but particularly for customers who are located at extended distances from the central office. Thus, the introduction of next-generation architecture permits ILECs and their data affiliates to provide a whole host of new services, and higher-quality existing services, to their customers.

37. For example, a major benefit of remote terminal deployment is that more consumers can obtain xDSL services. With the traditional all-copper loop, approximately 20 percent of all customers, and an even higher percentage of customers in rural areas, are located more than 18,000 feet from a central office, which is the current technical limit for access to most ADSL services. Where RTs are deployed to shorten copper subloops, these customers can be reached with xDSL offerings. In addition, as discussed below, noise and other signal impairments on copper facilities are exacerbated as loops increase in length. Thus, the potential bit rates/transmission speed on copper loops are inversely related to distance, so that ever-shorter runs of copper translate into ever-higher digital transmission speeds.

38. Moreover, emerging services that require very high transmission rates can be accommodated through the use of very high data rate ("VDSL") technology, but only when the copper segment is shorter than 4,500 feet. Thus, use of the new RT-based technology will be of enormous benefit in making bandwidth necessary to enable consumers to access audio streaming, video streaming, and perhaps soon even video-on-demand feasible and thereby encourage further investment.[21]

[21] *See, e.g.*, U.S. West, *Choice TV & Online Service* (visited Oct. 5, 2000) <http://www.uswest.com/products/ video-internet/choice/documents/vdsl_facts.doc> (fact sheet discussing the use of "VDSL and 'fiber-to-the-neighborhood' technologies to offer fully integrated video and high-speed services to residential and business customers"). Qwest is already providing such services to 52,000 subscribers. *See id.*

39. Critically, the deployment of new plug-in electronics closer to retail subscribers also improves the ILECs' economies in their loop plant where monopoly economies of scale are already substantial. Remote terminal locations are selected such that the distance from the RT site to the end user is relatively short. The RT equipment effectively mimics the central office environment in that it provides a location to interconnect facilities and transmission equipment. Thus, from a technical perspective, some of the functionality formerly provided at the central office has been moved closer to the end user. This permits the offering of digital services that were heretofore precluded because of extended distance or analog design. Moreover, it is feasible to encode digital services in a manner that permits multiple services to exist on the same line. These electronics enable the ILECs to efficiently provide both voice and data services to a huge embedded base of voice customers over a single line.

40. Thus, if properly deployed and operated in a nondiscriminatory manner, next generation RT-focused architectures have the potential to create an open, efficient, and forward-looking loop architecture that benefits everyone -- consumers, CLECs and ILECs alike. As described below, however, because these additional loop functionalities are deployed closer to customers, it becomes extremely difficult -- both practically and economically -- for more than one carrier to deploy this technology remotely, except in limited situations.

41. The speed and manner in which ILECs implement technology improvements, particularly in the loop plant, will substantially affect whether competition is advanced or thwarted. If competitive LECs are not able to access loops provided through the use of next generation equipment, they will not be able to offer consumers the full range of benefits flowing from the new hybrid fiber/copper networks, and will be at a significant competitive disadvantage vis-a-vis the ILECs.

IV. IN A NEXT-GENERATION NETWORK, COMPETITORS MUST BE ABLE TO ACCESS THE ENTIRE LOOP IN ORDER TO UTILIZE THE FULL TRANSMISSION FUNCTIONALITY AVAILABLE.

42. None of the adjustments that are being made in loop technologies alter the basic characteristics of the unbundled loop element that the Commission has recognized and incorporated into its current unbundling rules. First, and foremost, the loop still remains the essential pathway between the subscriber's premises and the central office. Thus, whenever the ILEC used DLC and fiber feeder to augment its copper loop plant using universal digital loop carrier plant, the Commission – and even the ILECs – simply (and properly) assumed that the multiplexing associated with those capabilities was part of the loop functionality. The loop configuration for next generation architecture is no different: a copper pair from a customer's premises connects to a remote terminal; fiber provides a connection from the RT to the central office; and transmission electronics terminate, interface and manage the efficient use of the two transmission media.[22]

43. Second, the function of the loop between the customer's premises and the central office is straightforward: it is the transmission functionality necessary for retail customers to send and receive information between their location and the network of the service provider. Again, however, the transmission functionality taking place in next generation RT architecture is no different than that the transmission functionality that takes place in a more traditional DLC architecture.

44. Next generation RT architecture enables the ILEC to separate the voice and data traffic in the field and to create separate paths for aggregated voice and aggregated data traffic back to the rest of the ILEC's network. All of this is part of the "classic" loop function, *i.e.*, the

[22] *See* Frontera/Hill Decl. ¶¶ 20-21.

functionality necessary to convey traffic from a customer's premises back to a frame on a central office where it can be delivered to a competitor for switching and other network functions. The electronics introduced in the RT simply allows for the loop to be more fully utilized by performing transmission functions more efficiently for a wider range of telecommunications customers and services.

