A corollary rule is that ILECs should not be able to retire "home run" copper loops until requesting carriers are able to provide all services from remote terminals that they now are capable of providing from collocation arrangements in central offices. For example, if a carrier now is able to provide SDSL services from its central office-based collocation arrangement, the ILEC should be prohibited from retiring the "home run" copper loops to a central office unless and until there are remote terminals in place that will permit the carrier to provide SDSL services to subscribers served directly or indirectly by that central office. This rule would be in addition to other rules, similar to conditions adopted by the Commission regarding Project Pronto, designed to limit the ability of ILECs to hamper competing carriers through the retirement of "home run" copper loops.

B. <u>Spectrum Management.</u>

The current spectrum management standards and specifications were developed in an environment where all parties were providing advanced services to end users from the same location (*i.e.,* the central office). As a result, these standards and specifications were designed to ensure that carriers can provide services in the same binder group without undue interference when they are all located at essentially the same distance from the end user. The advent of NGDLC systems has undermined that underlying premise. Now it is possible that two carriers will be providing advanced services in the same binder group from different locations at different distances from the subscribers – one from a distant central office, the other from a closer remote terminal. This scenario presents troubling interference issues that have yet to be resolved. As one example, the provision of ADSL services from remote terminals will interfere in some cases

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(...continued)
[20] *Ameritech Corp. and SBC Communications, Inc., Second Memorandum Opinion and Order* at paras. 47-48.

with the provision of other xDSL services (*e.g.*, SDSL or IDSL) from collocation arrangements in more distant central offices.

The introduction of NGDLC systems must not come at the expense of carriers that have established business plans and invested many millions of dollars to serve subscribers from collocation arrangements in the ILECs' central offices. As a result, the Commission should adopt a policy that carriers providing services over NGDLC systems at remote terminals must not interfere with the provision of services by carriers from collocation arrangements in central offices. In cases where NGDLC systems are in the process of being developed and deployed, the disclosure-and-comment procedures outlined above will help carriers to identify potential interference situations before they occur. In cases where services provided over existing NGDLC systems are interfering with central office-based services, the Commission should require the ILEC to resolve the situation promptly at its own expense, and the Commission should hold the ILEC financially responsible for any harm suffered by the carrier whose services are being interfered with.

CONCLUSION

For the reasons stated herein, the Commission should require ILECs to enable CLECs to collocate multi-function equipment and to engage in CLEC-to-CLEC cross-connections, and the Commission should adopt rules to ensure that NGDLC systems do not discriminate against particular carriers or classes of carriers.

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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

SEPARATE REPLY COMMENTS OF THE COMPETITIVE TELECOMMUNICATIONS ASSOCIATION

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November 14, 2000

SUMMARY

In its comments, CompTel urged the Commission to apply the "collocation throughput" approach when interpreting the phrase "necessary for interconnection or access to unbundled network elements" set forth in section 251(c)(6) of the Act. CompTel demonstrated that cross-connects as well as certain types of multi-function equipment are necessary using this approach. As expected, most of the incumbent local exchange carriers ("ILECs") have opposed cross-connects and the collocation of any multi-function equipment. As many of the ILECs' arguments already have been anticipated and, in effect, refuted in the opening comments filed by CompTel and other parties, these comments shall focus on a few specific points.

First, the comments in this proceeding justify use of CompTel's collocation throughput approach to interpreting the term "necessary." The comments show that CLECs must be able to collocate multi-function equipment, and to engage in CLEC-to-CLEC cross-connects in order to maximize collocation throughput. As a result, both collocation practices are "necessary" for interconnection of the incremental throughput attributable to the equipment or cross-connects.

Second, the Commission should recognize that various functionalities are necessary for interconnection. In particular, equipment that performs, among other functions, multiplexing, concentration, and/or switching functions is necessary for interconnection and access to UNEs. Absent the ability to collocate such equipment, CLECs effectively are forced to raise rates, offer service to fewer customers, or offer fewer services to customers, each of which result in reduced traffic, thus collocation throughput. Applying the collocation throughput standard to these functions demonstrates that such functions are necessary consistent with the critical limiting standard the court has imposed.

