

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter 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

**VERIZON'S REPLY TO COMMENTS
ON PETITION FOR RECONSIDERATION**

CompTel's reconsideration petition asked the Commission to rewrite its existing rules and to reverse decisions the Commission made in its Line Sharing and Line Sharing Reconsideration Orders¹ without demonstrating that the Commission ignored or misconstrued anything that was in the record before it. Commentors in support of CompTel ask the Commission to go even farther.

CompTel asked that once a loop has been qualified for DSL service, an ILEC should not be allowed to assess an additional loop qualification charge if it is later asked to qualify the same loop,² ignoring the fact that the ILEC will incur costs to respond to the second qualification request. ASCENT goes CompTel one better by trying to extend CompTel's argument to loop

¹ *Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, 14 FCC Rcd 20912 (1999) ("*Line Sharing Order*") and *Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, FCC 01-26 (rel. Jan 19, 2001) ("*Reconsideration Order*").

² CompTel at 8-9.

conditioning. It asks that ILECs be prohibited from charging more than once to condition a loop,³ even if the ILEC incurs real costs to perform a second conditioning. While a loop conditioned for one service should remain conditioned for that service and there would be no re-conditioning charge, the second CLEC might want the loop conditioned for a different service, requiring additional work, for which the ILEC should be permitted to charge.

Like ASCENT, Covad also goes beyond CompTel's petition. It asks the Commission to "clarify" that its rules say what they plainly do not. These requests are procedurally improper as this issue was not addressed in the Line Sharing Reconsideration Order or the CompTel Petition.

Covad, first, says that the Commission "must clarify that competitive LECs are entitled to provide any type of content or service over a linesharing UNE," in particular that they are allowed to provide voice services.⁴ This would amount to a change in section 51.319(h)(2), which requires ILECs to provide this element "to any requesting telecommunications carrier for the provision of a telecommunications service conforming with Sec. 51.230 of these rules," which relates to "advanced services loop technology."

Covad's purported reading of the rule would also be inconsistent with the Commission's theory for creating this network element in the first place. The Commission found that a CLEC would be impaired in its ability to provide data services without access to the high frequency part of a loop used by the incumbent for voice.⁵

If the Commission is inclined to reconsider this aspect of the *Line Sharing Order*, it should find that data CLECs are not impaired without access to the high frequency of the loop used by

³ ASCENT at 6.

⁴ Covad at 5.

⁵ *E.g.*, *Line Sharing Order* ¶ 4.

the ILEC to provide voice service. As Covad clearly acknowledges, data CLECs have the ability to provide voice in the data frequency of the unbundled loops so they do not need to special access to the low frequency part of the loop that the ILEC uses to provide voice service.

Similarly, Covad says that the Commission “must clarify that line splitting extends to carriers using any combination of UNEs, including but not limited to UNE-P, EELs, UNE loops, and other configurations.”⁶ There is no way to read the Commission’s rules as Covad suggests. The Commission found that the line splitting obligation derived from the requirement that an ILEC “provide competing carriers with access to unbundled loops.”⁷ When a CLEC obtains an unbundled loop, it is allowed to combine elements of its own, such as a DSLAM, with that loop. The rules, however, define the loop only as the facility between the central office and the customer⁸ and not all the other pieces of the local network.

Moreover, Covad does not explain how EELs, as currently defined, would be feasible in the provision of line splitting DSL service. Covad must recognize that the way it provides data service is to obtain access to the cooper loop at the serving wire center in order to obtain access to the loop as close to the end user customer as currently possible. Since an EEL, by definition, is the existing combination of unbundled loops and unbundled transport, it is not clear how Covad envisions the provision of data over this combination. Furthermore, the mere fact that the transport element (even if we were to assume that no multiplexing was involved) would extend

⁶ Covad at 2.

⁷ *Reconsideration Order* ¶ 18.

⁸ “The local loop network element is defined as a transmission facility between a distribution frame (or its equivalent) in an incumbent LEC central office and the loop demarcation point at an end-user customer premises, including inside wire owned by the incumbent LEC.” 47 C.F.R. § 51.319(a)(1).

the end-to-end length of the combined elements to make it incompatible with the provision of DSL service.⁹

In support of this claim as to UNE-P, Covad quotes Commission language that demonstrates that Covad is wrong. Covad quotes:

“For instance, if a competing carrier is providing voice service using the UNE-platform, it can order an unbundled xDSL-capable loop terminated to a collocated splitter and DSLAM equipment and unbundled switching combined with shared transport, to replace its existing UNE-platform arrangement with a configuration that allows provisioning of both data and voice services.”¹⁰

The Commission here made it clear that a CLEC using UNE-P must order different facilities “to replace its existing UNE-platform arrangement with a configuration that allows provisioning of both data and voice services” if it wants to line split with another provider. In the Commission’s mind, therefore, the UNE-P arrangement does not “allow provisioning of both data and voice services.”

Nothing in these comments or in those of CompTel’s other supporters provides any basis for the Commission to grant CompTel’s petition to establish the low frequency part of the loop as a new UNE. No party has even attempted to make the required showing of impairment under section 251(d)(2). Therefore, the Commission has no record upon which it to conclude that lack of access to this element “materially diminishes a requesting carrier’s ability to provide the

⁹ Covad might be asking the Commission to require the ILECs to provide EELs using a DSLAM/concentration capability at the central office — in other words, Covad may be seeking yet another untimely petition for reconsideration of the Commission’s finding that ILECs were not required to unbundle DSLAM functionality. See *UNE Remand Order*, 15 FCC Rcd 3696 ¶¶ 303-19 (1999). On the other hand, Covad may be implying that the ILEC is required to provide data access to the high frequency portion of a loop associated with an existing EEL. In this case, as with UNE-P, the addition of data to the existing loop/transport combination would not qualify as an EEL configuration.

¹⁰ Quoted at Covad at 2.

services it seeks to offer.”¹¹ Moreover, the Commission could not rationally find impairment, as the requesting carrier could use its own facilities, an unbundled ILEC loop or UNE-P to provide voice services to the customer. With these alternatives, no additional UNE is required.¹²

Conclusion

CompTel’s petition for reconsideration and the tag-along requests to extend it should be denied.

Respectfully submitted,

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¹¹ 47 C.F.R. § 51.317(b)(1).

¹² For this reason, the Commission should also reject AT&T’s claim that ILECs are being anti-competitive and unreasonable when they do not let CLECs use the lower frequencies for voice services. AT&T at 4.