

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

In the Matter of)	
)	
Deployment of Wireline Services Offering Advanced Telecommunications Capability)	CC Docket No. 98-147
)	
Implementation of the Local Competition Provisions of the Telecommunications Act of 1996)	CC Docket No. 96-98
)	
Applications for Consent to the Transfer of Control of Licenses and Section 214 Authorization from Ameritech Corporation, Transferor to SBC Communications, Transferee)	CC Docket No. 98-141
)	
Common Carrier Bureau and Office of Engineering and Technology Announce Public Forum on Competitive Access to Next-Generation Remote Terminals)	NSD-L-00-48 DA 00-891
)	

REPLY COMMENTS OF VERIZON TELEPHONE COMPANIES

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REPLY COMMENTS OF VERIZON TELEPHONE COMPANIES¹

I. Introduction and Summary.

Nothing in the comments filed here justifies superceding the work done by state commissions to establish state-specific performance standards as ALTS requests. On the contrary, many of the competing carriers that support ALTS' petition endorse the work state commissions are already doing to establish and enforce performance measures and standards. And to the extent commenters nonetheless support the adoption of federal performance standards, they simply ignore the myriad of local conditions and network configurations and capabilities that are not susceptible to uniform, one-size-fits-all national standards. Accordingly, ALTS' petition should be denied.

¹ The Verizon telephone companies ("Verizon") are the affiliated local telephone companies of Bell Atlantic Corporation (including the telephone companies formerly affiliated with GTE Corp.), d/b/a Verizon Communications. A list of these companies is attached to this pleading.

To the extent that some commenters urge the Commission to go even further and extend any federal performance standards it might adopt for unbundled network elements to special access services, their claim also should be rejected. The simple fact is that special access services are not unbundled network elements. They are competitive services that do not require intrusive regulatory monitors and controls. The existing regulatory requirements and the competitive special access market provides carriers with sufficient market protections. If carriers are not satisfied with the level of service provided by incumbents, they can purchase special access from others or provide their own.

Finally, some commenters recite anecdotes of alleged poor performance as justification for adopting federal performance standards for unbundled elements. As an initial matter, this anecdotal evidence does not establish a general trend of discriminatory conduct that warrants new federal performance standards. Moreover, to the extent these claims have any merit, they should be addressed by state commissions as violations of state performance standards or of state-approved interconnection agreements - not by the adoption of a flawed federal scheme of one-size-fits-all performance standards.

II. States Are The Best Forums to Measure Incumbents' UNE Provisioning Performance.

Most commenters either explicitly endorse continued state regulation or at least tacitly acknowledge that state commissions are already adopting performance standards for unbundled elements thereby demonstrating that federal performance standards should not be adopted here. *See* SBC at 20-23, CoreComm at 3, Comptel at 5, DSL.net at 10. Comptel even goes so far as to expressly acknowledge that states are the appropriate forum for establishing such standards, arguing that the Commission should merely clarify the Act's requirements "in a manner that allows *states to establish their own standards.*" *See* Comptel at 5. Emphasis added. And WorldCom expressly recognizes that the issues

raised by ALTS are already under consideration in pending proceedings or should be resolved in the context of a rulemaking, implying that federal standards need not be adopted here. *See WorldCom*. at 1.

Nevertheless, other commenters support the adoption of detailed federal standards governing every conceivable type of unbundled element and every aspect of an incumbent's performance ranging from so called hot cuts to jeopardy notices to a variety of repair and maintenance-related issues. *See Covad* at 9, *CoreComm* at 17, 21-22, 25, *Rhythms* at 5, *DSL.net* at 3. But, as Bell Atlantic explained in its initial comments, because an incumbent's unbundled element performance is dependent upon local conditions and the configuration and capabilities of its network, a single, nationwide provisioning interval is not practicable.

Rather than deal directly with this simple fact, Covad disingenuously suggests there are no differences among states or incumbents that would affect their ability to comply with uniform national standards because, it claims "there is not a single difference in loops over geographies and incumbents." *See Covad* at 9. As an initial matter, this is nonsense. There is no genuine dispute that there are wide variances across the country in loops, including variances in the amount of copper available, the amount of fiber deployed, the type of fiber plant deployed, whether or not network interface devices are deployed, whether loops terminate on the outside or inside of a customer's premises. Yet these and a myriad of other factors all must be taken into account in planning and measuring a given incumbent's performance in provisioning and maintaining loops.

