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September 8, 1999

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Magalie Roman Salas
Office of the Secretary
Federal Communications Commission
The Portals
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: *Ex Parte* Presentation in CC Docket No. 95-185, 96-98

Dear Ms. Salas:

On September 7, 1999, David Graham and Blaine Patrick of New England Voice & Data, LLC and I met with Kyle Dixon, Legal Advisor to Commissioner Michael Powell, to discuss the availability of dark fiber as an unbundled network element. We left behind the attached materials that formed the basis of the presentation.

Sincerely,

Thomas Jones

Attachment

cc: Kyle Dixon

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NEW ENGLAND VOICE & DATA, LLC

Ex Parte Presentation

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

CC Docket No. 96-98

David Graham, Senior Vice President, Network Implementation
Thomas Jones, Esquire
Willkie Farr & Gallagher

September 7, 1999

NEVD Is Installing SONET Ring Networks In States That Have Ruled That Dark Fiber Is A UNE

- Commissions in Massachusetts, New Hampshire, and Rhode Island have ruled that dark fiber is a UNE.

- NEVD is actively installing networks in those states using unbundled dark fiber from Bell Atlantic as interoffice transport.

- The availability of unbundled dark fiber makes it economically feasible for NEVD to install Fiber Ring Networks that reach small cities and suburban areas.

- The availability of unbundled dark fiber will make it economically feasible to serve residential customers.

- The availability of unbundled dark fiber allows NEVD to enter local exchange markets quickly.

- The availability of unbundled dark fiber allows NEVD to install networks that are equal in service quality to Bell Atlantic's network.

Since There Are No Reasonable Substitutes For Dark Fiber Interoffice Transport, NEVD Will Be Impaired If Dark Fiber Is Not A UNE

- Bell Atlantic lit transport is not a reasonable substitute for dark fiber.
    - Taking NEVD's Massachusetts network as an example, if NEVD were required to use BA lit transport instead of dark fiber, its costs for transport would be increased from approximately $600,000 per year to nearly $4.6 million per year!
    - In addition to the prohibitive increase in cost, if NEVD were required to use BA lit transport instead of dark fiber, it would result in a material decrease in service quality.
- Procuring fiber from non-ILEC sources is not a reasonable substitute for unbundled dark fiber.
    - Non-ILEC sources do not offer fiber (dark or lit) on a ubiquitous basis and do not have fiber in the locations where NEVD needs it.
    - Taking NEVD's Massachusetts network as an example, non-ILEC vendors are present in only 2 of the 15 BA central offices where NEVD has collocated.
    - If NEVD were required to rely on non-ILEC sources of transport instead of BA unbundled dark fiber, NEVD would be forced to drastically curtail the size of its networks, to the detriment of customers in small cities and suburban areas.
- Self-provisioning is not a reasonable substitute for BA unbundled dark fiber.
    - If NEVD were required to install its own fiber for transport, it would prohibitively increase NEVD's costs and would materially delay its entry into the market.
    - If NEVD were required to install its own fiber for transport, it would be forced to drastically reduce the size of its network. It would not be economical for NEVD to serve customers in small cities and suburban areas, and it would not be economical to serve residential customers.
    - Assuming that BA conduit and pole space is available, the cost for NEVD to install its network in Massachusetts would be $17 million (compared to $600,000 per year for unbundled dark fiber). Based on actual experience, which requires the construction of conduit and aerial plant in block sections, the cost would be over $55 million!

Since There Are No Reasonable Substitutes For Dark Fiber Loops, NEVD Will Be Impaired If Dark Fiber Is Not A UNE

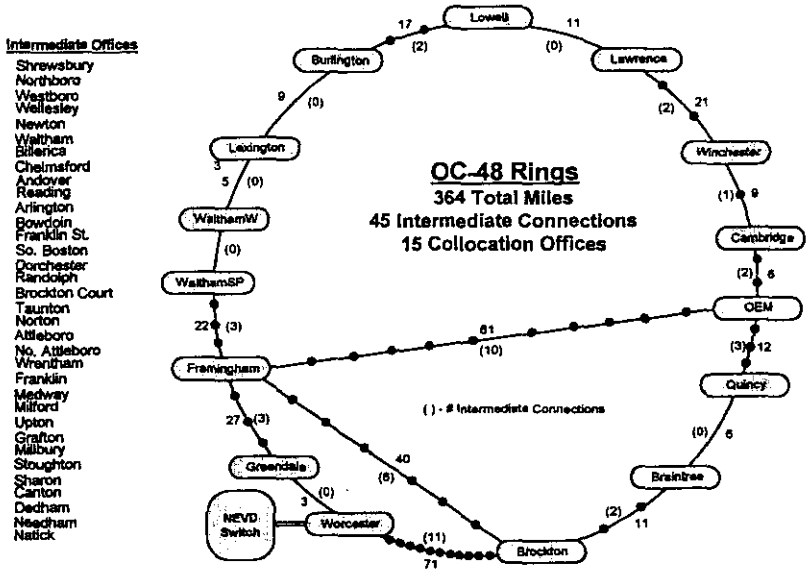
- Recently, Bell Atlantic has been deploying fiber in its local feeder plant to serve end-users.

- There are no reasonable substitutes for such unbundled dark fiber loops.

