

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C.**

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

**BELL ATLANTIC OPPOSITION TO PETITONS FOR  
RECONSIDERATION AND CLARIFICATION**

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**I. Introduction and Summary**

The Commission should deny the petitions asking it to expand the already excessive unbundling obligations imposed in its remand order. Despite extensive growth in competition and in the availability of competing facilities without the need for all of the unbundled network elements in the Commission’s original list of network elements, the Commission nevertheless reinstated that list with two limited exceptions and added new unbundling obligations for dark fiber, subloops and packet switching.

Now competing carriers want more. They are not only asking the Commission to reconsider every bit of unbundling relief it granted, they are also asking the Commission to make the reinstated and new unbundling obligations even more onerous. And they did not stop there. Incredibly, they ask this Commission to reconsider issues decided against them in other dockets.

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<sup>1</sup> The Bell Atlantic telephone companies (“Bell Atlantic”) are Bell Atlantic-Delaware, Inc.; Bell Atlantic - Maryland, Inc.; Bell Atlantic-New Jersey, Inc.; Bell Atlantic-Pennsylvania, Inc.; Bell Atlantic-Virginia, Inc.; Bell Atlantic-Washington, DC, Inc.; Bell Atlantic-West Virginia, Inc.; New York Telephone Company and New England Telephone and Telegraph Company.

In light of the expansive approach the Commission has already taken in its unbundling rules, there can be no legitimate justification to expand further the ability of competing carriers to purchase unbundled network elements. Local competition has grown exponentially as competing carriers have invested in their own network facilities. The danger here is that further unbundling requirements will discourage further investment in network facilities, to the detriment of competition.

The Commission should instead reconsider only those aspects of its rules where it required too much unbundling as requested by Bell Atlantic and BellSouth.<sup>2</sup> The Commission's rules requiring unbundling of network elements where competitors have already deployed their own network facilities stretches the term "impair" beyond "any realistic meaning of the statute."<sup>3</sup> Such reconsideration is important to assure that competing carriers and incumbents have the appropriate incentives to invest in their own network facilities.

## II. **The Commission Should Not Expand Unbundling Obligations for Advanced Services**

MCI WorldCom wants the Commission to impose an across-the-board unbundling requirement for Digital Subscriber Line Access Multiplexers ("DSLAMs")

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<sup>2</sup> Bell Atlantic supports the petition for reconsideration filed by BellSouth. In particular, the Commission should eliminate the confusion created by its use of the term "inside wire" as "all loop plant owned by the incumbent LEC on end-user customer premises as far as the point of demarcation." UNE Remand Order, App. C, 51.319(a)(2)(A). The Commission has elsewhere defined "inside wire" as wiring on the customer's side of the demarcation. *Review of Sections 68.104 and 68.213 of the Commission's Rules Concerning Connection of Simple Inside Wiring to the Telephone Network*, CC Docket No. 88-57, Order on Reconsideration, FCC 97-209, (rel. June 17, 1997) ¶ 1.

<sup>3</sup> *GTE Service Corp. v. FCC*, 2000 U.S. Appeal LEXIS 4111, 13-14 (D.C. Cir Mar. 17, 2000)

and packet switching despite the Commission's concern that doing so might "stifle burgeoning competition in the advanced service market." UNE Remand Order ¶ 316. MCI WorldCom's claim that it would be impaired without access to such equipment on an unbundled basis is nothing less than ludicrous.

The Commission has already concluded that the deployment of advanced services is reasonable and timely because of "the large investments in broadband technologies that numerous companies in the communications industry are making." *Inquiry Concerning the Deployment of Advanced Telecommunications Pursuant to Section 706 of the Telecommunications Act of 1996*, CC Docket No. 98-146, Report ¶ 6 (Feb. 2, 1999). In fact, the Commission found that "[c]ompetitive LECs and cable companies appear to be leading the incumbent LECs in their deployment of advanced services." UNE Remand Order ¶ 307 (footnote omitted). As a result, MCI (or any other competitor) can not meet the statutory test because the rejection of a blanket obligation to create advanced services unbundled elements does not "impair the ability . . .to provide the services that it seeks to offer." 47 U.S.C. § 251(d)(2)(B).

