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LAWYERS

Davis Wright Tremaine LLP

ANCHORAGE BELLEVUE CHARLOTTE HONOLULU LOS ANGELES NEW YORK
PORTLAND SAN FRANCISCO SEATTLE WASHINGTON, D.C. SHANGHAI

HOLLY RACHEL SMITH
Direct (202) 508-6625
hollysmith@dwt.com

SUITE 450
1500 K STREET, NW
WASHINGTON, D.C. 20005

TEL (202) 508-6600
FAX (202) 508-6699
www.dwt.com

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

November 14, 2000

Magalie Roman Salas, Secretary
Federal Communications Commission
TW-A325
445 12th Street, S.W.
Washington, DC 20554

Re: In the Matters of Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket No. 98-147, and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98

Dear Ms. Salas:

Enclosed please find an original and nine copies of the Reply Comments of Advanced TelCom Group, Inc., in the above-captioned proceeding. Please note that five copies are for circulation to the Commissioners.

Please stamp the enclosed copy and return it with the messenger.

We are forwarding, under separate cover, a 3.5-inch diskette formatted in WordPerfect 5.1 for Windows to Janice Myles of the Common Carrier Bureau.

Sincerely yours,

Holly Rachel Smith

Enclosures

cc: International Transcription Services

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matters of	)	
	)	
Deployment of Wireline Services Offering Advanced Telecommunications Capability	)	**CC Docket No. 98-147**
	)	
and	)	
	)	
Implementation of the Local Competition Provisions of the Telecommunications Act of 1996	)	**CC Docket No. 96-98**

REPLY COMMENTS OF ADVANCED TELCOM GROUP, INC.

Kath Thomas
ADVANCED TELCOM GROUP, INC.
110 Stony Point Road
Second Floor
Santa Rosa, California 95401
Telephone: 707-284-5284

Kathleen M. Marshall
ADVANCED TELCOM GROUP, INC.
200 South Virginia Street
Suite 103
Reno, Nevada 89501
Telephone: 775-284-4076

And

Richard H. Levin
ADVANCED TELCOM GROUP, INC.
110 Stony Point Road
Second Floor
Santa Rosa, California 95401
Telephone: 707-284-5484

Mark P. Trinchero
Holly Rachel Smith

DAVIS WRIGHT TREMAINE LLP
1500 K Street, NW
Suite 450
Washington, DC 20005
Telephone: 202-508-6625
Telecopy: 202-508-6699

Its Attorneys

Dated: November 14, 2000

SUMMARY

Under the Telecommunications Act of 1996, ILECs must permit the collocation of competitor equipment "necessary for interconnection and access to unbundled network elements." The Act does not give the ILECs the option of refusing the collocation of equipment that performs these functions, with good reason. As technology has developed, spurred by the existence of the competitive opportunities created by mandatory collocation and unbundling, the wisdom of that legislative choice has been demonstrated. Responding to the opportunity, manufacturers have created multifunction equipment, which provides for essential access to network elements and interconnection with ILEC networks, while enabling integrated advanced features and functions. This is leading to new functionalities of the networks of competitors (and the ILECs), resulting in more services and greater efficiencies in delivering services to customers, and in the extended reach of those services to smaller towns and communities. Were the Commission to determine that the ILECs have the discretion to deny competitor collocation of this new generation of equipment, the fruits of this nascent competitive endeavor would be cut off at their source. The Commission should reject the narrow, anticompetitive definition of "necessary" urged by the ILECs, which would limit the CLECs' ability to collocate multifunction equipment, including next generation soft-switch technologies, as inconsistent with both the language and the intent of the Telecommunications Act of 1996, and inconsistent with the public interest in competitive endeavor, as expressed in that statute.

TABLE OF CONTENTS

SUMMARY i

I. Summary 1

II. The Commission's Interpretation of "Necessary" Must be Broad Enough to Encompass Equipment Which Includes the Multiple Functions Involved In The Handling of Voice and Data Traffic 2

III. The Pro-Competition, De-Regulatory Framework of the 1996 Act Supports an Interpretation of Section 251(c)(6) that Requires ILECs to Allow for the Collocation and Use of Multifunction Equipment by CLECs 6

IV. Any Definition of "Necessary" That Would Exclude Multifunctional Equipment is Inconsistent with the Primary Purposes of the Universal Service Provisions of the Telecommunications Act 9

