

available for resale to other

certified carriers pursuant to the pricing standards set forth in Section V. E. 4. The 10

percent discount in the promotional rate is designed to prevent a price squeeze by

recognizing 10 percent as a proxy for the resellers joint and common costs which would

need to be recovered. Absent the differential, we would be sanctioning price squeezes

and predatory pricing in contravention of the pro-competitive policies embodied in

state law and the 1996 Act. ILEC promotional tariff offerings will be processed based

upon the ILEC's current regulatory framework. An ILEC may apply for tariff filing

parity.

Requests for geographic market-based deaveraging by customer type or class,

submitted in accordance with Sections 4909.18 and 4909.19, Revised Code, will be

considered by the Commission only when the carrier can demonstrate that the request

is consistent with the public interest, is a necessary and appropriate response to

differences in prevailing market prices, and will not serve to discourage entry or lessen

competitive forces. The revised guidelines also establish procedures for consideration

of both end user and carrier-to-carrier contracts, including fresh look, termination

liability, and coverage of allegedly proprietary information. As a final matter, ILECs

once there is an operational NEC operating in its service territory, may file an

application to receive tariff filing flexibility as afforded the NECs. In order to receive

such flexible treatment, the ILEC must docket a UNC case subject to Commission

approval.

Several ILECs maintain that, in a competitive market, there is no rational reason

to treat ILEC and NEC tariff filing requirements in a dissimilar fashion. OCC submits

that in a truly competitive market the rationale for this distinction may cease to exist,

but a competitive local exchange market does not exist at this time (OCC reply

comments at 88). Several consumer groups reject deaveraging as being premature.

According to OCC, a LEC seeking to deaverage should have to demonstrate that the

request is in the public interest, is a necessary and appropriate response to the prevailing

market, will not discourage entry or lessen competitive forces, will result in a price

reduction, and will not be permitted on less than an exchange basis (OCC initial

comments at 56). United/Sprint and OCC assert that unbundled services should not be

made available to end users (United/Sprint initial comments at 29; OCC reply

comments at 89). OCC also argues that permitting NECs to set their prices based on the

marketplace without cost support and the filing of minimum/maximum ranges for

basic services is unlawful. OCC claims that the only method whereby a NEC could seek

to change a basic rate would be to file an application pursuant to Section 4909.18 or

Section 4927.04, Revised Code. The legal arguments, notwithstanding, OCC notes that

instantaneous rate increases should be forbidden. At a minimum, OCC avers, end users

should be given a 30-day notice during which end users could drop or change service

before incurring any costs.

As noted above, there have been modifications made in the tariff filing process.

While NECs have been afforded greater tariff and pricing flexibility, an ILEC may seek

similar treatment in an appropriate regulatory proceeding once it has a NEC operating

in its service territory. By so doing, we are adopting policies which, under the

appropriate circumstances, can allow the ILEC to achieve parity with NECs in the filing

of new services. This is a significant improvement for ILECs, especially for those ILECs

which have not yet availed themselves of the alternative regulation process. ILECs are

also not prohibited at any time from filing an alternative regulation case, even before it

is subject to competition, seeking more flexible treatment of its tariff and pricing

standards. The guidelines, as adopted, afford the ILECs adequate opportunities to meet

competition within their service territories.

The Commission also finds that, contrary to the implicit argument made by

consumer groups, geographic market-based deaveraging will not automatically be

approved. As set forth in the proposed guidelines, the

Commission will consider

deaveraging requests; however, those petitions are contingent upon an appropriate

showing by the requesting LEC and are certainly contingent upon the Commission

approving the application pursuant to Sections 4909.18 and 4909.19, Revised Code.

Further, any interested person or group has the ability to challenge the request for

deaveraging by filing a motion seeking intervention. Finally, as is always the case

concerning any public utility service, an aggrieved party has an opportunity to file a

complaint pursuant to Section 4905.26, Revised Code.

