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

In the Matter of)
)
Implementation of the Local Competition) CC Docket No. 96-98
Provisions in the Telecommunications Act)
of 1996)

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COMMENTS

of the

RURAL TELEPHONE COALITION

May 20, 1996

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SUMMARY

The Rural Telephone Coalition ("RTC") submits these Comments in the second phase of this proceeding examining issues associated with notice of technical changes, dialing parity, number administration, and access to rights of way.

The RTC submits that interconnectors only need notice of changes with respect to the technical characteristics of interconnection at the connection point. Beyond that point, notice should not require LECs to understand the operations of interconnectors, and interconnectors do not need to understand the internal operations of LECs. Section 273 rules are not relevant to Section 251 with respect to all other incumbent LECs other than Bell companies. Timing of notice should not affect LECs' normal network deployment schedules. Provisions should allow adjustment of prior announced schedules. Notice information should be limited to avoid divulging information to others which could cause disruption to the network. The Commission should adopt an approach that allows a range of options for reasonable notice and use the experience over the next few years to consider any more specific notice requirements that all interconnectors and LECs will need and should provide.

The expansion of dialing parity along the lines of the presubscription concept to other classifications of traffic should proceed in a similar manner as equal access was implemented. The hardware and software upgrades will be costly and should not be required until there is a clear net public benefit. Deployment should depend on interconnectors with a need, having made a bona fide request for interconnection and dialing parity, and then be required according to a reasonable timetable. All costs should be accumulated and recovered from those carriers benefitting from the

dialing parity.

Interconnectors' access to operator services must be obtained from those LECs and others that provide such service. Interconnectors should be aware that many smaller LECs do not provide operator service.

Dialing delay issues must recognize the complicated nature of the multi-provider network. No individual carrier is responsible for the delay of any single call. Dialing delay standards for specific functional components of a call could be developed, but should first undergo full notice and examination of reasonableness including costs and benefits prior to adoption.

National rules governing access to poles, ducts, conduits and rights-of-way are neither required nor necessary. Congress adopted a statutory scheme in Section 251 and Section 224 that contemplates private negotiations between the parties needing attachments to utility rights-of-way and facilities that are constructed on or over them. The regulatory role in this arena is left to the states in the event parties cannot reach agreements. Because matters involving rights-of-way are uniquely local and complex, involve local property and contract law issues, and implicate the Just Compensation clause of the Fifth Amendment, the Commission should defer to the states, even if it has authority to promulgate regulations.

If the Commission does decide to promulgate rules, it should proceed cautiously, especially with respect to the application of any national rules in rural areas. LECs in rural areas require the flexibility to manage their operations in a manner that ensures the reliability of the system and protects it from injury due to ineptness, sabotage or other causes inflicted by persons with access to the facilities. LECs should not be required to accommodate competitors at the expense of the security or safety of the system or the primary obligation of the LEC to provide

service to its customers. National rules on cost reimbursement and notification of modifications should also ensure that LECs receive just compensation for modifications.

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**COMMENTS
of the
RURAL TELEPHONE COALITION**

The Rural Telephone Coalition (“RTC”) files these Comments in response to the *Notice of Proposed Rulemaking* released in this docket on April 19, 1996 (“NPRM”). This proceeding is examining implementation of Sections 251 and 252 of the Telecommunications Act of 1996 (“Act”). These Comments are in response to the second phase of the initial round of comments. This second phase is examining issues associated with notice of technical changes, dialing parity, number administration, and access to rights of way.¹

The Rural Telephone Coalition is comprised of the National Rural Telecom Association (NRTA), the National Telephone Cooperative Association (NTCA), and the Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO).

¹ NPRM at ¶ 290.

I. NOTICE OF TECHNICAL CHANGES IS ONLY REQUIRED FOR TRANSMISSION, ROUTING, AND INTEROPERABILITY PLANNING.

The Act requires, under additional obligations of incumbent local exchange carriers (“LECs”), that notice be provided to interconnectors regarding “changes in information necessary for transmission and routing of services using [a LEC’s] facilities and networks, as well as any other changes that would affect the interoperability of those facilities and networks.”² The ostensible purpose of the requirement is to promote technical compatibility and order among carriers thus promoting service reliability for users. However, the Commission’s extension of this technical interconnectivity coordination and order to “any information in the LEC’s possession that affects interconnectors’ performance or ability to provide services. . .”³ is not necessary and may not be possible.

