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NORTHPOINT
COMMUNICATIONS

July 24, 1998

7/29/98

Ms. Margarie Salas
Secretary
Federal Communications Commission
1919 M Street, NW
Washington, D.C. 20554

Re: Ex Parte Presentation in Dockets 98-11, 98-26, 98-32 and 98-91

Dear Ms. Salas:

On June 27, 1998, I met separately with Larry Strickling and Kevin Martin of the Commission to discuss the attached materials in connection with the above-referenced docket. I have enclosed an original and eight copies of the materials. Please include a copy of these materials in each of the above dockets, and date-stamp and return the extra copy of this letter in the enclosed envelope. Thank you for your assistance in this matter.

Sincerely yours,

Steven Gorosh

Steven Gorosh
Vice-President & General Counsel

222 Sutter Street, San Francisco, CA 94108, Phone: 415-403-4003, Fax: 415-403-4004, www.northpointcom.com

NorthPoint Communications, Inc.

Section 706 Petitions Review

NorthPoint Meeting with FCC

July 23, 1998

Introduction to NorthPoint

- A National Data CLEC
- Founded by An Experienced Team of CLEC Veterans
- Focused Exclusively on Delivering Dedicated Data Transport Over the "Last Mile" to Underserved Small and Medium-Sized Businesses
  - Currently Providing Fast, Affordable, and Reliable SDSL Service at 160, 416, 784, 1,040 KBPS
- Service Deployed in San Francisco Bay Area, LA and Boston
- Targeting 28 Cities in 20 States by 1999

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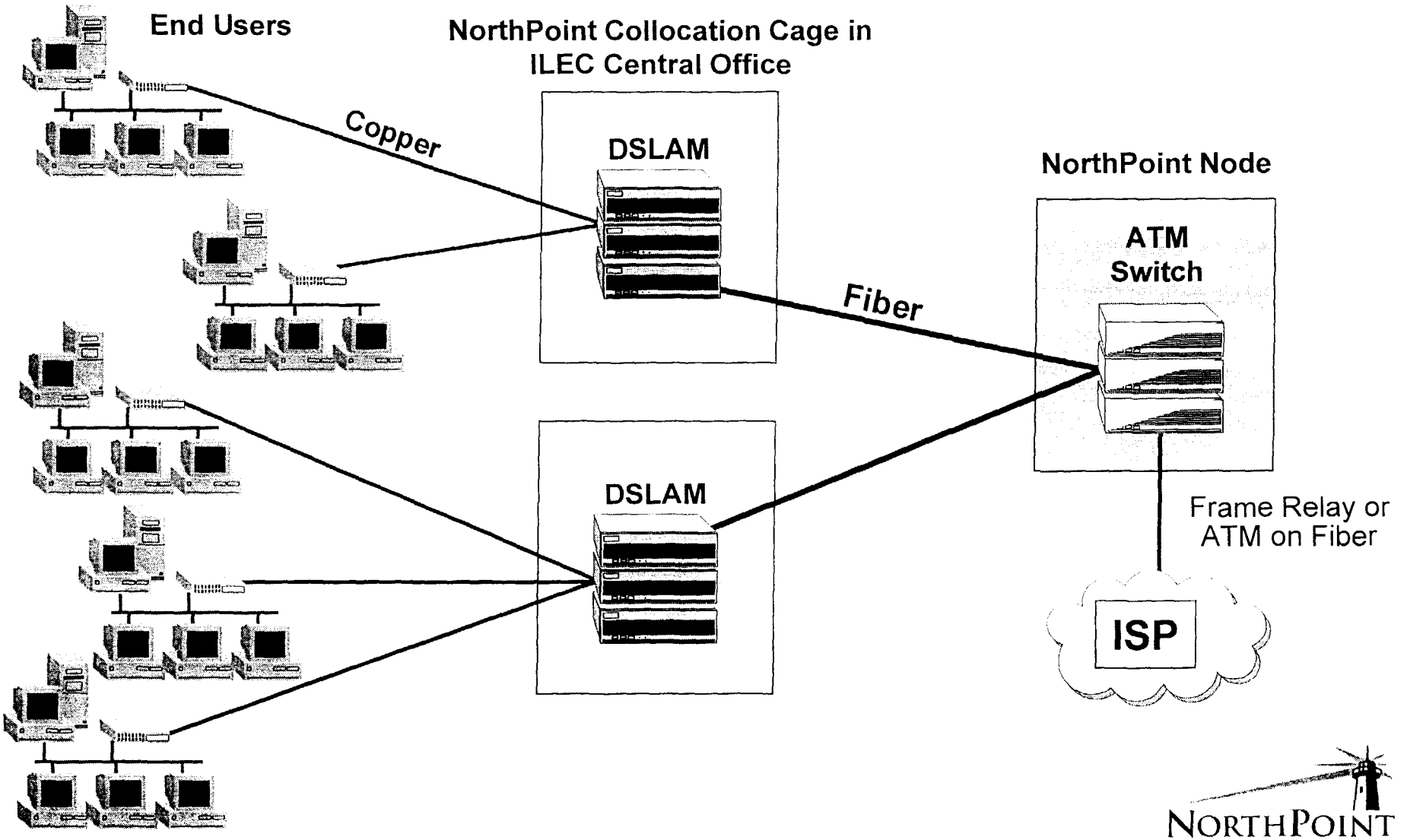
NorthPoint's Network