Incumbent LECs have not presented any arguments demonstrating why multi-function equipment is not necessary for interconnection. The incumbent LECs fail to recognize that the increasingly sophisticated equipment that is being developed is smaller than its predecessors and uses less power, thus resulting in less of an imposition than other types of equipment.

Third, the Commission should not seek to distinguish between single-function and multi-function equipment. Many commenters in this proceeding have demonstrated that modern telecommunications equipment essentially defies any categorization into either "single" or "multi" functional equipment. As such, the Commission should not try to determine whether certain equipment is single-function or multi-function, but instead, should enable CLECs to collocate any equipment that would permit them to take advantage of their collocation arrangement.

Fourth, CompTel supports those commenters advocating one or more broadband UNEs. The Commission should clarify that incumbent LECs must offer packet-switching as a UNE to those CLECs that are unable to collocate in a remote terminal. The Commission also should require all ILECs to offer the same broadband service that SBC has been required to offer, and to do so as a UNE combination subject to Section 251(c)(3). CompTel further supports those comments arguing that all features and functionalities of the loop must be available. Lastly, the Commission should ensure that CLECs have access to unbundled wavelengths.

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Before the
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Washington, D.C. 20554

In the Matters of	)	
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SEPARATE REPLY COMMENTS OF THE COMPETITIVE TELECOMMUNICATIONS ASSOCIATION

The Competitive Telecommunications Association ("CompTel"), by its attorneys, hereby submits these separate reply comments in response to the Second Notice of Proposed Rulemaking (FCC 00-297) released by the Commission in this proceeding on August 10, 2000. CompTel is participating in joint reply comments submitted today by a number of competitive local exchange carriers ("CLECs") and their industry associations. CompTel is filing these separate reply comments to present its own perspective on several issues raised in the opening comments.

I. COMMENTS IN THIS PROCEEDING JUSTIFY COMPTEL'S COLLOCATION THROUGHPUT APPROACH TO INTERPRETING "NECESSARY."

A. Multi-Function Equipment.

In its initial comments, CompTel urged the Commission to apply a "collocation throughput" standard when interpreting the phrase "necessary for interconnection or access to unbundled network elements" as set forth in section 251(c)(6) of the Act. The collocation throughput approach recognizes, and is predicated upon, the correlation between the equipment CLECs are permitted to collocate and the volume of traffic exchanged between CLECs and

ILECs through collocation arrangements. The collocation throughput standard shows that the collocation of multi-function equipment, as well as CLEC-to-CLEC cross-connections, fully satisfies the statutory collocation standard.

As expected, the ILECs urge the Commission to throw away its previous rules supporting multi-function equipment collocation. SBC claims that any attempt "to re-impose the multi-functional equipment collocation requirement . . . would be at odds with both the court's decision in *GTE Service Corp.* and the plain language of section 251(c)(6)."[1] As CompTel and many other commenters have noted in their comments,[2] and as the Commission itself has recognized, the court invited the Commission to re-examine the parameters of what is "necessary," and did not prohibit the Commission from finding that multi-functional equipment is necessary for interconnection.[3] (Similarly, the Court remanded the issue of CLEC-to-CLEC cross-connections without precluding the FCC from re-adopting such a rule under the relevant statutory standard.) Thus, what is at issue is whether the collocation of multi-function equipment can be "necessary" for interconnection or access to unbundled network elements, and if so, the types of multi-function equipment that ILECs must allow carriers to collocate under section 251(c)(6) of the Act.

1. Comments in this Proceeding Support the Use of the Collocation Throughput Approach.

Under the collocation throughput approach, if the collocation of equipment with multiple functions enables a CLEC to increase the traffic exchanged with the ILEC, then such

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1 SBC Comments at 8; *see also* BellSouth Comments at 3-4.

