> whether BOC entry would enhance competition in the long distance market. We believe that our inquiry must be a broader one. The overriding goals of the 1996 Act are to open all telecommunications markets to competition by removing operational, economic, and legal barriers to entry, and, ultimately, to replace government regulation of telecommunications markets with the discipline of the market.. In order to promote competition in the local exchange and exchange access markets in all states, Congress required incumbent LECs, including the BOCs, to provide access to their networks in a manner that allows new entrants to enter local telecommunications markets through a variety of methods. In adopting section 271, Congress mandated, in effect, that the Commission not lift the restrictions imposed by the MFJ on BOC provision of in-region, interLATA services, until the Commission is satisfied on the basis of an adequate factual record that the BOC has undertaken all actions necessary to assure that its local telecommunications market is, and will remain, open to competition."[33]

Moreover, in Verizon's view (Br. 175-76), the Commission should virtually presume that the public interest will be served by granting Verizon's application, because (in Verizon's view) Verizon has met its checklist obligations and approval of its application will spur competitors to enter the local market. Any such presumption, however, would conflict directly with the plain language of the statute, which puts the burden on the applicant to show that its entry would be "consistent with the public interest;" the Commission has squarely rejected the argument that the public interest test can be satisfied by simply presuming that the benefits of entry into long distance will outweigh competitive harms from premature authorization.[34]

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[33] *Michigan 271 Order* ¶ 386. *See also Massachusetts 271 Order* ¶ 233 ("we may review the local and long distance markets to ensure that there are not unusual circumstances that would make entry contrary to the public interest under the particular circumstance of this application").

[34] *See Michigan 271 Order* ¶ 43 ("Section 271 places on the applicant the burden of proving that all of the requirements for authorization to provide in-region, interLATA services are satisfied"); ¶ 388 ("As we have previously observed, 'the entry of the BOC interLATA affiliates into the provision of interLATA services has the potential to increase price competition and lead to innovative new services and marketing efficiencies.' Section 271, however, embodies a congressional determination that, in order for this potential to become a reality, local

In fact, the absence of any meaningful local competition is itself a compelling reason to reject an application as inconsistent with the public interest.[35] The lesson from experience in Texas is clear: allowing an incumbent LEC to provide interLATA services before local markets are open will not spur successful local competition.[36] If CLECs cannot profitably offer local residential service to customers, they cannot and will not effectively compete in local markets, regardless of whether the incumbent has obtained long-distance authorization.[37]

Accordingly, as the Commission has recognized, granting Verizon's request for long distance authority can serve the public interest only if the Commission finds that the BOC's "local market is open and will remain so."[38] In order to determine whether the BOC's local telecommunications markets are in fact open to competition, the Commission first reviews the extent to which new entrants "are actually offering" local

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telecommunications markets must first be open to competition so that a BOC cannot use its control over bottleneck local exchange facilities to undermine competition in the long distance market. Only then is the other congressional intention of creating an incentive or reward for opening the local exchange market met.")

[35] *See Sprint* v. *FCC*, 274 F.3d 549 (D.C. Cir. 2001).

[36] Although Verizon boasts (Br. at 119-20) of competition currently being provided by Texas CLECs, the January 2001 *TPUC Report* on the "Scope of Competition in Telecommunications Markets of Texas" reveals that "monopoly power exists . . . in residential and rural markets in Texas" (*id.* at 83; *see* xiii) and severe financial problems have caused both large and small CLECs to reduce or eliminate their residential service in Texas (*id.* at 55-58, 80-81). The Report also reveals that the lack of competition has permitted SWBT to extend its monopoly into the provision of bundled combinations of local and long distance services, and to *raise* its prices for local services to both residential and business customers. *Id.* at x, 62-64, 79, 81). In sum, the TPUC concludes: "By the end of 2000, SWBT's financial position had strengthened relative to the CLECs. *SWBT's entry into the long distance market has weakened the ability of CLECs to challenge SWBT in local voice service. Id.* at 81 (emphasis added).

