

BEFORE THE
Federal Communications Commission
WASHINGTON, D.C.

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FEDERAL COMMUNICATIONS COMMISSION

In the Matter of)
)
Deployment of Wireline Services) CC Docket No. 98-147
Offering Advanced)
Telecommunications Capability)

JOINT REPLY COMMENTS OF
TELIGENT, INC. AND NET2000 GROUP, INC.

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SUMMARY

- The Commission should require that the demarcation point be located at the minimum point of entry in all multi-tenant environments.
 - In the alternative, the Commission should identify as a network element in-building riser cables and wiring within a multi-tenant environment on the ILEC's side of the demarcation point.
 - These elements should be provided at cost-based rates and on a nondiscriminatory basis.
 - This proposal is technically feasible and satisfies the terms of the Act. If implemented, it will also promote the competitive facilities-based provision of advanced telecommunications services and capabilities to tenants in multi-tenant environments.
- The Commission should require that ILECs make available to providers of advanced telecommunications services and capabilities, within nondiscriminatory time frames, operations support system or other information concerning the location of inside wire demarcation points in multi-tenant environments and the type of equipment located there.
 - This represents a modest, yet critical, extension of ILECs' existing obligations and will promote the competitive provision of advanced telecommunications services and capabilities.

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JOINT REPLY COMMENTS OF
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Teligent, Inc. ("Teligent") and Net2000 Group, Inc.¹
("Net2000") hereby jointly submit their Reply Comments in the
above-captioned proceeding.²

I. INTRODUCTION

Teligent will deliver advanced telecommunications services
and capabilities to customers in multi-tenant environments using
its broadband fixed microwave network which employs an efficient
point-to-multipoint architecture. Small rooftop antennas receive
and transmit radio signals from location to location.³ The

¹ Net2000 is an award-winning telecommunications company with expertise in local exchange services. The Vienna-based company is a provider of local and national high-speed voice and data networks as well as Internet services for its business and government customers. Net2000 acts as a user-friendly interface into the myriad of new communications options and helps its customers to implement state-of-the-art technologies that are most appropriate for them.

² Deployment of Wireline Services Offering Advanced Communications Capability, CC Docket No. 98-147, *Memorandum Opinion and Order, and Notice of Proposed Rulemaking*, FCC 98-188 (rel. Aug. 7, 1998) ("NPRM").

³ Teligent's rooftop facilities are specific to serving the tenants within that building. Teligent's small antenna

signals reach customers in a building through telephone inside wire or special connections to the customer's premises. Because the airwaves replace the incumbent LEC's wires as the transmission medium (although with much greater speed and capacity), this system permits Teligent to completely bypass the incumbents' local loops. Nevertheless, when serving customers in multi-tenant environments, Teligent will often use the existing wiring within the building to reach the end user. This strategy is more efficient than duplicating the existing in-building wiring, allows faster service to customers, and is less disruptive to both the customer and the building owner.

Through their control over existing networks, Bell Operating Companies ("BOCs") and other incumbent local exchange carriers ("ILECs"), to a large degree, control telecommunications carrier access to consumers. Nowhere is this more evident than in multi-tenant environments ("MTEs").⁴ As ILECs begin offering consumers advanced telecommunications services and capabilities, there

(approximately 12 inches in diameter) is mounted on the side of a building or on a small pole or tripod on the rooftop above the height of a person and at sufficient elevation to allow line-of-sight communications with other Teligent antennas. Because its antennas are building-specific, Teligent does not place towers or other facilities in the public rights-of-way, nor does it construct the large towers associated with mobile wireless services.

⁴ Teligent uses this term in a manner synonymous with the term multi-unit premises, as defined by the Commission. The Commission's definition of multiunit premises includes both residential and commercial structures. See 47 C.F.R. § 68.3 ("Multiunit premises include, but are not limited to, residential, commercial, shopping center and campus situations.").

continue to exist anticompetitive incentives for such carriers to impede the provision of advanced services by other telecommunications carriers. The ILECs' control over bottleneck facilities, particularly the "last hundred feet" of building wiring in MTEs, reduces the economic ability of their competitors to provide advanced services competitively. Ultimately, this ILEC control hinders the Commission's efforts to promote the competitive availability of advanced telecommunications services and capabilities as part of its Section 706 directive.⁵

In the context of MTEs, the Commission should require ILECs to offer, on an unbundled basis, access to riser cables in MTEs where the demarcation point is not located at the minimum point of entry ("MPOE"). Moreover, the Commission should require ILECs to make available to competitive carriers the location of the demarcation point in the same manner that such information is made available to ILECs and their affiliates. These measures will facilitate the deployment of advanced telecommunications services and capabilities to tenants in MTEs.

