

BEFORE THE
Federal Communications Commission
WASHINGTON, D.C.

MAY - 7 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Implementation of the Local)
Competition Provisions of the)
Telecommunications Act of 1996)
)
Joint Petition of BellSouth, SBC, and)
Verizon for Elimination of Mandatory)
Unbundling of High-Capacity Loops and)
Dedicated Transport)
)

CC Docket No. 96-98

**COMMENTS OF TIME WARNER TELECOM
IN SUPPORT OF
NEWSOUTH'S MOTION TO DISMISS JOINT PETITION**

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ATTORNEYS FOR
TIME WARNER TELECOM

May 7, 2001

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Time Warner Telecom ("TWTC"), by its attorneys, hereby submits these comments in support of NewSouth's Motion to Dismiss Joint Petition in the above-referenced proceeding.¹ The Commission should dismiss the Joint Petition of BellSouth, SBC, and Verizon for Elimination of Mandatory Unbundling of High-Capacity Loops and Dedicated Transport

¹ See NewSouth Motion to Dismiss Joint Petition, CC Docket No. 96-98 (filed Apr. 25, 2001).

without further consideration.² The petition is premature, and it undermines the goals of the review process for unbundled network elements outlined in the *UNE Remand Order*.³

In the *UNE Remand Order*, the Commission recognized that it would need to periodically review and modify the national list of UNEs to reflect constantly changing “technology, competition and economic conditions of the telecommunications market.”⁴ However, it also acknowledged that providing a measure of certainty in the marketplace was critical to promoting competition.⁵ The Commission explained that competitors needed this period of certainty to “design networks, attract investment capital, and have sufficient time to attempt to implement their business plans.”⁶ The Commission further explained that *ad hoc* petitions, such as the Joint Petition, “would threaten the certainty that [the Commission] believe[s] is necessary to bring rapid competition to the greatest number of consumers.”⁷ Therefore, to balance these concerns, the Commission adopted a three-year time frame for reviewing the national list.⁸

The Joint Petitioners have ignored the Commission’s order. Now, far less than three years since the *UNE Remand Order* was adopted, and less than a year since some of the UNEs at issue in the petition have become available, the Joint Petitioners have filed exactly the

² See Joint Petition of BellSouth, SBC, and Verizon for Elimination of Mandatory Unbundling of High-Capacity Loops and Dedicated Transport, CC Docket No. 96-98 (filed Apr. 5, 2001) (“Joint Petition”).

³ See *Implementation of the Local Competition Provision of the Telecommunications Act of 1996*, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, 15 FCC Rcd 3696, ¶¶ 148-51 (1999) (“*UNE Remand Order*”).

⁴ *Id.* ¶ 148.

⁵ See *id.* ¶ 150.

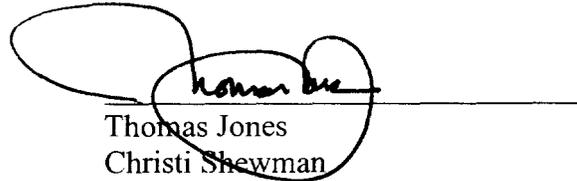
⁶ *Id.*

⁷ *Id.*

⁸ See *id.* ¶ 151.

type of *ad hoc* petition that the Commission considered a threat to market certainty.⁹ Competitors need certainty in the market every bit as much as they did at the time the Commission adopted the *UNE Remand Order*. The Commission should not allow the Joint Petitioners' *ad hoc* petition to undermine the process established for re-evaluation of UNEs. Therefore, TWTC respectfully requests that the Commission dismiss the Joint Petition of BellSouth, SBC, and Verizon for Elimination of Mandatory Unbundling of High-Capacity Loops and Dedicated Transport without further consideration.

Respectfully submitted,



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⁹ The *UNE Remand Order* was adopted on September 15, 1999. See *UNE Remand Order*. The *UNE Remand Order* became effective on February 17, 2000 with certain exceptions. The rules for the remaining elements, including unbundled dark fiber loops and unbundled dark fiber transport, became effective on May 18, 2000. 65 Fed. Reg. 2542 (Jan. 18, 2000).

CERTIFICATE OF SERVICE

I, Christi Shewman, do hereby certify that copies of the Comments of Time Warner Telecom in Support of NewSouth's Motion to Dismiss Joint Petition in CC Docket No. 96-98 were delivered to the following parties:

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(*) Delivered by hand-delivery.
Others delivered by first-class U.S. Mail.

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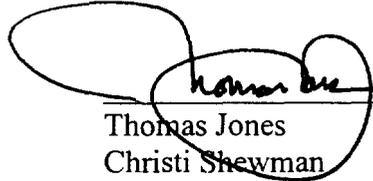
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