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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 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

RESPONSE OF AT&T CORP.
TO PETITIONS FOR RECONSIDERATION

In response to the Commission's Public Notice,[1] AT&T Corp. hereby responds to the petitions for reconsideration and/or clarification filed by BellSouth and the Competitive Telecommunications Association ("CompTel") regarding the Commission's *Line Sharing Reconsideration Order* in the above-captioned proceedings.[2] AT&T generally supports the requests set forth in CompTel's Petition, all of which will help to foster stronger local competition, as intended by Congress. In addition, AT&T does not oppose BellSouth's Petition, to the extent that BellSouth seeks only a clarification of Paragraph 22 of the *Line Sharing*

[1] *Petitions for Reconsideration and Clarification of Action in Rulemaking Proceedings*, FCC Public Notice, CC Docket Nos. 98-147, 96-98, Report No. 2473 (rel. Mar. 19, 2001) published in 66 Fed. Reg. 16940 (Mar. 28, 2001).

[2] *Deployment of Wireline Services Offering Advanced Telecommunications Capability; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Third Report and Order on Reconsideration in CC Docket No. 98-147, Fourth Report and Order on Reconsideration in CC Docket No. 96-98, FCC 01-24 (rel. Jan. 19, 2001) ("*Line Sharing Reconsideration Order*"); *see also Line Sharing Reconsideration Order*, BellSouth Petition for Reconsideration, filed Mar. 8, 2001 ("BellSouth"); *Line Sharing Reconsideration Order*, Petition for Reconsideration and Clarification of the Competitive Telecommunications Association, filed Mar. 8, 2001 ("CompTel").

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Reconsideration Order to reflect that, in some limited instances, conversion from line sharing to line splitting may require a wiring change.

I. THE COMMISSION SHOULD GRANT COMPTEL's REQUESTS FOR RECONSIDERATION AND CLARIFICATION

CompTel urges the Commission to reconsider and clarify several points regarding the *Line Sharing Reconsideration Order*. AT&T generally supports these requests.

First, the Commission should adopt CompTel's request for clarification (at 5-8) that the incumbent local exchange companies' ("ILECs'") line splitting obligations extend to all loops over which line splitting arrangements are technically feasible. As currently written, the *Line Sharing Reconsideration Order* provides the ILECs with an opportunity to argue that their line splitting obligations extend only to those providers "using the UNE-P" to provide voice and advanced services over a single line. CompTel correctly argues (at 5-8) that the nondiscrimination provision of section 251(c)(3) mandates that ILECs provide the necessary functionality to a competitive local exchange carrier ("CLEC") seeking line splitting arrangements whenever the ILEC employs this capability for its own purposes. Therefore, as long as it is technically feasible to provide a line splitting arrangement over any one loop, the ILECs' existing obligation to provide access to all the features, functions and capabilities of unbundled network elements must extend to all loops.

Second, basic principles of nondiscrimination also require that the Commission ensure that, when an ILEC leases splitters to a CLEC to enable it to implement line sharing, ILEC-owned splitters must also be made available, in the same manner, for carriers that want to establish line splitting arrangements (CompTel at 8). Indeed, BellSouth states in its Petition (at 4) that all of the line sharing CLECs providing advanced services capability in its territory

currently lease splitters from BellSouth. There is no legally cognizable reason that would support BellSouth's (or any ILEC's) refusal to provide comparable access to splitters for CLECs who seek to engage in line splitting. The physical arrangements are virtually identical in each case. The difference is that in line sharing the ILEC retains its position as the customer's voice service provider while in line splitting it does not. ILECs should be told in no uncertain terms that they may not engage in this type of discrimination, which serves only to perpetuate their monopoly in local voice services.

Third, there is no legitimate reason for an ILEC to require a CLEC to incur charges to determine whether a loop is qualified to provide xDSL service when that very loop is already being used to provide DSL service (CompTel at 8-9). Allowing ILECs to recover more than once -- or at all in the case where no loop qualification is necessary -- would unfairly provide ILECs with a windfall. In addition, the Commission should clarify that ILECs must permit CLECs to access existing loops without the necessity of loop qualification, unless the CLEC requests otherwise.[3]

Finally, CompTel (at 3-5) reasonably asks the Commission to clarify that "the 'low frequency' portion of the local loop satisfies the Commission's definition of a subloop UNE." Such a clarification comports with the Commission's current definition of the subloop and would also reduce -- in at least one respect -- the ILECs' ability to use their control over the local loop as leverage to impair competition for voice and DSL services.