⁵ See Pub. L. No. 104-104, Title VII, § 706, Feb. 8, 1996, 110 Stat. 153 ("Section 706") ("The Commission . . . shall encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans") (emphasis added).

II. THE COMMISSION SHOULD IDENTIFY AS A NETWORK ELEMENT IN-BUILDING RISER CABLES IN MTEs WHERE THE DEMARCATION POINT IS NOT LOCATED AT THE MINIMUM POINT OF ENTRY.⁶

A. Unbundling Building Riser Cables Will Promote Facilities-Based Competition In The Provision Of Advanced Telecommunications Services And Capabilities.

The Commission asks whether it should require sub-loop unbundling in order to further the goals of the 1996 Act and to facilitate deployment of advanced services.⁷ Moreover, it asks commenters to identify those specific sub-loop elements that should be unbundled.⁸

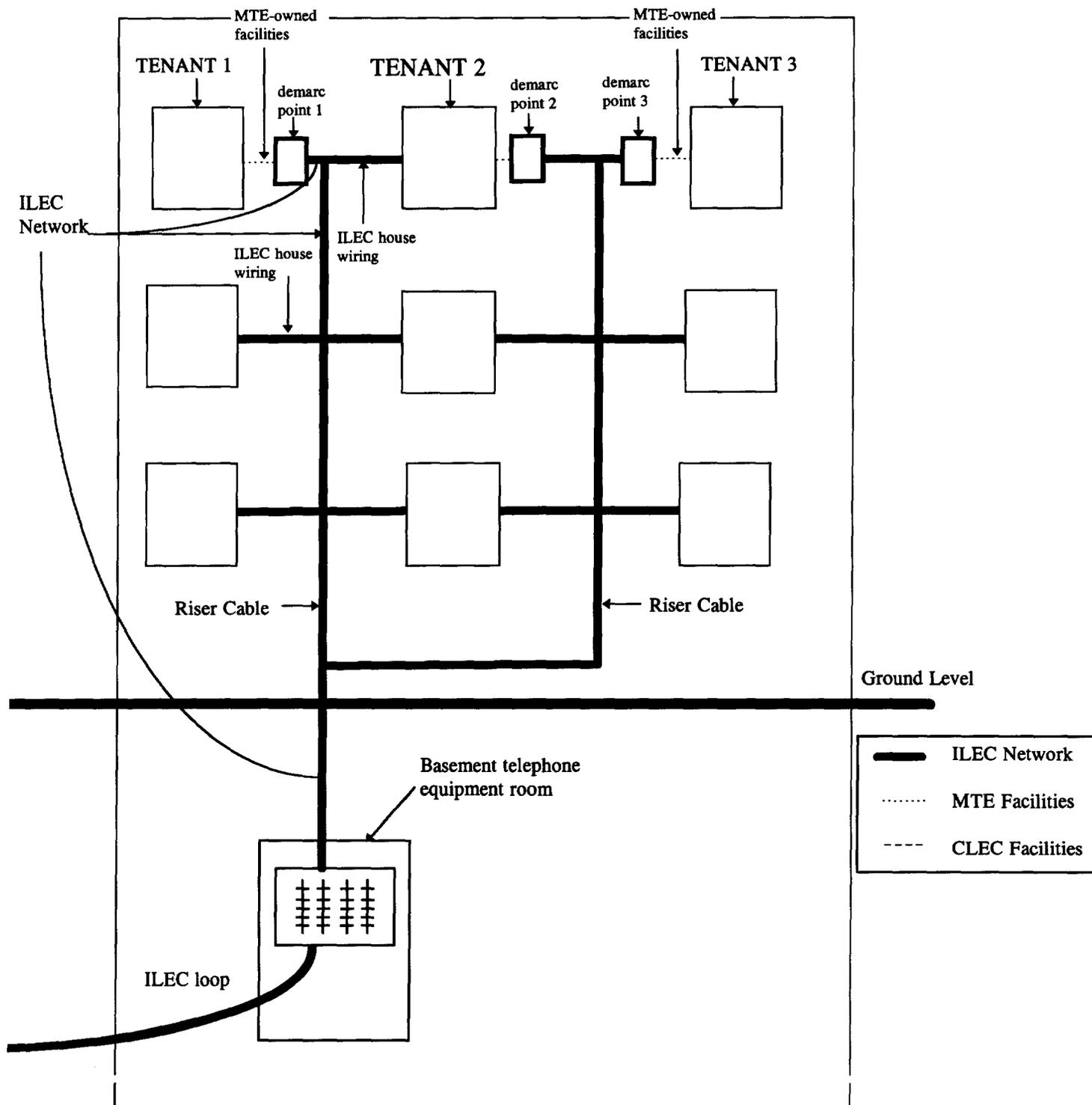
As illustrated by the charts on the following pages, where the inside wire demarcation point is not located at an MTE's MPOE, the ILEC's network control extends inside the building.

