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June 3, 1996

Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

RE: In the Matter of Implementation of the Local Provisions in the Telecommunications Act of 1996; CC Docket No. 96-98

Dear Sir:

Enclosed for filing in the above-referenced proceeding are the original and seven (7) copies of the Reply Comments of the National Private Telecommunications Association and of the Motion to Accept Late Filing of Pleading, with Order attached. The ITS and the Policy Division also are being provided with copies of this letter and the enclosed Reply Comments and Motion. By copy of this letter, all parties of record are being served these documents via U.S. Mail, postage prepaid.

Please place your file-mark on the extra copy of this letter, the Reply Comments, and the Motion. Please return the same to me in the self-addressed, preposted envelope that is enclosed for your convenience.

Good cause exists for the delay in filing the Reply Comments because the wife of the attorney working on the matter (Mr. Miguel Huerta) entered labor unexpectedly last week and encountered complications requiring Mr. Huerta's complete attention. As a result of Mr. Huerta's absence, it was impossible to complete the comments as scheduled. The delay of 1 to 4 days should not prejudice any party. If necessary, please accept these comments as ex parte presentations pursuant to 47 CFR § 1.1206.

If you have any questions concerning this filing, please call me. Thank you for your assistance with this matter and your consideration of these comments.

Sincerely,

Steve Bickerstaff
Attorney for National Private
Telecommunications Association

027

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SB:raa

Federal Communications Commission

June 3, 1996

Page 2

cc: ITS (Via Federal Express)
Ms. Lisa Gelb, Common Carrier
Bureau-Policy Division (Via Federal Express)
All Parties of Record (Via U.S. Mail)
(w/encl.)

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

In the Matter of)
)
Implementation of the Local)
Provisions in the)
Telecommunications Act)
of 1996)

**RECEIVED
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CC Docket No. 96-98**

EX PARTE OR LATE FILED

**REPLY COMMENTS OF THE NATIONAL
PRIVATE TELECOMMUNICATIONS ASSOCIATION**

A. Background

The National Private Telecommunications Association ("NPTA") is comprised of shared tenant service ("STS") providers that offer services to tenants in residential multi-tenant environments such as residential high-rise buildings and apartment complexes.¹ Typically, NPTA members act as the agents of the owners of the residential properties which they serve for purposes of establishing, maintaining and providing access to local exchange voice and data, long distance voice and data, video, climate control and enhanced services. In order to provide services, NPTA members must obtain access to the local exchange network through the incumbent LEC. Historically, this access to the local network has been acquired under joint user or STS tariffs that permit the sharing or resale of local exchange service. As a result, NPTA members are directly and substantially affected by the terms and conditions imposed by incumbent LECs on the resale of LEC network access.

The initial response of incumbent LECs in the 1980's to shared tenant services was to oppose such services as an infringement on the LEC's local exchange franchise. Concerns about

¹These providers usually are described as furnishing Residential Multi-Tenant Service ("RMTS") instead of STS.

"lost revenues" pervaded state regulatory proceedings as many incumbent LECs predicted "gloom and doom" for local exchange ratepayers as a result of the advent of STS services.² Although most state regulatory commissions ultimately approved the operation of shared systems under certain circumstances, many of these state regulatory commissions also imposed severe restrictions that, in some instances, effectively made it economically impossible for STS providers to operate within the state. Among restrictions still present in many states are:

1. Requirements that all shared systems be restricted geographically to a "single building" or to buildings located on contiguous property under the ownership or management of a single business entity;
2. Restrictions on the number of local access lines (*e.g.* private branch exchange trunks [PBX trunks]) that could be shared at a single STS location;
3. Prohibitions on the interconnection of different STS or resale areas;
4. Requirements that an STS provider cannot furnish intercommunications among tenants within a building or STS location (*i.e.*, the tenants could share access through the STS provider's network to the LEC's local exchange network, but could not use this STS network for communication among themselves);³
5. Requirements that the STS provider and property owner must allow the incumbent LEC direct access to tenants, meaning that the LEC could insist on "overbuilding" a location by installing its own cable and facilities on the private

²*E.g.*, Tex. Public Util. Comm'n, Petition of Southwestern Bell Telephone Company for Rulemaking, Docket No. 5827. (November 21, 1984) (final order). Tex. Public Util. Comm'n, Application of Southwestern Bell Telephone for a Tariff Revision Shared Tenant Services, Docket No. 6450, 13 Tex. P.U.C. Bull. 931 (December 1, 1986).

