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June 24, 1999

VIA HAND DELIVERY

Magalie R. Salas, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Notice of *Ex Parte* Presentation by e.spire Communications, Inc., Intermedia Communications Inc. and the Association for Local Telecommunications Services

***Implementation of the Local Competition Provisions in the Telecommunications Act of 1996* -- CC Docket No. 96-98**

Dear Ms. Salas:

Pursuant to Sections 1.1206(b)(1) and (2) of the Commission's Rules, e.spire Communications, Inc. ("e.spire"), Intermedia Communications Inc. ("Intermedia"), and the Association for Local Telecommunications Services ("ALTS"), by their attorneys, submit this notice in the above-captioned docketed proceeding of an oral *ex parte* presentation made and written *ex parte* materials distributed on June 23, 1999 during a meeting with Kyle Dixon of Commissioner Powell's Office. The presentation was made by Charles Kallenbach of e.spire, Heather Gold of Intermedia, Jonathan Askin of ALTS and Jonathan Canis and John Heitmann of Kelley Drye & Warren LLP. Copies of the written materials distributed at the meeting are attached hereto.

During the presentation, e.spire, Intermedia and ALTS discussed positions set forth in their comments and reply comments in the UNE Remand phase of the above-captioned proceeding and focused on the need for data UNEs and UNE combinations, such as the extended link or "EEL".

DC01/HEITJ/85358.1

Pursuant to Sections 1.1206(b)(1) and (2), an original and two copies of this *ex parte* notification (with attachments) are provided for inclusion in the public record of the above-referenced proceeding. Please direct any questions regarding this matter to the undersigned.

Respectfully submitted,

John J. Heitmann

cc: Kyle Dixon (without attachments)
Claudia Fox
Jake Jennings

e.spire / Intermedia / ALTS

Ex Parte Presentation

Implementation of the Local Competition Provisions in the Telecommunications Act of 1996 (UNE Remand)

CC Docket No. 96-98

Charles Kallenbach, *Vice President, Regulatory Affairs – e.spire*
Heather Burnett Gold, *Vice President, Regulatory and External Affairs – Intermedia*
Jonathan Askin, *Vice President - Law – ALTS*
Jonathan Canis, John Heitmann, *Kelley Drye & Warren LLP*

June 23, 1999

Data UNEs

- **Advanced services unbundling (including xDSL, ATM, IP and frame relay) meets the Section 251(d)(2) unbundling standard – the advantages of incumbency are not limited to POTS.**
  - "Congress made clear that the 1996 Act is technologically neutral and is designed to ensure competition in all telecommunications markets."
  - Because there currently are no data UNEs, interconnection of CLEC frame relay and other data networks with ILEC data networks only can be established through lengthy negotiations or contested arbitrations.
  - Interconnection agreements for the exchange of frame relay traffic are not available from all Tier 1 ILECs – some of the interconnection agreements that do exist are restricted to "local" data services. This lack of ubiquity and uniformity, along with restrictions on the types of data traffic that can be provisioned, greatly limit the utility of CLEC data networks.
- **Data networks do not follow the same hierarchical switching structure as ILEC circuit-switched networks. Instead, data customers are connected to a "cloud" of interconnected data switches and/or routers and transport links.**

Data UNEs *(continued)*

- **The unique UNE functions required by data carriers are necessary to provide connectivity between a data switch or router that serves an end user and a data switch or router that serves other carriers, or connectivity between data switches or routers that serve carriers.**
  - These functions typically are reflected by various elements in ILEC frame relay and ATM cell relay service tariffs – the terminology used varies dramatically from ILEC to ILEC.
  - These functions, regardless of terminology or technology, are essentially the same: what is critical is the establishment of a virtual circuit between ports on data switches or routers.
  - To translate these functions into UNEs, the Commission must order ILECs to: (1) unbundle ports on their data switches or routers; and (2) provide a virtual circuit at a series of pre-defined bit rates between the ports.
- **ILEC arguments that "too much unbundling" will provide a disincentive for carriers to deploy their own facilities-based advanced service networks simply does not reflect reality.**

UNE Combinations / EEL

- **The Supreme Court confirmed the Commission's authority to require cost-based access to ILEC UNE combinations.**
  - If an ILEC uses a combination of network elements anywhere in its network to provide service to any customer or carrier, the Commission should make clear that, pursuant to Rule 315(b), the ILEC must make available the same combination to requesting carriers for any service they intend to provide and for any customer they intend to serve.
- **ILECs use combinations of loops, multiplexing and transport (*i.e.*, extended links or EELs) to provision advanced services, such as xDSL, frame relay and ATM, to end users.**
  - To compete on a level playing field, CLECs must be able to use EELs in the same ways that ILECs use them.
- **CLECs must have *unrestricted access* to all combinations, including EELs, to provision frame relay, ATM, voice over frame or IP, and high capacity internet service and to compete effectively and broadly in the market for advanced services.**

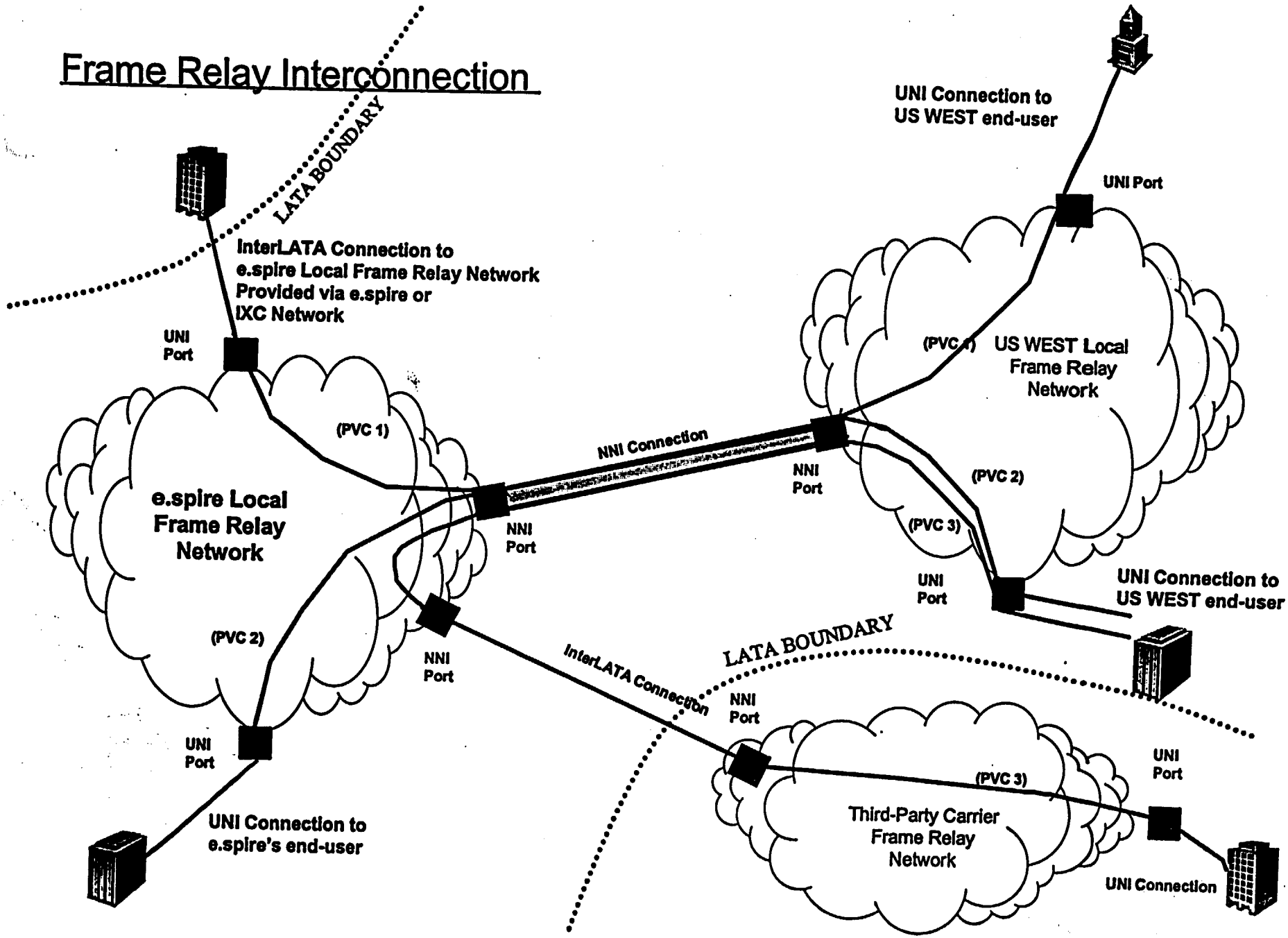
UNE Combinations EEL *(continued)*

- ILEC or state commission-imposed restrictions based on the type or jurisdiction of traffic explicitly should be prohibited.