[37] Emboldened by its ability to market bundles of local and long distance services without any competition, in February, 2001, SWBT *raised* its residential long distance rates in Texas by 10 to 33 percent, *increased* its basic rates for long-distance service by more than 10 percent, and *also increased* the "discounted rate" for customers who buy other services from SWBT by 33 percent. "SWBT Raises Nonlocal Call Rates: Company Says Prices Better Reflect Costs," *The Dallas Morning News*, February 2, 2001.

[38] See SBC Texas 271 Order ¶ 431.

service to both business and residential customers through each of the three means offered by the Act. *Michigan 271 Order* ¶ 391. Second, where local competition is not securely established, the Commission determines whether this reflects the continuing presence of entry barriers and BOC misconduct, or is attributable instead solely to the business decisions of potential new entrants.

A. Verizon Maintains Monopoly Power Over Residential Service In Delaware And New Hampshire.

The "Act contemplates three paths of entry into the local market – the construction of new networks, the use of unbundled elements of the incumbent's network, and resale," (*id.* ¶ 96). Congress "sought to ensure that all procompetitive entry strategies are available." *Id.* ¶ 387. As the Commission has recognized, its "public interest analysis of a section 271 application, consequently, *must* include an assessment of whether all procompetitive entry strategies are available to new entrants." *Id.* (emphasis added). And, as the Commission explained in the *Michigan 271 Order*, "[t]he most probative evidence that all entry strategies are available would be that new entrants *are actually offering* competitive local telecommunications services to different classes of customers (residential and business) through a variety of arrangements (that is, through resale, unbundled elements, interconnection with the incumbent's network, or some combination thereof) in different geographic regions (urban, suburban, and rural) in the relevant state, and at different scales of operation (small and large)." *Id.* ¶ 391 (emphasis added). In subsequent applications, the Commission has repeatedly considered the degree to which competitors have actually succeeded in offering local telecommunications services using the different entry strategies prescribed by the Act. *See, e.g., New York 271 Order* ¶¶ 13-14; *Texas 271 Order* ¶¶ 5-6.

Here, Verizon's own data confirm that there has been almost no UNE-based entry in either Delaware or New Hampshire and that competitors have not yet been able significantly and irreversibly to enter the local residential markets in those states. Using the E911 and UNE-P data presented by Verizon witness John A. Torre, Tables 1-4 shows the amount of CLEC competition Verizon claims to exist in Delaware and New Hampshire. These tables show that less than 1% of the lines in both Delaware and New Hampshire are served by UNE-based competitors and nearly no residential lines are served by such competitors. Table 2 shows that only 1.8% of the residential lines in Verizon's Delaware service territory are served by facilities-based competitors and close to 0% (40 lines in total) are served by UNE-based competitors. Table 4 shows that only 6.9% of the residential lines in Verizon's Delaware service territory are served by facilities-based competitors[39] and again close to 0% (40 lines in total) are served by UNE-based competitors.

TABLE 1: Total CLEC Penetration in Verizon's Delaware Service Territory

	Quantity	**Share**
Verizon Retail Switched Access Lines (Torre Dec., Att. 2 ¶ 3)	587,000	92.3%
CLEC Facilities-Based Lines (Torre Dec., Att. 2 Table 1)	32,700	5.1%
CLEC UNE-P Lines (Torre Dec., Att. 2 Table 1)	3,200	0.5%
CLEC Resale Lines (Torre Dec., Att. 2 Table 1)	13,400	2.1%
Total Lines in Verizon Delaware Service Territory	**636,300**	**100.0%**

[39] Verizon's data indicates that all of the facilities-based lines in New Hampshire are served by AT&T via cable facilities. Torre Decl. Att. 1 ¶ 24. The footprint of AT&T Broadband, however, is limited to the three counties in the southeast corner of New Hampshire (Hillsborough, Rockingham and Merrimack Counties). In the most of the state—particularly the rural areas where Verizon's retail rates are highest—AT&T Broadband has no presence, and Verizon faces no facilities-based local competition at all.