45. Clearly, the copper distribution subloop provides a transmission functionality that no one can reasonably contest. Similarly, as in other uses of DLC, the fiber feeder facilities running from the remote terminal to the central office cannot be considered anything other than a transmission functionality.

46. The transmission functionality of fiber feeder facilities is limited only by the electronics the ILEC has deployed, and there is no reason why competitive carriers should not be permitted maximum flexibility, within broad network engineering parameters that ILECs have not yet specified (but should be required to demonstrate), to request all technically feasible fiber feeder capabilities as part of an entire loop. This would include providing levels of throughput assurances even if the ILECs (or their affiliates) are not themselves currently using such capabilities.[23] For example, when ATM transmission techniques are employed in the feeder, requesting carriers should have the option of obtaining any technically feasible transmission media in any possible format, including ITU-T Quality of Service Classes A, B, C, and D; ATM Forum Quality of Service Classes 1, 2, 3, and 4; and the following service class categories:

[23] Such a requirement would be similar to the FCC's unbundling rule for local circuit switching, which requires ILECs to make available all vertical features that the switch is capable of providing, regardless of the particular vertical features that the incumbent offers to its retail customers. *See* 47 C.F.R. § 51.319(d)(1)(i).

available bit rate, constant bit rate, real time and non-real time variable bit rate, and unspecified bit rate PVCs.[24]

47. As a general proposition, in all but rural areas, adding electronics to the fiber portion of the loop can be more cost efficient than adding more fiber. When one compares the cost of fiber deployment (the cost of cable and hardware termination), supporting structures (conduit, poles, and trenching), and labor (splicing, etc.) against the cost of installing multiplexing equipment of higher speeds at the RT and the central office (and the potential usefulness elsewhere of the low-speed multiplexer being replaced), the analysis frequently favors equipment upgrade. For example, if an ILEC installed fiber to the remote terminal with OC-3 capabilities, it would generally be cheaper to convert to OC-12 electronics than to install all new fiber. In addition, there are RT DLCs on the market today that permit in-place upgrades that increase the bandwidth capacity simply by replacing existing line cards with higher capacity line cards.[25]

48. The remotely deployed and "attached" electronics at an RT also provide traditional transmission functionality that is readily adaptable to the loop plant. Their purposes are to interoperate with central office equipment so as to maximize the efficiency of the feeder facility's transmission and, in some cases, to interoperate with customer premises electronics to

[24] A single circuit connecting two points and supporting a single service category is known as a virtual circuit. A permanent virtual circuit ("PVC") is one established via network management and is expected to be of long duration. If information is not being transmitted over the PVC, it does not take up space (bandwidth) on the network. However, a PVC is designed to be ready and waiting to receive cells whenever they are made by the subscriber.

[25] For older DLCs, upgrading capacity from OC-3 to OC-12 could require the installation of an additional common control assembly by plugging it into the old common control assembly.

increase the reach, efficiency and capability of the copper distribution facility's transmission.[26] These electronics are largely, if not exclusively, responsible for: (i) determining how much information a customer can transmit/receive per unit of time; (ii) controlling communications with the service provider's network; and (iii) determining the efficiency (and therefore the cost) of facility use. Finally, means to terminate and cross-connect facilities and equipment are provided at various secured points along the loop. In sum, RT loop electronics provide particularly critical transmission-related functionalities that determine the extent to which carriers can utilize the full potential of the loop.

49. As I explain in Part V. below, it is critical that multiple carriers have the ability to maximize the use of the electronics in an ILEC's RT, not merely an opportunity to deploy their own remote electronics, because in most instances, there is insufficient space to allow multiple carriers to deploy sufficient electronics remotely (*i.e.*, outside a central office collocation), and in virtually all cases it is economically infeasible to do so. As a result, competitors must rely on the equipment deployed by ILECs in order to access all of the capabilities of the UNE loop. In addition, an RT configuration enables the ILEC to achieve even greater economies of scale and scope than in the copper network architecture model, because the loop aggregation functions are performed even closer to customers than under standard DLC configurations. Thus, CLECs are even less likely to be able to replicate the RT architecture than they are to replicate the old copper loop plant model.

[26] As indicated in the Frontera/Hill Decl. at ¶¶ 21-22, loop electronics provide transmission and limited surveillance functionality.

50. In particular, the loop electronics that CLECs must be able to access include, but are not limited to, line cards and other remote terminal electronics, ILEC-owned line splitters, the statistical multiplexing functionality of ATMs and DSLAMs.

1. Line Cards and Other Remote Terminal Electronics -

51. A DLC system converts analog signals into digital signals, performs concentration functions, multiplexes multiple signals onto a single facility and may perform protocol conversion and buffering functions.[27] Whether or not a particular DLC configuration is designated "Next Generation," the functionality is essentially the same. The only significant differences relate to the efficiencies that can be achieved for the transmission media used.