- **CLECs should be able to convert special access links to EEL arrangements at no charge. All CLECs must have reasonable and nondiscriminatory access to UNE combinations.**
  - Bell Atlantic is converting AT&T's special access circuits to EEL arrangements in New York. Bell Atlantic refuses to allow carriers to use Section 252(i) to "opt-in" to the dedicated transport/EEL provisions in AT&T's agreement.

- **Availability of EEL combinations would accelerate competitive deployment of traditional voice and advanced services by maximizing the number of customers that can be reached by CLEC voice and data switches and through each collocation arrangement.**
  - ILECs should be required to offer EELs including all loop and transport types.
  - The Commission also should find that UNEs need not be combined at the collocation point of the requesting carrier and that ILECs may not impose "glue charges" for combining UNEs.

Frame Relay Interconnection



Intermedia Communications EEL Restrictions Notebook

June 14, 1999

Table of Contents

Enhanced Extended Link
A Tutorial

What is Enhanced Extended Link (EEL)?

From a practical perspective, an EEL is a facility that would give CLECs access to the local loop functionality of an ILEC. Rather than forcing a CLEC to adopt the outdated distributed central office architecture of the ILEC, an EEL in effect would bring an end user's loop to the CLECs local switch or point of collocation. Along the path to the CLEC's point of interface, EELs would be aggregated utilizing modern multiplexing technology. Once delivered to the CLEC, EELs are dependent upon the CLEC providing its own switching functionality. In this manner, an EEL represents an end user "loop" connected to a CLEC switch.

What are the physical components of an EEL arrangement?

From a technical perspective, an EEL provides the facility between the end user and the CLEC premise. Typically in an EEL configuration, the end user's local loop would be connected to an aggregation device at the ILEC's central office (i.e., multiplexer) which in turn is connected to an interoffice dedicated transport facility which terminates in a CLEC collocation in a distant ILEC central office. In provisioning an EEL, the ILEC would provide the loop, multiplexing, interoffice facility and any associated cross connects. At least initially, EELs would likely be delivered to the CLEC at one centralized physical collocation in an exchange area. In discussions to date, CLECs have requested EEL functionality, which would support end user loops at analog, 56/64 kbps, 1.54mbps, and DS3 levels. CLECs have requested interoffice facility transport at the DS0, DS1 and DS3 level in association with EEL arrangements.

What services would be supported by EELs?

From a service perspective, an EEL can be designed to support both digital and analog customer applications. By allowing both analog and digital loop arrangements in association with EELs, end user applications utilizing the technology could involve any service from POTS to ATM switching. Of particular interest is the ability to utilize EEL arrangements to provide voice over data applications in competition with ILEC ADSL services.

How should EELs be defined from a regulatory viewpoint?

EELs provide CLECs with direct access to loop functionality. In order to support loop access in a modern telecommunications architecture, EELs can be defined as a single UNE or can be defined as a required combination of UNEs. CLECs generally support EEL being defined as a single UNE for several reasons. First, incumbent local exchange carriers (ILECs) provide EELs to themselves today and deliver them to centralized data switches. Therefore, such facilities are already put together by ILECs today. Second, ILECs can facilitate utilization of EELs by making them available as a single UNE from an ordering, provisioning, maintenance and repair standpoint.

Why do CLECs need EELs?

CLECs need EELs to effectively compete and reach customers in the local exchange market. Today, ILECs require CLECs to collocate in every end office in order to provision an EEL application. Such a distributed architecture is not practical from an economic or administrative perspective based upon today's underlying digital telecommunications technology. Thus, any ILEC requirement to collocate in every end office to access UNE loops effectively blocks CLECs from providing service to many customers due to several factors. First, CLECs must have enough customers to justify and support collocation in any given central office due to the expense of collocation (a typical physical collocation in Florida will cost $100,000.) Second, CLECs have a time to market issue in those cases where collocation can be supported and justified due to the time involved for the ILEC to build the collocation space (on average six to eight months). Third, CLECs must have large field technical staffs to provide service support in widely dispersed collocation locations. Fourth, CLECs must duplicate equipment in each collocation space regardless of spare capacity which may exist in certain locations. Last, EELs conserve and more efficiently use dwindling ILEC collocation space. For example, many offices located in areas with high demand have experienced exhaust situations. With implementation of EEL, these situations would be minimized if not eliminated because fewer physical collocations would be needed. Furthermore, if space were not available in a given office it would no longer be an issue since EEL would permit that office to still be served by a CLEC.

What is the position taken by ILECs on EEL and what are their arguments supporting their position?

ILECs have opposed providing EEL utilizing the following arguments as their basis:

1. ILECs believe EELs constitute a combination which is not legally required under the Telecommunications Act.
2. ILECs desire to protect existing special access revenue streams and have thus argued that to the extent EEL is provided it must be restricted to local voice applications.
3. ILECs assert that elements supporting digital EELs are not required to be provided under the Act but instead are available as special access services.

What is the CLEC response to ILEC arguments against EEL?

ILEC arguments that EEL constitutes a combination and that they have no requirement to provide under the Telecommunications Act of 1996 ("the Act") or FCC rules have no legal or policy basis. The FCC and state commissions have clear legal authority under the Act to define UNEs. The FCC's order on Shared Transport is also supportive of the CLEC position on the requirement for EEL. The FCC found in that order that a *functional* approach could be used in defining UNEs. The Eighth Circuit Court subsequently upheld the FCC's definition of shared transport even though it comprised two other UNEs. Furthermore, the recent Supreme Court decision makes any argument that combinations are not required completely erroneous. The Supreme Court in Section 251 (c) (3) has specifically approved combinations in that it expressly contemplates that combined elements may be requested and provided in discrete pieces.

With regard to restrictions advocated by ILECs, there is again no basis for such restrictions. ILECs should be required to offer EELs for all loop and transport types and should not be permitted to limit access to EELs on the basis of any technology. Many ILECs have sought to restrict the use of an EEL to voice only even though ILECs provide EEL arrangements to themselves in the provision of their data services. ILECs do not have data switches in every end office and typically have one data switch per LATA. What is provided to serve the data customer is an ADSL loop that transits the end office where it is multiplexed and delivered over a high capacity facility to the incumbent data switch. This is the same functionality that CLECs are requesting with EEL.

Some ILECs have claimed that what CLECs are asking for is nothing more than what is currently provided as special access. These claims are unfounded. CLECs are entitled under the Act to use UNEs in building their local network. Because EEL does not provide an end to end service and CLECs provide functionality through their own facilities, most notably switching, it does not provide an end to end service available for resale. The model proposed by CLECs is analogous to the access tandem model imposed at divestiture to stimulate competition. Given this, a requirement for ILECs to provide EELs will only accelerate local competition and provide competitive choice to end user customers.