TABLE 2: Residential Market CLEC Penetration in Verizon's Delaware Service Territory

	Quantity	Share
Verizon Retail Residential Switched Access Lines [40]	380,000	97.0%
CLEC Residential Facilities-Based Lines (Torre Dec.. Att. 2 Table 1)	7,200	1.8%
CLEC Residential UNE-P Lines (Torre Dec. Att. 2 Table 1)	40	0.0%
CLEC Residential Resale Lines (Torre Dec. Att. 2 Table 1)	4,700	1.2%
Total Residential Lines in Verizon Delaware Service Territory	**391,940**	**100.0%**

TABLE 3: Total CLEC Penetration in Verizon's New Hampshire Service Territory

	Quantity	Share
Verizon Retail Switched Access Lines (Torre Dec., Att. 1 ¶3)	748,000	83.8%
CLEC Facilities-Based Lines (Torre Dec., Att. 1 Table 1)	104,000	11.7%
CLEC UNE-P Lines (Torre Dec., Att. 1 Table 1)	6,500	0.7%
CLEC Resale Lines (Torre Dec., Att. 1 Table 1)	34,000	3.8%
Total Lines in Verizon New Hampshire Service Territory	**892,500**	**100.0%**

TABLE 4: Residential Market CLEC Penetration in Verizon's New Hampshire Service Territory

	Quantity	Share
Verizon Retail Residential Switched Access Lines [41]	481,000	92.8%
CLEC Residential Facilities-Based Lines (Torre Dec. Att. 1 Table 1)	36,000	6.9%
CLEC Residential UNE-P Lines (Torre Dec. Att. 1 Table 1)	430	0.0%
CLEC Residential Resale Lines (Torre Dec. Att. 1 Table 1)	1,100	0.2%
Total Residential Lines in Verizon New Hampshire Service Territory	**518,530**	**100.0%**

Moreover, Verizon's data *overestimate* the amount of CLEC facilities-based competition for average consumers, including both residential and small business customers. Significantly, Verizon ignores the most direct measure available to evaluate

[40] FCC, Statistics of Communications Common Carriers as of December 31, 2000, at Table 2.6 (September 1, 2001).

[41] Verizon reports that it serves 748,000 lines in New Hampshire, without providing a break-down between residential and business lines. Torre Decl. Attachment 1, ¶ 3. To extrapolate the percentage of Verizon's total switched lines in New Hampshire that are provided to residential customers, we have relied on data reported by Verizon to the Commission as of December 31, 2000, indicating that of the 7,241,653 total switched access lines served by Verizon New England Inc. (which includes Massachusetts, New Hampshire and Vermont), 4,655,604, or 64.3%, were residential access lines. FCC, Statistics of Communications Common Carriers as of December 31, 2000, at Table 2.6 (September 1, 2001). 64.3% of 748,000 is 480,964.

such facilities-based competition – *i.e.*, the traffic on the interconnection facilities between Verizon and CLEC networks as measured by minutes of use. This measure is particularly useful, because it provides insight not only into the competitive *penetration* achieved by facilities-based entrants, but also into the *types* of consumers such competitors have attracted. Strikingly, Verizon reported that CLECs' *terminating* minutes of use constitute *over 96%* percent of CLECs' total traffic in Delaware.[42] The likely explanation for this phenomenon is that the vast bulk of CLEC traffic is for Internet Service Providers (ISPs)– *not* the conventional customers who represent the core of Verizon's local monopoly. If ISP lines were eliminated from the numbers reported by Verizon, the number of facilities-based lines served by Verizon would be reduced significantly.

In addition, as Attachment 1 hereto shows, many of the facilities-based CLECs that Verizon identifies as its competitors in the Delaware and New Hampshire states,[43] have gone, or are going, out of business or are otherwise in financial distress.

