

discriminatory treatment. With respect to tariffing, as the Commission has observed, “traditional tariff regulation of non-dominant carriers is not only unnecessary to ensure just and reasonable rates, but is actually counterproductive since it can inhibit price competition, service innovation, entry into the market, and the ability of carriers to respond quickly to market trends.”<sup>48</sup> Based on these factors, GTE also supports proposals to remove restrictions on contract tariffs to allow ILECs to compete on the same basis as interexchange carriers and other non-dominant carriers.<sup>49</sup>

A similar rationale supports elimination of the asymmetrical requirement that ILECs seeking to introduce a new switched access service file a petition showing the new element would be in the public interest.<sup>50</sup> Such petitions cause needless regulatory delay without any corresponding public interest benefit and uniquely handicap ILECs in the advanced services market. As GTE explained in its opening comments, “[t]his requirement permits the ILEC’s competitors to delay the introduction of a new service by filing meritless oppositions to the petition.”<sup>51</sup>

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requirement).

<sup>48</sup> *Tariff Filing Requirements for Nondominant Common Carriers*, 8 FCC Rcd 6752, 6752 (1993).

<sup>49</sup> BellSouth at 53; SBC at 8-9; GTE also supports SBC’s proposals for regulatory freedom for volume, term, and promotional pricing of these services. SBC at 8-9.

<sup>50</sup> See 47 C.F.R. § 69.4(g)(i)(1997).

<sup>51</sup> GTE at 25. The mentality that ILECs must avoid doing *anything* until every competitor and regulator is satisfied that no issues remain outstanding is pervasive. For example, one regulator recently proposed that GTE “defer” its ADSL tariff (in other words, shut down service to customers), not only until the Commission acts on

(Continued...)

**B. Asymmetrical Resale and Unbundling Requirements for Advanced Services Should Be Eliminated.**

GTE explained in its opening comments that there is no statutory or policy basis for requiring ILECs, alone among advanced service competitors, to make advanced services equipment available on an unbundled basis and permit discounted resale of advanced services.<sup>52</sup> GTE's analysis – and its concern that such asymmetrical requirements would undermine competition by both ILECs and their competitors – was shared by numerous other parties.<sup>53</sup> Indeed, such requirements would be antithetical to achievement of the Commission's stated goal of "ensur[ing] that the marketplace is conducive to investment, innovation, and meeting the needs of consumers."<sup>54</sup> As BellSouth cautioned, "[s]ubjecting ILECs advanced services to unbundling requirements discourages ILEC investment and innovation, creates a disincentive for competitors to build out facilities and prevents ILECs from differentiating service offerings in the evolving advanced services market."<sup>55</sup> The Commission therefore should reverse its determination that Digital Subscriber Line Access Multiplexers ("DSLAMs") and other

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advanced services and reciprocal compensation issues, but until *separations reform* is implemented. Such thinking has no place in the competitive marketplace faced by ILECs.

<sup>52</sup> GTE at 19-20; see also Comments of GTE, CC Docket No. 98-147, Sections IV-VI.

<sup>53</sup> See, e.g., Ameritech at 3-5, 15; CBT 14-16; SBC 7-8; U S WEST 26-31.

<sup>54</sup> See *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, MO&O and NPRM, CC Docket No. 98-147 at ¶ 2 (rel. August 7, 1998).

<sup>55</sup> BellSouth at 55.

non-bottleneck equipment used to provide advanced services are network elements which may be subject to unbundling and that some advanced services may be subject to discounted resale.<sup>56</sup>

If the Commission nonetheless determines that these unbundling and resale obligations should be extended to cover ILEC advanced services, it must also impose symmetrical obligations on other, similarly situated providers. Most importantly, it must assure that AT&T and TCI operate the merged company's advanced service businesses under the same strictures that apply to the ILECs. Following their merger, the new company would hold a dominant or significant position in virtually every product market that is relevant to the provision of advanced services, including cable service, high-speed Internet access, long distance, and local telephony (through TCG and the upgraded TCI). Failing to impose unbundling and resale obligations on the transmission components of the new company's advanced service offerings, while extending such regulations to the ILECs, would introduce destructive distortions in the market and undermine effective competition.

