(202) 986-8205

July 27, 2001

VIA HAND DELIVERY

Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Notice of Ex Parte Presentation
Access to UNEs by CMRS Carriers

CC Docket No. 96-98

Dear Ms. Salas:

On July 25, 2001, Robert A. Calaff, Esq. of VoiceStream Wireless Corporation, Mr. Robert D. Edgerly of Nextel Communications, Inc., Mr. Carl Hansen of Hansen Communications Consulting, and the undersigned attorneys met with Commission Staff to discuss the issue of incumbent LECs' failure to provide unbundled network elements to CMRS carriers. The Common Carrier Bureau Staff participating in the meeting were: Michele Carey, Julie Veach, Jeremy Miller, Jonathan Reel, and Stacy Jordan. The Wireless Telecommunications Bureau Staff participating in the meeting were: Thomas Navin and Gregory Vadas. Douglas Brandon of AT&T Wireless and Michael Pryor, Esq. of Mintz, Levin, Cohn, Ferris, Glovsky, and Popeo also attended the meeting. A copy of materials we provided Staff at the meeting is attached hereto.

Pursuant to 47 C.F.R. § 1.1206(b)(2), a copy of this letter is being filed electronically with the Office of the Secretary. We also are providing copies to Commission Staff who participated in the meeting.

Respectfully submitted,

/s/

Douglas G. Bonner
Elizabeth Dickerson

Counsel to Nextel Communications, Inc.
and VoiceStream Wireless Corporation

Enclosure
cc: Commission Staff
Robert A. Calaff, Esq.
Mr. D. Robert Edgerly

ACCESS TO UNES BY CMRS CARRIERS

NEXTEL COMMUNICATIONS, INC.
VOICESTREAM WIRELESS CORPORATION

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION

July 26, 2001

EXISTING UNBUNDLING RULES ALREADY APPLY TO CMRS CARRIERS.

- 47 U.S.C. § 251(c)(3) and 47 C.F.R. § 251(c)(3) require ILECs to provide to "**any requesting telecommunications carrier** for the provision of **a telecommunications service**, nondiscriminatory access to network elements on an unbundled basis."

- The Conference Report of Telecommunications Act of 1996 (January 31, 1996, at 114) specifies that the definition of "**telecommunications service**":

  - Includes CMRS carriers, and
  - Applies "regardless of the facilities used to transmit the telecommunications service."

- CMRS Carriers are "requesting carriers" that provide "telecommunications service (CC Docket No. 96-98 (rel. Aug. 8, 1996, at ¶ 993)).

CMRS CARRIERS ALREADY ARE COVERED BY THE COMMISSION'S IMPAIRMENT ANALYSIS.

- Initial impairment analysis was not restricted to CLECs.

- "[T]he Act is designed to create a regulatory framework that requires incumbent LECs to make network elements subject to the unbundling obligations of section 251 available to *all* requesting carriers, subject to the requirements of section 251(d)(2), and allows the marketplace to determine ultimately which competitors thrive or survive." (*UNE Remand Order*, discussing impair standard, CC Docket No. 96-98, 15 FCC Rcd 3696 (1999) at ¶ 53, emphasis in original)

- CMRS carriers are impaired in their ability to provide telecommunications services without access to UNEs.

A BROAD READING OF DEFINITION OF DEDICATED TRANSPORT IS NECESSARY TO COMPLY WITH CONGRESS' INTENT.

- 47 C.F.R. § 51.319(d)(1)(i) defines **dedicated transport** as "incumbent LEC transmission facilities including all technically feasible capacity related services including, but not limited to DS1, DS3 and OCn levels, dedicated to a particular customer or carrier, that provide telecommunications **between wire centers** owned by incumbent LECs or requesting telecommunications carriers, or **between switches** owned by incumbent LECs or requesting telecommunications carriers.

