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April 29, 2002

Memorandum of Ex Parte Communication

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Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
TW-A325-Lobby
Washington, D.C. 20554

Dear Ms. Dortch:

Re: *CC Docket No. 01-338, Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*

CC Docket No. 96-98, Implementation of the Local Competition Provisions in the Telecommunications Act of 1996

CC Docket No. 98-147, Deployment of Wireline Services Offering Advanced Telecommunications Capability

Today, representatives of BellSouth, Qwest, SBC and Verizon met with Commission staff to review the "UNE Fact Report 2002," with particular focus on competitive switching information. Commission staff in attendance were Michelle Carey, Rob Tanner, Jeremy Miller, Tom Navin, Ben Childers, Daniel Shiman, Brent Olson and Jon Reel, with Jerry Stanshine joining by telephone. Company representatives were Bob Blau and Whit Jordan from BellSouth; Melissa Newman and John Kure from Qwest; Gary Phillips, Jim Lamoureux and the undersigned from SBC; Susanne Guyer, Scott Randolph and Ed Shakin from Verizon; Evan Leo, attorney at Kellogg, Huber, Hansen, Todd & Evans also participated.

As documented in the UNE Fact Report 2002, we described the substantial growth in competition, both from CLECs and intermodal sources, during the past three years. We explained that unbundled switching should be removed from the national UNE list

because widespread deployment and use of non-ILEC switches demonstrate that CLECs are not impaired without access to unbundled switching. Additionally, we described how the UNE-P undermines facilities-based competition and therefore the Commission should reject calls to add UNE-P to the national UNE list.

The attached materials were used during the meeting. We are submitting the original and one copy of this Memorandum to the Secretary in accordance with Section 1.1206 of the Commission's rules.

Please include a copy of this submission in the record of the above-listed proceedings. Also, please stamp and return the provided copy to confirm your receipt. You may contact me at (202) 326-8889 should you have any questions.

Sincerely,

Jay Bennett

Attachments

cc (w/o attachements) : J. Miller, T. Navin, R. Tanner

Key points for busy professionals

UNE Fact Report 2002

Switching

April 2002

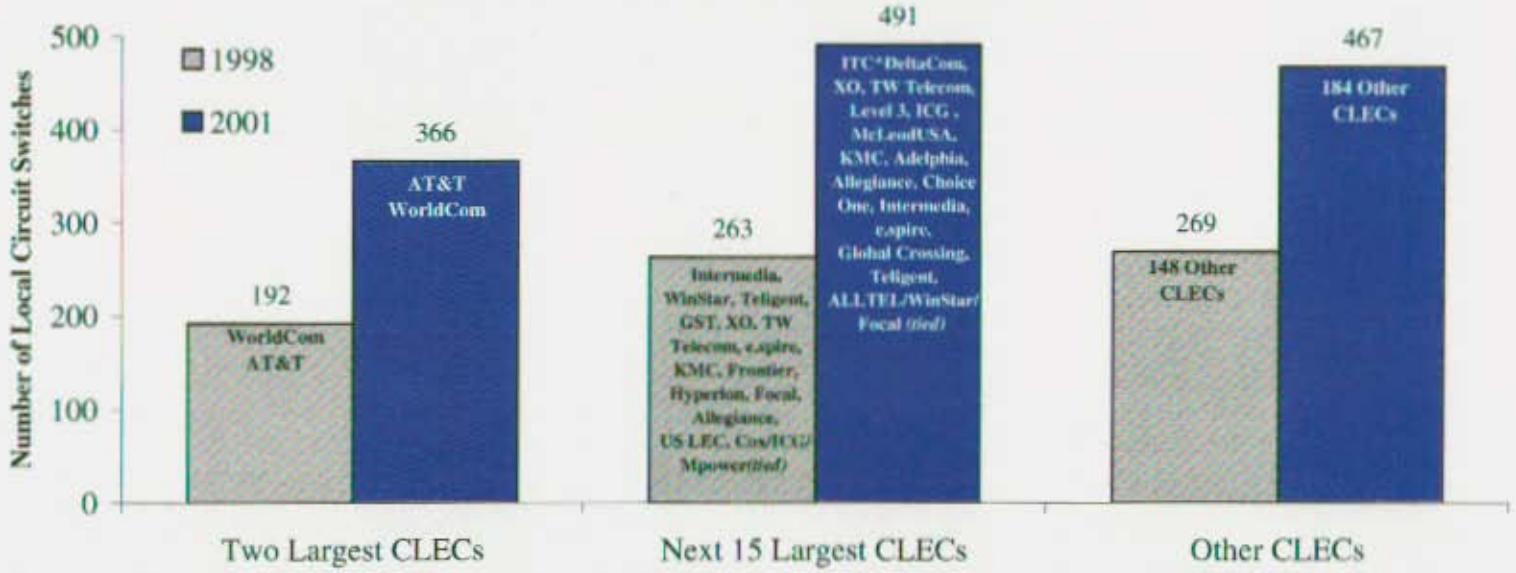
Overview: Switching

- ✓ CLECs have deployed many switches
  - ➤ 1,300 circuit switches
  - ➤ by large and small CLECs
  - ➤ in large and small markets
- ✓ CLECs are using their own switches to compete
  - ➤ serving 23M access lines
- ✓ CLECs are using their switches everywhere
  - ➤ serving business and residential
  - ➤ in wire centers with 86% of BOC switched access lines
- ✓ CLECs do not need UNE-P to serve customers
- ✓ Packet switches and wireless carriers offer additional competition