³This communication among tenants frequently is described as "intercoming." A PBX programmed to prevent such communications sometimes is described as being "partitioned behind the switch."

property and duplicating the STS network⁴ even though: (1) the networks were of comparable quality; (2) the STS facilities were available for the LEC's use; and (3) the property owner objected to the LEC's intrusion;

6. Restrictions on the type of LEC services available to the STS provider for resale; and
7. Rates charged by the incumbent LEC to the STS provider for access to the LEC's local exchange network that are higher than charged by the LEC for the same services to other customers (*e.g.*, PBX trunk rates for STS providers were higher than for other LEC customers).

These, and other requirements have operated over the past several years, in some states⁵ to effectively prevent the development of STS operations.⁶ The Telecommunications Act of 1996 directly impacts these types of restrictions.

These reply comments are not intended to address the full ramifications of the Telecommunications Act of 1996 on the provision of shared tenant services. Instead, these comments are focused on several specific aspects of the Act as addressed by this Commission in its Notice of Proposed Rulemaking (April 19, 1996) and by comments already filed by other parties in this proceeding.

⁴The reverse side of these requirements is a restriction on the compensation that a STS provider can charge the LEC for use of STS facilities on private property.

⁵*E.g.* Attachment A is the shared tenant service tariff from the State of Georgia. This tariff, as revised October 26, 1995, continues to impose these restrictions.

⁶The effect of such restrictions has been even greater for residential multi-tenant locations than for commercial locations. For example, shared service was not permitted at residential properties in Florida until after January 1, 1996 and, even now, are impeded by the continued existence of restrictions such as those listed above.

B. Duty Not To Prohibit or Unreasonably Restrict Resale of Local Exchange Services

RMTS providers today generally acquire access to the local exchange network through the incumbent LEC pursuant to tariffs that allow the RMTS provider to resell the access subject to restrictions such as those mentioned above in Section A of these comments. RMTS providers are wholly dependent on access through the incumbent LEC⁷ and will continue to be dependent on this access until other LECs exist through which local exchange service can be obtained.

Section 251(b)(1) of the Act imposes a duty on all LECs "not to prohibit, and not to impose unreasonable or discriminatory conditions or limitations on, the resale of its telecommunications services." Restrictions imposed by an incumbent LEC tariff that operate to make the resale of local service uneconomical for STS providers are precisely the type of unreasonable or discriminatory conditions or limitations that are proscribed by Section 251(b)(1).

In response to the inquiry of this Commission in Paragraph 196 of Notice of Proposed Rulemaking (April 19, 1996), this Commission should determine that the aforementioned restrictions are unreasonable in violation of Section 251(b)(1). Certainly, any such restriction imposed by tariff on an STS provider or on the property owner at an STS site that operates to impede competition by discriminating against STS should be presumed to be unreasonable.

C. Duty to Offer Services for Resale at Wholesale Rates

As indicated above, one form of discrimination against RMTS providers has come in the form of unreasonable and discriminatory rates charged to STS providers for the same services furnished at lower rates to other customers of the incumbent LEC. In a few states, such as

⁷RMTS providers also are in direct competition with the incumbent LEC for service to tenants within the residential multi-dwelling unit.

Texas, an STS provider can acquire PBX trunks at essentially the same rate as other LEC customers. In other states, however, the incumbent LEC's rates to the STS provider are far higher than the incumbent LEC's rates to other customers acquiring and using precisely the same PBX service.⁸

Instead of being charged rates higher than other customers for access to the incumbent LEC's network, the rates charged to RMTS providers should be lower. RMTS providers utilize PBX trunks acquired from the incumbent LEC pursuant to that LEC's tariff for STS providers.⁹ The incumbent LEC benefits by furnishing local service to residential multi-unit dwellings through the RMTS provider because it achieves costs savings. Among the avoided costs are: (1) lower costs of billing because the LEC deals with one customer rather than many customers; (2) lower costs of collection because the RMTS provider pays for all of the service to its tenants at a location rather than the LEC having to pursue payment from many different users; (3) lower costs of service and maintenance at the RMTS location because in traditional RMTS environments, the RMTS provider is responsible for cable maintenance; (4) less capital expenditure for facilities, because RMTS providers are usually responsible for the acquisition and installation facilities; (5) lower depreciation expense; (6) lower costs of customer service and marketing; and (6) other cost savings (*e.g.* rate of return, taxes and corporate overhead).