For example, just this month, MCI WorldCom's chief executive told industry analysts that MCI WorldCom has 1,700 central offices secured today for xDSL service and plans to secure another 200 this year. Credit Suisse First Boston, CSFB Conference Highlights (March 8, 2000). He also told analysts that MCI WorldCom would be scaling its xDSL offering in test launch mode throughout this year while perfecting its OSS systems in anticipation of going to mass provisioning next year. *Id.* If MCI WorldCom is "impaired" in its provisioning of xDSL service, it is because of problems with its own

internal OSS systems. That is hardly a basis for requiring incumbent carriers to unbundle their advanced services equipment.<sup>4</sup>

Moreover, MCI WorldCom is not limiting its advanced services to xDSL technologies. MCI WorldCom's Mr. Ebbers also told industry analysts that MCI WorldCom would start deploying its fixed wireless service (MMDS) this year, reaching 100 markets by next year. *Id.*

MCI WorldCom also argues that the Commission should require that "packet switching must be made available as a UNE when the ILEC is using it to provide voice services." MCI WorldCom Pet. for Clarif. at 2. This request is inconsistent with the requirements of the Act and must be denied.

As an initial matter, MCI WorldCom's request is entirely premature. MCI WorldCom has not identified *any* incumbent carriers that are currently using packet switches to provide voice services. Its request is based on a single press release describing future business plans.

More importantly, MCI WorldCom has made no showing of impairment. The Commission has already found competing carriers are not impaired in providing data services without access to the incumbents' packet switches on an unbundled basis because of "the presence of multiple requesting carriers providing service with their own packet switches . . ." UNE Remand Order ¶ 306. The same conclusion applies to future

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<sup>4</sup> AT&T also argues for across-the-board unbundling of DSLAMs by arguing that they should be included as part of the definition of the loop. AT&T Pet. for Recon. at 10. AT&T's sleight of hand is a feeble attempt to shield DSLAMs from a separate unbundling analysis. But the Commission has already conducted that analysis and found no reason to unbundle DSLAMs. The Commission cannot ignore its own analysis and require unbundling of DSLAMs by including them in the definition of loops.

voice services since competing carriers can use their own packet switches to provide voice services just as readily as incumbent carriers can use their own packet switches.

Finally, Intermedia repeats its request for unbundling of packet switching and frame relay service, which the Commission properly rejected. Intermedia Pet. for Recon. and Clar. at 3-13. *See also* CompTel Pet. for Recon. at 5-10. Intermedia provides no new information that would warrant reconsideration on this point.

The Commission specifically rejected Intermedia's proposal because "e.spire/Intermedia have not provided any specific information to support a finding that requesting carriers are impaired without access to unbundled frame relay." UNE Remand Order ¶ 312. Not only has Intermedia failed to submit any new evidence, the old evidence it submitted showed that Intermedia is *not* impaired. According to one of the e.spire/Intermedia ex partes, "e.spire has deployed 66 data switches nationwide and Intermedia has deployed 175, giving it coverage in most LATAs." *See Frame Relay and Data UNEs*, CC Docket No. 96-98, Ex Parte Position Paper of e.spire Communications, Inc. and Intermedia Communications Inc. at 5 (filed Aug. 10, 1999).

Intermedia also makes the incredible claim that "[t]he conclusion that 251(c)(4) resale obligations apply to advanced services also necessarily leads to the conclusion that ILEC data services are also subject to the unbundling obligations of section 251(c)(3)." Intermedia Pet. for Recon. and Clar. at 11. This is a gross misreading of the Act. Not only does the Act define "telecommunications services" separately from "network elements," it deals with them in separate subsections. Section 251(c)(4)(A) requires incumbent carriers "to offer for resale at wholesale rates any telecommunications service that the carrier provides at retail to subscribers who are not telecommunications carriers."