V. Conclusion 13

Advanced TelCom Group, Inc. ("ATG"), by its counsel, herein files its reply comments in response to the Commission's "Order on Reconsideration and Second Further Notice of Proposed Rulemaking in CC Docket No. 98-147 and Fifth Further Notice of Proposed Rulemaking in CC Docket No. 96-98," FCC No. 00-297, released August 10, 2000 (the "NPRM") in the above-captioned proceeding.[1]

I. Summary

Under the Telecommunications Act of 1996, ILECs must permit the collocation of competitor equipment "necessary for interconnection and access to unbundled network elements." The Act does not give the ILECs the option of refusing the collocation of equipment that performs these functions, with good reason. As technology has developed, spurred by the existence of the competitive opportunities created by mandatory collocation and unbundling, the wisdom of that legislative choice has been demonstrated. Responding to the opportunity, manufacturers have created multifunction equipment, which provides for essential access to network elements and interconnection with ILEC networks, while enabling integrated advanced features and functions. This is leading to new functionalities of the networks of competitors (and the ILECs), resulting in more services and greater efficiencies in delivering services to customers, and in the extended reach of those services to smaller towns and communities. Were the Commission to determine that the ILECs have the discretion to deny competitor collocation of this new generation of equipment, the fruits of this nascent competitive endeavor would be cut off at their source. The Commission should

[1] *See Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket Nos. 98-147 and 96-98, Second Further Notice of Proposed Rulemaking in CC Docket No. 98-147 and Fifth Further Notice of Proposed Rulemaking in CC Docket 96-98, FCC 00-297 (rel. August 10, 2000). By Public Notice, the Commission extended the reply comment deadline in this proceeding until November 14, 2000. *See* Public Notice DA 00-2036, "Common Carrier (continued)

reject the narrow, anticompetitive definition of "necessary" urged by the ILECs, which would limit the CLECs' ability to collocate multifunction equipment, including next generation soft-switch technologies, as inconsistent with both the language and the intent of the Telecommunications Act of 1996, and inconsistent with the public interest in competitive endeavor, as expressed in that statute.

II. The Commission's Interpretation of "Necessary" Must be Broad Enough to Encompass Equipment Which Includes the Multiple Functions Involved In The Handling of Voice and Data Traffic

ATG reiterates the critical need for the Commission to require that ILECs permit carriers to collocate multifunctional equipment, and emphasizes the grave impact that a restriction in this regard would have on the development of a competitive telecommunications industry. Overwhelmingly, commenters in this proceeding advocate the adoption of a definition of "necessary for interconnection and access to unbundled network elements" that reflects the Act's primary objective of promoting competition.[2] For instance, the Joint Commenters request that the Commission consider "necessary" any equipment that furthers the pro-competitive purposes of the Act.[3].

Bureau Extends Pleading Cycle for Second Further Notice of Proposed Rulemaking in CC Docket No. 98-147 and Fifth Notice Of Proposed Rulemaking in CC Docket No. 96-98" (rel. Sept. 6, 2000).

[2] *See* Comments of Cisco Systems, Inc. at 1 ("equipment should be deemed necessary when its function or functions effectuate interconnection or access to unbundled network elements"); Comments of CompTel at 2 ("in construing Section 251(c)(6), the Commission must recognize the correlation between amount of traffic exchanged between CLECs and ILECs through collocation arrangements . . . and Congress' objective of vibrant competition"); Comments of Connectiv Communications, Inc. at 7 ("necessary for purposes of collocation means necessary for effective competition"); Comments of the General Services Administration at 4 (the Commission should prescribe "'necessary' conditions in a manner that will maximize the opportunities for more competition to develop"); Comments of the Joint Commenters at 11 ("ILECs must provide physical collocation of equipment as needed to further the pro-competitive purposes of the Act"); Comments of Telergy at 21("any commercially available equipment that enables interconnection or access to UNEs meets the 'necessary' test. The only practical test is to let the marketplace determine the equipment that enables interconnection or access to UNEs"); Comments of Rhythms Netconnections at 4 ("ILECs must permit physical collocation of equipment so long as it is 'directly related to' interconnection and access to unbundled network elements and an inability to collocate such equipment would interfere with a CLEC's ability to compete effectively and efficiently"); Comments of Tachion Networks, Inc. at 5 ("equipment should be deemed 'necessary for interconnection or access to unbundled network elements in any case where the CLEC would otherwise incur the costs of avoidable backhaul, because in such instances, the barrier to competition would be inevitably high"); and Comments of Telergy, (continued)

