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Pirelli Communications Cables and Systems North America

Raymond L. Robinson
President and Chief Executive Officer

May 30, 2002

Ms. Marlene Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445-12th Street SW
Washington, DC 20554

Re: Reply Comments in the Notice of Proposed Rulemaking In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers (CC Docket Nos. 01-338, 96-98, and 98-147)

Dear Ms. Dortch:

Pursuant to Section 1.415 of the Commission's Rules[1] Pirelli Communications Cables and Systems North America hereby submits the following reply comments in the Commission's above-referenced Notice of Proposed Rulemaking.

Pirelli is a global manufacturer of optical fiber and fiber optic cables for the communications industry. Our customers include Regional Bell Operating Companies, Incumbent Local Exchange Carriers, Competitive Local Exchange Carriers, Cable TV service providers, long-haul communications carriers, utility companies, municipalities, Local Area Networking companies, Wide Area Networking companies, Telecommunication Service Providers, OEMs, Fiber-to-the-Home (FTTH) and Fiber-to-the-Business (FTTB) developers, as well as various premises cable end users, and numerous other communications service providers. We employ approximately 39,000 persons worldwide.

[1] 47 CFR § 1.415

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As such, Pirelli has a significant interest in the outcome of the Commission's proceeding. Given our experience in the marketplace, we believe that the deployment of fiber to the home ("FTTH") is being inhibited by the current unbundling rules. The Commission has an opportunity in the ongoing proceeding to modify these rules in such a manner so as to stimulate investment in FTTH without hindering the development of competition. This is a balance which is quite achievable.

In this regard, Pirelli endorses the Comments filed by Corning Incorporated.[2] These comments include a study prepared by Cambridge Strategic Management Group ("CSMG") which demonstrates using real market-based analysis that FTTH will be deployed six times more extensively under a "free market" scenario without the unbundling obligations versus a regulated scenario with the unbundling rules. It also shows that the free market scenario would generate over ten years $39 billion more in capital expenditures by incumbent local exchange carriers.

Even more startling is the projection of the penetration of FTTH under existing rules. Under this condition, only 5% of American households will be passed by FTTH by the year 2013. Needless to say, this pace of deployment will leave the United States far behind many other countries that have put a priority on the deployment of advanced capability, including Japan, Sweden, Canada, Korea, and others.

Pirelli endorses Corning's argument that the Commission has an obligation under Section 706 to "encourage the deployment on a reasonable and timely basis of advanced telecommunications capability."[3] FTTH is uniquely capable of delivering "advanced telecommunications capability." This capability is defined in the statute as

> "(high) speed, switched broadband telecommunications capability that enables users to originate and receive high-quality voice, data, graphics, and video telecommunications using any technology."[4]

This definition requires a robust capability which fiber is uniquely capable of delivering. For example, standard architecture for a passive optical network can deliver 155 Mbps, 622 Mbps or 1.25 Gbps, more than enough to accommodate the delivery of bi-directional voice, data, graphics, and video applications.

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[2] *See* Comments of Corning, Inc. in Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, CC Docket Nos. 01-338, 96-98, and 98-147.
[3] Telecommunications Act of 1996, Pub. L. 104-104, Feb. 8, 1996, 110 Stat. 153, Title VII § 706.
[4] *Id.*

What's more, FTTH capability can be deployed for a first installed cost which is comparable to that for copper-based technology. Evidence of this cost parity was presented by Paceon in the Commission's recent Section 706 Inquiry.[5]

Given the FCC's Section 706 obligation and the substantial evidence presented by the CSMG study, it is clear that the Commission must act. Fortunately, as Corning demonstrates in its Comments, the Commission can act to relieve FTTH from the unbundling requirement because such action will not "impair" the ability of CLECs to provide service over FTTH networks.

The Commission has ruled in its *UNE Remand Order* that a network element meets the "impair" standard if

> "Taking into consideration the availability of alternative elements outside the incumbent's network, *including self-provisioning by a requesting carrier* or acquiring an alternative from a third party supplier, lack of access to that element materially diminishes a requesting carrier's ability to provide the services it seeks to offer."[6]

The CSMG analysis in the Corning Comments identifies the fact that FTTH has been deployed to 34,000 homes throughout the country, 26,000 of which are CLEC customers. Only 400 homes are served by FTTH systems deployed by RBOCs. Clearly, the CLECs have demonstrated the ability to self-provision FTTH. This market reality gives the Commission the ability to make a clear determination that lack of access to ILEC-provided FTTH capability does not "impair" the CLECs ability to provide service over FTTH capability.

It should also be noted that the ILECs have no advantage in the deployment of FTTH because such networks require entirely new outside plant. Existing legacy networks cannot be leveraged. In such a situation, the ILECs have no inherent advantage. In fact, the CLECs have an advantage because they use non-union labor and labor is a major factor in the installation of the network.

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[5] *See* Corning Section 706 Comments, Exhibit I, declaration by William Shank ("*Paceon Declaration*"), Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans, Third Report, CC Docket No. 98-146, FCC 02-33.

[6] Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, 15 FCC Rcd. 3/6/96, 3717-18 (1999) ("*UNE Remand Order*") (emphasis added).

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In light of the above, Pirelli strongly endorses the Comments submitted by Corning Incorporated and urges the Commission to relieve the incumbent local exchange carriers from the unbundling obligation for FTTH systems.

Sincerely,

Raymond L. Robinson

RLR/rmah

Cc: Senator Ernest F. Hollings