47 U.S.C. § 251(c)(4)(A). By contrast, section 251(d) requires unbundling of nonproprietary network elements only where “the failure to provide access to such network elements would impair the ability of the telecommunications carrier seeking access to provide the services that it seeks to offer.” 47 U.S.C. § 251(d)(2)(B). And the Supreme Court has expressly held that the Commission must apply the Act to give meaning to these limitations that the Act imposes on ILEC unbundling obligations.

In addition to not meeting the statutory tests, several competing carriers request that the Commission address issues in this docket that have already been resolved or are currently being addressed in other dockets. There is no reason for the Commission to address these issues here.

For example, AT&T and MCI WorldCom want the Commission to require incumbent carriers to provide advanced services to customers that do not purchase the incumbents’ voice services. AT&T Pet. for Recon. at 2-11; MCI WorldCom Pet. for Clar. at 3-6. The Commission already decided not to impose such a requirement in a separate docket and there is no reason to allow these carriers to attack that order collaterally.

In CC Docket No. 98-147, the Commission held that incumbent carriers are not required to provide line sharing on “loops that do not meet the prerequisite condition that an incumbent LEC be providing voiceband service on that loop for a competitive LEC to obtain access to the high frequency portion.” *Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Third Report and Order in CC Docket No. 98-147 and Fourth Report and Order in CC Docket No. 96-98, FCC 99-355 (rel. Dec.

9, 1999) (“Order”) ¶ 72. It further held that “incumbent carriers are not required to provide line sharing to requesting carriers that are purchasing a combination of network elements known as the platform.” Order ¶ 72 (footnote omitted). More importantly, it found that competing carriers are not impaired where the incumbent carrier is not providing voice service on the customer’s loop. Order ¶ 72 n.160.

Moreover, whether incumbent carriers should be required to provide advanced services on a retail basis to customers that purchase voice services from another carrier has nothing to do with the issues in this proceeding. There is no basis for the Commission to expand this proceeding to reconsider an issue that was already correctly decided in other proceedings.

### **III. The Commission Should Not Reconsider Prior Limits On Combinations**

Similarly, the Commission should not reconsider limits of combinations of unbundled elements (or elements and services). Those issues have already been addressed prior to the order here. For example, MCI WorldCom and CompTel want the Commission to interpret Rule 51.315(b) to require incumbent carriers to combine network elements that are not currently combined in their networks. MCI WorldCom

Pet. for Clar. at 6-9; CompTel Pet. for Recon. at 10-13.<sup>5</sup> But that argument has already been rejected in an appeal of an earlier Commission order.

The Supreme Court upheld Rule 315(b) on the ground that, in light of Section 251(c)(3)'s non-discrimination requirements, the FCC could rationally prohibit incumbents from "disconnect[ing] previously connected elements, over the objection of the requesting carrier, not for any productive reason, but just to impose wasteful reconnection costs on new entrants." *AT&T Corp.*, 119 S. Ct. at 737 (internal quotation marks omitted). The Supreme Court's finding that the Commission may rationally prohibit incumbents from disconnecting network elements that are already combined in the incumbent's network provides no basis for concluding that the Commission may require incumbents to combine their own network elements in new ways or with elements provided by the requesting carriers.

That issue had already been decided by the 8<sup>th</sup> Circuit. *See Iowa Utilities Board v. FCC*, 120 F.3d 753, 813 (8<sup>th</sup> Cir. 1997). Neither the FCC nor AT&T explicitly sought

