

full and timely information in order to put them at a competitive disadvantage. Consider the following account:

MCI and other entities, including ESPs, requested and received 555-XXXX line numbers from the North American Numbering Plan Administrator (NANPA) in June, 1994. This followed over twelve months of intensive work by the Industry Numbering Committee (INC) to develop assignment guidelines for the 555 resource. The RBOCs waited until after the assignment guidelines were complete to consider development of the access arrangements. It was only after the assignments were made by NANPA that it became publicly known that the RBOCs apparently did not have and were not yet developing the technical means to route, screen, and bill 555 calls. The industry is now developing access arrangements. But, access customers and ESPs who have numbers assigned are currently forced to consider differing, varying and undesirable technical approaches from the RBOCs. It should be noted that the RBOCs already have their own 555 applications and routing in place. Because of the RBOCs failure to disclose their inability to provide 555 access arrangements, MCI, and other IXC's as well as ESPs have been delayed in implementing new services.¹⁸

The RBOC private standards setting process is a particular problem. For example, Bellcore, on behalf of its clients, is headed in the direction of unilaterally developing an LNP standard despite the requirements of others.¹⁹

[191]By requiring ILECs to file information concerning network changes with the Commission, the Commission will ensure that all parties have nondiscriminatory access to information about network changes. In addition, industry fora such as the Network

^{18/} See Attachment A, Affidavit of Peter Guggina, MCI Comments, CC Docket, No. 95-20, at 14.

^{19/} See Attachment D for a copy of a letter sent by MCI to Bellcore protesting Bellcore's unilateral treatment of a local number portability issue.

Operations Forum or Industry Carrier's Compatibility Forum may not have special expertise concerning information about changes in support systems that might affect the quality of a new entrant's service provided over an ILEC's network. For all these reasons, ILECs should be required to file this information concerning technical changes with the Commission in order to ensure a complete, reliable, and consistent body of information that all parties may utilize.

[193] Sections 273(c)(1) and 251(c)(5) of the 1996 Act differ primarily due to the fact that Section 273(c)(1) explicitly requires notices of change to be filed with the Commission. Section 273(c)(1) requires RBOCs to file information on proposed changes which affect protocols and technical requirements for connection with and use of telephone exchange service facilities to be filed with the Commission. Section 273(c)(1) imposes the same information requirement on RBOCs as Section 251(c)(5) imposes on ILECs in general. Section 273(c)(1) requires disclosure of changes which affect connection to, and use of, exchange facilities, while Section 251(c)(5) focuses on changes which affect a new entrant's use of an ILEC exchange facilities as well as the interoperability, or interconnectivity, of their networks. Section 273(c)(4) goes beyond Section 251(c)(5) by imposing the additional requirement that RBOCs inform new entrants with timely information on their planned deployment of telecommunications equipment.

ILECs must provide timely notice of change

[192] Competition works best when competitors have access to the information

they need to make rational choices. Without timely access to essential network information, competitors will be unable to develop products efficiently, and consumers will be denied the benefits of the diverse choices promised by competition. As the Commission recognized in its All Carrier Rule, “...all carriers are capable of obstructing competition in markets that utilize basic services by withholding from competitors information regarding their networks.”²⁰ Access to information concerning future facilities, functionalities, and services are as, if not more, important than access to existing capabilities. Consequently, MCI endorses the Commission’s tentative conclusion that ILECs must disclose information concerning changes within a “reasonable” time in advance of implementation.

[192] In its Notice, the Commission requests comment on whether it should extend two principles of notification it adopted in its Computer III proceeding to the present proceeding. Those principles were, first, that ILECs are required to disclose technical information at the make/buy point, and second, they are required to do so at least 12 months prior to the introduction of a new service that would affect enhanced service interconnection. MCI agrees. MCI recommends that the Commission also should adopt other requirements from that proceeding, *viz.* that: (1) ILECs disclose relevant information they discover after services have been introduced if such information would have been subject to prior disclosure;²¹ and (2) ILECs wait six months before introducing a service, if

^{20/} Amendment of Sections 64.702 of the Commission’s Rules and Regulations (Third Computer Inquiry, Phase I), Report and Order, 104 FCC 2d 958, 970 (1986).