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Section 706 Position Summary

- Vigorous Competition by CLECs and ILECs Will Best Promote Innovation and Consumer Welfare
- Fourteen Months of DSL Service Experience Enables NorthPoint to Identify How Different ILEC Practices Promote or Frustrate DSL Alternatives
- Standardizing Pro-Competitive ILEC DSL Practices Would Greatly Assist Broadband Deployment While Minimally Burdening ILECs
  - 23 "Best Practice" Remedies That Would Enhance Service Availability; Easy to Implement Since They Are Already Being Done
- Separate Subsidiary Remedy Helpful Only if Directly Targeted at Existing Collocation, Loop and Pricing Barriers

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Collocation Availability

- The Absence of Available Space for Central Office Collocation is the Single Greatest Threat to Broadband Deployment in the "Last Mile"
  - No Collocation = No DSL Competition
  - Space is Allegedly Gone in CA, NY, Boston, D.C., Atlanta, Chicago, etc; Demands are Increasing
- Remedy 1: Require ILECs to Submit Detailed Floor Plans
- Remedy 2: Require ILECs to Remove Obsolete Equipment and Non-Critical Administrative Offices
- Remedy 3: Prohibit Warehousing

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Collocation Intervals

- Anticompetitive ILEC Practices are Arbitrarily Increasing the Interval for Collocation Cages to Well Over One Year
  - Greatest Barrier to Quick DSL Deployment
  - Standardizing Pro-Competitive Practices Would Decrease Interval to a Maximum of Three Months
- Remedy 4: Require Collocation Tariffs to Ensure Prompt Ordering Rights (Saves Up to 6 Months)
- Remedy 5: Require Collocation Quotes in 10 Days (Saves Up to 4 Months)
- Remedy 6 - 7: Require Cages to Be Built in 90 Days; 120 Days for Unconditioned Space (Saves Up to 6 Months)
- Remedy 8: Require ILECs to Meet Cage Completion Dates

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Collocation Charges

- Arbitrarily High Collocation Charges Reduce Deployment Incentives
  - Cages Range from $10K - $500K for CLECs; $0.00 for ILECs
- Remedy 9: Condition 706 Relief on Lower Collo Charges
- Remedy 10: Eliminate "First-In" Penalties for Unconditioned Space
  - Adopt NY Model Where First Entrant Does Not Have to Pay Entire Cost in Unconditioned Offices
- Remedy 11: Require ILECs to Impute the Cost of Collocation into Their Retail ADSL Tariffs

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Collocation Alternatives

- Physical Collocation is Only Available Solution -- But Other Alternatives Would Help
- Remedy 12: CLECs, Like ILECs, Should be Able to Own, Install, and Maintain Equipment in Virtual Collocation
- Remedy 13: Cageless Collocation Should be Made Available at Charges Significantly Less than Physical

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Collocation Equipment Rules

- Anticompetitive ILEC "Gatekeeping" Rules Threaten to Arbitrarily Limit Collocation Utility
- Remedy 14: Specify that DSLAMs are Permitted
- Remedy 15: Specify that Remote Access Management Equipment and Retail Services are Permitted
- Remedy 16: Limit ILECs to Imposing Legitimate Safety Standards
  - Eliminate Subjective Reliability Requirements
- Remedy 17: Require ILECs to List All Equipment They Use