Many CLECs have deployed switches

- ✓ CLECs have deployed 1,300 switches
- ✓ Deployment is not limited to the "big players"
  - ➤ 200+ CLECs of all sizes have deployed local circuit switches in the BOC regions

Figure 1. Distribution of CLEC Switches



Sources: Telcordia, *Local Exchange Routing Guide (LERG)*. *See* Appendix M.

Fact Report reference: p. II-2

CLEC switches are in large & small markets

✓ Examples of CLEC switch deployment in small markets:

- Anniston, AL
- Apple Valley, MN
- Buffalo, ND
- Collins Creek, SC
- Damariscotta, ME
- Harahan, LA
- Lenexa, KS
- Mishawaka, IN
- Mojave, CA
- Redfield, IA
- Valdosta, GA
- Winooski, VT

Fact Report reference: Appendix B

A CLEC switch can serve a broad area

- ✓ An ILEC switch typically serves only a single rate exchange area; CLECs can and do use their switches to serve multiple rate exchange areas
- ✓ CLECs report that they can and do use their switches to serve areas as large as an entire LATA, an entire state or even multiple states
  - ➤ AT&T claims to serve both the entire Dallas LATA and the entire Houston LATA with a *single* local switch in each location
  - ➤ In contrast, SBC serves the Dallas LATA with *eight* tandems and the Houston LATA with *seven* tandems

Fact Report reference: pp. II-7-10

CLEC switches do serve many customers

✓ As of year-end 2001, CLECs were serving at least 16M – and more likely 23M – local lines using their own switches (including about 3M residential lines)

Table 2. Lines Served over CLEC Switches, YE 2001

	Based on E911 listings			Based on Interconnection Trunks*
	Business	Residential	Total	
Verizon**	3.7 million	1.0 million	4.7 million	7.8 million
SBC***	4.5 million	1.2 million	5.7 million	8.6 million
BellSouth	1.8 million	300,000	2.1 million	3.5 million
Qwest	2.9 million	500,000	3.4 million	2.5 million
Total	**13 million**	**3 million**	**16 million**	**23 million**

*Assumes a ratio of 2.75 lines per interconnection trunk. *See* Appendix A (providing basis for this methodology). ** Verizon E911 listings and interconnection trunk data do not include the former GTE service area. *** SBC E911 listings data do not include Connecticut.

Fact Report reference: p. II-4

CLEC are using their switches everywhere

✓ CLECs are using their switches to serve customers in wire centers covering 86% of BOC switched access lines (including 89% of business lines and 84% of residence lines)

Table 5. Percentage of Access Lines in Wire Centers Where CLECs Have Acquired Customers Through Ported Numbers

	Percentage of BOC Switched Access Lines in Wire Centers Served by:											
	1 or more CLEC switch			2 or more			3 or more			4 or more		
	Bus.	Res.	Tot.	Bus.	Res.	Tot.	Bus.	Res.	Tot.	Bus.	Res.	Tot.
Verizon	90	83	85	84	75	79	80	69	73	75	64	68
SBC	88	83	85	82	75	77	74	66	69	70	62	65
BellSouth	94	90	91	85	79	80	79	71	74	73	65	67
Qwest	89	83	85	82	75	77	75	68	71	71	64	66
Total	**89**	**84**	**86**	**83**	**76**	**78**	**77**	**68**	**71**	**72**	**63**	**66**