Any definition of "necessary" that recognizes the need for consistency with the Act's pro-competitive framework, will be broad enough to permit CLECs to collocate multifunction equipment. The parties correctly emphasize that any definition of "necessary" that the Commission adopts should provide for the collocation of multifunction equipment.[4] Moreover, any restriction on the use of collocated equipment in providing voice or data telecommunications services is inconsistent with the requirement of 47 U.S.C. § 251(c)(6), that ILECs provide collocation on just and reasonable terms and conditions.[5] Under the Act, CLECs should be able to collocate any piece of equipment "necessary for interconnection and access to unbundled network elements," regardless of other telecommunications network functionalities included in the equipment's features. The

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Adelphia and Business Telecommunications at 10 ("the Commission has authority to adopt a standard for equipment necessary for collocation that provides CLECs a meaningful opportunity to compete"). It is worth noting that the commenters expressing the view that any Commission-adopted definition of "necessary" must be tied to the Act's pro-competitive framework are not only CLECs, but also include the General Services Administration and equipment manufacturers.

[3] *See* Comments of the Joint Commenters at 11.

[4] *See* Comments of Cisco Systems, Inc. at 7-8 ("manufacturers and service providers have favored multifunctional equipment precisely because it offers capabilities that are most efficiently and effectively performed as an integrated set of functions . . . most if not all of the functionalities being built into multifunctional equipment available today is "necessary" for interconnection or access to UNEs to provide the kinds of services customers demand in the marketplace"); Comments of Connectiv Communications, Inc. at 12 ("multifunction equipment is necessary for interconnection if it contains features and functions that enable interconnection or access to UNEs"); Comments of CorrCom, Ltd. at 27 ("multifunction equipment should be eligible for central office collocation"); Comments of COVAD at 16 ("ILECs concede that multifunction equipment consists of certain functionalities that if present in a standalone piece of equipment, would be permitted collocation space in a central office"); Comments of CTSI, Inc. at 14 ("it would effectively thwart CLEC's ability to compete if they could not [collocate multi-function equipment]"); Comments of the Joint Commenters at 25 ("if collocation of modern integrated or multifunction equipment is denied, competitor's costs will increase unnecessarily, denying CLECs a meaningful opportunity to compete"); Comments of RCN at 14 ("the Commission should find multifunction equipment to be eligible for central office collocation"); Comments of Rhythms Netconnections, Inc. at 4 ("multi-use equipment . . . are equipment necessary for interconnection and access to unbundled network elements"); Comments of Supra Telecommunications at 10 ("the fact that a piece of equipment has additional features and is now a multifunctional device does not mean that it will not be used or is not necessary for interconnection or access to unbundled network elements"); Comments of Tachion Networks, Inc. at 4 ("ILECs should be required to collocate multi-functional equipment to promote the technological innovation by all carriers"); Comments of WorldCom at 9 ("multi-functional equipment is necessary for CLECs to be able to compete against ILECs to provide the same services to consumers"); and Comments of @link at 22 (" 'necessary' must be interpreted to mean that the incumbent must allow collocation of any equipment that contains features and functionalities to enable efficient interconnection, or access to UNEs, irrespective of additional telecommunications functionalities that this equipment may contain").

[5] *See* Comments of Covad at 16-17.

ILECs should not be permitted to require CLECs to "turn off" additional functionalities as a condition of collocating multifunction equipment.

The Commission should not adopt the narrow definition of "necessary" suggested by the ILECs, under which "indispensability" would be a precondition to collocation. By injecting this narrow, hypothetical requirement, which is not found in the language of the Act, the ILECs are attempting to limit the ability of CLECs to compete in the marketplace.[6]

Moreover, the ILECs are simply wrong to the extent they propose that the required meaning of the term "necessary," as used in Section 251(c)(6), is limited to functions which are "indispensable." In practice, interpreting "necessary" to mean only "indispensable" would render the entire provision meaningless in the context of the Telecommunications Act of 1996. Collocation itself is not absolutely required for interconnection or access to UNEs because alternatives exist, such as meet-point interconnection. Under the ILECs' overly narrow interpretation of the statute, no equipment would qualify for collocation.[7] Additionally, interpreting "necessary" to mean only "indispensable" would permit an ILEC to exclude a CLEC from collocating much of the equipment that both CLECs and ILECs currently use.[8] Furthermore, despite ILEC claims to the contrary, the Commission is not restricted by the decision in *GTE* to equate the term "necessary," as used in Section 251(c)(6), with only "indispensable." Rather, the Commission is free to maintain its