52. The Commission has, from the outset, recognized that the DLC functionality, including the associated multiplexing and demultiplexing needed to get traffic on and off of high capacity facilities, is part of the loop element.[28] This is absolutely correct from a technical and engineering standpoint, because the principal reason for deploying DLC is to increase network efficiencies in the loop plant, not to perform conceptually different network functions. Next generation RT architectures are simply an even more efficient way of implementing the essential functionality of the loop.

53. Indeed, the functionalities provided by the DLC in a next generation architecture, including the plug-in, or "line card" used within the DLC, are transmission functions commonly employed in *any* transmission facility, regardless of whether loop or interoffice facilities are considered, including protocol conversion, buffering, modulation and multiplexing. This is not

[27] *See, e.g., Line Sharing Order*, ¶ 69, n.152.

[28] *Local Competition Order* ¶ 383.

only true from an engineering standpoint. All involve functions that the Commission has previously determined are subject to ILEC unbundling requirements, most particularly as regards the loop and associated electronics.[29] None of these functions can, or should, be considered "packet switching" functions.[30]

54. For example, some line cards may have circuitry that provides line splitting and DSLAM functionality on the same plug-in unit while other line cards do not. In all cases, however, the line cards are simply part of the loop, because they provide basic transmission functionality essential to structure the delivery of information to the loop transmission media so that the media's transmission capacity may be fully utilized.

55. In the *UNE Remand Order*, the Commission classified the DSLAM as part of the packet switching network element rather than the loop element.[31] As a technical matter, this is incorrect, especially as it relates to remotely deployed DSLAM capabilities in remote terminals. DSLAMs (as the name Digital Subscriber Line Access Multiplexer designates) provide *transmission*, not packet switching, functionality. The Commission has correctly found that

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[29] *See, e.g.*, *Local Competition Order* ¶ 383; *UNE Remand Order* ¶ 175; *Advanced Services Memorandum Order* ¶ 54; *BA-NY 271 Order* ¶ 271.

[30] Even if the Commission should erroneously conclude that the line card contains some packet switching functions, that does not, or should not, mandate a finding that the line card should not be found to be "attached [loop] electronics." Such an exception would encourage ILECs to "hide" loops from competitors by placing the plug-in cards, and other critical electronics in their unregulated affiliates, where the ILECs would undoubtedly claim that they are beyond the reach of section 251(c).

[31] *UNE Remand Order* ¶ 303. AT&T has petitioned the Commission for reconsideration of its determination that DSLAMs are not included as part of the attached electronics within the definition of the loop. *See Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, AT&T Corp.'s Petition For Reconsideration and Clarification of the *Third Report and Order*, at 9-11 (filed Feb. 17, 2000).

packet switching involves the "routing [of] individual data units based on address or other routing information."[32] However, the DSLAM functionality included in the line card provides only a transmission functionality that permits more information to transit the loop (per unit of time) than would otherwise be possible.[33] The simple engineering fact is that the DSLAM makes *no* routing decision -- the key factor in the definition of a switch -- and indeed it cannot physically do so. One need only examine the current DSLAM technology to make this determination. In the remote terminal, a DSLAM has multiple subscriber loops on the customer side but only one or two facilities on the network side (depending on whether voice and data traffic are carried on the same, or separate fibers). Thus the DSLAM does not -- and cannot -- make any determination regarding the transmission path that will be used for a particular transfer of information.[34]

56. Thus, the remotely deployed DSLAM functionality in a line card performs multiplexing, concentration, protocol conversion and buffering functions -- all of which are transmission functions[35] -- but it does not perform switching. The DSLAM manages the information transfer from the customer premises and formats the transmission below 4 kHz into a GR303 format and formats the transmission in the higher frequencies into a cell (packet) format. Thus, protocol conversion, but no switching, occurs. The GR303 formatted signals are sent to one (and only one) circuit switch where switching occurs and the cell formatted

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[32] *UNE Remand Order* ¶ 302.

[33] It is conceivable that a packet switch could be deployed with only one connecting facility. In such a case, the switching aspect of the packet switch would effectively be dormant and the equipment would be providing solely a conductor optimization (*i.e.*, transmission) function.

[34] Even in a central office environment, a DSLAM operates only as a multiplexer. A DSLAM has no ability to perform the basic function of a switch, i.e., to choose and establish real-time routing paths for particular communications.

[35] Frontera/Hill Decl. ¶¶ 7-16.

transmission is sent to one (and only one) ATM device, which maps end users' cells to the initial data switch of various carriers' data networks.

2. *Statistical Multiplexing Functionality of ATMs*

57. ILECs' deployment of next generation network architecture to enhance the transmission functionality of the loop requires the addition of new equipment in the central office as well as in the remote terminals. For example, in order to concentrate and terminate data signals to various CLECs' networks, the ILECs must place an ATM-like piece of equipment in the central office.

58. As with many other kinds of telecommunications equipment, ATM-like equipment is multifunctional, serving two separate purposes. First, it manages the sending and receiving of signals over a facility (in this case the fiber-feeder portion of the network between the remote terminal and the central office), so as to maximize the use of that facility. Second (and separately), the ATM may perform the switching function of routing data packets throughout the ILEC's data network (only). Only the former functionality is associated with the loop element.