2 *See, e.g.,* CompTel Comments at 8; Joint Commenters at 11-13; Comments of RCN Telecom Services, Inc. at ii.

3 *See GTE Services Corp. v. FCC,* 205 F.3d 416, 424 (2000).

equipment satisfies the "necessary" standard in Section 251(c)(6). Comments in this proceeding illustrate that manufacturers are designing multi-function equipment that will serve a greater number of customers than its equipment predecessors. As one data-CLEC explains, "[b]y integrating multiple functions into newer model equipment, manufacturers are condensing the overall space required for collocation, while at the same time increasing the capacity of the equipment to enable providers to serve a larger customer base."[4] CLECs are unable to realize this increased customer base, and thereby maximize collocation throughput, without the ability to collocate multi-function equipment.

Comments in this proceeding demonstrate that there are no alternatives to collocating multi-function equipment that do not sacrifice a CLEC's market position (and collocation throughput). In particular, CLECs would have to incur substantial additional costs if they are unable to collocate multi-function equipment. These costs effectively would preclude CLECs from achieving the throughput realized from collocated multi-function equipment. To the contrary, as non-dominant carriers, CLECs would be unable to offset these additional costs, except by reducing services, narrowing the geographic scope of entry, or raising prices – all of which would reduce aggregate throughput.[5]

The data submitted by Cisco, a leading equipment manufacturer, demonstrates that, in some instances, a CLEC's costs would increase by thirty-one percent (31%) if it were unable to collocate equipment with multiple functions.[6] To illustrate the additional costs that

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4 Rhythms NetCommunications at 14.

5 *See, e.g.,* AT&T Comments at 3, 21; ATG Comments at 3 ("[i]f ATG were unable to collocate this hardware in an ILEC's central office, ATG would have to incur considerable additional expense...ATG's ability to compete on a level playing field with ILECs would be substantially impaired"); Cisco Comments at 11 ("such a cost differential could easily make a competitive LEC non-liable as a practical, economic, and operational matter"); Comments of Focal Communications Corporation 13.

6 Cisco Comments at 11.

would be incurred, Cisco examines a "smart" DSLAM with built-in quality of service ("QoS") functions.[7] If a CLEC is not permitted to use the QoS functions in its collocated equipment, the only way that it could provide the required quality of service would be to purchase additional bandwidth, DSLAM ports, and power, as well as a second uplink and an additional DS3 transport circuit. Doing so would cause the CLEC to incur substantial additional costs to provide the QoS functions than it would have had to incur using collocated multi-function equipment.[8] As shown above and in CompTel's comments, the result of having to offset these costs is a decrease in the CLEC's collocation throughput.

Moreover, as the above example shows, CLECs likely would exhaust port capacity more quickly collocating less sophisticated equipment, which would require CLECs to purchase additional DSLAM ports and power, among other things, than they would have had to purchase if using multi-function equipment. Once a CLEC exhausts its port capacity, it would need to collocate still more equipment, thus using more space in the incumbent LEC's network. Since the CLEC could have conserved space by collocating multi-function equipment, the additional piece of equipment would result in an unnecessary use of space. Thus, if incumbent LECs truly were concerned about space considerations, they would not advocate a blanket rule foreclosing the collocation of all multi-function equipment.[9]

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7 *See* Cisco Comments at 9 (to meet customer demand, "a service provider must be able to guarantee a certain level of performance (or QoS) commensurate with these services for those needing certainty and reliability.").

8 *See* Cisco Comments at 10-11. It appears that Cisco's example assumes that the incumbent LEC provides bandwidth on a wholesale basis to CLECs. If the particular segment for which additional bandwidth is required is optical, as an initial matter, CLECs may be prevented from purchasing the necessary bandwidth. Several incumbent LECs in this proceeding are refusing to provide access to such "unbundled wavelength" capacity. Thus, Cisco's analysis may be a very conservative estimate of the additional costs that a CLEC would incur if it is prohibited from collocating multi-function equipment.

