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

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In the Matter of	)	
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Petition of the Association for Local Telecommunications Services (ALTS) for a Declaratory Ruling Establishing Conditions Necessary to Promote Deployment of Advanced Telecommunications Capability Under Section 706 of the Telecommunications Act of 1996	)	CC Docket No. 98-78

COMMENTS OF WORLDCOM, INC.

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June 18, 1998

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SUMMARY

WorldCom strongly supports the ALTS Petition. The very real promise of the 1996 Act is mirrored in the pro-competitive, pro-consumer regulatory model proposed by ALTS, built on the encouragement of strong private investment by myriad companies in America's next generation telecommunications and data networks. The ALTS Petition offers a reasonable and welcome counterpoint to the hopelessly unbalanced and anticompetitive Section 706 petitions filed recently by four Regional Bell Operating Companies.

WorldCom wholeheartedly agrees with ALTS' position that the pro-competitive provisions of the 1996 Act -- Sections 251, 252, and 271 -- apply to the RBOCs' deployment of advanced telecommunications and data facilities, networks, and services. Those provisions do not distinguish between "basic" and "advanced" telecommunications and data services, nor does the legislative history support any disparate treatment of these services. Further, to encourage the accelerated deployment of advanced services, the Commission must rely on open and unbridled competition between multiple providers, not the further, deregulated extension of the incumbents' closed monopolies. In order for such competition to occur, ALTS correctly notes that CLECs need to be able to obtain the full measure of interconnection, collocation, UNEs, and resale if they are to realize their full potential as competitors in advanced services.

For purposes of this proceeding, WorldCom focuses on one particular "advanced telecommunications capability," Digital Subscriber Line, that the Commission should seek to encourage through its policies. In WorldCom's view, DSL technology holds the potential to singlehandedly transform the ordinary twisted-pair copper telephone line into the "Local Loop of the 21st Century." The ILECs cannot be allowed to take advantage of their sole control over that bottleneck facility by shutting out all competitors from any realistic opportunity to offer

DSL in the same way that the ILECs purportedly will. At minimum, as requested by the ALTS Petition, this means that DSL capability must be subject to the interconnection, collocation, unbundling, and resale requirements of Section 251(c) of the 1996 Act, so that CLECs can provide a rich panoply of broadband services on a competitive basis.

The 1996 Act gives CLECs multiple pathways for providing competitive telecommunications services to their end user customers in the local market. A competing carrier can, at its own option, (1) construct new local facilities interconnected with the ILEC's facilities (Sections 251(c)(2), 251(c)(3), and 251(c)(6)); (2) lease network elements at cost-based rates to provide competing service (Section 251(c)(3)); and/or (3) resell the ILEC's retail services at wholesale rates (Section 251(c)(4)). In the context of DSL service, these three statutory pathways translate into a CLEC's provision of: (1) DSL-capable loop, a conditioned ILEC loop (as a UNE), combined with the CLEC's own collocated DSL electronics; (2) DSL-equipped loop, a conditioned ILEC loop, the ILEC's DSL electronics, and (optionally) the ILEC's local switching and transport (as UNEs), with collocation at the CLEC's option; and/or (3) DSL service, the ILEC's retail DSL service on a resale basis, with no collocation required. These three competitive entry options are expressly available to CLECs under the 1996 Act, and should be enhanced, not foreclosed, by the Commission in any Section 706 proceedings.

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COMMENTS OF WORLDCOM, INC.

WorldCom, Inc. ("WorldCom"), by its attorneys, hereby files initial comments in support of the petition for declaratory ruling ("Petition") filed by the Association for Local Telecommunications Services ("ALTS") on May 27, 1998 in the above-captioned proceeding.[1] WorldCom urges the Commission to adopt the pro-competitive proposals contained in the ALTS petition, at the same time that it denies the blatantly one-sided and unlawful demands contained in the Section 706 petitions filed by Bell Atlantic, US WEST, Ameritech, SBC, and their Alliance for Public Technology front group.