The prospects for increased UNE-based competition are also bleak. If Verizon actually offered CLECs non-discriminatory access to the full economies of scale in its existing network, the Commission should see meaningful entry by and increasing competition from UNE-based entrants. Yet, since the passage of the Act, all CLECs combined have managed to serve only trivial numbers of UNE-based lines in Delaware and New Hampshire – less than 1% of all lines and close to 0% residential lines.

Finally, resale is an inherently limited competitive vehicle, both because resale-based competitors cannot alter the nature of the service they are reselling (and thus

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[42] Response of Verizon Delaware to In-Hearing Data Request TR 435, received April 25, 2002, in DE PSC Docket No. 02-001.

[43] Torre Decl. Atts. 1 & 2.

cannot provide consumers with innovative or improved services), and because resale is priced in a manner that precludes its use in all but the most selectively chosen circumstances.[44] The record thus shows that resale is not a growing, viable source of future competition for Verizon in Delaware and New Hampshire.

B. Verizon's Local Residential Markets Remain Closed To UNE- and Facilities-Based Competition Due To Entry Barriers And Verizon's Own Actions.

Because the relevant data show a lack of meaningful local competition, the Commission must next determine "whether the lack of competitive entry is due to the BOC's failure to cooperate in opening its network to competitors, the existence of barriers to entry, the business decisions of potential entrants, or some other reason." *Michigan 271 Order* ¶ 391. To make this determination, the Commission should consider all "relevant factors" that might "frustrate congressional intent that markets be open [to competition]." *Kansas/Oklahoma 271 Order* ¶ 267. A review of the evidence makes clear that entry barriers and Verizon's own actions have perpetuated its monopoly over residential service in the Delaware and New Hampshire states.

In sum, the lack of facilities- and UNE-based CLEC competition for service in Delaware and New Hampshire is due to Verizon's "failure to cooperate in opening its network to competitors" and the "existence of barriers to entry," *not* "the business decisions of potential entrants" that are independent of the entry barriers and BOC misconduct. *Michigan 271 Order* ¶ 391. Nothing suggests that potential entrants have

[44] The avoided cost discount has proved inadequate to provide CLECs a basis for profitable entry for most consumers. For example, as monopolists, the incumbents do not face (and therefore do not "avoid") the huge customer acquisition costs that CLECs confront, nor do they face the lack of economies of scale that a new entrant must address. And CLECs providing resale do not benefit from access revenue. For all of these reasons, CLECs seeking to provide a broad-based, significant competitive alternative to the incumbents' local residential monopoly cannot do so through the resale of local service.

decided that the local markets in these two states, though open, are simply not worth pursuing, or "that competitive alternatives can flourish rapidly throughout the state." *Id.* ¶ 392. The local markets in these two states are simply not open to competition, let alone irretrievably open.

C. Verizon's UNE Rates Preclude UNE-Based Entry In Delaware.

The evidence shows that Verizon's UNE rates, at least in Delaware, are so high that they preclude efficient local entry. Specifically, those rates effect a price squeeze that prevents UNE-based competitors from earning sufficient margins to provide local service economically in competition with Verizon, by imposing wholesale costs on Verizon's competitors that render it impossible for them to offer a retail service that would be price competitive. *See* Lieberman Decl. ¶¶ 42-46.

As discussed above (see Part IV) Section 271 bars the Commission from granting Verizon long distance authority unless the Commission finds that the UNE rates are "nondiscriminatory" as well as cost-based.[45] Because Section 271 categorically bars long distance authorization unless Checklist Item Two has been "fully implemented," to the extent that Verizon's UNE rates in any state are discriminatory, the Application must be denied.