LECs should only be required to provide information that affects network interoperability relevant at the interconnection point. Without full disclosure of interconnectors operations and future plans, LECs are not in a position to ascertain what information would affect interconnectors’ operations.⁴ Once a LEC has disclosed the technical characteristics regarding how its network interoperates at the connection point, the interconnector does not necessarily have any need to know how the LEC accomplishes the interconnection parameters. Appropriate technical information to fulfill notice requirements should include such items as technical

² § 251 (c)(5).

³ NPRM at ¶ 189.

⁴ Without a fully reciprocal notice requirement, LECs cannot be sure that their assumptions regarding interconnectors’ technical network operations and plans regarding transmission, routing, and interoperability will be accurate. The Act certainly does not require LECs to anticipate the needs, actions, and future plans of competitors.

specifications and references to standards regarding transmission, signaling, routing, and facility assignment.⁵

Of course, notice requirements should refrain from extension into carrier operations that have more to do with competitive choices than technical interconnection. Nor should the LECs be expected to study how changes would affect an interconnector's performance because to do so would place a LEC in the position of providing free engineering and consulting services to its competitor.⁶

The manner in which information is passed between LECs and interconnectors must allow for the necessary flexibility to take into account differences in LECs and interconnectors. All LECs, and particularly small ones, should not be expected to exchange large amounts of technical information for every combination of LEC and interconnector. In any event, the exact needs and capabilities of both LECs and interconnectors will require a case-by-case approach to the notice policies. Interconnection standards may involve reference to standards setting bodies work. Small LECs and small interconnectors do not possess sufficient resources to participate fully in such standards setting forums. Therefore, the Commission should refrain from any explicit, burdensome requirement that would be beyond the reasonable resources of small LECs. The Act

⁵ **For example, a technical specification could include minimum loop current that the LEC switch would accept or the LEC switch ringing voltage. Another example may be trunk selection priority.**

⁶ **As another example, suppose that a LEC is changing from inband to SS7 signaling, the LEC can provide information about what information is provided across the interconnections and technical standards to be adhered to but can not comment on such consequences as any post dial delay within the interconnector's network.**

establishes only a “reasonable” duty for notice.⁷

While notice should certainly involve disclosure of changes by date, location, and description, interconnectors must understand that dates and details provided in advance will often change as network upgrades are actually made. The process needs flexibility to recognize date changes and technical changes after initial notice. Timing of notice and responses to interconnectors requests for information must also take into account LECs normal planning and plant deployment intervals. LECs should not be required to speed or retard deployment to meet a notice requirement. Such disruption would be counter-productive to network development and quality.

With respect to security and proprietary considerations, LECs should not be required to divulge specific location of plant except under very explicit need-to-know and non-disclosure circumstances. More generally, all information among interconnectors should be protected against falling into the wrong hands because this information could be used by others to disrupt the network.

Finally, the requirements adopted for Sections 273(c)(1) and (c)(4) which apply only to Bell operating companies (“BOCs”) are not expected to correlate with the requirements of 251(c)(5) that apply to all incumbent LECs. To the extent that Congress intended that remnants of the Modification of Final Judgement be preserved or transitioned by the terms of the Act, these provisions are only relevant to the parties of that judicial proceeding; i.e. BOCs and AT&T. Commission determination of what requirements are necessary with respect to Section 273 should not have any bearing on the more general requirements of Section 251. As a more general

⁷ § 251 (c)(5).

guiding principle, the Commission should fully recognize differences in sizes of LECs, their potential impact on interconnectors operations, and their potential market power and fashion flexible notice requirements accordingly. Certainly, requirements that would be deserving of application to BOCs need not be extended to all other incumbent LECs, particularly the several hundred smaller ones.

With the foregoing in mind, the RTC recommends that the Commission take an approach that allows a range of options for reasonable notice requirements. It is very likely that experience over the next few years will be the best determinant of the proper specific notice requirements that all interconnectors and LECs will need and should adhere to for an orderly and reliable network to be preserved. Accordingly, the Commission should approach the notice requirements on a case-by-case basis with respect to different LECs.

II. THE EXPANSION OF DIALING PARITY BEYOND INTERSTATE, INTERLATA TRAFFIC SHOULD PROCEED SIMILARLY AS EQUAL ACCESS WAS IMPLEMENTED.