I. INTRODUCTION AND BACKGROUND

WorldCom, Inc. is a leading global telecommunications company. Through its wholly-owned subsidiaries, WorldCom provides its business and residential customers with a full range of facilities-based, fully integrated local, long distance, and international telecommunications and information services. In particular, WorldCom currently is the fourth

[1] The Common Carrier Bureau issued a Public Notice establishing a pleading cycle. Public Notice, DA 98-1019, released May 28, 1998.

largest facilities-based interexchange carrier ("IXC") in the United States, as well as a significant facilities-based competitive local exchange carrier ("CLEC") and Internet service provider ("ISP").

In its Petition, ALTS asks the Commission to take various steps to promote the introduction of advanced telecommunications services pursuant to Section 706 of the Telecommunications Act of 1996 ("1996 Act"). In particular, ALTS seeks the prompt issuance of a declaratory ruling acknowledging that critical components of the 1996 Act, including requiring incumbent local exchange carriers ("ILECs") to provide interconnection (Section 251(c)(2)), collocation (Section 251(c)(6)), unbundled network elements ("UNEs") (Section 251(c)(3)), and retail services for resale (Section 251(c)(4)), apply fully to digital and broadband services, facilities, and technologies. ALTS also urges the Commission to fix its current collocation rules.

WorldCom strongly supports the ALTS Petition. The very real promise of the 1996 Act is mirrored in the pro-competitive regulatory model proposed by ALTS, built on the encouragement of strong private investment by myriad companies in America's next generation telecommunications and data networks. The ALTS Petition offers a reasonable counterpoint to the unreasonable Section 706 petitions filed recently by three Regional Bell Operating Companies ("RBOCs"). Indeed, even as parties prepare their reply comments concerning the ALTS Petition, a fourth RBOC -- SBC -- has filed its own Section 706 petition, this one seeking radical deregulation of SBC's provision of DSL services and underlying facilities.[2] WorldCom filed

[2] Petition of Southwestern Bell Telephone Company, Pacific Bell, and Nevada Bell for Relief from Regulation, CC Docket No. 98-91, filed June 9, 1998 ("SBC Petition").

extensive and detailed oppositions to the previous RBOC and APT petitions,[3] and will submit comments concerning the SBC petition as well. While WorldCom will not repeat its numerous legal, policy, and factual arguments from those proceedings, one practical point deserves a brief mention before turning to the merits of the ALTS Petition.

A common legal argument advocated by the RBOCs is that Section 706 is an independent grant of authority, which would allow the RBOCs to circumvent Section 10(d)'s explicit prohibition on any ILEC forbearance from abiding by the requirements of Section 251(c) and 271.[4] WorldCom and other commenters already have thoroughly discredited this notion, and that analysis need not be repeated here.[5] However, should the Commission somehow buy into the RBOCs' skewed interpretation of the 1996 Act, the implications are far greater than the RBOCs' attempts to destroy viable competition in the local markets. Determining that Section 706 is an independent grant of authority, unfettered by any other provision of the 1996 Act or the 1934 Act, means that all of 706 -- not just the forbearance provision -- would be free of other statutory restrictions.

In particular, WorldCom believes that acceptance of the RBOCs' legal argument would have landmark implications for another aspect of Section 706 conveniently overlooked by the RBOCs -- the direction that the Commission and state commissions utilize "measures to

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[3] Consolidated Opposition of WorldCom, Inc., CC Docket Nos. 98-11, 98-26, 98-32, filed April 6, 1998 ("WorldCom Opposition"); Consolidated Reply Comments of WorldCom, CC Docket Nos. 98-11, 98-26, 98-32, filed May 6, 1998; Comments of WorldCom, Inc., CCB/CPD 98-15, filed April 13, 1998; Reply Comments of WorldCom, Inc., CCB/CPD 98-15, filed May 4, 1998.

[4] See SBC Petition at 23-24.