59. The DSLAM functionality in the line cards at the remote terminal encodes signals from multiple end users into an ATM format and places them in a commingled manner on a singled fiber conductor connecting to the ATM in the central office. Together, they perform what is called statistical multiplexing. Such multiplexing, unlike TDM, permits more information to be transmitted on a facility per unit of time because the arrangement does not require capacity to be reserved for end users that are not generating a signal. However, because cells of various carriers are commingled on a common feed facility, there must be some means to

place the cells on a facility that connects them to the carrier providing the data switching functionality. When it functions in this capacity, the ATM is providing only a demultiplexing/re-multiplexing function that simply puts all the cells destined for the same carrier on the same facility.

60. Indeed, in this capacity, the ATM functionality is no different than TDM, which is a clear transmission function that the Commission has recognized that the ILECs must provide in a UDLC configuration. With TDM, a CLEC customer's traffic is placed in a particular "time slot" and the CLEC is given access to that "time slot" in the central office. Similarly, with statistical multiplexing, the CLEC customer's traffic is put in packets and the CLEC is given access to that customer's packets only in the central office.

61. Access to the multiplexing functionality of the ATM is critical to CLECs' ability to serve their customers. Indeed, any other result would simply preclude CLECs from competing with the ILECs to provide the same services the ILEC (and its data affiliate) can offer. All CLECs require is a centralized place at which to collect their customers' voice and data signals, so they can connect the signals to a switch -- whether a circuit switch or a packet switch. CLECs have no objection if ILECs believe the most efficient place in their networks to aggregate data cells is at an ATM. However, from an engineering standpoint, this is the *true* end of the loop, *i.e.*, it is the first centralized point in the ILEC network where a CLEC can access its customers' communications.[36] Having chosen to gain the efficiencies of statistical multiplexing, however, ILECs cannot be heard to complain that they must provide CLECs with access to their

[36] Thus, even if there is another way to get at the customer's data "bits" at a central office collocation when the ILEC uses a standard copper loop to provide service (possibly supporting the limited access to DSLAMs in such cases), that is certainly not the case in the next-generation RT architecture.

customers' data cells at the ATM. Moreover, by allowing CLECs to access this limited functionality of the ATM, the CLECs do not benefit from any "switching" function that the ATM may also be capable of performing in other configurations. CLECs would specifically *not* be able to access the ATM's ability to perform facility integration that allow customers' cells (or packets) to reach their end point destination. Thus, the CLECs cannot use the ATM to provide an advanced service, and they have every economic incentive to invest in their own packet switching facilities to do so.

62. It is also impossible for CLECs to efficiently duplicate the ILECs' remote configurations. An ILEC can deploy the ATM functionality once in an office to support all the remote terminals homing on the central office and all CLECs interconnecting at the office. The only alternative available to CLECs, however would be for *each* CLEC in a central office to establish its own high capacity facility to *each* RT where its customers' copper subloops are terminated. This is extremely costly and wasteful of transmission capacity. No individual carrier could justify building its own facility at each RT where it might ultimately serve a customer.[37]

3. ILEC-owned Splitters -

63. The splitter is properly considered part of the loop because it plainly constitutes "attached electronics" necessary to provide CLECs the ability to take advantage of the full functions, features, and capabilities of the loop. A splitter is an electronic device that -- like the loop itself -- is necessary to enable a carrier to provide both voice and data services on the same

[37] Some of this waste might possibly be reduced if each carrier could deploy additional equipment at each remote terminal to perform an add/drop function and to interface with the DLC to permit use of a SONET ring architecture. However, as shown elsewhere in my declaration, there is typically no space for such equipment at an RT.

loop. Specifically, a splitter is a passive electronic filter that may be attached to the loop in order to split or separate the low and high frequency portion of the loop. The functions of frequency splitting are entirely different from packet (or any other form of) switching. A splitter simply subdivides a physical conductor (i.e, the loop) into two separate transmission channels based upon frequency. It is a very rudimentary form of multiplexing, because it permits two distinct signals on a single conductor.[38]

64. Adding a splitter to a loop is analogous, in all relevant technical respects, to adding or removing of other loop electronics, such as bridge taps, load coils, or conditioners. In fact, splitters and load coils are composed of the same type of electronics: inductors. Moreover, attaching an ILEC-owned splitter is analogous to an ILEC's conditioning of a loop to minimize loss by disconnecting the cross-connect between the loop and port and inserting an enhancer onto the loop.[39] Finally, adding a splitter is necessary to provide voice service when a customer also requests advanced data service over the same line, a configuration that is crucial to the development of a competitive market for advanced services.[40]

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[38] In essence, the splitter allows a carrier to use one physical loop facility for two (or more) simultaneous transmissions, thus creating two (or more) "virtual" loops within one physical loop. The existence of the two or more virtual loops permits one to carry the telecommunications (typically, although not necessarily, voice service) in the low-frequency spectrum (300-3400 MHz) and the other to carry telecommunications (typically, although not necessarily, data services) in the high-frequency spectrum.

