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FEDERAL COMMUNICATIONS COMMISSION
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BEFORE THE

Federal Communications Commission

WASHINGTON, D.C.

In the matter of	)	
	)	
Promotion of Competitive Networks in Local Telecommunications Markets	)	WT Docket No. 99-217
	)	
Wireless Communications Association International, Inc. Petition for Rulemaking to Amend Section 1.4000 of the Commission's Rules to Preempt Restrictions on Subscriber Premises Reception or Transmission Antennas Designed To Provide Fixed Wireless Services	)	
	)	
Cellular Telecommunications Industry Association Petition for Rule Making and Amendment of the Commission's Rules to Preempt State and Local Imposition of Discriminatory And/Or Excessive Taxes and Assessments	)	
	)	
Implementation of the Local Competition Provisions in the Telecommunications Act of 1996	)	CC Docket No. 96-98

COMMENTS OF THE
FIXED WIRELESS COMMUNICATIONS COALITION

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August 27, 1999

No. of Copies rec'd 0+6
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COMMENTS OF FIXED WIRELESS COMMUNICATIONS COALITION

The Fixed Wireless Communications Coalition ("FWCC")[1] hereby submits these

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[1] The FWCC is a coalition of equipment manufacturers and users interested in terrestrial fixed microwave communications. Its membership includes manufacturers of microwave equipment, licensees of terrestrial fixed microwave systems and their associations, and communications service providers and their associations. Its membership also includes railroads, the broadcast industry, and their respective associations, telecommunications carriers, landline and wireless, local and interexchange carriers, and others. A list of members is included in Attachment A. The FWCC notes, however, that two of its members, United Telecom Council ("UTC"), representing electric, gas and water utilities and natural gas pipelines, and the Independent Cable & Telecommunications Association ("ICTA") disagree with the position taken by FWCC in these comments and are submitting comments on their own behalf. Four other members, the American Petroleum Institute ("API"), Bell Atlantic, Bell South and the Association of Public-Safety Communications Officials ("APCO"), also do not support the filing of these comments.

Comments in the above-captioned proceeding.[2] All members of the FWCC support the goal of enhanced competition in the telecommunications marketplace as called for in the Telecommunications Act of 1996. The Coalition also supports the view that telephony and video competitors to the incumbent providers should be encouraged by the FCC and that barriers to competition should be removed. Certain members of FWCC support these goals but oppose the methodology to attain the goals as defined in major provisions of the subject NPRM. The FWCC submits these Comments in support of our members focusing on the delivery of fixed wireless broadband services.

The FWCC also urges the FCC to recognize that certain aspects of the multichannel video programming distribution ("MVPD") and the telephony markets can be quite different and that rules that may be procompetitive in one arena may be anti-competitive in the other. Therefore, the FWCC supports enhancements of video competition through Private Cable Operators ("PCOs"). It also is aware of the unique difficulties faced by the FCC in bringing competition to the MVPD industry still dominated by incumbent cable providers. As explained by ICTA in its separate comments, creating a competitive environment for MVPD might require different methods where franchised cable operators still dominate the MVPD market. FWCC's Comments

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2 In re Promotion of Competitive Networks in Local Telecommunications Markets; Wireless Communications Association International, Inc. Petition for Rulemaking to Amend Section 1.4000 of the Commission's Rules to Preempt Restrictions on Subscriber Premises Reception or Transmission Antennas Designed to Provide Fixed Wireless Services; Cellular Telecommunications Industry Association Petition for Rule Making and Amendment of the Commission's Rules to Preempt State and Local Imposition of Discriminatory And/Or Excessive Taxes and Assessments; Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Notice of Proposed Rulemaking and Notice of Inquiry in WT Docket No. 99-217, and Third Further Notice of Proposed Rulemaking in CC Docket No. 96-98 (rel. July 7, 1999) ("Notice").

should not be read to implicate the cable-specific matters pending before the FCC in CS Docket No. 95-184. Finally, the Commission must be careful to craft whatever rules it adopts in this proceeding to promote competition in both markets and, where appropriate, limit the application of its rules to one or the other.

I. INTRODUCTION AND SUMMARY.

As facilities-based competitors, fixed wireless carriers must have direct access to all consumers, including those who live or work in multi-tenant environments ("MTEs"). To gain access to consumers located in MTEs, fixed wireless carriers must obtain the necessary authority from MTE owners or managers to position their antennas on MTE rooftops and their facilities within MTEs. However, fixed wireless carriers encounter many MTE access problems with both of these options.