9 Several commenters explain that multi-functional equipment requires no more space than single function equipment, and in some instances, is smaller than single function

2. Certain Functionalities Are "Necessary" for Interconnection and Access to Unbundled Network Elements.

Numerous parties have argued that various functionalities are necessary for interconnection and access to UNEs. CompTel agrees that each of the cited functions is necessary for interconnection, and therefore, CLECs should be able to collocate equipment containing these functions. In particular, CompTel supports the mandatory collocation of equipment that performs, among other functions, multiplexing, concentration, and/or switching functions. As discussed below, the integration of such functions will enable a CLEC to offer more services to more customers than it might otherwise be able to do.[10]

CompTel's collocation throughput approach justifies the collocation of equipment containing transmission functions, including concentration and multiplexing functions. CLECs use concentration devices in the same manner as do ILECs, that is, to concentrate traffic in order to make more efficient use of network resources.[11] Multiplexers also enable both ILECs and CLECs to use bandwidth more efficiently.[12] AT&T correctly states that the only alternative to

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equipment. *See, e.g.,* Comments at Tachion Networks, Inc. at 3; Rhythms NetCommunications at 13-14. Thus, space concerns as a result of using multi-function equipment are irrelevant.

10 *See, e.g.* Joint Commenters at 24-25.

11 ATG Comments at Attachment 1 (Declaration of Chuck Seefloth) at para. 7 (concentration devices include next generation digital loop carriers, channel banks, and GR 303 concentration devices, among others, and listing the following examples of such devices: Lucent Anymedia Fast Shelf; Cisco 6732; Zhone Sechtor 300; Zhone BAN; and DAML).

12 *See* ATG Comments at Attachment 1 (Declaration of Chuck Seefloth) at para. 7 (multiplexers are an "integral aspect of moving lower bandwidth services onto the higher bandwidth transport facilities that are necessary for the efficient use of network resources"). Even Alcatel, which largely supports the incumbent LECs' comments, recognizes that multiplexing is a "'necessary' feature of electronic equipment used for interconnection or access." Alcatel Comments at 12 (stating that "without such an equipment feature, access would be limited to voice frequency (VF) copper facilities, which, in many cases, could not adequately support POTS.").

collocating equipment containing these transmission functions would be to deploy additional interoffice transport, which would be prohibitively expensive—not to mention antiquated—and ultimately place greater demands on the ILECs' collocation space.[13] Moreover, a CLEC's ability to offer certain services, such as traditional voice services, would be impaired if it were not able to perform certain transmission functions in the central office with the collocated equipment.[14]

CompTel's throughput approach also demonstrates the necessity of collocating equipment containing certain switching functionalities, such as remote switch modules ("RSM") and packet switches. Absent the ability to collocate equipment containing either of these switching functionalities, a CLEC's cost of providing service would increase prohibitively because, as AT&T explains, CLECs would be forced to "incur the costs of multiplexing and 'backhauling' the traffic to and from an off-site location."[15] These functions also enable a carrier to maximize the use of its transport capacity by minimizing the traffic that needs to be routed back to a CLEC's main switch.[16] As such, CLECs are able to maximize the amount of traffic—in other words, throughput—exchanged through the collocation arrangement of such switching functionalities. Without these capabilities, a CLEC would suffer a substantial loss in functionality as well as efficiency.

The additional throughput that a CLEC would realize as a result of collocating equipment with the functions described above proves that the ILECs' arguments are unfounded. Specifically, BellSouth argues, without support, that precluding CLECs from collocating multi-

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13 AT&T Comments at 20-21; see also Joint Commenters at 26 (stating that CLECs would have to incur transport costs among multiple pieces of equipment if they could not collocate multi-function equipment).

14 *See* AT&T Comments at 22.