Conclusion

Intermedia supports and strongly urges the adoption of EEL defined as a UNE. Adoption of EEL as a UNE would only serve to accelerate competitive deployment of not only traditional telecommunications services but also advanced services. Similarly, a requirement to provide EEL as a UNE would also minimize issues regarding space limitations for physical collocation and eliminate collocation space exhaust issues.

BRIEFING PAPER ON FCC RULES GOVERNING USE OF UNBUNDLED NETWORK ELEMENTS

I. The Use of Enhanced Extended Links or Other Non-Switching UNEs Cannot Be Restricted

1. The Only Limitation on UNE Use Is Restricted to Unbundled Local Switching

In its *Local Competition Reconsideration Order*, the FCC addressed whether an IXC could use an unbundled local switching UNE solely to terminate its long distance traffic. The FCC found that such an arrangement would not be practical, because the local switch port is needed to provide both local and interexchange service, and that use of that switch port to provide only long distance service would mean that the customer could not receive local calling service. The FCC found that:

> We thus make clear that, as a practical matter, a carrier that purchases an unbundled switching element will not be able to provide solely interexchange service or solely access service to an interexchange carrier. A requesting carrier that purchases an unbundled local switching element for an end user may not use that switching element to provide interexchange service to end users for whom that requesting carrier does not also provide local exchange service.[4]

2. Interconnection Is Available to CLECs for the Provision of Local and/or Long Distance Services and UNEs are a Form of Interconnection

In its Local Competition Order, the FCC expressly found that ILECs could not impose a "local service requirement" upon CLECs seeking interconnection. The FCC stated:

> We conclude that the phrase "telephone exchange service and exchange access" imposes at least three obligations on incumbent LECs: an incumbent must provide interconnection for purposes of transmitting and routing telephone exchange traffic or exchange access traffic or both. . . . Congress made clear that incumbent LECs must provide interconnection to carriers that seek to offer

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[4] *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, Order on Reconsideration, 11 FCC Rcd 13042, ¶ 13 (1996) (*Local Competition Reconsideration Order*).

telephone exchange service *and* to carriers tot seek to offer exchange access.[5]

* * * * *

We also conclude that requiring new entrants to make available both local exchange service and exchange access as a prerequisite to obtaining interconnection to the incumbent LEC's network under subsection (c)(2) would unduly restrict potential competitors. For example, CAPs often enter the telecommunications market as exchange access providers prior to offering telephone exchange services. . . . We see no convincing justification for treating providers of exchange access services that offer telephone exchange services differently from access providers who do not offer telephone exchange services. We therefor conclude that parties offering only exchange access are permitted to seek interconnection pursuant to section 251(c)(2).[6]

3. UNEs Are Available to CLECs for the Provision of Local and/or Long Distance Services

- "The only limitation that the statute imposes on the definition of a network element is that it must be 'used in the provision of a telecommunications service.'"[7]

- "We further conclude that 'access' to an unbundled network element refers to the means by which requesting carriers obtain an element's functionality in order to provide a telecommunications service."[8]

4. Neither the Federal Communications Act Nor the FCC's Rules Permit Any Restrictions on a CLEC's Ability to Use UNEs to Provide Data Services

Any restriction that would prevent a CLEC from using EELs, other UNEs (with the exception of unbundled switching, as discussed above), or other combinations of UNEs unless they provide local dialtone would effectively prevent CLECs from using such UNEs to provide the most important data-oriented services that are now becoming available. These services

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5 *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, Memorandum Opinion and Order, 11 FCC Rcd 15499, ¶ 184 (1996) (*Local Competition Order*) (*emphasis in original*).

6 *Id.* at ¶ 185.

7 *Id.* at ¶ 261 (citations omitted).

8 *Id.* at ¶ 269.

include Digital Subscriber Line-based broadband services (including video teleconferencing and high capacity Internet access), voice over Internet Protocol, Frame Relay data services, and other state-of-the-art telecommunications services. As discussed below, the Federal Communications Act and controlling FCC decisions prohibit such restrictions.

A. The Federal Communications Act

- § 153(26) defines "local exchange carrier" as "any person that is engaged in the provision of telephone exchange service *or* exchange access" (*emphasis added*).

- § 153(47) defines "telephone exchange service" as "(A) service within a telephone exchange or within a connected system of telephone exchanges within a connected system of telephone exchanges, within the same exchange are operated to furnish to subscribers intercommunicating service of the character ordinarily furnished by a single exchange, and which is covered by the exchange service charge, or (B) comparable service provided through a system of switches, transmission equipment, or other facilities (or combination thereof) by which a subscriber can originate and terminate a telecommunications service."

- § 153(16) defines "exchange access" as "the offering of access to telephone exchange services or facilities for the purpose of the origination or termination of telephone toll services."

- § 153(46) defines "telecommunications service" as "the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, *regardless of the facilities used*" (*emphasis added*).

B. The FCC's Rules

- 47 C.F.R. § 51.309(a) states that "[a]n incumbent LEC shall not impose limitations, restrictions, or requirements on requests for, or the use of, unbundled network elements that would impair the ability of a requesting telecommunications carrier to offer a telecommunications service in a manner that the requesting telecommunications carrier intends."

C. The FCC's Initial 706 Order

In its 706 Order, the FCC expressly found that broadband services – including ADSL-based internet access – are either exchange service or exchange access service, as defined by the Federal Communications Act.[9] In so doing, the FCC expressly found that ILECs were obligated under § 251(c) of the Act to make available UNEs for the provision of such services.[10] In light of these express findings, ILEC arguments that EELs or other UNEs can be withheld from carriers that provide solely data services must be rejected.

This conclusion is also required by simple common sense. There are many CLEC business plans that focus on the provisioning of data services to customers that do not require traditional voice services. These include:

- Frame Relay services used to connect Local Area Networks or Intranets. These are data applications used over lines that are separate and distinct from those used by the customer for its voice telephony.

- High capacity Internet access. The new "Data CLECs" seek to provide this service to customers that obtain their voice telephone service from ILECs or other carriers.

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9 *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket No. 98-147, FCC 98-188, Memorandum Opinion and Order and Notice of Proposed Rulemaking at ¶ 40 (1998) (*706 Order*).

10 *Id.* at ¶¶ 32, 52-53, 57-58.

- Internet Access and Internet Protocol Telephony. The FCC has recently issued orders finding that dedicated ADSL-based lines that carry traffic to Internet Service Providers ("ISPs")[11] and dial-up connections to ISPs[12] are both jurisdictionally interstate. A restriction that CLECs may only use EELs or other UNEs to provide local exchange service would prevent CLECs from providing these and other critically important new services.

D. The FCC's Recent 706 Collocation Order

On March 18, 1999, the FCC adopted an order that establishes national standards for collocation, and initiating a new proceeding to establish rules involving the provision of unbundled loops and other UNEs to CLECs for the purposes of providing data services, including "line sharing".[13] Line sharing involves the use of a single unbundled local loop by two carriers – one which provides data services, while the other provides voice services. The FCC tentatively concluded that such line sharing is technically feasible, and solicits comments on the rules it should adopt to implement such sharing. While the FCC's ruling that line sharing is technically feasible is only a tentative conclusion, it necessarily implies that CLECs have the right to use an unbundled loop to provide only data service, apart from voice service.

II. Access Charges Do Not Apply When Telecom Carriers Use UNEs to Provide Competitive Service

1. The FCC Has Expressly Found that CLECs Using UNEs to Compete Against ILEC Access Services Do Not Pay Access Charges

In the *Local Competition Order*, the FCC specifically rejected ILEC arguments that CLECs purchasing UNEs must continue to pay access charges:

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[11] *GTE Telephone Operating Cos., GTOC Tariff No. 1, GTOC Transmittal No. 1148*, Memorandum Opinion and Order, CC Docket No. 98-79 (released October 30, 1998).