[39] In both cases, the modification of the loop is accomplished by disconnecting the cross-connect between the loop and the switch-port and cross-connecting over to electronics that are attached to the loop.

[40] For all of these reasons, arbitrators in Texas have recently found that splitters should be considered attached electronics that are a part of the loop element. *Arbitration Award, Petition of Southwestern Bell Telephone Company for Arbitration with AT&T Communications of Texas*, Docket No. 22315, at 17 (Sep. 13, 2000).

V. IN A NEXT-GENERATION ARCHITECTURE, NEITHER REMOTE TERMINAL COLLOCATION NOR SPARE COPPER IS A VIABLE COMPETITIVE OPTION FOR CLECS.

A. Remote Terminal Collocation Is Not Viable for CLECs

65. One theoretically possible way for CLECs to be able to offer advanced services is to place their equipment in the remote terminal and use this equipment to connect to the copper subloop coming from the subscriber's premises. Under this scenario, competitors would bypass the ILEC's transmission equipment inside the remote terminal (and may even bypass the loop feeder plant). As a result, remote terminals and/or SAIs have unquestionably become a critical interconnection and collocation point in this new network, as they are now the gateway to the shorter copper loops (or more properly subloop facilities) that lead to customers' premises.[41] As the Commission has correctly found: "[i]n cases where the incumbent multiplexes its copper loops at a remote terminal to transport the traffic to the central office over fiber DLC facilities, a requesting carrier's ability to offer xDSL service to customers served over those facilities will be precluded, unless the competitor can gain access to the customer's copper loop before the traffic on that loop is multiplexed. Thus, we note that the remote terminal has, to a substantial degree, assumed the role and significance traditionally associated with the central office."[42] Accordingly, the Commission required ILECs to allow competitors access to remote terminals and the subloop facilities that extend from the remote terminal.

66. Although it is important that CLECs have access to the remote terminals, any claim that CLECs can collocate their own stand-alone electronics at the remote terminals in a manner that would support mass-market competition simply ignores reality. While remote

[41] *SBC Waiver Order* ¶ 33.

[42] *UNE Remand Order* ¶ 218.

terminal collocation may be theoretically possible, there is little prospect that it could provide a practical competitive alternative for CLECs. In order for a CLEC to deploy its own remote electronics, it generally must have access to the following:

- a physical location in which to deploy its equipment;
- power to run the equipment and heat, ventilation, and perhaps air conditioning ("HVAC") to control the equipment environment; and
- efficient means to connect and modify cross-connection of the equipment to other necessary facilities, such as the copper pair on the customer's side of the remote terminal and fiber feeder facilities (both data and voice) back to the central office.

As discussed below, the recent deployment of electronics at RTs only serves to heighten, not diminish, barriers to the CLECs' replication of the ILEC plant.

67. Space constraints will generally prevent more than one carrier (including the ILEC's advanced services affiliate) from placing electronics in a traditional collocation at a particular remote terminal. Existing remote terminals were sized for the area and service mix they were expected to serve at the time they were built, and therefore are unlikely to have spare space for competitive LEC equipment (unless the ILEC's forecast grossly overstated demand). Indeed, the ILECs have openly admitted that RTs are typically housed in small cabinets that have not been deployed with any excess space to accommodate any additional CLEC equipment. SBC, for example, has previously advised the Commission that "there is little or no excess space in cabinets," which are the most prevalent of the three types of remote terminals currently deployed.[43] Verizon and BellSouth also advised the Commission that the majority of existing

[43] *See* SBC Letter to Lawrence R. Strickling, Chief, Common Carrier Bureau, Federal Communications Commission, CC Docket No. 98-141 - Ownership of Plugs/Cards and OCDs, February 15, 2000, at 2 ("SBC Letter").

and planned future cabinets lack sufficient space to accommodate collocation of equipment for even a single competitor, much less several.[44]

68. Even where there may be some extra space, remote terminals are relatively small and inherently incapable of supporting industry wide access to retail customers.[45] For example, based on my experience, pole mounted cabinets are so small that they would hardly, if ever, have sufficient space to accommodate additional equipment.

69. Ground-mounted cabinets present several additional challenges that make RT collocation impracticable, if not impossible, to implement. Exhibit D depicts the installation of the cabinet cable entrance template. The template is a metallic feature that is typically imbedded in poured concrete to accommodate the number of conduits designed to feed the cabinets based upon prescribed cable arrangements. Typically, as in this example, only four conduits are fed into the cabinet. These four conduits represent: (1) the fiber cable that links the RT equipment to the central office; (2) the copper cable that terminates the derived feeder pairs from the DLC equipment into a minimum of one SAI; (3) a maintenance spare conduit to facilitate the replacement of any of the "working" cables in the event of a catastrophic failure; and (4) possibly, in best case scenarios, one spare conduit.[46]

70. The ground-mounted cabinet is bolted to the metallic template. The cables entering the cabinets are spliced to protector terminals in a hardwired fashion, which in turn are

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[44] *See* NGRT Public Forum, Transcript at 22-24.