In many instances, MTE owners and managers simply refuse carriers access to their MTEs, or instead, completely ignore requests for access. Other MTE owners and managers impose such unreasonable conditions and/or demand such high rates for access that providing competitive telecommunications services in those MTEs becomes an uneconomic enterprise. Consequently, MTE owners and managers become a bottleneck and hamper the provision of competitive telecommunications services to consumers in MTEs. As a result of these MTE access problems, fixed wireless carriers cannot reach many consumers in MTEs, and those consumers are denied the competitive choice that Congress intended in the Telecommunications Act of 1996 ("1996 Act").

FWCC supports the implementation of new FCC rules and the modification of current FCC rules that will assist fixed wireless carriers in gaining access to MTE consumers in the most efficient and effective manner. Accordingly, FWCC supports the following proposals: the full

implementation of Section 224, so that utilities must provide access to rights-of-way and riser conduit they own or control on private and public properties; the implementation of a nondiscriminatory access requirement on MTE owners and managers; the modification of the FCC's rules requiring ILECs to locate the demarcation point in all MTEs at the minimum point of entry ("MPOE"); and the implementation of a requirement that ILECs unbundle intra-building wiring. By adopting these proposals, the Commission will promote the ability of competitors to use the most efficient and effective means to provide service to consumers in MTEs.

II. COMMISSION ACTION IS NECESSARY TO FACILITATE ACCESS TO MTEs.

A. Description Of Fixed Wireless Technology.

Fixed wireless carriers can provide the facilities-based competition that the 1996 Act is intended to promote. Fixed wireless carriers place small antennas on rooftops to receive and transmit wireless traffic. They employ riser conduit and/or intra-building wire to reach their customers within a building from the antenna located on the roof. From the roof, wireless traffic is carried through the MTE by coaxial cables through a modulator (which transforms the wireless signal into a wireline signal) to the network interface device ("NID"), typically located in the basement of the MTE. Connection to the customer's telephone system is accomplished from the NID, through the building, to the customer's connect point (either through the carrier's own wire or the intra-building wire).

Fixed wireless technology has inherent advantages compared to other facilities-based carriers because it does not require carriers "to construct new, costly wireline networks" to compete with incumbents.[3] However, for fixed wireless carriers to succeed and have the greatest

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[3] Id. at ¶ 19. Indeed, "fixed wireless systems can often be constructed in less time, at lower cost, and in smaller increments than wireline networks, especially in areas where the costs

potential to offer widespread competitive facilities-based services quickly and efficiently to MTE consumers, fixed wireless carriers must have access to rooftops, intra-building wiring, riser conduit (both horizontal and vertical), telephone closets, and NIDs in MTEs. Without such access, fixed wireless providers cannot deploy their distribution mechanisms and serve consumers in MTEs.

B. Obstacles Fixed Wireless Carriers Encounter In Obtaining Access To MTEs.

While some MTE owners and managers appreciate the advantages of competitive telecommunications services in their buildings and have provided fixed wireless providers with the access they need, numerous MTE owners and managers have discriminated against fixed wireless providers by not allowing access to their MTEs, or by allowing such access on economically unreasonable terms that preclude service to consumers. This occurs even when one or more tenants in the building have signed up for a fixed wireless carrier's service.

Recent testimony before the U.S. House of Representatives' Subcommittee on Telecommunications, Trade, and Consumer Protection reveals specific examples of problems fixed wireless carriers encountered when negotiating MTE access. William J. Rouhana, Jr., Chairman and Chief Executive Officer of WinStar Communications, Inc., stated in his testimony that one property owner requested $50,000 upon signing an access contract with WinStar in addition to $1,200 per month.[4] Likewise, John D. Windhausen, Jr., President of the Association

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of wireline links may be especially high" due to the need to lay wire under streets in business districts. Id.

4 Access to Buildings and Facilities by Telecommunications Providers: Hearing Before the Subcommittee on Telecommunications, Trade, and Consumer Protection of the Committee on Commerce House of Representatives, 106th Cong., at 27 (1999) (hereinafter, "Hearing").

for Local Telecommunications Services, listed numerous problems facilities-based competitors encountered when negotiating access rights to MTEs. For example, Mr. Windhausen stated that one property manager demanded from one fixed wireless provider a rooftop access fee of $1,000 per month and a $100 per month fee for each hook up in the building.[5] It was estimated that this fee structure would cost the carrier about $300,000 per year just to serve this one building.[6] Other MTE owners and managers wholly deny access to competitive carriers, or they completely ignore requests for access.