We also determined that the existence of certain long-term arrangements raise

potential anticompetitive concerns since these arrangements have the effect of locking

out the competition^d for an extended period of time and prevent consumers from

obtaining the benefits of this competitive local exchange environment. To address this,

we conclude that certain ILEC consumers with long-term arrangements should be given

an opportunity to take a one-time "fresh look" to determine if they wish to avail

themselves of a competitive alternative. Recognizing the administrative difficulties

inherent in an unlimited fresh look opportunity, we have indicated that the

Commission will establish the time period for any fresh look opportunity and will

establish appropriate procedures for any customer notification. Moreover, if a customer

chooses to terminate a long-term arrangement within the prescribed period, the

termination charge will be limited. Upon inquiry, an ILEC must fully inform the

customer of the opportunity attributable by this section.

The final issue we need to address under tariffing concerns the issues raised by

OCC. Specifically, OCC challenges the lawfulness of permitting NECs to establish their

end user prices without cost support and the authority of the Commission to authorize

a minimum/maximum pricing range for basic telecommunication services. In its

comments, OCC claims that NECs can only make a change to basic rates through Section

4909.18, Revised Code based upon the method set forth in Section 4909.15, Revised

Code, unless the Commission approves an alternative method under Section 4927.04,

Revised Code. The Commission disagrees. Section 4905.31, Revised Code, provides the

Commission the statutory authority to establish flexible pricing. Section 4905.31,

Revised Code, provides, in relevant part:

[E]xcept as provided in section 4933.29 of the Revised Code, Chapters 4901., 4903., 4905., 4907., 4909., 4921., and 4923, of the

Revised Code do not prohibit a public utility from filing a schedule or entering into any reasonable arrangements with another public utility or with its customers, consumers, or employees providing for. . . [A]ny other financial device that

may be practicable or advantageous to the parties interested.

The Commission's authority to establish flexible pricing through the use of minimum

and maximum bands was specifically upheld by the Ohio Supreme Court in *Armco, Inc.*

v. Pub. Util. Comm., 69 Ohio St. 2d 401 (1982). The Court found that flexible pricing was,

for purposes of the statute, a financial device which provided customers a more

meaningful range of telecommunications options (*Id.* at 408). The Court also noted that

Section 4905.31, Revised Code, was an exception to the general ratemaking formula and

that the premise underlying the Commission's flexible pricing treatment for the

involved carrier was the existence of increasing and effective competition from

unregulated suppliers in the marketplace. Moreover, the provisions of Chapter 4927,

Revised Code, governing providers with less than 15,000 access lines provide additional

support for our determination.

As we have heretofore noted in this docket, the whole purpose behind the

adoption of these guidelines is to foster the development of a competitive local

exchange marketplace which will benefit customers by providing them with innovative

services and features, better customer service, and competitive prices. As such, a

competitive local market is certainly practicable and advantageous to both customers

and end users. Moreover, from the NECs' perspective, the

competition that they are

facing is the ILEC, certainly a formidable opponent and one that serves, at the present

time, practically all of the landline local telecommunications market. Thus, from the

NECs' perspective, there will be stiff competition in the market they seek to provide

service in. Moreover, NEC customers are still protected under these guidelines because

the Commission has reserved its right to request cost or other information required to

audit a NEC's rates. NEC competitors are protected from unreasonable pricing policies

because, as noted above, the Commission retains the ability to audit NEC rates and,

further, we are subjecting NEC rates to Section 4905.33, Revised Code, which prohibits

furnishing service below cost for the purpose of destroying competition. We would also

note that OCC's arguments on this issue have not been wholly disregarded because the

guidelines, as revised, now require prior notice to residential customers affected before a

price list increase takes effect.

VII. FILING PROCEDURES AND REGISTRATION FORM

A. GENERAL GUIDELINES

1. Registration Form

There are two forms which all NECs must use in implementing the procedures

established under the local competition guidelines. One such form is the Local

Exchange Carrier Registration Form (Registration Form).²⁹ This all-purpose form

should accompany virtually every filing made by a NEC on or after August 15, 1996. For

example, this form would be used for purposes including, but not limited to: receiving

initial certification to provide basic local exchange service in Ohio; changing any

element of a NEC's operations; changing any element within a NEC's tariff, including

textual revisions and price adjustments; and seeking approval of a negotiated

agreement between carriers or seeking arbitration.

