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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Promotion of Competitive Networks in Local Telecommunications Markets	)	WT Docket No. 99-217
	)	
Wireless Communications Association International, Inc. Petition for Rulemaking to Amend Section 1.4000 of the Commission's Rules To Preempt Restrictions on Subscriber Premises Reception or Transmission Antennas Designed to Provide Fixed Wireless Services	)	
	)	
Implementation of the Local Competition Provisions in the Telecommunications Act of 1996	)	CC Docket No. 96-98
	)	
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

COMMENTS OF
ELINK COMMUNICATIONS, INC.

eLink Communications, Inc. ("eLink"), by its counsel, hereby submits its Comments in the above-captioned proceeding. Specifically, eLink applauds the Commission on its recognition that so-called building local exchange carriers or "BLECs" may promote the goals of the Telecommunications Act of 1996 (the "Act")[1] by bringing competition and advanced services to Multiple Tenant Environments ("MTEs") that otherwise may not see competitive providers for quite some time.[2] Given the preliminary and limited scope of the Commission's inquiry

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[1] Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, *codified at* 47 U.S.C. §§ 151 *et seq.* ("Act").

[2] *First Report and Order and Further Notice of Proposed Rulemaking in WT Docket No. 99-217, Fifth Report and Order and Memorandum Opinion and Order in CC Docket*

regarding BLECs in this proceeding, eLink is taking this opportunity merely to educate the Commission about its operations and those of BLECs generally, and to provide additional support for the proposition that BLECs further Congress' goal of ensuring the rapid deployment of advanced telecommunications services to all Americans.

Introduction

As a preliminary matter, it should be noted that the term "BLEC" has been applied to a disparate range of service providers, at times improperly.[3] Indeed the phrase has been used indiscriminately to describe Internet service providers that penetrate MTEs to provide access directly to end user tenants, companies that operate carrier hotels, companies that install full-fledged voice/data switching equipment within buildings, application service providers, and companies that install competitive inside wiring. Given the broad range of services and service providers that fall within the scope of the phrase "BLEC," it is not possible or appropriate for eLink to provide the Commission with an exhaustive description of them. Accordingly, below is a description of eLink's own products and services.

eLink solves the bottleneck of the Internet in MTEs by installing fiber-optic cable that runs from the basement of MTEs to the tenants on each floor – the critical "final link" or "last yard" of service that enables customers to have high speed access to the Internet. eLink installs the infrastructure needed to offer broadband Internet connectivity to MTE tenants at its own expense (typically between $50,000 and $250,000 per building), leaving existing inside wiring intact for access by telecommunications carriers. The deployment of this fiber optic

No. 96-98, and Fourth Report and Order and Memorandum Opinion and Order in CC Docket No. 88-57, FCC 00-366 (rel Oct. 25, 2000) ¶ 155.

infrastructure is beneficial to all parties involved, particularly tenants who, through the use of eLink's infrastructure, are able to access the Internet at speeds of T-1 and above at costs that are considerably lower than the cost of their traditional dial-up connection. Building owners also enjoy tremendous benefits, without incurring any costs, since buildings in which eLink's fiber infrastructure has been deployed are more valuable and more competitive in the commercial real estate market. As for itself, eLink offers its customers an entire suite of products and services, including high speed Internet access, e-mail, web hosting, web design/creative services, remote access, virtual private networks, and customer support.

I. BLECs Advance the Goals of Section 706 of the Act by Expediting the Availability of Advanced Telecommunications Services to Tenants in MTEs

By deploying alternative fiber-optic infrastructure within MTEs, BLECs address a market need that until recently has largely been ignored.[4] While competitive telecommunications carriers have fought for equal access to buildings (which, of course, is the broader subject of this proceeding), neither incumbent nor competitive carriers have had the time or resources to devote to enhancing the infrastructure within MTEs. Rather, their focus has been on the colossal tasks of building out the Internet backbone and public switched telephone network ("PSTN") *up to* the demarcation point in buildings. Once they reach that point, they typically rely on the antiquated copper inside wiring installed by incumbent LECs, decades ago in some instances (of course, BLECs vie for the right to install their intra-building fiber infrastructure in new construction buildings on equal footing with other companies that provide such services). Since the

[3] Vance McCarthy, *Local Carriers Take Over Office Buildings*, Interactive Week, May 22, 2000, available at http://www.zdnet.com/intweek/stories/news/0,4164,2574580,00.html.