[5] See WorldCom Opposition at 10-11.

promote competition in the local telecommunications market...."[6] Surely, if the Section 706 forbearance authority is unfettered by Section 10, as the RBOCs assert, then the Section 706 direction to utilize local competition measures similarly is independent of Section 251, Section 252, and any other provision of the Act. Under this reading, the Commission would be free to compel the RBOCs to take a whole host of pro-competitive measures consistent with the public interest, even though such authority may not be expressly contained in, or may even directly contradict, other provisions of the 1996 Act. These measures could include, for example: (1) requiring the RBOCs to structurally separate their retail and wholesale functions; (2) mandating a specific metrics test under which the RBOCs would be granted Section 271 approval only after losing significant market share; (3) adding additional elements to the competitive checklist; and (4) compelling the RBOCs to resell their local services based on incremental, forward-looking costs. WorldCom submits that, faced with this obvious conundrum of their own creation, the RBOCs might choose to withdraw their petitions rather than be forced to take even one step further to surrender their ironclad control over local bottleneck facilities.

II. ALTS CORRECTLY IDENTIFIES THE KEY FACTORS NECESSARY FOR THE COMPETITIVE AND UBIQUITOUS DEPLOYMENT OF ADVANCED TELECOMMUNICATIONS CAPABILITIES, SUCH AS DSL SERVICE, TO BENEFIT ALL AMERICANS

WorldCom wholeheartedly agrees with ALTS' position that the pro-competitive provisions of the 1996 Act -- Sections 251, 252, and 271 -- apply to the RBOCs' deployment of advanced telecommunications and data facilities, networks, and services. Obviously those

[6] 47 U.S.C. Section 157 nt (Section 706(a)).

provisions of the 1996 Act do not distinguish between "basic" and "advanced" telecommunications and data services, nor does the legislative history support any disparate treatment of these services. Further, to encourage the accelerated deployment of advanced services, the Commission must rely on open and unbridled competition between multiple providers, not the further, deregulated extension of the incumbents' closed monopolies. In order for such competition to occur, ALTS correctly notes that CLECs need to be able to obtain the full measure of interconnection, collocation, UNEs, and resale "if they are to realize their full potential as competitors in advanced data services."[7]

For purposes of this proceeding, WorldCom wishes to focus on one particular "advanced telecommunications capability" the deployment of which the Commission should seek to "encourage" through its policies, namely Digital Subscriber Line ("DSL"). Contrary to popular conceptions, DSL (also called "xDSL" to represent its various possible iterations) itself is not a certain type of telephone line or service, but rather is a technology that uses advanced electronics to greatly increase the capacity, speed, and capability of existing copper telephone loops. In its essence, DSL attaches a pair of high-speed digital modems at either end of a standard copper access line. Some models of DSL also include splitters that separate circuit-switched voice signals from packet-switched or dedicated data signals.

Many optimistic words have been spoken and printed on the enormous potential of DSL as the enabling access technology of the Information Age. WorldCom, as one of the first CLECs to announce plans to provide DSL services across the country, shares in this general

enthusiasm.[8] Indeed, WorldCom's MFS subsidiary was the first company to develop a workable IDSL service to replace circuit-switched ISDN service, the first to actually deploy the service, and the first to present it to the Commission as part of a live demonstration in 1996. Moreover, in each of its interconnection agreements with the ILECs, MFS has been successful in negotiating the right to utilize DSL capability to provide service ubiquitously to its end user customers. Nonetheless, for over two years, even as they declined to provide DSL services themselves, the ILECs successfully stonewalled MFS and other CLECs from accessing DSL-capable loops and DSL technologies.[9] Only now, after some CLECs have begun to experience limited success in a few niche markets, have the ILECs awakened to discover the promise of DSL. With this discovery, the ILECs have unilaterally decided (with the typical arrogance of the late-arriver) that only they can and should be entitled to provide DSL service, and thus should be able to shut everyone else out of the market.

From a policymaker's perspective, it is important to understand precisely how DSL works, in order to take all necessary steps to enhance the ability of all competitors to utilize DSL technologies to serve the American consumer. In WorldCom's view, DSL technology holds the potential to singlehandedly transform the ordinary twisted-pair copper line into a

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[8] See Press Release, "MFS and UUNET Announce Plan to Rollout New xDSL Services That Redefines Internet Access for Growing Businesses," December 9, 1996; see also "Uunet to Launch High-Speed DSL Services," Web Week, January 6, 1997 (with regard to xDSL, the RBOCs are "still trying to play catch-up" to MFS and other CLECs).