Essentially, the Registration Form will function as a standardized cover letter for

virtually any type of filing pursuant to the guidelines set forth in Appendix A. As such,

if properly completed, it should serve to help identify the nature of the filing in terms of

its appropriate standing within the overall local competition procedural framework.

The Registration Form may be revised from time to time. Changes of either a non-

substantive or informational nature may be made by the Commission or its staff, and

will not necessarily be the result of action taken specifically by order or entry. The staff

will maintain, at all times, an updated and current copy of the Registration Form. In

addition, an updated Registration Form will be maintained on file in this docket.

2. Service Requirements Form

In an attempt to reduce the volume of standardized language which would

otherwise be required to appear in a NEC's informational tariff, the Commission has

devised the Service Requirements Form for use in conjunction with the Registration

Form on or after August 15, 1996. The purpose of this form is to set forth specific

Commission-mandated language which, if it did not appear within the Service

Requirements Form, would need to be included in the tariffs of each NEC subject to

competition, as applicable to the scope of its operations. Rather than have the required

standardized language repeated in so many tariffs, the Commission will permit each

NEC subject to competition to file a Service Requirements Form along with the

Registration Form indicating which language pertains to the provider's operations. In

addition, on the face of the Registration Form, the provider will commit to conducting

its operations in conformity with all applicable service requirements indicated thereon.

The Service Requirements Form may be revised from time to time. Changes of either a

non-substantive or informational nature may be made by the Commission or its staff,

and will not necessarily be the result of action taken specifically by order or entry. The

staff will maintain, at all times, an updated and current copy of the Service

Requirements Form. In addition, an updated Service Requirements Form will be

maintained on file in this docket.

3. TRF Docket

By entry dated February 6, 1990, in Case No. 89-500-AU-TRF (89-500), the

Commission established tariff filing and maintenance procedures for all utilities. At

that time, the Commission began the practice of assigning a separate tariff docket (under

a TRF purpose code) to each utility. TRF dockets are designated for the filing of final

tariffs and are maintained by the Commission for each utility company, including LECs

subject to competition. Under the local competition guidelines the Commission will

continue to employ the tariff filing and maintenance procedures established in 89-500.

4. Tariffs

Under the local competition guidelines, in order to provide local exchange

services in the state of Ohio, a LEC must maintain on file with the Commission,

complete tariffs which, at a minimum, must include a title page, a description of all

services offered, including all terms and conditions associated with the provision of

each service, a description of the actual serving and local calling areas, a complete price

list, and a notation reflecting both the issuance and effective date.

5. Time Frames

Certain filings pursuant to these guidelines will be handled through an

automatic process. With the exception of 0-day filings, an automatic time frame will

begin on the day after a filing is made with the Commission's Docketing Division.

Furthermore, under an automatic process, if the Commission does not take action

before the expiration of the filling's applicable time frame, the filing shall become

effective as early as the following day. However, nothing in these guidelines precludes

the Commission from imposing a full or partial suspension on 0-day filings on or after

the effective date.

6. Suspensions

Under the local guidelines, the Commission, Legal Director, Deputy Legal

Director, or Attorney Examiner may fully or partially suspend an application for either a

definite or indefinite period of time. If the suspension is for an indefinite period of

time, the Legal Director, Deputy Legal Director, or Attorney Examiner may remove the

suspension and reinstate a new automatic time frame for approval. A full suspension,

which can be imposed either before or after the passing of any automatic or notice time

frame, will prevent the suspended service offering or involved regulated activity from

either becoming or remaining effective. Under a partial suspension, the service offering

or involved regulated activity is allowed to become or remain effective, subject to its

continued review, and possible modification, by the Commission. Incompleteness of an

application made pursuant to the local competition guidelines may constitute grounds

for suspension. Suspensions may be for either a definite or indefinite period of time.