Without this clarification, ILECs can -- and do -- prevent CLECs from providing voice services to customers that already receive DSL service from the ILEC. For example, BellSouth

[3] If a CLEC elects not to have a loop qualification performed for a loop that is not already pre-qualified because it is being used to provide an advanced service, however, the ILEC should not be subject to claims that it is not providing service at an appropriate level, if the actual level of

has informed the Commission that, when it has a line-sharing arrangement, the customer will essentially be shut out from changing its voice provider from the incumbent to a competitive carrier.[4] BellSouth states that it will reject "any Voice CLEC's request to reuse the existing line shared loop," and that it will "accept only a request for a new voice loop from the Voice CLEC" when "an end-user wishes to switch voice providers on a line shared loop."[5] Thus, the ILECs' message to the consumer is clear: if you want to keep your DSL connection, you must use us as your voice provider.

Clearly, such a practice has substantial effects on local voice competition, as it essentially precludes competitors from providing voice services to customers that obtain the ILEC's DSL service. This problem is exacerbated when the ILEC locks up end-users to long-term DSL commitments. The relief requested by CompTel would mitigate this concern by ensuring that CLECs that need only a portion of loop would not have to needlessly purchase a separate entire loop to provide voice service to these customers. For similar reasons, the Commission should also confirm that the practice of some ILECs of discontinuing DSL service to customers seeking an alternative voice provider constitutes an unreasonable and discriminatory practice in violation of section 251(c)(3). CompTel Petition at 4. The ILECs' practice of denying its DSL service to a customer who obtains voice service from a CLEC also constitutes an "unjust" and "unreasonable" penalty on consumer choice, and is thus unlawful under section 201(b).[6]

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service provided over the loop could have been discovered through the use of a loop qualification query.

[4] *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, BellSouth Ex Parte (Oct. 2, 2000).

[5] *Id.* at 2.

[6] *See AT&T v. Iowa Utilities Board*, 119 S. Ct. 721, 729-731 (1999) (holding that section 201 applies to the implementation of the local competition provisions of the Act).

In this context, the Commission must make several points clear. First, a CLEC must be able to provide its voice service over the same loop used to provide the ILEC advanced services, subject only to two considerations: (1) the requested configuration is technically feasible to provide; and (2) the CLEC agrees not to levy charges for the use of the high-frequency spectrum that exceeds what was previously applied by the ILEC. Thus, the CLEC should, at a minimum, be able to provide its voice service and it should not be assessed any non-recurring charges (other than for records changes) unless it is absolutely necessary that the ILEC make physical wiring changes to implement the CLEC's chosen network architecture. *Line Sharing Reconsideration Order* ¶¶ 18-20.

Second, in cases where the ILEC's advanced service will be continue to be used in an uninterrupted manner, the ILEC (or its advanced services affiliate) should be required to accept a transfer of the service agreement between the end user and the CLEC,[7] and it should not be allowed to assess any termination charges against any party unless the CLEC cancels the service prior to the end of the end user's initial committed term.

II. AT&T DOES NOT OPPOSE BELLSOUTH'S PETITION

The *Line Sharing Reconsideration Order* (at ¶ 22), states that, "because no central office wiring changes are necessary in a conversion from line sharing to line splitting," such migrations should allow customers to have a seamless transition to the new carrier. BellSouth (at 3-4) correctly notes, however, that in some limited situations wiring changes may be needed when there is a line sharing/line splitting conversion. AT&T does not object to a clarification of the order reflecting this fact.

[7] *See Association of Communications Enters. v. FCC*, 235 F. 3d 662, 664, 668 (noting that because "Congress did not treat advanced services differently from other telecommunications services," the services must be made available on a resale basis to competitors).

The Commission should not, however, overestimate the gravity of this situation. Generally, a wiring change will only be needed when the customer's CLEC providing advanced services capability changes or is forced to migrate from a leased ILEC-owned splitter to its own separately provided splitter.[8] Thus, in the vast majority of cases when a customer changes voice carrier but the CLEC providing advanced services capability stays the same (and the splitter is in CLEC collocation), the ILEC only needs to make record changes. In such cases, the Commission properly held that, there should be the minimum amount of service disruption possible and that ILECs are obligated to work with CLECs to ensure that no disruption of service takes place. *Line Sharing Reconsideration Order* ¶ 22. Certainly any service interruption experienced by CLEC customers should not be any greater than when the ILEC establishes a line-sharing configuration with similar characteristics for itself (or its advanced services affiliate). Therefore, any clarification the Commission issues must emphasize that ILECs may not make wiring changes unless they are absolutely necessary when a customer's line moves from a line sharing to a line splitting arrangement.

[8] If the Commission grants CompTel's petition and requires ILECs that lease splitters to CLECs providing advanced services capability for line sharing also to lease splitters to support line splitting, the Commission would generally prevent this type of customer and service disruption.

CONCLUSION

For the foregoing reasons, AT&T respectfully requests that the Commission grant CompTel's Petition and does not oppose BellSouth's Petition if it is granted in the limited manner and on the terms described above.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Jonathan P. Cody, hereby certify that on this 12th day of April 2001, I caused true and correct copies of the foregoing Response of AT&T Corp to Petitions for Reconsideration to be hand-delivered to the following persons:

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