-and-keep" system is appropriate and consistent with Congressional intent.

A common criticism of the "bill-and-keep" approach is that "bill-and-keep" will lead to an uneconomic outcome because it does not appear to be "cost based" (*i.e.*, carriers can terminate calls "for free"), it will not send the right price signal to competing LECs and it will encourage inefficient network architecture decisions. But the converse is also true: if a competing LEC is entitled to receive payment (perhaps a significantly above-cost payment) for all incoming calls that it terminates, it would have an incentive to seek out customers who are large net recipients of incoming traffic in order to force the ILEC to make large terminating use payments to the it. Moreover, imposing usage-based terminating use charges on both the ILEC and the competing LEC could have the effect of fundamentally destabilizing the long-standing practice of providing local calling on a flat-rate basis, insofar as carriers (ILECs and competing LECs) would then be confronted with usage-based payment obligations when calls are terminated outside of their respective networks.

Another criticism of "bill-and-keep" has been that this approach assumes that all networks will have identical cost characteristics. According to certain ILECs, new entrants will have the opportunity to develop networks which utilize potentially lower-cost technologies (*e.g.*, broadband wireline networks, as well

as cellular and PCS radio-based networks). Because, for the foreseeable future, competing LECs will serve only a minuscule portion of the local market, the vast majority of all local traffic will be internal to ILEC networks. Although competing LECs may enjoy the benefits of the latest, lowest-cost technology, the extremely small scale at which they will initially operate will place them higher on the decreasing average cost function than the incumbents, even if the former's costs would (arguably) be lower at equal traffic volumes. Hence, if anything, it is likely that, were both the ILEC and the competing LEC to establish terminating use rates based upon their respective average unit costs, the competing LEC's termination charge to the ILEC could well be greater than the ILEC's charge to the competing LEC. If anything, "bill-and-keep" would appear to work to the ILEC's advantage with respect to unit cost levels.

As the Commission is aware, "bill-and-keep" has been used historically, and quite successfully, by ILECs in adjacent markets as a simple compensation system for terminating each other's traffic. There is no reason why this same approach should not be utilized in competitive situations and a number of states have successfully implemented bill-and-keep arrangements.[107] In each case, the state has recognized that at least on an interim basis, bill-and-keep is the fastest, simplest, and fairest approach to

[107] Notice at ¶240.

settle questions regarding compensation for the transport and termination of traffic and the promotion of local exchange competition.[108]

In adopting a "bill-and-keep" system as an interim measure, the California Public Utilities Commission held that this compensation method

> results in both types of carriers being responsible for their own costs with respect to call termination. Thus new entrants and incumbent LECs will retain the benefit of having avoided certain call termination costs and will incur the responsibility of certain call termination costs....[109]

Because carriers would look to their own subscribers to recover any costs associated with both originating and terminating the interconnected traffic, there is enormous potential for abuse in ILECs setting rates at levels that operate as an anticompetitive disincentive for their subscribers to call the subscribers of a competitor.[110] The Commission must require that any charge by the

---

[108]For example, in adopting "bill-and-keep" on an interim basis, the Oregon Public Utility Commission held that "[w]e are persuaded that bill and keep has fewer shortcomings than other compensation proposals made in this case and will function as a reasonable compensation mechanism during the initial stages of competitive entry into the local exchange market." Re Electric Lightwave, Inc., CP 1 CP 14 CP 15 Order No. 96-012, Slip Opinion (January 12, 1996) (Or.P.U.C.).

[109]Re Open Access and Network Architecture Development of Dominant Carrier Networks, R.95-04-043, I.95-04-044, *Decision*, 95-09-121, Sept. 27, 1995 (Cal. P.U.C.) at 24-25.

[110]Since most people call either friends or family members most frequently, imposition of additional charges for such calls would (continued...)

LECs to its own subscribers intended to reflect the termination of calls originated on a competitor's network must be cost-based, non-usage sensitive, and applied in a non-discriminatory manner to the general body of ratepayers.

In sum, "bill-and-keep" should be adopted as a mandatory component of interconnection agreements for the exchange of traffic because it is fair, simple to administer, economically efficient, and consistent with the Congress's and the Commission's efforts to promote the introduction of local telecommunications competition.