Verizon's imposition of rates that foreclose broad-based local competition not only establishes that those rates violate Checklist Item 2 because they are discriminatory, but also establishes that granting the application could not be consistent with the "public interest." 47 U.S.C. § 271(d)(3)(C). The Commission has held that the "public interest" prong of Section 271 requires it to "ensure that no other relevant factors exist that would

[45] *See* 47 U.S.C. §§ 252(d)(1), 271(c)(2)(B)(ii) & (d)(3)(A).

frustrate the congressional intent that markets be open."[46] The central purpose of section 271 is to ensure that local telephone markets in a state are open to competition – and that competing carriers therefore have the legal and economic ability to provide competing local services – before a BOC in that state is permitted to provide long-distance services. A price squeeze that would foreclose efficient local entry into the residential market obviously constitutes such a "relevant factor." And proof that such a factor in fact exists demonstrates conclusively that the market is not – and cannot be – open.

Despite the nondiscrimination and public interest provisions of Section 271, the Commission had previously held that it need not consider evidence of a price squeeze in evaluating a section 271 application. That holding was based on the Commission's view that such evidence was "irrelevant," and that considering it would improperly involve the Commission in the process of setting local retail rates that are outside its jurisdiction.[47] But the United States Court of Appeals for the D.C. Circuit, relying on the Supreme Court's decision in *Conway*, has now squarely rejected that view.[48] Indeed, because the central purpose of the 1996 Act is "stimulating competition," the D.C. Circuit held that the "public interest" analysis under section 271 may weigh even "*more heavily* towards addressing potential 'price squeeze'" than was required under the Federal Power Act in

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[46] *Kansas/Oklahoma 271 Order* ¶ 267. The Supreme Court has explained that the statutory term "public interest" "take[s] [its] meaning from the purposes of the regulatory legislation." *NAACP* v. *FPC*, 425 U.S. 662, 669 (1976). As the Commission has held, Congress adopted Section 271 in order to assure that BOCs could not provide long distance service at a time when their local monopolies would give them an "unfair advantage" over long distance competitors in, *inter alia*, providing "combined packages" of local and long distance service to customers who desire "one-stop shopping." *AT&T* v. *Ameritech*, 13 F.C.C. Rcd. 21438, ¶¶ 5, 39 (1998), *aff'd sub nom. U S WEST* v. *FCC*, 177 F.3d 1057 (D.C. Cir. 1999). If, by contrast, long-distance entry were allowed before other carriers could provide competing combined packages, it would "threaten competition" in both the local and the long-distance markets by granting the BOC a monopoly in the provision of such combined services. *Id.* ¶ 5.

[47] Kansas/Oklahoma 271 Order ¶ 92.

[48] *Sprint* v. *FCC*, 274 F.3d 549 (D.C. Cir. 2001).

Conway.[49] Under *Sprint* v. *FCC*, therefore, when evidence is presented in a section 271 proceeding that UNE-based residential competition is economically infeasible, the Commission cannot grant that application without evaluating and addressing that evidence. Unless the Commission rejects this application on other grounds, it must develop and apply a framework for analyzing AT&T's claims.

This interpretation has gained added force from the Supreme Court's decision two months ago in *Verizon Communications, Inc. v. FCC*, 122 S.Ct. 1646, 1661 (2002). The 1996 Act, noted the Court, represented the "first time" in which "Congress passed a ratemaking statute with the aim not just to balance interests between sellers and buyers, but to reorganize markets by rendering regulated utilities' monopolies vulnerable to interlopers, *even if that meant swallowing the traditional federal reluctance to intrude into local telephone markets*." *Id.*, 122 S.Ct. at 1661 (emphasis added).