^{21/} Computer III, Phase II, 2 FCC Rcd 3072, 3087

the service could have been introduced earlier than six months following the make/buy point.²²

The advantage of these recommendations is they provide explicit time frames within which ILECs must provide notices of change. In the absence of an explicit time frame, ILECs can withhold information about network changes until they are ready to unveil their own retail services using new network capabilities. At that point, any complaint filed by a competing carrier cannot undo the market damages, as the ILEC enjoys substantial "first-mover" advantages over its competitors.

V. Access to Rights of Way

[220] MCI agrees with the Commission's conclusion that LECs are required to provide access to poles, ducts, conduits, and rights-of-way on just and reasonable rates, terms, and conditions. Additionally, MCI advocates the following:

- [222] LECs must provide any requesting telecommunications carrier equal and nondiscriminatory access to any pole, duct, conduit, and right-of way that they own or control on terms and conditions equal to those enjoyed by the LEC itself.
- [222] It should be a rebuttable presumption that access to poles, ducts, and conduit is technically possible.
- [225] Access to LEC-owned or -controlled poles, ducts, and conduit should not be limited to "excess capacity." The appropriate standard is "capacity currently available or that can be made available."
- [225] Compensation for shared use of LEC-owned or -controlled poles, ducts, and

^{22/} Id. at 3092.

conduit should be set at total service long run incremental cost, on the basis of the proportionate space used by each carrier.

- [225] Whenever the owner intends to modify or alter a pole, duct, or conduit, the owner must provide written notification, at least 180 days prior to taking such action, to any entity that has obtained an attachment to such conduit or right-of-way.
- [225] The state or federal commission must ensure that owners of rights-of-way do not make unnecessary or unduly burdensome modifications or specifications.

[220-225] Providers of local exchange service require access to pathways across public and private property to build facilities to reach their customers. The ILECs put in place their facilities in a monopoly environment, when governments and landlords had the strong incentive to make these "rights of way" available, typically at no charge. The situation is different for competing firms newly entering the local market. They will face a major obstacle to constructing facilities unless government authorities, building owners, and the ILECs themselves are required to treat new entrants on a nondiscriminatory basis relative to the ILECs.

[222] The competitive viability of a new entrant will be affected by the terms of access to ILEC-owned or -controlled poles, ducts, conduits, and rights of way where the lack of rights of way or economic costs preclude construction of its own facilities. The ILEC has no incentive to make its bottleneck facilities available to new entrants on reasonable terms. Consequently, it is essential that the Commission require all LECs to provide any requesting telecommunications carrier equal and nondiscriminatory access to

any pole, pole attachment, duct, conduit, entrance facilities, equipment room, remote terminal, cable vault, telephone closet, right of way, or any other pathway that they own or control on terms and conditions equal to those enjoyed by the LEC itself.²³ It should be a rebuttable presumption that access to poles, ducts, and conduit is technically possible; the LEC should bear the full burden of proving the contrary before it is granted waiver of the rule in a specific location.

[225] Access to poles, ducts, and conduit should not be limited to "excess capacity." No carrier should be permitted to claim that all available space is needed for future use. In instances where LECs claim that all available space is needed for future use, the standard should be "space currently available or that can be made available." Rules must prohibit a LEC from denying access based on its allegation that it might use currently available space in the future, unless the LEC can demonstrate that it had specific plans to utilize that space before the interconnector requested access.