[45] *See* NGRT Public Forum, Transcript at 20-23 (ILEC representatives acknowledge the lack of space in remote terminals).

[46] Often, this conduit is not "spare" at all, but rather is filled with a copper cable that feeds another SAI.

"factory" hardwired to the DLC equipment appearances. Typically, each cabinet is designed to house a specific amount of equipment and its associated ancillary hardware (*e.g.* rectifiers, heat exchangers, back-up batteries, splice chambers, etc). Thus, ground-mounted cabinets are virtually impossible to access once they are deployed and their entrance facilities are utilized.

71. The Commission recently began to address these limitations in its review of the SBC/Ameritech merger conditions. In exchange for modifications to its merger conditions, SBC "committed" to make available additional collocation space in its remote terminals.[47] However, even if SBC fulfilled all of its obligations expeditiously, in good faith, and in a manner that resolved every other concern, this would only enable a handful of unaffiliated carriers to deploy electronics in select remote terminal locations that serve a small fraction of the customers in the incumbent ILECs' territories. These commitments, in themselves, simply do not ensure that CLECs have a meaningful opportunity to compete with the ILECs (and their affiliates) on a mass-market basis.

72. While cabinets are by far the most common form of remote terminal, even larger RTs, such as CEVs, have little or no space available to accommodate competitive carriers. CEVs, like other RTs, have been designed to handle specific service capacity and, accordingly, they also have limited space available for additional equipment. Generally, a CEV could accommodate only one rack of equipment, which cannot support a diverse set of competitors with a variety of equipment deployment needs. Furthermore, this space is rarely "available" to

[47] *SBC Waiver Order* ¶¶ 34-35, 37. In particular, SBC has committed to: (i) make a limited percentage of space (15 to 25 percent) in its remote terminals available to CLECs; (ii) provide an adjacent collocation structure to requesting carriers; (iii) establish a process by which its ILECs will make available additional space in existing remote terminals; (iv) commence a forum to explore technical and operational issues related to competitive access

competitive carriers because it is frequently used for mounting equipment related to high speed services or special needs of the ILEC (or its data affiliate). In Exhibit E, I provide photographs of an actual, in-service CEV.

73. Even where remote terminal space is available for collocation, it is unlikely that the space will also have the power and HVAC necessary for proper deployment of a CLEC's electronics. Equipment cabinets rely on heat exchangers to dissipate the heat generated by the equipment. The actual placement of equipment -- as well as its power consumption -- would dictate whether it could function in the existing cabinets (designed and/or deployed). Moreover, housings of all descriptions generally rely on some sort of back-up power supply (usually bulk batteries) to ensure some amount of operational time in the event of a power failure. The battery back-up is designed based on what was perceived as the normal power consumption when it was originally installed. Thus, the addition of higher power consuming equipment, coupled with the different pattern of traffic usage, would unlikely render existing back-up power arrangements inadequate.

74. Further, even if the remote terminal space is available for collocation and has the necessary power and HVAC, there is typically no way to cross-connect facilities efficiently within the remote terminal. This is because cross-connection to customer pairs is usually done at the SAI, *not* at the remote terminal itself. As a result, the feeder facilities to the central office are generally hardwired to the ILEC's transmission equipment, such as the DLC, not wired to a frame-like device that permits flexible cross-connection to other service providers. Thus, even if

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to remote terminals; and (v) establish a "special construction arrangement," to address space, power, connectivity, and related collocation issues.

CLECs could collocate their equipment at a remote terminal, that equipment cannot be connected to the customer's loop at that point.

75. Collocation at other points such as the SAI is also not a viable alternative. In most instances, SAIs are too small to accommodate deployment of any additional equipment (such as transmission equipment or DSLAM functionality). Moreover, SAIs are not designed to provide the necessary power and HVAC for collocation equipment because they typically house only a set of cross-connection blocks, which do not require environmental conditioning.

76. For collocation at the SAI to be even remotely practical from a technical perspective, one would need to ensure that the CLEC could:

- obtain the necessary permissions to construct a parallel SAI within the ILEC's right of way (and even if one CLEC could gain such permission, subsequent CLECs would likely encounter significant resistance);
- obtain from the ILEC use of its rights of way (or obtain its own);
- economically deploy or obtain feeder plant to re-home a portion of the subscribers terminating on the ILECs' SAIs to the CLEC-deployed remote terminal; and
- obtain rights of ways and economically deploy or obtain high-bandwidth feeder plant to connect its remote terminal/DLC either to a collocation within the ILEC's central office or directly to its own network.[48]

Even assuming that CLECs could obtain the necessary rights of way and capital to self-provision such facilities, deployment of any equipment in SAIs would be impractical, because collocation would be limited to interconnecting CLEC-provided facilities to the ILEC distribution plant.