Fact Report reference: p. II-6

CLEC switches serve res. customers

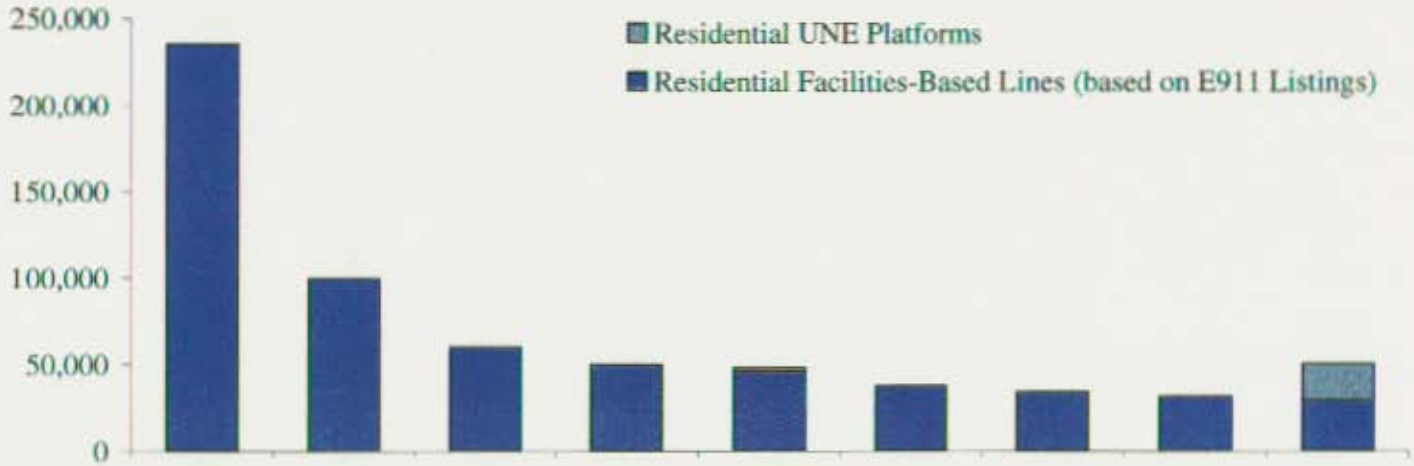
- ✓ By the end of 2001, CLECs were serving about 3M residential lines using their own switches
- ✓ Switches first deployed to serve large business customers now serve mass-market customers
- ✓ ATT, Cox, Comcast, Cablevision, and Insight have deployed circuit switched cable telephony
  - ➤ Available to more than 10M homes in 20 states
  - ➤ Over 1.5M homes subscribe to circuit-switched cable telephony today
  - ➤ Adding over 70,000 customers per month

Fact Report reference: pp. II-10-14

CLECs don't need UNE-P to serve consumers

✓ Seven out of nine CLECs providing residential service in BOC regions do not buy any UNE-Ps

Figure 4. Use of UNE Platforms by CLECs Providing Service to 25,000 or More Residential Lines Using Their Own Switches*



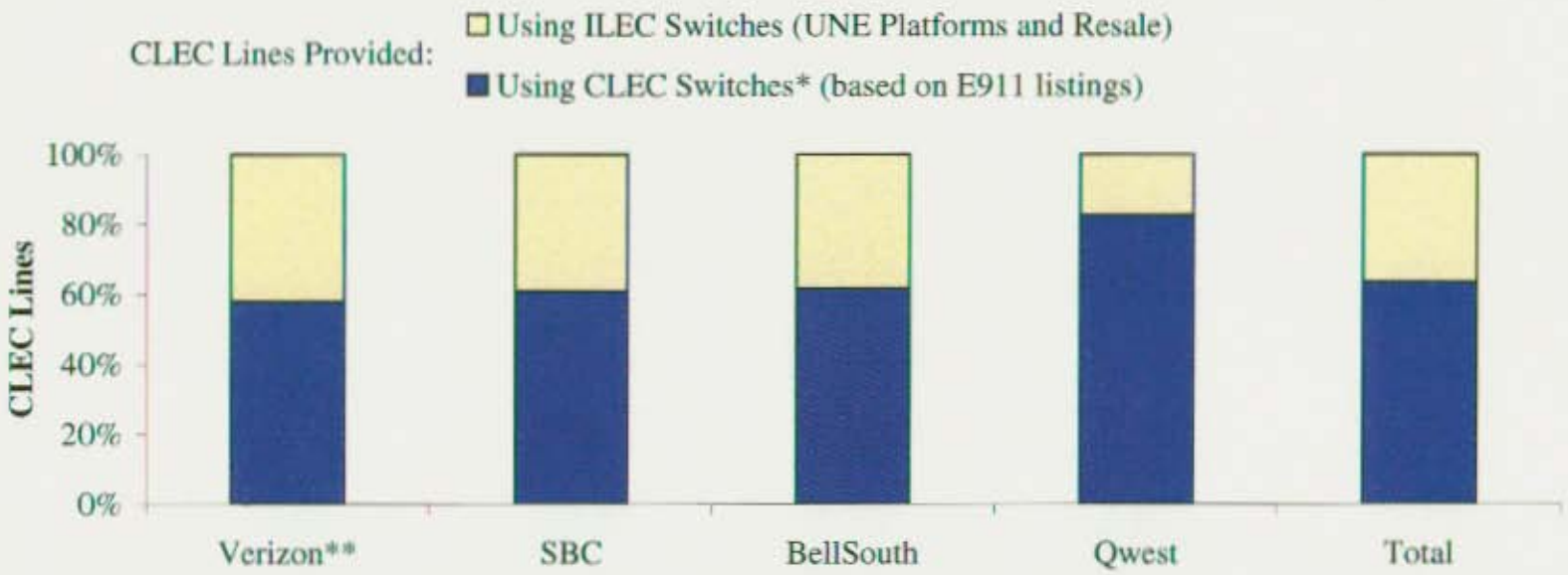
*Excludes CLECs providing service over cable facilities. Does not include CLECs in Qwest's region.

CLECs providing service to 25,000 or more facilities-based residential lines include: ALLTEL, Broadview, Cavalier Telephone, Intermedia, Knology, McLeodUSA, RCN, TDS, and TOTALink.