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Loops

- DSL Requires "Clean" Copper Loops Devoid of Bridge Tap, Load Coil, Midspan Repeaters, and Fiber SLCs and DLCs
- Remedy 18: Require ILECs to Provide Unbundled DSL Loops Free of Impediments
- Remedy 19: Require ILECs to Meet Pro-Competitive Loop Provisioning Intervals
- Provision 20: Ensure Standardization and Imputation of Loop Charges
  - Loops Range From $2.57 in Illinois to $65.00 in Texas -- a 2500% Differential
  - ILEC Retail Tariffs Fail to Reflect ANY Loop Costs

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OSS and Spectrum Interference

- Remedy 21: Require ILECs to Provide Real-Time Access to Loop Qualification Databases
- Remedy 22: Ensure Standardized and Imputed OSS Charges
- Remedy 23: Resolve Spectrum Interference Concerns by Collaborative, Not Unilateral, Processes
  - SBC/Pacific Attempting to Limit xDSL Solutions It Has Not Chosen to Provide; Refusing to Share Underlying Data

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Separate Subsidiary

- Can Be Extremely Effective if Addresses Existing Inequalities
- BUT: No Remedy At All if Improperly Designed
- ILEC Data Subsidiary Must Follow Three Simple Rules:
  - Rule 1) Require Complete Collocation Parity
  - Rule 2) Ensure Loop and OSS Parity
  - Rule 3) Prevent Below-cost Pricing

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Separate Sub Rule 1: Require Complete Collocation Parity

- **Rule 1: Require Complete Collocation Parity**
  - DANGER: Unlike CLECs, ILEC Sub Will Be Allowed to Own, Install and Maintain its Own xDSL Equipment in Virtual Collocation
  - Solution: Require ILEC Parent to Fix Existing Virtual Collocation Disparities by Letting CLECs (like ILECs) Own, Install and Maintain Their Own Virtually Collocated Equipment; OR
  - Make ILEC Sub Stand in Line for Physical Collocation Like Other CLECs
  - ADVANTAGE: Creation of a Truly Level Playing Field Would Remove Inequalities Which Limit Choice and Encourage ILEC Parents to Develop Creative Collocation Approaches

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Separate Sub Rule 2: Ensure Loop and OSS Parity

- **Require ILEC Data Subsidiaries Receive Identical Loop and OSS Support Available to CLECs**
  - Parity in Loop Conditioning Arrangement
  - Parity in Loop Installation Intervals
  - Parity in Loop Prices
  - Parity in Database Access and OSS Charges

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Separate Sub Rule 3: Prevent Below-Cost Pricing

- **Recent GTE and Pacific Retail DSL Charges May Impede Competition Through "Price Squeeze"**
  - Total Retail DSL Charges As Low as $30/mo. are LESS than ILEC Charges for Unbundled Loops, Collocation and OSS
    - ILEC ADSL Retail Tariffs Do Not Reflect Any Loop, Collocation or OSS Charges
    - CLECs Lose Money Matching ILEC Prices BEFORE They Recover Cost of their Networks, Overhead and Profit
- **Computer II Separate Sub With Separate Books Could Help Remedy Price Squeeze by Requiring ILEC Data Sub to Purchase UNEs at Arms Length**
  - Prevent Cross-subsidization by Requiring Data Subs to Recover All Costs

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NORTHPOINT COMMUNICATIONS' PROPOSED REMEDIES FOR PROMOTING DSL COMPETITION

Introduction: Small and medium size businesses and residential consumers currently lack cost-effective means of receiving high-speed data services over the "last mile" to their homes and business premises. Regulators have expressed growing interest in alleviating this lack of bandwidth through the adoption of measures to promote competition in this market. Vigorous competition by CLECs and ILECs will best promote innovation and consumer choice. As a CLEC focused on providing DSL service to this market, NorthPoint has accumulated substantial experience over the last year in the type of ILEC practices that promote, rather than frustrate, competitive alternatives. This experience consistently demonstrates that while each ILEC currently provides some unbundled network elements under reasonable terms and conditions, each ILEC also erects a host of onerous and unnecessary barriers to increasing competitive opportunities. Moreover, there is no consistency, as every barrier that one ILEC claims is necessary, another ILEC avoids entirely. Elimination of the more onerous ILEC practices should be a precondition for any ILEC seeking Section 706 or other regulatory relief that is based on the premise that ILECs are fully meeting their existing obligations to provide the collocation and loops necessary for competition to develop. Standardizing pro-competitive ILEC practices also would greatly assist DSL CLECs in deploying competitive alternatives for consumers while minimally burdening ILECs. The following list of proposed remedies thus: 1) is narrowly tailored to solve specific problems commonly faced by DSL CLECs; and 2) can be easily implemented, as demonstrated, for instance, by the fact that they have already been implemented by an ILEC or ordered by a regulatory commission.