---

[6] Some of the ILECs have proposed definitions of "necessary" that are inconsistent with the Act because these definitions, if adopted, would quash competition in local markets. *See, e.g.*, Comments of Verizon at 4 ("the only physical collocation the Commission may lawfully require is that which is indispensable for the requesting carrier to obtain interconnection"); Comments of the United States Telephone Association at 4 ("an ILEC need only provide a competitor with collocation that is necessary and indispensable for interconnection and access to UNEs"). Note, however, Qwest recognizes that such an interpretation is unfounded, explaining that the definition of necessary "should not, however, necessarily preclude CLECs from collocating equipment that performs other additional functions beyond interconnection and access to unbundled network elements." *See* Comments of Qwest at 9.

[7] *See* Comments of the Joint Commenters at 16; Comments of Telergy, Adelphia and Business Telecommunications at 14.

previous position on collocation, as long as it explains the ultimate rational limitations on the extent of the application of its rule regarding equipment necessary for collocation.[9]

"Necessary" is a word which

> must be considered in the connection in which it is used, as it is a word susceptible of various meanings. It may import absolute physical necessity or inevitability, or it may import that which is only convenient, useful, appropriate, suitable, proper or conducive to the end sought.... It may mean something which in the accomplishment of a given object cannot be dispensed with, or it may mean something reasonably useful and proper, and of greater or lesser benefit or convenience, *and its force and meaning must be determined with relation to the particular objective sought.*[10]

In the context of the Telecommunications Act of 1996, it is plain that an interpretation of "necessary" which requires CLECs to collocate equipment which performs no function other than interconnection and accessing of unbundled network elements would effectively nullify the Act's collocation requirement. In interpreting the meaning of the language of the Telecommunications Act of 1996, it is appropriate to consider the language in the context of the policies which the Act is seeking to further.[11] The key policies which the Act seeks to further in its collocation requirement are to permit the competitors to use available equipment to access the unbundled network elements of the ILECs and to interconnect with the ILECs' networks in the most effective and efficient manner possible. In this context, that can only mean that equipment which performs the functions of interconnection or network element access, which also happens to have additional features and functions in providing telecommunications voice or data services, must not be barred from collocation.

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[8] *See* Comments of Supra Telecommunications, Inc. at 9.
[9] *See* Comments of Covad at 11-13.
[10] Black's Law Dictionary, 4th Ed. Rev. 1968, p. 1181 (emphasis supplied).
[11] *See SBC Communications v. FCC*, 138 F.3d 410 (D.C. Cir. 1998).

The D.C. Circuit Court of Appeals did not say that the FCC cannot permit the collocation of multifunction equipment, but only that there must be some rational limitation on what can be collocated. That is, as the Court of Appeals noted, one would not expect that this provision should permit the collocating company to set up, in effect, a branch billing office or payroll check printing machine in its collocation space.[12] To the contrary, the multifunction equipment being produced and other equipment being developed by manufacturers includes functions which directly relate to the handling of customer voice and data traffic—the classic functions of telecommunications networks. **Therefore, the FCC should permit the collocation of any competitor equipment which permits the competitor to access unbundled network elements or interconnect with the ILEC, and which may include other functions involving the processing, switching, multiplexing, concentration, relaying, regeneration, recording, conversion, transmission, or other treatment of voice or data traffic.**

III. The Pro-Competition, De-Regulatory Framework of the 1996 Act Supports an Interpretation of Section 251(c)(6) that Requires ILECs to Allow for the Collocation and Use of Multifunction Equipment by CLECs

Section 251(c)(6) must be understood to define "necessary" to include the collocation of multifunction equipment used in handling customer voice and data traffic. To hold otherwise would create an artificial barrier in the development of innovative, efficient technologies, and that would ultimately diminish and destroy telecommunications competition.[13] Such an interpretation would discriminate in favor of the ILECS' current configuration of its network and against the development of more efficient competitive alternatives to that network. Moreover, it is inconceivable that the

[12] *GTE Service Corporation v. Federal Communications Commission*, 205 F.3d 416, 424 (2000).