In addition, even aside from the inherent differences in the loops themselves, a number of other factors that affect the timing for provisioning unbundled elements in

different geographic areas also differ.² Local circumstances such as vendor availability, geographic terrain, order volume, spikes in demand, scheduling of network build-outs, and the like all vary from state to state. It is state commissions that are most familiar with these variables and therefore in the best position to take them into account to set appropriate standards.³ And that is precisely why the Commission previously recognized that state commissions are the more appropriate forum for addressing such issues.⁴

Some commenters claim that adopting federal standards would result in a simpler 271 evaluation process because all parties would know what the uniform standard is. *See* Covad at 7, @Link at 3, CoreComm at 5. But where state commissions have adopted relevant performance standards with input from the parties, those standards already provide a mechanism to gauge performance. And while there may be disagreements as to whether the state standard is the correct one, or whether it is being met, the same thing would be true of any federal standards that might be adopted. The only difference is that federal standards will have less - rather than more - relevance to an application for any given state because it necessarily will not have taken conditions in that state into account.

Moreover, Covad's claims that most state commissions do not have performance standards, (*See* Covad at 5-6), but as Bell Atlantic demonstrated in its initial comments,

² Not only do factors impacting loop provisioning differ in different geographic areas, but they also differ within a single state. For example, in the xDSL collaborative held under the auspices of the New York commission, parties discussed how access-related problems differed between the urban and rural areas within New York state.

³ Although Covad criticizes the lack of uniformity among state performance standards, the very fact that states have evaluated incumbents' network capabilities and developed different provisioning intervals, rather than simply adopting the standards from another state (which would be far easier) demonstrates that all network provisioning conditions are not alike.

⁴ The Commission has expressly declined to adopt specific OSS performance standards finding that "more appropriate forums exist for resolution of specific allegations of noncompliance with our unbundling rules." *See UNE Remand Order* at ¶ 437.

many states either have or are in the process of developing performance standards. And even in states that have not yet developed such standards, there is no evidence that state commissions have refused to establish appropriate performance criteria when the issue has been presented to them in the context of interconnection arbitrations or otherwise. Additionally, nothing prevents competing carriers from negotiating for inclusion of UNE provisioning intervals in their interconnection agreements.

III. Existing Remedial Mechanisms Are Capable of Providing Competing Carriers With Any Necessary Relief.

In an effort to justify adopting federal standards, a few parties dredge up isolated anecdotes that they claim demonstrate poor performance on the part of one or more of Verizon's local telephone companies. *See* KMC at 7, Allegiance at 5, CoreComm at Exh. A. Because these parties do not provide enough information to permit a response, Verizon can not without more provide a point-by-point rebuttal. Even if true, however, and similar claims typically have proven not to be, these claims fail to show a pattern of discriminatory performance, either intentional or otherwise. Moreover, even if one or more of the claims did have merit, existing remedial mechanisms are fully capable of providing adequate relief, and the commenters do not show otherwise.

First, the section 252 arbitration process provides carriers with an opportunity to negotiate provisioning terms and conditions to contractually obligate incumbents to provide timely access to unbundled elements. Second, state performance standards are established by state orders, the violation of which are punishable by certain penalties. Additionally, some states have incorporated separate enforcement mechanisms into their performance standards. In short, the Commission need not develop a detailed federal regulatory scheme governing every aspect of pre-ordering, ordering, provisioning, and repair, for unbundled elements as proposed by some commenters, to ensure that

competitors have sufficient mechanisms to address discriminatory unbundling practices. Although Verizon can not, with the limited information provided, research and meaningfully address each of the anecdotal incidents recounted by some commenters regarding Bell Atlantic's and GTE's provisioning and repair performance for unbundled elements, there are several general issues that warrant a response.

Sequential Ordering of Collocation and Transmission Facilities: Some commenters object to sequentially ordering collocation and transmission facilities. *See* Allegiance at 3, KMC at 6. KMC acknowledges that the Carrier Facility Assignment (“CFA”) number, which is generally unavailable until collocation equipment has been installed, is essential to “match up loop orders with their correct termination locations on a CLEC’s multiplexer.” *See* KMC at 6. It argues only that incumbents should assign the CFA number earlier in the process before completion of the collocation cage. *See* KMC at 6.