The Commission further authorizes the Legal Director, Deputy Legal Director, or

Attorney Examiner to remove the suspension imposed on an application which may be

suspended for an indefinite period of time and to reinstate a new automatic approval

time frame.

VIII. UNBUNDLING

Under the staff's proposal, all LECs had the obligation to unbundle their network

and associated functionalities into the most reasonably disaggregated components

capable of being offered for resale upon bona fide request of a certified provider or end

user. Staff's proposal also set forth the major categories of components subject to

unbundling, general unbundling requirements, and the rate requirements associated

with purchasing unbundled components. Cincinnati Bell argues that the staff's

mandatory unbundling proposal violates the constitutional guarantee against a

"taking" of private property for a public use without adequate

compensation. A

discretionary unbundling provision would, according to Cincinnati Bell, pass

constitutional muster. Provided the legal concerns can be addressed, Ameritech

suggests adopting a set of criteria by which the appropriateness of an unbundling request

could be judged (Ameritech initial comments at 58). A number of commenters suggest

that the Commission more fully define the major categories of components subject to

the unbundling requirement. For instance, ICG requests clarification of whether local

access includes loop facilities or not (ICG initial comments at 4). Several parties

maintain that requiring the NECs to unbundle upon their entrance into the local

market is unfair and may actually slow down the penetration that NECs would be able

to achieve in the local market. These commenters urge the Commission to afford NECs

an incubation period. As a final matter, it has been suggested that the Commission

price the unbundled LEC components for use by certified carriers at LRSIC instead of at

LRSIC plus some level of contribution.

Several NECs maintain that the 1996 Act significantly affects staff's proposal. For

instance, Cablevision and MFS aver that Section 251(c)(3) of the 1996 Act only obligates

ILECs to unbundle their systems and that a requirement which forces NECs to unbundle

constitutes a barrier to entry (Cablevision supp. comments at 4; MFS supp. comments at

11-12). Ameritech, on the other hand, posits that the FCC will determine the

appropriate level of unbundling and, therefore, staff's proposal is superseded by the 1996

Act (Ameritech supp. comments at 8-9). CompTel claims that the 1996 Act provides

carriers the opportunity to combine elements into a network platform configuration

(CompTel supp. comments at 5). Regarding pricing, MFS maintains that, under the

1996 Act, the ILECs have to set the rates for unbundled components at LRSIC (MFS

supp. comments at 12). ALLTEL, on the other hand, suggests that since the services that

are part of universal service can only recover a reasonable allocation of joint and

common costs, this infers that the remaining joint and common costs will be recovered

through other services such as interconnection, unbundled elements, and traffic

termination rates.

As pointed out by several parties, the adoption of the 1996 Act obligates ILECs,

under Section 251(c)(3), to provide nondiscriminatory access to network elements on an

unbundled basis.³⁰ Therefore, the argument that unbundling should be at the option of

the ILEC is moot. The 1996 Act also requires the FCC, within six months following the

date of enactment, to establish all regulations necessary to determine what constitutes

network elements. In making its determinations, the FCC is directed to consider the

proprietary nature of the network elements and whether the failure to provide access to

any network element would impair the ability of a telecommunications carrier to

provide the services it proposes. Under Section 251(d)(3), the FCC may not preclude any

state commission regulation, order, or policy that establishes access and interconnection

obligations of LECs³¹; is consistent with the requirements of the 1996 Act; and does not

substantially prevent implementation of the requirements and purposes of the 1996 Act.

The final guidelines have been modified in light of the provisions of the 1996 Act

to reflect that ILEC and facilities-based NECs shall unbundle their respective local

network into elements at any technically feasible point upon bona fide request of a

certified carrier. Unbundling shall include access to necessary customer databases such

as LEC-owned or controlled 9-1-1 databases, billing name and address, directory

assistance, line information database, and 800 databases. Such unbundling should also

include operator service, and SS7 functionalities. Unbundled network rates, terms, and

conditions shall be established through negotiation between LECs upon receipt of a bona

fide request or through arbitration. Rates, terms, and conditions may also be established

through tariffs ordered and/or approved by the Commission.