I. INCREASING THE SPACE AVILABLE FOR PHYSICAL COLLOCATION

Problem: CLECs cannot provide DSL service in the area served by a Central Office ("CO") unless they obtain physical collocation space in the CO. The importance of collocation thus cannot be overemphasized -- it is the single most important limitation to increasing broadband alternatives in the last mile! The Telecommunications Act of 1996 requires ILECs to provide physical collocation wherever available, but ILECs are increasingly asserting that space in unavailable. NorthPoint has had one or more applications for physical space denied in 10 of the 14 states in which it has submitted applications, and other CLECs have experienced similar problems in obtaining physical collocation space.

Remedy 1: Require ILECs To Submit Detailed Floor Plans To State Commissions And Interested CLECs Wherever They Contend Space For Physical Collocation Is Unavailable.

Benefits: The FCC's Interconnection Order contemplated that ILECs would submit detailed floor plans when asserting that space was unavailable. Local Interconnection Order, ¶ 585. Few have done so, however, and there thus has been precious little review of the reasonableness of the space limitation claims asserted by ILECs. In California, NorthPoint and other facilities-based CLECs filed a motion demanding floor plans for 59 offices that Pacific asserted were out of space. Shortly thereafter, amid increasing scrutiny by CLECs and state regulators, Pacific found additional space in two-thirds of the 59 offices that it had declared to be closed. Thus, even the threat of third-party scrutiny can force an ILEC to be more conscientious in identifying available space. Floor plans also allow for independent verification that an ILEC's claims of lack of space are reasonable.

Remedy 2: Require ILECs To Remove Obsolete Equipment And Non-Critical Administrative Offices In COs To Increase The Amount Of Space Available For Collocation.

Benefits: Because the rush for collocation is a very recent phenomenon, freeing up space in COs has received little attention. In the only related state proceeding to date, U S WEST testified that it frequently has large, obsolete, older-model switches in its COs which it does not bother to remove until it needs the space for its own uses. U S WEST admitted that it would not remove such equipment when CLECs applied for collocation in these types of COs; instead, it considers the CO to be out of space. In addition to obsolete equipment, the few CO floor plans that have been made public to date also reveal large numbers of administrative offices, which were added when space was not at a premium. Many or all of these offices could be moved to regional administrative office centers with little hardship. Unfortunately, without federal or state intervention, ILECs have no incentive to take these simple steps for competing CLECs. The FCC thus should condition any Section 706 relief on ILECs agreeing to remove obsolete equipment and noncritical administrative offices identifiable from CO floor plans.

Remedy 3: Prohibit ILECs From Warehousing CO Space For Themselves.

Benefits: A final reason underlying the ILECs' claims that offices are closed is that they warehouse unlimited space for potential future needs. In California, for instance, Pacific Bell recently announced it would be deploying its own retail ADSL service in several COs which it had declared closed to CLECs. Yet at the time it was informing CLECs that no physical collocation space was available, Pacific clearly had reserved sufficient space in those same COs for its own ADSL service. By contrast, ILECs impose on CLECs specific "anti-warehousing" rules whereby CLECs lose their collocation space if they do not utilize it in a certain period of time, generally around six months. Parity requires that first-come first-serve rules apply equally to all carriers and that all carriers be barred from warehousing. The premise of ILEC Petitions for Section 706 Relief is that they have no advantages over CLECs in the emerging DSL marketplace. If ILECs want relief based on this theory, any relief should be conditioned on the ILECs' agreeing to use collocation space within the same time frame allowed CLECs.

II. DECREASING EXCESSIVE WAITS FOR COLLOCATION

Problem: In addition to the alleged lack of space for collocation, CLECs also face excessive ILEC-induced delays in obtaining physical collocation. A combination of anticompetitive and arbitrary ILEC procedures for ordering, purchasing, and delivering physical collocation cages often increase the total time to obtain cages to well over a year. These delays greatly limit customer choice yet could easily be remedied by simply eliminating the more arbitrary ILEC practices.