[225] In instances where there are costs associated with freeing capacity (e.g., by reconfiguring placement of cables on poles to allow for more cables), those costs should be recovered in a competitively-neutral manner from all carriers using the facilities. Compensation for shared use of poles, ducts, and conduit should be set at total service long

^{23/} For brevity, in this Section, these collective facilities and pathways are referred to as "poles, ducts, and conduit."

run incremental cost (“TSLRIC”),²⁴ on the basis of the proportionate space used by each carrier.

[225] TSLRIC measures all of the costs associated with adding an entire service (or functional element) to the firm’s existing array of services. Prices set at TSLRIC will recover all of these costs. Prices based on simple long run incremental cost may not recover all the costs the firm incurs as a result of providing the service element. Prices higher than TSLRIC (for example, in most cases prices based on embedded stand-alone costs) will recover more cost than the firm incurs as a result of providing the service or element. In addition to the allocative distortion created by high prices, entry and expansion by efficient firms who need the services or elements as inputs will be thwarted. Thus, prices set at TSLRIC are “just right” -- they are not so high that monopoly profits are being earned and competition retarded, and they are not so low that other services are providing a subsidy. TSLRIC pricing also reduces the possibility of predatory or strategic pricing.²⁵

[225] Whenever the owner intends to modify or alter a pole, duct, or conduit, the owner must provide written notification, at least 180 days prior to taking such action, to any entity that has obtained an attachment to such conduit or right-of-way so that such

^{24/} TSLRIC is the forward-looking incremental cost of the entire service. This is the difference between the forward-looking cost to a firm that provides the particular service along with its other services, compared to the forward-looking cost when it does not provide that service, but still provides the same level of its other services.

^{25/} See MCI Comments, filed May 16, 1996 for further benefits of TSLRIC pricing.

entity may have a reasonable opportunity to add or to modify its existing attachment.

[225] If the owner of the pole, duct, or conduit has the sole responsibility of deciding whether to upgrade or modify existing facilities, and thereby imposing additional costs on other entrants, the owner of the facilities should be required to demonstrate to the Commission (or to the state commission) that such modifications are necessary. If the Commission or a state commission determines that modifications are necessary, then the additional costs should be borne on the basis of the proportionate space used by each carrier. Such a determination is necessary to ensure that owners do not make unnecessary or unduly burdensome modifications or specifications.

VI. Local Number Portability

[198-201] MCI has participated actively in the number portability proceeding (CC Docket No. 95-116) and strongly supports the Commission's intention to take expeditious action on number portability issues.

VII. Conclusion

For the above-mentioned reasons, MCI encourages the Commission to adopt the tentative conclusions that it proposes in the Notice, and to adopt the proposals suggested by MCI herein.

Respectfully submitted,
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May 20, 1996

ATTACHMENT A
IntraLATA Equal Access Cases - Ordered
May 10, 1996

The Telecommunications Act of 1996 imposes on carriers the duty to provide dialing parity to competing providers. However, states may not require a BOC to provide intraLATA equal access before the earlier of when the BOC is permitted to enter the in-region interLATA market or three years from enactment. The preemption does not apply in single LATA states and those states that ordered intraLATA equal access before December 19, 1995. All states listed below ordered intraLATA equal access before the 1996 Act was passed, except Hawaii, Louisiana and South Carolina.

Alaska - IntraLATA equal access using 2-PIC has been deployed on certain "high density" routes since 1991, ordered in Docket No. R-90-4.

Arizona - The Commission's Decision No. 59124. Docket No. R-0000-94-424, issued June 23, 1995 mandated intraLATA equal access using the 2-PIC method within nine months of receiving a Bona Fide Request (BFR), or by July 1, 1996. ILECs may petition for waivers (and bear the burden of proof) on the grounds that compliance is not technically or economically feasible. Implementation began in April, 1996, with limited exceptions: Citizens cut over its exchanges April 12, 1996 and USWC cut over its exchanges April 20,

1996.