Fact Report reference: pp. II-19

CLECs mostly use their own switches

Figure 3. Breakdown of CLEC Lines by Mode of Entry



*The number of lines provided entirely over CLEC facilities and using CLEC switches is based on the number of E911 listings CLECs have obtained. Because the actual number of lines that CLECs are serving with their own switches is likely much higher, this method will, if anything, understate the percentage of all lines that CLECs are serving in whole or in part over facilities they have deployed themselves.
**Verizon data do not include the former GTE territory.

Fact Report reference: p. II-17

UNE-P harms facilities-based competition

- ✓ Actual marketplace track record undermines CLECs' claims that they will use UNE-P as a stepping stone to facilities-based competitors
- ✓ Several CLECs have conceded that they have no plans to convert from UNE-P
- ✓ Many CLECs would rather rely on UNEs at artificially low TELRIC prices than invest in deploying their own facilities

Fact Report reference: pp. II-17-20

UNE-P migration is a myth

- ✓ In New York, AT&T and WorldCom together provide UNE-P service to over 1M residential customers, enough traffic to fill 5-10 switches
- ✓ AT&T and WorldCom also operate 28 local circuit switches in New York, but have converted virtually no UNE-P customers

Fact Report reference: p. II-18-19

Collocation/"hot-cut" issues are resolved

- ✓ CLECs' concerns on these issues have been addressed since the last UNE review
- ✓ The FCC has expanded the range of collocation options and imposed time limits for completion
- ✓ CLEC collocation arrangements have increased from 4,000 to almost 25,000 in three years
- ✓ Costs associated with collocation have fallen sharply since the UNE remand
- ✓ Rates for hot cuts are set using TELRIC principles; state commissions measure BOC performance
- ✓ The FCC has found that hot cut performance met or exceeded requirements in 271 grants for 11 states

Fact Report reference: pp. II-15-16

Packet switches offer more competition

- ✓ CLECs have deployed at least 1,700 packet switches
- ✓ CLECs are using packet switching to compete against ILECs for data traffic (makes up more than half of ILEC traffic)
- ✓ CLECs are already using (and will increasingly use) packet switches to compete for voice services

Fact Report reference: pp. II-26-34

Wireless switches also offer competition

- ✓ FCC has found that wireless phone has "become a mass market consumer device" in its *Sixth CMRS Report*
- ✓ Two in five Americans have a mobile phone
- ✓ One in five cell phone owners consider their cell phones as their primary phone
- ✓ Quality of wireless services has improved significantly in the last three years
- ✓ Prices have dropped dramatically

Fact Report reference: pp. II-34-38

Closing thoughts

- ✓ Pervasive use demonstrates that alternatives exist to ILEC-provided switching and that CLECs are not impaired
- ✓ Unbundled switching should be removed from the national UNE list
- ✓ UNE-P undermines facilities-based competition and should not be added to the UNE list

Key points for busy professionals

UNE Fact Report 2002

Competitive Overview

April 2002

FCC recognizes the need for change

- ✓ Chairman Powell said: *"Facilities-based competition is the ultimate objective.... Commission policy should provide incentives for competitors to ultimately offer more of their own facilities."* (Oct. 23, 2001)
- ✓ The Notice states: *"We recognize that, as alternative facilities become more available and the market for telecommunications in general grows more competitive, our unbundling rules will need to change..."*
- ✓ The Notice also states: *"[W]e seek to fashion a more targeted approach to unbundling that identifies more precisely the impairment facing requesting carriers."*

UNE Fact Report delivers the data

- ✓ The *Fact Report* is responsive to the notice in this proceeding
- ✓ The Notice states: *"[P]arties are strongly encouraged to submit evidence regarding actual marketplace conditions..."*
- ✓ The Notice also states: *"[W]e seek data both on how widely intermodal alternatives are deployed, and for what purposes they can be used."*

What the facts show

- ✓ There has been substantial growth in competition from CLECs and inter-modal sources in the past three years
- ✓ Evidence shows that CLECs are generally *not* impaired in their ability to provide local services to customers
- ✓ The facts relied upon in this report are reliable, conservative, and respond to CLECs' concerns

Large competitive capital investments

✓ CLECs, wireless carriers, and broadband providers have invested billions to create the competitive market that exists now

- CLECs have invested $50B over the last three years
- CLECs invested $12.3B in 2001 alone
- Cable operators have invested more than $55B since passage of the Telecom Act of 1996
- Wireless carriers invested $18B in 2000 alone; cumulative investment (from 6/85 to 6/01) in their networks is $100B

