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

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In the Matter of

Computer III Further Remand Proceedings:	)	**CC Docket No. 95-20**
Bell Operating Company	)	
Provision of Enhanced Services	)	
1998 Biennial Regulatory Review	)	**CC Docket No. 98-10**
Review of Computer III and ONA	)	
Safeguards and Requirements	)	

To: The Commission

REPLY

Western Regional Networks, Inc.
RapidNet, Inc
The Coalition of Utah Independent Internet Service Providers

Western Regional Networks, Inc is an Internet Service Provider in rural Colorado and Eastern Utah. RapidNet, Inc is an ISP serving the people of South Dakota, Northern Nebraska, and Eastern Iowa. The Coalition of Utah Independent Internet Service Providers (CUIISP) represents over a hundred Internet Service Providers throughout the State of Utah. We serve the people of this area utilizing the services of 20 plus Incumbent Local Exchange Carriers, the largest being U.S. West Communications.

The Reply comments are particularly pointed at USWC, but should not be constrained to this one specific RBOC. It is our opinion, that this "Provision of Enhanced Services" is global, extremely important and effects all RBOC's and all ISP's. The stance that we take is that; only with competition on a fair and level playing field, will ISP's be able to survive.

Pure ISP's are not able to compete with RBOC's without the ability to purchase unbundled network elements and other services that are critical to the operation of their networks at a price that is competitive. With entry of the RBOC's into this unregulated arena, the fate of thousands of ISP's is in serious jeopardy, without the ability to adequately compete. The pure ISP, unable to qualify as a telecommunications carrier and not able to afford the expense and effort of qualifying as a CLEC, is restricted from competing in any meaningful way under the rules of section 251. The Commissions request for comment is gratefully accepted.

The comments are directed at two separate inequities. Whether the Commission should extend the "251-type" unbundling to "pure ISP's" and comments as to whether Open Network Architecture has been effective as a means of promoting competition.

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The Commission should extend the 251-type unbundling to a class of enhanced service providers commonly referred to as "pure ISP's" for very simple reasons. With the changes in the provision of enhanced services due to the Internet, a new provider of telecommunications services has evolved, know as an Internet Service Provider (ISP). The growth of this class of provider since the introduction of the Telecommunications Act of 1996 (TCA96), has changed the provision of service in some remarkable and unexpected ways. It has been estimated by BoardWatch Magazine that there are in excess of 4500 ISP's in the United States, most having been formed since the concept of TCA96 was solidified. The ISP's depend upon certain portions of the public switched telephone network for the transport and end-use of the services that they sell to the general public. It has been only with great difficulty that these services have been obtained from the RBOC's, who are now in direct competition with the ISP's. The price that must be charged to the end-user has been established and it is generally accepted that the price point cannot be easily changed in the highly competitive markets that exist. Since the single greatest determinate of cost of goods sold is for telephone lines and transport which is determined by the local telephone company, there is a great chance for uncompetitive behavior on the part of the telephone company. We understand that there are provisions and safeguards built into both the ONA and the Structural Safeguards, but in practice, without the access to the unbundled elements and other services such as co-location, the ability of the telco's to cost shift and charge for services not needed, reduces competition. As a specific example, we wish to offer xDSL services. For the co-located provider, it is only necessary to use one loop of the unbundled network terminated at the customers premise and that loop is provided at wholesale cost. For the ISP, the telco's have a special deal, buy two loops, pay retail and be undercut by their provision of services to our customers at their own special rates. These rates, as advertised in Denver by USWC, are lower than could be provided by normal accounting methods using the standard tariffs in Colorado. How could these practices be considered competitive? Without the ability for the ISP's to enjoy a level playing field, access to the same elements as the telco's, there will never be a true preservation of competition. These services are unregulated and as such can be offered at any price in an effort to destroy the competition, the small ISP.

The use of methods that are available to remedy this inequity do not provide the ISP's with relief. The ISP is an enhanced service provider, but not a telecommunications provider in the sense of law. This leaves them without the ability to apply and use the services that would allow them to become competitive. The ISP, especially the medium and small providers cannot afford to become CLEC's and do not fit the mold that this designation enforces. The ISP has no recourse or position from which to combat the uncompetitive behavior of the telco. Specific relief must be granted through the FCC to both recognize the "pure ISP" as an enhanced service provider and bestow upon them the ability to purchase unbundled network elements, basic service elements, co-location and other elements critical to competing in a cost effective manner. Without this relief, there will never be a competitive arena and in the end all services will be provided by the RBOC's simply because no one will have the financial ability to stay in business.

ONA has not been an effective method of ensuring competition from the standpoint of the ISP because the ISP's have been excluded from participating due to the language of section 251. By not being able to be classified, as a telecommunications provider because of the scope of their services, the "pure ISP" is not able to enjoy any of the safeguards afforded by ONA. The scope of the services that are provided by the ISP's is a subset of the services required to qualify and are specifically restricted from application. In specific reference, U S West refuses to allow

application for co-location by ISP's, a move that would enhance competition, because they are not required to provide this. If ISP's are not allowed to have access to the elements that make up their "raw materials" and the RBOC's are allowed to continue to sell the same elements to the public, there will never be a competition. Without this competition there will be no ISP's, having been driven out of business by the predatory pricing of the RBOC's.

We hope that the Commission will consider enhancing the competition in the marketplace by exploring including the "pure ISP" as an entity that is able to enjoy the same ability as the traditional telecommunications provider in purchasing services from the RBOC's. This exploration is critical to the survival of the ISP's.

Respectfully submitted;

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