its filing might place on ILECs or state commissions is far outweighed by the benefits to competition from their timely disclosure.

VIII. THE FCC SHOULD CLARIFY THAT SECTIONS 2(B) AND 332 OF THE 1993 BUDGET ACT VEST IT WITH EXCLUSIVE JURISDICTION OVER LEC-TO-CMRS INTERCONNECTION.

The FCC should clarify its analysis of its jurisdictional authority over LEC-to-CMRS interconnection under the 1996 Act and Sections 2(b) and 332 of the 1993 Budget Act. In the *Local Competition Order*, the FCC decided to proceed under Sections 251 and 252 of the 1996 Act and "not to invoke" jurisdiction under Section 332(c) to regulate LEC-to-CMRS interconnection rates. *See id.* at ¶¶ 1025-6. The FCC also acknowledged that Sections 332 of the 1993 Act and 201 of the 1993 Budget Act provide a basis for jurisdiction over LEC-to-CMRS interconnection, but "decline[d] to define the precise extent of [its] jurisdiction." *See id.* While this recognition of jurisdiction is an important step, the FCC should more fully acknowledge the extent of its jurisdiction over CMRS interconnection and rely on that jurisdiction directly as an independent basis for its determinations in the *Local Competition Order*.

The FCC has exclusive jurisdiction over LEC-to-CMRS interconnection under Section 332 of the Budget Act of 1993 because Congress removed state jurisdiction by amending Section 2(b) of the 1934 Act. Section 2(b) generally preserves state jurisdiction over "intrastate" telecommunications. The Budget Act of 1993, however, amended Section 2(b) by excepting Section 332 from the reservation of state authority under Section 2(b). Section 332(c)(1)(B), moreover, in conjunction with Section 201 of the 1934 Act, grants the FCC authority to regulate interconnection between LECs and CMRS providers. *See* 47 U.S.C. §§ 332(c)(1)(B), 201(a).

Therefore, the 1993 Budget Act eliminated state authority over LEC-to-CMRS interconnection.

Moreover, it is well-established that under Section 2(a) of the 1934 Act, the FCC's authority over interstate and foreign telecommunications is "plenary and comprehensive" in nature.[29/] To the extent that the *Local Competition Order* finds that Section 332 provides a "basis for jurisdiction" over LEC-to-CMRS interconnection, therefore, the statute does not require a finding as to "the precise extent" of such jurisdiction. *See id.* at ¶ 1025. Having determined that Section 332 renders LEC-to-CMRS interconnection jurisdictionally interstate, the FCC's jurisdiction over LEC-to-CMRS interconnection is consequently plenary and comprehensive. Accordingly, the FCC should clarify that Sections 2(b) and 332 of the 1993 Budget Act vest the FCC with exclusive jurisdiction over LEC-to-CMRS interconnection.

29/ *See Operator Services Providers of America*, 6 FCC Rcd 4475, 4476 n.17 (1991) (quoting *Nat'l Ass'n of Reg. Util. Comm'rs v. FCC*, 746 F.2d 1492, 1501 (D.C. Cir. 1984) (interstate and foreign communications are "totally entrusted to the FCC"); *Telerent Leasing Corp. et al*, 45 F.C.C.2d 204, 217 (1974) (the FCC has "plenary and comprehensive regulatory jurisdiction over interstate and foreign communications"), *aff'd sub nom.*, *North Carolina Util. Comm'n v. FCC*, 537 F.2d 787 (4th Cir.), *cert denied*, 429 U.S. 1027 (1976)).

IX. CONCLUSION

For the reasons stated above, Comcast Cellular Communications, Inc. and Vanguard Cellular Systems, Inc., urge the FCC to adopt the rule modifications or clarifications recommended in this Petition.

Respectfully submitted,

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September 30, 1996

CERTIFICATE OF SERVICE

I, Tracie R. Ivey, a secretary at the law firm of Dow, Lohnes & Albertson, do hereby certify that on this 30th day of September, 1996, I caused copies of the foregoing "Joint Petition for Reconsideration and Clarification of Comcast Cellular Communications, Inc. and Vanguard Cellular Systems, Inc." to be served via hand-delivery, to the following:

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