[12] *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996,* CC Declaratory Ruling, Docket No. 96-98 (released February 25, 1999).

[13] FCC News Release, "FCC Adopts Rules to Promote the Deployment of Advanced Telecommunications Services (CC Docket No. 98-147)," released March 18, 1999.

> We reject the argument advanced by a number of incumbent LECs that section 251(i) demonstrates that requesting carriers using unbundled elements must continue to pay access charges. . . . When interexchange carriers purchase unbundled elements from incumbents, they are not purchasing exchange access "services." They are purchasing a different product, and that product is the right to exclusive access or use of an entire elements.[14]
>
> * * * * *
>
> We affirm our tentative conclusion in the NPRM that, telecommunications carriers purchasing unbundled network elements to provide interexchange services or exchange access services are not required to pay federal or state exchange access charges except as described in section VII, *infra*, for a temporary period.[15]

The temporary exception discussed in this last statement refers to two per-minute federal access charges – the Carrier Common Line Charge and the Transport Interconnection Charge – that competitive carriers had to pay on a temporary basis. Importantly, these charges only applied to carriers that purchased unbundled switching UNEs.[16] Moreover, this was a temporary, interim measure that expired in 1997.[17] Under the FCC's rules, access charges never applied to carriers purchasing UNEs other than unbundled switching.

2. The FCC's Pricing Rules Exclude Subsidies Embedded in Access Charges

Section 252 of the FCA sets pricing standards for Interconnection and Unbundled Network Elements (as well as resale and reciprocal compensation). The FCC found that the "based on cost" standard of § 252(d)(1), which applies to both Interconnection and UNEs, requires the application of a Total Element Long-Run Incremental Cost ("TELRIC") cost model.[18] The FCC's ability to set this costing methodology as a standard that must be adopted by State regulatory bodies was recently affirmed by the Supreme Court.[19] In defining its TELRIC

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14 *Local Competition Order* at ¶ 358.

15 *Id.* at ¶ 363.

16 *Id.* at ¶ 721.

17 *Id.* at ¶ 720.

18 *E.g., Local Competition Order* at ¶ 699.

19 *AT&T Corp. v. Iowa Utilities Bd.*, ___ U.S. ___, 1999 WL 24569 (Jan. 25, 1999).

standards, the FCC expressly *excluded* Universal Service Subsidies from the rates that ILECs could charge for both Interconnection and UNEs:

> We conclude that funding for any universal service mechanisms adopted in the universal service proceeding may not be included in the rates for interconnection, network elements, and access to network elements that are arbitrated by the states under sections 251 and 252. Section s 254(d) and 254(e) of the 1996 Act mandate that universal service support be recovered in an equitable and nondiscriminatory manner from all providers of telecommunications services. We conclude that permitting states to include such costs in rates arbitrated under sections 251 and 252 would violate that requirement by requiring carriers to pay specified portions of such costs solely because they are purchasing services and elements under section 251. Section 252(d)(1) requires that rates for interconnection, network elements and access to network elements reflect the costs of providing those network elements, not the costs of supporting universal service.[20]
>
> * * * * *
>
> If a state collects universal service funding in rates for elements and services pursuant to sections 251 and 252, it will be imposing non-cost based charges in those rates. Including non-cost based charges in the rates for interconnection and unbundled elements is inconsistent with our rules implementing sections 251 and 252 which require that these rates be cost-based. . . . States may not, therefore, include universal service support funding in the rates for elements and services pursuant to section s 251 and 252, nor may they implement mechanisms that have the same effect.[21]

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20 *Local Competition Order* at ¶ 712 (citations omitted).

21 *Id.* at ¶ 713.

BELLSOUTH

Kathleen B. Levitz
Vice President-Federal Regulatory

RECEIVED

APR 06 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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1133-21st Street, N.W.
Washington, D.C. 20036-3351
202 463-4113
Fax: 202 463-4198
Internet: levitz.kathleen@bsc.bls.com

April 6, 1999

EX PARTE

STAMP and RETURN

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, D.C. 20554

Re: CC Docket No. 96-98 and Cc Docket No. 98-121

Dear Ms. Salas:

On April 5, 1999, Sid Boren, Bob Blau, Randy New, Jim Brinkley, and Bill Stacy, representing BellSouth, met with Larry Strickling, Chief of the Common Carrier Bureau, and members of his staff. Bureau staff members attending the meeting included Carol Mattey, Michael Pryor, Jordan Goldstein and Jake Jennings. The meeting focused upon a BellSouth proposal related to the provision of expanded extended loops. The BellSouth representatives used the attached document to make their presentation.

In accordance with Section 1.1206. I am filing two copies of this notice in both of the proceedings identified above. Please place the notice in the records of both.

Sincerely,

Kathleen B. Levitz

Kathleen B. Levitz
Vice President – Federal Regulatory

Attachment
cc: Larry Strickling (w/o attachment)
Carol Mattey (w/o attachment)
Michael Pryor (w/o attachment)
Jordan Goldstein (w/o attachment)
Jake Jennings (w/o attachment)

LOOP TRANSPORT PROPOSAL

BELLSOUTH

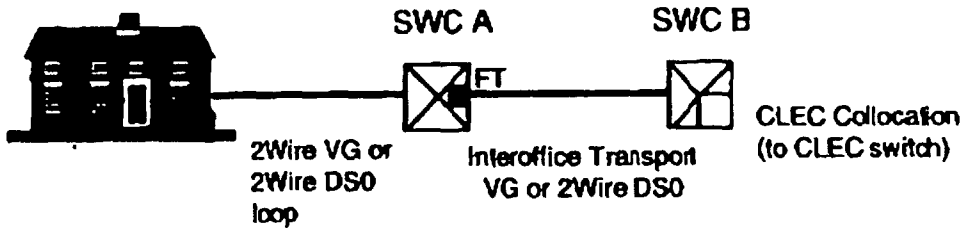
April 5, 1999

BELLSOUTH PROPOSAL

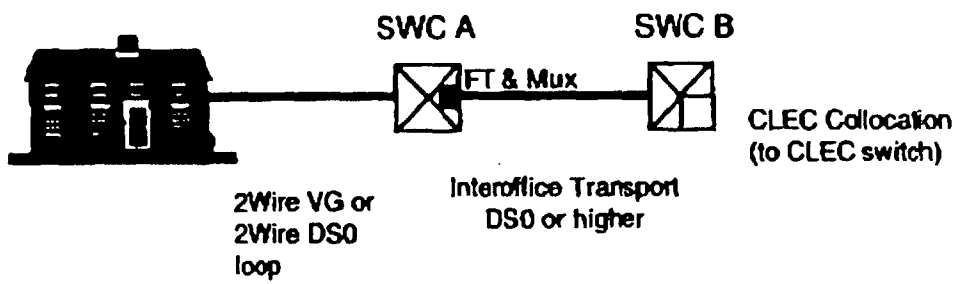
- **BELLSOUTH, while not currently required, would offer on a voluntary basis and concurrent with 271 approval the following expanded extended loops (EELs)**
- **An EEL would have the following characteristics:**
  - EELs must be connected to a CLEC's circuit switch that handles primarily voice local exchange traffic; the CLEC's switch must provide dialtone
  - EELs will terminate at the end user's premise at no higher than voice grade or DS0 level
  - The CLEC can elect to use DS1 or higher service for interoffice transport
  - EELs will be offered in serving wire centers which have less than 2 collocators
  - The price to the CLEC will be the sum of the approved UNE elements utilized in the provision of service
  - For EELs which include a serving wire center with 2 or more collocators, the price for the EEL would be negotiated