⁸*E.g.*, the rates charged by BellSouth throughout its region are substantially higher for STS providers than other PBX customers. These unreasonably high rates have served to curtail the development of STS within the BellSouth region.

⁹The service acquired by RMTS providers for resale at residential multi-dwelling units is private branch exchange service. Such service is seldom, if ever, offered at subsidized prices in any state. Therefore, concerns about the resale of subsidized residential service are not applicable in the resale of PBX trunks by RMTS providers.

D. Unreasonable Tariff Restrictions Affecting Private Property

Some incumbent LECs have used STS tariffs to impose unreasonable restrictions on not only the STS provider, but also on the owner of the private property at which the shared system is to operate. Such restrictions have operated to discourage property owners from utilizing STS and, therefore, have benefitted the LEC by reducing competition. Such restrictions are of questionable validity under any circumstance, but are clearly violative of Section 251 of the Act. Nevertheless, even now BellSouth is attempting to use STS tariffs as a means of compelling the owners of private property to permit BellSouth at its discretion to install its own facilities on the private property.¹⁰

Similarly, some incumbent LECs have attempted to use restrictions in their STS tariffs to prevent RMTS from being established at specific locations. For example, some incumbent LECs have refused to comply with the request of MDU property owners to establish a single point of demarcation at a minimum point of entry ("MPOE") because to comply with such a request would result in increased competition for the LEC. In doing so, the LECs have relied on their STS tariff or on their assertion of their authority under FCC rules. Recently, the Texas Public Commission in Docket No. 14147 found that the actions of GTE of the Southwest, Inc. in refusing to relocate demarcation points at residential MDUs on the request of NPTA member companies were unreasonable and discriminatory. (A copy of the recommendation of the hearing officer in Docket No. 14147 previously was filed with this Commission by NPTA in

¹⁰In Florida, the Public Service Commission currently is in the process of revising the STS tariff of BellSouth. A major issue in that process is the effort of BellSouth to use the tariff as a means of securing access on private property and to install its own facilities on the property even over the objection of the property owner. Attachment B is a copy of comments filed by NPTA in that proceeding and furnishes NPTA's perspective on the BellSouth proposals.

CS Docket No. 95-184).¹¹ This Commission should make clear that such provisions in an incumbent LEC's tariff or such discriminatory action by an incumbent LEC is violative of the Act and this Commission's rules.

It further should be noted that the refusal of incumbent LECs to terminate their network access facilities on the request of a property owner at a single point of demarcation at the MPOE is violative of Section 251(b)(4) of the Act. A refusal by the incumbent LEC to abide by the property owner's request is tantamount to a refusal by the LEC to permit competition through an STS provider at the property. So long as it is "technically feasible" to do so, the incumbent LEC should be required to comply with the request of the property owner, or the owners' agent, to allow interconnection to the network at a single, common MPOE.

Conclusion

Shared tenant service providers in the past have constituted one of the very few sources of local exchange competition for incumbent LECs. Many of the incumbent LECs have vigorously fought to curtail such competition. The vestiges of those LEC efforts remain even today in the face of state and federal mandates for competition. Some incumbent LECs, such as BellSouth and GTE of the Southwest, Inc., even now are trying to maintain tariff provisions that impose unreasonable and discriminatory restrictions on the resale of local exchange access by RMTS providers. Such efforts are violative of the duties imposed by the Telecommunications Act of 1996. The NPTA respectfully requests that this Commission declare such restrictions violative of the Act.

¹¹The hearing officer's recommendations were adopted, with some changes by the Texas Public Utility Commission.

Respectfully submitted,

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**ATTORNEYS FOR NATIONAL PRIVATE
TELECOMMUNICATIONS ASSOCIATION**

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Reply Comments of the National Private Telecommunications Association are being sent via U.S. Mail, postage prepaid, to all parties of record. The Comments are being sent as a complete list of parties becomes available.