Source: Various sources
Fact Report reference: pp. I-10-11

Three years of CLEC facilities growth

✓ The growth of CLECs' facilities demonstrates the market's competitiveness

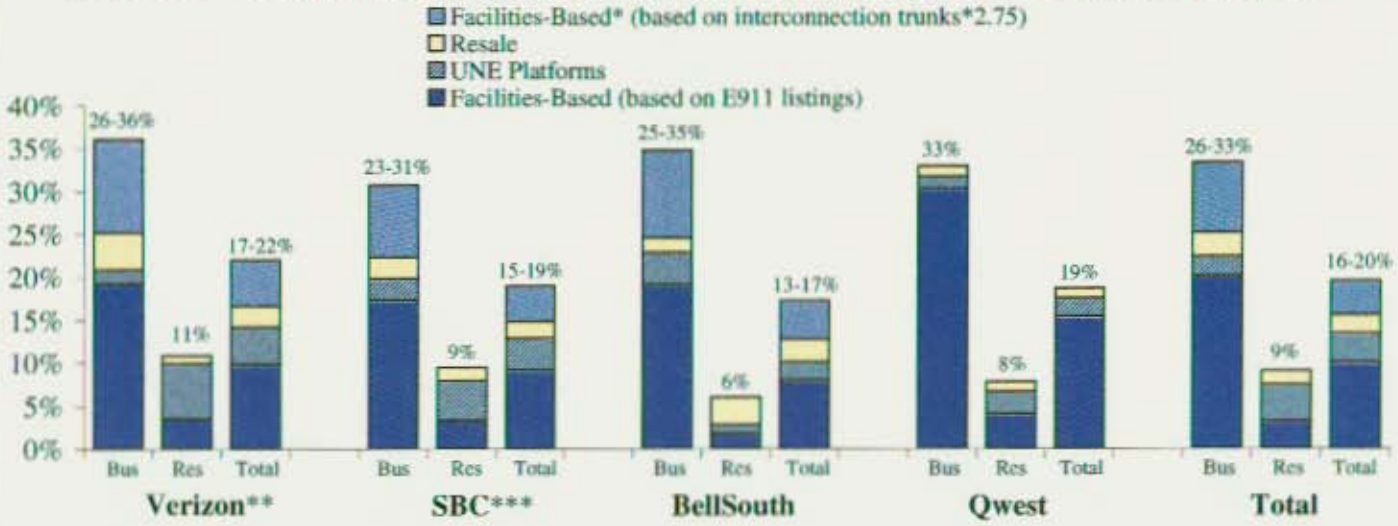
Table 1. Competitive Networks			
		YE 1998	YE 2001
Wireline CLECs	Cities with Voice Networks	540	930
	Circuit Switches	700	1,300
	Packet Switches	860	1,700
	Route Miles of Fiber (local and long-haul)	100,000	184,000
	Average Number of CLEC Networks in Top 100 MSAs	10	16
	Buildings Served (on- and off-net)	106,000	330,000
	Homes with access to cable telephony service	<2,000,000	>10,000,000

Fact Report reference: Table 1, p. I-1

CLECs have captured a large market share

- ✓ CLECs' share of access lines in BOC regions is at least 16% and likely closer to 20%
- ✓ CLECs' share of revenues is even larger, with a five-fold increase over the last three years

Figure 4. Percentage of Total Access Lines Served by CLECs in BOC Regions



*The totals for facilities-based lines based on interconnection trunks multiplied by 2.75 represents the additional lines produced by this methodology over the number of E911 listings that CLECs have obtained.

**Verizon data do not include CLEC or ILEC lines in the former GTE service area.

***SBC data do not include CLEC or ILEC lines in Connecticut and Nevada.

Fact Report reference: p. I-7

Three years of CLEC line growth

- ✓ There has been large growth in the number of lines that CLECs serve with their own facilities (at least 16M and more likely 23M)
- ✓ CLECs serve at least 156M voice-grade equivalent circuits
- ✓ AT&T says that it serves "over 30 million" voice-grade equivalent lines over its network