[13] Should the FCC permit ILECs to deny CLECs the right to collocate multifunction equipment, CLECs would have to purchase and install new equipment each time they were permitted to provide additional services, resulting in inflated (continued)

1996 Act, in which Congress intended to establish a pro-competitive, de-regulatory framework for telecommunications competition, would require the Commission to rule extensively and in great detail as to whether each and every specific piece of equipment produced by telecommunications manufacturers was sufficiently "necessary" that it could be legally used within a collocation space. To the contrary, the overall purpose and language of the Act requires an interpretation of Section 251(c)(6) that supports the use of multifunction equipment used to provide telecommunications voice or data service without interference from arbitrary ILEC restrictions.

Advances in technology and improvements in equipment have led to numerous improvements in central office equipment that not only efficiently combine the functionality of several different previous pieces of equipment, but also incorporate functionality needed for the provision of advanced services. The CLECs' deployment and use of this equipment is necessary to drive down the price of providing competitive basic and advanced telecommunications to consumers.[14] The equipment manufacturers have agreed that multifunction equipment is the most cost-effective approach to the provision of service because:

> it offers capabilities that are most efficiently and effectively performed as an integrated set of functions . . . most if not all of the functionalities being built into multifunctional equipment available today is "necessary" for interconnection or access to UNEs to provide the kinds of services customers demand in the marketplace.[15]

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prices. *See* Comments of Supra Telecommunications at 10; *see also* Comments of Tachion Networks, Inc. at 4.

[14] "Indeed the D.C. Circuit in its opinion recognized the vital importance of the Congressional goal of encouraging deployment of such equipment, stating that section 251(c)(6) 'seeks to ensure competition in areas of advanced technology in telecommunications.' Congress could not have intended to promote competition by preventing competitive LECs from deploying the most efficient and technologically advanced equipment in their networks, thus denying consumers the opportunity to benefit from the best services competition can offer." Covad Comments at 17-18 (*quoting GTE v. FCC*, 205 F.3d at 421).

[15] *See e.g.*, Comments of Cisco Systems, Inc. at 7-8; *see also* Comments of Tachion Networks, Inc.

The competition between CLECs and ILECs to use the best and most efficient equipment, if left unfettered by unnecessarily restrictive collocation rules, will drive costs out of the competing companies' networks and achieve the Commission's ultimate goal of providing the best telecommunications services at the most affordable levels to all customers and all segments of the country.[16] Permitting ILECs to impose unwarranted restrictions on the type of functionality that collocated equipment can perform will halt the tremendous "arms race" between CLECs and ILECs to obtain and deploy the best equipment. It will also diminish future advances in innovative multifunction equipment, because without the ability to collocate such equipment as needed, CLECs will stop purchasing such equipment, and manufacturers will have significantly less incentive to invest in and produce multifunction equipment.[17]

To date, the ILECs' limitation on the collocation of multifunction equipment has been aimed solely at ensuring that CLECs remain at a competitive disadvantage. For instance, contrary to ILEC claims that collocation of multifunction equipment exhausts central office space,[18] multifunction equipment often requires less space.[19] There are no practical reasons for limiting the collocation of multifunction equipment or restricting some of that equipment's functionality. Instead, the ILECs

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[16] "Competition is about the 'invisible hand' where customers have choices and producers compete for customers' business. Our common vision is embodied in the Telecommunications Act of 1996 – a pro-competitive, de-regulatory framework for telecommunications. This means consumers must have the power of choice." Statement of Chairman William Kennard, Address at the National Association of Regulatory Utility Consumers ("NARUC") (Nov. 11, 1998) (transcript available at FCC website: http://www.fcc.gov/).

[17] "As a policy matter, the Commission's decision in such a manner will promote the immediate and rapid development and deployment of innovative telecommunications equipment. It is a simple equation for an equipment manufacturer – if multifunction equipment cannot be collocated, there is no market for it, and it will not be built. Consumers will benefit greatly from such innovation, as it will permit carriers to improve their service offering with a variety of services that they would otherwise be unable to provide." Covad Comments at 17.

[18] *See* Comments of Verizon at 7.