Cable networks, now used for telecommunications, are currently the dominant medium for the delivery of advanced services and the combined AT&T/TCI entity is and will be the dominant player in this emerging market. In contrast to ILEC ADSL

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<sup>56</sup> Ameritech at 8-9; CBT at 14-16; SBC at 7-8; U S WEST at 26-31 (limit to "essential facilities"). Even if the Commission were correct that xDSL electronics are unbundled network elements, it could not lawfully require ILECs to provide an unbundled loop/electronics platform. See *Iowa Utilities Board v. FCC*, 120 F.3d 753, 813 (8<sup>th</sup> Cir. 1997), *petition for cert. granted* (invalidating FCC rule requiring ILECs to offer combinations of network elements).

deployment, which is only in its nascent stages and is threatened by regulatory impediments at every turn,<sup>57</sup> the giant cable MSOs – and particularly TCI – are deploying an ascendant high-speed data telecommunications service with virtually no regulatory oversight whatsoever.

Unlike the treatment they urge for their emerging ILEC competitors, AT&T/TCI argue that they should be responsive only to the marketplace rather than to regulation.<sup>58</sup> While GTE agrees that all competitors should be driven by the market rather than shackled by regulation, AT&T/TCI's own dominant position with respect to advanced services undermines their attempt to avoid regulation while at the same time demanding its imposition on the ILECs. Rather, AT&T/TCI's use of their bottleneck cable network to provide high-speed Internet access – a telecommunications service – requires them to unbundle this network (loop, electronics, etc.) to the same extent as their ILEC competitors as a condition of merger approval.<sup>59</sup>

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<sup>57</sup> See *GTE Telephone Operators, et al.*, Order Designating Issues for Investigation, CC Docket No. 98-79 (CCB rel. Aug. 20, 1998); *GTE System Telephone Companies, et al.*, Order Suspending Tariff and Designating Issues for Investigation, CC Docket No. 98-167 (CCB rel. Sept. 11, 1998); *Washington Utilities and Transportation Commission v. GTE Northwest Incorporated*, Docket No. UT-90763 (Wash. Util. & Transp. Comm.); *In the Matter of the Investigation of GTE Northwest Incorporated DSL Solutions – ADSL Service*, Docket No. UM-907 (Oregon Pub. Util. Comm.).

<sup>58</sup> AT&T at 37-44.

<sup>59</sup> At a minimum, the proposed AT&T/TCI merger raises the substantial likelihood the combined entities' monopoly control over its bottleneck cable network will throttle the ability of unaffiliated Internet service providers seeking to reach consumers. Thus, a nondiscrimination requirement (including transport at just and reasonable rates) equivalent to that which may be imposed on an ILEC advanced services affiliate is required.

**C. The Commission Should Remove Regulatory Barriers To Competition, Including State Policies that Restrict Competition By Affiliates of ILECs and Should Avoid Adopting Rules that Bar ILECs from Access to Necessary Inputs.**

The principle of symmetric, minimally intrusive regulation also requires that all service providers be free from regulatory bans on competition. One such area of discriminatory treatment is state decisions that decline to authorize in-franchise affiliates of a common parent to provide competitive local exchange services. As GTE showed in its comments, such decisions plainly are subject to preemption under § 253.<sup>60</sup>

There are other, less direct barriers to competition that flow from the historical practice of subsidizing local residential phone service and mandating geographically averaged rates. GTE showed in its opening comments that artificially low rates for residential service and for unbundled network elements discourage investment by ILECs and their competitors alike. In addition, geographic rate averaging plainly deters investment in relatively high-cost rural areas. As GTE noted, “[b]y eliminating regulatory constraints on geographic rate averaging (while reforming universal service support to address any affordability concerns), the Commission and state PUCs can restore appropriate investment incentives [and] jump-start deployment of advanced