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<sup>5</sup> Intermedia also asks the Commission to "clarify" that competing carriers may obtain combinations of loop and transport elements that are not already combined and may use them without restriction when the incumbent carrier obtains relief from unbundling local switching. But Intermedia's eleventh hour request is completely inconsistent with the position Intermedia took throughout this proceeding. Intermedia never asked the Commission to require unbundling of local switching and, in fact, joined Bell Atlantic and other competing carriers in opposing such unbundling because "[t]he availability of unrestricted UNE Platforms would undermine the investments that facilities-based carriers have already made and discourage further investment in local facilities." Letter from Heather B. Gold, Vice President-Industry Policy, Intermedia Communications, *et al.*, to Chairman Kennard and Commissioners, Federal Communications Commission, CC Docket No. 96-98 (Sept. 2, 1999). Intermedia also supported the notion that "[a]ny requirement to provide combinations of unbundled loop and transport network elements" should be subject to significant local use restrictions. *Id.*

review of that decision.<sup>6</sup> As a result, the 8<sup>th</sup> Circuit’s original rejection is binding law. The Commission is therefore prohibited from doing as MCI WorldCom and CompTel argue, and interpreting Rule 315(b) to require what the court struck down in Rules 51.315(c)-(f). At most, they can claim that parties have raised this issue in the current 8<sup>th</sup> Circuit remand case, and that the Commission may act only if that Court fails to uphold its prior vacations of Rules 51.315(c)-(f).

In the guise of a request for clarification, MCI WorldCom also wants the Commission to adopt a new rule that would require incumbent carriers to provide access services to carriers, but charge TELRIC rates for those services when the carrier uses them to handle local traffic. MCI WorldCom Pet. for Clar. at 21-25.<sup>7</sup> MCI WorldCom’s request is a ploy to bolster its litigation position in a separate complaint it has pending before the Commission against Bell Atlantic. The Commission should reject MCI WorldCom’s tactics.

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<sup>6</sup> Both AT&T and the FCC expressly sought review of subsection (b) of Rule 315 while completely ignoring the other subsections of Rule 315. *See* FCC’s Petition for Writ of Certiorari at I, No. 97-831 (U.S. Nov. 17, 1997) (“[w]hether the Commission reasonably implemented [Section 251(c)(3)] by prohibiting an incumbent LEC, when it receives a request from another carrier for access to network elements, from separating *previously combined elements* over the objection of the requesting carrier”) (emphasis added); AT&T’s Petition for Writ of Certiorari at i, No. 97-826 (U.S. Nov. 17, 1997) (“[w]hether . . . the Eighth Circuit lawfully invalidated the FCC regulation that allows new entrants to obtain and use *existing combinations of network elements* and that precludes incumbent monopolists from breaking those elements apart in order to impose additional costs and service outages on their competitors”) (emphasis added).

<sup>7</sup> In a blatant effort to circumvent procedural rules, MCI has filed 50 pages in its petitions for reconsideration – 25 pages over the limit specified in the Commission’s rules. *See* 47 C.F.R. § 1.429(d). Rather than seek a waiver of the Commission’s page limit, MCI tries to mask its violation by splitting its argument into two petitions – one denominated as a petition for clarification. That petition should be struck for this procedural violation.

The Commission has already decided that carriers may not convert special access services to unbundled network elements, except in limited circumstances, until the Commission has “fully explore[d] the policy ramifications of applying [the Commission’s] rules in a way that potentially could cause a significant reduction of the incumbent LECs’ special access revenues prior to full implementation of access charge and universal service reform.” UNE Remand Order ¶ 489; *see also* Supplemental Order ¶ 4 (“until resolution of [the Commission’s] Fourth FNPRM . . .IXCs may not convert special access services to combinations of unbundled loops and transport network elements”).

#### **IV. The Commission Should Eliminate The Line Size Restriction For Relief From Local Switching Unbundling**

Several CLECs challenge the Commission’s four-line threshold for relief from local switching unbundling obligations. AT&T wants the threshold raised to eight lines, TRA would like it lifted to 25 lines, and Birch Telecom, MCI WorldCom and CompTel say it should be DS-1 level service or higher. AT&T Pet. for Recon. at 12-18; TRA Pet. for Recon. at 1-11; Birch Telecom Pet. for Recon. at 4-8; MCI WorldCom Pet. for Recon. at 20-23; CompTel Pet. for Recon. at 2-5. This attack is misplaced. The four-line threshold is arbitrary only because it is unnecessary – not because it should be increased. The solution to the problem, however, is not to raise the level to another arbitrary threshold; it is to eliminate the threshold entirely.