II. PROVISIONS OF SECTION 252

Beginning at ¶269 of the Notice, the Commission asks for comment on a series of issues regarding the provisions of Section 252 of the Act. Specifically, it has asked for comment on certain aspects of the requirements applicable to arbitration of interconnection and network element agreements and the procedures for state commission review of those agreements. The Commission also seeks comment on the interpretation of the nondiscrimination requirement set forth at Section 252(i).

---

[110](...continued)
cause ILEC customers to urge friends and family members not to utilize the services of competing carriers.

A. Arbitration Process

Pursuant to Section 252, state commissions have been directed by Congress to play a critical role in the establishment of interconnection, services, and network element agreements between ILECs and other telecommunications carriers. Section 252(a)(2) allows, at the request of the parties, state commissions to participate in the negotiations and to mediate differences which arise during the course of the negotiations. More importantly, Section 252(b) authorizes state commissions to arbitrate interconnection negotiations upon petition from any party to those negotiations. In acting as an arbitrator, a state commission shall: 1) ensure that the resolution of the matters being arbitrated meets the requirements of Section 251 and the regulations established under that section; 2) establish rates for interconnection, services, and network elements in accordance with the rate standard set forth at Section 252(d); and 3) provide a schedule for implementation of the terms and conditions of the arbitrated agreement. Section 252(e)(4) requires the state commissions either to approve or reject the agreements -- within thirty days for negotiated agreements, within ninety days for arbitrated agreements. That subsection also provides that where a state commission has failed to act within those time frames, the agreement shall be deemed to be approved.

While the 1996 Act affords broad responsibilities to state

commissions to mediate, arbitrate, and approve or reject interconnection agreements, Congress's delegation of this authority to the state commissions is not absolute. Section 252(e)(5) empowers the Commission to preempt state commissions' jurisdiction in those matters where state commissions have failed to carry out their statutory responsibilities. In such cases, the Commission is to assume the responsibilities of the state commissions.

In anticipation of the possible need to exercise the preemption authority contained at Section 252(e)(5), the Commission has asked whether it should establish regulations to carry out its Section 252(e)(5) obligations, and whether it should establish procedures for interested parties to notify the Commission that a state commission has failed to act. At the outset, TW Comm hopes and expects that it will rarely, if ever, become necessary for the Commission to invoke its Section 252(e)(5) preemption authority. It is anticipated that the state commissions will fulfill their responsibilities under Section 251 and 252 in a manner consistent with the letter of the 1996 Act and with the public interest objectives which underlie the 1996 Act. Nonetheless, it is prudent for the Commission to be prepared to intercede in circumstances where states fail to do so. In establishing rules to govern preemption and notification procedures under Section 252, TW Comm urges the Commission to limit such rules to those necessary reasonably to apprise the Commission of the nature of the state

commission's failure to act, to notify interested parties that a request for preemption has been filed with the Commission, and to afford those parties an opportunity to comment on the request.

It is important to remain mindful of the fact that preemption requests are not likely to be brought to the Commission until after a state commission has failed to fulfill its arbitration responsibilities and that such requests may not even be made to the state commission until 135 days following receipt by an ILEC of a negotiation request. Thus, preemption requests will not even reach the Commission until long after the beginning of the negotiation process. Therefore, it is imperative that Commission regulations and procedures governing preemption requests be designed to ensure expedited determinations of whether preemption is necessary.

In this regard, TW Comm recommends that parties seeking to have the Commission preempt state commissions for their alleged failure to act under Section 252(e)(5) be required to submit preemption petitions to the Commission which state with specificity the bases for the preemption, *e.g.*, that an arbitration petition was filed with the state commission on a certain date, that it was properly served on the other parties to the negotiation, and that the state commission has failed to commence arbitration within a specified time frame. TW Comm recommends that the Commission's rules require states to commence arbitration proceedings within thirty days of receipt of the opposing party's response. Section

252(b)(4)(C) requires state commissions to conclude arbitration of the unresolved issues not later than 9 months after the date on which the LEC received the negotiation request. Accordingly, in cases where the state commission commences arbitration proceedings, the Commission's rules governing preemption requests should allow for petitions seeking preemption based on a state commission's failure to complete the arbitration process required by Section 252 to be filed not less than thirty days following expiration of that 9 month period.