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<sup>60</sup> GTE at 24; see *also* Cincinnati Bell at 20-21. GTE also agrees with Williams Communications that there should be a rapid means of “resolving challenges to local regulations (or failures to act) that violate federal law.” See Williams Communications at 11.

telecommunications capability and services in rural areas.”<sup>61</sup> There is ample support in the record for taking such action as expeditiously as possible.<sup>62</sup>

The Commission also should take care not to bar any group of competitors from accessing new resources used in providing advanced services. Most notably, it must assure that all competitors, including ILECs, have access to the additional spectrum that may be made available for high-bandwidth wireless services.<sup>63</sup> There is no basis for depriving ILECs of access to such spectrum, when all of their competitors are free to utilize this resource to provide services that compete directly with ILEC offerings.<sup>64</sup> Moreover, access to this spectrum should not be limited by any spectrum cap applicable to existing commercial mobile radio services.

**D. The Commission Should Adopt GTE’s Proposed National Advanced Services Plan Rather than the Rigid Separation Requirements Proposed in the *Advanced Services NPRM*.**

The separate affiliate model proposed in the *Advanced Services NPRM* would greatly exacerbate the disparate regulatory treatment of ILECs. Alone among competitors in the advanced services market – and despite lacking control over any essential inputs to the provision of advanced services – ILECs would be forced “to sacrifice virtually all integration efficiencies and incur massive costs of duplicating in the

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<sup>61</sup> GTE at 23-24.

<sup>62</sup> See Sprint at 10, SBC at 8-10.

<sup>63</sup> Public Notice, “Commission Staff Seeks Comment on Spectrum Issues Related to Third Generation Wireless/IMT-2000,” DA 98-1703, Report No. IN-98-48 (Aug. 26, 1998).

hyper-separated affiliate functions that could be obtained from the ILEC on a non-discriminatory basis.”<sup>65</sup> Adoption of the separation proposal accordingly would impair competition and create powerful disincentives to investment in new technology and services.<sup>66</sup>

In its comments in Docket No. 98-147, GTE has proposed a National Advanced Services Plan that would substitute more flexible, but still effective, separation requirements while permitting deregulation. The NASP “allows market forces, rather than regulation, to determine which companies succeed and which do not, and assures that all advanced service providers, including affiliates of an ILEC, relate to the ILEC on an equal basis.”<sup>67</sup> Accordingly, the NASP “creates a structure that will foster maximum capital investment and sharing of risk by all market participants and consequently expand the universe of competitive alternatives for consumers.”<sup>68</sup> GTE respectfully urges the Commission to adopt GTE’s approach in lieu of the hyper-regulatory proposals in the *Advanced Services NPRM*.

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<sup>64</sup> GTE at 24-25, SBC at 13, BellSouth at 29.

<sup>65</sup> GTE at 16.

<sup>66</sup> See, e.g., BellSouth at 40-41, U S WEST at Attachment D.

<sup>67</sup> GTE Comments, CC Docket No. 98-147, at ii.

<sup>68</sup> *Id.*

#### **IV. THERE IS NO BASIS FOR IMPOSING STRINGENT NEW REGULATIONS ON ILECS.**

Section 706 instructs the Commission – if it determines that such steps are necessary to promote the reasonable and timely deployment of advanced telecommunications capability – to utilize “price cap regulation, regulatory forbearance, measures that promote competition in the local telecommunications market, or other regulating methods that remove barriers to infrastructure investment.” In other words, Congress has mandated that the Commission take cognizance of marketplace realities and not be bound by outdated regulatory constructs where the marketplace has advanced more swiftly than regulation.

The emergence of advanced services – which are provided by a myriad of well-financed and aggressive competitors with technologies that bypass the local loop, and for which ILECs are merely new entrants behind the giant cable MSOs and others – presents just the first instance in which the Commission is directed to utilize its *deregulatory* authority to align regulation with the marketplace. As Commissioner Powell recently noted, the Commission needs to eschew the “incremental view” of mulling over old precedent and old laws. Instead, the Commission needs to “break out of the box” and away from the ghosts of regulations-past, such as the MFJ: the “world of 1982 isn’t our world.”<sup>69</sup>

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<sup>69</sup> Comments of Commissioner Powell before the Federal Communications Bar Association meeting at Georgetown University, October 2, 1998.