The Commission asks for comment regarding specific methods to expand dialing parity to beyond that which is currently accomplished by means of equal access for interstate, interLATA telecommunications.⁸ The Commission seems to conclude that an expansion of the equal access presubscription process, at least for long distance services, may prove to be the most effective way to implement the dialing parity requirements of the Act.⁹

⁸ NPRM at ¶¶ 202-219.

⁹ NPRM at ¶ 207.

The expansion of the presubscription concept to other classifications of traffic will involve hardware and software upgrades.¹⁰ These additions must accommodate expanded “primary carriers” for different call classifications.¹¹ These upgrades will force all providers to incur significant additional network cost. Different switch manufacturers have widely different delivery and technical approaches to expanding the dialing parity function. Some have designed this function to allow for three jurisdictional classes: intraLATA, interLATA, and international. Others allow flexible programming of call jurisdiction and multiple presubscription.¹²

As a result of the current lack of uniform availability of a standard approach, the unavailability for some applications and switches, and the potential high cost of conversion in the near future, the RTC recommends that the Commission take a similar approach to dialing parity as it did in the equal access proceeding in the mid-1980's. Deployment should depend on the existence of interconnectors, with a need for dialing parity, having made a bona fide request for interconnection and dialing parity, and then be required according to a reasonable timetable as prescribed for interstate equal access and only for equipment for which it is available. At least a two-year deployment interval is required in situations where the above conditions are met. A

¹⁰ NPRM at ¶ 210.

¹¹ These options are referred to as “2-PIC,” “smart-PIC,” and “multi-PIC” methods where PIC (“primary interexchange carrier”) has evolved from its use as developed for interstate equal access.

¹² The Commission’s discussion of dialing parity with respect to local calling would seem to depend more on the outcome of the resolution to local number portability. The concept of primary carrier, as with an access provider handing a call over to another carrier, does not exist with respect to multiple local providers. Multiple local carriers are all local access providers and for calls between them, there will always be at least two carriers involved. Each will be “primary.”

timetable based on these considerations will moderate what could be extreme, uneconomic costs for all providers were full dialing parity to be required immediately.¹³

All costs for the provision of more expanded dialing parity should be accumulated, just as they were for equal access, and recovered from the class of carriers that will benefit from the additions. The exact categories of cost and allocation will depend on the ultimate choice of approach and equipment and software solutions. All providers should be involved in public education and notification, and the costs should be borne by all participating in the dialing parity benefits.

III. ACCESS TO OPERATOR SERVICES MUST BE OBTAINED FROM THOSE THAT PROVIDE SUCH SERVICES.

Section 251(b)(3) imposes a general duty on LECs to provide nondiscriminatory access to, among others, operator services, directory assistance, and directory listings. The Commission tentatively concludes that nondiscriminatory should be defined as "the same access that the LEC receives. . . ." ¹⁴

In applying this nondiscriminatory concept to operator services, the Commission should recognize that the majority of smaller LECs do not provide operator services to themselves. Therefore, interconnectors should seek such services from those LECs and other carriers that do provide such service, and the duty prescribed in the Act should extend only to operator services these providers furnish themselves. Traffic routing of users calls in need of operator assistance

¹³ Immediate implementation, in any case, is not possible.

¹⁴ NPRM at ¶ 214.

will depend on the dialing parity solution discussed above.¹⁵

IV. DIALING DELAY ISSUES MUST RECOGNIZE THE COMPLICATED NATURE OF THE MULTI-PROVIDER NETWORK.

Resolution of reasonable dialing delay issues will be complicated by the emerging multiple provider network. Since multiple providers will be responsible for a single call, no individual carrier can be held responsible for any delay in call completion. The marketplace may develop such that there is a cascading of carriers involved in a single call. Specific functional components of a call could be addressed with individual dialing delay standards, but any such requirements will require full notice and examination for reasonableness prior to adoption.

V CONGRESS DID NOT INTEND TO GIVE THE COMMISSION AUTHORITY TO PROMULGATE NATIONAL RULES GOVERNING THE USE OF RIGHTS-OF-WAY AND PROPERTY PLACED ON OR OVER RIGHTS OF WAY.