Regarding the pricing of unbundled network elements, Section 252(d)(1)(A) and

(B) of the 1996 Act sets forth the parameters a state commission must consider when

pricing the unbundled network components. A state commission's determination of a

just and reasonable rate shall be based upon the cost of providing the network element,

nondiscriminatory, and may include a reasonable profit. Staff's proposal regarding the

pricing of carrier-to-carrier services (i.e., LRSIC plus a reasonable contribution to joint

and overhead costs) appears to be neither inconsistent with nor would prevent

implementation of the 1996 Act; therefore, staff's proposal on pricing as revised to

reflect the previous discussion in the Pricing Standards section of this order will be

adopted.

We also disagree with Cincinnati Bell's position that staff's unbundling proposal

would effectuate an unlawful taking of ILEC private property. According to the

company, the Commission has no authority to order a taking of ILEC private property.

Cincinnati Bell mischaracterizes the issue by failing to recognize that Cincinnati Bell is a

public utility and a common carrier under Title 49 of the Ohio Revised Code. As such,

it has voluntarily dedicated the property through which it provides telephone service to

a public use. As stated by the United States Supreme Court in *Munn v. Illinois*, 94 U.S.

113 (1877), when private property is devoted to a public use, it is subject to public

regulation.³² The Commission, in compelling the ILECs (such as Cincinnati Bell) to

restructure the provisioning, pricing, and interconnecting of their networks which have

been devoted to a public use into unbundled components, is well within the authority

vested in it by the Ohio General Assembly, pursuant to Sections 4905.05 and 4905.06,

Revised Code.

Cincinnati Bell further maintains that, even if the Commission did have such

authority, Article I of the Ohio Constitution and the Fifth Amendment of the United

States Constitution, as made applicable to the states by the Fourteenth Amendment,

mandate that when private property is taken for public purposes, the owner shall be

compensated. According to Cincinnati Bell, just compensation includes recovery of

embedded plant investment and facilities that become stranded as a result of the

introduction of local exchange competition. Assuming arguendo that the unbundling

proposal amounts to a compensable taking of property,³³ Cincinnati Bell will be justly

compensated by the pricing standards for unbundled network components. Under

revised guideline V.B , ILECs', including Cincinnati Bell, prices for unbundled network

components shall be set so that the ILEC recovers its LRSIC (economic costs) of

providing unbundled rate elements plus a reasonable contribution to the joint and

common costs incurred by the company as discussed previously in the Pricing Standards

section.

. In addition, the revised guidelines provide that prices for

unbundled network

elements may include a reasonable profit. We also disagree with Cincinnati Bell's

premise that just compensation includes recovery of investment stranded by the

establishment of local exchange competition. First, it is premature to consider this

argument as there are no competitive local providers operating in Cincinnati Bell's

service territory; therefore, there can be no "stranded investment" at this time.

Cincinnati Bell further fails to show with particularity the investment that is in danger

of becoming stranded once competition emerges in its service territory. Finally, it is

even questionable whether unbundled network facilities purchased by competitors can

be properly classified as stranded investment. As noted previously, it is premature and

thus unnecessary to address these issues at this time. For all the foregoing reasons,

Cincinnati Bell's arguments concerning the unlawfulness of the unbundling proposal

are without merit.

As a final matter, we conclude that providing NECs a general incubation period

or waiver from the obligations of unbundling does not appear warranted. As pointed

out by OCC, while the 1996 Act does not obligate NECs to provide unbundled access to

network elements, the 1996 Act does not prohibit this Commission from adopting such

a requirement (OCC supp. comments at 18-19). Such a requirement is neither

inconsistent with nor does it prevent implementation of the 1996 Act. Further, we find

that this obligation is fully consistent with the authority reserved to the states through

Section 253(b) of the 1996 Act. We also agree with staff that, because the NECs are likely

to have more advanced and efficient networks, providing unbundling will allow the

market to utilize the efficiencies and economies of these new networks. Staff

recognized that such a proposal will also minimize the unnecessary and uneconomic

duplication of facilities. Imposing this obligation on NECs will not create an undue

burden as it is unlikely that NECs will be asked to do much unbundling in the near

term and then only upon a bona fide request. The bona fide request standard should

minimize the economic effects that unbundling will impose on new entrants.