Section 706 specifically empowers the Commission to address the disconnect between regulation and the market which Commissioner Powell so aptly recognizes. Several parties, however, turn a blind eye to marketplace realities and this deregulatory mandate, and instead seek to exacerbate current regulatory inequities. These commenters ask the Commission to impose all manner of stringent new regulations on the ILECs and their advanced service affiliates. For example, they urge adoption of additional rules regarding loop and spectrum unbundling,<sup>70</sup> collocation,<sup>71</sup> resale,<sup>72</sup> joint marketing,<sup>73</sup> and affiliate transactions.<sup>74</sup>

The vast majority of these proposals relate to matters raised in the *Advanced Services NPRM*. As GTE detailed in its comments in that proceeding, and as it will explain further in its reply comments, there is no need for such intrusive new rules;

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<sup>70</sup> See, e.g., ALTS at 15-17, CIX at 14-17, MCI WorldCom at 7-10.

<sup>71</sup> See, e.g., DATA at 10-15, MCI WorldCom at 9-10.

<sup>72</sup> See, e.g., Sprint at 8, CIX at 14-15.

<sup>73</sup> See, e.g., CIX at 19, ISP Consortium at 9-11, 15, MCI WorldCom at 14, 29, Sprint at 7-8. As GTE explained in its opening comments in this docket (at 21-22) and will further document in its reply comments in response to the *Advanced Services NPRM*, there is no basis for imposing unique limitations on the ability of ILECs and their affiliates to jointly market or bundle high-speed access and ISP offerings. GTE agrees that, if its NASP is adopted, an advanced services affiliate of an ILEC should offer service to both affiliated and unaffiliated ISPs. However, extending *Computer III* requirements to the advanced services affiliate, or prohibiting joint marketing or bundling of ISP and advanced service offerings, would place the affiliate at a profound disadvantage in the marketplace. No other competitor, including integrated giants such as AT&T/TCG/TCI and MCI WorldCom/Brooks/MFS/UUNet, is subject to such intrusive regulation.

<sup>74</sup> See, e.g., CIX at 17-18, ISP Consortium at 9-13.

indeed, adoption of these measures would directly and significantly impede both competition and investment in advanced services and technology. Instead, the Commission should adopt GTE's recommended National Advanced Services Plan, which fully addresses concerns regarding discrimination and cross-subsidization while promoting investment and innovation.<sup>75</sup>

Below, GTE responds to various requests for regulatory action that do not relate to matters raised in the *Advanced Services NPRM*.<sup>76</sup>

**A. Issues Concerning Access To Inside Wiring Should Be Addressed by Adopting MPOE Requirements, Not Imposing Burdensome Rate Regulation.**

Several CLECs urge the Commission to adopt new rules governing access to telephone inside wiring in order to remove an alleged bottleneck in the "last 100 feet."<sup>77</sup> For example, various parties ask the Commission to classify ILEC-owned inside wire as a UNE,<sup>78</sup> mandate nondiscriminatory access to ILEC-owned inside wire at just and reasonable rates,<sup>79</sup> prohibit exclusive contracts between ILECs and building owners,<sup>80</sup> or assign a demarcation point at the minimum point of entry ("MPOE").<sup>81</sup>

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<sup>75</sup> See GTE Comments, CC Docket No. 98-147, at section I.D.

<sup>76</sup> GTE's decision not to reiterate herein its position on the various unbundling, collocation, resale, and affiliate transaction proposals does not imply its support for such measures. Rather, GTE incorporates by reference its filings concerning the *Advanced Services NPRM*.

<sup>77</sup> Winstar at 13-19.

<sup>78</sup> See, e.g., AT&T at 49-50.

<sup>79</sup> See, e.g., ALTS at 19-20.