In the face of *Sprint v. FCC*, the *Vermont 271 Order* (¶ 67), advancing three purported distinctions, suggests that *Conway* may be inapplicable in this context. As *Sprint v. FCC* makes clear, however, the court that reviews the Commission's section 271 decisions has concluded that *Conway* is controlling here. In any event, the suggested distinctions that the Commission has raised are specious. The first two distinctions cited by the Commission—that UNEs, unlike the electricity at issue in *Conway*, are not "undifferentiated commodities" and have prices that may vary by retail-customer location—do not in any way blunt the force of the legal rule set forth in *Conway*: where

[49] *Id.* at 564 (emphasis added). Moreover, the *Sprint* Court also confirmed that the Commission's lack of jurisdiction over retail rates was no bar to such an analysis, because the Commission can respond to a price squeeze without disturbing retail rates. Instead, because the Commission has said that TELRIC rates exist within a "band," one entirely permissible solution is to "'fix[] the wholesale rates, which [a]re under its jurisdiction, at a lower level within'" that band. *Id.* at 564 (citing *Conway*, 426 U.S. at 279). Here, because, as AT&T has shown, Verizon's Delaware rates are not TELRIC-compliant to begin with, there is certainly plenty of room for downward movement.

a price squeeze is demonstrated, wholesale rates are discriminatory and contrary to the public interest. The existence of price variations (and product "differentiation") may, of course, impact the calculations to determine *whether* a price squeeze exists (and AT&T's margin analyses do, indeed, account for geographic rate and cost differences). But if, accounting for these rate and cost differences, a price squeeze is shown to exist, *Conway* applies with full force in this context, as the D.C. Circuit has recognized. It is also not relevant that "intentional state policy" may have caused wholesale rates to exceed retail rates. AT&T does not ask the Commission to interfere with (or even comment upon) state policy, but merely to determine whether a price squeeze exists and, if so, to decide whether it would serve the public interest to grant a section 271 application notwithstanding the price squeeze. As explained above, where local markets are not open to competition, granting section 271 authority will necessarily permit a BOC to extend its local monopoly into markets for bundled local and long distance service. The fact that "intentional state policy" may have contributed to the local monopoly does not make the leveraging of that monopoly consistent with the public interest. As explained by the Supreme Court two months ago, "[t]he Act . . . appears to be an explicit disavowal of the familiar public-utility model of rate regulation . . . presumably still being applied by many States for retail sales, . . . in favor of novel rate setting designed to give aspiring competitors every possible incentive to enter local retail telephone markets."[50]

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[50] *See Verizon* v. *FCC*, 122 S. Ct. 1646, 1661 (2002). As other courts have recognized, implicit subsidies – "that is, 'the manipulation of rates for some customers to subsidize more affordable rates for others'" – are fundamentally incompatible with efficient competition. *See Alenco Communications Inc.* v. *FCC*, 201 F.3d 608, 616 (5th Cir. 2000); *Texas Office of Public Utility Counsel* v. *FCC*, 183 F.3d 393, 406 (5th Cir. 1999). Accordingly, Section 254(d) expressly authorizes state commissions to adopt universal service mechanisms to convert intrastate implicit subsidies into explicit subsides. *See* 47 U.S.C. § 254(f). To be sure, some states have chosen for policy reasons of their own to maintain the pre-existing system of implicit subsidies, and have thus far declined to establish a competitively neutral system of explicit subsidies. To the extent that those policies facilitate a price squeeze, however, Section 271 precludes the Commission from granting interLATA authority in that state. And there is no rational basis for the

The third purported distinction cited by the Commission – the availability of resale – is also unavailing. As AT&T has repeatedly shown, and demonstrates again here, resale requirements do not solve the price squeeze because, *inter alia*, the wholesale discounts available are also too small to allow profitable entry. And, as explained above, the margin analysis performed by Michael Lieberman assumes that local entrants will engage in resale activities where higher margins are available from providing resale than from providing services on a UNE-P basis. That analysis shows that, even accounting for resale opportunities, statewide net margins in Delaware are negative.[51]