Remedy 4: Ensure Prompt Collocation Ordering Rights By Requiring ILECs To File Collocation Tariffs (Saves 2-6 Months)

Benefits: Once a CLEC is allowed to purchase physical collocation space, it can expect to wait a minimum of four months to have the cage constructed. Arbitrary ILEC ordering requirements, however, routinely subject CLECs to several month delays before they are even able to purchase collocation space. For instance, U S WEST has arbitrarily prevented NorthPoint from ordering collocation for several months by refusing to allow NorthPoint to

place an order in any state in which is has not yet been approved as a CLEC, signed an interconnection agreement, and obtained State commission approval of the agreement. These steps take a minimum of six months in most states; U S WEST thus has kept NorthPoint from placing a single order in its territory to date. By contrast, Bell Atlantic, Ameritech, and Pacific Bell have tariffed physical collocation at the state or federal level, which allows a CLEC to order a cage immediately. Immediate ordering allows the CLEC to have a cage built while it is in the process of obtaining CLEC authority and a signed and approved interconnection agreement during the 4-12 month it takes the ILEC to build the collocation space. Immediate collocation ordering rights thus promotes speedier broadband deployment. Nor is there any legitimate business justification for not tariffing collocation, since several ILECs have done just that. Accordingly, any relief under section 706 should be conditioned on the filing of appropriate physical collocation tariffs at the state or federal level.

Remedy 5: Require ILECs To Provide Collocation Quotes In 10 Days (Saves Up To Four Months)

Benefits: Before physical collocation can be purchased, ILECs require CLECs to confirm availability and price by filing a request for quote. Ameritech provides quotes within 10 days regardless of the number of quotes submitted at any time. Other ILECs, however, require dramatically different intervals for providing a quote. For example, it took SBC almost 4 months to provide NorthPoint with quotes for several dozen Central Offices in Texas. This causes unnecessary delay on top of the excessive waits for a cage once an order is placed. The Commission should condition any Section 706 relief on the ILECs' commitment to provide quotes as to both price and availability within 10 days, regardless of the number of quotes submitted at any time.

Remedy 6: Require ILECs To Provide Standard Cage Completion Dates Of No Greater Than 90 Days For Conditioned Space

Benefits: After a quote is accepted, the ILEC begins constructing the actual collocation cage. Cage completion intervals for ILECs range from 90 days on up. In non-ILEC offices housing ISP equipment, similar cages generally are constructed in less than 30 days. There is simply no reason for ILECs to take more than 90 days to construct a cage in conditioned space, which generally requires only the extension of power, air conditioning, and the construction of a reinforced steel mesh cage to separate the cage from the rest of the central office. ILECs, however, currently have no incentive to deliver a cage in a timely manner. Accordingly, the Commission should require the ILECs to deliver cages within 90 days as a precondition to any section 706 relief.

Remedy 7: Require ILECs To Provide Cages In Unconditioned Space In 120 Days

Benefits: In an increasing number of instances, CLECs are told that space could be made available but it must first be conditioned for collocation, e.g., asbestos must be removed, special air conditioning and power must be added, etc. While some ILECs – such as Bell Atlantic South -- condition space within 120 days, others provide conditioning only within 180 days or, worse yet, on a wholly arbitrary "individual case basis." There is no reason to allow some ILECs to unilaterally determine a reasonable interval when others require only 120 days. Accordingly, any relief under section 706 should be conditioned on the ILECs' agreement to provide cages in unconditioned space within 120 days.

Remedy 8: Require ILECs To Meet Their Cage Completion Intervals Or Face Withholding Of 271 Authority Or Other Sanctions

Benefits: Even after a CLEC obtains a promised due date, its problems are not over. NorthPoint has not had a single cage completed and released prior to its planned completion date (regardless of the amount of work required). Moreover, while most of the cages it purchased in Los Angeles were satisfactorily delivered, almost all the cages NorthPoint purchased in New York and San Francisco were either delivered late or had some flaw that rendered them unacceptable. This causes great hardship in terms of carefully planned installation schedules and customer expectations. (While SWBT requires five days to fix flaws in the cage, other ILECs provide no guarantee of when flaws will be fixed.) Currently, neither late nor flawed deliveries are reported and late completions have no consequences. In order to remedy this problem, the Commission should grant every ILEC five days to fix flaws in the cage, but require reporting of missed cage construction dates, and impose monetary sanctions or other regulatory penalties (such as denial of section 271 relief) when intervals are consistently missed.

III. DECREASING EXCESSIVE CHARGES FOR COLLOCATION

Problem: Aside from needing cages delivered in a timely manner, CLECs require cost-effective collocation which enables them to serve customers in an efficient manner. The current system is characterized by a total absence of parity. NorthPoint has been charged non-recurring collocation charges ranging from $10,000 to over $550,000 for a single cage. By contrast, the recent ILEC retail ADSL tariffs reveal that ILECs are imputing no collocation charges for their own services. For competition to develop, the wholesale charges for collocation must be decreased and ILECs must impute to their own services the collocation charges they collect from CLECs.