GTE agrees that all certified communications companies should have direct access to tenants in a multi-tenant environment.<sup>82</sup> For new construction, the best way to assure such access is by following the MPOE policy established in CC Docket No. 88-57.<sup>83</sup> Under this approach, the location owner is responsible for placement of inside wire cabling from the demarcation point to the tenants' locations. All competitors, including the ILEC, would then have access to the inside wire from the MPOE.

For existing multi-tenant locations, the point of demarcation would be relocated to the MPOE when (1) the building owner or customer asks the ILEC to move the location of the network termination, (2) the building owner or customer requires new or additional network outside plant facilities, or (3) a new entrant requests use of the ILEC's intra-location cabling. Under these circumstances, the ILEC would bill the building owner or competitor for the labor expense of rearranging the interface to the MPOE and, consistent with the FCC's MPOE policy, would retain the capital portion of the inside wiring in its rate base until fully depreciated. Accordingly, there would be no

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<sup>80</sup> See, e.g., AT&T at 50-51.

<sup>81</sup> See, e.g., Teligent at 8-9, WinStar at 19-20.

<sup>82</sup> Any restrictions should be strictly constrained to reasonable security, safety, appearance, and physical space limitations.

<sup>83</sup> See *Review of Sections 68.104 and 68.213 of the Commission's Rules Concerning Connection of Simple Inside Wiring to the Telephone Network and Petition for Modification of Section 68.213 of the Commission's Rules filed by the Electronic Industries Association, Second Report and Order and Second Further Notice of Proposed Rulemaking*, 12 FCC Rcd 11897 (1997).

need for cost-based usage charges to CLECs or reclassification of inside wiring as a UNE.<sup>84</sup>

The Commission should recognize, however, that any number of large non-regulated entities currently compete for intra-building wiring installation contracts. These contracts can, and sometimes do, include language which clearly permits exclusive marketing agreements for a total package of telecommunications services. These packaged offerings are tied to the installation agreement between the building owner and the competitive intra-building cable installation firm. The Commission must be aware that there is a difference between an exclusive contract (which denies access to other telecommunications service providers) and a service inclusive contract for cabling (which recovers the costs of construction). Many entities, including ILECs and CLECs, enter unregulated agreements to wire new buildings. The costs of performing this work are recovered over a certain period of time, and early termination by the building owner generally results in imposition of a termination charge designed to assure full cost recovery for the construction. GTE considers agreements such as these a private contractual matter, and not a barrier to entry.

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<sup>84</sup> In any event, the proposals to treat telco-owned inside wire as a UNE or to mandate access at just and reasonable rates are plainly contrary to law. First, UNEs are *network* elements. Inside wire, in contrast, is located on the customer's premises. It can no more be classified as a UNE than an answering machine or telephone could. Second, inside wire has been deregulated since the late 1980s. As the Commission recognized more than a decade ago, inside wire simply is not a Title II service, and therefore is not subject to the strictures of Sections 201 and 202. See generally *Detariffing the Installation and Maintenance of Inside Wiring, Memorandum Opinion and Order on Reconsideration*, 1 FCC Rcd 1190 (1986).

**B. Arguments that ILEC Mergers Will Undermine Advanced Services Deployment Are Wholly Unsupported.**

AT&T and Sprint contend that mergers between ILECs will impede deployment of advanced telecommunications capability, asserting that such mergers divert capital that could have been used to upgrade networks and remove a potential competitor from the market.<sup>85</sup> The Commission should pay no heed to these purported concerns. In fact, the opposition of these parties to ILEC mergers undoubtedly stems from their reluctance to face more efficient and vigorous competitors in their core long distance market as well as the market for advanced services. As GTE and Bell Atlantic explained in their merger application,<sup>86</sup> they will achieve efficiencies and synergies that will permit the new company to compete more effectively across the full range of telecommunications and related markets. Indeed, the merger of AT&T and TCI raises far greater competitive concerns than pending ILEC mergers, since it threatens to create a company that is dominant in multiple product markets.<sup>87</sup>

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<sup>85</sup> AT&T at 33-36, Sprint at 3-4; see also Intermedia at 14.