[9] Several commenters in the RBOC Section 706 proceedings presented an excellent snapshot of this anticompetitive ILEC behavior. See Comments of Covad Communications Company, CC Docket Nos. 98-11, 98-26, 98-32, filed April 6, 1998, at 8-12 ("Covad Comments"); Comments of the DSL Access Telecommunications Alliance, CC Docket Nos. 98-11, 98-26, 98-32, filed April 6, 1998, at 11-14 ("DATA Comments").

dedicated, high-speed digital circuit that will become the "Local Loop of the 21st Century." The ILECs cannot be allowed to leverage their sole control over the underlying bottleneck loop facility by preventing competitors from having any realistic opportunity to offer DSL in the same ways that the ILECs now claim they will. At minimum, as requested by the ALTS Petition, this means that DSL-capable loops and DSL electronics must be subject to the interconnection, collocation, unbundling, and resale requirements of Section 251(c) of the 1996 Act, so that CLECs also have the opportunity to provide a rich panoply of broadband services by using the local loop bottleneck on a competitive basis.

A. Any Carrier's Provision of DSL-Based Service Requires Use of DSL-Capable Local Loops, DSL Electronics, And Associated OSS Capabilities

In order to provide DSL-based services to its end user customers, a carrier requires access to: (1) DSL-capable local loops, (2) the necessary DSL electronics, including the DSLAM and (in some cases) RDSLAM, and (3) associated operational support systems (OSS). Each element will be discussed briefly below.

1. DSL-Capable Local Loops

In order for end users to receive DSL service, local loops must be used to connect DSL electronics provided by the end user to matching DSL electronics located in the ILEC Central Office ("CO"). Currently there are approximately 170 million local loops in service in the United States.[10]

[10] The last concerted attempt to produce a nationwide, verifiable description of local loop plant was completed (partially) in 1982, just prior to the breakup of the Bell System.

Local loops generally fall into two broad categories. The first type, sometimes called the "home run loop," consists of an ordinary twisted pair copper line that runs directly from the CO to the end user's premises.[11] Based on industry estimates, approximately 70 to 80 percent of U.S. subscribers are served via home run copper loops, typically in more urbanized areas.

The second type of local loop is the "remote loop," which depends on the deployment and use of pair gain infrastructure called Digital Loop Carrier ("DLC"). An older version of this technology was known as subscriber line carrier ("SLC"). Typically used to economically serve end users located more than 18,000 feet from the CO, DLC utilizes a combination of fiber feeder (from the CO to a pedestal containing a Remote Terminal ("RT") that concentrates residential traffic onto digital circuits) and copper line (from the pedestal to the customer premises). Approximately 20 to 30 percent of U.S. subscribers are served via this fiber/copper loop combination, mostly in suburban and rural areas.

Given the specific technical requirements of high-speed digital transmissions, a local loop often must be "conditioned" in order to support DSL service. This conditioning process includes a determination that the loop in question is free of analog load coils (which block data signals), repeaters, and excessive bridge taps (extensions or spurs of a particular

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As discussed later, WorldCom believes the Commission should exercise its authority under Section 706(b) by ordering the ILECs to submit statistically valid descriptions of their loop plant. Such a study would allow the Commission to determine key characteristics of current loop plant, including the total number of loops and what percentage consists of home run loops versus remote loops.

[11] This loop may have several gauges of wire spliced and/or cross-connected at multiple points between the CO and the end user.

copper pair to other routes in the feeder plant), and that the copper is of adequate quality. In addition, the length of the loop must not exceed a certain distance (in the case of ADSL, for example, its nominal range is 18,000 feet in order to provide throughput of 1.544 Mbps). Finally, DSL usually cannot be employed on adjacent loops in the same binder group without creating high frequency interference (thereby acting as a so-called "disturber"). Once an individual loop has passed these tests, it is deemed conditioned, and should be fully capable of employing DSL.[12]

2. The DSLAM and RDSLAM

The major intelligent component of the DSL functionality is the DSL Access Multiplexer ("DSLAM"). Equal parts modem, splitter, concentrator, multiplexer, and switch, the DSLAM physically resides in the ILEC central office, prior to the voice switch. The DSLAM's chief function is to terminate and aggregate multiple incoming DSL lines, redirecting voice traffic to the public switched telephone network ("PSTN") and concentrating data traffic for delivery to the high-speed digital backbone network. When DLC is used to provide DSL service over a combined fiber/copper loop, the carrier must employ a separate remote DSLAM ("RDSLAM") device, with public interfaces, at the remote terminal.[13]

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[12] Such conditioning tests and procedures already are commonly employed by the ILECs today to provide Basic Rate ISDN service, which after all is just a slower version of DSL.