Unlike certain matters which the 1996 Act obligates the Commission to address, determinations of whether a state commission has failed to fulfill its responsibilities under Section 252 should not be difficult to resolve. Either the state commission has commenced arbitration proceedings or it has not; either the state commission has completed arbitration within 9 months of the negotiation request or it has not.[111] Nonetheless, TW Comm recognizes that there might be disputes among negotiating parties as to whether certain action or inaction by state commissions

---

[111]It will not be necessary for the Commission to determine whether a state commission has failed to approve an interconnection agreement. Pursuant to Section 252(e)(4), negotiated agreements not acted on by the state commission within 90 days of submission to it for approval or rejection and arbitrated agreements not acted on within 30 days of submission are deemed to be approved. Approval of interconnection agreements, including such approvals by inaction, do not give rise to Commission preemption. Rather, they are subject to review by federal district courts. See Section 252(e)(6).

constitute failures to act warranting Commission preemption. For that reason, TW Comm recommends that the Commission require that formal preemption requests be served by the petitioning party on all parties to the negotiations or state arbitration proceedings, including the state commissions, and that such service be effected within one business day of filing with the Commission, either by express mail, or by hand delivery. In order to afford those parties, including the state commissions, an opportunity to respond to the preemption request, TW Comm suggests that those parties be allowed to submit responses within ten days of receipt of the preemption petition.

The Commission also seeks comment on whether it should apply state law in situations where it preempts state commissions under Section 252(e)(5).[112] Nothing in the 1996 Act or its legislative history suggest any Congressional intent that the Commission is to make determinations under state law. As a creation of Congress, the Commission's authority is derived from the Communications Act and such other federal statutes and treaties which it is empowered to enforce. The fact that a state commission may enforce provisions of state law in its review of interconnection agreements does not empower the Commission to enforce state laws. Not only is the Commission's legal authority to interpret and apply state law questionable, but, perhaps more importantly, the Commission has

[112]Notice at ¶266.

neither the resources nor the expertise to attempt to sit as a trier of the law in proceedings involving the laws of more than fifty sovereign jurisdictions. This is another reason why it is so critically important for the Commission to promulgate comprehensive, nationally uniform standards and regulations governing the substantive requirements of Sections 251 and 252, as well as the procedures for adjudicating under those requirements. If such comprehensive, nationally-uniform rules are established, it will not be necessary for the Commission to attempt to interpret and apply the laws of each state and territory.

In this regard, TW Comm agrees with the interpretation offered by the Commission that any agreement "approved" by a state commission, including those agreements which are approved by state inaction (under Section 252(e)(4)) be deemed to comply with state law. Such state commission actions would be reviewable by the federal district courts. As indicated by Section 252(e)(5), the standard of review in such district court proceedings would not be whether the state action complied with state law, but whether the action meets the requirements of Section 251 of the Communications Act (*i.e.*, whether it complies with federal law).

As the Commission correctly notes at ¶267 of the Notice, nothing in Section 252(e)(5) indicates that the Commission's preemption authority is limited. That section clearly provides that where a state has failed to fulfill its responsibilities, the

Commission shall preempt and shall assume the responsibility of the state commission with respect to the proceeding or matter. Based upon the plain language of that section, once a state commission fails to act, the Commission must preempt, and shall retain the responsibilities which would have been those of the state commission prior to the preemption. Accordingly, the conclusion is clear and inescapable that once the Commission exercises its preemption authority, it retains jurisdiction over the arbitration procedures and enforcement of the terms of any agreement which results from those procedures.

At ¶268 of the Notice, the Commission invites comments on standards for arbitration in the event that it becomes necessary for the Commission to conduct an arbitration pursuant to the preemption directive of Section 252(e)(5). TW Comm believes that the Commission should adopt standards for arbitrations, but it does not believe that those standards should only be applicable to Commission arbitrations in preemption situations. Rather, the Commission has the authority and the responsibility to promulgate standards to be followed by the state commissions in their conduct of arbitration proceedings. Under the division of authority established by the 1996 Act, the Commission is empowered to establish nationally-uniform standards, the states are empowered to apply those standards in the conduct of arbitration proceedings initiated pursuant to Section 252.