Connecticut --The DPUC ordered intraLATA that equal access using the 2-PIC method, be deployed in all end offices by November 1, 1996 in Docket No. 94-02-07. Deployment began November, 1995. About two-thirds of all end offices were converted by March, 1996, and 98% of the access lines are scheduled to be converted by December, 1996. The remaining 2% will be converted by 1999. Also, in response to an MCI motion, SNET and competing carrier providers were ordered to provide equal access from semi-public payphones.

Florida --End offices were scheduled to convert to intraLATA equal access, using the 2-PIC method, between November 13, 1995, and December 31, 1997, in accordance with orders in Docket No. 930330-TP. MCI objected to cost recovery tariffs filed by BellSouth and GTE, stating that BellSouth failed to amortize costs over three years as required by the PSC order, and GTE attempted to recover research and development costs associated with its switches. United will absorb implementation costs rather than increase switched access (or any other) rates. GTE asked the Florida Supreme Court to stay the implementation of the PSC order. After passage of the 1996 Act, GTE withdrew its appeal, and the Supreme Court rejected BellSouth's request to continue the stay.

Georgia - SB 137 required intraLATA equal access be implemented by January 1, 1997. The law was passed during the Commission's presubscription case (Docket No. 5319), and parties stipulated to many issues. The Commission held hearings on the implementation schedule in September 1995. The Commission accepted a stipulation between MCI, AT&T and BellSouth that will result in converting 63% of the lines in metropolitan Atlanta (51% statewide) by March 31, 1996 and completing deployment by January 1, 1997. The first BellSouth end office in Georgia was converted on December 3, 1995.

Hawaii - On March 1, 1996 the Commission issued an order requiring HawTel (a GTE company) to implement intraLATA equal access by May 1, 1996.

Illinois - IntraLATA equal access (Docket No. 94-0048) was one of many issues in Ameritech's "Customers First" proceeding. An interim order issued April 7, 1995 requires implementation of 2-PIC within six months of a BFR or within one year, whichever is later (by April, 1996). Costs will be recovered over at least three years with all carriers (including Ameritech) participating in cost recovery.

Kentucky -- Ballard Telephone became the first ILEC to deploy intraLATA equal access in the south on October 17, 1995 as a result of Administrative Case No. 323. The first BellSouth end office converted October 22, 1995, and all offices are scheduled to convert

by July 1, 1998. In a letter dated January 5, 1996, GTE announced that AGCS' intraLATA equal access software has been tested and is now available.

Louisiana -- Following a joint petition filed by MCI and AT&T asking the Commission to implement intraLATA equal access, the Commission opened Docket U-17949, Subdocket F, and held a forum on February 12, 1996. The Commission ordered 2-PIC intraLATA presubscription on April 17, 1996.

Michigan -- Case U-10138 (Remand) required Ameritech to flashcut to intraLATA equal access by January 1, 1996. Nonconverting end offices are required to provide a 55% discount on switched access until they are converted. MCI objected to motions filed by Ameritech and GTE to postpone implementation of intraLATA equal access from January 1, 1996 to January 1, 1997. The Commission declined to rule on delaying implementation. Following the signing of the Michigan Telecommunications Act in early December 1995, Ameritech was required to convert only 10% of its exchanges to intraLATA equal access by January 1, 1996. Ameritech and GTE have now implemented intraLATA equal access on 10% of their lines. On February 22, 1996, the Commission issued an "Order to Show Cause" (Case No. U-11050) to require GTE to immediately provide intraLATA equal access or show cause (by March 8, 1996) why the Commission should not immediately order intraLATA equal access.

Minnesota - Orders in Docket No. P-999/CI-87-697 require ILECs to implement intraLATA equal access within 18 months of a BFR, but no later than January 1, 1997. The deadline for converting most end offices without waiver requests is February 15, 1996. Centralized intraLATA equal access has been offered in Minnesota's rural areas since 1992. The PUC's orders regarding USWC's implementation methods have been pro-competitive on most issues, including requiring USWC to notify all customers of the conversion to intraLATA equal access. A flashcut was completed February 16, 1996 by USWC, GTE and Frontier.