Notwithstanding its reservations about the applicability of *Conway*, in its *Vermont 271 Order* (¶ 71), the Commission also offered guidance on the type of "margin analysis" that should be employed to test whether a BOC's rates results in an anticompetitive price squeeze. The Commission explained that, in addition to the revenues that are directly available due to local entry, several other revenue sources would be relevant to a price squeeze analysis including, intraLATA toll and interLATA toll revenue contributions, and the amount of federal and state universal service revenues that would be available to new entrants.[52] The Commission also stated that a margin analysis should consider whether entry is viable using a mix of a UNE-based and resale-based local entry strategy.[53]

AT&T has conducted such an analysis. It demonstrates that a residential entry strategy that employs combination of UNE-based and facilities-based entry (the analysis

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Commission to disregard its public interest and nondiscrimination mandates and to reward state commissions and RBOCs that choose to maintain competition-foreclosing regulation that is contrary to the terms and core competitive purposes of the 1996 Act.

[51] *See* Lieberman Decl. ¶¶ 42-46.

[52] *See Vermont 271 Order* ¶ 71.

[53] *See id.* ¶ 69.

assumes that a UNE-based approach where that is the most profitable entry mode, and a resale-based approach where that is the most profitable mode of entry) is *not* economically feasible in Delaware. The state-wide average *gross* margin (not accounting for carriers' internal costs) in Delaware is $2.79,[54] which does not even come close to covering an efficient carrier's internal costs of entry.[55] Because the *net* margins that are available to new entrants in Delaware are *negative*, competitive entry is not feasible in Delaware. Thus, approval of Verizon's Application is not consistent with the public interest.

[54] *See* Lieberman Decl. ¶¶ 42-46.

[55] *See* Bickley Decl. ¶ 2.

CONCLUSION

For the foregoing reasons, Verizon's application for authorization to provide in-region, interLATA services in Delaware and New Hampshire should be denied.

Respectfully submitted,

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July 17, 2002

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Comments of AT&T Corp. was served, by the noted methods, the 17th day of July, 2002, on the following:

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Attachment 1

Facilities-Based Providers (NH, DE)	**Change in Mkt. Cap.**[i]	**Current Financial Situation**
Adelphia Communications/ Adelphia Business Solutions	-99.47% ($0.22)/ -99.73% ($0.01)	Adelphia Communications filed for bankruptcy in June 2002, lost $1.71 billion in 2001, and being investigated for questionable dealings between company and Rigas family resulting in estimated $3.1 billion in family debts;[ii] Nasdaq delisted stock in June 2002;[iii] Adelphia Business Solutions filed for bankruptcy in March 2002 (as have several affiliate units) citing deteriorating market for competitive local exchange carriers, and petitioning bankruptcy court to sell Total Service Resale in nine southeastern U.S. states to BellSouth;[iv] announced in September 2001 significant capital expenditure reductions for 2001-2003 and eliminating further investment in approximately 10 markets.[v]
AT&T	-52.66% ($10.16)	Posted a 1st Quarter 2002 loss of $975 million (including $240 million impairment charge related in part to faltering investments in Time Warner Telecom), revenue decline of 11%, expects 2nd Quarter 2002 revenue to fall 8.4% and to reduce capital expenditures by $300 million to $400 million;[vi] announced in January 2002 plans to record $1 billion 4th Quarter 2001 restructuring charge and expects to eliminate 5,000 employees in 2002, after cutting 8,000 in 2001;[vii] posted overall loss of $191 million for 2nd Quarter 2001,[viii] following net loss of $373 million for 1st Quarter.[ix]
Broadview Networks	N/A	Never generated positive cash flow;[x] laid off approximately 40 employees in May 2002[xi] and more than 90 employees in September 2001;[xii] withdrew IPO offer in Fall 2000;[xiii] net losses for 3rd Quarter and first nine months of 2000 of $441,202 and $283,721, respectively, with lower sales as compared to 1999.[xiv]
Cavalier Telephone	N/A	Called off planned merger with two other CLECs in August 2000 due to decline in Nasdaq market.[xv]
Choice One Communications	-92.31% ($0.50)	UBS Warburg downgraded rating on stock in July 2002, citing $95 million funding gap which could cause company to run out of capital and force

