

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Deployment of Wireline Services Offering)
Advanced Telecommunications Capability)

CC Docket No. 98-147

COMMENTS ON PETITIONS FOR RECONSIDERATION

Sprint Corporation hereby respectfully submits its comments on the Petitions for Reconsideration of the *Line Sharing Order*¹ filed on February 9, 2000. Sprint comments below on three issues raised by petitioners: clarification that CLECs may combine xDSL with UNE-P; request for flexibility to adopt line sharing deployment schedules which are different than the 180-day schedule adopted by the Commission; and reconsideration of the finding that new technologies are presumed deployable elsewhere once they have been successfully deployed by any carrier.

1. Combination of xDSL and UNE-P

In their petitions, AT&T (p. 2) and MCI WorldCom (p. 1) request clarification (or in the alternative, a finding on reconsideration) that a CLEC may deploy xDSL functionality, either by itself or in conjunction with another CLEC, over UNE-P (*i.e.*, provide both voice and xDSL data services over the UNE-P loop). AT&T and MCIW also request that ILECs be required to establish procedures and provide operational support to effect such combinations without disruption of service to the end user.

¹ *Deployment of Wireline Services Offering Advanced Telecommunications Capability, Third Report and Order in CC Docket No. 98-147, 65 FR 1331 (January 10, 2000).*

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These petitions should be granted. There is no technical or operational reason why xDSL cannot be deployed along with UNE-P. Rather, certain ILECs are refusing to allow such deployments as a way of retaining their virtual monopoly control over the local services market – they are threatening (or even making good on the threat) to disconnect an end user’s xDSL service if the end user obtains voice service from a carrier other than the ILEC. If unchecked, such tactics will inevitably result in “diminish[ed] competition in the markets for data services, for voice services, and for bundled packages of services” (AT&T, p. 3).

The *Line Sharing Order* does state (para. 72) that ILECs “must make available to competitive carriers only the high frequency portion of the loop network element on loops on which the incumbent LEC is also providing analog voice service....” However, the overall intent of the *Line Sharing Order* clearly is to foster competition in the advanced services and local services markets and to promote the deployment of advanced services to end users. When read in the context of the entire *Line Sharing Order* (and, as petitioners note, particularly in conjunction with paragraph 47 of the Order²), it is impossible to conclude that the Commission intended to prevent CLECs from using xDSL in conjunction with UNE-P.

In addition to granting AT&T’s and MCI WorldCom’s petitions, Sprint urges that the Commission further clarify that where a CLEC is reselling ILEC local service on a line equipped with xDSL functionality, that the ILEC must make both the voice and xDSL data services available for resale without restrictions. Here again, there is no technical or operational reason why both services cannot be resold, and ensuring that both services are available for resale will

² In paragraph 47, the Commission stated that “...requesting carriers could obtain combinations of network elements and use those elements to provide circuit-switched voice service as well [as] data services” (footnote omitted).

help to promote competition in the local market by enabling a CLEC to offer a bundled service package.

2. Line Sharing Deployment Schedule

In the *Line Sharing Order*, the Commission concluded that “incumbents should be able to provide line sharing within 180 days of release of the Order” (para. 13). In its petition, Bell Atlantic recommends (p. 8) that rather than holding to this 180-day schedule, “industry members, working together in a collaborative process” should be allowed to adopt “a phased in, industry-agreed upon deployment schedule for line sharing....” Sprint does not oppose this suggestion, so long as there is *unanimous* agreement among industry parties to defer the implementation date.³ However, absent unanimity, the 180-day deadline adopted by the Commission should be maintained. If some portion of the CLEC industry believes that a delay in the availability of line sharing would materially impair its ability to provide local service, no delay in implementation is warranted.⁴

The industry forum process is characterized by decision making through consensus, which is defined in the various industry forum guidelines as more than a simple majority, but not necessarily unanimity. Thus, it is possible that forum leadership could declare that consensus had been reached on deferring the line sharing implementation date, even if such deferral were opposed by one or more parties. Under these conditions, it would be inappropriate to defer the 180-day deadline, since the opposing parties presumably have reason to believe they would be

³ However, insofar as Sprint is aware, the issue of line sharing implementation schedules is not currently before any industry body; thus, it is not clear how unanimous consensus could be achieved. Moreover, given the amount of time that is generally needed to arrive at a decision through the industry forum process, it is rather unlikely that agreement could be achieved before the 180-day deadline is reached.

⁴ Despite its assertion that “the Commission grossly underestimated the level of complexity and resources involved in implementing line sharing” (p. 7), Bell Atlantic offers no evidence at all to rebut the Commission’s finding that ILECs “require approximately six months to adapt their ‘back office’ systems to comply with the two-carrier line sharing requirements” contained in the *Line Sharing Order* (*Line Sharing Order*, n. 19).

harmful by such a deferral. ILECs should not be allowed to use industry forum “consensus” (not unanimity) as a vehicle for delaying or avoiding compliance with their obligations under the *Line Sharing Order*.

3. Deployment of New Technologies

In its petition, BellSouth requests (p. 1) that the Commission “reconsider its finding that new technologies are presumed deployable anywhere when successfully deployed in one state without significantly degrading other services.” BellSouth argues that because network architectures are configured differently between various locations and local exchange carriers, it is “improper to assume that each incumbent LEC’s network is engineered on a one size fits all basis” (p. 2).

BellSouth is mistaken in its characterization of the Commission’s findings in the *Line Sharing Order*. Section 51.230 of the Commission’s Rules, “Presumption of acceptability for deployment of an advanced services loop technology,” explicitly states that if an ILEC can demonstrate that “deployment of the particular technology will significantly degrade the performance of other advanced services or traditional voiceband services,” the ILEC can deny a carrier’s request to deploy that technology (see Section 51.230(b)). In other words, the fact that a new technology has been deployed successfully in one state or by one ILEC does not mean that all ILECs are automatically required to deploy that same new technology. Rather, the successful deployment of a new technology simply sets a *presumption* that it can be successfully deployed elsewhere. If a CLEC requests that this same technology be deployed elsewhere or by another ILEC, this presumption then places the burden of proof upon that ILEC to demonstrate to the relevant state commission that such technology cannot be deployed without significantly degrading other services.

The Commission correctly concluded that adoption of a “successful deployment” criterion (*i.e.*, that successful deployment of a technology in one state without significantly degrading the performance of other services establishes a presumption that such technology can also be successfully deployed elsewhere), would be “particularly useful for assisting the deployment of new technologies without subjecting them to delays often encountered with industry standards-setting process” (*Line Sharing Order*, para. 198) – a finding which BellSouth does not dispute. Moreover, because an ILEC has a reasonable opportunity to “rebut the presumption of acceptability before a state commission if the technology proposed for deployment poses a real interference threat in a certain area” (*id.*), concerns about the impact on network reliability and service quality are adequately addressed. Therefore, BellSouth’s petition for reconsideration should be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **COMMENTS ON PETITIONS FOR RECONSIDERATION** of Sprint Corporation was sent by messenger or by United States first-class mail, postage prepaid, on this the 22nd day of March, 2000 to the parties on the attached list.


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