New Jersey - On December 14, 1995, the Board issued an order, in Docket No. TX94090388, authorizing the publication of proposed rules requiring intraLATA equal access, using the 2-PIC method, within six months of a final rule in the proceeding (for AT&T and Northern Telecom digital switches) and ending within twelve months from that date (for other switches). Waivers were granted for Bell Atlantic's analog switches until December 31, 1998, and may be granted for other switches if competing carrier can justify the request. Implementation costs will be shared between IXCs and LECs, with IXCs paying 70% and LECs paying 30%. For switches not converted under this timeframe, a 55% discount on access charges will apply.

New York -- In April of 1994, the Commission issued an order in Case 28425 requiring

NYNEX to implement intraLATA equal access or intraLATA presubscription using the 2-PIC method beginning August 1995, with IXCs paying all costs. Subsequently, NYNEX proposed an alternative regulation plan that included converting all digital switches to offer ILP by December 31, 1996 under a "pro rata" approach (so, for example, by the tenth of thirteen months, ten-thirteenths would be converted). NYNEX agreed to forfeit unearned performance incentives for 1994 if it failed to meet the schedule, and also agreed to pay implementation costs.

The Commission modified the proposed alternative regulation plan to include advancing the deadline for ILP to March 1, 1996, with a provision subjecting NYNEX to a maximum forfeiture of \$25 million for failure to meet the deadline. The PSC accepted a NYNEX counter-proposal to deviate from the "pro rata" rule and deploy ILP in three phases: (1) December 4, 1995 for three specific offices; (2) January 22, 1996 for non-metro offices (2.3 million lines); and (3) February 26, 1996 for the NY metro area (6.7 million lines). Rochester Tel. has converted all digital switches to provide intraLATA equal access, and Citizens began accepting PIC changes January 2, 1996.

Pennsylvania - On December 14, 1995, the PUC's order in Docket No. I-00940034 found intraLATA equal access to be in the public interest and required that all LECs deploy full 2-PIC. LECs with more than 250,000 lines (Bell Atlantic, GTE and United) must implement intraLATA equal access by June 30, 1997, while other LECs have until

December 31, 1997. Implementation costs will be paid by IXCs "proportioned on an access line basis" and amortized over three years.

South Carolina - The Commission opened Docket No. 95-835-C in response to an AT&T petition seeking intraLATA equal access. Hearings were completed in November, 1995, and the Commission ordered independent LECs to deploy intraLATA equal access by July 1, 1997.

West Virginia -- The Commission's order of October 10, 1995 in Docket No. 94-1103-T-GI, requires that LECs implement intraLATA equal access within 18 months, or by April 10, 1997. LECs are required to deploy full 2-PIC and share in implementation cost recovery.

Wisconsin -- As part of Docket No. 05-TI-119, on June 29, 1995, in response to complaints filed by MCI and other IXCs (following Ameritech's refusal to implement ILP), the PSC voted to require Ameritech to convert 10% of its access lines to intraLATA equal access by January 1, 1996; 50% of end offices in the southeast, northeast and southwest LATAs by April 1, 1996 and the remaining end offices by September 1, 1996. Any end office not equipped for "full 2-PIC" by September 1, 1996 must be converted to "modified 2-PIC" using switch translations.

Wyoming -- HB 176 requires intraLATA equal access be implemented by January 1, 1998.