⁶ Herein the term "risers" shall refer to both vertical and horizontal telephone wires that connect, for example, wiring blocks in the basement of an MTE at the MPOE with individual tenant premises.

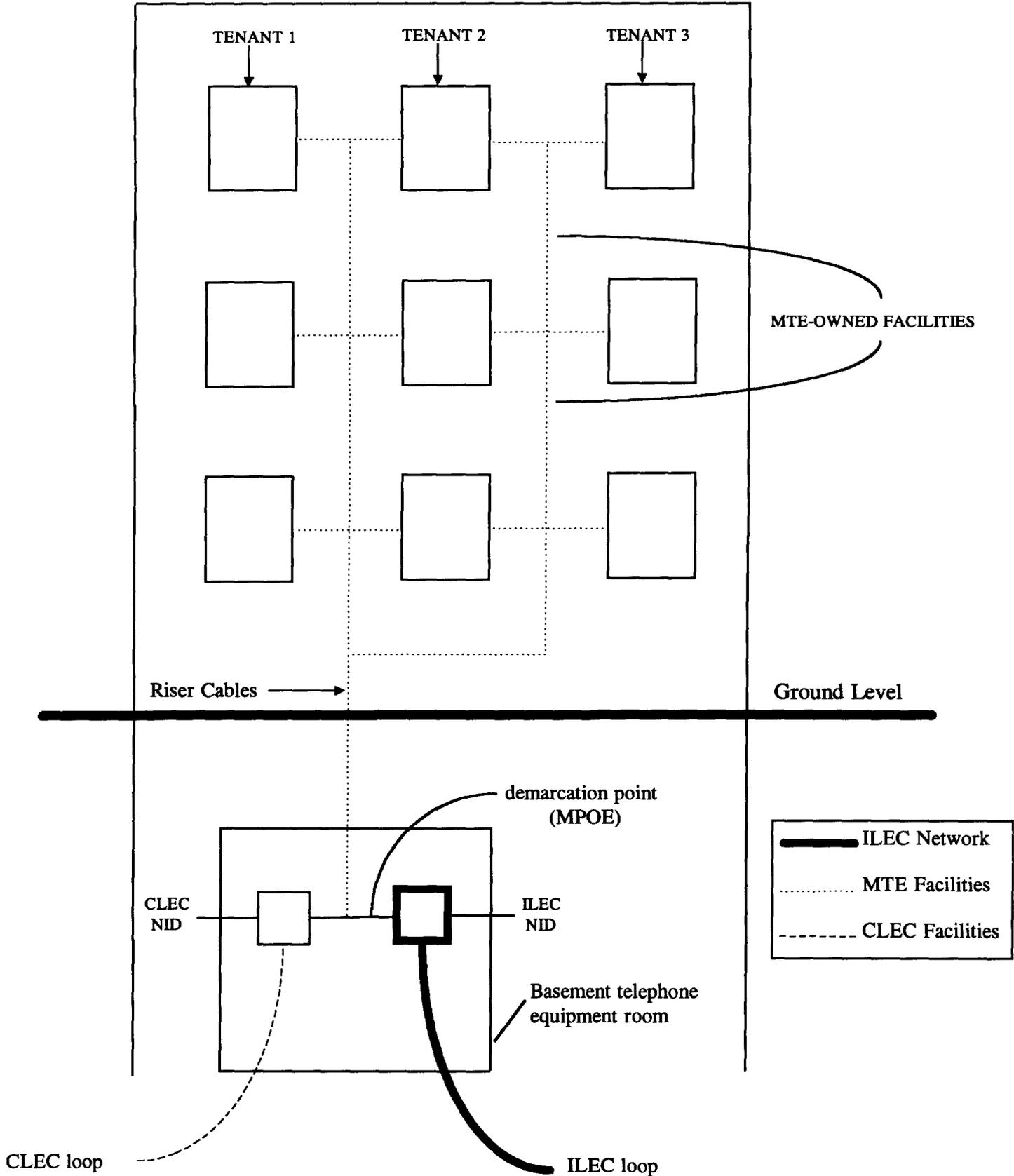
⁷ NPRM at ¶ 173.