15 AT&T Comments at 26.

function equipment would not relegate them to providing a lower quality of service than that which could be provided by locating certain functions outside of the incumbent LEC premises.[17] BellSouth does not provide any explanation of how it would be harmed by allowing certain types of multi-function equipment to be collocated, many of which, as noted, require no more space, and in fact, take up less space, than single function equipment. As stated above, without the ability to collocate equipment with multiple functions, not only would CLECs be unable to provide the same quality and range of services,[18] but they also would be unable to provide services of sufficient quality to compete with the ILEC. Thus, BellSouth's position reflects an effort to interpret section 251(c)(6) for its own strategic benefit, rather than any legitimate fear that its property would be taken needlessly due to an overinclusive definition of the statutory term "necessary."

As commenters have recognized, the Commission must adopt a flexible standard; that is, one that not only applies to the present technology and equipment, but also is responsive to changes in the telecommunications marketplace and the evolution of network equipment. As Cisco affirms, "[m]anufacturers 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."[19] Without the ability to collocate state-of-the-art multi-function equipment, CLECs would be relegated to moribund or obsolete equipment, while incumbent LECs would be able to take advantage of modern equipment specifically designed with a wide range of capabilities. This would prevent CLECs from offering the same products and services

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16 AT&T Comments at 27; *see also* Comments of Corecomm, Inc., Vitts Networks, Inc., and Logix, Inc. at 20-21 (stating that CLECs should be permitted to collocate equipment that contains, among other things, remote switching modules).

17 *See* BellSouth Comments at 5.

18 *See, e.g.,* ATG Comments at 3; AT&T Comments at 22.

as the incumbents, and would be discriminatory, unjust, and unreasonable, in violation of section 251(c)(6).

B. The Commission Should Not Seek To Distinguish Between Single-Function and Multi-Function Equipment.

CompTel urges the Commission to reject any putative distinctions between single-function and multi-function equipment. So long as a CLEC has established interconnection with the ILEC through its collocation arrangement, the CLEC should be able to collocate any telecommunications equipment that will help maximize its collocation throughput. Modern telecommunications equipment increasingly defies easy categorization as "single" or "multi" functional. In fact, it is the rare piece of equipment that cannot be broken down into several discrete functionalities that are being provided or made available. As a result, the Commission should not try to determine whether certain equipment is single-function or multi-function equipment, but rather enable CLECs to collocate any equipment that will permit them to take maximum advantage of their collocation arrangement.

The comments of several parties support CompTel's proposal that the Commission permit CLECs to collocate any telecommunications equipment or functionalities within the collocation arrangement where the CLEC has established interconnection with the incumbent LEC. For example, CLECs demonstrate that various types of switching equipment, including "soft switches," are necessary for them to use their collocation arrangement to provide the services they desire to offer.[20] As McLeod USA explains, "soft-switching functionality separates some line-connection and switching matrix functions, allowing the functionality of the

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19 Cisco Comments at 7.

20 *See, e.g.,* Comments of McLeodUSA at 4. *See also* Comments of Tachion Networks, Inc. at 2 (explaining the wide range of functions available in the equipment it develops).

switch to be deployed in physically separate locations."[21] By virtue of collocating this equipment in the CLEC's existing interconnection arrangement, CLECs can increase efficiency and throughput. Without the ability to collocate this equipment within their collocation arrangement, CLECs would not be able to maximize the functionality of the equipment, and thus, their throughput would be reduced rather than maximized.

Additionally, in those instances where CLECs already have invested in certain existing equipment, they should have the ability to add new functionalities by collocating additional equipment rather than being forced to replace their existing equipment with multi-function equipment. Of course, over time CLECs certainly would seek to replace the single function equipment with more advanced equipment when it is economically, financially and technically appropriate to do so. Until that time arrives, however, the Commission should give CLECs maximum flexibility to determine which telecommunications equipment they need to collocate in order to maximize their collocation throughput.

