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June 25, 1999

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Mr. Lawrence E. Strickling
Chief, Common Carrier Bureau
Federal Communications Commission
445 Twelfth Street, S.W.
Room 5-C450
Washington, D.C. 20554

Re: *Factual Record in the Commission's Section 251(d)(2) Remand Proceeding, CC Docket No. 96-98*

Dear Mr. Strickling:

In its opening comments, GTE submitted a detailed factual record demonstrating the widespread use of substitutes for unbundled ILEC elements in GTE's urban, suburban, small, and rural markets. A few parties in their reply comments disputed a small number of particular facts included in this overall presentation. Although these disagreements are minor in relation to GTE's marketplace evidence that CLECs widely use alternatives for ILEC-supplied elements, GTE would like to assure the Commission of the complete accuracy of its factual presentation. This letter therefore addresses the criticisms lodged by reply commentors against GTE's factual record.

First, AT&T claims that, even though it has placed two switches in Dallas/Fort Worth, one in Tampa, and another in Los Angeles, it is unable to serve a significant number of business or residential customers with these switches. *See* AT&T Reply Comments at 104. Likewise, even though AT&T's switches and networks of SONET rings serving these cities are deployed within easy striking distance of a substantial percentage of business and residential customers, AT&T asserts that it has only succeeded in serving "about 170 buildings in Dallas/Fort Worth with its own loop facilities, 123 buildings in Los Angeles, and 0 buildings in Tampa." *Id* at 24. AT&T relies on these numbers to suggest that CLECs relying on self-provided facilities have little success in the marketplace.

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AT&T would not, however, have made the investments required to deploy these facilities if it did not believe it could use them to serve a far larger percentage of the addressable market. The success of other facilities-based CLECs confirms that this investment was a wise one and that CLECs self-supplying their own switching, transport, and loops are having considerable success attracting customers, as demonstrated by the number of facilities-based lines served by CLECs in GTE's Tampa territory:

CLEC	Tampa Customers Served with CLEC Facilities
AT&T	192
e.spire	1,310
Intermedia	2,000
MCI WorldCom	10,117
Time Warner Telecom	125
US LEC	74
WinStar	2,000

AT&T's relative lack of interest to date in penetrating the local market therefore says nothing about the ability of CLECs to compete using substitutes to unbundled ILEC elements.

Second, in its joint comments with e.spire, Intermedia asserts that GTE overestimated by two the number of switches Intermedia has deployed in the Dallas/Fort Worth area. *See* e.spire and Intermedia Reply Comments at 9 n.26. ("Intermedia notes that it has two Class 4/5 switches in the Dallas Metroplex, and not four Class 4/5 switches as alleged by GTE."). Intermedia has manufactured this dispute by identifying only those switches placed in the "Dallas Metroplex," rather than the entire Dallas/Fort Worth area studied by GTE. The Local Exchange Routing Guide confirms that Intermedia has four Class 4/5 switches in the Dallas/Fort Worth Metroplex: one in the City of Dallas, one in Irving, and two in Fort Worth.

Company	LATA	CLLI Code	Equipment Type
Intermedia	552	DLLSTX37D59	Nortel DMS 500
Intermedia	552	IRNGTX5BR50	Nortel DMS 500
Intermedia	552	FTWOTXCRRS3	Nortel DMS 500
Intermedia	552	FTWOTXEDRS1	Nortel DMS 500

Given the range of these switches, each is easily capable of reaching customers throughout the Dallas/Fort Worth area.

Third, MGC Communications disputes that a correlation exists between CLEC collocation and alternatives to unbundled ILEC transport, asserting that in "the majority" of the 47 central offices "where MGC collocates with GTE, there is no third party provider of transport that provides that same coverage as GTE." MGC Communications Reply Comments at 4. Likewise, Network Access Solutions (NAS) argues that alternative suppliers of interoffice transport are available in only 160 of the 360 Bell Atlantic central offices in which it collocates. NAS Reply Comments at 12.