[13] To receive and transmit DSL service transmissions, the end user also must utilize a DSL modem and, in most cases, a voice/data splitter, as customer premises equipment ("CPE"). The future use of Universal-ADSL (U-ADSL) will obviate the need for a splitter at the customer's premises.

3. Operational Support Systems

In order to be able to utilize the conditioned loops and DSL electronics, carriers must have access to operational support systems. These systems allow carriers to pre-order, order, provision, maintain, and bill for usage of services and functionalities.

B. The 1996 Act Requires ILECs To Provide CLECs With DSL-Capable Loops, DSL-Equipped Loops, And/Or DSL Services

The 1996 Act gives CLECs multiple pathways for providing competitive telecommunications services to their end user customers in the local market. A competing carrier can, at its own option, (1) construct new local facilities interconnected with the ILEC's facilities (Sections 251(c)(2), 251(c)(3), and 251(c)(6)); (2) lease network elements at cost-based rates to provide competing service (Section 251(c)(3)); and/or (3) resell the ILEC's retail services at wholesale rates (Section 251(c)(4)). In the context of DSL service, these three statutory pathways translate into a ILEC's provision of:

(1) DSL-capable loop -- a conditioned ILEC loop (as a cost-based UNE), combined with the CLEC's own collocated DSL electronics;

(2) DSL-equipped loop -- a conditioned ILEC loop, the ILEC's DSL electronics, and (as an option) the ILEC's local switching and transport (as separate cost-based UNEs), with collocation at the CLEC's option; or

(3) DSL service -- the ILEC's retail DSL service on a resale basis (at a wholesale rate), with no collocation required.

While the ILECs generally give minimal lip service to providing CLECs with the first option (DSL-capable loops), they uniformly seek to deny CLECs the ability to employ DSL-equipped

loops or DSL service. As will be explained below, however, these two competitive entry options are expressly available to CLECs under the 1996 Act, and cannot be foreclosed by the Commission in any Section 706 proceedings.

1. DSL-capable loop

The 1996 Act plainly requires the ILECs to provide local loops as unbundled network elements.[14] The Commission has further clarified that a local loop is a "transmission facility between a distribution frame, or its equivalent, in an incumbent LEC central office, and the network interface device at the customer's premise."[15] This definition includes "two-wire and four-wire loops that are conditioned to transmit the digital signals needed to provide services such as ISDN, ADSL, HDSL, and DS1-level signals."[16] The Commission found it "particularly beneficial" for CLECs to utilize DSL-conditioned loops from the ILECs in order to be able "to offer various digital loop functions in competition with incumbent LECs...."[17] Nor can the ILEC refuse to provide a DSL-conditioned loop just because its own deployment plans have not yet been finalized; as the Commission concluded, the Act "does not limit the types of telecommunications services that competitors may provide over unbundled network elements to

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[14] 47 U.S.C. Section 271(c)(2)(B); Joint Explanatory Statement at 116.

[15] In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98, First Report and Order, 11 FCC Rcd 15499 (1996), aff'd in part and rev'd in part, Iowa Utilities Board v. FCC, 120 F.3d 753 (8th Cir.), cert. granted, 118 S.Ct. 879 (1998) ("First Competition Order") at para. 380.

[16] Local Competition Order at para. 380.

