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# Minimum Separate Entity Requirements to Avoid Unbundling Requirements in the Provision of DSL:

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OFFICE OF THE SECRETARY

## 1. Fully separate legal entity

There would be no sharing of officers, personnel, facilities or other assets. The ILEC could have some ownership interest in the separate entity, but would certainly not own a majority stock interest.

## 2. Pays the same price for UNEs as CLECs

Unlike some subsidiary arrangements, payment would be a commercial transaction rather than an accounting entry.

## 3. Must 252(i) an existing interconnection agreement, no sweetheart deals

In order to avoid the initial problem of "negotiating with yourself", the separate entity would take an existing agreement pursuant to section 252(i). This would place the separate entity on an equivalent footing to other CLECs upon its initial operation.

## 4. Must use same OSS interfaces as CLECs

The ILEC origin of the separate entity must not result in an ability to obtain special interfaces.

## 5. Equal access to copper lines in DLCs and long loops.

The separate entity would be afforded the same access to both ends of copper wire that is available to any other CLEC. This requires parity in the ability of the separate entity and another CLEC to place specialized line cards in the DSLAMs located in remote terminals as well as those DSLAMs located in Central Offices.

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## 6. Separate billing from the remaining ILEC

Some CLECs have encountered considerable problems with delayed billing and bill resolution. The separate entity would deal with the remaining ILEC at arms length in financial transactions.

## 7. Same collocation prices, processes, requirements, and timeframes

The separate entity would *not* receive essential inputs under conditions more favorable than competing CLECs.

## 8. Service only allowed in COs where space for at least 4 additional collocators is provided

The separate entity would be permitted to operate only from COs where at least 4 other CLEC are collocated, or where the ILEC has certified that space exists to accommodate at least 4 other CLECs. This would ensure space for at least 5 competitors in contested COs. That number is necessary to ensure that competition is at an adequate level and is consistent with FCC decisions relating to PCS licensing.

## 9. Ongoing public financial reporting and auditing

The "separateness" of the separate entity must be demonstrable and open to public scrutiny. This is an important enforcement mechanism; other CLECs will be immediately aware if the new entity is afforded preferred treatment.

## 10. Ongoing performance reporting and parity treatment of all CLECs

Like financial reporting, performance reporting by the separate entity and the remaining ILEC is critical to ensuring that the new entity is not afforded preferred treatment. Performance reporting is required regarding all relevant parameters surrounding the provisioning of essential elements.

## 11. Self enforcing penalties for failure to comply.

The ILEC and separate entity cannot be deterred from conduct that would undermine the separate nature of the new entity without significant penalties that would flow from compromising the separateness of the new entity.