Steve Bickerstaff
STEVE BICKERSTAFF

ATTACHMENT "A"

A23. SHARING AND RESALE OF EXCHANGE SERVICE

A23.1 Sharing and Resale of Basic Local Exchange Service

A23.1.1 General

- A. In general, basic local exchange service as set forth in Section A2. of this Tariff is furnished for the exclusive use of the subscriber, employees, agents, representatives or members of the subscriber's domestic establishment. Resale of basic local exchange service is permitted only under specific conditions as described in this Tariff. For the purpose of this tariff section "sharing" of basic local exchange service is considered to be synonymous with "resale" of basic local exchange service.

A23.1.2 Conditions for Resale

- A. Resale is permitted where facilities permit and within the confines of specifically identified continuous property areas under the control of a single owner or management unit. Areas designated for resale may be intersected or transversed by public thoroughfares provided that the adjacent property segments created by intersecting or transversing thoroughfares would be continuous in the absence of the thoroughfare. The designated resale service area must be wholly within the confines of existing wire centers and/or exchange boundaries.
- B. Customers desiring to resell or share Company provided local exchange services must provide the Company with a written description of the intended size and scope of the project along with layout maps defining the resale service area and an anticipated development plan in terms of new building construction and/or projected growth.
- C. Resale configurations may not exceed a combined total of 950 PBX trunks or 950 ESSX[®] service, *Digital ESSX[®] service, or MultiServ PLUS[™]* service network access registers (Inward, Outward and/or Two-Way configurations). (C)
- D. The Company maintains the right to serve directly any subscriber, within the identified resale service area. When a sharing or resale client requests local service from the Company as well as the reseller, the Company will only provide message rate (measured service where available) exchange access lines to the reseller client.
- E. In order to fulfill the Company's obligation to provide local exchange service to the premises of all customer entities within a franchised area, including individual subscribers within a resale service area, the Company must be permitted to install and maintain its own facilities within the resale service area to reach the premises of each individual subscriber. Resale service will only be established if such access is provided to the Company. At the Company's option, the Company may choose to utilize privately owned distribution facilities in lieu of Company owned facilities.
- F. The provision of intercommunication between unaffiliated entities (reseller clients) remains the responsibility of the Company and may not be provided by the reseller.
- G. Within a LATA, interconnection of a resale service area to any other resale service area is not permitted for resale or sharing purposes. Individual tie lines or private lines are restricted to the private use of a single subscriber or resale client and cannot be used to access Local Exchange Service.
- H. Exchange access lines to the reseller are limited to exchange sharing and resale trunks and ESSX[®] service, *Digital ESSX[®] service or MultiServ PLUS[™]* service network access registers as specified in Section A3. of this Tariff. (C)
- I. All rates and charges in connection with the resale operation and all repairs and rearrangements behind and including the resellers communication switch will be the responsibility of the customer of record. The reseller will be the single point of contact for all resale client services provided in connection with the Sharing and Resale of Basic Local Exchange Service.

A23.1.3 Rates and Charges

- A. The following rates and charges apply for Sharing and Resale of Basic Local Exchange Service.
1. Local Exchange Service rates as specified in A3.7.3.B. of this Tariff will apply for shared and resold local service lines.

A23. SHARING AND RESALE OF EXCHANGE SERVICE

A23.1 Sharing and Resale of Basic Local Exchange Service (Cont'd)

A23.1.3 Rates and Charges (Cont'd)

- A. The following rates and charges apply for Sharing and Resale of Basic Local Exchange Service. (Cont'd)
2. Rates and charges for Direct Inward Dialing (DID) and other associated services apply as specified in other sections of this Tariff. DID trunks for sharing and resale are provided under A3.7.3.B of this Tariff.
 3. Service charges as specified in Section A4 of this Tariff apply as appropriate.
 4. Reseller client listing provides one listing in the alphabetical section of the directory. The reseller client listing charge will date from the day the Company's information records are posted and is payable monthly in advance. The minimum chargeable period for the reseller client listing is for the life of the directory issue in which the listing first appears, not to exceed one year from the effective date of the listing. In the event the reseller client listing does not appear in the directory, the minimum chargeable period is for one month.