- Just as paging terminals perform switching functions akin to end office switch, Commission should clarify that **base stations are equivalent to LEC end office switches.** (*See*, *TSR Wireless v. US West*, File Nos. E-98-13, E-98-15; E-98-16, E-98-17, E-98-18,15 FCC Rcd 11166 (2000) at ¶¶ 22-23)

BASE STATIONS PERFORM MORE EXTENSIVE SWITCH-LIKE FUNCTIONS THAN PAGING TERMINALS.

- The Commission describes the base station switching functionality in its Commission's First Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Services (FCC 95-317, 10 FCC Rcd 8844 (1995) at ¶ 18):

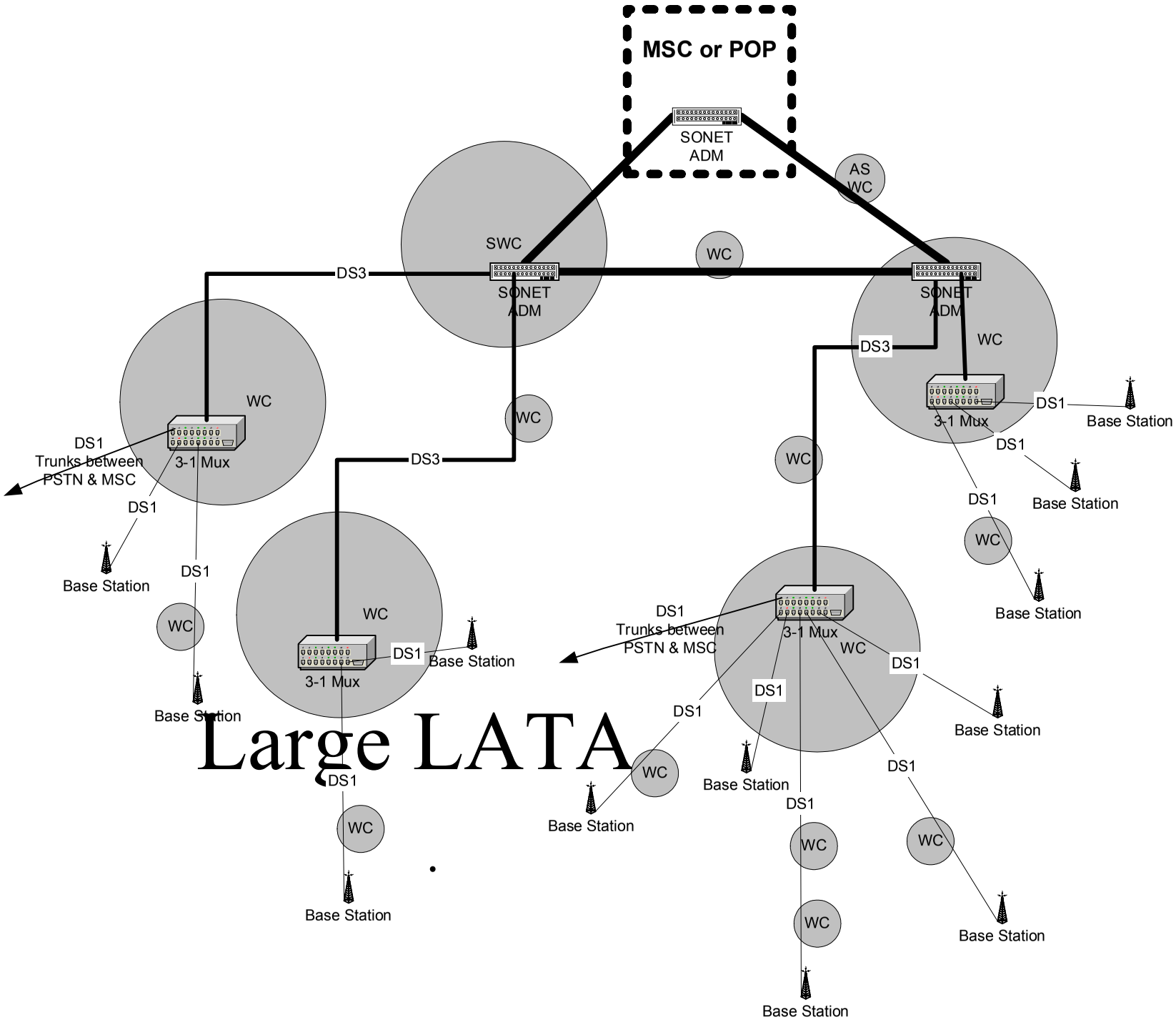
- **"The base station** broadcasts information to the subscriber's telephone about which channel the telephone call will be placed on, and **ultimately connects the call through the PSTN."**