⁸ Id. at ¶ 175.

MTE IN WHICH THE DEMARCATION POINT IS NOT LOCATED AT THE MPOE



**MTE IN WHICH THE DEMARCATION POINT
IS LOCATED AT THE MPOE**



The network interface device is often located at the demarcation point(s) within an MTE. The Commission observed that

[w]hen a competitor deploys its own loops, the competitor must be able to connect its loops to customers' inside wiring in order to provide competing service, especially in multi-tenant buildings. In many cases, inside wiring is connected to the incumbent LEC's loop plant at the NID. In order to provide service, a competitor must have access to this facility.⁹

However, when the NID/demarcation point is located at individual customer premises (*i.e.*, on each floor of a multi-story building or at each individual office or residence within a building), access to that NID requires duplicating the ILEC's in-building network -- an option that some MTE owners understandably prefer to avoid when a less invasive option is readily available.

Some competitive carriers may obtain access to this ILEC-owned in-building wiring by leasing unbundled loops from the ILEC. However, fully facilities-based carriers, such as Teligent, are now able to bring their own facilities all the way to a customer's building. A requirement that such carriers lease an entire ILEC loop in order to gain access to intra-MTE wiring is wasteful and needlessly expensive, discouraging facilities-based entry strategies.¹⁰

⁹ 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 at ¶ 392 (1996) ("Local Competition Order").

¹⁰ In the Local Competition Order, the Commission noted its belief "that subloop unbundling could give competitors flexibility in deploying some portions of loop facilities, while relying on the incumbent LEC's facilities where convenient." Id. at ¶ 390.

Clearly the most effective way to eliminate these disincentives is to designate the MPOE as the inside wire demarcation point for all MTEs, new and existing. Indeed, uniform designation of the demarcation point at the MPOE is consistent with the ultimate goal of nondiscriminatory building access. Assuming MTE owners and managers are precluded from discriminating against competitors -- a critical issue in itself that Teligent has repeatedly brought to the attention of the Commission¹¹ -- all competitors will have equal access to building risers if the demarcation point is moved to the MPOE. The severe disparity in costs and access between incumbents and new entrants would be greatly reduced. Moreover, it will minimize the ability of carriers to slow alternative network development or otherwise disadvantage their competitors on the basis of building access. Finally, and most importantly, it will assure that consumers can obtain access to their telecommunications carrier(s) of choice.

¹¹ See, e.g., Commission Actions Critical to the Promotion of Efficient Local Exchange Competition, CCBPol 97-9, *Comments of Teligent* (filed Aug. 11, 1997); see also Implementation of Section 703(e) of the Telecommunications Act of 1996; Amendment of the Commission's Rules and Policies Governing Pole Attachments, CS Docket No. 97-151, *Comments of Teligent* (filed Sept. 26, 1997); *Reply Comments of Teligent* (filed Oct. 21, 1997); *Petition for Reconsideration of Teligent* (filed April 13, 1998); *Reply to Oppositions to the Petition for Reconsideration and Clarification of Teligent* (filed May 22, 1998); Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, CC Docket No. 98-146, *Comments of Teligent, Inc.* (filed Sep. 14, 1998).

States such as California have followed the approach of moving the demarcation point to the MPOE.¹² With building owner permission, competitors access risers to offer customers a variety of advanced telecommunications services. Rather than either rewiring a building or having to depend on the competing incumbent for access to existing risers, in California competitors are placed on equal footing so long as building owners do not discriminate among them.