C. The Collocation Throughput Approach Supports the Use of Cross-Connects.

As CompTel stated in its comments, without cross-connects, CLECs would be unable to share each other's resources, and instead, they would have to perform all of the necessary functions themselves within their own collocation arrangements. This would create an economically inefficient and supra-optimal demand for scarce ILEC central office collocation space.[22] The Commission should reject ILEC arguments seeking to prohibit cross-connects between collocated carriers. If CLECs are permitted to engage in cross-connects, CLECs already collocated within the incumbent LEC central office would have the ability to connect to

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21 *Id.*

a functionality that one CLEC might have that another CLEC does not have (but nonetheless could lawfully acquire by placing additional equipment at the expense of the property of the incumbent LEC). This will enable CLECs to take advantage of capacity and capabilities of other CLECs' equipment, and in turn, will reduce the demand for space in the incumbent LEC central office.

Similarly, though the Commission did not address this issue in the *Collocation Order*, the Commission should allow those CLECs that are "virtually" collocated, either through an actual virtual collocation arrangement or, *de facto*, through the purchase of all of the ILEC network elements (e.g., UNE-P), to cross-connect to the collocation arrangement of another CLEC. Such a rule would serve to minimize CLEC dependence on ILEC UNEs, thus only using those ILEC network functionalities that essentially are "necessary" for a CLEC to be able to provide the services it seeks to offer.

II. COMPTEL SUPPORTS THE ADOPTION OF A BROADBAND UNE.

Pursuant to the *UNE Remand Order*, incumbent LECs are required to provide requesting carriers with access to unbundled packet switching in some situations where the incumbent LEC has placed its DSLAM in a remote terminal.[23] CompTel requests that the Commission shore up the loose ends of this requirement by clarifying that the incumbent LEC must provide requesting carriers with access to unbundled packet switching in any instance where the splitting is conducted remotely, whether at a remote terminal or otherwise.

Incumbent LECs must be required to offer packet-switching as a UNE to those CLECs that are unable to collocate in the remote terminal. Access to packet-switching as a UNE

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22 CompTel Comments at 10.

would enable CLECs to take advantage of the full functions remotely placed. Without such access, however, CLECs would be impaired as they would be forced to submit to a less efficient and inferior network configuration.

With regard to the deployment of next generation digital loop carrier ("NGDLC") systems, a CLEC does not obtain collocation for its equipment on the same terms and conditions that apply to the ILEC's own DSLAM, unless the CLEC actually collocates within the remote terminal *and* is able to access all of the subloops served by that remote terminal from the remote terminal. In the case of SBC's Project Pronto, by using splice points rather than cross-connect panels, SBC has ensured that no carrier can collocate efficiently in the remote terminal. The CLECs unable to collocate in the remote terminal are at a material disadvantage to the incumbent LEC. Therefore, the Commission should require all ILECs to offer the same broadband service that SBC has been required to offer, and to do so as a UNE combination subject to Section 251(c)(3).

CompTel further supports those comments arguing that, for the loop, subloop, and the NGDLC, CLECs must be able to have access to the full features and functionalities, which could be purchased as a UNE combination.[24] Specifically, CLECs must have access to all of the features and functionalities of NGDLC systems as individual UNEs. Access to all features and functionalities includes all technically feasible transmission speeds and QoS classes, such as Constant Bit Rate and real time and non-real time Variable Bit Rate that exist in the attached electronics of the loop.[25] As the Joint Commenters noted, it is irrelevant whether the incumbent LEC is not itself using certain features, functions and capabilities within the broadly defined

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23 *UNE Remand Order* at para. 313.

24 *See, e.g.,* Joint Commenters at 64; Comments of IP Communications Corporation at 9.

25 *See, e.g.,* Comments of IP Communications Corporation at 9.

subloop.[26] The incumbent LEC has the ability to use the features if it desires; CLECs merely seek that same capability.

Without full access to these features and functionalities, CLECs would be unable to address those customers who are served off of the "new network" configuration from the central office. It would be extremely unfair if a CLEC's collocated equipment were to be subject to "stranding" or premature obsolescence simply because an ILEC has chosen to deploy a different network architecture. Thus, a "workaround" is necessary in the form of all of the elements used for either voice or data services from the central office to the customer premises in an already combined manner accessible from existing CLEC collocation arrangements.