MTE owners claim that the market will take care of these problems because MTE owners and managers have the incentive to keep their tenants happy and to allow them access to the telecommunications carriers of their choice. However, tenants usually have no recourse when MTE owners and managers do not allow competitive telecommunications providers access. Relocating to buildings that offer competitive carriers is generally not an option for tenants. They typically are locked-in to long-term leases and/or are not able to incur the expenses of relocating to obtain competitive telecommunications services. Moreover, the financial penalty for breaking a long-term lease and the substantial expenses of relocating render this solution impractical. Consumers seeking alternative telecommunications carriers should not be required to relocate and incur these costs in order to have competitive choice for telecommunications services.

Numerous MTE owners and managers raise an insurmountable entry barrier for fixed wireless carriers. The result is that fixed wireless carriers are not able to serve a significant

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5 Hearing, at 20.

6 Id.

portion of U.S. consumers.[7] The MTE access problem is particularly acute given the nascent stage of competitive telecommunications services. MTEs are likely to be the first place where competitive telecommunications services develop. This is because the geographic concentration of a large number of consumers within an MTE allows competitors to enjoy certain economies of scale. MTE access restrictions stifle competition precisely in those locations where competition is most likely to arise first. As a result, competitors may not be able to build out their networks and offer competitive telecommunications services to other consumers. As acknowledged by the Commission, "[i]f a significant portion of these housing units and businesses is not accessible to competing providers, that fact could seriously detract from local competition in general and from the availability of competitive services to 'all Americans'."[8]

The MTE access problem warrants a solution by the Commission. The vast majority of States have taken no action to ensure that tenants in multi-tenant buildings are not excluded from a competitive telecommunications environment. Connecticut and Texas both have statutes requiring landlords to permit telecommunications carriers to install their facilities to provide service to tenants therein.[9] In addition, the Ohio Public Utilities Commission held that landlords could not forbid or unreasonably restrict any tenant from receiving telecommunications services

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7 In fact, approximately one-third of U.S. residential units are located in MTEs and many businesses, especially small businesses are located in MTEs. Notice, at ¶ 29.

8 Id.

9 See Connecticut General Statutes, Section 16-2471. See also Texas Public Utility Regulatory Act §§ 54.259 and 54.260, implemented by Texas Public Utility Commission Project No. 18000.

from any provider of the tenant's choice.[10] Nebraska, too, has mandated building access in residential buildings.[11] However, that leaves 46 States without MTE access remedies.

Moreover, State intervention cannot comprehensively address unreasonable behavior by national MTE owners and managers that have properties extending over several States. Indeed, it would be very difficult and time-consuming for competitors to rely upon intervention from all 50 States. Therefore, a nationally mandated solution is appropriate and the Commission must implement national rules by which carriers may achieve the right to access MTEs.[12]

III. PURSUANT TO SECTION 224, FIXED WIRELESS PROVIDERS MAY USE RIGHTS-OF-WAY AND RISER CONDUIT THAT UTILITIES OWN OR CONTROL IN MTEs.

Section 224(f) requires utilities to provide telecommunications carriers with "nondiscriminatory access to any pole, duct, conduit, or right-of-way owned or controlled by [them]."[13] Moreover, Section 224(b) requires that the rates, terms, and conditions for pole attachments (including rights-of-way) are "just and reasonable."[14] Hence, telecommunications

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10 Commission's Investigation into the Detariffing of the Installation and Maintenance of Simple and Complex Inside Wire, Case No. 86-927-TP-COI, Supplemental Finding and Order, 1994 Ohio PUC LEXIS 778 at *20-21 (Ohio PUC Sept. 29, 1994).

11 In the Matter of the Commission, on its own motion, to determine appropriate policy regarding access to residents of multiple dwelling units (MDUs) in Nebraska by competitive local exchange telecommunications providers, Application No. C-1878/PI-23, Order Establishing Statewide Policy for MDU Access, slip op. at 4 (Neb. PSC, March 2, 1999).

12 In those States where the access requirements are consistent with the Commission's imposed requirements, the State requirements may govern.

13 47 U.S.C. § 224(f)(1). A "utility" is defined as "any person who is a local exchange carrier or an electric, gas, water, steam, or other public utility, and who owns or controls poles, ducts, conduits, or rights-of-way used, in whole or in part, for any wire communications." Id. § 224(a)(1).