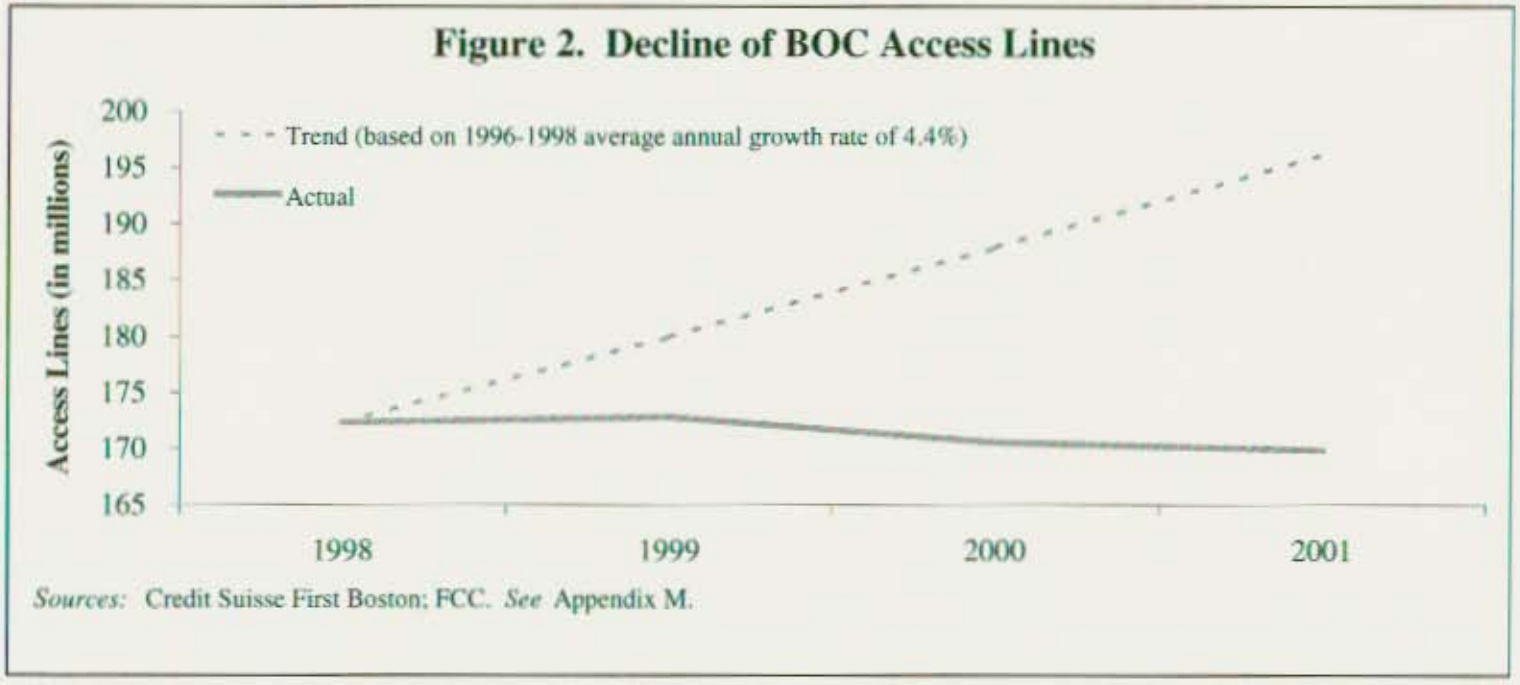
Table 3. Competitive Lines/Subscribers

		YE 1998	YE 2001
Wireline CLECs	Facilities-Based Business Lines	5-6 million	13-20 million
	Facilities-Based Residential Lines	>80,000	3 million
	Resale/UNE-P Business Lines	1.2 million	3.8 million
	Resale/UNE-P Residential Lines	1.5 million	5.6 million

Fact Report reference: Table 3, p. I-5

ILEC access lines are declining

✓ For the first time ever, ILECs' access lines have *declined* in each of the last three years