IX. RESALE

Adoption of the 1996 Act also caused significant revisions to the staff's resale

proposal. Consequently, the guidelines addressing the resale issue have been fully

rewritten. Section 251(b)(1) and Section 251(c)(4)(B) of the 1996 Act places a general duty

on all LECs (both ILECs and NECs) not to prohibit and not to impose unreasonable or

discriminatory conditions or limitations on the resale of telecommunications services.

The 1996 Act also places an obligation on ILECs to offer for resale at wholesale rates any

telecommunications service that the carrier provides at retail to subscribers who are not

telecommunications carriers. Finally, the 1996 Act requires state commissions to

determine wholesale rates on the basis of retail rates, excluding the portion attributable

to any marketing, billing, collection, and other costs that would be avoided by the local

exchange provider.

The revised guidelines reflect that all tariffed services in a LEC's end user tariff

shall be available for resale. In addition, those LECs providing local service through

their own facilities or in combination with its own facilities must maintain a carrier-to-

carrier tariff including its resale service offerings and make its service available to any

other LEC through resale. In order to offer volume discounts, a LEC may do so through

negotiation, arbitration, or through a tariff offering. Finally, LECs may, subject to

Commission approval, place reasonable restrictions on the resale of residential services

to business customers.

Following adoption of the 1996 Act, most commenters modified somewhat their

respective positions on resale. Cablevision argues that while a NEC could not prohibit

resale, a NEC could lawfully defer resale until some future event has occurred or time

frame has expired (Cablevision supp. comments at 3). MFS, OCC, and OTA agree that

all carriers have a responsibility to offer their services for

resale following adoption of

the 1996 Act (MFS supp. comments at 12; OCC supp. comments at 50; OTA supp.

comments at 2). CompTel, MFS, and United/Sprint assert, however, that the 1996 Act

only sets pricing parameters for resold services on the ILECs (MFS supp. comments at

13; CompTel supp. comments at 10; United/Sprint supp. comments at 5-6). TCG notes

that reasonable restrictions on resale are specifically permitted by the 1996 Act (TCG

supp. comments at 8). Ameritech also maintains that the 1996 Act permits reasonable

limitations on the resale of telecommunications services. Therefore, according to

Ameritech, the Commission should adopt a guideline placing limitations upon the

resale of services being offered at promotional rates. Such a limitation is necessary,

according to the company, in order to encourage LECs to offer promotions to customers;

otherwise, carriers will be discouraged, to the detriment of end users, from offering

these beneficial services (Ameritech supp. comments at 12).

In adopting the revised guidelines governing the issue of resale, we have been

guided by the principle expressed in the 1996 Act that, at a minimum, a LEC should

reasonably offer its services to other providers on a resold basis. We agree that resale is

a significant method by which to encourage new providers to enter the market.

Therefore, we are adopting guidelines which place reciprocal resale obligations upon all

carriers. As a final matter, in accordance with the provisions of the 1996 Act, we direct

the ILECs to resubmit new tariff pages which remove all blanket resale restrictions other

than restrictions of the resale of residential services to business customers.

X. DIALING PARITY/1+ INTRALATA PRESUBSCRIPTION

Staff's proposal requires all primary exchange carrier (PEC) ILECs, except

Ameritech and GTE, to provide intra and interLATA equal access to end users within 12

months of this order. All NECs were to provide intraLATA and interLATA equal

access to end users upon their initial offering of certified local exchange service.

Ameritech and GTE were directed to implement intraLATA equal access at such time as

they were granted interLATA approval or the Commission pledged to revisit the issue.