- Just like conventional two-wire and four-wire copper loops, fiber optic loops are bottleneck facilities that tend to hold the end-user hostage to the ILEC until and unless they are unbundled.

- If CLECs such as NEVD are required to build out loops to reach end-user customers, there will be no widespread competition.

NEVD's Fiber Optic Network for Commonwealth of Massachusetts Using Unbundled Dark Fiber for Interoffice Transport



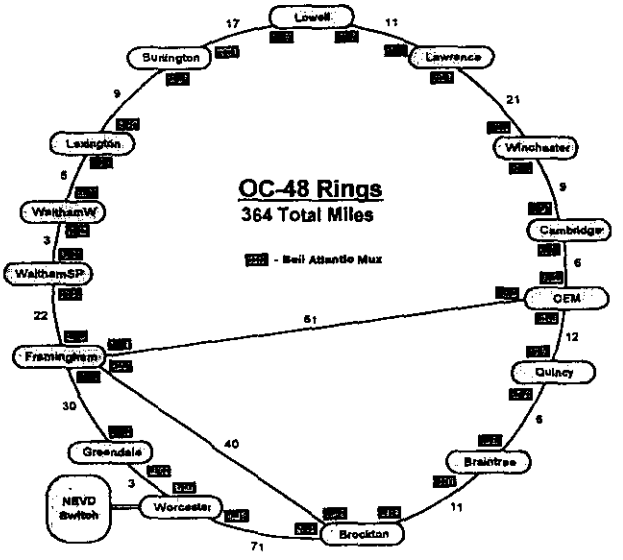
Estimated Cost of Transport Using Unbundled Dark Fiber for Interoffice Connectivity:

Non-Recurring Charge (17 Spans):	**$766.87**
Monthly Recurring Charge (17 Spans):	$406.98
Monthly Recurring Charge (364 Miles):	$47,596.64
Monthly Recurring Charge (45 Int.Conn.):	$1,773.00
Monthly Recurring Totals:	$49,776.62
Annual Recurring Charges:	**$597,319.44**

Estimated Completion Date of Network with this Option: September 1999

Service Quality: Equals Bell Atlantic standards for service quality with ring architecture, providing diversity, redundancy, and transparency.

NEVD's Fiber Optic Network for Commonwealth of Massachusetts Using Bell Atlantic Lit Fiber for Interoffice Transport



Estimated Cost of Transport Using BA Lit Fiber for Interoffice Connectivity:

Bell Atlantic tariff rate for OC-48 point-to-point transport includes a fixed charge of $11,531.11 per span and a per mile charge of $386.83. The total cost to NEVD for transport using Bell Atlantic lit fiber would be $4,588,885 annually. Compare this to the annual cost to NEVD of only $597,319.44 if dark fiber is available as an Unbundled Network Element (UNE).

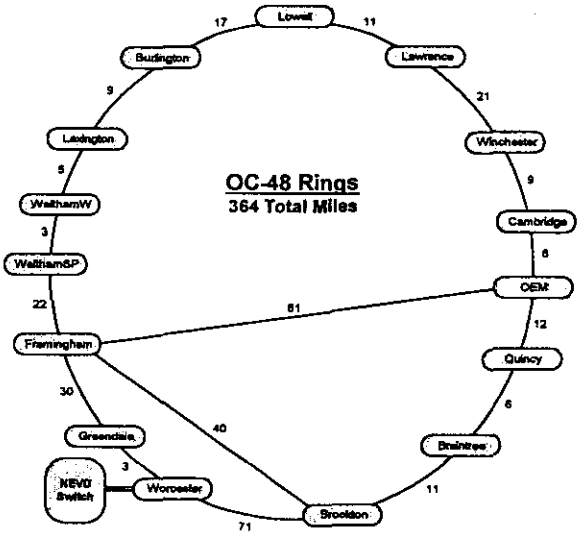
Estimated Completion Date of Network with this Option:

September 1999

Service Quality:

A 17 span network includes 34 additional OC-48 multiplex terminations to hand off the lit fiber. This represents 34 additional potential points of failure for equal bandwidth. NEVD also loses the ability to monitor and maintain its entire network.

NEVD's Fiber Optic Network for Commonwealth of Massachusetts Using 3rd Party Vendor and Self-Provisioning for Interoffice Transport



Cost of Network Using 3rd Party Vendor or Self-Provisioning:

- Estimated cost of 3rd party vendor provided fiber is approximately $170 per fiber pair mile/mo. 3rd party vendor access is available in two of the above central offices, but interconnection between the two central offices does not exist.
- Assuming the availability of existing conduit and pole space, the estimated cost to NEVD of installing fiber is $46,680 per mile (96 pair fiber).
- NEVD's estimated out-of-pocket cost for installing fiber is approximately $17,000,000. If existing conduit or pole space are not available, this cost will increase exponentially.
- The estimated cost for NEVD to construct conduit and aerial plant and install fiber on this ring is $55,389,120.

Estimated Completion Date of Network: It is unlikely that NEVD would initially construct such an extensive network if it were required to self-provision.

Service Quality: Equals or exceeds Bell Atlantic standards for service quality with ring architecture providing diversity, redundancy, and transparency.

Ubiquity: 3rd party vendors do not have fiber in areas required to gain access to Bell Atlantic central offices.