Fact Report reference: p. I-6

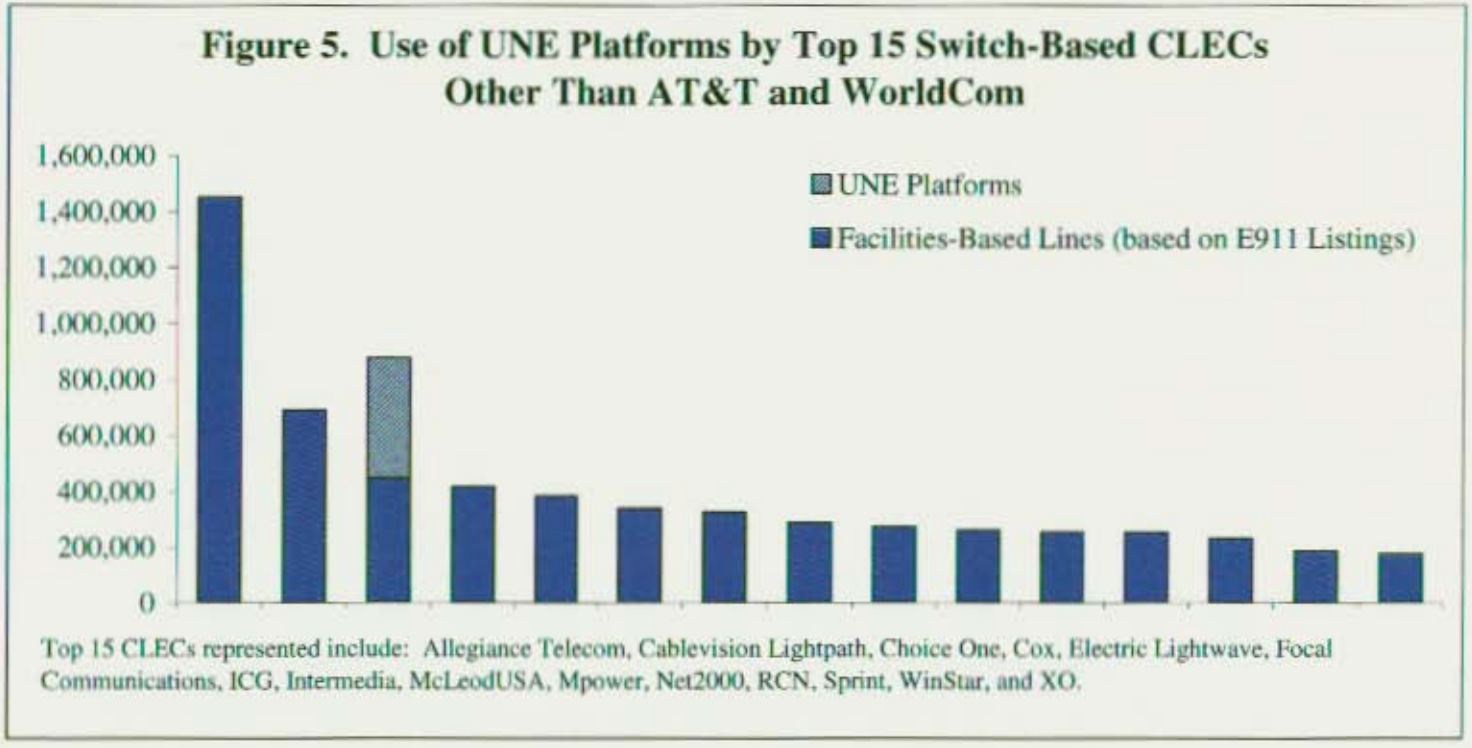
CLECs use their own switches

- ✓ Approximately 1,300 circuit switches have been deployed by CLECs
- ✓ Most CLEC access lines are served using their own switches
- ✓ Both residential and business customers are served using CLEC switches
- ✓ CLECs use their switches to serve customers in wire centers containing 86% of BOCs' access lines

Fact Report reference: Section II

CLECs don't need UNE-P

✓ Other than AT&T and WorldCom, the 15 largest CLECs that have deployed switches make virtually no use of UNE-P



Source: Based on E911 listings
Fact Report reference: p. I-9

No transitioning off of UNE-P

- ✓ In New York, AT&T and WorldCom together provide UNE-P service to over 1M residential customers
- ✓ AT&T and WorldCom operate 28 local circuit switches in New York
- ✓ Yet the two companies have converted virtually none of these UNE-P customers to service utilizing their own switches

Fact Report reference: pp. II-18-19

Inter-modal competition

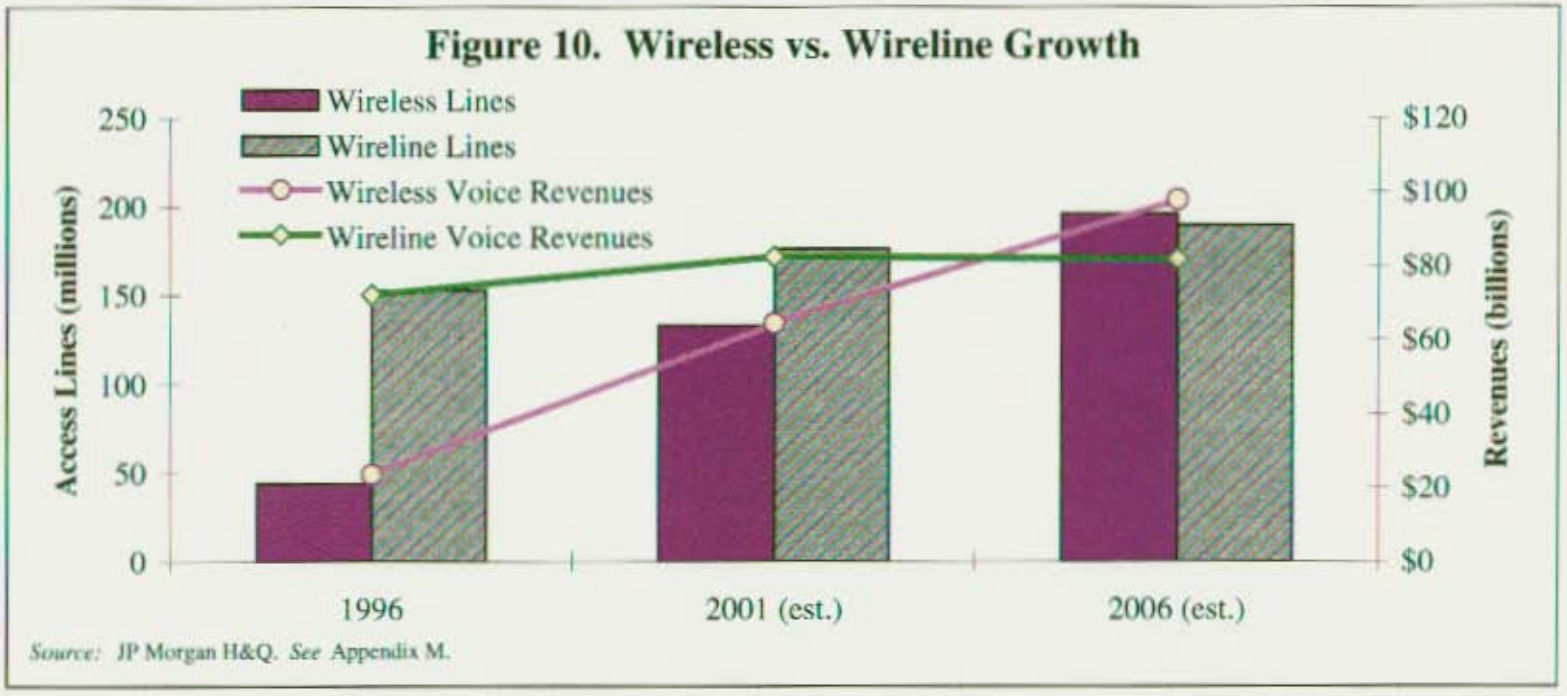
✓ Wireless, cable, and satellite offerings increasingly provide customers alternatives to wireline services