CMRS CARRIERS OFFER CONSUMERS EXISTING ALTERNATIVES TO ILECS, PARTICULARLY IN UNDERSERVED AREAS.

- Often CMRS is only other option in rural areas and for residential service.
- Restriction of UNEs thwarts deployment of CMRS service geographically.
- Deployment of 3G requires access to UNEs.

PROCEDURAL VEHICLES AVAILABLE TO ACHIEVE GOAL OF INCLUDING CMRS CARRIERS UNDER COMPETITIVE UMBRELLA OF THE 1996 ACT

- CMRS right to access UNEs could be clarified in CC Docket No. 96-98:
  - Special Access/EELS proceeding, or
  - FCC response to RBOC Joint Petition (CC Docket No. 96-98)
- Alternatively, CMRS carriers could file Rocket Docket Complaint.


MSC or POP
SONET ADM
AS WC
SWC
WC
DS3
SONET ADM
SONET ADM
DS3
WC
3-1 Mux
DS1
Base Station
DS1
Base Station
DS1
Base Station
WC
DS1
Trunks between PSTN & MSC
3-1 Mux
DS1
Base Station
DS1
WC
Base Station
WC
DS3
WC
WC
3-1 Mux
DS1
Base Station
WC
DS1
Trunks between PSTN & MSC
3-1 Mux
WC
DS1
Base Station
DS1
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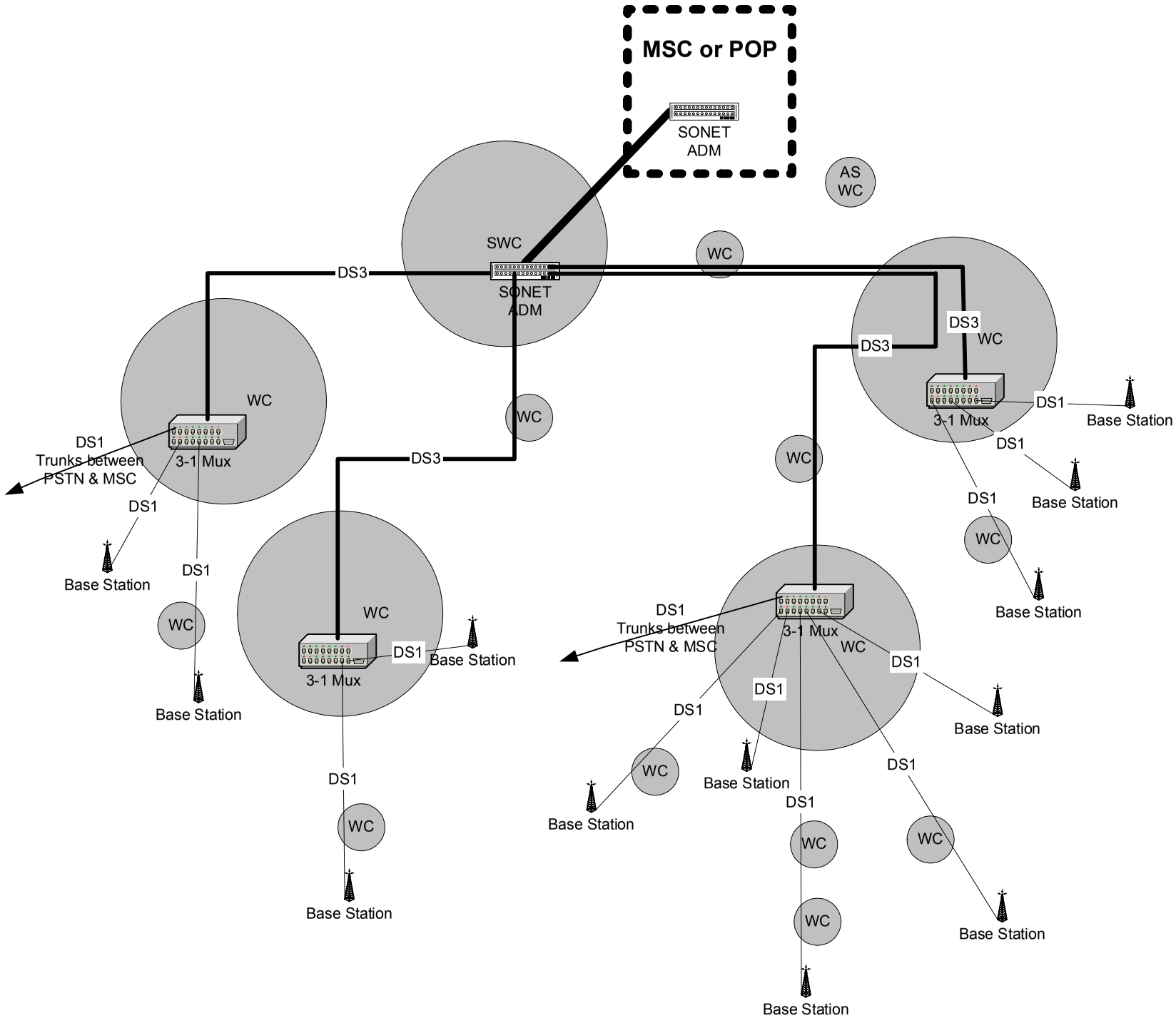
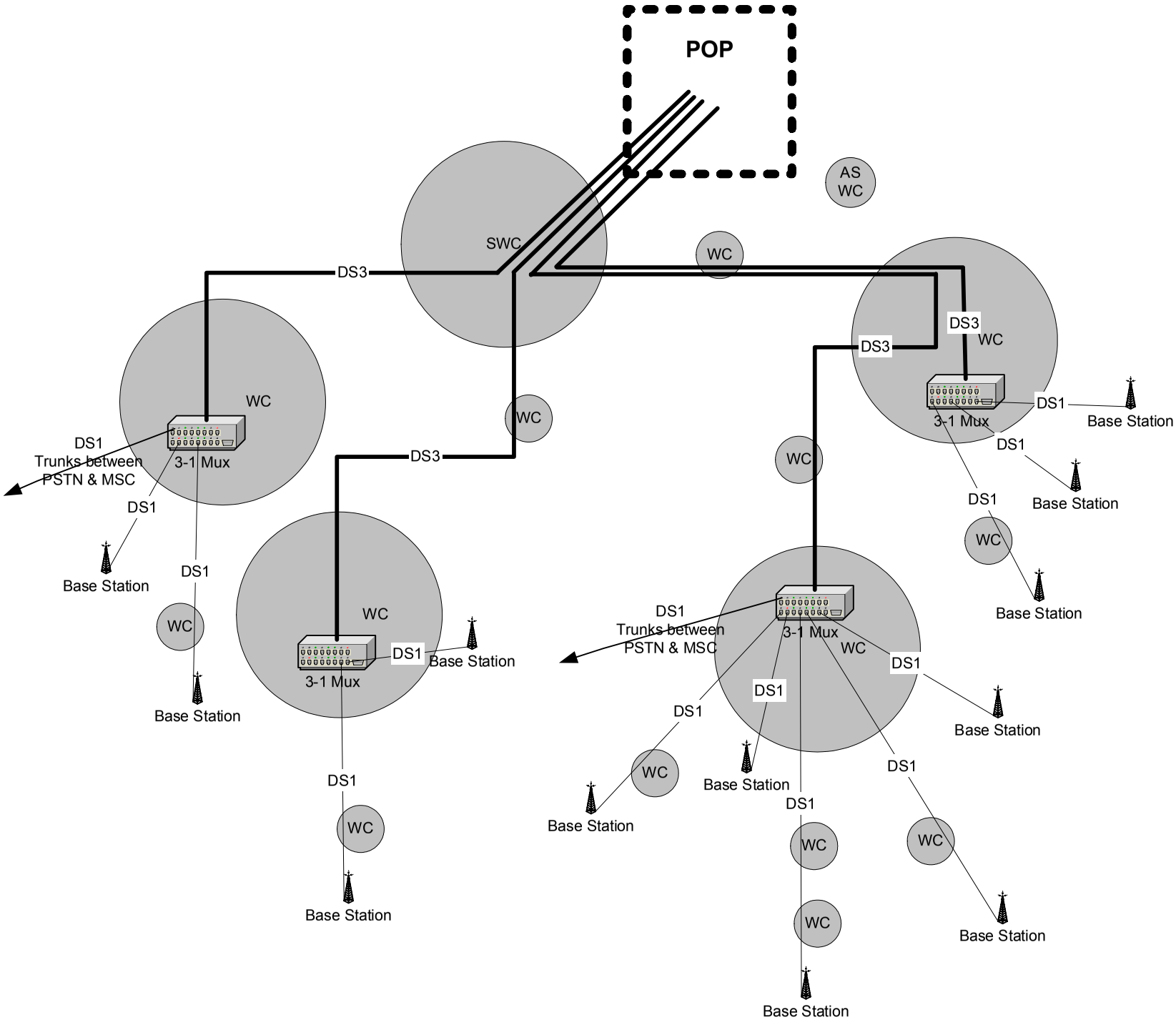
WC
Base Station
WC
Base Station