	Monthly Rate	USOC
(a) Per Business Client	\$1.20	BS6
(b) Per Residence Client	.95	RS6

5. Charges for additional listings used to further define a reseller client apply at the standard tariff rate as specified in Section A6 of this Tariff

6. Administrative Charge

	Nonrecurring Charge	USOC
(a) Service Establishment Charge	\$300.00	NA

7. Rates and charges appearing in other sections of this Tariff for ESSX[®] service, Digital ESSX[®] service, MultiServ[™] service or MultiServ PLUS[™] service/features are applicable for resellers. Features and services available to an ESSX[®] service, Digital ESSX[®] service, MultiServ[™] service or MultiServ PLUS[™] service subscriber may be shared or resold in accordance with this Tariff. (C)

A23.1.4 Definitions

- A. Customer of Record
Person, corporation or authorized representative responsible for placing application for service; requesting additions, rearrangements, maintenance or discontinuances of service; payment in full of charges incurred such as Toll, Directory Assistance, etc.; providing legal description of Resale Service Areas to the Company.
- B. Reseller Client
As used in Section A23 of this Tariff, refers to a customer located within a resale service area who utilizes shared or resold local service provided by the Sharing and Resale Customer of Record.
- C. Resale Service Area
Area within which a reseller offers shared or resold local exchange telecommunications service.
- D. Reseller
A customer who offers shared or resold Company exchange service within a resale service area.

ATTACHMENT "B"

Bickerstaff, Heath, Smiley, Pollan, Kever & McDaniel, L.L.P.

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April 11, 1996

VIA FACSIMILE #904-413-6250

**Ms. Susan Clark
Chairman
Florida Public Services Commission
2540 Shumard Oak Boulevard, Ste. 301
Tallahassee, Florida 323399-0850**

RE: Docket No. 951522-TS

Dear Ms. Clark:

These brief comments are submitted on behalf of the National Private Telecommunications Association (NPTA) in regard to the proposed alternative draft rule in Docket No. 951522-TS.

The NPTA earlier filed comments in this Docket. These comments are supplemental to the earlier filing and attempt to address an issue that is crucial to the availability of shared telecommunications services at commercial and multi-tenant residential sites in Florida. - i.e. termination at a property owner's request of all incumbent and alternative LEC network access facilities at a common, single point of demarcation located at the minimum point of entry (MPOE) on the property.

Shared tenant services are relatively new in Florida. This is particularly true for multi-tenant residential locations, which essentially are only now being allowed for the first time within Florida. But several other states have allowed STS at multi-tenant residential locations for several years. Texas has approximately eight years of experience. At present, STS is offered at several hundred different multi-tenant locations within Texas, serving tens of thousands of tenant units. Southwestern Bell Corporation (SBC) has embraced the concept of an MPOE at these multi-tenant properties (Texas PUC Docket No. 10831 and issues of interconnection, access to tenants, service calls, etc. largely are handled through written contracts between the NPTA member and the LEC.

Termination of incumbent and alternative LEC network facilities at a single point of demarcation located at a common MPOE is essential for: (1) the operation of STS¹; (2) the orderly development of telecommunications services for tenants in the evolving competitive environment where the tenant will be able to choose among multiple providers of local exchange service; and (3) protection of the rights and property of the property owner from the costly and disruptive intrusions of multiple local exchange providers all claiming a privilege of installing their own plant on the owner's property. This Commission has an opportunity through these draft rules to address the demarcation point issue at STS locations in a manner that serves the public interest, is consistent with federal policy, and reasonably anticipates the practical effects of a reality in which many different companies are offering to provide local exchange service to customers residing temporarily as tenants in multi-tenant dwelling units.

Based on extensive experience with STS in other states, there are essentially two circumstances in which the issue of a single point of demarcation arises in a shared tenant context.

New Construction. When a new multi-tenant residential complex is being constructed, telecommunications plant is installed to connect tenant units to the LEC network. Once STS is allowed and is viable in Florida, owners of multi-tenant properties are likely (as in other states) to contract with an STS company to install cable and other plant to establish a network on the private property. Property owners, through the STS company, will ask the LEC (and any alternative LECs) to terminate its network access facilities at a single MPOE where the LEC network and the private network will interface. As prescribed by the FCC, the property owner would retain control on the customer side of this point of demarcation.