Remedy 9: Require ILECs Seeking Section 706 Relief To Lower Collocation Costs

Benefits: CLECs' ability to deploy xDSL services has been hampered by arbitrary pricing of collocation cages. Application fees vary between $0 (Pacific Bell) and $7500 (Bell Atlantic North). Charges for cage construction range from $10,000 in Georgia to more than a hundred thousand dollars. Power, heating, and ventilation ("HVAC") installation charges can range from $2,000 to $12,000. Other disparities include the monthly recurring costs for the cage, which ranges from $700 to $2,000. These glaring disparities arbitrarily limit the economic viability of providing broadband service to consumers. To police against anticompetitive pricing, regulatory bodies must ensure these arbitrarily high collocation rates are lowered.

Remedy 10: Require ILECs To Eliminate First-In Penalties For Unconditioned Space

Benefits: Several ILECs currently require the first collocator to pay 100 percent of conditioning an office to make it suitable for collocation, subject to a rebate when additional CLECs request collocation space in that CO. Since the bill to the "first-mover" can run well over a half million dollars, with no guarantee of a rebate, CLECs have a powerful incentive to wait until someone else has entered the CO before submitting their request. This has led to a reluctance to act first that has diminished consumers' ability to choose among broadband services. This anticompetitive scheme should be banned in favor of a cost-sharing arrangement like that adopted in New York, where all carriers share the costs of conditioning based on their proportionate share of the office's floor space. Only by so doing will the

Commission promote deployment of broadband alternatives in COs where physical collocation space must be added.

Remedy 11: Require ILECs To Impute The Cost Of Collocation In Their Retail Tariffs

Benefits: If the Commission does not set collocation prices, then it can at least partially remedy the situation by requiring ILECs to impute the cost of collocation to their retail ADSL tariffs on file with the Commission. Currently, CLECs face a "price squeeze" in which CLEC collocation and loop costs are less than an ILEC's full retail price. Obviously, no competition can develop if wholesale inputs for CLECs are more expensive than ILEC retail services! Imputation also will provide incentives for ILECs to rationalize their pricing and come up with lower price alternatives for CLECs to avoid imputing an amount inconsistent with market needs.

IV. PROVIDING ALTERNATIVES TO PHYSICAL COLLOCATION

Problem: CLECs currently insist on physical collocation simply because most ILECs make no comparable solution available. ILECs, of course, have little reason to develop creative solutions since they can move their own xDSL equipment into central offices without worrying about space limitations, intervals, or imputed costs. CLECs have suggested numerous alternatives that would promote broadband service deployment if made available under reasonable terms and conditions. Given the ILECs' reluctance to agree to such solutions, however, it is apparent that regulatory assistance is required.

Remedy 12: Virtual Collocation Arrangements Should be Made Available to CLECs in Which CLECs Can Own, Install, and Maintain Their Own Equipment

Benefits: To date, CLECs have focused on obtaining physical collocation space in order to ensure that they are able to install and maintain their own equipment. Virtual collocation arrangements – where the CLEC's equipment is intermixed with the ILEC's and the ILEC installs and maintains the equipment -- severely limit the CLEC's ability to respond to service problems and its flexibility to deploy new services. Virtual collocation arrangements in which the CLECs can own, install and access their own equipment would not pose the same disadvantages and would provide many of the benefits of physical collocation. Accordingly, this Commission should condition section 706 relief on the ILEC's development of virtual collocation arrangements where the CLEC can own, install and maintain its equipment

Remedy 13: Cageless Collocation Must be Made Available to CLECs at Charges Significantly Less Than Physical Collocation.

Benefits: While cageless collocation can allow a CLEC to deploy service effectively, it is far less attractive than physical collocation, which allows a CLEC to maintain complete and exclusive control over its equipment. Nonetheless, those few ILECs that do allow cageless collocation – such as BellSouth -- charge rates that are comparable or proportionally more expensive than those for physical collocation. Cageless collocation requires less space and thus should be much cheaper and quicker than physical collocation. Low-cost cageless collocation must be made available before any section 706 relief is granted.

V. REMOVING ANTICOMPETITIVE RESTRICTIONS ON EQUIPMENT IN COLLOCATION CAGES

Problem: The ILECs' routinely argue that xDSL equipment should not be placed in collocation cages, despite this Commission's clear mandate that they 'permit the collocation of equipment used for interconnection or access to unbundled network elements." Local Interconnection Order, ¶ 579. Thus, even after collocation space is obtained, ILEC "gatekeeping" threatens to make it useless for the provisioning of DSL service.

