

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

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

CC Docket No. 96-98

In the Matter of)
)
Implementation of the Local Competition)
Provisions of the Telecommunications Act of 1996)
)
Petition of ITC^DeltaCom Communications, Inc.)
for Waiver of Supplemental Order Clarification)

COMMENTS
OF THE
UNITED STATES TELECOM ASSOCIATION

The United States Telecom Association (“USTA”)¹ hereby files its comments in response to the Petition for Waiver (“Petition”) of the Commission’s *Supplemental Order Clarification* filed by ITC^DeltaCom Communications, Inc. (“ITC^DeltaCom”) on August 17, 2001. Currently pending release is a Commission order which will address the concerns raised by ITC^DeltaCom and other interested parties, including ILECs, CLECs and IXCs, regarding the *Supplemental Order Clarification*. The most prudent and administratively efficient manner in which to respond to all issues raised and comments filed is for the Commission to issue a comprehensive ruling of its review of the *Supplemental Order Clarification*.

¹ USTA is the nation’s preeminent telecom trade association representing a diverse membership of over 1,200 telecommunications companies, including ILECs and CLECs, that provide competitive telecommunications products and services including voice, data and video services over wireline and wireless networks domestically and in international markets worldwide.

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ITC^DeltaCom requests that the Commission grant a waiver from its “safe harbor” requirements in the *Supplemental Order Clarification*² so that it can establish DS1 EELs from its customers’ premises to its point of presence.³ The Commission is reviewing its *Supplemental Order Clarification* released June 2, 2000.⁴ On April 5, 2001 interested parties, including USTA, filed comments. USTA and other interested parties filed reply comments on April 30, 2001. Among the parties filing reply comments on April 30 was ITC^DeltaCom. In its reply comments “ITC^DeltaCom urge[d] the Commission to act promptly to ensure that ITC^DeltaCom and all requesting carriers have unrestricted use of all UNEs and UNE combinations, including the EEL. The Commission should also lift the restrictions on co-mingling.”⁵

ITC^DeltaCom’s Petition raises issues which are identical to those it commented on in its April 30 reply comments. The Commission’s review of EELs and co-mingling issues raised by ITC^DeltaCom in its filings are among many issues in the *Supplemental Order Clarification* under examination. As the Commission’s Public Notice stated:

The Commission also stated in the *Supplemental Order Clarification* that it would seek comment in this Public Notice on whether requesting carriers should be permitted to combine unbundled network elements with tariffed access services that they purchase from the incumbent LECs.⁶ This practice is referred to as “co-mingling” and is currently prohibited under the terms the *Supplemental Order Clarification*.⁷ Specifically, if a requesting carrier converts special access circuits to combinations of

² 15 FCC Rcd 9587 (released June 2, 2000).

³ Petition at 2.

⁴ Public Notice DA 01-169, released January 24, 2001.

⁵ ITC^DeltaCom’s Reply Comments at 6, April 30, 2001.

⁶ *Supplemental Order Clarification*, 15 FCC Rcd at 9602, ¶28.

⁷ *Id.*

unbundled network elements, we ask parties to comment on whether such circuits may remain connected to any existing access service circuits without regard to the nature of the traffic carried over the access circuits. Should incumbent LECs be required to co-mingle unbundled loops and loop-transport combinations for competitive carriers if they do so in their own networks? Does a prohibition on co-mingling force competitive carriers to operate two overlapping networks –one for local traffic and one for access traffic – even if there is spare capacity on the unconverted access circuits that could be used to carry local traffic? We also seek comment on what impact, if any, co-mingling may generally have on the Commission’s unbundling requirements.⁸

The Commission should consider the ITC^DeltaCom Petition and reply comments within the context of its pending review of the *Supplemental Order Clarification*. Commission resolution of the *Supplemental Order Clarification* is important to all parties. An all-inclusive order from the Commission that responds to issues raised in comments filed by interested parties, including ITC^DeltaCom, best serves the disparate interests of all parties.

Respectfully submitted,

UNITED STATES TELECOM ASSOCIATION

September 18, 2001

By:



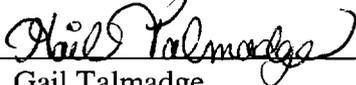
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⁸ Public Notice at 3.

CERTIFICATE OF SERVICE

I, Gail Talmadge, do hereby certify that on September 18, 2001 a copy of *Comments of the United States Telecom Association*, in CC Docket No. 96-98, was either hand-delivered or sent via overnight delivery to the persons on the attached service list.



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