The Commission decided to exempt incumbent carriers from unbundling local circuit switching in certain geographic areas because they “contain a significant number of competitive switches.” UNE Remand Order ¶ 281. But within those geographic areas where competitors already have switches, the Commission decided that incumbent

carriers should continue to provide unbundled local circuit switching for customers with fewer than four (4) lines. The Commission suggested that carriers with their own switches would not be able to service customers with fewer than four lines because of “the costs of establishing a collocation arrangement” UNE Remand Order ¶ 296 and the “disruptions that may be caused by coordinated cutovers.” UNE Remand Order ¶ 297. These justifications are not borne out by the facts.

Competing carriers are using their own switches to serve customers with fewer than four lines. In the Bell Atlantic region, more than 78 percent of the coordinated cutover (hot cut) orders involve fewer than four lines (over the last six months, of 50,891 total hot cut orders, 39,782 had three or less lines). Rather than raise the four-line threshold for relief from unbundled local circuit switching, the Commission should eliminate the threshold entirely.

**V. The Commission Has Correctly Decided That Incumbent Carriers Can Recover Their Costs of Conditioning Loops For Competing Carriers**

Several competing carriers want the Commission to prohibit incumbent carriers from recovering the costs they incur to condition loops at the request of competing carriers. *See, e.g.,* Rhythms NetConnections/Covad Pet. for Recon. at 1-7; @Link Network Pet. for Recon. at 4-6; MCI WorldCom Pet. for Recon. at 15-17. There can be no justification for such an arbitrary limitation.

As a preliminary matter, these carriers are requesting reconsideration of the wrong order. The Commission’s UNE Remand Order did not establish the right of incumbent carriers to recover their costs of conditioning loops at the request of competing carriers. It was in 1996, in the Commission’s First Report and Order in this docket, that the Commission first held that incumbent carriers are entitled to recover the costs of

conditioning loops: “The requesting carrier would, however, bear the cost of compensating the incumbent LEC for such conditioning.” *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers*, First Report and Order, CC Docket No. 96-98; CC Docket No. 95-185, 11 FCC Rcd 15499 (rel. Aug. 8, 1996), (“First Report and Order”) ¶ 382. The petitioners should have challenged that holding nearly four years ago.<sup>8</sup>

In any event, these carriers have not provided any credible basis for reconsidering the Commission’s holding at this late date. In particular, they do not show that they have met the statutory impairment test under section 251(d)(2). They simply argue that incumbent carriers “must base any conditioning charges on a forward-looking network design consistent with TELRIC . . . [and] a forward-looking network is one that supports both data and voice services.” *Rhythms NetConnections/Covad Pet. for Recon.* at 3-4. The fallacy of the petitioners’ argument is that a forward-looking network (which

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<sup>8</sup> McLeodUSA makes a similar argument with respect to the cost of unbundling loops with integrated digital loop carrier (“IDLC”) technology. It too is challenging the wrong order. It was the Commission’s First Report and Order that addressed unbundling IDLC loops and held that “the costs associated with these mechanisms will be recovered from requesting carriers.” First Report and Order ¶ 384. To the extent McLeodUSA is arguing that the TELRIC rates set by state commissions do not properly reflect these costs, it is the wrong forum. The Act directs the states to set those rates and any challenges to those rates must be brought in federal district court. *See* 47 U.S.C. § 252(d)(1), (f)(6).

includes fiber) cannot support the kinds of xDSL data services for which copper loop conditioning is required.<sup>9</sup>

**VI. The Commission Should Not Require Unbundling of Operator Services and Directory Assistance Services**

Several competing carriers attack the Commission's decision not to require unbundling of operator services and directory assistance services. None of these attacks has merit.