LOOP/TRANSPORT – OVERVIEW

- ***Low Cap* Loop / Transport (*DS0 & Voice Grade)***



- ***Low Cap* Loop / High Cap** Transport (**DS1 and higher)***

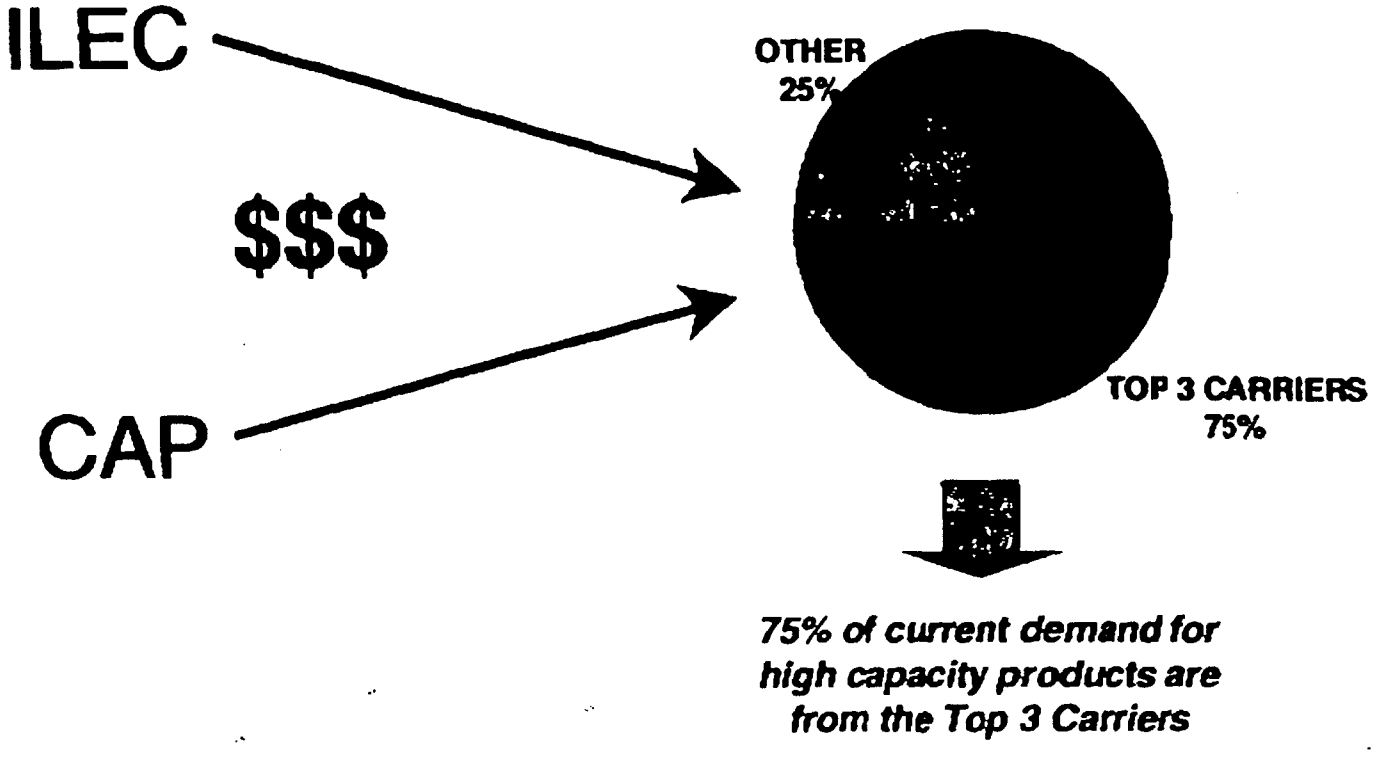


- **CLEC can provide basic local voice services – 1FR, 1FB, VG PBX Trunks, Point to Point VG/DS0 Private Line, etc.**
- **CLEC will not have to co-locate or invest capital in SWC A (or any intermediate SWC)**

Legend:	
VG -	Voice Grade
DS0 -	56 or 64 kb digital circuit
Mux -	Multiplexer
FT -	Facility Termination
SWC -	Serving Wire Center

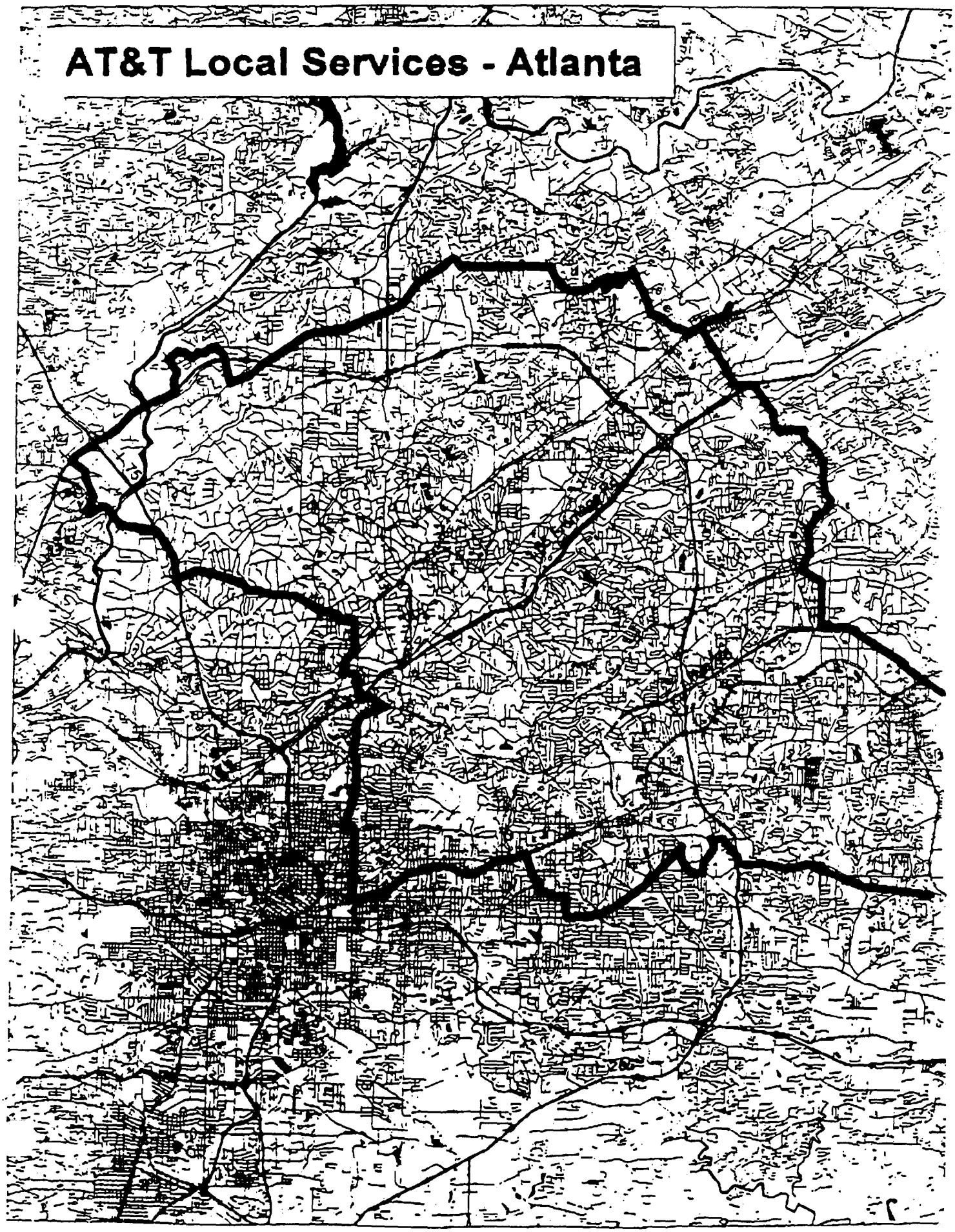
LOOP/TRANSPORT – POTENTIAL SHIFT OF WEALTH