Staff also recommended implementing intraLATA presubscription on a smart or multi-

presubscribed interexchange carrier (PIC) basis. Finally, the staff addressed the

procedures whereby current and new subscribers could choose a different intraLATA

toll provider.

In the attached guidelines, the Commission has made one substantive revision to

the staff's proposal. This revision was necessitated by enactment of the 1996 Act which

provides interLATA relief to GTE and conditioned intraLATA dialing parity for the Bell

Operating Companies³⁴ (BOC) on removal of the interLATA restrictions on those

companies. In the event that a BOC has not received interLATA relief within three

years of the date of enactment, a state may, at that time, implement intraLATA

presubscription. The guidelines have been revised accordingly. While smart or multi-

PIC presubscription³⁵ represents a worthy long-term goal, based on a review of the

comments, we recognize the general availability of smart or multi-PIC technology and

we therefore find that a full 2-PIC methodology is a suitable substitute in the near term.

Full 2-PIC presubscription still offers end users the flexibility of choosing the same or

different toll providers for their intraLATA and interLATA calls.

The comments on this proposal reflect that NECs believe that they should not be

required to offer 1+ presubscription. ICG and AT&T recommend moving up the date

that ILECs must offer 1+ presubscription. As previously noted, several commenters

recommend implementing intraLATA dialing parity on a full 2-PIC methodology as

opposed to a smart or multi-PIC method. Few commenting parties disagreed with

staff's proposal that balloting not be used to implement intraLATA toll presubscription.

Other commenters disagree with the amount of the intraLATA service order PIC charge

that a LEC could recover from end users following expiration of a 90-day grace period.

Several ILECs claim that the Commission should tie Ohio's rate to

Staff's proposal requires LECs to report and justify, on an ongoing basis, denied

and unfulfilled carrier service requests. The NECs commenting on this issue suggest

that the staff's proposal did not go far enough. CompTel and AT&T set forth

comprehensive lists of additional support services and interfaces that are necessary for

NECs to successfully compete against the ILECs (CompTel initial comments at 25-28;

AT&T initial comments, Appendix A, Part 1 at 45). AT&T also recommends that the

Commission require the incumbents to establish mechanized interfaces essential to

providing prompt customer service (AT&T initial comments, Appendix A, Part 1 at 45).

The ILECs generally argue that this provision should be deleted. However, should the

Commission desire to maintain this requirement, the ILECs recommend clarifying this

requirement by stating that only unfulfilled bona fide requests need be reported.

The proposed guidelines would also require all LECs to submit annual TPM data

submissions. There was almost universal opposition from all commenters to the

provision of this information in a competitive environment. Ameritech even claims

that Section 256 of the 1996 Act eliminates this Commission's role of overseeing

coordinated network planning. If the information were to be provided, however, a

number of commenters suggest the submissions be required on a less frequent basis.

Further, staff's proposal prohibits LECs from accessing the

customer proprietary

network information (CPNI) of another interconnecting carrier or reseller for the

purpose of marketing services to the interconnecting carrier or resellers customers.

MFS urges the Commission to broaden this provision to include prohibiting ILECs from

soliciting a NEC's customer where the competitive carrier is in the process of ordering

bottleneck facilities from the LEC in order to provide service to the end user (MFS

initial comments at 45). Ameritech maintains that the LEC should have every right to

seek to retain customers when a competitor is ordering a facility such as the local loop.

In any event, Ameritech claims that there is no need to expand the CPNI requirements

beyond those set forth by the FCC (Ameritech reply comments at 48). The staff's final

proposal in this section addresses installation and maintenance. This provision

requires ILECs and NECs to provide to competing carriers installation, maintenance,

and repair within the same time intervals that the carrier provides itself. Ameritech

suggested revising this to reflect that all carriers treat other certified carriers in a

nondiscriminatory manner while MFS argues that staff's proposal is absolutely

necessary in order to avoid potential discrimination (Ameritech initial comments,

Appendix 3 at 40; MFS initial comments at 41).

We find that the provision of TPM data by all LECs will afford us a valuable tool