The Commission should not adopt the "final offer" arbitration method suggested at ¶268 of the Notice. Under that approach, each arbitrating party would submit a single proposal and the arbitrator would be required to select between those two proposals. Such an approach is overly simplistic, disregards the complexity of issues as well as the number of issues likely to be raised in arbitration proceedings, and, perhaps most importantly, the "final offer" approach would result in regulators -- whether federal or state -- abdicating to the negotiating parties the responsibility to make public interest determinations. TW Comm recognizes that the Commission and the states are to be subject to tight time frames within which to carry out their responsibilities, and that a "final offer" approach may have superficial appeal as a means to resolve interconnection disputes within those deadlines. However, a "final offer" approach is workable only where there is a single issue in dispute, *e.g.*, determination of a price.[113] Given the inherent

---

[113]A "final offer" system is used currently by certain employment situations including, for example, Major League Baseball. When a player takes a salary dispute with his team to arbitration, the player and the team each make an offer proposal. The arbitrator must select either one proposal or the other. Since salary is the only issue subject to arbitration, the arbitrator is not faced with a myriad of operational issues like those which will be encountered in Section 252 arbitrations. Moreover, such salary arbitrations are limited to a resolution of competing parties' private rights, *i.e.*, how much money one party is to pay to or receive from another party. In contrast, state commissions and the FCC, when acting as arbitrators under Section 252, will have the responsibility of making public interest determinations. Such public interest responsibilities do not lend themselves to "final
(continued...)

complexity of interconnection, unbundled network elements and collocation of telecommunications networks, no public benefit would be served by forcing arbitrators to select between two proposals.

Moreover, there can be no assurances that either submitted "final offer" proposal would serve the public interest. It must be remembered that the paramount obligation of a federal or state arbitrator is to preside over the implementation of agreements which serve the public interest and which will promote the pro-competitive, deregulatory objectives of the 1996 Act. It is not to resolve private disputes. TW Comm recognizes that open-ended arbitration will be administratively difficult and may take longer to complete than final offer arbitration. Notwithstanding those concerns, arbitrators must not be stripped of their authority to make determinations from all alternatives, not just the ones submitted to them by the parties.

---

[113](...continued)
offer" arbitration procedures where an arbitrator is limited to selecting from among individual proposals submitted by each of the arbitrating parties, and based primarily each party's perceptions of their own private interests.

B. Implementation of Section 252(i)

As the Commission acknowledges, nondiscriminatory availability of interconnection, unbundled network elements, and collocation rates are required by Section 251 of the 1996 Act.[114] The scope of that nondiscrimination obligation is amplified by Section 252(i), which requires ILECs to make available any interconnection, service, or network element provided pursuant to an approved agreement to any other requesting telecommunications carrier upon the same terms and conditions as those provided in the agreement. Recognizing that the Commission may have to assume state commission responsibilities under Section 252(e)(5), it asks for comment on the meaning of the nondiscrimination requirement of Section 252(i).

As with the need to adopt arbitration standards discussed in the preceding paragraph, TW Comm disagrees that the Commission's concern should be limited to those situations where it deems it necessary to exercise its preemption authority. Clearly, the nondiscrimination requirements are a fundamental aspect of the statutory scheme governing interconnection, access to network elements, collocation and the agreements applicable to those obligations. The Commission should promulgate standards for applying the nondiscrimination requirements of the 1996 Act and those standards should govern state commission review of agreements. They should not be limited to preemption situations.

---

[114] Notice at ¶269.