Short of moving the demarcation point, subloop unbundling of MTE risers on the ILEC's side of the demarcation point offers an alternative. Specifically, where the demarcation point is not located at the MPOE of an MTE, the Commission should: (1) expressly require ILEC unbundling of MTE risers from the MPOE to the existing demarcation point; (2) encourage States to determine cost-based rates for such risers; and, (3) critically, permit competing carriers to access such unbundled risers without the discriminatory delays and costs imposed by dispatching and coordinating with ILEC personnel.¹³

¹² See Pacific Bell, Applications 85-01-0034, 87-01-002, Decision 92-01-023, 43 CPUC 2d 115 (Cal. PUC, rel. Jan. 10, 1992).

¹³ It is critical to note that the Commission could, and has the jurisdiction to, address the MTE access and inside wiring issues in other ways than the demarcation point location or subloop unbundling. Regardless of the approach taken, one underlying principle governs: common carrier obligations extend to and exist within multi-tenant environments (as does the Commission's jurisdiction) and fulfillment of these obligations depends upon access to the facilities contained therein as a crucial component of providing interstate telecommunications services to end users.

Providing unbundled access to incumbent-controlled risers eliminates discrimination only if the costs of such access (in time and money) approximate those of the incumbents and their advanced services affiliates.¹⁴ Moreover, even assuming reasonable cost-based charges for use of the risers themselves, the delays and costs of coordinating with the ILEC, particularly with regard to dispatching ILEC personnel, competitively disadvantages new entrants to such an extent that rewiring an MTE, with all its problems, is often more attractive. Thus, if the Commission were to pursue unbundled access to risers, it should also provide for competitor access to the wiring blocks at the MPOE of an MTE without the necessity of ILEC personnel being present.¹⁵

Such unescorted access already occurs in some MTEs in which the demarcation point is established at the MPOE without compromising the integrity of the network. Moreover, any concerns over competitor access to ILEC network components could be addressed contractually through the imposition of industry-accepted technical standards or certification of technicians. Finally, the ILEC would receive payment for use of the risers and would hold competing carriers liable in the unlikely event that

¹⁴ The New York Public Service Commission has ordered such access. See AT&T Communications of New York, et al. v. New York Telephone Co., Case 95-C-0657; 94-C-0095; 91-C-1174, *Opinion and Order in Phase II*, 1997 N.Y. PUC LEXIS 709 at *106 (NYPSC Dec. 22, 1997).

¹⁵ Of course, ILEC personnel would have to be involved if there are no cross-connect facilities at the MPOE.

problems arose with ILEC facilities or customers as a result of the access.

B. A Riser Unbundling Requirement Satisfies The Terms Of The Act.

As a general matter, the Commission has supported implementation of subloop unbundling as a means of allowing carriers to deploy some portions of loop facilities themselves.¹⁶ Indeed, it observed the network efficiencies promoted by subloop unbundling by allowing "packetized data to be shifted to a data network rather than flowing through the circuit-switched network portions of the public switched network."¹⁷ Yet, due to technical issues not addressed by advocates of subloop unbundling, the Commission declined to identify feeder,¹⁸ feeder/distribution interface (FDI),¹⁹ and loop distribution²⁰ components as individual network elements in the Local Competition Order.²¹ However, the Commission noted its authority

¹⁶ Local Competition Order at ¶ 390.

¹⁷ Id. at ¶ 390, n.842.

¹⁸ The loop feeder is a fiber line that carries multiple (multiplexed) signals from a central office to the feeder/distribution interface.

¹⁹ The feeder/distribution interface demultiplexes the signals received from the loop feeder and sends them out on separate copper pairs to customers' network interface devices.

²⁰ Loop distribution is comprised of copper pairs running from the feeder/distribution interface to network interface devices.

²¹ Local Competition Order at ¶ 391.

"to identify additional, or perhaps different, unbundling requirements that would apply to incumbent LECs in the future."²²

The proposed unbundling requirement satisfies the standards considered by the Commission pursuant to Sections 251(c)(3)²³ and 251(d)(2)²⁴ in identifying unbundled network elements. Namely, the proposed requirement is technically feasible, does not involve access to elements of a proprietary nature,²⁵ and, as explained above, the failure to provide such access impairs the ability of requesting telecommunications carriers to provide service to end users in MTEs.