14 Id. § 224(b)(1).

carriers are entitled to nondiscriminatory access to utilities' rights-of-way under just and reasonable rates, terms, and conditions.[15]

In the Notice, the Commission tentatively concludes that utilities' obligations under Section 224 extend to "rights-of-way, conduit, and risers on private property, including end user premises in multiple tenant environments, that utilities own or control . . . . [and] locations on the utility's own property that are used by the utility in the manner of a right-of-way in connection with the utility's distribution network."[16] FWCC agrees with the Commission's conclusion. Accordingly, the Commission should confirm that access under Section 224 includes access to rights-of-way over private, as well as public property,[17] and to locations on the utilities' own property that are used in the manner of a right-of-way as part of the utility's distribution network.[18]

Section 224 contains a nondiscrimination component, which requires a technology-neutral approach to the FCC's rules implementing Section 224 access.[19] In order to accommodate all

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15 The Commission has affirmed that the term "telecommunications carrier" was used by Congress in its most expansive sense, extending the access provisions of Section 224 to wireless, as well as wireline, providers. See In re Implementation of Section 703(e) of the Telecommunications Act of 1996; Amendment of the Commission's Rules and Policies Governing Pole Attachments, Report and Order, 13 FCC Rcd 6777, at ¶ 40 (1998).

16 Notice, at ¶ 39.

17 Nothing in Section 224 limits its application to public rights-of-way. Thus, Section 224 should be interpreted, according to its terms, as applying to all rights-of-way owned or controlled by utilities. Access to riser conduits within MTEs owned or controlled by MTEs must be included in the full implementation of Section 224. Accordingly, the Commission must amend Section 1.1402(i) of the Commission's rules to include horizontal and vertical in-building conduit.

18 Notice, at ¶ 43. Access should include access competitors need to install, maintain, and repair of their systems.

19 See In re Federal-State Joint Board on Universal Service, Report & Order, 12 FCC Rcd 8776, at ¶¶ 47-48 (1997)(observing that technological neutrality is a component of

technologies, the Commission should conclude that Section 224 includes the full panoply of access rights held by utilities. In other words, if a utility would have broad access rights to any area on a property (either through an understanding or written agreement) in order to provide its service, competitors should be able to use such rights to provide their services. For example, if a competitor needs access to a rooftop and a utility would have broad rights to access any part of an MTE, including the rooftop to provide its service, the competitor must be able to access the rooftop pursuant to Section 224 as a "right-of-way" held by the utility.[20] Finally, utilities should be required to exercise their power of eminent domain where necessary to accommodate qualified entities seeking access to rights-of-way.[21]

IV. THE COMMISSION SHOULD IMPLEMENT A NONDISCRIMINATORY MTE ACCESS REQUIREMENT ON ALL MTE OWNERS AND MANAGERS THAT PROVIDE ACCESS TO A TELECOMMUNICATIONS PROVIDER.

The Commission should implement a nondiscriminatory MTE access provision which requires all MTE owners and managers to negotiate access arrangements with fixed wireless carriers at nondiscriminatory rates, terms, and conditions once an MTE owner or manager allows one telecommunications provider access to its MTE. Such competitive access should be provided

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nondiscrimination). See also Notice, at ¶ 25 ("[C]ompetitive providers must be free to provide services in the manner that will enable them most efficiently to offer the services, or combinations of services, that consumers desire. . . . Achieving this functionality and flexibility may involve the use of a variety of transmission technologies.").

20 In order to ascertain whether a right-of-way or other location in an MTE is owned or controlled by a utility, telecommunications providers must have full access to all documents concerning the utility's rights of access.

21 See In re Application of BellSouth for Provision of In-Region, InterLATA Services in Louisiana, Memorandum Opinion and Order, 13 FCC Rcd 20599, at ¶ 176 n.586 (1998)("[A] lack of capacity on a particular facility does not entitle a BOC to deny a request for access . . . . [A] BOC must modify the facility to increase capacity under the principle of nondiscrimination.").

on a technology neutral basis. Moreover, MTE owners should be prohibited from granting exclusive telecommunications carrier access to a building, and the Commission should require the reformation of long-term contracts and the elimination of exclusivity provisions at the request of the MTE owner, a telecommunications carrier, or a tenant within the MTE.[22]

A. The Communications Act Already Provides The Commission With The Necessary Jurisdiction To Impose A Nondiscriminatory Access Requirement For MTEs.