These assertions suffer from a number of flaws. Because they speak only to the availability of transport supplied by third party wholesale providers, MGC and NAS completely ignore the possibility of self-supplying transport. Numerous other CLECs have successfully self-supplied transport in markets indistinguishable from those cited by MGC and NAS, confirming that CLECs can compete effectively without access to unbundled ILEC transport. Likewise, these commentors ignore the availability of ILEC special access, the cost of which is shared between the CLEC and ILEC when the CLEC and ILEC agree to use ILEC provided special access for the mutual exchange of traffic. MGC and NAS also ignore the fact that the transport market -- like the wholesale market for every other network element -- is highly dynamic. In its opening comments, MFN stated that it will soon offer competitive transport serving "all [Bell Atlantic] central offices." MFN Comments at 3. The Commission therefore should not base its rules on an improperly focused snapshot, as recommended by MGC and NAS, when that snapshot will quickly be overwhelmed by developments in the marketplace and ignores a major part of the picture.

Fourth, ALTS disputes that a correlation exists between CLEC collocation and alternatives to unbundled ILEC transport, and it asserts in particular that CLECs do not purchase unbundled transport from GTE in central offices where they collocate only because "GTE refuses to provision 'entrance facilities' between its end offices and that of a requesting carrier." ALTS Reply Comments at 47. ALTS's assertion is not true. Where GTE has a facility in place between the location of a CLEC switch and a GTE central office, GTE provides unbundled access to that dedicated transport facility.

Where an existing GTE facility does not connect the two locations, CLECs still have multiple options to obtain the facilities they need. For interconnection, meet-point arrangements are not uncommon, so it is possible that neither party may have to provision the entire facility. A CLEC can also purchase needed transport capacity through GTE's special access tariffs -- an arrangement where the ILEC assumes a substantial portion of the cost if there is interconnection for the mutual exchange of traffic -- or the CLEC can self-provide the facility, in which case the ILEC pays the CLEC (above and beyond any reciprocal compensation) for any use of the CLEC's facilities. In fact, the one CLEC that has elected to purchase unbundled transport between GTE end offices, MGC Communications, states that it also "purchases from GTE its transport from the central office back to the MGC host switch and from the MGC host switch to the GTE access tandems." MGC Reply Comments at 4. Moreover, as GTE detailed in its Reply Comments, larger CLECs can also secure real and implicit volume or term discounts due to their ability to (1) support higher bandwidth (DS3 and SONET) services or (2) purchase large bandwidth pipes (*e.g.*, OC-48 SONET service) and manage the assignment of multiple services that ride the SONET network to their customer designated location. GTE Reply Comments at 53.

Thus, contrary to ALTS's assertion, CLECs have ample options to connect their switches with GTE's end offices. ALTS's real bone of contention is with the Eighth Circuit, which held that ILECs are not required to build new facilities on demand by CLECs and make those facilities available at TELRIC prices. *See Iowa Utils. Bd. v. FCC*, 120 F.3d 753, 812-13 (8th Cir. 1997), *aff'd in part and rev'd in part on other grounds, AT&T v. Iowa Utils. Bd.*, 119 S. Ct. 721 (1999).

Fifth, ALTS claims that CLECs have difficulty ordering unbundled transport from GTE because "timing issues and customer demand often force them to use the well established special access 'ASR' process rather than GTE's dysfunctional 'LSR' process for UNEs." *Id.* But the LSR (or local service request) ordering vehicle ALTS criticizes is not used *in any way* to

provision unbundled transport. Rather, the LSR ordering vehicle is used by CLECs to purchase, among other things, service for resale from GTE. Alternatively, GTE's ASR (or access service request) platform -- which ALTS concedes is "well established" -- is used by CLECs to purchase unbundled transport, switched access, and special access services. Complete parity therefore exists in the GTE platform CLECs use to purchase unbundled transport and special access.