[17] Id.

those offered by the incumbent LEC."[18] A DSL-capable loop offered as an unbundled element must be provided at rates based on forward-looking, long-run economic cost.[19]

Despite these rock-solid requirements, available evidence indicates that the ILECs are doing all they can to delay or deny competitors the ability to use DSL-capable loops. For example, most ILECs are not provisioning any DSL-conditioned loops upon reasonable request. Covad reports that Bell Atlantic has been particularly egregious in refusing Covad's requests for DSL-capable loops.[20] Many ILECs also have sought to create lofty pricing barriers for the use of DSL-capable loops, including exorbitant recurring and/or non-recurring rates.[21] While some small increment of time and cost may be necessary to qualify certain capable loops, this process is highly automated and should not require significant additional time or expense by the ILECs. Further, because ISDN service requires the same type of loop conditioning process, the provisioning period and recurring and non-recurring charges for DSL loop and ISDN loops certainly should be comparable. Moreover, conditioning should not even be necessary in most instances. The Commission determined in the Universal Service Order that universal service should cover voice grade access, based on a loop design that does not include load coils or otherwise "impede the provision of advanced services."[22] As a result, the ILECs already should

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[18] Id. at para. 382.

[19] 47 U.S.C. Section 252(d)(1); Local Competition Order at para. 328.

[20] See Covad Comments at 8-11; DATA Comments at 11-14.

[21] Covad Comments at 11-12. WorldCom is aware, for example, that BellSouth now charges CLECs in Georgia a non-recurring charge of $600 per DSL-capable loop order, in addition to excessive recurring charges for such loops.

[22] In the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report and Order, issued May 8, 1997, at para. 250 ("Universal Service Order").

be providing loops that meet this requirement. This often overlooked aspect of the Universal Service Order is extremely relevant as the Commission considers its obligations under Section 706.

As part of the fact-finding process mandated by Section 706(b),[23] the Commission and the states should work together to conduct a comprehensive, state-by-state survey and description of existing loop plant. This survey should include the availability and pricing of the ILECs' DSL-capable loops. In addition, to determine whether the ILECs are meeting their obligations in a nondiscriminatory manner, the ILECs should report the average intervals of the deployment of DSL-capable loops, as compared to the provision of a reasonable proxy such as ISDN-equipped loops. Such a survey would help to determine whether the ILECs, by failing to deploy advanced telecommunications capability "in a reasonable and timely fashion," are actively frustrating the ability of CLECs to provide DSL services to consumers.[24]

Along with provisioning a DSL-capable loop, the ILECs also must allow CLECs to collocate their own DSL electronics, including the DSLAM, at the central office. WorldCom fully agrees with the beneficial and pro-competitive collocation proposals and alternatives put forth in the ALTS Petition.[25] In particular, where the CLEC chooses to utilize collocation, there should be no artificial limitations placed on the types of telecommunications equipment that

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[23] The Commission "shall ... initiate a notice of inquiry" to determine "whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion." 47 U.S.C. Section 157 nt (Section 706(b)).

[24] Moreover, CLECs should be given the option to participate in the loop testing and selection process, including testing various loops in a binder group. Use of this option should eliminate any justification for added time and expense.

[25] ALTS Petition at 21.

can be deployed. The CLEC must have the same nondiscriminatory rights to collocate in the CO whatever equipment, and in whatever configuration, that the ILEC is able to enjoy. This includes allowing a CLEC to collocate switching equipment, and equipment used to provide enhanced services.[26] Because the ILEC obviously can and does employ the DSLAM, the RDSLAM, and all associated electronics, the CLEC must be able to do the same.[27] As long as any CLEC-provided equipment meets relevant Level 1 NEBS safety standards, and any other reasonable certification requirements, it should be permitted.

Further, the ILECs should be required to authorize a more efficient usage of limited collocation space. For example, CLECs should be given the option to employ so-called "cageless" collocation, where the CLEC can install and maintain its own equipment in any open rack in the central office, subject to reasonable security arrangements. ILECs also should make available space in smaller increments, free of the typical minimum 100 square feet space requirement, and allow CLECs to share collocation space. CLECs should be able to use remote terminals, which would be less expensive, less restrictive, take up less space, involve less time, and is consistent with the way that CLECs collocate with each other. In contrast, WorldCom does not believe that virtual collocation, as currently provided by the ILECs, is the answer for

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[26] WorldCom acknowledges that the Local Competition Order did not recognize a statutory collocation requirement for switching equipment, or equipment used to provide enhanced services. Local Competition Order at para. 581. However, the Commission expressly "reserve[d] the right to reexamine this issue at a later date if it appears that such action would further achievement of the 1996 Act's procompetitive goals." Id. WorldCom suggests that this proceeding offers the perfect opportunity for such a reappraisal.

