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OCT 13 2000

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

October 13, 2000

Magalie Roman Salas
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Room TWB-204
Washington, D.C. 20554

Re: Ex Parte Presentation in CC Docket No. 96-98

Dear Ms. Salas:

Yesterday Joseph Gillan and I, on behalf of the Promoting Active Competition Everywhere (PACE) Coalition, met with Michelle Carey and Christopher Libertelli of the Common Carrier Bureau regarding the above-referenced proceeding. During the meeting, we discussed pending petitions to reconsider the rule specifying that incumbent local exchange carriers do not have to provide local switching as a mandatory UNE for customers with four lines or more in certain circumstances. The Coalition submits that, consistent with the impairment standard in 47 U.S.C. § 251(d)(2)(B), the cutoff for availability of the local switching element should be DS1-based. A copy of the written materials distributed by the PACE Coalition at the meeting are attached.

In accordance with Section 1.1206 of the Commission's rules, an original and one copy of this letter and accompanying materials are being filed with your office.

Sincerely,

Genevieve Morelli

Genevieve Morelli

Attachment
cc: Michelle Carey
Christopher Libertelli

No. of Copies rec'd 0+1
List ABCDE

The PACE Coalition
Promoting Active Competition Everywhere
October 12, 2000
CC Docket No. 96-98

The Birch Analysis[1] Estimates When A Customer Has Sufficient Analog Lines To Be Served Less Expensively Through A High-Speed Digital Facility.

Birch Analysis
(corrected[2])

Lines	UNE-P Monthly[3]	DS-1		
		12 Month	24 Month	36 Month
12	$152.66	$283.45	$238.17	$227.18
13	$165.37	$283.45	$238.17	$227.18
14	$178.08	$283.45	$238.17	$227.18
15	$190.79	$283.45	$238.17	$227.18
16	$203.50	$283.45	$238.17	$227.18
17	$216.21	$283.45	$238.17	$227.18
18	$228.92	$283.45	$238.17	$227.18
19	$241.63	$283.45	$238.17	$227.18
20	$254.34	$283.45	$238.17	$227.18
21	$267.05	$283.45	$238.17	$227.18
22	$279.76	$283.45	$238.17	$227.18
23	$292.47	$283.45	$238.17	$227.18
24	$305.18	$283.45	$238.17	$227.18

Area where DS-1 is less costly than loops.

1 The Birch Analysis was filed by Birch Telecom in its reply to oppositions to its petition for reconsideration in this proceeding.

2 As explained in footnote 3, the Birch Analysis assumes that switching and termination costs are the same for the entrant and the incumbent. After the Birch Analysis was filed, it was discovered that switch port costs had not been removed from the UNE-P column as intended. This error was corrected in a July 11, 2000 Ex Parte filed by the PACE Coalition.

3 The Birch Analysis does not include SBC's port costs or Birch's costs for its self-provisioned switch port, backhaul, interoffice transport, or the costs associated with call termination. These exclusions are equivalent to assuming that Birch's network is at least as (actually more) efficient as SBC's network, even though as a new entrant Birch is not able to achieve any of the scale economies of SBC.

Updating the Birch Analysis to Include the Additional Cost of An EEL Substantially Increases the Economic Crossover

Lines	UNE-P Monthly	DS-1 EEL		
		12 Month	24 Month	36 Month
16	$203.50	$358.70	$305.09	$291.34
17	$216.21	$358.70	$305.09	$291.34
18	$228.92	$358.70	$305.09	$291.34
19	$241.63	$358.70	$305.09	$291.34
20	$254.34	$358.70	$305.09	$291.34
21	$267.05	$358.70	$305.09	$291.34
22	$279.76	$358.70	$305.09	$291.34
23	$292.47	$358.70	$305.09	$291.34
24	$305.18	$358.70	$305.09	$291.34

Area where DS-1 is less costly.

Conclusions from the Birch Analysis

1. Due to the high non-recurring charges to establish a high-capacity arrangement, this alternative is only viable in a contract environment that ensures a sufficient time period for cost recovery.

2. The initial Birch Analysis evaluates only the cost to serve customers whose loops terminate at Birch's collocation arrangement. If the additional costs of an Enhanced Extended Link (EEL) are included, the crossover increases substantially to approximately 22 (three year contract) or 23 (two year contract) lines. One year contracts are not of sufficient duration to amortize the additional nonrecurring costs of establishing an EEL.[4]

3. The Birch Analysis is deliberately conservative. Actual crossovers are likely to be higher. Given the conservative nature of the Birch Analysis, and customer resistance to committing to long-term contracts with new entrants, the Commission should not base any impairment decision on contracts longer than 2 years.