Congress gave the Commission broad authority to regulate the communications industry. Title I of the Communications Act provides the Commission its authority to regulate interstate and foreign wire and radio communications, including "all instrumentalities . . . incidental to" those communications.[23] Section 4(i) also provides the Commission extensive authority to "perform any and all acts, make such rules and regulations, and issue such orders, not inconsistent with this Act, as may be necessary in the execution of its functions."[24] Titles II and III of the Communications Act provide similar authority.[25] These Sections in the Act afford the Commission subject matter jurisdiction over wire and radio communications within MTEs. Such communications are not severable from intrastate communications; therefore, the Commission's

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22 See, e.g., Western Union Tel. Co. v. FCC, 815 F.2d 1495, 1501 (D.C. Cir. 1987)("[T]he Commission has the power to . . . modify other provisions of private contracts when necessary to serve the public interest.").

23 47 U.S.C. §§ 152(a), 153(33) & (52).

24 Id. § 154(i).

25 Section 201(b) states that "[t]he Commission may prescribe such rules and regulations as may be necessary in the public interest to carry out the provisions of this Act." 47 U.S.C. § 201(b). Likewise, Section 303(r) grants broad authority to the Commission for the regulation of the use of radio spectrum and specifically permits the Commission to "[m]ake such rules and regulations and prescribe such restrictions and conditions, not inconsistent with law, as may be necessary to carry out the provisions of this Act . . . ." Id. § 303(r).

subject matter jurisdiction over MTE access is not limited by Section 2(b). Moreover, these Sections also provide the Commission subject matter jurisdiction over access to MTEs for the purpose of providing communications services to MTEs. Access to the intra-building wiring, riser conduits and other facilities in MTEs is access to "instrumentalities" and is an integral part of and inseparable from providing telecommunications services to consumers in MTEs.

Section 2(a) also provides the FCC with in personam jurisdiction over all persons engaged within the United States in interstate and foreign communication by wire or transmission of energy by radio.[26] To the extent that MTE owners and managers either control or own access to certain facilities that are "instrumental" to providing communications services to tenants in MTEs, they are involved in interstate communications and are subject to the FCC's jurisdiction. Hence, the Commission may impose a nondiscriminatory MTE access provision upon MTE owners and managers.

B. A Nondiscriminatory MTE Access Provision Is Not An Unconstitutional "Taking."

A nondiscriminatory MTE access provision that requires MTE owners and managers to provide competitive telecommunications providers access to their MTEs at nondiscriminatory rates, terms, and conditions once one telecommunications provider is permitted access is not a "taking."[27] Therefore, the Commission may impose such a provision on MTE owners and managers without triggering the Fifth Amendment "takings" clause in the U.S. Constitution. If,

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26 Id. § 201(a).

27 See "Bringing Telecommunications Competition to Tenants in Multi-Tenant Environments," at 54-60 (May 10, 1999) (explaining that an MTE nondiscriminatory requirement merely regulates a voluntarily agreed-to occupation and is not a "taking".)

however, a nondiscriminatory MTE access requirement is deemed a "taking," it is not an unconstitutional "taking" unless just compensation is not provided.

In its implementation of an MTE access requirement, the Commission may impose a compensation requirement on telecommunications providers for access to MTEs. Indeed, fixed wireless carriers are willing to provide reasonable compensation to building owners for MTE access. Therefore, a nondiscriminatory MTE access requirement is not an unconstitutional "taking" because reasonable compensation would be provided.

V. THE COMMISSION MUST MODIFY ITS PART 68 RULES AND REQUIRE THAT THE DEMARCATION POINT IN ALL MTEs BE AT THE MPOE.

The Commission also should implement modifications to its current rules to provide for access to MTE intra-building wiring.[28] Currently, the Commission's rules provide that in MTEs "in which wiring is installed, or major additions or rearrangements of wiring are made, after August 13, 1990, the telephone company may establish a reasonable and nondiscriminatory practice of placing the demarcation point at the minimum point of entry, or, if the telephone company does not establish such a practice, the premises owner shall establish one or more demarcation points."[29] For MTEs with wire installed prior to August 13, 1990, the ILEC is not required to relocate the demarcation point unless the MTE owner requests it.[30]

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28 See Notice, at ¶¶ 65-67.

29 See id. at ¶ 65; see also 47 C.F.R. § 68.3(b)(2).

30 See Review of Sections 68.104 and 68.213 of the Commission's Rules Concerning Connection of Simple Inside Wiring to the Telephone Network, Order on Reconsideration, Second Report and Order and Second Further Notice of Proposed Rulemaking, 12 FCC Rcd 11897 at n.104 (1997) (holding that for buildings in which wiring was installed prior to August 13, 1990, the carrier must move the demarcation point to the MPOE at the request of the building owner).