It is essential that this Commission make clear that incumbent and alternative LECs abide by the request of the property owner and use the common MPOE. A written contract between the STS provider and each LEC as appropriate can address any practical questions about interconnection, service calls, cost of leased or purchased facilities, etc. It is my understanding that the alternative draft of this Commission's rules contemplates that an LEC will terminate its network access facilities at an MPOE and "shall use the STS provider's or the STS building owner's cable if made available to gain access to

¹ A sharing of telecommunications services by tenants within an apartment complex requires use of a single switch that can furnish enhanced services to the tenants and access to local exchange and long distance service. Action by an incumbent LEC to install multiple points of demarcation (e.g., one on each separate apartment building within a complex) makes such sharing impossible and prevents operation of STS at the property.

the tenant." (Rule 25-24.575[6]). This Commission should confirm this understanding.

Retro-fit Locations. Many existing multi-tenant locations will want to take advantage of STS in the future. If the incumbent LEC is now using multiple points of demarcation on the property (e.g. one on each building in an apartment complex), the property owner cannot use STS without the points of demarcation being relocated to a single point of demarcation at the MPOE.

FCC rules anticipate that a LEC will move the point of demarcation at the request of the property owner so long as there are no technical hazards that prevent such relocation. There are numerous means by which the LEC can be fairly compensated for the cable, such as STS purchase of the plant or payment by the STS provider for lease of the cable. Again, the experience in Texas clearly shows that cooperation between the LEC (i.e. SBC) and the STS provider can deal with these circumstances. It is only if BellSouth refuses a property owner's request to establish a single point of demarcation at the MPOE that a problem will occur.

Based on the experiences of STS in other states, the issue of access by a tenant to the local exchange carrier of the tenant's choice is a "non-problem." No owner of a multi-tenant housing unit is likely to tolerate a situation that is likely to result in telephone service that displeases a tenant. Moreover, each STS provider is probably dealing with the same LEC at numerous other locations within the exchange area and both companies have an incentive to solve any issues without unnecessary conflict.

Interconnection at the point of demarcation and coordination between the STS provider and the LEC can provide quality service for the tenant regardless who the tenant chooses as their carrier. While this Commission may speculate about extreme scenarios where an STS provider refuses an LEC access to a tenant and may try to address how a tenant will pay for direct access to the LEC in such circumstances, these scenarios are very unlikely ever to occur and should not divert Commission attention from the basic issues that will decide the future of STS in Florida.

The changes proposed by BellSouth Telecommunications (BST) in its Comments on the Proposed Alternative Rule are unacceptable. BellSouth is trying to use an amorphous reason explained as "acceptability of the medium of another party must be subject to the dynamics of BellSouth's network deployment strategies" to legitimize its ability to unilaterally install its own cable and to require multiple demarcation points at multi-tenant property whenever BST's own

business strategies dictate.² This position is a thinly disguised effort to discourage property owners from providing shared telecommunications systems and to impede STS competition by:

- (1) making the LEC responsible "for the provision and maintenance of network services up to the point where its owned or leased facilities terminate" (BST change to para. 5) thereby creating a direct conflict with the control of an STS provider over its cable which the LEC is leasing;
- (2) indicating that the demarcation point is the tenant's premise unless the property owner "prohibits the carrier from installing the carrier's own facilities" (BST change to para. 5), thereby creating a situation where BST doesn't need to seek the owner's permission to install BST cable on private property, but can proceed so long as the owner doesn't timely object;
- (3) allowing the carrier to unilaterally choose whether "to use the transmission facilities owned by other parties" (BST change to para. 5); and
- (4) allowing BST at its discretion (under Paragraph 5) to bypass the requirement in Paragraph 6 that the LEC use the STS facilities and allowing BST to install multiple points of demarcation ("one or more locations") (BST changes to Para. 6) or to compel the property owner (over the property owner's objection) to allow BST to enter the private property and to install its own cable and plant (BST changes to Para 7).