First, RCN argues that "operator services should be included in the national list of required elements because in those locations where operators are the alternative routing for emergency 911 calls, the unavailability of local ILEC operators to expeditiously and efficiently route emergency calls to PSAPs . . . would significantly impair competitors' ability to offer local exchange service." RCN Petition at 1. The Commission has already considered and properly rejected RCN's argument.

The Commission found that "the ability to connect a misdirected call to a PSAP [public safety answering point] is unlikely to result in a competitive advantage in the provision of local exchange service." UNE Remand Order ¶ 460. The Commission also explained that competing providers of operator services can handle emergency calls by obtaining the emergency numbers for the relevant PSAPs from the competing carriers for whom they provide services. UNE Remand Order ¶ 460.

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<sup>9</sup> MCI WorldCom and @Link Networks also argue that incumbent carriers should not be allowed to charge for conditioning any loops shorter than 18,000 feet because industry-developed design standards do not provide for load coils or bridged taps on such loops. MCI WorldCom Petition for Reconsideration at 16-17; @Link Networks at 5. These carriers are wrong. Industry standards do allow bridged taps of up to 6,000 feet on loops less than 18,000 feet. UNE Remand Order ¶ 193 n. 367. Where a carrier requests the removal of bridged taps within the industry standard, that carrier should compensate the incumbent for the cost of doing so.

The fact of the matter is that most carriers are providing local services without using the incumbent carriers' operator services. According to the Commission, "the existence of multiple alternative providers of [operator services and directory assistance services], coupled with evidence of competitors' decreasing reliance on incumbent [operator services and directory assistance services], demonstrates that requesting carriers' ability to provide the services it seeks to offer is not materially diminished without access to the incumbent's [operator services and directory assistance services] on an unbundled basis." UNE Remand Order ¶ 449. Many of these carriers are providing local services in the jurisdictions where RCN claims local operators are required to handle emergency calls.

In any event, if RCN wishes to use an incumbent carrier's operator services in lieu of a competing provider, it may do so. As the Commission explained, "[s]hould a competitive carrier decide to obtain [operator services and directory assistance service] for its customers from the incumbent on a nondiscriminatory basis, under section 251(b)(3), it will be able to connect its customers to the PSAP in the same manner as the incumbent." UNE Remand Order ¶ 460.

Second, MCI WorldCom claims that the Commission's order does not contain "any discussion of whether CLECs would be impaired in their ability to provide telecommunications services without access to OS/DA databases" and that "[t]he only reference to OS/DA databases in the text of the Order is in paragraph 441 . . . ." MCI Pet. for Recon. at 18. MCI WorldCom is wrong.

The Commission first explained that there are many competitors providing operator services and directory assistance services and that competing carriers have

reduced their reliance on the incumbents for these services. This growth in competition has occurred not because competing providers have unbundled access to the incumbents' operator service and directory assistance databases, but "[b]ecause [operator services and director assistance service] databases are available on a value added and nondiscriminatory basis under section 251(b)(3) of the Act . . . ." UNE Remand Order ¶ 455. Given the availability of nondiscriminatory access to these databases under section 251(b)(3), the Commission was "not persuaded that lack of unbundled access to incumbent LEC databases used in the provision of [operator services and directory assistance services] necessarily results in quality differences that would materially diminish a requesting carriers' ability to offer service." UNE Remand Order ¶ 457.

Moreover, MCI WorldCom's stated rationale for unbundled access to these databases would create a bizarre set of incentives. MCI WorldCom asserts that if incumbent carriers are allowed to charge market-based rates for access to their operator service and directory assistance service databases, "CLECs will be forced to use alternative sources of data that are not as up-to-date, resulting in less accurate information about telephone numbers of whether the customer's telephone number is listed or published." MCI WorldCom Pet. for Recon. at 19. MCI WorldCom's assertion defies logic. No rational competitor would set its rates so high above competitors' rates as to drive most or all of its business to its competitors in the market.