Large LATA

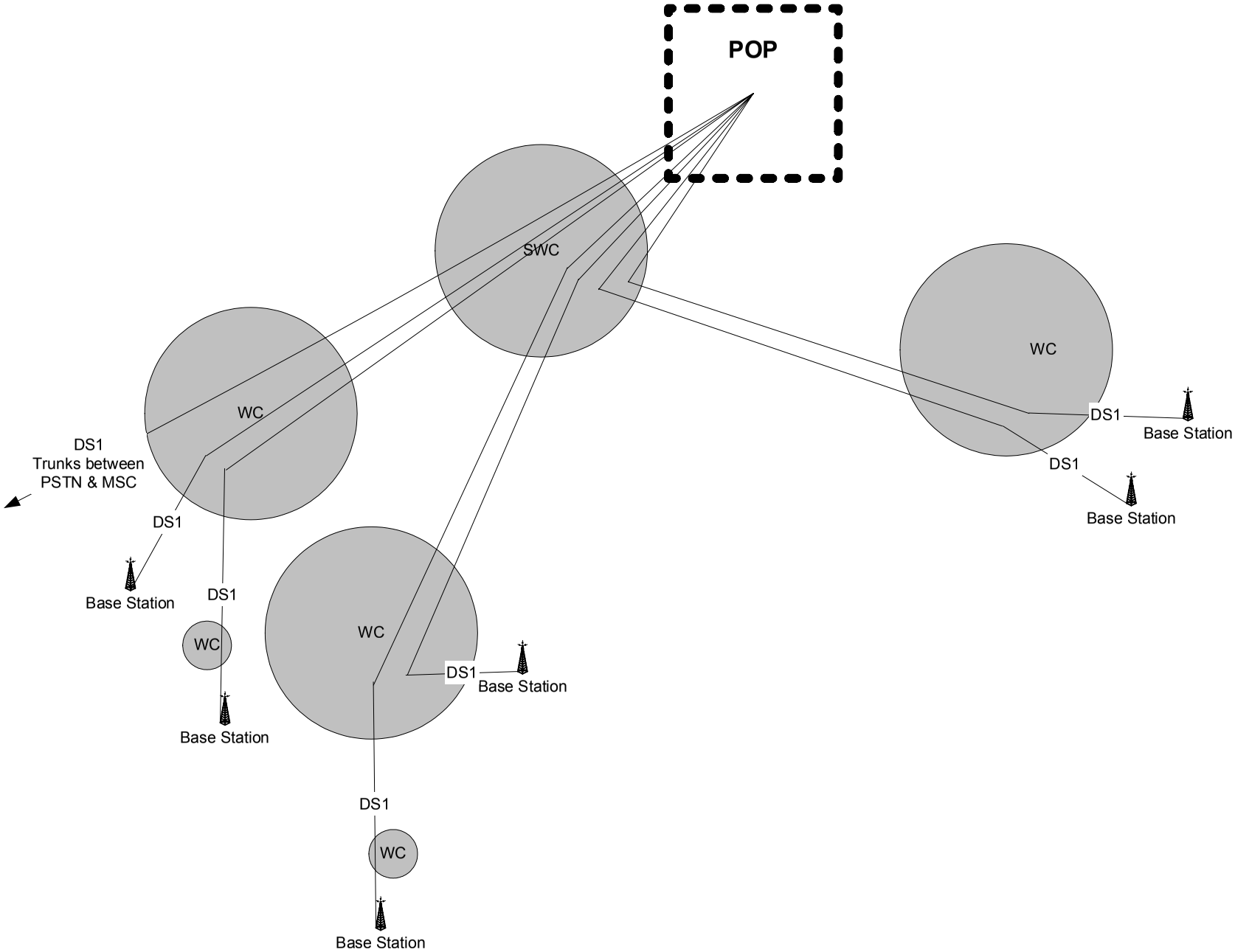
Medium-Large LATA



Suburban LATA



Rural LATA


POP
SWC
WC
WC
WC
WC
WC
DS1
Trunks between
PSTN & MSC
DS1
DS1
DS1
DS1
DS1
DS1
Base Station
Base Station
Base Station
Base Station
Base Station
Base Station

NOTES

- Drawing Titles are illustrative only.
- SONET ring configurations typically have three or more Add/Drop Multiplexers (ADM), one of which is at the CMRS carrier's MSC location or POP. Rings pass through the ILEC Serving Wire Center (SWC) and Alternative Serving Wire Center (ASWC) for the MSC/POP. ADMs may/may not be located at the SWC or ASWC.
- Point to Point SONET configurations typically have two ADMs, one of which is at the CMRS carrier's MSC location or POP. The other ADM may be at the SWC, or another ILEC Wire Center (WC). SONET facility passes through SWC serving the MSC/POP. In some instances, a ring configuration could be established with only two ADMs by routing the "protect" pair of fiber through the ASWC. This type of ring has a single point of failure at the ILEC ADM and is not as robust as a three ADM ring.
- 3-1 Multiplexers (Mux) may be co-located with ADMs or at other WCs where a heavy concentration of DS1s exist.
- DS3s are used to connect the ADMs with the Mux locations.
- Networks for smaller LATAs may not use SONET facilities. Instead DS3s from the CMRS POP (smaller LATAs may not have a physically-located Mobile Switching Center) extend to the Mux locations. Very small networks may not even have DS3s, if only a handful of Base Stations are installed.
- DS1s extend from the Mux locations to Base Stations and to the ILEC PSTN switches (Type 1, 2A, 2B trunks). DS1s may also be used to carry SS7 connections to ILEC STPs.
- DS1s to the PSTN are connected to the trunk side of the MSC, and may share the same high capacity infrastructure as the DS1s to the Base Stations. There are no connections between Base Stations and the PSTN except through the MSC.