

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

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
Local Competition Survey) CC Docket No. 91-141
) CCB/IAD File No. 98-102
_____)

REPLY COMMENTS OF KMC TELECOM, INC.

KMC Telecom, Inc. ("KMC"), by its undersigned counsel, and pursuant to the Commission's Public Notice, DA 98-839 (rel. May 8, 1998), respectfully submits the following reply comments concerning the proposed Local Competition Survey. KMC has reviewed carefully the comments filed by the Incumbent Local Exchange Carriers ("ILECs"), other Competitive Local Exchange Carriers ("CLECs") and various trade associations.

Perhaps it is inevitable that virtually all of the ILECs demand that, if a local competition survey is initiated, substantial and unnecessary burdens be placed upon the nascent CLEC industry. To be sure, some reporting requirements should be imposed upon *all* local carriers, ILEC and CLEC alike, but the extent of the burden the ILECs suggest should be imposed upon the CLECs is totally out of proportion with the level of local competition that exists today. To suggest, as the ILECs do, that all carriers should report exactly the same type and nature of data, and on the same reporting frequency, ignores reality: Like it or not, the ILECs are now, and will be for the foreseeable future, the dominant local carriers providing the vast majority of all local services. Logically, then, it is essential for the ILECs to provide the bulk of the data called for by the Commission. KMC reiterates its support for the Commission's proposal to obtain statistical

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information through the proposed survey, with the modifications we proposed in our initial Comments and which we reiterate here.

1. The ILECs Should Not Be Permitted To Avoid Participating In The Local Competition Survey

Two of the commenting ILECs, BellSouth and US West, took the position that no survey at all was required and, to the extent that any survey was implemented, the one proposed by the Commission was overbroad and unduly burdensome.¹ In short, these ILECs wish to be excused from reporting to the Commission the sad state of local competition in their respective service areas. It is unquestionable, though, that the Commission needs accurate and complete data in order to assess and understand the true state of local competition two years after the passage of the landmark Telecommunications Act of 1996 (the "1996 Act"). The information sought from the ILECs will be extremely valuable to the Commission's assessment and none of the ILECs should be excused from their reporting requirements.

2. The Burden On CLECs Should Not Be As Great As The Burden On ILECs.

KMC rejects entirely the suggestion of the ILECs that, if a survey is to be implemented, it should be applicable in all respects to ILECs and CLECs alike. This view ignores entirely the marked disparities between the nature and extent of the services provided by these carriers, as well as the structures and reporting systems in place for incumbents versus new entrants. The ILECs undoubtedly realize that most CLECs simply are not in a position to provide the same information as the ILECs without incurring substantial costs and burdens. Imposition of this requirement would stifle instead of promoting competition by forcing CLECs to comply with

¹ See *BellSouth Comments* at p. 1 ("The Bureau's proposed *Local Competition Survey* is beyond the Bureau's delegated authority and must be withdrawn"). See also, *Comments of U S West Communications, Inc.* at 3-6.

costly and burdensome reporting requirements. Instead, KMC reiterates the view that CLECs should be required to report only as much information as is readily available to them. AT&T agrees, and its rationale is persuasive:

While ILECs have demonstrated already that they maintain the information that the Commission requested them to submit on a voluntary basis in response to the proposed survey, the CLECs have not shown that they have the processes or systems in place to capture and maintain the requested information in their normal course of business. A requirement on the CLECs to develop the ability to collect information which they would not otherwise collect, or would not collect in a format which could be reasonably manipulated to be responsive to the survey, would create a significant burden.

Comments of AT&T Corp. at pp. 12-13.

Similarly, KMC also rejects the suggestion of most ILECs that reporting should be less frequent than quarterly, as proposed by the Commission.² Given the rapid change in the industry and the need for accurate, timely data on the spread of local competition, KMC strongly supports the adoption by the Commission of a monthly reporting cycle for ILECs, and a quarterly cycle for CLECs.³

² See, *Comments of Bell Atlantic* (semi-annual); *Comments of The Southern New England Telephone Company* ("annual or semi-annual"); *Comments of US West Communications, Inc.* (annual); *GTE's Comments* (semi-annual); *Comments of the United States Telephone Association* (a trade association representing the ILEC industry) (annual).

³ In our initial comments, we advocated using Metropolitan Statistical Areas ("MSA") as the geographical reporting base, instead of state-wide. We note that the majority of commenters favored, or at least accepted, the state-wide basis proposed by the Commission. On reflection, KMC believes that either state-wide or MSA will provide sufficient data for the survey.

3. OSS Performance Levels Are A Critical Measure Of The Spread Of Local Competition.

In our initial Comments, we noted that the performance levels of Operations Support Systems ("OSS") would be a critical measure of the extent to which ILECs and CLECs truly are competing on level ground. Outside of KMC, only Allegiance Telecom noted the importance of OSS levels to an analysis of local competition. ILEC compliance with OSS obligations has been one of the significant road-blocks to effective competition and information on that compliance will allow the Commission to assess whether the ILECs are providing non-discriminatory access to local networks as required by the 1996 Act.

4. Conclusion

With these considerations in mind, KMC again encourages the Commission to monitor the status of local competition through its proposed survey. The bulk of the information necessary for this purpose should come from the ILECs, rather than the CLECs, because ILECs continue to serve the vast majority of local exchange customers.

Respectfully submitted,



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Dated: June 22, 1998

CERTIFICATE OF SERVICE

I, Michael L. Shor, hereby certify that on June 22, 1998 a true and correct copy of the foregoing "REPLY COMMENTS OF KMC TELECOM, INC." was served on the following:

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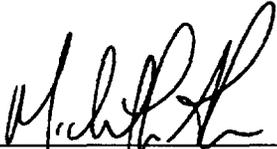
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