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

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In the Matter of )  
)  
Implementation of the Local Competition )  
Provisions in the Telecommunications Act )  
of 1996 )  
)  
Interconnection Between Local Exchange )  
Carriers and Commercial Mobile Radio )  
Service Providers )

CC Docket No. 96-98

CC Docket No. 95-185

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AT&T CORP. REPLY COMMENTS ON FURTHER NOTICE  
OF PROPOSED RULEMAKING RELEASED AUGUST 18, 1997

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October 17, 1997

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## SUMMARY

The Third Order on Reconsideration confirmed that § 251(c)(3) of the 1996 Act requires incumbent LECs to provide to requesting carriers shared transport as an unbundled network element ("UNE"). That Order also made clear that a requesting carrier may use shared and dedicated transport, like other UNEs, to provide exchange access services for the interexchange traffic of that carrier's local exchange customers. The instant FNPRM asks whether a carrier also may use unbundled dedicated transport and shared transport in conjunction with unbundled switching to originate or terminate interexchange traffic for the local exchange customers of other providers.

The comments confirm the conclusions reached by the Commission in previous orders: the plain meaning of § 251(c)(3) permits carriers to use UNEs in order to provision exchange access. Those commenters that argue that unbundled elements may be used only to provide local exchange service fail even to consider the plain language of § 251(c)(3) or the Commission's orders interpreting that section, and attempt instead to rely on inferences drawn from other provisions of the Act, or on brief snippets of judicial decisions that are inapposite to their claims.

The statutory arguments of those parties that seek to limit the use of UNEs have been expressly considered and rejected by the Commission. The Local Competition Order and other orders make clear that nothing in sections 251(g) or 251(i), or any other provision of the Act, can be read to require carriers to use UNEs only for the provision of local service.

The Eighth Circuit's decisions in CompTel and Iowa Utilities Board also fail to support the ILEC commenters' contentions that UNEs may not be used to provision access. In fact, neither of those opinions directly addresses the central issues of concern in the FNPRM. To

the limited extent these cases are relevant to the instant proceeding, they are wholly consistent with the Commission's prior findings that unbundled elements are a distinct product from LECs' exchange access services offerings, and that § 251(c)(3) does not limit a carrier's ability to use unbundled elements to provision exchange access.

Finally, SWBT offers the tired argument that it cannot determine which LEC is utilizing an unbundled switch, and therefore purportedly cannot calculate access bills for carriers other than itself. This claim, too, was addressed and rejected in the Third Order on Reconsideration, and SWBT offers no valid reason to revisit that conclusion.

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Pursuant to Section 1.415 of the Commission's Rules and its Third Order on Reconsideration and Further Notice Of Proposed Rulemaking<sup>1</sup> ("FNPRM"), AT&T Corp. ("AT&T") hereby replies to the comments of other parties concerning whether a carrier may use unbundled dedicated or shared transport in conjunction with unbundled switching to originate or terminate interexchange traffic to the local exchange customers of other providers.<sup>2</sup>

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<sup>1</sup> Third Order on Reconsideration and Further Notice Of Proposed Rulemaking, Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98, FCC 97-295, released August 18, 1997 ("FNPRM" or "Third Order On Reconsideration").

<sup>2</sup> A list of parties submitting comments and the abbreviations used to identify them are set forth in an appendix to these reply comments.

I. NO PROVISION OF THE 1996 ACT PROHIBITS A CARRIER FROM USING UNBUNDLED NETWORK ELEMENTS TO PROVIDE EXCHANGE ACCESS WITHOUT REGARD TO WHETHER THAT CARRIER IS A CUSTOMER'S LOCAL SERVICE PROVIDER

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The commenters in this proceeding divide neatly into two groups: those that discuss the plain meaning of § 251(c)(3)'s definition of unbundled network elements ("UNEs"), and those that do not. The former group agrees with the Commission's conclusion that carriers may use UNEs "for the purpose of providing exchange access to themselves in order to provide interexchange services to consumers," and that this finding is "compelled by the plain language of the 1996 Act."<sup>3</sup> In contrast, the latter group of commenters attempts to argue -- without distinguishing either the plain text of § 251(c)(3) or the Commission's prior interpretations of that section -- that the 1996 Act permits carriers to use UNEs only to offer local exchange services. This contention simply cannot be credited.