[4] Elizabeth Starr Miller, *Birth of the BLEC: Service providers jump at a chance to win over MTU audience*, Telephony, May 15, 2000, available at http://www.telecomclick.com.

Commission deregulated inside wiring through a series of orders beginning nearly twenty five years ago, much of this wiring is in disrepair. In the absence of the products offered by BLECs, customers must either access the Internet and other enhanced services through the use of existing wiring (though the capacity and speed requirements of such applications greatly exceed those for which existing wiring was designed), or purchase expensive special access facilities.

II. The Relationship Between eLink and Building Owners is Consistent with the Commission's Pro-Competitive Objectives

The Commission has expressed concern that the relationships between BLECs and building owners and real estate investment trusts ("REITs") may create incentives for unreasonable discrimination by building owners and thus undermine competition in MTEs – a fear that appears to stem from concern that building owners will enter into exclusive contracts with BLECs. As a preliminary matter, it should be noted that any such concerns would certainly not be present in the case of eLink, and, as explained more fully below, would not be supportable generally. Indeed, the industry standard is that no building owner "will sign exclusive contracts because nobody is betting on any one technology."[5] More importantly, however, is the fact that it is unclear what harm the Commission believes could result from an exclusive contract between a BLEC and a building owner or REIT.

The Commission appears to be analogizing the relationship between BLECs and building owners with that of monopolistic incumbent local exchange carriers and building owners, though the issues raised by the two situations are largely dissimilar. In its *Fifth Report and Order*,[6] the

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[5] Jason Kraus, *Wiring the Skyscrapers*, The Standard, March 13, 2000, available at http://www.thestandard.com/article/display/0,1151,12740,00.html, at 3.

[6] *First Report and Order and Further Notice of Proposed Rulemaking in WT Docket No. 99-217, Fifth Report and Order and Memorandum Opinion and Order in CC Docket*

Commission prohibited telecommunications carriers from entering into exclusive arrangements with owners and managers of commercial MTEs that restrict access by competing carriers. The Commission's justification for this step was to promote competition and to ensure that tenants in MTEs are able to access the telecommunications carrier of their choice. The validity of this reasoning does not easily carry over to BLECs. Indeed, the relationship between BLECs and building owners in many instances has little to do with carriers' ability to access buildings or with tenants' ability to select the carrier of their choice. By way of illustration, eLink makes a tremendous up-front investment (at no cost to tenants or building owners) in deploying its state-of-the-art fiber optic infrastructure within MTEs, and in so doing incurs substantial risk. Specifically, eLink deploys its facilities in the hope that tenants find the services eLink makes available over them to be a more desirable alternative to the existing service such tenants receive. There is, however, no guarantee that tenants will choose to use eLink rather than their existing service provider.

To be clear, eLink deploys competitive infrastructure. If a tenant chooses not to use eLink's services it may simply continue to use its existing service provider or some other service provider through existing or newly deployed facilities. It is the rare case that a building owner will enter into an agreement with eLink or any other BLEC that will prohibit other providers from installing additional infrastructure. Even if such an agreement did exist, however, it remains unclear what effect, if any, such an agreement would have on building access or tenants' ability to select the carrier of their choice. In such an instance, carriers could continue to access buildings in the same manner they currently do, and at a minimum, tenants would still have the

No. 96-98, and Fourth Report and Order and Memorandum Opinion and Order in CC Docket No. 88-57, FCC 00-366 (rel Oct. 25, 2000).

choice of accessing the telecommunications carrier or dial-up Internet provider of their choice through the use of existing inside wiring.

Conclusion

The BLEC industry is in its infancy, and eLink appreciates the Commission's preliminary inquiry into the nature and scope of BLECs in the context of a broader rulemaking proceeding addressing other issues. As the BLEC industry matures, it may be proper for the Commission to revisit some of the issues raised in this proceeding in the form of a more extensive rulemaking proceeding.

Respectfully submitted,

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