[48] In the *UNE Remand Order*, the Commission recognized that the high costs and delays associated with collocation will impair a CLEC's ability to compete in the provision of data services. *UNE Remand Order* ¶¶ 306, 309. There is no reason to assume that the situation has improved.

77. Cabinets deployed in field locations that serve as cross-connecting terminals (SAIs) are sized for the number of terminations they enclose. As a result, the cabinets are manufactured in a large variety of sizes and descriptions. Cabinets designated for aerial/pole mounting have hardwired termination fields that are largely inaccessible (older designs were epoxy filled) thereby making them impracticable for an additional cable termination. Access to the termination field is accomplished by splicing into the pre-terminated cable stub that emanates from the cabinet itself. Any existing spare terminations were undoubtedly designed as part of the original job when the hardware was selected as a means to account for future growth without the need to replace the existing hardware.[49]

78. All of the above-listed difficulties associated with remote deployment of transmission-related electronics at remote terminals (or other interconnection points) make it virtually impossible for CLECs to offer competing services when ILECs have deployed DLC systems supporting such electronics.

79. This reality, coupled with the ILECs' incentive and ability to impede competition by limiting the amount of collocation space available for competitors, has proven to be a major barrier for CLECs.[50] But CLECs must also confront serious economic constraints and practical limitations, such as rights-of-way access, ability to interconnect to copper, and the other issues noted above.

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[49] As with ground-mounted cabinets, accessing SAIs with an additional cable (assuming termination space inside the cabinet were available) would be most impracticable if not impossible, since the existing hardware is effectively "locked" together in concrete. Moreover, it is not unusual to find the SAI and DLC cabinets on a common concrete pad, which further exacerbates the entry problem.

[50] *Advanced Services Order* ¶ 56.

80. And even if a CLEC could overcome all of these practical hurdles, deployment would only make sense if the CLEC could accomplish it at a per-subscriber cost comparable to that which the ILEC can achieve. Collocation at an RT, however, will almost always be economically impracticable. Experience has shown that CLEC collocation at the central office requires a formidable commitment,[51] but central office collocation costs can at least be amortized over the entire universe of potential customers that a CLEC might expect to win out of the entire central office.[52]

81. The costs of RT collocation may be marginally smaller than those of collocating at the central office, but the universe of potential customers is significantly smaller (and the number of necessary collocations significantly larger), and so the per-customer cost is vastly higher. By network design, the number of customers that an ILEC remote terminal (and to a greater extent, an SAI) usually serves is a small fraction of the number of customers served by the associated central office. In fact, the level of concentration present at a remote terminal is often as low as one hundred or a few hundred lines in total, of which any individual CLEC can only expect to capture a small percentage.[53] As a result, the CLEC's costs must be amortized over a much smaller number of potential customers, *i.e.*, the fraction of customers served by the

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[51] *See UNE Remand Order* ¶¶ 262-266 (finding that collocating in incumbent LEC central offices imposes material costs and delays on a requesting carrier and materially diminishes a requesting carrier's ability to self-provision circuit switches to serve residential and small business market).

[52] If requesting carriers can obtain nondiscriminatory, cost-based access to the enhanced extended link, collocation costs would decrease significantly because they would only need to collocate in as few as one incumbent LEC central office in an MSA to provide service. *See UNE Remand Order* ¶ 288.

[53] In some extreme circumstances, some RTs serve only 4 to 8 homes, as is the case in BellSouth territory. *See* NGRT Public Forum at 34-35.

remote terminal that they might win.[54] Therefore, the cost of establishing an entire collocation arrangement at each remote terminal will be prohibitive in virtually every case.[55] A CLEC must incur relatively high fixed costs for site preparation, including rights of way, structure, cable, hardwire, excavation/restoral costs, as well as the costs for common control electronics and associated channel banks if a DLC deployment is being considered. All of these costs must be recovered from the base of customers addressed via the RT. It would not be unusual for a CEV DLC site to cost $250,000 and cabinet sites to cost $50,000 to $100,000, excluding facility costs necessary to connect the RT to the ILEC SAI or to connect the RT to the CLEC network.

82. Furthermore, once an ILEC's RT is established, as each user is gained, a portion of the capacity is moved into working status by merely installing a line card (plug-in). Such cards are frequently able to handle multiple users on a single card. Unlike the ILEC, which has deployed similar equipment to serve its entire franchised geography with POTS service and now seeks to leverage that position to provide additional service opportunities, a CLEC must take serious risks to deploy such costly equipment with the uncertain prospect of a financial reward that can only be achieved if a significant market share is achieved.

83. For similar reasons, adjacent collocation is almost always economically prohibitive. The economic reality is that remote deployment of transmission-related electronics by CLECs is unlikely to occur in most areas and is not feasible except in the most extraordinary

[54] *See Deployment of Wireline Services Offering Advanced Telecommunications Capability, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996* CC Docket Nos. 98-147, 98-96, Ex Parte of Catena Networks, Inc. (filed Apr. 6, 2000).