As Bell Atlantic explained in its initial comments, the *final* termination point to which a requesting carrier’s transmission facilities must be connected can not be determined until the competing carrier’s collocation arrangement has actually been installed and its connecting facilities have been inventoried. This is because the termination point is subject to change as carriers reconfigure and rewire their equipment, and any preliminary assignment of CFA information will likely change. Nevertheless, Bell Atlantic also noted that in some instances it provides CFAs up to two weeks in advance of completion of a collocation cage, (*See* Bell Atlantic at n. 9) and it will continue to do so wherever possible. As a result of their recent merger, Bell Atlantic and GTE are in the process of reviewing best practices to provide CFA information as early as possible.

Access To Loop Makeup Information: Covad claims that Bell Atlantic is not providing competing carriers with adequate access to loop makeup information as

required under the *UNE Remand Order* because competing carriers cannot access Bell Atlantic's LFACS database. *See Covad* at 19. But the requirement in the *UNE Remand Order* is for incumbents to provide competing carriers access to certain "loop qualification information contained in their engineering records, plant records and other back office systems . . ." -not to provide direct access to their existing backoffice databases such as LFACs. *See UNE Remand* at ¶ 428.⁵ Emphasis added.

Consequently, the relevant question is whether an incumbent provides competing carriers with the same loop qualification information that exists anywhere within its back office systems, not whether the incumbent has provided the competitor with a direct link to those back office systems. And, as Bell Atlantic explained in its previous comments, through its pre-qualification database, competitors have electronic access to the loop qualification information identified in ALTS' petition.

Covad complains that GTE only provides loop makeup information through a web GUI-based system that can not be integrated into Covad's Electronic Data Interface ("EDI") back office interfaces. *See Covad* at 20. While competitors can currently access loop makeup information through GTE's Web GUI ("Graphical User Interface") - based Mechanized Loop Qualification and Verification Program, GTE is working on program enhancements that will make loop makeup information accessible through EDI interfaces by first or second quarter of next year.⁶ In the meantime, the loop makeup file available

⁵ Although the Commission has already indicated that competitors need not have direct access to systems containing loop makeup information, it should clarify this point as Bell Atlantic requested in its pending Petition for Reconsideration of the *UNE Remand Order* to lay claims such as Covad's to rest. *See Bell Atlantic Petition for Reconsideration*, filed February 17, 2000.

⁶ In its discussion of providing competing carriers with access to loop makeup information in the *UNE Remand Order*, the Commission stated only that to the extent that incumbents' employees have access to loop makeup information "in an electronic format, [that] that same format should be made available to new entrants via an electronic interface." *See UNE Remand* at ¶ 429. The Commission did not require that electronic interface to be an EDI application to application interface.

through the web GUI is formatted in a way that allows competitors to develop a program to feed the data on the file directly into their back office systems.

Moreover, both Bell Atlantic and GTE operating telephone companies already provide competing carriers with broader access to loop makeup information than they provide themselves. While Bell Atlantic retail representatives can only use Bell Atlantic's loop pre-qualification database to assess whether or not a loop is on copper and less than 15,000 feet, competitors get far more information, including the actual loop length (including for loops longer than used by Bell Atlantic), whether the loop is copper or served by digital loop carrier and, where a loop is not qualified, the existence of load coils. GTE allows competing carriers to access loop makeup information prior to submitting an actual loop order, while its own retail representatives can only access such information once they place an order.

Unbundled Subloop Offering: Rhythms claims Bell Atlantic's New York subloop tariff fails to comport with the Commission's subloop unbundling requirements because it covers only metallic distribution pairs instead of feeder subloop elements whether on copper or fiber. *See* Rhythms at 16. It therefore asks the Commission to reiterate that incumbents are obligated to unbundle all subloop elements including copper or fiber distribution and feeder elements at any technically feasible point.

Rhythms' complaint about Bell Atlantic's New York tariff is a red herring that does not justify the need for the Commission to repeat its subloop unbundling rules. Neither the Act nor the Commission's rules require incumbents to file tariffs for unbundled elements. The New York tariff, which has been suspended by the New York commission, is a state vehicle through which Verizon offers what it anticipates will be the most commonly requested form of subloop. However, nothing in the tariff precludes carriers from requesting other types of subloop elements. Indeed, Verizon is prepared to

offer feeder subloops through amendments to interconnection agreements and, Bell Atlantic has already offered these products to several competing carriers.