. . . And Transfer This Value to Large IXCs without benefit to the consumer

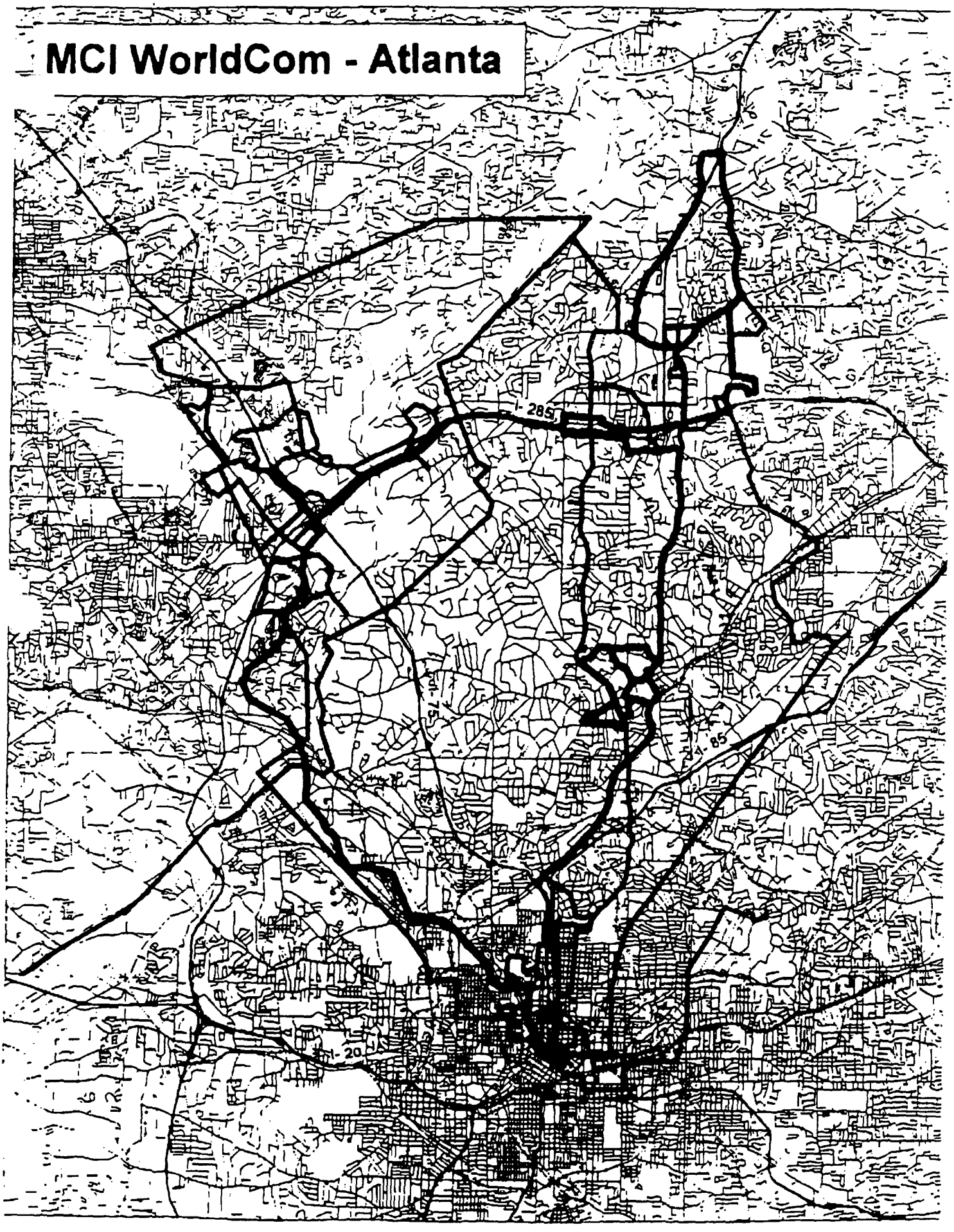


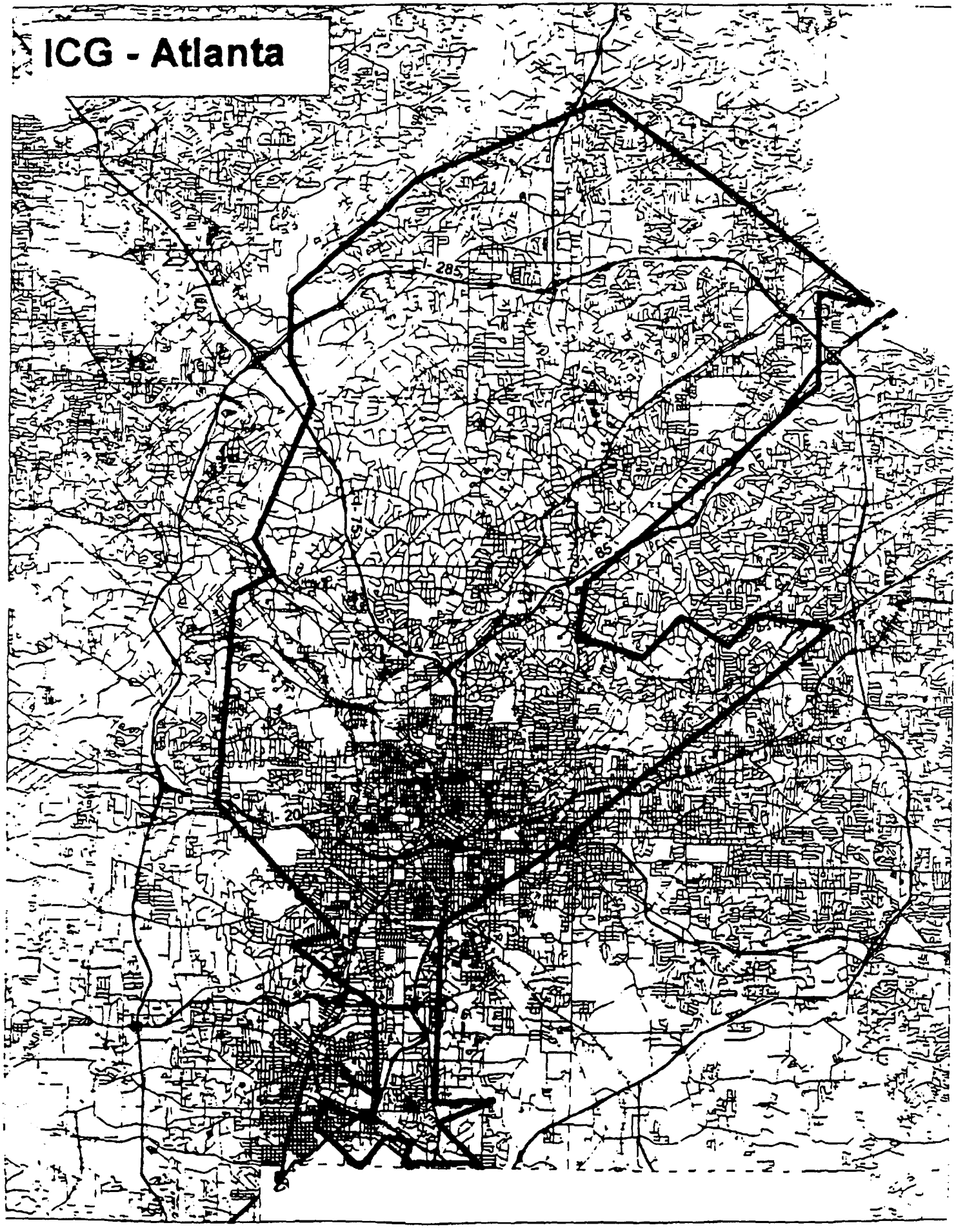
75% of current demand for high capacity products are from the Top 3 Carriers