[4] The analysis includes only the fixed monthly and nonrecurring costs to establish a DS1 EEL of one mile in length. Longer EELs incur additional mileage-related costs that would increase the crossover, albeit slowly.

The 3 Line Restriction Creates A "Lost Market"
Of Business Customers that Would Be Served by UNE-P

Number of Lines with Account	Distribution of Market (Ameritech)[5]	Access Method	Distribution of Market Served by UNE-P Carriers Today[6]	
			PACE #1	PACE #2
3 or less	20.6%	UNE-P Available	24.8%	36.6%
4 to 20	32.6%	The "Lost Market"	62.2%	60.3%
More than 20	46.8%	Sufficiently Large for DS-1	13.0%	3.1%

Conclusions of Market Analysis

* The 3 line restriction will deny competition to nearly a third of the business market in the top 50 MSAs.

* The California Small Business Association estimates that approximately 74% of small businesses in that state have between 4 and 20 lines.[7]

* Increasing the line restriction to 20 lines would still restrict UNE-P from being used to serve nearly 50% of the business lines in the top 50 MSAs.

SBC's Texas §271 Application Confirms the Coalition's Economic Analysis

"SWBT recommends the use of the CHC [coordinated hot cut] process *when 20 or more UNE loops* are to be converted at a single end user's address ... The CHC process is normally necessary only *for larger size business customers where the amount of existing competition is much greater.*"[8]

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5 Compiled from Ameritech *Ex Parte* , CC Docket No. 96-98, filed September 3, 1999.

6 Statistics based on the actual line distributions of two PACE Coalition members serving business customers today, unimpaired by the line restriction.

7 *Ex Parte* letter from the California Small Business Association, CC Docket 96-45, filed March 10, 1997.

8 Reply Affidavit of Candy R. Conway, Texas Public Service Commission, CC Docket No. 00-4, paragraph 42 (citing Conway Affidavit, paragraph 79) (emphasis supplied).

The PACE Coalition Proposal Will Result in *More* Lines Being Restricted From Being Served with Unbundled Local Switching than the Current Rule

Current Rule: In the top 50 MSAs where EELs are available, unbundled local switching cannot be used to serve customers with more than 3 lines served by a Zone 1 central office in the MSA.

Estimated Impact of Limitation

Criteria	Percent Affected
Customers with > 3 lines[9]	79.4%
Percent of Market in Zone 1[10]	40.2%
Lines subject to Limitation	31.9%

Proposed Rule: In the top 50 MSAs where EELs are available, unbundled local switching cannot be used to serve customers with more than 20 lines at *any* central office in the MSA.

Estimated Impact of Limitation

Criteria	Percent Affected
Customers with > 20 lines[1]	46.8%
Limitation Applies to Entire MSA	100.0%
Lines subject to Limitation	46.8%

Although the rule proposed by the PACE Coalition results in *more* lines being restricted from access to unbundled local switching, the proposed rule rationally relates the limitation to the impairment faced by entrants.

9 Estimated from Ameritech *Ex Parte,* CC Docket No. 96-98, filed September 3, 1999,.

10 Estimate of the weighted average number of lines in Zone 1 offices for Ameritech, Bell Atlantic (South), BellSouth, Pacific Bell and US West. The percentage of switched lines for these RBOCs included in Zone 1 was provided by Ad Hoc in their Comments on the original Zone Density Plan proposals filed by the ILECs. The weighted average was calculated using total SLC demand for these companies as reported in the September 1, 1999 *Ex Parte* filed by CALLS in support of its proposal in Docket No. 96-262.

Expanding the Local Switching Carve-Out Beyond 50 Markets is Unjustified

The economic basis for the local switching carve-out is the belief that a large market will contain a sufficiently large concentration of customers with digital needs to justify self-provisioned local switching.

* Market results do not confirm this hypothesis. Business plans relying extensively on self-provisioned local switching are producing disappointing results.

  - GST Bankruptcy
  - ICG Stock Devaluation
  - Prism Exits the Market
  - Implicit valuation of Intermedia's communications assets
  - LUCENT 4^{th} Q 2000 earnings warning

* Larger customers are seeking multi-location service arrangements. Both SBC and Verizon merged to establish broad national footprints to serve multi-location customers, recognizing an inability to install facilities in multiple cities (in the Top 50 markets).

The Commission should not extend the local switching carve-out beyond the Top 50 markets. The Commission should first require that the ILECs make local switching available and then judge the market effect after 3 years (per the Remand Decision).