[27] CLECs already have described for the Commission the ILECs' refusal to honor reasonable requests for use of collocation space. Covad Comments at 13-18; DATA Comments at 9-11.

DSL service. CLECs often prefer to install and monitor, and have rapid physical access to, their own DSL equipment, without the time, expense, and competitive concern of training RBOC employees to operate and repair this type of sophisticated equipment.

2. DSL-equipped loop

The 1996 Act also requires the RBOCs to provide DSL-equipped loops as UNEs. The Act defines a network element broadly as all "features, functions, and capabilities" that are provided by means of "a facility or equipment used in the provision of a telecommunications service."[28] In turn, the ILECs must provide network elements to "any requesting carrier" on an unbundled basis, and in a manner that allows the requesting carriers to combine the elements to provide telecommunications service.[29] These provisions obviously encompass local loops, and local loop technologies such as DSL. As the Local Competition Order makes plain, the unbundling rules are not static, but "must accommodate changes in technology."[30] Indeed, despite some RBOCs' claims, DSL is not a wholly new technology that represents a sheer quantum leap beyond current technical capabilities. After all, the ILECs themselves have employed HDSL technology internally for over ten years in their provisioning of hundreds of thousands of T-1 lines. Further, as described earlier, ISDN functionality is merely a slower version of DSL service. As indicated earlier, DSL is part of a continuing evolutionary change to existing technology and plant, in this case a substitution of one type of loop electronics (DSL)

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[28] 47 U.S.C. Section 153(29).

[29] 47 U.S.C. Section 251(c)(3).

[30] Local Competition Order at para. 259.

for another (SLC). In short, there is no rational basis for denying CLECs the ability to use a DSL-equipped loop.

The critical point is that the DSL-equipped loop must consist of any facilities required to get from the end user to the CO, with the same capabilities that an ILEC provides itself.[31] For example, where the loop does not consist of contiguous copper, but includes fiber to the ILECs' Remote Terminal, and copper from the RT to the end user, the ILECs must allow CLECs the option of choosing to either (1) put the CLECs' own electronics in the ILECs' RT, or (2) utilize the ILECs' own electronics in the RT. Without such nondiscriminatory treatment as required by the Act, ILECs will enjoy a anticompetitive advantage over CLECs in the marketplace.[32]

3. DSL Service

To the extent that an ILEC provides DSL service on a retail basis, that service is subject to the resale requirement of Section 251(c)(4). That provision states that an ILEC has the duty of offering for resale at wholesale rates "any telecommunications service that the [ILEC] provides at retail to [non-carrier] subscribers...."[33] The ILEC also cannot prohibit, or impose unreasonable conditions or limitations on, its resale of retail services.[34] In the Local

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[31] Of course, the CLEC also has the right to receive local switching and transport as unbundled elements.

[32] Further, any construction charges beyond the normal loop rate should not apply unless the ILEC or any other user would face the same charges.

[33] 47 U.S.C. Section 251(c)(4).

[34] Id.

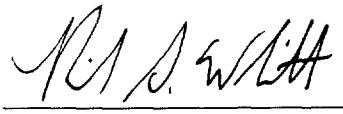
Competition Order, the Commission found no reason to give a narrow reading to the content of this language, and held that it applied to far more than "basic telephone services."[35] Likewise, there is no cogent reason why the ILECs should be excused from their statutory obligation to allow CLECs to resell retail DSL services at wholesale rates.

III. CONCLUSION

The Commission should promptly adopt the ALTS petition, as modified by the DSL-specific proposals outlined above.

Respectfully submitted,

WORLDCOM, INC.



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June 18, 1998

[35] Local Competition Order at para. 871.

CERTIFICATE OF SERVICE

I, Cecelia Y. Johnson, hereby certify that I have this 18th day of June, 1998, sent a copy of the foregoing "Comments of WorldCom, Inc." in CC Docket No. 98-78, by hand delivery, to the following:

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Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

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Chairman
Federal Communications Commission
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Room 814
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The Honorable Susan P. Ness
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The Honorable Harold W. Furchgott-Roth
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The Honorable Michael K. Powell
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