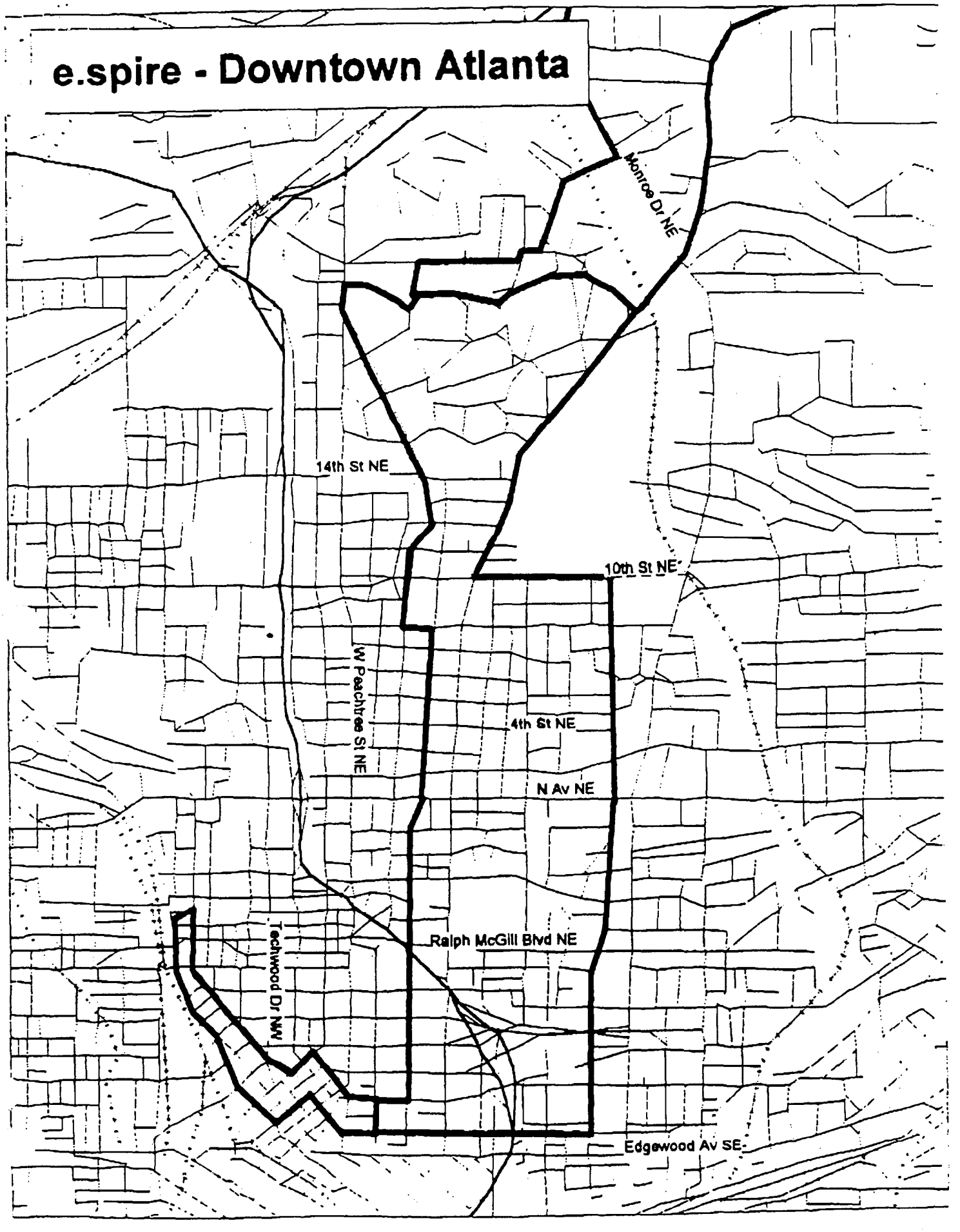
AT&T Local Services - Atlanta



MCI WorldCom - Atlanta




ICG - Atlanta
I-285
I-75
I-85
I-20


e.spire - Downtown Atlanta
Monroe Dr NE
14th St NE
10th St NE
W Peachtree St NE
4th St NE
N Av NE
Ralph McGill Blvd NE
Techwood Dr NW
Edgewood Av SE

LOOP / TRANSPORT ALTERNATIVES – MAJOR METROs

Metro	% of wire centers with 2 or more co-locators	% of lines available to competitors - wire centers with 2 or more co-locators	% of revenues available to competitors - wire centers with 2 or more co-locators	% of revenues available to competitors
Atlanta	79	91	93	93
Birmingham	25	36	46	64
Charlotte	77	94	94	97
Jacksonville	56	68	74	85
Louisville	31	44	50	63
Memphis	57	84	87	87
Miami	57	71	73	99
Nashville	60	86	89	89
New Orleans	13	23	32	41

* includes virtual collocation

12.3 **Co-operative Testing**

12.3.1 Upon request, at Time and Materials charges as shown on Appendix Pricing UNE - Schedule of Prices, SWBT will provide to CLEC cooperative testing to test any network element provided by SWBT and to test the overall functionality of network elements provided by SWBT that are connected to one another or to equipment or facilities provided or leased by CLEC, to the extent SWBT has the ability to perform such tests. The cooperative testing provided for in this paragraph is exclusive of any maintenance service and related testing that SWBT is required to provide for unbundled Network Elements under Attachment 6 or Attachment 8.

13.0 Pricing

13.1 **Price Schedules**

Attached hereto as Appendix Pricing - UNE is a schedule which reflects the prices at which SWBT agrees to furnish unbundled Network Elements to CLEC.

14.0 **Additional Provisions**[14]

Notwithstanding anything in this Agreement to the contrary (including but not limited to this Attachment, Appendix Pricing-UNE, and Appendix Pricing-UNE Schedule of Prices):

14.1 Except as modified below, SWBT agrees to make all unbundled network elements (UNEs) set forth in this Agreement available to CLEC for the term of this Agreement.

14.2 SWBT will, except as provided elsewhere in Section 14, provide combinations of network elements to CLEC consistent with SWBT's obligations in this Agreement at the applicable charges set forth in this Agreement. The Central Office Access Charge was approved by the Commission as an appropriate method of compensating SWBT for the function of combining UNEs. For preexisting combined elements, where no work is required by SWBT to provide UNEs on a combined basis, SWBT will not apply a Central Office Access Charge but will apply all other recurring and nonrecurring charges and the electronic service order charge. For new UNE combinations that SWBT has agreed to provide under this section that require work by SWBT and that SWBT is not otherwise legally

[14]This new section implements Section II ("Provision of Unbundled Network Elements") of MOU Attachment B (pp. 26-31).

obligated to combine, the applicable recurring and nonrecurring charges will apply, together with the Central Office Access Charge.[15]

14.3 For service to business customers, beginning July 1, 2001[16]:

14.3.1 If the FCC or the Commission determines or has determined that a certain network element need not be provided under Section 251(c)(3) of the FTA, either statewide or in a particular location or locations, SWBT may set the price of such network element(s) at a market level for the applicable areas.

14.3.2 If the FCC or a court modifies or has modified the TELRIC methodology applicable to unbundled network elements, SWBT may renegotiate the applicable prices for unbundled network elements provided pursuant to Section 251(c)(3) of Title 47, United States Code.