Comparing Crossover Estimates
(3 Year Contract)

Impairment	AT&T Analysis		Birch Analysis	
	Facilities	(EELs)	With Collocation	Without Collocation
Customer Conversion	Not Considered		18	17
Backhaul To Switch	18.0	19.6	Not Considered	
Customer Conversion with EEL			23	

* Both AT&T and the Birch Analysis demonstrate that DS-1 based competition is viable only where customers are willing to commit to term contracts.

* AT&T and Birch evaluated different impairments, either of which justifies substantially increasing the line limitation.

* A full analysis should consider the combined effect of both impairments (i.e., customer conversion costs and backhaul).

* The simplest and most appropriate crossover is a restriction that applies to DS-1 loops being connected to DS-1 ports.

news & investor info

press release

Lucent Technologies
Bell Labs Innovations

Lucent Technologies comments on expectations for fourth fiscal quarter 2000 earnings

FOR RELEASE TUESDAY OCTOBER 10, 2000

MURRAY HILL, N.J. - Lucent Technologies (NYSE: LU) said today that, based on preliminary estimates, it expects earnings for its fourth fiscal quarter of 2000 to be lower than the company's previously announced guidance. The company expects pro forma earnings per share from continuing operations[1] for the quarter, which ended September 30, 2000, to be in the range of 17 cents to 18 cents per share compared to 24 cents for the year-ago quarter. The company expects to report pro forma revenues from continuing operations in the range of $9.3 billion to $9.4 billion for the quarter, a 14 percent to 15 percent increase over the prior year period.

In July, the company said it expected that pro forma revenues from continuing operations would grow about 15 percent for the fourth fiscal quarter of 2000 and pro forma earnings per share from continuing operations would be roughly in line with revenue growth.

The company said the lower-than-expected earnings for the quarter could be almost equally attributed to three factors:

- Less than expected revenues and gross margins in the company's optical systems business;
- Credit concerns in the emerging service provider market that led to increasing reserves for bad debt;
- Greater than anticipated decline in circuit switching sales and margins. The company indicated that gross margin this quarter would be in the range of 39 percent to 40 percent.

For the quarter, the company indicated that while it had strong overall growth in the wireless business, it would report flat growth primarily due to a comparison related to a major foreign contract in the year-ago quarter. Revenues from optical networking systems, including optical fiber, were down about 5 percent and switching systems were down about 13 percent. However, Lucent saw strong revenue growth in several areas. The company's Microelectronics and Communications Technologies group's revenues grew more than 50 percent for the quarter. In addition, revenues in the Internet infrastructure business grew more than 40 percent for the quarter. This marks the fourth quarter in a row that this business showed growth over 40 percent. Lucent's services business grew about 18 percent for the quarter.

Fiscal 2000 results

The company indicated that the expected fourth quarter revenue and earnings would result in an increase in fiscal year 2000 pro forma revenue from continuing operations of approximately 14 percent and a decline in pro forma earnings per share from continuing operations of approximately 10 percent to 11 percent. Lucent said that its fourth quarter results will impact and lower its guidance for fiscal year 2001.

Lucent expects to discuss its earnings and additional guidance for fiscal 2001 on October 24, 2000. There will be a Webcast at 5:00 p.m. (EDT) today to discuss today's announcement. The Webcast can be accessed at http://www.lucent.com/investor/conference/webcast.

Lucent Technologies, headquartered in Murray Hill, N.J., USA, designs and delivers the systems, software, silicon and services for next-generation communications networks for service providers and enterprises. Backed by the research and development of Bell Labs, Lucent focuses on high-growth areas such as broadband and mobile Internet infrastructure; communications software, communications semiconductors and optoelectronics; Web-based enterprise solutions that link private and public networks; and professional network design and consulting services. For more information on Lucent Technologies, visit its Web site at http://www.lucent.com.

This news release is based on preliminary financial results, which are subject to further review and adjustment, and contains forward-looking statements based on current expectations, forecasts and assumptions that involve risks and uncertainties that could cause actual outcomes and results to differ materially. These risks and uncertainties include price and product competition, dependence on new product development, reliance on major customers, customer demand for our products and services, the ability to successfully integrate acquired companies, control of costs and expenses, credit concerns in the emerging service provider market, international growth, general industry and market conditions, growth rates and general domestic and international economic conditions, including interest rate and currency exchange rate fluctuations. For a further list and description of such risks and uncertainties, see the reports filed by Lucent with the Securities and Exchange Commission. Lucent disclaims any intention or obligation to update or revise any forward-looking statements, whether as a result of new information, future events or otherwise.

[1]Pro forma EPS excludes the enterprise networks business that has been spun off, the consumer products business, amortization of goodwill and acquired technology and one-time events, including purchased in-process research and development.

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