Remedy 14: This Commission Should Specifically Clarify that Digital Subscriber Line Access Multiplexers ("DSLAMs") Can Be Placed in Collocation Cages.

Benefits: In order to provide xDSL service, DSL CLECs must be able to collocate a DSLAM, which multiplexes customer traffic from multiple xDSL lines onto a single DS-3. This Commission already has mandated that "transmission equipment such as optical terminating equipment and multiplexers, may be collocated on LEC premises." Local Interconnection Order, ¶ 580 (emphasis added). Nonetheless, several ILECs have refused to allow NorthPoint to collocate its DSLAM. To eliminate time-consuming and counterproductive disputes, any section 706 relief should be conditioned on the ILECs' allowing the collocation of DSLAMs and other multiplexing equipment required for DSL services.

Remedy 15: This Commission Should Specify that Remote Access Management Equipment and Retail Services Can Be Placed in Collocation Cages.

Benefits: ILECs, by definition, employ on-site technicians to monitor their CO equipment. CLECs, by contrast, rely on remote access management systems to monitor their equipment, since CLEC technicians cannot be stationed in ILEC COs. Although Pacific Bell allows this equipment, several ILECs have attempted to ban remote access management equipment from collocation cages. This can severely damage a CLEC's ability to provide xDSL service, since the remote access management equipment allows a CLEC to identify service troubles. Similarly, in order to use the remote access management equipment, the CLEC must be able to order retail service such as POTS lines to the collocation space. (Without these retail services, the CLEC has no means of accessing the remote access management equipment.) This Commission should thus condition any section 706 relief on the ILECs' allowing the collocation of remote access management equipment and their commitment to provide retail services to the collocation cage.

Remedy 16: ILECs Should Only Be Allowed to Subject CLEC Equipment to Legitimate Safety Standards.

Benefits: Both CLECs and ILECs have a strong and shared interest in ensuring that all equipment placed in their central offices meets industry safety standards, such as NEBS Level 1. Bell Atlantic, however, is requiring CLECs to meet far more stringent NEBS Level 2 and 3 standards. This is entirely inappropriate since these standards deal almost exclusively with equipment reliability, not equipment safety. ILECs have no legitimate reason in requiring that CLEC equipment meet specific reliability standards; such concerns are properly left to the mutual agreement of the CLECs, their customers, and their equipment providers. By requiring certification to NEBS Levels 2 and 3, the ILECs condemn CLECs and their equipment vendors to months of testing, at a cost of hundreds of thousands of dollars, significantly delaying xDSL CLECs' ability to provide innovative broadband

services. Accordingly, this Commission should condition any grant of section 706 relief on the ILECs' agreement to require CLEC equipment to meet only industry safety standards, such as NEBS Level 1.

Remedy 17: ILECs Should Be required to List All Approved Equipment and all Equipment They Use

Benefits: In almost all instances where ILECs have informed NorthPoint that equipment is not NEBS-compliant and refused to allow NorthPoint to place its equipment in the collocation cage, the equipment vendor has insisted it was selling the very same equipment to the ILEC in significant quantities for use in COs. Texas currently requires ILECs to list all equipment used within the CO, and there is no valid reason for why other ILECs cannot publish similar lists. This simple remedy would help to prevent discrimination by allowing independent verification that the ILECs are not using equipment they have refused to allow CLECs to use.

VI. LOOPS

Problem: DSL requires "clean" copper loops devoid of a variety of impediments such as bridge tap, load coil, midspan repeaters, SLCs, and DLCs. Although almost all of the ILECs are now providing DSL service in some form, only Ameritech and BellSouth offer an "unbundled DSL loop" without any of these impediments. The other ILECs offer only an unbundled ISDN or analog loop, and either refuse to take steps required by CLECs for DSL service, or charge excessive conditioning charges.

Remedy 18: ILECs Should be Required to Provide Unbundled xDSL Loops

Benefits: As explained above, unbundled digital-quality loops are required in order for consumers to enjoy DSL service. Some ILECs offer unbundled DSL loops free of DSL impediments demonstrating the technical feasibility of doing so. Provision of unbundled DSL loops free of bridge tap, load coil, and midspan repeaters should be made a pre-condition of ILEC retail DSL offerings. In addition, in order to further ensure competitive parity, this Commission should require, as a precondition to any relief under section 706, that the ILECs move loops off SLCs and DLCs without any charge.