[19] *See* Comments of Supra Telecommunications at 14; Comments of COVAD at 20; and Comments of Focal Communications at 13. *See also,* Comments of the ILEC Qwest at 11 ("there is no reason to believe that the approach recommended here will result in more rapid space exhaustion").

are endeavoring to limit the ability of CLECs to provide advanced services and to provide service more efficiently. The impact of the ILECs' view of Section 251(c)(6) and the definition "necessary" would be to write the ILECs' own conservative technology choices into law and to mandate that the ILECs' network configurations is the only available configuration, thereby blocking the development of competitive and more efficient alternatives. ***The effect of such a ruling would be analogous to requiring the CLECs to use typewriters while the rest of the world works with wordprocessors and personal computers.*** That is not to say that ILECs, while attempting to block CLEC deployment of advanced equipment, will not deploy similar equipment to serve their own customers. As Verizon stated in its initial comments in this proceeding, "incumbents have [full flexibility to install on their own premises equipment and software with a variety of telecommunications functions and] to deploy the most useful equipment on their own premises."[20] Clearly, competitive parity between ILECs and CLECS cannot be achieved unless CLECs can collocate equipment with functionalities commensurate with the equipment that the ILECs have the freedom to employ in the same central offices in which competitors seek to collocate their equipment, and not be constrained by the ILECs' technology adoption rate or choices.

IV. Any Definition of "Necessary" That Would Exclude Multifunctional Equipment is Inconsistent with the Primary Purposes of the Universal Service Provisions of the Telecommunications Act.

The collocation of multifunction equipment is also necessary to support the Commission's universal service policies. The Commission has stated that competitive-neutrality and technology-neutrality are central to its universal service policies.[21] Permitting ILECs to

[20] Comments of Verizon at 7.

[21] "Pursuant to Section 254(b)(7) and consistent with the Joint Board's recommendation, we [the Commission] establish (continued)

prohibit competitor collocation of multifunction equipment would essentially tie one hand behind the CLECs' back while allowing ILECs not only to leverage their historic monopoly advantage, but also to better incorporate technological advances into their own networks. Unrestricted collocation of multifunction telecommunications voice and data equipment therefore is important to fulfill the Commission's universal service goals for efficient access to existing services and to allow for the rapid deployment of advanced services. As Chairman Kennard has explained:

> We must work together to decide what standards and policies are needed to ensure that incumbents treat new entrants on a par with themselves. Universal Service is not just a telephone to every home – it is and it should be, universal access to advanced services from every community. The bottom line is that we must have the courage of our convictions to find ways to facilitate the deployment of new technologies and to ensure that these technologies are available to everyone – all Americans.[22]

In the four years since passage of the 1996 Act, a number of CLECs have developed and begun to implement plans to compete in second and third tier markets – those cities and towns outside of the nation's largest and most populous urban areas. These CLECs plan to provide competitive basic, and more importantly, advanced services, such as high-speed Internet access, to communities where there has to date been little if any implementation of advanced services. Not only do residents of such communities directly benefit from CLEC provision of services, but CLEC entry into these market often prompts a dramatic acceleration of the existing ILECs'

'competitive neutrality' as an additional principle upon which we base policies for the preservation and advancement of universal service.... COMPETITIVE NEUTRALITY – Universal service support mechanisms and rules should be competitively neutral. In this context, competitive neutrality means that universal service support mechanisms and rules neither unfairly advantage nor disadvantage one provider over another and neither unfairly favor nor disfavor one technology over another." *Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776, 8808, paras. 46-47 (1997).

[22] Statement of Chairman William Kennard, Address at the National Association of Regulatory Utility Consumers ("NARUC") (Nov. 11, 1998) (transcript available at FCC website: http://www.fcc.gov/).

schedule to provide such services. The development of new technologies such as soft-switch devices enables CLECs to enter efficiently second and third tier markets that would otherwise be economically infeasible for them to serve.

The cost advantages provided by multifunction equipment is absolutely essential to bringing basic competition and the deployment of advanced services to less densely populated and less affluent areas of the country. CLECs must use multifunction equipment to provide service to these areas, because it is the most cost-effective manner in which to do so. As soft-switch manufacturer Tachion Networks, Inc. has explained:

> The enormous cost and space benefits of this fully integrated design will help CLECs and other carriers to roll out service rapidly to new cities and to minimize their costs for equipment, real estate...integrated functionality reduces the ongoing operational expenses of a traditional central office.... 10:1 benefit over traditional solutions when deployed in collocation space.[23]

Moreover, no cost-effective alternatives to collocating multifunction equipment such as soft-switch devices currently exist. For instance, without soft-switch technologies, there is no way to integrate a similar functionality in the same amount of footprint within the collocation space.[24] These new, smaller switches, create lower power and HVAC demand and use less space in ILEC central offices than did previous generation equipment.[25] No alternative efficient and practical alternative exists to collocating advanced equipment at this time, and no good reason exists to permit the ILECs to block the deployment of this equipment by their competitors.