Section 251(b)(4) of the Telecommunications Act of 1996 ("1996 Act")¹⁶ imposes on LECs the "duty to afford access to the poles, ducts, conduits, and rights-of-way ... to competing providers of telecommunications services on rates, terms, and conditions that are consistent with section 224." The 1996 Act amended Section 224 to require that "a utility shall provide a cable television system or any telecommunications carrier with non-discriminatory access to any pole, duct, conduit, or right of way owned or controlled by it."¹⁷ Additionally, new subsection 224(h) provides for a written notification procedure that owners must give to entities that have already

¹⁵ More work will be needed in the future to address operator intervention when trouble in encountered on a network provided by multiple carriers. Breakdown causes and responsibility to clear trouble will become exceedingly more complicated when a large number of carriers are involved in any single telecommunications service.

¹⁶ Pub. L. No. 104-104.

¹⁷ 1996 Act, sec. 703, § 224(f).

obtained attachments.¹⁸ Subsections 224(f) and (h) apply not only to LECs but to electric, gas, water, steam, or other utilities that own or control poles, ducts, conduits, or rights-of-way used, in whole or in part, for any wire communications.¹⁹

The Commission requests comments on the meaning of non-discriminatory access in Section 224(f) and the extent that LECs can provide this non-discriminatory access. It also asks for comments on Section 224(f)(2) which permits electric utilities only to deny access to a cable television system or any telecommunications carrier "on a non-discriminatory basis where there is insufficient capacity and for reasons of safety, reliability and generally applicable engineering purposes."

Consistent with its approach with respect to all the issues in this docket, the Commission assumes that national rules are appropriate to implement Section 251(b)(4). It purports to promulgate rules on the basis of Section 251 but the *NPRM* asks for comment on how it should interpret Section 224 (f) and (h) purportedly to "establish any rules necessary to implement section 251(b)(4) within the six month period established by statute." *NPRM* (¶ 221). The Commission also requests comment on what, if any, notice requirements it should impose on LECs when they make modifications to poles, ducts, conduits or right-of-way.

The RTC incorporates by reference its May 16 comments in this docket. Specifically, it relies here on Part 1 of those comments which made the point that the Commission cannot

¹⁸ 1996 Act, sec. 703, § 224(h).

¹⁹ Section 703 of the 1996 Act amended 47 U.S.C. § 224 to provide in subsection (a)(1): "The term 'utility' means any person who is a local exchange carrier or an electric, gas, water, steam, or other public utility, and who owns or controls poles, ducts, conduits, or rights-of-way used, in whole or in part, for any wire communications."

impose detailed federal interconnection regulations under the 1996 Act's mandate. That mandate largely leaves carrier arrangements for interconnection, including arrangements for access to poles, ducts, conduits and right-of-way, to private arrangements that when regulated are subject primarily to state authority. Congress referred specifically to Commission authority to make rules in those few instances where it wanted the Commission to adopt regulations overriding private agreements or state authority. Neither Section 251(b)(4) nor Sections 224 (f) and (h) is one of those instances. Under the Congressional framework for private interconnection agreements and state oversight as a last resort in the event of failed negotiations, LECs and requesting carriers may bargain and enter into binding agreements without regard to Section 251(b) requirements, including the right of way access provisions of Section 251(b)(4).²⁰ Further, even the role of state commissions is limited to deciding issues brought to them in petitions for arbitration.²¹ As explained in the RTC's May 16 comments, it is a State Commission presented with a petition that is given in the Act the authority to resolve and apply standards for arbitration and "ensure that such resolution meet the requirements of section 251...."²² A State Commission may not consider the access provisions of Section 251 (b)(4) on any other requirement of Section 251 (b) or (c) unless a party requests its consideration in its petition for state action.²³

The 1996 Act amendments to Section 224 also manifest Congress' intent to narrowly circumscribe the Commission's authority to issue regulations under that section. Congress

²⁰ 1996 Act, §252(a).

²¹ 1996 Act, §252(b)(4).

²² 1996 Act, §252(c)(1).