As AT&T and other commenters demonstrated, and as the Commission has found, the language of § 251(c)(3) is straightforward: ILECs have a duty to make UNEs available "to any requesting telecommunications carrier for the provision of a telecommunications service."<sup>4</sup> The text of the 1996 Act places no other restrictions on carriers' use of unbundled elements. Thus, because exchange access and interexchange service are "telecommunications services," the

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<sup>3</sup> First Report and Order, Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98, 11 FCC Rcd. 15499 (1996), ("Local Competition Order"), ¶ 356. See AT&T, pp. 2-5; CompTel, pp. 3-4; LBC, p. 1; KMC, pp. 4-5; MCI, pp. 3-4; Sprint, p. 4; WorldCom, pp. 5-7.

<sup>4</sup> 47 U.S.C. § 251(c)(3).

Commission has expressly held that carriers may use UNEs to provision access -- indeed, it observed that "there is no statutory basis upon which we could reach a different conclusion."<sup>5</sup>

Unable to ground their claims in the statutory definition of unbundled network elements, the ILEC commenters point instead to other provisions of the 1996 Act, which they contend support the inference that UNEs may only be used to provision local exchange services. First, several parties argue that § 251(g), which preserves the pre-enactment equal access regime until such time as the Commission promulgates regulations superseding it, implies that IXCs must continue to purchase exchange access services from LECs, rather than utilizing UNEs to provision access.<sup>6</sup> The Commission has already considered and dismissed this claim.

The ILECs' fundamental error in seeking to rely on 251(g) -- and an error that affects almost all of their arguments -- is their failure to recognize that "exchange access" is a particular service provided by LECs, while UNEs are "functionalities" or "facilities" that a requesting carrier may employ in any fashion that is consistent with § 251(c)(3). The Local Competition Order made this distinction explicit: "When interexchange carriers purchase unbundled elements from incumbents, they are not purchasing exchange access 'services.' They

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<sup>5</sup> Local Competition Order, ¶ 356. In one of the ILECs' sole references to the statutory definition of UNEs, BellSouth contends that exchange access is not a "telecommunications service" as that term is defined in 47 U.S.C. § 153(51) because "IXCs would not be obtaining UNEs to offer telecommunications to the public." BellSouth, p. 9. However, the Commission unequivocally has held that exchange access satisfies the statutory definition of a "telecommunications service." See Third Report and Order, Administration of the North American Numbering Plan, CC Docket No. 92-237, FCC 97-372, released October 9, 1997, ¶ 71.

<sup>6</sup> See Ameritech, pp. 6-10; Bell Atlantic, p. 3; NECA, p. 5.

are purchasing a different product, and that product is the right to exclusive access or use of an entire element."<sup>7</sup>

As a result, § 251(g) is simply irrelevant to the manner in which carriers may choose to employ unbundled elements. The ILECs made precisely the same argument in the Local Competition proceedings that they offer here: that § 251(g) expresses Congress' intent to require carriers to purchase exchange access services from LECs, and to prohibit the use of UNEs to provide that service. The Local Competition Order expressly rejected this claim, holding instead that § 251(g) serves only to permit competing carriers to continue to obtain exchange access services from the ILECs if they chose to do so, and does not restrict their ability to use UNEs to provide access for their own interexchange traffic or that of other carriers.<sup>8</sup>

The same ILECs that seek to rely on § 251(g) also argue that § 251(i) somehow precludes the Commission from permitting carriers to use unbundled network elements to provision access.<sup>9</sup> This contention was also considered and rejected in the Local Competition Order.<sup>10</sup> Section 251(i) simply provides that § 251 does not "limit or otherwise affect the Commission's authority under section 201," the statutory provision that is the basis for the

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<sup>7</sup> Local Competition Order, ¶ 358.

<sup>8</sup> See Local Competition Order, ¶ 362 ("[T]he primary purpose of section 251(g) is to preserve the right of interexchange carriers to order and receive exchange access services if such carriers elect not to obtain exchange access through their own facilities or by means of unbundled elements purchased from an incumbent.").

<sup>9</sup> See Ameritech, pp. 11-12; Bell Atlantic, p. 3; NECA, pp. 5-6.

<sup>10</sup> See Local Competition Order, ¶¶ 358-59.