Sixth, Teligent claims that GTE erroneously identified it as a CLEC that self-provides OS/DA and OSS in certain GTE markets. Teligent Reply Comments at 8. This information was, however, provided to GTE by Quality Strategies -- a well-known and highly regarded telecommunications research and consulting firm -- which in turn acquired its information on Teligent's operations from current or former Teligent employees, current or prospective Teligent customers, or current or former employees of a Teligent vendor. As the attached letter from Quality Strategies to GTE documents, Quality Strategies confirms that its sources "stated that Teligent is not dependent upon the ILEC for most network elements including" OS/DA and OSS, and that its sources "were qualified to comment on the use of UNEs" in the studied GTE markets.

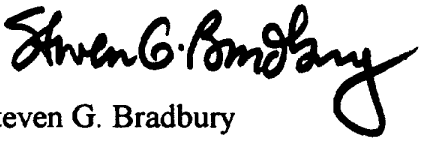
Finally, Covad asserts that the Commission should require ILECs to unbundle loops that serve new residential and business developments, even though it concedes that CLECs and ILECs compete on a level playing field to provide service to these new developments. Covad claims that CLECs will be at a disadvantage once the facilities serving new developments are built, and that "a CLEC seeking to serve a new development needs access to elements of the ILEC's network to serve the residents just as much as access to facilities in older developments." Covad Reply Comments at 2 n.6.

This argument is really a frontal assault on competition itself. By definition, a competitive market produces winners and losers. That losers suffer a "disadvantage" *after they have lost* does not mean that they did not have an equal or better shot at success *when the competitive process began*. Likewise, the fact that some competitors suffer *ex post* "disadvantages" does not, in any way, recommend regulatory rules that seek to equalize competitive outcomes. As Professor Kahn explained, competition is driven by the incentive to secure "differential advantage" -- an incentive that will disappear if ILECs, when they happen to win bids to serve new developments, are required to share their newly built network facilities at TELRIC prices. Declaration of Alfred E. Kahn at 4 (attached as Appendix A to GTE's Comments).

The fallacy of Covad's argument is confirmed by the fact that under Covad's logic CLECs would also be required to share their networks with ILECs and other CLECs when they win bids to serve new developments. The truth is that no competitor has an incumbent advantage in bidding to serve new residential and business developments. It would therefore do nothing but disrupt that competitive bidding process to require only ILECs to unbundle facilities built to serve these new customers.

Because none of the criticisms lodged by other parties against GTE's factual evidence have any validity -- and because no other party submitted evidence to the contrary -- the record is clear that CLECs are widely and successfully using substitutes for unbundled ILEC elements in GTE's urban, suburban, small, and rural markets. Thank you for your attention in this matter and please feel free to contact me if you have any questions or would like to discuss these issues further.

Very truly yours,



Steven G. Bradbury

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June 16, 1999

Mr. Dean Foreman
GTE Service Corporation
600 Hidden Ridge
Irving, TX 75015-2092

Dear Mr. Foreman,

In response to your inquiry, I am writing to inform you that the data QUALITY STRATEGIES' provided regarding Teligent's use of UNEs in the Dallas-Fort Worth market came from primary sources with telecommunications knowledge and responsibility. These sources stated that Teligent is not dependent upon the ILEC for most network elements including:

- Local Loops,
- Local Switching,
- Tandem Switching,
- Operator and Directory Assistance, and
- Operational Support Systems.

According to these sources, the only UNEs used by Teligent in Dallas-Fort Worth are inter-switch trunks and the SS7 network elements.

Though our corporate policies preclude us from providing or even suggesting the identity of our sources, I can assure you that all individuals interviewed for the "GTE Competitive Landscape and UNE Analysis, Dallas, TX" report were qualified to comment on the use of UNEs in the Dallas-Fort Worth market. Qualified respondents, by QUALITY STRATEGIES definition, would include current or prospective competitor customers with telecommunications responsibility, current or former competitor employees (professional), and current or former employees of a vendor providing network equipment or services to the competitor.

If I can be of further assistance, please do not hesitate to call.

Sincerely,

Gray Somerville

R. Gray Somerville
Client Services Manager

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