²³ 1996 Act, §252(b)(4).

explicitly directed the Commission in new Section 224 (e) to prescribe regulations no later than 2 years after the enactment governing the charges for pole attachments used by telecommunications carriers in cases where negotiations fail but provided no authority to issue rules establishing standards or definitions for the access required in Section 224(f) or the notification required in Section 224(h). Even that explicit directive contained an amendment adopted in conference that allows parties to negotiate the rates, terms, and conditions for attaching to poles, ducts, conduits, and rights-of-way.²⁴ Further, Congress amended subsection 224(c)(1) to make it clear that the Commission has no jurisdiction over access when these matters are regulated by the State. As amended, subsection 224(c)(1) now reads:

Nothing in this section shall be construed to apply to, or to give the Commission jurisdiction with respect to rates, terms, and conditions, or access to poles, ducts, conduits, and rights-of-way as provided in subsection (f), for pole attachments in any case where such matters are regulated by a State. [Emphasis added to reflect amendment.]

The Commission must conclude from the explicit directive given in Section 224 (e) that Congress only intended it to prescribe regulations for pole attachment charges. Its silence with respect to Commission authority to prescribe regulations to implement Section 224(f) and its explicit indication that the Commission has no jurisdiction with respect to access where the State regulates can only be interpreted to mean that Congress did not intend or consider necessary either federal regulations or national standards. The maxim *expressio unius est exclusio alterius*²⁵ is relevant and demonstrates that Congress did not intend what it did not articulate.

²⁴ Conference Report, No. 104-458, at 205.

²⁵ See, *Railway Labor Executives' Ass'n v. National Mediation Bd.*, 29 F. 3d 655,666 (D.C. Cir. 1994) (*en banc*) cert. den., 115 S.Ct. 1392 (1995).

VI. ACCESS TO RIGHTS-OF-WAY AND FACILITIES ON OR OVER THEM INVOLVE UNIQUE LOCAL PROPERTY AND CONTRACT LAW ISSUES THAT ARE BEST RESOLVED THROUGH PRIVATE ARRANGEMENTS OR STATE SOLUTIONS.

Even if it had the authority to do so, the Commission should not promulgate rules detailing standards for compliance with Section 251(b)(4) or Section 224(f) and (h). There is little the Commission can do by way of rules to elucidate the requirements of Section 251(b)(4) without passing regulations that raise federal Fifth Amendment constitutional questions or impinge on state property and contract laws that include the various rights of easement owners and define and interpret the range of rights a utility possesses in connection with its ownership, control or lack thereof in poles, conduits, ducts or rights-of-way. Any attempt to prescribe the details of nondiscriminatory access is likely to create a host of compliance problems for utilities. The access issues related to Sections 251 (b)(4) and Section 224(f) are not only uniquely local; they implicate property rights under the United States Constitution and State laws and are uniquely varied and complex. The interpretation given the written provisions in right of way agreements vary from state to state. The words of the agreements and state law interpretations of particular language dictate what use the LEC may make of the landowner's property.²⁶ The uses to which LECs can put an easement may depend as well on how they are obtained. LECs like other utilities sometimes have the power of eminent domain. They also obtain right of way by conveyance following negotiated agreement or in the case of some cooperatives as part of the obligations of requesting telephone service or membership in the

²⁶

See, C.S. Patrinelis, Annotation, Effect of Provisions Designating or Referring to Persons Entitled to Use Right -of-Way Created by Express Grant, 20 ALR 2d (1951).

cooperative.²⁷ Agreements vary in duration and have been entered into at different times. One company can have a variety of types of agreement depending on when it acquired right of way and who the landowner was at the time. Agreements with private landowners differ from agreements with large corporations like the railroad companies or with the federal government and the various agencies with authority over federal lands.

LECs may own their own poles, ducts or conduit but have no ability to permit others onto these facilities if the right-of-way or easement on which the facilities are located limit use to the LEC. The attached right-of-way agreement given an NTCA telephone company member by the United States Department of the Interior exemplifies this.²⁸ The right-of-way grant is limited to the cooperative's "right to construct, operate, maintain, and terminate a buried fiber optic and copper telephone cable system, on [described] public lands. On its face this real property conveyance has no provision that would permit Range to allow anyone but itself to enter on the described United States lands to construct another cable or anything else. The attached right-of-way agreement from a railroad company to an NTCA member is also very specific to the telephone company and gives it the right to construct but one facility, an underground fiber optic telecommunications cable inside a 2.44" steel casing pipe, to be buried at a minimum of 22 feet at a certain crossing."²⁹ Nothing on the face of this instrument indicates that the telephone company

²⁷ See, e.g., Attachment 1, containing Article 1, Section 1(e) of cooperative by-law provision providing for easements to be executed as a requirement of membership when needed "for the purposes of furnishing service to such member and to other members and for the construction, operation, maintenance and relocation of the Cooperative's facilities."