Commission's power over interstate access charges. The ILEC commenters assert that permitting carriers to use unbundled transport to provision exchange access would "nullify"<sup>11</sup> § 251(i), because the Commission would not be able to regulate that use of UNEs pursuant to its traditional authority over access. The simple answer to this claim is that UNEs are a wholly different product from access services, as the Commission has clearly held. Section 251(i) is a savings provision that pertains to regulation of exchange access services; it is simply inapplicable to UNE-based activities.<sup>12</sup>

II. THE COMMISSION'S PRIOR DECISIONS REGARDING UNEs DO NOT LIMIT CARRIERS' ABILITY TO USE UNBUNDLED TRANSPORT TO PROVISION ACCESS

Some ILEC commenters argue that the Commission's prior findings that unbundled local switching and the unbundled loop cannot, as a practical matter, be used to provide access services by any carrier other than an end user's local service provider should be interpreted as

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<sup>11</sup> Ameritech, p. 11.

<sup>12</sup> Similarly meritless is the claim that allowing carriers to use unbundled network elements to provision access services would cede authority over interstate exchange access services to the states. See Ameritech, pp. 4, 14-15; BellSouth, pp. 10-11; GTE, pp. 11-12; SWBT, pp. 7-8; TWComm, pp. 5-6; USTA, pp. 6-7. While AT&T welcomes these parties' new-found respect for the FCC's jurisdiction, this argument is pure makeweight, as it was expressly rejected in the Local Competition Order. See Local Competition Order, ¶¶ 358-59. The Commission retains its full power, pursuant to sections 251(g) and 251(i), to regulate the interstate exchange access services of LECs and CLECs alike. Permitting carriers to use unbundled transport to provision access would in no way alter or limit that authority, or confer power over interstate exchange access services on the states.

limiting carriers' ability to use unbundled transport.<sup>13</sup> But, as AT&T explained in its initial comments, nothing in these prior orders finds any limitation in § 251(c)(3), or elsewhere in the Act, on a carrier's ability to use UNEs to provide access services for a customer to which it does not provide local exchange services. Instead, the Commission relied simply on the nature of the network elements at issue – local switching and loops – and the inherently indivisible use of those elements to provide both exchange and exchange access services. To the extent that there is no such inherent limitation on the use of other network elements, those elements could be used exclusively for exchange access without affecting customers' ability to obtain local exchange service.<sup>14</sup>

### III. JUDICIAL DECISIONS INTERPRETING THE 1996 ACT DO NOT LIMIT CARRIERS' ABILITY TO USE UNBUNDLED NETWORK ELEMENTS TO PROVISION ACCESS

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The ILEC commenters also argue that the Eighth Circuit's opinions in CompTel v. FCC<sup>15</sup> and Iowa Utilities Board v. FCC limit the use of unbundled elements to the provision of local exchange services. In fact, neither of these decisions addresses this subject, much less

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<sup>13</sup> See Ameritech, p. 17; Bell Atlantic, pp. 6-7; BellSouth, pp. 5-6; GTE, pp. 12-13; TWComm, pp. 8-10; USTA, p. 3; U S West, p. 2.

<sup>14</sup> To the extent the ILEC commenters may be correct that such inherent limitations also extend to unbundled transport (see Ameritech, p. 17; Bell Atlantic, pp. 6-7; BellSouth, pp. 5-6; GTE, pp. 12-13; TWComm, pp. 8-10; USTA, p. 3; U S West, p. 2), IXC's will not, as a practical matter, be able to employ transport in that manner in any event, and there is thus no need for the Commission to prohibit such uses. The Commission should not foreclose the possibility that a carrier might devise innovative ways to use unbundled transport in the provision of access services, a result the 1996 Act not only permits, but encourages.

<sup>15</sup> 117 F.3d 1068 (8<sup>th</sup> Cir. 1997).

constrains the Commission's authority to permit carriers to use unbundled network elements to provision access.

In CompTel, the Eighth Circuit addressed the Commission's definition of the word "interconnection" as used in § 252(d)(1) of the 1996 Act, upholding its determination that the term refers to "the physical linking of two networks for the mutual exchange of traffic."<sup>16</sup> The petitioners in that case argued, *inter alia*, that the Commission's decision violated § 252(d)(1)'s requirement that rates for interconnection be cost-based, because IXCs were required to continue to pay access charges to terminate and originate calls, while CLECs were subject instead to mutual compensation arrangements.

Some ILEC commenters seek to rely on CompTel's observations that, pursuant to § 251(g), "the LECs will continue to provide exchange access to IXCs for long distance service, and continue to receive payment, under the pre-Act regulations and rates."<sup>17</sup> However, this statement is fully consistent with the Commission's ruling, discussed above, that the 1996 Act preserves the existing regime of exchange access service regulation. The court did not in any way disapprove (nor did it even mention) the Commission's findings in the same order under consideration in that case that UNEs are a distinct product from exchange access services, and that § 251(c)(3) does not limit a carrier's ability to use unbundled elements to provision exchange access.