ATTACHMENT B**IntraLATA Cost Estimates from State Proceedings**

The staff of the Minnesota Public Utilities Commission (MPUC) provided a briefing paper, dated July 21, 1994, which included a cost estimate for Minnesota of \$10.17 to \$12.00, on a one-time, average per line basis. Removing the cost of modifying GTE's national administrative systems,²⁶ and assuming GTE is similar to other LECs on a state-specific basis, the cost per line is reduced to \$6.96 to \$8.80. These reduced costs are still overstated in that they do not reflect the significant switch software price reductions implemented by AT&T and NTI. The reported Kentucky ILP costs on a per line basis are \$13.80. Again, removing the costs of modifying GTE's administrative systems, the total statewide costs are about \$9.63 per line. SNET's cost per line would be \$7.15 to \$8.18.²⁷

SNET's costs are likely to be more reflective of actual costs since they include 1994 price reductions by AT&T and NTI. Further, SNET's costs do not include any of the GTE loadings for feature development or modifying national administrative systems. In Florida, the Commission staff estimated a one-time average cost of \$7.32 per access line for ILP. Bell Atlantic's proprietary cost per line submitted in proceedings in Pennsylvania (No. I-

^{26/} GTE reported nonrecurring costs associated with "first time costs to modify their nationwide systems" of approximately \$7 million. See Kentucky IntraLATA Equal Access Task Force, Report of the Task Force Coordinating Committee to the Public Service Commission of Kentucky, Administrative Case No. 323, Phase I, Table 7, at 53, dated Nov. 6, 1992.

^{27/} Updated SNET Report on Implementation of IntraLATA Equal Access - 1+ Presubscription, at 8, dated May 26, 1994.

00940034) and New Jersey (No. TX-94090388) were less than all the figures cited above, despite being overstated by including unrealistic market share losses. Recent information from Ameritech in Illinois and Wisconsin indicates that actual deployment costs may be closer to \$1 to \$2 per line.

These estimated ranges are for illustrative purposes only. MCI is asking the state commissions to require each LEC to supply its costs of providing ILP based on its own network for review by the parties and the Commission.

ATTACHMENT C

Affidavits of Guggina et al.

STATE OF TEXAS)
) ss
COUNTY OF DALLAS)

AFFIDAVIT OF PETER P. GUGGINA

Peter P. Guggina, being duly sworn and under oath, deposes and states as follows:

1. I am employed by MCI Telecommunications Corporation (MCI) as the Director of Technical Standards Management. My office address is 2400 N. Glenville Drive, Richardson, Texas 75082. In this capacity, I am responsible for managing a staff that plans, coordinates and executes MCI's participation in the industry forums and standards process. My position provides a daily view of the status and events that take place in these arenas. In addition to participating directly in and monitoring other MCI participants' progress, I am in constant contact with other industry participants in an attempt to resolve issues and to make the process more effective.

2. I am also my company's representative to the Board of Directors of the Alliance for Telecommunications Industry Solutions (ATIS), formerly the Exchange Carrier Standards Association (ECSA), which sponsors many telecommunications standards setting bodies and industry forums. In addition, I am

also MCI's representative to the American National Standards Institute (ANSI). I also serve as Chairman of the Carrier Liaison Committee (CLC), which provides oversight management of the ATIS/CLC-sponsored forums. Further, I am Chairman of the Interexchange Carriers Industry Committee (ICIC), an industry group that reviews technical subject matters associated with exchange access services. Chairing the ICIC provides me additional exposure to a cross-section of industry activities related to the forum and standards process. My involvement with these industry activities began in 1984, and I have over 20 years of telecommunications operations, engineering, and network planning experience.

3. I am submitting this affidavit in connection with the Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services, CC Docket No. 95-20, in response to incorrect and misleading representations by Bell Atlantic, NYNEX, Pacific Bell, US West, Bellcore, and the US Telephone Association (USTA) as to my previous affidavit in this proceeding, submitted as Exhibit B to MCI's Comments in April 1995. Also, I will discuss the Reply Comments of the Information Industry Liaison Committee (IILC), which were filed in this docket by ATIS. Those Reply Comments inadvertently support the points made in my 1995 affidavit as to the inadequacy of the IILC for any purpose other than just talking about unbundling. If called to testify, I would be competent to testify to the facts stated in this affidavit.