²⁸ Attachment 2.

²⁹ Attachment 3.

can provide access to any one else to the right-of-way or to its steel casing pipe. Even if it may, its right to do so is a matter of contract interpretation under applicable state law, the effect of which cannot be anticipated by regulations prescribed in this docket.

Furthermore, LECs and other utilities do not universally have exclusive ownership or control of the ducts, conduits, poles or rights-of-way that they utilize to provide services. LECs, for example, often share the use of these facilities under joint use agreements with other utilities such as electric companies. A LEC in a joint use arrangement may own its own facilities but still not have the ability to provide access to a third party. These differences illustrate that many local issues will have to be considered in determining whether a particular LEC is in control of a right-of-way and in a position to permit access. This issue will have to be determined on a case by case basis. Negotiating parties will be best suited to work out the details that the process will involve. It is unlikely that sweeping national rules will be able to anticipate the many local and case by case differences that access will entail. The Commission should therefore leave implementation to the states and refrain from prescribing rules interpreting Section 224(f) or establishing standards for its implementation.

VII. IF THE COMMISSION DOES PROMULGATE REGULATIONS, IT SHOULD ENSURE THAT THE RULES COMPLY WITH THE CONSTITUTION AND CONTAIN MEASURES TO ENSURE THE SAFETY AND RELIABILITY OF TELECOMMUNICATIONS FACILITIES.

Since Congress carefully circumscribed the Commission's jurisdiction over the regulation of access, whatever rules are adopted will have to meet the stringent constitutional requirement that regulation does not result in any unauthorized "takings" prohibited by the the Just Compensation clause of the Fifth Amendment of the United States Constitution. *Bell Atlantic*

Telephone Companies, et. al. v. F.C.C., 24 F.3d (D.C.Cir. 1994). The Commission is not free to go beyond the narrow limits of its authority by providing, for example, "limitations on an owner's right to modify a facility and then collect a proportionate share of the costs of such modification." *NPRM* (§ 225).

The RTC does not favor national rules. However, it urges the Commission to take account of safety and reliability in rural areas if it decides to promulgate any rules. LECs in rural areas should have the freedom to decide how much capacity they can allocate. The Commission should not adopt hard and fast apportionment rules or require that capacity be reserved or set aside for allocation to competing providers unless it permits LECs to recover from requesting carriers any losses associated with the reservation of capacity. It should also leave LECs with enough flexibility to demand assurances that entities obtaining access to their facilities will not sabotage or injure the facilities. Safety and reliability concerns are different in rural areas among the small companies that have limited or no staff at remote locations away from company headquarters. The company giving access to its facilities will be best suited to determine the type of assurance needed from different types of entities. Whatever rules the Commission adopts should give rural companies enough flexibility to make safety and reliability decisions that comport with the circumstances. Hard and fast rules that permit access to facilities at all times or at the convenience of others will not work in rural areas. Nondiscriminatory access should not be interpreted to deprive companies of the ability to exercise business judgment on issues that affect the safety and reliability of the system and the protection of company property from theft or other injury.

Cost reimbursement for attachments and notification rules should also be reasonable and take account of the LECs rights to security, safety, minimal disruption and compensation. The LEC should not be viewed as the agent of every competitor who wants access to its right-of-way or other facilities. Instead, Commission rules should recognize that bargaining is the preferred method for arrangements that involve the purchase of LEC facilities. Rules should not attempt to dictate the terms of reimbursement for every iota of costs that LECs and other owners will incur for modifications.

VIII. CONCLUSION

Consistent with the discussion above, the Commission should adopt a flexible notice of technical change requirement and a dialing parity implementation scheme similar to that adopted for equal access presubscription. The Commission should refrain from adopting general dialing delay rules.

For the above stated reasons, the RTC urges the Commission to leave to the States the implementation of Section 251(b)(4) and to conclude that Section 224(f) is self implementing and requires no specific regulation. The Commission should make clear that states may adopt regulations that are not inconsistent with Section 224(f).