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<sup>16</sup> See id., at 1071-72; Local Competition Order, ¶ 176.

<sup>17</sup> CompTel, 117 F.3d at 1073.

The ILECs also point to another passage in CompTel to support their argument that UNEs must be used to provide local service.<sup>18</sup> In response to petitioners' claim that § 251(c)(2) "interconnection" and exchange access services were indistinguishable, the court wrote:

[T]he two kinds of carriers are not, in fact, seeking the same services. The IXC is seeking to use the incumbent LEC's network to route long-distance calls and the newcomer LEC seeks use of the incumbent LEC's network in order to offer a competing local service. Obviously the services sought, while they might be technologically identical (a question beyond our expertise), are distinct.<sup>19</sup>

The ILEC commenters assert that the above passage demonstrates "the fundamental distinctions between local exchange service and exchange access."<sup>20</sup> In fact, by its express terms, the passage discusses the difference between interconnection and exchange access services, and so is simply inapposite to the question of the permissible uses of UNEs. But even aside from that fundamental fact, the ILEC commenters point to a distinction without a difference. Even if exchange access and local exchange service are "fundamentally distinct," the Commission already has correctly found that both are "telecommunications services," and that both are therefore permissible uses for unbundled network elements pursuant to § 251(c)(3).

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<sup>18</sup> See Ameritech, p. 16; Bell Atlantic, p. 7; GTE, pp. 10.

<sup>19</sup> CompTel, 117 F.3d at 1073.

<sup>20</sup> Ameritech, p. 16.

The ILECs also seek to rely on footnote 20 to the Eighth Circuit's ruling in Iowa Utilities Board.<sup>21</sup> In its entirety, that footnote provides:

We note that the FCC's jurisdiction over the access charges that LECs collect from interexchange carriers (IXCs) for terminating the IXCs' interstate toll calls on the LECs' networks does not imply that the Commission also has jurisdiction over the rates that incumbent LECs may charge competing local exchange carriers for interconnection with or unbundled access to the incumbent LECs' networks. Interconnection and unbundled access are distinct from exchange access because interconnection and unbundled access provide a requesting carrier with a direct hookup to and extensive use of an incumbent LEC's local network that enables a requesting carrier to provide local exchange services, while exchange access is a service that LECs offer to interexchange carriers without providing the interexchange carriers with such direct and pervasive access to the LECs' networks and without enabling the IXCs to provide local telephone service themselves through the use of the LECs' networks.<sup>22</sup>

The ILECs argue that the underscored passage above establishes that UNEs must be used to provide local service, while exchange access service remains the only means for IXCs to offer service to customers for whom they are not also local service providers. This claim also suffers from two flaws, each of which is fatal to the ILECs' claim.

First, neither the passage above nor any other part of Iowa Utilities Board even purports to address the Local Competition Order's interpretation of § 251(c)(3)'s definition of UNEs, or the Commission's holding that CLECs may use UNEs to provision access and that when they do so they are entitled to collect access charges from IXCs.<sup>23</sup> In the quoted section of

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<sup>21</sup> See, e.g., Ameritech, pp. 14-15; GTE, p. 10.

<sup>22</sup> Iowa Utils. Bd., 1997 WL 403401 (8th Cir., July 18, 1997), at \*9, n.20 (emphasis added).

<sup>23</sup> Even if the court had sought in footnote 20 to offer its views concerning the nature of unbundled elements (which it did not), such statements would be pure *dicta* and would in no way bind the Commission.

its opinion the court holds simply that the states have the authority to set prices for UNEs.

Beyond that point, footnote 20 merely echoes the Local Competition Order's ruling that exchange access services are distinct from UNEs and interconnection. Iowa at no point calls into question the Local Competition Order's ruling that UNE-based access and LEC exchange access service are independent means by which carriers may obtain exchange access.