Accordingly, ILECs do not have the obligation to provide a single demarcation point at the MPOE, unless it is requested by the MTE owner. As a result, a fixed wireless provider is not able to readily provide competitive service to consumers in a building where wire was installed prior to August 13, 1990 (the majority of the buildings in the U.S.), because it must install its own wire to the consumer, which can be an expensive and time-consuming process. A fixed wireless provider's alternatives are to (1) remain captured by the ILEC and either resell its service or obtain the wire through a UNE provision[31] or (2) forego providing service in that building.

To promote facilities-based competition in MTEs throughout the U.S., the Commission should designate the MPOE as the inside wire demarcation point for all commercial and residential MTEs, regardless of when the building was wired. Likewise, the rules should apply even if the MTE owner prefers the demarcation point at another location.

VI. THE COMMISSION SHOULD MODIFY SECTION 1.4000 OF ITS RULES TO INCLUDE ALL FIXED WIRELESS DEVICES.

Upon achieving access to consumers in MTEs, fixed wireless carriers must not be prevented from placing their antennas on rooftops by local zoning or homeowner association restrictions. It is particularly important that fixed wireless carriers receive the same protection as those carriers whose devices are covered by Section 1.4000. This is because those antennas protected by Section 1.4000 will offer telecommunications services that directly compete with antennas that do not receive the same protection. Thus, the Commission should level the

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[31] FWCC fully supports the Commission treating an ILEC's intra-building wiring as a UNE pursuant to Section 251(c)(3). See, e.g., Comments of WinStar, CC Docket No. 96-98 and 95-185 (filed May 26, 1999) However, the provision of ILEC owned intra-building wiring as a UNE certainly is not the best alternative for the provision of competition to consumers because fixed wireless carriers would be relying upon the ILEC network to provide their services.

competitive playing field, and modify Section 1.4000 so that all fixed wireless antennas are protected from State and local restrictions on antenna placement.[32]

A Commission prohibition on State and local restrictions is consistent with Section 332(c)(7) of the Communications Act.[33] Section 332(c)(7)(B)(i)(II) provides that:

> The regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof -- shall not prohibit or have the effect of prohibiting the provision of personal wireless services.[34]

If a State or local restriction prohibits the placement of a fixed wireless antenna on a particular building, the fixed wireless carrier cannot provide service to consumers in that building. This has the effect of prohibiting the provision of personal wireless services. Fixed wireless carriers must place their antennas on the rooftops of buildings to serve customers in those buildings. Unlike mobile wireless service providers that may have alternatives for antenna placement should a State or local government restrict access to certain properties, fixed wireless carriers do not have such alternatives. They are foreclosed from serving consumers in those buildings where local restrictions prohibit them from placing antennas on the rooftop of those buildings where the consumers are located.

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32 Nevertheless, it is important to note that the modification of Section 1.4000 alone will not provide fixed wireless carriers a complete solution. Fixed wireless carriers must also obtain access to MTEs. Thus, the nondiscriminatory access provision also is required.

33 Notice, at ¶ 69.

34 47 U.S.C. § 332(c)(7)(B)(i)(II).

VII. CONCLUSION.

For the foregoing reasons, the Commission should (1) fully implement Section 224 of the Communications Act and permit telecommunications providers to use utilities' rights-of-way and conduit over private, as well as public property; (2) adopt a nondiscriminatory MTE access provision; (3) modify its Part 68 rules and require that the demarcation point be located at the MPOE in all MTEs; (4) designate intra-building wiring as a UNE; and (5) modify Section 1.4000 of the Commission's rules to protect all fixed wireless antennas from State and local restrictions.

Respectfully submitted,

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Wireless Communications Association International
Personal Communications Industry Association
CBS Communications Services
Norfolk-Southern Railroad
Union Pacific Railroad
Burlington-Northern Railroad
SBC Communications, Inc.
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Sierra Digital Communications
California Microwave, Microwave Data Systems
Tadiran Microwave Networks
Spectrapoint Wireless LLC
Nortel Networks
P-Com, Inc.

CERTIFICATE OF SERVICE

I, Crystal Rogers-Starkey, do hereby certify that on this 27th day of August 1999, copies of the foregoing Comments of the Fixed Wireless Communication Coalition were delivered by hand, to the following parties:

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