Third, MCI WorldCom asks the Commission to require incumbent carriers to change the signaling protocol in their networks for customized routing to be compatible with whatever protocol a competing carrier uses. The Act does not require incumbent carriers to make these changes to their networks.

The 1996 Act only requires incumbent carriers to unbundle their existing network. As the Eighth Circuit explained, “subsection 251(c)(3) implicitly requires unbundled access only to an incumbent LEC’s existing network – not to a yet unbuilt superior one.” *Iowa Utils. Bd. v. FCC*, 120 F.3d 753, 813 (1999). The Act does not require incumbent carriers to construct network elements simply to make them available on an unbundled basis to competing carriers. Incumbent carriers need only provided customized routing using the protocol that currently exists in their local switching network elements. They cannot be required to created new switching elements with any protocol a competing carrier chooses.

Moreover, this does not appear to be a problem for most competing carriers. As the Commission noted, “in more than 80% of Bell Atlantic’s interconnection arrangements, competitive LECs have chosen to provide [operator services and directory assistance services] for themselves or to obtain such service from wholesale providers.” UNE Remand Order ¶ 447.

Fourth, AT&T wants to continue paying TELRIC rates for operator services and directory assistance even where incumbent carriers are not required to provide those services on an unbundled basis. For example, AT&T argues that incumbent carriers “must provide advance notice of any discontinuation of OS/DA as a UNE and establish reasonable transition periods during which an incumbent must continue to provide access to its OS/DA at TELRIC rates.” AT&T Pet. for Recon. at 23. This is absurd. The Commission’s November 5, 1999 Order has already given AT&T ample notice that the rates will be adjusted to market levels. And since the incumbent carriers will continue to provide the very same operator services and directory assistance services they provided

on an unbundled basis, there is absolutely no need for a “transition period” to change those rates. And as rational competitors, incumbent carriers would not set their rates to levels that drive business to their competitors.

AT&T also claims it should continue paying TELRIC rates for operator services and directory assistance services whenever it disputes whether the incumbent carrier has met the prerequisites for relief from unbundling. AT&T is simply trying to create another opportunity for regulatory gamesmanship. This issue is best left to the states to manage.

## **VII. The Commission Should Not Add More Rules On Subloop Unbundling**

MCI WorldCom wants the Commission to add subloop unbundling rules that identify the data that incumbent carriers must provide regarding subloop elements. MCI Pet. for Clarif. at 23-24. There is no reason for the Commission to do so. First, this implies that the information is readily available. Furthermore, other competing carriers may need subloop information that is different from the information identified by MCI WorldCom. Conversely, incumbent carriers may not have some of the information MCI WorldCom has identified, but may have other types of subloop information. Under the circumstances, this matter is better left to negotiations between the competing carriers and incumbents with oversight by the states.<sup>10</sup>

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<sup>10</sup> By not providing any additional rules, the Commission will be following the approach it took for access to rights-of-way, where it decided to “not enumerate a comprehensive regime of specific rules, but instead establish a few rules supplemented by certain guidelines and presumptions that [the Commission] believe[s] will facilitate the negotiation and mutual performance of fair, pro-competitive access agreements.” First Report and Order ¶ 1143.

**VIII. The Commission Should Not Expand Unbundling Obligations for AIN Triggers**

Low Tech repeats its request for the Commission to require unbundling of AIN triggers. Low Tech Pet. for Recon. at 1-10. The Commission properly rejected Low Tech's proposal on the ground that "there is not enough evidence in the record to make a determination about the technical feasibility of unbundling AIN triggers." UNE Remand Order ¶ 407. Low Tech offers no new record evidence on the technical feasibility of its proposal. There is therefore no reason for the Commission to reconsider its decision rejecting Low Tech's proposal.

**Conclusion**

The Commission should reject the petitions for reconsideration and clarification filed by competing carriers.

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