Nothing in the language of Section 252(i) provides any support for the suggestion that the nondiscrimination requirement of that subsection is to be limited to "similarly situated" carriers as raised by the Commission at ¶270 of the Notice. The language of Section 252(i) is open-ended and inclusive:

> A local exchange carrier shall make available any interconnection service, or network element provided under an agreement approved under this section to which it is a party to any other requesting telecommunications carrier upon the same terms and conditions as those provided in the agreement.[115]

By its terms, the obligation codified at Section 252(i) extends to any requesting telecommunications carrier. It is not limited to any similarly situated carrier, nor is it limited in any other manner. There is no definition of "similarly situated" carrier either stated or implied in the statute. A telecommunications carrier's entitlement under Section 252(i) to avail itself of any interconnection or network element provided pursuant to approved agreements is not limited to those carriers providing the same service. However, as noted at II.D of these comments, TW Comm agrees with the Commission that the obligation to provide interconnection, services, and network elements to telecommunications carriers without discrimination is limited to those services and facilities which are to be used to provide telephone exchange service and exchange access.

---

[115] 47 U.S.C. §252(i).

Finally, TW Comm finds nothing in Section 252 or any other provision of the 1996 Act which indicates that the availability of interconnection, service, or network elements provided under approved agreements are to be limited to a finite period of time. The 1996 Act requires that those facilities, services and other arrangements provided pursuant to approved agreements must remain available throughout the duration of the agreement. If ILECs were permitted to limit the availability of those facilities, services, and other arrangements to a date certain, then those ILECs would be free to discriminate with respect to facilities, services, and collocation after that date certain. The ability to reimpose discriminatory terms and conditions for interconnection, network elements, and collocation following expiration of a specified date would be flatly inconsistent with the nondiscrimination requirement of Section 252(i).

CONCLUSION

In these comments, TW Comm has demonstrated why the promulgation by the Commission of comprehensive, nationally uniform rules and procedures to govern implementation of Sections 251 and 252 of the Communications Act in a consistent manner throughout the nation is essential to achieving the pro-competitive deregulatory national policy mandated by the 1996 Act. That objective will be attained only if the state commissions are provided with strong and

explicit guidance by the Commission in fulfilling their responsibilities to implement the 1996 Act. Accordingly, TW Comm respectfully urges the Commission to promulgate rules and procedures consistent with the recommendations contained in these comments.

Respectfully submitted,

TIME WARNER COMMUNICATIONS HOLDINGS, INC.

By: _____

Aaron I. Fleischman
Richard Rubin
Mitchell F. Brecher
Steven N. Teplitz

Its Attorneys

Fleischman and Walsh, L.L.P.
1400 Sixteenth Street, N.W.
Washington, DC 20036
(202) 939-7900

Paul B. Jones
Janis A. Stahlhut
Donald F. Shepheard
Time Warner Communications
Holdings, Inc.
300 Stamford Place
Stamford, Connecticut 06902

Date: May 16, 1996

39422

Time Warner Communications Holdings, Inc.
CC Docket No. 96-98
Initial Comments
May 16, 1996

ATTACHMENT 1

The Public Utilities Commission of Ohio

George V. Voinovich, *Governor* | Craig A. Glazer, *Chairman*

May 1, 1996

Dear Ameritech, Certified NECs and NEC applicants:

Section 271 of the Telecommunications Act of 1996 provides for the process by which Bell Operating Companies may enter into the interlata market for the offering of in-region services. Specifically, paragraph (1) of this section indicates that a company can achieve interlata relief if it meets the requirements of subparagraph (A), or what shall be referred to as Track A, or subparagraph (B), or what shall be referred to as Track B, for each state for which the authorization is sought. Currently, the Commission is in the process of analyzing this section and determining its own role in the certification process under which Ameritech will obtain such relief. The Commission is interested in each of your interpretations of Section 271(c)(1). Specifically, the Commission seeks input on whether Ameritech could pursue Tracks A and B simultaneously, or whether Track A is a condition precedent to Track B. Specific references to the Joint Explanatory Statement of the Committee of Conference for the Telecommunications Act of 1996, the committee reports for S. 652 and H.R. 1555, and other evidence of Congressional intent should be provided to support your interpretation.

Please submit your comments directly to me by no later than May 15, 1996. Your comments should also be served upon each other by this date. Attached to this letter is a list of a contact person and address for each entity. Thank you for your attention to this matter.

Sincerely,

Paul J. Duffy
Legal Director

MKF/vrh

Enclosure