Respectfully submitted,

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RANGE TELEPHONE COOPERATIVE BY-LAWS

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Amended May, 1994

ARTICLE I Membership

SECTION 1. Requirements for Membership. Any person, firm, association, corporation, or body politic or subdivision thereof shall become a member of the Range Telephone Cooperative, Inc., (hereinafter "Cooperative") upon receipt of the Cooperative's local exchange telephone service or other communication services from the Cooperative that provide a continuing periodic revenue stream for the Cooperative (hereinafter "Service"). Each member shall:

- (a) Complete an application for membership on such forms as the Cooperative shall prescribe; and
- (b) Agree to purchase Services from the Cooperative in accordance with established tariffs, as well as pay other charges for Services that the member uses and the Cooperative is obligated by law or contract to collect; and
- (c) Comply with and be bound by the Articles of Incorporation and By-Laws of the Cooperative and any rules and regulations and policies adopted by the Board of Trustees (hereinafter "Board"); and
- (d) Pay such membership, connection, security, facilities extension and construction fees and deposits as may be fixed or required by any rule, regulation or policy adopted by the Board; and
- (e) When necessary, execute and deliver to the Cooperative suitable grants of easements and rights of-way on, over, under and across lands owned or otherwise controlled by the member and in accordance with such reasonable terms and conditions as the Cooperative shall require for purposes of furnishing Service to such member and to other members and for the construction, operation, maintenance and relocation of the Cooperative's facilities.

No member may hold more than one membership in the Cooperative and no membership in the Cooperative shall be transferrable, except as provided in these By-Laws.

The Board will determine, under rules of general application, the types and amounts of revenue streams or the types and amounts of patronage that give rise to the privileges and obligations of membership.

Exchange and interexchange carriers who participate with the Cooperative in the provision of telecommunications services to members are neither members nor patrons by virtue of division of revenue contracts.

SECTION 2. Evidence of Membership. Membership in the Cooperative shall be evidenced by the assignment to each member of an identification number and by the enrollment of each member into a written membership record maintained by the Cooperative.

SECTION 3. Joint Membership. A husband and wife may apply for a joint membership and, subject to their compliance with the requirements of Section 1 of this Article, may be accepted for such membership. The term "member" as used in these By-Laws shall be deemed to include a husband and wife holding a joint membership and any provisions relating to the rights and liabilities of membership shall apply with respect to the holders of a joint membership. Without limiting the generality of the foregoing, the effect of the hereinafter specified actions by or in respect of the holders of a joint membership shall be as follows:

- (a) The presence at a meeting of either or both shall be regarded as the presence of one member and shall constitute a joint waiver of notice of the meeting;
- (b) The vote of either separately or both jointly shall constitute one joint vote;
- (c) A waiver of notice signed by either or both shall constitute a joint waiver;
- (d) Notice to either shall constitute a notice to both;
- (e) Expulsion of either shall terminate the joint membership;
- (f) Withdrawal of either shall terminate the joint membership;
- (g) Either, but not both, may be elected or appointed as an officer or trustee, providing that both meet the qualifications of such office.

FORM 2800-14
(August 1985)

Issuing Office
Powder River Resource Area

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
RIGHT-OF-WAY GRANT/TEMPORARY USE PERMIT

SERIAL NUMBER MTM-79112

1. A right-of-way is hereby granted pursuant to Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761).
2. Nature of Interest:
 - a. By this instrument, the holder:

Inc.

receives a right to construct, operate, maintain, and terminate a buried fiber optic and copper telephone cable system, on public lands described as follows:

T. 4 N., R. 43 E., M.P.M.,
section 32, SEKNEK;

T. 6 N., R. 44 E., M.P.M.,
section 12, SEKNEK.

(Rosebud County, Montana)
 - b. The right-of-way or permit area granted herein is 20 feet wide, 2,600 feet long and contains 1.19 acres, more or less.
 - c. This instrument shall terminate 30 years from its effective date unless, prior thereto, it is relinquished, abandoned, terminated, or modified pursuant to the terms and conditions of this instrument or of any applicable Federal law or regulation.
 - d. This instrument may be renewed. If renewed, the right-of-way or permit shall be subject to the regulations existing at the time of renewal and any other terms and conditions that the authorized officer deems necessary to protect the public interest.
 - e. Notwithstanding the expiration of this instrument or any renewal thereof, early relinquishment, abandonment, or termination, the provisions of this instrument, to the extent applicable, shall continue in effect and shall be binding on the holder, its successors, or assigns, until they have fully satisfied the obligations and/or liabilities accruing herein before or on account of the expiration, or prior termination, of the grant.