Inter-modal Competition		YE 1998	YE 2001
Wireless	Wireless Subs.	69 million	130 million
	Wireless Data Subs.	n/a	6.7 million
	% of population in counties with 3 or more wireless operators	n/a	>91
	% of population in counties with 5 or more wireless operators	n/a	>75
	Wireless Carriers Offering Data Services	2	7
Broadband	Cable Modem Subs.	<300,000	7.5 million
	Fixed Wireless/Satellite Subs.	0	>200,000
	% of homes with access to cable modem service	20	66-77
	% of homes with access to two-way satellite	0	>90
	Markets with MMDS	0	58

Source: See Appendix M
Fact Report reference: Table 1, p. I-1; Table 3, p. I-5

Wireless providers are thriving

✓ Wireless carriers are adding subscribers much faster than wireline companies – both ILECs and CLECs – in percentage and absolute terms



Fact Report reference: p. I-17

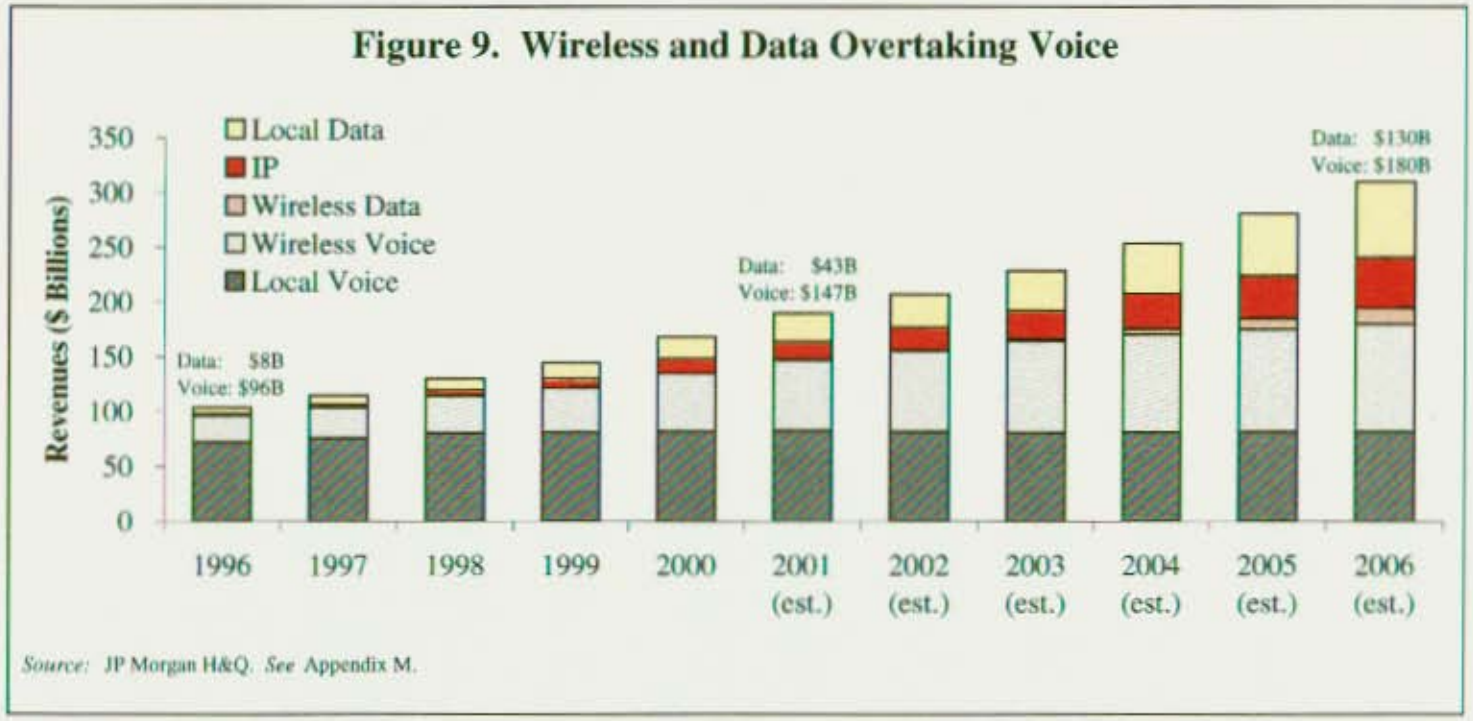
Wireless is competitive with wireline

- ✓ Quality of wireless services has improved significantly in the last three years
- ✓ Prices have dropped dramatically
- ✓ Two in five Americans have a mobile phone
- ✓ One in five cell phone owners consider their cell phones as their primary phone
- ✓ Wireless voice revenues are expected to surpass wireline revenues by 2003

Fact Report reference: p. I-4

Role of wireline voice is shrinking

✓ With growing inter-modal competition, role of wireline local voice is rapidly declining as traffic moves to wireless and data networks



Fact Report reference: p. I-15