MANY OTHERS ARE EXPERIENCING RBOC ANTICOMPETITIVENESS

4. US West's¹ comments, along with those of the other Regional Bell Operating Companies (RBOCs) and Bellcore noted above, claim, in response to my 1995 affidavit,² that the RBOCs do not exploit the standards process for anti-competitive ends and attempt to discredit the factual testimony presented in my affidavit. However, MCI is not alone in feeling stymied by anti-competitive RBOC and other local exchange carrier (LEC) behavior.

5. Darryl Ferguson, President of Citizens Utilities, is quoted as saying that US West delay tactics are "a huge, serious problem'." He suggests that US West has repeatedly blocked action on Colorado PUC rulemakings, to further delay competitive entry.³ Mr. Ferguson also adds, "'[t]here's no doubt that [U S West Chairman] Dick McCormick made a decision to go slow on competition.'"⁴

¹ US West, Inc., Reply Comments at 25.

² Affidavit of Peter P. Guggina, included as Exhibit B to MCI Telecommunications Corporation Comments in CC Docket No. 95-20, April 10, 1995, hereinafter referred to as Guggina 1995 Affidavit.

³ "Telco Competitors Attack RHC Local Market Resistance" at ¶ 3, Communications Daily, November 6, 1995, attached as Appendix A.

⁴ "Local Competition: Devil in the Details," America's Network, December 1, 1995, at 32, attached as Appendix B.

6. Thomas Morrow, President of Time Warner Communications, claimed that RBOC resistance is causing competitive access providers to have to work harder to get into the local marketplace. Mr. Morrow specifically identified Ameritech's actions in Ohio, stating “[w]ith Ameritech, you get a big bear hug and after you let go you find a knife in your back’.” He also stated that he would rather face an “‘ obviously antagonistic’” US West than deal with Ameritech. Time Warner expects it will still be waiting to provide all services in Ohio more than two years after filing an application.⁵

7. Craig Young, president and COO of Brooks Fiber Networks, stated that the RBOCs' alliance has created a “‘ cartel’” to “‘ slow roll’” federal reform efforts for local competition.⁶

8. Heather Gold, president of the Association for Local Telecommunications Services (ALTS), is quoted as saying “[w]e must put an end to the gamesmanship that has led to the kind of regulatory slow roll experienced in attempting to open the local markets up to this point’.” Gold also added that the LECs have gained “‘ unwarranted regulatory relief’” by citing “‘ potential for competition,’” while non-LEC service providers continue to be shut out of markets.⁷

⁵ “Telco competitors,” note 3, supra (Appendix A).

⁶ Id.

⁷ “Independent Telcos Rally for Deregulation at Annual Conference” at ¶¶ 1, 4, Communications Daily, November 3, 1995, attached as Appendix C.

9. The competitive access industry, as noted in the previous paragraph, has expressed serious concerns regarding their experiences with the RBOCs' use of delay tactics associated with opening local competition. Citizens Utilities, Time Warner, Brooks Fiber Networks, and ALTS described instances of RBOC slow rolling, gamesmanship, blocking, resistance, delay, and antagonism. These are the same tactics that I experienced in the standards and industry forums, which I described in my 1995 affidavit.

10. The RBOCs apparently have at least recognized that they have an image problem. BellSouth Chairman John Clendenin, in a keynote speech to the November 1995 USTA convention, stated that "[t]his is not the time to circle the wagons'" and "[i]t would be futile anyway".⁸ Communications Daily reported that at the USTA Convention, "telco executives from big, medium and small companies sent message: Don't fight competition and other changes in the industry because it won't do any good."⁹ This should be interpreted as merely an attempt to improve their image. Based on my observations, the RBOCs are merely switching from their publicly "antagonistic" mode to more subtle forms of delaying competition, such as using the

⁸ "Telco Executives See Future of Opportunities and Problems" at ¶ 2, Communications Daily, November 7, 1995, attached as Appendix D.

⁹ *Id.* at ¶ 1.