Remedy 19: ILECs Should be Required to Meet Pro-Competitive Loop Provisioning Intervals

Benefits: While ILECs such as Bell Atlantic have committed to provide loops within five days of a CLEC's order, others require double that time. There is no justification for these dilatory loop installation intervals, which frustrate consumers' needs; accordingly, this Commission should require five day loop ordering interval guarantees as a precondition to section 706 relief.

Remedy 20: Standardization and Imputation of Loop Costs Should be Required as a Precondition for Section 706 Relief

Benefits: ILECs impose vastly different recurring and non-recurring charges for unbundled loops. Ameritech, for instance, charges $2.57 for an unbundled ISDN loop in Illinois (including all necessary conditioning charges), whereas SWBT's Texas SGAT charges $65, or 2500% more. These disparities cannot be explained by any legitimate cost differential.

Moreover, when SBC/Pacific Bell filed its recent retail ADSL tariff, it reflected no loop charges based on the claim that there were no incremental costs to condition a digital loop. These disparities preclude cost-effective DSL alternatives, significantly diminishing competition and limiting consumers' ability to choose. Accordingly, leveling of unbundled loop rates should be a precondition for section 706 relief. In the alternative, if loop installation intervals and unbundled loop costs cannot be levelled across States, this Commission should require the ILECs to reflect these cost disparities in their own retail ADSL tariffs. Accordingly, imputation of loop costs should be required as a precondition for any section 706 relief.

VII. OPERATIONS SUPPORT SYSTEMS

Problem: Most ILECs currently do not provide CLECs with access to vital operations support systems, such as the loop qualification databases. In addition, the ILECs charge widely divergent rates for OSS access, creating a barrier to entry that diminishes competition and limits consumers' ability to choose.

Remedy 21: ILECs Should be Required to Provide Access to Loop Qualification Databases as a Precondition to Section 706 Relief

Benefits: While Bell Atlantic allows CLECs real-time access to a "loop qualification database" that indicates whether specific loops will support digital services like DSL, others ILECs do not. The inability to access this type of database severely hampers CLECs' ability to respond to customers' requests. Accordingly, any relief under section 706 should be conditioned on the ILECs' agreement to offer real-time access to all available loop qualification databases.

Remedy 22: Standardization and Imputation of OSS Charges Should be a Precondition to Section 706 Relief

Benefits: ILECs impose vastly different recurring and non-recurring charges for OSS access. SWBT, for instance, charges $4,705 per month for dedicated OSS access, whereas the Florida PSC did not allow BellSouth to charge for OSS access. These expensive OSS costs erect a barrier to entry that threatens to significantly diminish competition and limit consumers' ability to choose. Accordingly, leveling of OSS charges should be a precondition for section 706 relief. In addition, if OSS charges cannot be levelled across States, this Commission should require the ILECs to reflect these cost disparities in their own retail ADSL tariffs. Accordingly, imputation of OSS costs should be required as a precondition for any section 706 relief.

VIII. SPECTRUM INTERFERENCE

Problem: DSL, like all other services, causes a certain level of interference to other services carried over adjacent copper pairs. While most ILECs appear to be responsibly evaluating equitable approaches to managing potential spectrum interference, SBC/Pacific has unilaterally imposed spectrum interference policies that favor the specific spectrum map of its chosen vendor over all competing DSL vendors.

Remedy 23: Spectrum Interference Issues Should be Resolved through a Collaborative, not Unilateral, Process

Benefits: The ILECs' ability to terminate any interfering CLEC's xDSL service while immunizing their own xDSL service from similar interference charges is an open invitation for anticompetitive abuse. SBC, for instance, has recently indicated that it will not permit xDSL CLECs to offer any service that does not meet the specific spectrum interference specifications endorsed by SBC. SBC has further disadvantaged CLECs by refusing to release the study – apparently prepared by SBC's own xDSL equipment vendor -- underlying its spectrum interference guidelines. This behavior penalizes CLECs for using any xDSL equipment not used by SBC. By using an unsupported and unsubstantiated study to limit competitors' options, SBC is attempting to move spectrum interference issues out of industry standards bodies – where they are being actively researched and where they belong – and is attempting to unilaterally proclaim spectrum interference standards that will most benefit its own xDSl service. Accordingly, this Commission should condition any section 706 relief on the ILECs' agreement to resolve all spectrum interference issues in appropriate industry standards committees.