III. CLECS SHOULD HAVE ACCESS TO UNBUNDLED WAVELENGTHS.

CLECs should have access to unbundled optical wavelength capacity. It is critical for CLECs to have the opportunity to distinguish themselves from the ILECs by, *inter alia*, having full access to the features, functions, and capabilities of the network. Already many CLECs offer a wide variety of products and services to satisfy individual customer needs that might not be available through the ILEC simply because the ILEC either has chosen not to use all of the capabilities of its network, or has configured its use of the network to optimize service to a particular class of customers. For example, an ILEC might want to serve large numbers of customers that require only a faster download speed than they currently receive. In comparison, a CLEC may want to serve a smaller number of customers that have higher bandwidth needs.

Purchasing a dedicated amount of bandwidth would enable a carrier to offer services that it would be unable to otherwise offer. In particular, by purchasing a dedicated

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26 Joint Commenters at 62.

amount of bandwidth called a "virtual private path," a CLEC could offer guaranteed minimum bit rate services to its customers. Many business customers demand a guaranteed level of bit rate capacity. A CLEC would be able to offer these services with a private virtual path. Similarly, even if only the UBR class of service were to be available, a CLEC still would be able to distinguish its service offering by providing a different rate of oversubscription to its customers than the ILEC offers. Without access to a virtual private path, CLECs would be unable to offer "business class," that is, guaranteed minimum bit rate, data services. Thus, if a CLEC wants to be able to offer service to all prospective business customers, it must be able to purchase a dedicated amount of bandwidth, so that it could provide guaranteed service levels.

CONCLUSION

For the foregoing reasons, the Commission should require CLECs to collocate multi-function equipment and to engage in CLEC-to-CLEC cross-connections. The Commission also should adopt a broadband UNE and permit CLECs access to unbundled wavelengths of the local loop.

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OFFICE OF THE SECRETARY

In the Matter of	)	
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Coalition of Competitive Fiber	)	
Providers' Petition for Declaratory	)	
Ruling Concerning Application of	)	CC Docket No. 01-77
Sections 251(b)(4) and 224(f)(1) of	)	
the Communications Act of 1934, as	)	
amended, to Central Office Facilities	)	
of Incumbent Local Exchange Carriers	)	

COMMENTS OF QWEST COMMUNICATIONS INTERNATIONAL INC.

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SUMMARY

The Commission should decline to expand the scope of Sections 224(f)(1) and 251(b)(4) as petitioners request. As both a CLEC and a competitive provider of local transport, Qwest shares many of the petitioners' concerns regarding their ability to interconnect with collocators in ILEC COs. Qwest's own experience as a CLEC demonstrates that alternative sources of fiber transport can promote market entry and help overcome obstacles that might otherwise delay the availability of new competitive services to consumers. On the other hand, as a major ILEC, Qwest will suffer significant harm if the Commission follows the petitioners' proposed course of action. Thus, Qwest is in the position of having to balance the need and desire of a CLEC and a CFP for access to collocation space in ILECs' COs and the totally lawful desire of an ILEC to control the use of its own private property.

While the Petition may have "pro-competitive" attributes, it is neither legally sound nor in the public interest and should be rejected by the Commission. Not only do petitioners urge the Commission to enter into perilous constitutional waters by dramatically expanding the scope of LEC property that is subject to taking under Section 224, but they also ask the Commission to find a new collocation right that would extend collocation obligations to all LECs, not just to ILECs. Furthermore, the Commission does not need to adopt petitioners' legal position to accommodate the needs of CFPs to interconnect with collocators in ILECs' COs.

There is only one provision of the Act, Section 251(c)(6), that allows other telecommunications carriers a right to occupy space in ILECs' COs. Neither Section 224 nor Section 251(b) address rights of access to the CO itself; these Sections can only be read to address telecommunications carriers' rights of access to poles, conduits, and rights-of-way running through other property. As with any other statutory provision authorizing the taking of