Second, even reading footnote 20 in the manner most favorable to the ILECs, it simply does not support their claims. The passage on which the ILEC commenters seek to rely states that "unbundled access provide[s] a requesting carrier with a direct hookup to and extensive use of an incumbent LEC's local network that enables a requesting carrier to provide local exchange services." This statement is unarguably true -- the ability to use UNEs is one of the fundamental methods that Congress provided in the 1996 Act to permit local exchange competition. However, Congress did not limit § 251(c)(3)'s description of the permissible uses of UNEs to the provision of local exchange service (although it could easily have done so if it wished), and nothing in Iowa Utilities Board is to the contrary. The court nowhere suggests that carriers must use UNEs to offer only local service. Indeed, Iowa goes on to observe that "under subsection 251(c)(3) a requesting carrier is entitled to gain access to all of the unbundled elements that, when combined by the requesting carrier, are sufficient to enable the requesting carrier to provide telecommunications services."<sup>24</sup>

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<sup>24</sup> Iowa Utils. Bd., at \*29 (emphasis added).

IV. THE UNRESTRICTED USE OF UNEs TO PROVIDE EXCHANGE ACCESS SERVICES WILL FURTHER THE COMMISSION'S PLAN TO ACHIEVE "MARKET-BASED" ACCESS CHARGE REFORM

The ILEC commenters also offer dire -- but utterly unsupported -- claims that permitting carriers to use unbundled transport to provision access would undermine the Commission's access reform plan and could jeopardize universal service.<sup>25</sup> The USTA, for example, asserts that costs "could run into billions of dollars," but provides no support of any kind for its assertion.<sup>26</sup> BellSouth alleges that it would lose \$300 million in access revenues, but it not only refuses to elaborate on this figure in any fashion, it also does not indicate the number of years over which this projection is spread, or what portion of this amount it would lose in any event as CLECs began to serve local customers in its territory.<sup>27</sup>

As AT&T showed in its comments,<sup>28</sup> any access revenues that incumbent LECs may lose as a result of the use of shared and dedicated transport could not be more than a small portion<sup>29</sup> of the more than \$16 billion that they now collect annually, on an interstate basis alone,

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<sup>25</sup> See, e.g., Ameritech, pp. 12-14; Sprint, p. 6-8.

<sup>26</sup> USTA, p. 2.

<sup>27</sup> See BellSouth, p. 11.

<sup>28</sup> See AT&T, pp. 5-7; CompTel, p. 8; MCI, pp. 4-6.

<sup>29</sup> The carrier providing local service to an end user (the ILEC in the vast majority of cases, at least in the near term) will retain the exclusive right to levy access charges associated with local switching and the loop, and to collect any access fees from end-users. In addition, ILECs would obtain revenues from the sale of unbundled transport and switching at cost-based prices that may also include a reasonable profit. Moreover, any impact on ILECs' access revenues has been further limited by the Second Order on Reconsideration in the Access Reform docket, which revised the Commission's prior decision to exempt

(footnote continued on following page)

for switched and special access services.<sup>30</sup> More fundamentally, competition will force the ILECs to make their exchange access services more attractive.

In its most recent access ruling, moreover, the Commission reiterated that its "market-based" plan for access reform depends on allowing carriers to compete away supracompetitive access rates, thereby driving exchange access charges to cost-based levels:

Our approach to access reform relies first on increasing market-based pressures as competition develops to place downward pressure on access charge levels. We conclude that, for this approach to succeed, we should develop a rate structure that permits maximum competitive pressure on each incumbent LEC revenue stream, absent compelling public policy reasons to the contrary.<sup>31</sup>

Thus, the fact that ILECs may find that they cannot sustain current access charge levels is not an unintended consequence of § 251(c)(3) that the Commission should seek to avoid, but rather is

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(footnote continued from previous page)

competitive providers of local transport from paying the "Transport Interconnection Charge" ("TIC") to ILECs for traffic delivered to ILEC local switches, and concluded that non-ILEC providers of local transport will instead be required to pay a "residual TIC" -- the portion of the TIC that will not be allocable to facilities-based rate elements. Second Order on Reconsideration and Memorandum Opinion and Order, Access Charge Reform, CC Docket No. 96-262, FCC 97-368, released October 9, 1997 ("Access Reform Second Reconsideration Order"), ¶ 61.

<sup>30</sup> Two ILECs suggest that permitting the use of unbundled transport UNEs to provision access could amount to a confiscatory act. See Ameritech, p. 19; SWBT, p. 8. This claim is particularly frivolous in light of the amount of access revenue at issue, and the double-digit growth in profits the ILECs have enjoyed for many years. See, e.g., Duquesne Light Co. v. Barasch, 488 U.S. 299, 312 (1989) (holding a regulated utility can show a taking only by demonstrating that its rates are so low that they in fact "jeopardize the [company's] financial integrity").

