

peering arrangements, are being increasingly used by ISPs to access the Internet Backbone on behalf of their customers.

47. However, there have been indications that such peering arrangements could be adversely impacted by the pending MCI-WorldCom merger. Moreover, the problems with collocation, protocol resolution, and equipment deployment scattered throughout the CLECs and ISPs comments have contributed to the pervasive use of these private arrangements. The PaPUC believes these arrangements must be examined prior to any decision on the Section 706 relief sought by the Petitions.

CONCLUSION

48. The PaPUC urges the FCC to comply with the spirit and letter of the TA-96. The RBOCs' forbearance under Section 706 regarding Sections 251, 271, and 272 must be denied. Section 251's resale, unbundling, and interconnection requirements are far too important to be circumvented by an untenable legal theory. Section 271's provisions regarding RBOC entry into the interLATA market are far too important to be

circumvented by an untenable request for a dataLATA, which is really a LATAbuster, that will obviate the pro-competitive thrust of this section. That is especially the case when, as here, there has been no inquiry under Section 706(b) and the states have not been consulted as part of the joint authority they possess in this area under Section 706(a).

49. Equally important, the PaPUC is concerned that the premature grant of Section 706 relief undermines Pennsylvania's current efforts regarding Section 271. The PaPUC opened an investigation into the viability of adopting a Pennsylvania-specific version of the recent New York Prefiling Statement. The New York Statement contains a series of commitments BA made in order to secure New York's endorsement of BA's anticipated Section 271 application to the FCC. The premature grant of Section 706 relief at this time will obviate Pennsylvania's efforts to build upon the New York experience in crafting a series of viable commitments that will foster competition in Pennsylvania consistent with the TA-96 and Chapter 30.

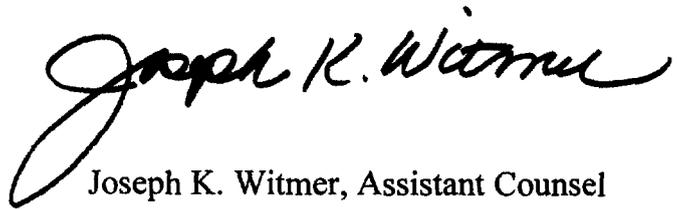
50. The PaPUC also urges the FCC to deny the RBOCs' request for another reason. The Section 706 relief helps the ISPs and CLECs avoid the market, customer,

and investment risks associated with deployment of xDSL technology over the current copper network. The PaPUC opposes any Section 706 relief that insulates competitors from risk at the expense of the RBOCs premised on the resurrection of monopoly.

51. The PaPUC proposes an alternative, albeit less favorable, to outright denial. The PaPUC urges the FCC to conduct the Section 706(b) inquiry as part of the Section 10 tests before any Section 706 relief is granted. The Section 706(b) and Section 10 inquiry must examine, at a minimum, peering arrangements, collocation, the availability of dry copper at the loop and sub-loop level, and the deployment of xDSL equipment by competitors. Any Section 706 inquiry must be conducted in light of the states' joint authority under Section 706(a). Any Section 706 relief that emerges at the end of the inquiry must require compliance with some version of the Section 251, 271, and 272 requirements. Finally, the governments' must cooperate in fashioning compliance with the terms of such Section 706 relief and the states should be expressly authorized to impose additional requirements under their Section 706(a) authority and independent state law.

52. The PaPUC thanks the FCC for providing an opportunity to file these Reply Comments and is particularly grateful for the extension. That extension was important given the critical issues contained in this proceeding as well as the ongoing states' work implementing the TA-96.

Respectfully submitted,



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Dated: May 6, 1998

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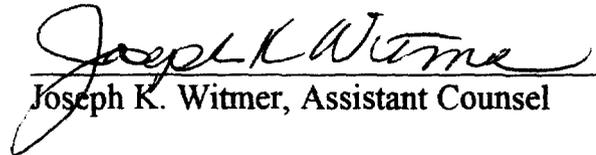
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