BellSouth is trying to use a highly unlikely scenario (i.e. unacceptability of the "medium of another party") to forward its own competitive business objectives. If adopted, BST's changes would have the effect of allowing the LEC unilaterally to exercise control over both the

²BellSouth's position in this proceeding directly conflicts with the position of BellSouth Corporation (BSC) and BellSouth Telecommunications, Inc. as presented to the FCC in comments filed last month in NPRM 95-184. In their comments, BSC and BSI urged that the FCC not mandate a specific point of demarcation for cable because current FCC rules for telecommunications allow MDU building owners and telecommunication service providers to negotiate a mutually satisfactory demarcation point. They urge that the FCC should not interfere with the right of the MDU property owner to facilitate competitive entry in their buildings however the property owner desires. Nevertheless, before this Commission, BST takes the opposite position. BST asks that this Commission approve rules that allow BST the unilateral right to override the desires of the property owner, to refuse to use the private facilities on the property, and to install its own cable on private property or to manage any leased facilities all the way to the tenant's premise whenever it furthers BST's strategic plans to do so. If BST genuinely (and correctly) believes (as it represented to the FCC) that current FCC telecommunications rules assure the right of MDU property owners to control their properties as they desire and to negotiate a mutually satisfactory point of demarcation with telecommunications providers, then BST should assume the same position before this Commission rather than trying to get this Commission to approve rules that allow BST to disregard the rights of the MDU property owner.

Ms. Susan Clark
April 11, 1996
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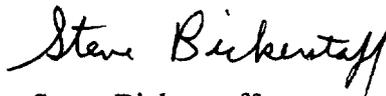
property of the property owner and the facilities of the STS provider against the wishes of these owners. BST's expressed justification for this extraordinary power is concern about the "condition" of another parties' medium. But this proffered rationale flies directly in the face of the applicability of FCC technical standards to the plant of the STS provider, the reliance by BST on the "medium" of numerous other third parties subject to such federal standards, the certification of STS providers by this Commission and the realities of the unwillingness of multi-tenant property owners to tolerate substandard telecommunication facilities for their tenants. All of BST's proposals should be rejected in their entirety.

On behalf of the NPTA. I urge that:

1. The new rules on STS be adopted as soon as possible to allow STS to develop in Florida as it already exists elsewhere in the country;
2. The new rules on STS be clarified to assure that incumbent and alternative LECs abide by the request of a multi-tenant property owner to use a common point of demarcation located at the MPOE; and
3. The new rules be amended to provide that rates charged by an LEC to STS providers for local exchange access cannot be discriminatory.

Thank you for the opportunity to submit these comments.

Sincerely,



Steve Bickerstaff

SB:raa

steve\npta-55.sb

cc: Ms. Diana Caldwell
Mr. Robert G. Beatty
Ms. Nancy B. White
Mr. Patrick K. Wiggins
Mr. John Mitchell
Members of National Private Telecommunications Association

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

In the Matter of)
)
Implementation of the Local)
Provisions in the)
Telecommunications Act)
of 1996)

RECEIVED
JUN 04 1996
FCC MAIL ROOM
CC Docket No. 96-98

MOTION TO ACCEPT LATE-FILED PLEADING

COMES NOW, National Private Telecommunications Association ("NPTA") and respectfully requests that the Reply Comments of NPTA be accepted for filing in the above-referenced Docket.

Good cause exists for the delay in filing these comments because the wife of the attorney working on the matter (Mr. Miguel Huerta) entered labor unexpectedly last week and encountered complications requiring Mr. Huerta's complete attention. As a result of Mr. Huerta's absence, it was impossible to complete the comments as scheduled. The delay of 1 to 4 days should not prejudice any party. If necessary, please accept these comments as ex parte presentations pursuant to 47 CFR § 1.1206.

For the aforementioned reasons, the NPTA respectfully asks that its Reply Comments be accepted for filing in this Docket.

Respectfully submitted,

**BICKERSTAFF, HEATH, SMILEY, POLLAN
KEVER & MCDANIEL, L.L.P.**

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State Bar No. 02293800
MIGUEL A. HUERTA
State Bar No. 00787733

**ATTORNEYS FOR NATIONAL PRIVATE
TELEPHONE ASSOCIATION**

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Motion to Accept Late Filed Pleading of the National Private Telecommunications Association is being sent via U.S. Mail, postage prepaid, to all parties of record. The Motion is being sent as a complete list of parties becomes available.

Steve Bickerstaff
STEVE BICKERSTAFF

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

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

ORDER

CAME ON to be heard the Motion of National Private Telecommunications Association to late file Reply Comments in the above-referenced docket. The Federal Communications Commission having received said Motion and considered same, is of the opinion that such Motion should be, and the same therefore hereby is **GRANTED**.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED, that the Motion to Accept Late Filed Pleading is hereby **GRANTED**.

SIGNED this ____ day of _____, 1996.