<sup>31</sup> Access Reform Second Reconsideration Order, ¶ 66.

precisely the result its has sought to encourage.<sup>32</sup> In fact, the first Access Reform Order expressly stated that the Commission would "rely on the availability of unbundled network elements to place market-based downward pressures on access rates...."<sup>33</sup>

V. SWBT's TECHNICAL FEASIBILITY CLAIM HAS ALREADY BEEN CONSIDERED AND REJECTED BY THE COMMISSION

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Finally, SWBT devotes the bulk of its comments to the tired argument that it cannot determine which LEC is utilizing an unbundled switch, and therefore purportedly cannot calculate access bills for carriers other than itself.<sup>34</sup> SWBT's proposed solution to this "problem" is to retain all access revenues for its local switches until such time as it devises a solution that is

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<sup>32</sup> The ILECs' claims that the Commission should not permit carriers to provision access using unbundled transport because that practice might depress the access revenues of CAPs and CLECs are similarly misplaced. See Bell Atlantic, p. 4; BellSouth, pp. 11-12; USTA, p. 9. These access providers should not be permitted to earn supracompetitive returns simply for the sake of permitting ILECs to continue to do so.

<sup>33</sup> First Report and Order, Access Charge Reform, CC Docket No. 96-262, FCC 97-158, released May 16, 1997 ("Access Reform Order"), ¶ 199. In addition, ALTS has requested that the Commission use this proceeding to resolve an issue raised by its petition for reconsideration of the Access Reform Order. ALTS, pp. 4-6. As AT&T stated in its opposition to that petition, if a carrier purchases unbundled transport in order to deliver traffic to an ILEC's end office, then that carrier should be exempted from paying the non-residual TIC to the incumbent LEC. The Commission's rules provide that non-residual TIC charges apply only to "minutes utilizing the local exchange carrier's local switching facilities, but not the local exchange carrier's transport service." 47 C.F.R. § 69.155(c)(1). As shown above, the Commission has held that an unbundled network element is a "functionality" or "facility" rather than a service, and has expressly distinguished the use of UNEs from the "service" of exchange access. When a carrier other than the incumbent LEC purchases unbundled local transport from that ILEC, it is acting as a competitive provider no less than traditional CAPs. See AT&T Opposition to Petitions to Reconsideration, filed August 18, 1997, at pp. 18-20 in Access Reform Order.

<sup>34</sup> See SWBT, pp. 1-6.

acceptable to it. Putting aside the fact that such an arrangement would give ILECs a powerful incentive to delay resolving this alleged technical problem, the Commission has already considered and rejected this very argument.

Although SWBT does not assert that it only recently discovered its purported billing deficiency, the Third Order on Reconsideration in this proceeding observes that during the Commission's consideration of that order, only Ameritech argued "that it is unable accurately to bill for the use of shared transport."<sup>35</sup> That order also noted that Bell Atlantic, NYNEX and PacTel affirmatively stated to the Commission that they are able to offer shared transport and that, in any event, "a determination of technical feasibility does not include consideration of billing concerns."<sup>36</sup> SWBT's concerns thus are not only untimely, they are directly contradicted by the statements of other ILECs.

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<sup>35</sup> Third Order on Reconsideration, ¶ 26, n.77.

<sup>36</sup> Id. (citing 47 C.F.R. § 51.5 and Iowa Utils. Bd., at \*21). In addition, in order to permit CLECs utilizing unbundled local switching to bill IXC's for exchange access services (as the Commission long ago decided it must do), SWBT will have to develop the very capability it now complains is infeasible -- that is, it will have to match unbundled switch ports with the LEC to which they are assigned. This requirement did not deter the Commission from promulgating its Local Competition Order, and SWBT offers no valid reason to revisit that conclusion in this proceeding.

CONCLUSION

For the reasons stated above and in AT&T's comments, the Commission should find that a carrier may use unbundled network elements to provide exchange access services without regard to that carrier's provision of exchange services to any given customer.

Respectfully submitted,

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October 17, 1997

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LBC Communications ("LBC")

MCI Telecommunications Corp. ("MCI")

National Exchange Carrier Association, Inc. ("NECA")

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**CERTIFICATE OF SERVICE**

I, Terri Yannotta, do hereby certify that this 17<sup>th</sup> day of October, 1997, a copy of the foregoing "AT&T Corp. Reply Comments on Further Notice of Proposed Rulemaking Released August 18, 1997" was mailed by U.S. first class mail, postage prepaid, to the parties listed on the attached service list.

/s/ Terri Yannotta  
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