Moreover, the subloop applications cited by the Commission in the *UNE Remand Order* focused on providing access to copper distribution subloop elements. The Commission notes that “competitors seeking to offer services using xDSL technology need to access the *copper* wire portion of the loop.” *See UNE Remand* at ¶ 218. Emphasis added. Similarly, it noted that carriers seeking to serve customers served by IDLC loops must have access to distribution subloops before the point where the traffic on the distribution subloops are multiplexed with traffic from the incumbents “other distribution subloops for transport through the incumbent’s IDLC feeder.” *Id.* at ¶ 217. These applications, which appear to have been of greatest interest to the Commission are, in fact, covered by the New York tariff.

IV. The Commission Should Reject Commenters’ Request to Extend the Act’s Nondiscrimination Safeguards for UNEs to Special Access Services.

Two commenters argue the Commission should extend any national performance standards it adopts for the provision of UNEs to the provision of special access circuits. *See Focal* at 6, *Time Warner* at 3. The Commission should reject this request to extend additional regulation to already competitive special access services.

According to *Time Warner*, the Act authorizes the Commission to impose any national performance standards for unbundled elements on special access circuits because the two serve the same functionality and constitute “like” services under section 202(a) of the Act. This is just wrong. Special access services and unbundled elements are fundamentally different things under the Communications Act. Special access circuits are interstate *services* governed by Section 202, while unbundled loops are individual *facilities* governed by section 251(c). The Commission itself has distinguished between the unbundled elements referenced in section 271 and tariffed interstate access services.

See Application of Bell Atlantic New York for Authorization Under Section 271 of the Communications Act to Provide In-Region, InterLATA Service in the State of New York, 15 FCC Rcd 3953 (1999) at ¶¶340-341.

Moreover, section 251 type regulatory safeguards are unnecessary in the special access services world. While local performance standards for unbundled elements are normally justified as a way to protect competitors from discriminatory provisioning practices, such measures are unnecessary for special access services because the market itself provides sufficient protections. The market for special access services already is highly competitive, and the Commission has acknowledged as much. *See Supplemental Order Clarification, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, FCC 00-183 (rel. June 2, 2000) at ¶ 18. (“[c]ompetitive access, which originated in the mid-1980s, is a mature source of competition in the telecommunications markets.”); *citing Special Access Expanded Interconnection Order*, 7 FCC Rcd. 7369 (1992). Competing carriers have been building their own network facilities since the mid-1980s and using them to provide special access and private line services on a competitive basis. Current estimates for 1999 indicate that competing carriers more than doubled their 1998 special access and private line revenues to \$5.7 billion. *See Special Access Fact Report at 6* (Attached to Comments of USTA in *Supplemental Order Clarification, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, FCC 00-183 (rel. June 2, 2000)). This represents nearly 52 percent of the amount the Bell companies and GTE collected in 1999 from special access and private line service. *Id.*

Accordingly, carriers purchasing special access have competitive alternatives to incumbents’ services. To the extent carriers are dissatisfied with incumbents’ special access performance, they can switch providers or provide the services themselves as most already do.

V. Conclusion

For all of these reasons, ALTS' petition should be denied.

Respectfully Submitted

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July 10, 2000

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Bell Atlantic-Delaware, Inc.
Bell Atlantic-Maryland, Inc.
Bell Atlantic-New Jersey, Inc.
Bell Atlantic-Pennsylvania, Inc.
Bell Atlantic-Virginia, Inc.
Bell Atlantic-Washington, D.C., Inc.
Bell Atlantic-West Virginia, Inc.
Contel of Minnesota, Inc.
Contel of the South, Inc.
GTE Alaska Incorporated
GTE Arkansas Incorporated
GTE California Incorporated
GTE Florida Incorporated
GTE Hawaiian Telephone Company Incorporated
GTE Midwest Incorporated
GTE North Incorporated
GTE Northwest Incorporated
GTE South Incorporated
GTE Southwest Incorporated
GTE West Coast Incorporated
The Micronesian Telecommunications Corporation
New England Telephone and Telegraph Company
New York Telephone Company