In the Local Competition proceeding, space constraints and other concerns were raised that applied to ILEC equipment in the field as distinct from telephone equipment closets and riser space within buildings. Teligent and Net2000 address only the latter circumstance and notes that many of the concerns raised with respect to field equipment are inapplicable to in-building facilities. The unquestionable technical feasibility of access to risers within buildings is perhaps best demonstrated by the fact that ILECs in several States are providing such access already.

²² Id. at ¶ 246.

²³ 47 U.S.C. § 251(c)(3).

²⁴ 47 U.S.C. § 251(d)(2).

²⁵ Teligent has not encountered any ILEC claims that access to unbundled riser cables would involve access to proprietary information.

- BellSouth has offered such unbundled access to requesting telecommunications carriers through interconnection agreements in Florida.²⁶
- U S WEST has offered to provide such unbundled access to requesting carriers in Nebraska.²⁷
- The New York Public Service Commission expressly requires the provision of unbundled access to riser cables.²⁸ The New York Public Service Commission has also required Bell Atlantic to unbundle subloop elements of loop distribution, loop feeder, and loop concentrator/multiplexer, finding that it would increase CLECs' abilities to "develop a local network with far less reliance on New York Telephone facilities."²⁹

Thus, the technical feasibility of Teligent and Net2000's request is confirmed and illustrated by the provision of this unbundled access by several different carriers in several different States.

²⁶ See Issue Identification Workshop for Undocketed Special Project: Access by Telecommunications Companies to Customers in Multi-tenant Environments, Project No. 980000B-SP.

²⁷ In the Matter of the Commission, on its own motion, seeking to determine appropriate policy regarding access to residents of multiple dwelling units (MDUs) in Nebraska by competitive local exchange telecommunications providers (CLECs), Application No. C-1878/PI-23, *Initial Comments of U S WEST Communications, Inc.* at 5-7 (Neb. PSC, filed Sep. 8, 1998) ("U S WEST's proposal also fits neatly within the Telecommunications Act of 1996, which requires incumbents to make unbundled network elements (UNEs) available at cost based rates. Here the UNE involved is simply a portion of the loop, rather than the entire loop.").

²⁸ See AT&T Communications of New York, et al. v. New York Telephone Co., Case 95-C-0657; 94-C-0095; 91-C-1174, *Opinion and Order in Phase II*, 1997 N.Y. PUC LEXIS 709 at *106 (NYPSC Dec. 22, 1997).

²⁹ Petition of MCI Telecommunications Corp., Pursuant to Section 252(b) of the Telecommunications Act of 1996, for Arbitration to Establish an Intercarrier agreement between MCI and New York Telephone Co., Case 96-C-0787, *Order Requiring Provision of Network Elements*, 1998 WL 138603 at *1-2 (NY PSC, rel. Feb. 13, 1998).

Moreover, such access is being provided in MTEs without the space constraints, degradation of service quality, or disruption of service to ILEC and CLEC customers at issue in the Commission's consideration in the Local Competition Order of unbundling subloops in outside plant, versus within MTEs.³⁰

The bona fide request ("BFR") process is insufficient to address the problem adequately in that it often requires protracted CLEC demonstrations -- on a state-by-state basis -- of technical feasibility and the need for this access. The cost and delays involved are unnecessary given the clear technical feasibility of such unbundling. Moreover, a patchwork of different unbundling obligations impairs carriers' attempts to develop a nationwide network providing advanced telecommunications services and capabilities. Finally, it leaves MTE tenants in some States without access to a variety of advanced telecommunications services and capabilities.

Although relocation of the demarcation point to the MPOE is the preferred course, providing for unbundled competitive carrier access on a nondiscriminatory basis to the ILECs' riser cables and in-building wiring at cost-based rates, as discussed above, constitutes a reasonable alternative. In light of the technical feasibility of Teligent and Net2000's request and the demonstrable need for and competitive desirability of its implementation, the Commission should require ILECs to offer

³⁰ See generally Local Competition Order at ¶ 391.

unbundled access to riser cables in those MTEs in which the demarcation point is not located at the MPOE.