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[23] *See* Tachion Comments at 3.

[24] Currently, McLeodUSA is planning the deployment of soft-switch technology because, "such an arrangement clearly makes the most efficient use of a CLEC's collocation space, and of transport that may be provided by both the CLEC and RBOC." *See* Comments of McLeodUSA at 5. RBOCs that argue that soft-switches do not meet the definition of "necessary" do so based "largely on their desire to make interconnection and collocation arrangements as costly and cumbersome to competitors as possible." *Id.*

Collocation of soft-switching equipment and similar multifunctional equipment is "necessary" under the terms of section 251(c)(6), because failing to allow such collocation requires competitors either to forego the most advanced technology available to serve customers, or for both the ILEC and the CLEC to incur unnecessary and inefficient transport costs in order to use that advanced technology."[26]

Without the ability to incorporate and use efficient multifunction equipment, the costs of providing service in these communities will rise significantly for CLECs, and CLEC growth in smaller cities and towns will be throttled. Even more importantly, without the ability to use multifunction equipment, CLECs cannot expect that manufacturers will have the market incentive to conduct the further research and development needed to provide more powerful and cost-effective equipment in the future. The Commission would essentially be locking CLECs into a choice between use of the ILEC equipment and technology choices or, alternatively, higher costs associated with hauling traffic to other locations to provide switching and other functions required to provision advanced services. These higher costs make it more likely that CLECs will simply resell the unbundled ILEC service, rather than taking the financial risk in deploying their own advanced services. Resale is not a viable long-term strategy for CLECs entering new markets. Investors in the capital markets have shown an unwillingness to fund expansion plans based on resale. This would effectively permit the ILECs to dictate the type of equipment that the CLEC may use to compete with the ILEC--and would represent a fundamental failure of competitive policy. CLECs are not likely to enter these smaller markets without the ability to

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[25] *See generally*, Comments of McLeodUSA at 5; Comments of Tachion Networks, Inc. at 3.
[26] *Id.*

lower their network costs through the use of multifunction equipment. Such a pullback by competitive carriers and a limitation on the communities in which competition is financially feasible would deal a terrible blow to the Commission's universal service efforts and the Congressional directive to promote the rapid deployment of advanced services.

V. Conclusion

Consistent with the Telecommunications Act of 1996, the Commission should adopt a definition of "necessary" that encompasses multifunction equipment, **which permits the competitor to access unbundled network elements or interconnect with the ILEC, and which may include other functions involving the processing, switching, multiplexing, concentration, relaying, regeneration, recording, conversion, transmission, or other treatment of voice or data traffic**. The collocation of multifunction equipment is essential for CLECs to gain the same network efficiencies and reliability that is currently realized by the ILECs. Rules that permit the ILECs to unilaterally prohibit the collocation of such equipment would stifle the ability of CLECs to compete on a nondiscriminatory basis with ILECs and would undermine significant policy goals of the Telecommunications Act of 1996.

For all of the reasons stated above, the Commission should not permit ILECs to limit the collocation of multifunction equipment.

Respectfully submitted,

ADVANCED TELCOM GROUP, INC.

Kath Thomas
ADVANCED TELCOM GROUP, INC.
110 Stony Point Road
Second Floor
Santa Rosa, California 95401
Telephone: 707-284-5284

Kathleen M. Marshall
ADVANCED TELCOM GROUP, INC.
200 South Virginia Street
Suite 103
Reno, Nevada 89501
Telephone: 775-284-4076

And

Richard H. Levin
ADVANCED TELCOM GROUP, INC.
110 Stony Point Road
Second Floor
Santa Rosa, California 95401
Telephone: 707-284-5484

November 14, 2000

Mark P. Trinchero
Holly Rachel Smith

DAVIS WRIGHT TREMAINE LLP
1500 K Street, NW
Suite 450
Washington, DC 20005
Telephone: 202-508-6625
Telecopy: 202-508-6699

Its Attorneys

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of November, 2000, I served copies of the Reply Comments of Advanced TelCom Group, Inc. by hand and first class mail, U.S. postage prepaid, on the following:

Anna Gomez
Senior Legal Advisor
Office of the Chairman
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Rebecca Beynon
Legal Advisor, Common Carrier Matters,
Commissioner Harold Furchtgott-Roth
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Kyle Dixon
Legal Advisor
Commissioner Michael K. Powell
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Jordan Goldstein
Legal Advisor
Commissioner Susan Ness
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Deena Shetler
Legal Advisor
Commissioner Gloria Tristani
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Christopher J. Wright
General Counsel
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Dorothy T. Attwood, Chief
Common Carrier Bureau
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Michelle Carey, Chief
Policy and Program Planning Division
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Kathy Farroba, Deputy Chief
Policy and Program Planning Division
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Carol Mattey
Deputy Bureau Chief
Common Carrier Bureau
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Robert J. Aamoth
Jennifer M. Kashatus
Kelley Drye & Warren LLP
1200 19th Street, N.W.
Suite 500
Washington, D.C. 20036

Eric Branfman
Kevin Hawley
Swidler Berlin Shereff Friedman, LLP
3000 K Street, N.W.
Suite 300
Washington, D.C. 20007

Jonathan E. Canis
David A. Konuch
Kelley Drye & Warren LLP
1200 19th Street, N.W.
Suite 500
Washington, D.C. 20036

Richard M. Rindler
D. Anthony Mastando
Swidler Berlin Shereff Friedman LLP
K Street, N.W., Suite 300
Washington, D.C. 20007

Scott Blake Harris
William M. Wiltshire
Harris, Wiltshire & Grannis LLP
1200 Eighteenth Street, N.W.
Washington, D.C. 20036

Jason D. Oxman
Senior Government Affairs Counsel
Covad Communications Company
600 14th Street, N.W.,
Suite 750
Washington, D.C. 20005

Andrew D. Lipman
Kathleen L. Greenan
Swidler Berlin Shereff Friedman, LLP
3000 K Street, N.W., Suite 300
Washington, D.C. 20007

David R. Conn
Deputy General Counsel and
Vice President – Product & Policy
McLeodUSA
6400 C Street, SW
Cedar Rapids, IA 52406-3177

Richard Metzger
Pamela Arluk
Focal Communications Corporation
7799 Leesburg Pike, Suite 850 North
Falls Church, VA 22043

Robin F. Cohn
Michael P. Donahue
Swidler Berlin Shereff Friedman, LLP
3000 K Street, N.W., Suite 300
Washington, D.C. 20007

Colleen A. Wilson, Esquire.
Assistant General Counsel
Supra Telecommunications & Information
Systems, Inc.
2620 S.W. 27th Avenue
Miami, Florida 33133

Richard S. Whitt
Cristin L. Flynn
WorldCom, Inc.
1801 Pennsylvania Ave., N.W.
Washington, D.C. 20006

Patrick Donovan, Esquire
Emily M. Williams, Esquire
Michael Schunck, Esquire
Swidler Berlin Shereff Friedman, LLP
3000 K Street, N.W., Suite 300
Washington, D.C. 20007

Lawrence W. Katz
Joseph DiBella
1320 North Court House Road
Eighth Floor
Arlington, Va 22201

Lawrence E. Sarjeant
Linda L. Kent
Kieth Townsend
John W. Hunter
Julie E. Rones
1401 H Street, N.W., Suite 600
Washington, D.C. 20005

Robert B. McKenna
Blair A. Rosenthal
Suite 700
1020 19th Street, N.W.
Washington, D.C. 20036

Theodore M. Weitz
Vice President and General Counsel
185 Monmouth Park Highway
West Long Branch, NJ 07764

Kevin Hawley
Swidler Berlin Shereff Friedman, LLP
3000 K Street, N.W., Suite 300
Washington, D.C. 20007

Michael K. Kellogg
Rachel E. Barkow
Kellogg, Huber, Hansen, Todd & Evans, PLLC
Summer Square
1615 M Street, N.W., Suite 400
Washington, D.C. 20036

Joseph A. McGlothlin
McWhirter, Reeves, McGlothlin, Davidson, Decker, Kaufman, Arnold & Steen, P.A.
117 South Gadsden Street
Tallahassee, FL 32301

International Transcription Service
1231 20th Street, N.W.
Washington, D.C. 20036

Jonathan D. Lee
Vice President, Regulatory Affairs
Competitive Telecommunications Association
1900 M Street, N.W.
Suite 800
Washington, D.C. 20036

Donna Sanchez-Arango

Donna Sanchez-Arango