14.3.3 In those SWBT central offices where there are four (4) or more CLECs collocated for which SWBT has provided UNEs, SWBT may elect to not combine UNEs that are not already combined in that central office. In that event, SWBT will request that CLEC provide a one (1) year forecast of its expected demand for UNEs in that central office which CLEC will combine outside of its existing or planned collocation arrangements. Within sixty (60) days of receipt of CLEC's forecast, SWBT will construct a secured frame room in the central office or, if space is not available, external cross connect cabinet until space becomes available in the central office at no additional cost to CLEC where CLEC may combine UNEs. If CLEC submits such a forecast, SWBT will continue to combine UNEs until the secured frame room or external cross connect cabinet is made available to CLEC. However, if at any time after a secured frame room or external cross connect cabinet is made available, SWBT is unable to meet CLEC's forecasted demand for UNEs to be combined through use of these arrangements due to a lack of capacity, SWBT will resume combining UNEs for CLEC until capacity can be provided. If CLEC fails to submit such a forecast, SWBT will no longer combine UNEs that are not already combined.

14.3.4 SWBT may not substitute the above described methods of combining UNEs for its own continued performance of such connections at cost based rates if the FCC

[15]Pursuant to Commissioner Walsh's request. *See* Transcript of April 29, 1999 Opening Meeting at 144.

[16]This is two years after the date the Commission is expected to (1) approve the Proposed Interconnection Agreement and (2) find that the "terms and conditions of the Proposed Interconnection Agreement, when implemented, meet the requirements of 47 U.S.C. § 271(c), conditioned only upon the completion of Project No. 20000." *See* MOU at pp. 1-2. If the requisite Commission approval and finding occur on a date earlier than July 1, 1999, this date will be adjusted accordingly.

or reviewing court has determined that the ILECs have an obligation to perform such connections.

14.4. For service to residential customers, beginning July 1, 2002[17]:

14.4.1 If the FCC or the Commission determines that a certain network element need not be provided under Section 251(c)(3) of the FTA, either statewide or in a particular location or locations, SWBT may set the price of such network element(s) at a market level for the applicable areas. In pricing the unbundled network element platform under this provision, SWBT shall not increase the total price of the platform by more than twenty (20) percent each year.

14.4.2 If the FCC or a court modifies or has modified the TELRIC methodology applicable to unbundled network elements, SWBT may renegotiate the applicable prices for those unbundled network elements provided pursuant to Section 251(c)(3) of Title 47, United States Code.

14.5 To the extent the FCC by rule or the Commission by arbitration, authorizes new unbundled network elements, SWBT will provide such elements, consistent with the terms of this Section, to CLEC pursuant to a negotiated or arbitrated appendix to this Agreement.

14.6 Consistent with its obligations under this Agreement and Section 14, SWBT will provide dark fiber as an unbundled network element subject to the provisions of Section 14.3.

14.7 Enhanced Extended Loop (EEL)

Consistent with Sections 14.3.1, 14.3.2, 14.4.1, and 14.4.2 above:

14.7.1 SWBT will combine unbundled loops with unbundled dedicated transport as described herein to provide enhanced extended loop. SWBT will cross-connect unbundled 2 or 4-wire analog or 2-wire digital loops to unbundled voice grade/DS0, DS1, or DS3 dedicated transport facilities (DS0 dedicated transport is only available between SWBT central offices) for CLEC's provision of circuit switched or packet switched telephone exchange service to CLEC's own end-user customers. SWBT will also cross-connect unbundled 4-wire digital loops to unbundled DS1, or DS3 dedicated transport facilities for CLEC's provision of circuit switched telephone exchange service to CLEC's own end-user customers.

[17]This date is three years after the date the Commission is expected to (1) approve the Proposed Interconnection Agreement and (2) find that the "terms and conditions of the Proposed Interconnection Agreement, when implemented, meet the requirements of 47 U.S.C. § 271(c), conditioned only upon the completion of Project No. 20000." *See* MOU at pp. 1-2. If the requisite Commission approval and finding occur on a date earlier than July 1, 1999, this date will be adjusted accordingly.

14.7.2 The dedicated transport facility will extend from CLEC customer's SWBT serving wire center to either CLEC's collocation cage in a different SWBT central office (in which case, no dedicated transport entrance facility is necessary) or to CLEC's point of access through a dedicated transport entrance facility. CLECs must order the dedicated transport facility, with any necessary multiplexing, from CLEC's collocation cage or CLEC's switch location to the wire center serving CLEC's end user customer. CLEC will order each loop as needed and provide SWBT with the Channel Facility Assignment (CFA) to the dedicated transport.

14.7.3 Alternatively, CLEC may cross-connect unbundled loops with the unbundled dedicated transport facilities in its physical collocation space utilizing its own equipment or through the secured frame room in the central office, or if space is not available, in an external cross-connect cabinet until space becomes available in the central office. If CLEC elects this option, CLEC will provide a rolling 12 month forecast, updated every six (6) months, of its expected demand for unbundled loops to be connected with the unbundled dedicated transport facilities in each central office in which CLEC will combine outside of its existing or planned collocation arrangements. Within sixty (60) days of receipt of CLEC's forecast for a given central office, SWBT will construct, at no additional cost to CLEC, a secured frame room in the central office, or, if space is not available, external cross connect cabinet until space becomes available in the central office, where CLEC may combine unbundled loops with the unbundled dedicated transport facilities. If CLEC submits such a forecast, SWBT will temporarily combine unbundled loops with the unbundled dedicated transport facilities until the secured frame room or external cross connect cabinet is made available to CLEC. When the secured frame room or external cross connect cabinet is made available, CLEC will, within ninety (90) days after providing a forecast for a particular central office or thirty (30) days after receiving appropriate terminal assignment information to place connections on the secured frame, whichever is later, replace the temporary connections made by SWBT, effectively half-tapping the existing temporary connections so that the temporary connection can be removed without interrupting the end user's service. When notified by CLEC that its connections are complete within the period described above, SWBT will remove its temporary connections. If CLEC fails to notify SWBT that it has placed its connections on the secured frame during that period, SWBT will charge CLEC the applicable special access recurring and nonrecurring rates, in lieu of the UNE rates. Such special access charges shall be retroactive to the date SWBT began combining the UNEs for CLEC pursuant to this paragraph. If at any time after a secured frame room or external cross connect cabinet is made available, SWBT is unable to meet CLEC's forecasted demand for use of these arrangements due to a lack of capacity, SWBT will again temporarily combine unbundled loops with the unbundled dedicated transport facilities as an interim arrangement for

CLEC until capacity can be provided. When capacity is made available, temporary connections performed by SWBT will be removed as described above.

If CLEC submits forecasts pursuant to this section, and fails to meet fifty percent (50%) of its submitted forecast for any central office, CLEC will pay SWBT the reasonable costs associated with the unused capacity of the secured frame for that office.

14.8 For purposes of this Section and, for the time period(s) specified in this Section, SWBT agrees to waive the right to assert that it need not provide pursuant to the "necessary and impair" standards of Section 251(d)(2) of Title 47, United States Code, a network element now available under the terms of this Agreement and/or its rights with regard to the combination of any such network elements that are not already assembled. Except as provided in Section 14.5 above, CLEC agrees that the UNE provisions of this Agreement are non-severable and "legitimately related" for purposes of Section 252(i) of Title 47, United States Code. Accordingly, CLEC agrees to take the UNE provisions of this Agreement in their entirety, without change, alteration or modification, waiving its rights to "pick and choose" UNE provisions from other agreements under Section 252(i) of Title 47, United States Code. This mutual waiver of rights by the Parties will constitute additional consideration for the Agreement.

14.9 The Parties agree that all aspects of this Attachment are non-severable and "legitimately related" for purposes of Section 252(i).[18]

[18]This language implements Section II.H of MOU Attachment B (pp. 30-31).