III. THE LOCATION OF DEMARCATION POINTS WITHIN INDIVIDUAL MTEs SHOULD BE MADE AVAILABLE TO COMPETITIVE CARRIERS IN THE SAME MANNER THAT SUCH INFORMATION IS AVAILABLE TO INCUMBENT LECs.

The NPRM considers the adequacy of the Commission's operations support system rules with regard to loop information (particularly as such information relates to xDSL capabilities).³¹ As part of that consideration, the NPRM discusses the availability to competitive LECs of the requisite loop information.³² The Commission tentatively concludes that ILECs "must provide competitors with the same access to operations support systems as the ILEC provides to its advanced service affiliate."³³ Moreover, the Commission tentatively concludes that

in order to satisfy the nondiscrimination requirements of the Act, competitive LECs should have access to the same electronic interfaces that are available to incumbent LECs to obtain loop information.³⁴

As a function of its interest in ensuring adequate loop information for competitors, the Commission should expressly include a requirement that ILECs make available operations support system or other information concerning the location of

³¹ NPRM at ¶ 157.

³² Id. at ¶ 157-158.

³³ Id. at ¶ 157.

³⁴ Id. at ¶ 158.

inside wire demarcation points in MTEs and the type of equipment located there.

The Commission's rules permit demarcation points within MTEs to be established at a variety of locations. For premises existing as of August 13, 1990, the demarcation point in MTEs is determined in accordance with the local carrier's reasonable and non-discriminatory standard operating practices.³⁵ In MTEs in which wiring is installed after August 13, 1990, the local carrier may establish a reasonable and nondiscriminatory practice of placing the demarcation point at the MPOE.³⁶ If the telephone carrier does not make this election, the MTE owner determines whether there will be a single demarcation point for all customers, or separate demarcation point locations for each customer.³⁷

The variety of possible demarcation point locations increases confusion. Carriers providing facilities-based advanced telecommunications services and capabilities to customers in MTEs must determine where to meet the MTE facilities with their own independent networks. The myriad of possible demarcation point locations renders this determination a

³⁵ 47 C.F.R. § 68.3.

³⁶ Id. The "minimum point of entry" is defined as "either the closest practicable point to where the wiring crosses a property line or the closes practicable point to where the wiring enters a multiunit building or buildings. The telephone company's reasonable and nondiscriminatory standard operating practices shall determine which shall apply." Id.

³⁷ Id.

difficult one to make. Consequently, engineering an appropriate network configuration to reach the tenant end user becomes more arduous and prolonged than is necessary. Moreover, the difficulties result in service delays for consumers and time-to-service advantages for incumbent LECs (who hold this information) relative to competitive carriers.

A demarcation point location information requirement would not be burdensome. The Commission's rules already require local carriers to make available to building owners or their agents technical information concerning inside wiring, including copies of schematic diagrams.³⁸ Hence, the ILECs should have such information readily available.

To the extent that competitive carriers offer services to tenants within a building, they are doing so with the permission of the MTE owner. Consequently, for purposes of requesting access to information concerning the location of the demarcation point and the schematics of inside wire within the building, the Commission should clarify that CLECs may reasonably be considered "agents" of the MTE owner, as contemplated by the Commission's rules. By allowing carriers to request and receive this information on behalf of MTE owners, the Commission would minimize the burdens on MTE owners of allowing competitive carriers to serve their buildings. By minimizing the burdens of competitive entry on MTE owners, this measure can reasonably be

³⁸ 47 C.F.R. § 68.110(c).

expected to facilitate telecommunications carriers' access to tenants in MTEs.

In sum, a requirement that ILECs provide such "agents" with nondiscriminatory access to this information, within nondiscriminatory time frames, is a modest yet important extension of their existing obligation. It will facilitate the competitive provision of advanced telecommunications services and capabilities to tenants within MTEs. Moreover, it will reduce the potential for BOC advanced services affiliates to gain anticompetitive advantages from discriminatory access to such information.

IV. CONCLUSION

For the foregoing reasons, Teligent and Net2000 respectfully request the Commission to require ILECs to offer access to an ILEC's intra-MTE riser cables on an unbundled basis where the demarcation point is not located at the MPOE, and provide telecommunications carriers, on a nondiscriminatory basis, the demarcation point location within MTEs..

Respectfully submitted,

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