[55] For a DLC to be practical and economic, it must be nearly fully utilized. The ILEC can realize these necessary economies of scale because it has designed its remote terminal to efficiently serve most of the entire base of customers assigned to the remote terminal. CLECs cannot reasonably expect to achieve such scale.

circumstances. Moreover, connecting carriers cannot begin such construction until they go through the lengthy and expensive process of obtaining rights of way and permits to construct a parallel cabinet, a process that may be slowed by issues of security, service disruption, or aesthetics. Moreover, the outcome of such a process is by no means certain. Indeed, neighborhoods and governmental entities likely will oppose construction of "remote terminal villages."

84. Collectively, all of these limitations lead to the inevitable conclusion that, at its best, remote terminal collocation will be used only in isolated circumstances,[56] and will never support mass market competition.

B. When Next Generation Architecture Is Deployed, Spare Copper Cannot Provide CLECs With Comparable Access to the ILECs' Improved Networks.

85. It is important that ILECs not be allowed to force CLECs to accept access to spare copper in lieu of the right to the entire loop when they have deployed next generation architecture. Such an "exchange" would not provide CLECs comparable access to the ILECs' improved network capabilities. Spare copper facilities that extend between the central office and the customer's premises, *i.e.* "home-run copper," are not substitutes that assure CLECs will have access to the full capabilities made possible by the use of shorter copper runs, signal splitting at the RT and the multiplexing of voice and data bit streams onto fiber from RTs to an ILEC central office.

86. In the *UNE Remand Order*, the Commission concluded that one of the four prerequisites to the unbundling of packet switching capability is the lack of spare copper

[56] Remote terminal collocation remains a possibility in campus arrangements and large building environments where space may be negotiated with owners and interconnection with the ILEC's is achievable.

facilities that are "capable of supporting the xDSL services the requesting carrier seeks to offer,"[57] and that permit the CLECs to offer "the same level of quality for advanced services" as that offered by the ILEC (or its data affiliate).[58]

87. When electronics are deployed in the remote terminal, however, it is virtually impossible for a CLEC to obtain a "home run" copper loop that will support transmission rates equivalent those obtained on the copper *sub*loop that terminates in the remote terminal.[59] As indicated in the table below,[60] DSL electrical signals necessarily lose their strength over distance. Thus, the longer the loop, the weaker the signal strength (and the greater the impact of noise) on that loop. The corollary condition is also clear: the shorter the loop length, the higher the feasible transmission rates. For example, ADSL technologies provide network-to-subscriber data transfer rates as a function of the length of the copper facility employed, as follows:

Data Rate	Distance
1.544 Mbps	18,000 ft.
2.048 Mbps	16,000 ft.
6.312 Mbps	12,000 ft.
8.448 Mbps	9,000 ft.
12.960 Mbps	4,500 ft.

[57] *UNE Remand Order*, Appendix C (citing current 47 § 51.317(c)(5)(ii)).

[58] *UNE Remand Order* ¶ 313.

[59] Despite the limitations of spare copper, as SBC and other ILECs (and their data affiliates) migrate their customers to fiber or fiber-copper loops, requesting carriers should have the opportunity to use spare copper where and when it is available.

[60] *See General Introduction to Copper Access Technologies, at* http://www.adsl.com/general_tutorial.html (last visited Oct. 10, 2000).

25.920 Mbps	3,000 ft.
51.840 Mbps	1,000 ft.

88. As a result, home-run copper will invariably provide transmission speeds, data rates or bandwidth (the terms are synonymous) that are slower than those delivered on the shorter copper subloops that terminate at the ILEC's remote terminal. This reduces transmission capacity that competitors can provide to customers. As the above chart indicates, a 4,500 foot copper segment allows for the transmission of data at a rate more than 8 times faster than an 18,000 foot copper loop.[61]

89. This, in turn, limits the type of services that customers can purchase and imposes a severe marketplace disadvantage on competitors.[62] For example, very high data rate DSL ("VDSL") technology has the potential to offer upstream data rates in excess of 1.5 Mbps and downstream data rates of 12.96 Mbps. Such data rates, however, are only obtainable when the copper segment is shorter than 4,500 feet. Thus, a shorter copper segment will allow the ILEC (or its affiliate) to offer its DSL customers not only a significantly faster data rate, but also emerging services that require very high transmission rates, such as video streaming.

[61] Of course, to the extent that the spare copper loop is over 18,000 in length, a CLEC likely will not be able to provide an ADSL service at all.

[62] *Applications of Ameritech Corp, Transferor, And SBC Communications Inc., Transferee, For Consent to Transfer Control of Corporations Holding Commission Licenses and Lines Pursuant to Sections 214 and 310(d) of the Communications Act and Part 5, 22, 24, 25, 63, 90, 95 and 101 of the Commission's Rules*, CC Docket No. 98-141, Declaration of Gary Rall in Support of Comments of AT&T Corp. in Response to SBC's Request for Interpretation, Waiver or Modification of the SBC/Ameritech Merger Conditions ¶ 11.