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Federal Communications Commission
Office of Secretary

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, NW, Room 222
Washington, D. C. 20554

Re: Ex Parte Correspondence -- CC Docket Number 96-98

Dear Mr. Caton:

At the request of the Staff, for inclusion in the above referenced proceeding, this correspondence addresses the arguments Ameritech has made concerning competitive LECs' ("CLECs'") use of shared transport in connection with the unbundled network element ("UNE") platform (specifically, the practical differences between use of the "UNE platform" with shared transport and pure resell). Ameritech claims that when shared transport is purchased in this combination, the result is identical to resale and should be treated as such. This claim is baseless and inconsistent with numerous aspects of the Commission's First Report and Order ("Order"). Contrary to Ameritech's assertion, none of the clearly established differences between resale and the purchase of the UNE platform is affected when a CLEC buys shared transport as a network element.

In the Order, the Commission identified three principal differences between the purchase of the UNE platform and resale. First, CLECs that buy the UNE platform incur risks that resellers do not, because they bear the financial risk if the elements they buy are not profitably utilized by their customers. Second, CLECs buying the platform can use ILEC elements to create services the ILEC does not offer, and thus increase competitive options for consumers. Third, use of the platform fosters the growth of facilities-based competition, because CLECs can gradually introduce their own facilities in place of elements purchased from the ILEC.

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None of these important differences is affected when a CLEC buys shared transport in connection with the UNE platform. CLECs that buy the platform will still incur risks that are avoided by resellers. For example, CLECs that buy the platform face the prospect of having insufficient end user demand to recover the fixed costs of the unbundled loop and the unbundled switch, and they also face the risk that their users will generate substantial switch usage costs on local (i.e., free usage) calls, such as calls to the Internet, without generating significant interLATA traffic and associated access revenues. Thus, CLECs who purchase the UNE platform face at least the same economic risks if they also purchase shared transport from the incumbent.

The platform would also continue to offer CLECs several different ways to differentiate their service offerings from those of the incumbent. For example, resellers are constrained to mimic the ILEC's service offerings, but a CLEC that utilizes the platform could offer services that the ILEC has grandfathered or withdrawn; offer geographic calling areas that differ from the ILEC's; and create retail local service packages not offered by the ILEC.[1] CLECs using the platform also could offer entirely new services by, for example, obtaining -- and paying for -- ILEC capabilities (e.g., loop conditioning) to support new services, such as residential data services.

Furthermore, allowing CLECs to purchase all of the UNE platform elements, including shared transport, would not discourage CLECs from introducing their own network facilities. Most large CLECs would prefer, if possible, to operate their own networks, because it reduces their vulnerability to discrimination by the ILEC, and gives them greater control over their costs, their network quality, and their ability to provide new services in response to customer demand. Moreover, many carriers have already made substantial investments in both standard and forward-looking technologies to provide local service. AT&T alone has spent billions of dollars in pursuit of a fixed wireless alternative to incumbent facilities. It defies all logic to believe that these CLECs would forsake such sunk investments when it is feasible to put them into service. Rather, the UNE platform would properly discourage only uneconomic facilities deployment that might otherwise result from the current irrational pricing of access and local exchange

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[1] For example, in Oklahoma, Southwestern Bell Telephone Company ("SWBT") offers a package of 13 features for a fixed monthly price of $15. If a CLEC wanted to re-package those features and offer a smaller set of only 8 of those features, it could not do so, because the wholesale price for those features is over 10% higher than SWBT's $15.00 retail price for the 13-feature package.

services. Such uneconomic investments serve no one's interests, waste societal resources and ultimately harm consumers' interests.

In accordance with Section 1.1206(a)(1) of the Commission's rules, two (2) copies of this Notice are being submitted to the Secretary of the FCC.

Sincerely,

Bruce K. Cox

cc: Mr. R. Metzger
Mr. D. Ellen
Mr. K. Gude
Mr. J. Jennings
Ms. F. Setzer
Mr. D. Stockdale
Mr. P. Gallant
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