<sup>86</sup> In the Matter of GTE Corporation, Transferor, and Bell Atlantic Corporation, Transferee for Consent to Transfer of Control, Application for Transfer of Control, Exhibit B (Public Interest Showing), CC Docket No. 98-184 (filed Oct. 2, 1998).

<sup>87</sup> In any event, the Commission cannot lawfully adopt any prophylactic rules favoring or disfavoring particular types of mergers. Each merger must be considered on a case-by-case basis under sections 214 and 310 of the Communications Act.

**C. No Additional Regulations Are Needed To Guard Against “Price Squeezes” Involving ILEC xDSL Offerings.**

Northpoint Communications and DSL Access Telecommunications Alliance (“DATA”) urge the Commission to reject any tariff for DSL services that does not track the component UNE rates in state tariffs, effectively requiring that ILECs impute unbundled loop rates into their DSL prices.<sup>88</sup> These parties argue that such an imputation rule is necessary to avoid a “price squeeze.” There are two problems with this claim.

First, these parties essentially are arguing that every single state commission has failed to discharge its statutory duty to assure cost-based pricing of unbundled loops – and that the FCC has permitted ILECs to provide DSL service at rates that are unlawfully low. To the contrary, state commissions have been applying the Commission’s TELRIC standard (even though not required to do so),<sup>89</sup> and the Commission has not given credit to claims that ILEC ADSL rates are either too high or too low.<sup>90</sup> Moreover, as BellSouth noted in a recent tariff proceeding, the Supreme Court’s test for identifying a price squeeze (established in *United States v. Aluminum*

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<sup>88</sup> Northpoint at 4-6; DATA at 18. Interestingly, Northpoint abandoned its objection to federal jurisdiction in the Commission’s investigation of GTE’s ADSL tariff. See Northpoint Response to Direct Case of GTE, CC Docket 98-79, at 3 (filed Sept. 18, 1998).

<sup>89</sup> GTE does not agree that TELRIC, as implemented by certain states, fully recovers the ILEC’s costs.

<sup>90</sup> GTE notes that both complaints were raised against its ADSL rates.

*Co. of America (Alcoa)*<sup>91</sup>“requires that the price for the monopoly input be higher than a ‘fair price.’”<sup>92</sup> Because unbundled element rates are set by state commissions based on cost, they are “inherently fair under *Alcoa*, and no anticompetitive price squeeze can be involved.”<sup>93</sup>

Second, GTE’s ADSL rates appropriately recover only the incremental costs of providing the service because the costs of the loop are already recovered in GTE’s basic service rates. Northpoint has expressed no interest in providing voice services, and consequently it wants the ILECs to inflate the price for ADSL to a level that gives Northpoint a comfortable margin when it supplies a data-only alternative. In essence, then, Northpoint, based solely on its unilateral decision not to provide competitive voice services, is asking the Commission to guarantee that it will be profitable by establishing an arbitrarily high price floor underneath the ILECs’ data offerings. Adopting such a rule to support one CLEC’s business strategy would favor a competitor, not competition, contrary to longstanding judicial precedent.<sup>94</sup> A more reasonable approach would be for Northpoint also to provide voice services over any unbundled loops it has purchased, either itself or by contracting with another CLEC, so that it can compete with other

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<sup>91</sup> 148 F.2d 416 (2d Cir. 1945).

<sup>92</sup> Rebuttal of BellSouth Telecommunications, Inc., CC Docket No. 98-161 at 22 n.43 (filed Sept. 25, 1998).

<sup>93</sup> *Id.*

<sup>94</sup> See, e.g., *Brown Shoe Co. v. United States*, 370 U.S. 294, 320 (1962); *Hawaiian Telephone Co. V. FCC*, 498 F.2d 771, 776 (D.C. Cir. 1974).

carriers. If Northpoint chose this strategy, its bootstrapped price squeeze concerns would disappear.

**D. ILECs Are Required To Provide Interconnection to Optical Network Facilities, But Not To Modify Their Networks or Provide Better-Than-Parity Service.**

Allegiance complains generally that “incumbent LECs will not permit Allegiance to establish a direct optical connection between Allegiance’s and the ILEC’s fiber optic facilities either collocated in the incumbent’s central offices or at other points in the network where it would be technically feasible to do so.”<sup>95</sup> This is not the case, at least for GTE.<sup>96</sup> GTE will support direct optical connections with CLECs with mid-span interconnection arrangements and has documented its internal processes in support of these interconnections in its Mid-Span Meet Point Deployment Guidelines (July 30, 1998). Of course, CLECs must conform to applicable industry standards.<sup>97</sup>

**E. Section 251 Requires Interconnection with Other “Telecommunications Carriers,” But Does Not Require Spectrum Unbundling.**

The Commercial Internet Exchange Association (“CIX”) urges the Commission to “enforce the obligation of ILECs to interconnect their networks, including xDSL services,

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<sup>95</sup> Allegiance at 14-17.

<sup>96</sup> In addition, if Allegiance felt that a particular ILEC was not providing technically feasible interconnection, the Act requires it to seek resolution of its concerns before the state public utility commission in the context of an arbitration proceeding or enforcement action. See generally 47 U.S.C. § 252.

<sup>97</sup> The Commission should recognize, however, that a direct optical connection in the ILEC central office collocation space raises very different issues than a mid-span connection.

with requesting data CLEC providers.<sup>98</sup> GTE will interconnect with any certified CLEC (whether it offers voice, data, or both) at any technically feasible point. However, GTE does not offer spectrum unbundling, which is what CIX is actually requesting. As GTE has explained in its Comments on the *Advanced Services NPRM*, spectrum unbundling is not required by the Act.<sup>99</sup>

**F. The Commission Should not Expand ILECs' ARMIS Reporting Obligations.**

MCI WorldCom proposes that the Commission vastly expand the reporting requirements in ARMIS 43-07 to include the number of copper pairs terminated at customers' premises, the percentage of copper pairs served by a DLC, the number of "sheath miles" of coaxial cable, the number of coaxial cables terminated at customer premises, and a host of other information.<sup>100</sup> Characteristically, its comments do not even acknowledge, let alone address, the massive costs and burdens such reporting would impose on ILECs.

In reality, the cost of complying with the Commission's existing ARMIS requirements already is substantial, and the Commission should reduce, not increase, the information included in the reports.<sup>101</sup> Moreover, ARMIS reports are of minimal value in monitoring the development of competition. The requirements MCI WorldCom

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<sup>98</sup> CIX at 19.

<sup>99</sup> GTE Comments, CC Docket No. 98-147, at 86-90 (filed Sept. 25, 1996).

<sup>100</sup> MCI WorldCom at 30-32.

<sup>101</sup> See, e.g., Comments of GTE, CC Docket No. 98-117 (filed Aug. 20, 1998).

suggests would provide little, if any, additional information to the Commission on the deployment of advanced services. Rather, these additional requirements would only place further burdens on ILECs and exacerbate regulatory asymmetries. The Commission therefore should reject MCI WorldCom's proposal.

## **V. CONCLUSION**

Advanced telecommunications technology and services are being deployed by a multitude of competitors using a wide range of distribution media. Many of these competitors provide end-to-end service without using ILEC facilities or interconnecting with ILEC networks. Accordingly, ILECs control no "bottleneck" and should not be subject to disparate, burdensome regulation. To the contrary, proper application of Section 706 requires that the Commission exercise its *deregulatory* authority in order to bring regulation of ILECs into concert with marketplace realities.

In addition, there is no evidence of market failure that would require Commission intervention in the form of new rules. The best means of expediting the availability of broadband capabilities to all Americans is to assure that competitors invest in response to undiluted market forces and that no category of competitors is subject to unique regulatory burdens. To this end, the Commission should eliminate the asymmetrical regulation and barriers to investment identified in Section III of these reply comments, adopt the National Advanced Services Plan outlined by GTE in response to the *Advanced Services NPRM*, and resist calls for imposing intrusive new regulations on ILECs.

Respectfully submitted,

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