Facilities-Based Providers (NH, DE)	Change in Mkt. Cap.[i]	Current Financial Situation
		bankruptcy filing;[xvi] reported 1st Quarter 2002 net losses of $57.8 million;[xvii] reported 2001 loss of $248.8 million and 4th Quarter 2001 loss of $44.8 million;[xviii] yet to return profit and does not expect to be profitable until 2003;[xix] reported net losses of $65.1 million and gross losses of $217 million in 2000.[xx]
Comcast	-44.94% ($22.48)	Reported 1st Quarter 2002 loss of $88.9 million;[xxi] reported 4th Quarter 2001 loss of $321 million;[xxii] reported 3rd Quarter 2001 loss of $106.8 million;[xxiii] reported 1st Quarter 2001 net loss of $290.6 million;[xxiv] value of acquisition of AT&T Broadband has fallen $20 million due to low stock value.[xxv]
Conversent Communications	N/A	Has never and does not expect to generate positive cash flow until at least Fall 2002.[xxvi]
CoreComm/ATX Communications	-60.94% ($1.25)	CoreComm changed name to ATX Communications in July 2002, but new company still faces delisting from Nasdaq if stock price drops too low;[xxvii] reported 1st Quarter 2002 net loss of $12.5 million;[xxviii] reported 3rd Quarter 2001 loss of $51 million;[xxix] lost $313.8 million in 2000;[xxx] Nasdaq has sought to delist stock since July 2001;[xxxi] closed Ohio office and discontinued service there, eliminating 180 positions, in August 2001;[xxxii] eliminated 110 jobs in July 2001;[xxxiii] cut 210 jobs in May 2001.[xxxiv]
Covad Communications	-69.84% ($1.10)	Reported First Quarter 2002 loss of $56.8 million, has severely curtailed operations, and warned that revenue will likely be flat in 2nd Quarter;[xxxv] reported net loss of $689 million for 2001, and 4th Quarter 2001 net loss of $175.2 million;[xxxvi] filed for Chapter 11 Bankruptcy in August 2001 designed to eliminate $1.4 billion in debt;[xxxvii] reported 2001 1st Quarter net loss of $199 million, laid off 1,200 employees in 2000-2001, and closed 350 local equipment hubs.[xxxviii]
DSL.net	-80.54% ($0.29)	Reported 1st Quarter 2002 net loss of $9.45 million;[xxxix] reported 2001 net loss of $115.5 million and 4th Quarter 2001 net loss of $11.2 million;[xl] reported 3rd Quarter 2001 net loss of $21.9

Facilities-Based Providers (NH, DE)	Change in Mkt. Cap.[1]	Current Financial Situation
		million;[xli] reported 2000 net loss of $105.8 million;[xlii] Nasdaq contacted in July 2001 regarding possible delisting;[xliii] applied to FCC in July 2001 to discontinue interstate special access DSL service for high-speed Internet access in 22 states;[xliv] announced in July 2001 elimination of 90 jobs and closing of 250 operational central offices.[xlv]
Hughes Electronics Corp.	N/A	Reported 1st Quarter 2002 loss of $156.4 million;[xlvi] reported year 2001 net loss of $621.6 million and 4th Quarter 2001 net loss of $132.6 million;[xlvii] satellite Internet subsidiary Hughes Network Systems reported 1st Quarter 2002 loss of $27.5 million,[xlviii] laid off 200 workers in December 2001,[xlix] and cut forecasts for new subscribers and reported negative 3rd Quarter 2001 EBITDA of $22.6 million.[l]
MediaCom Communications	-70.37% ($5.66)	Reported 1st Quarter 2002 loss of $35.2 million;[li] reported 4th Quarter 2001 loss of $88.3 million;[lii] reported 3rd Quarter 2001 net loss of $65.3 million;[liii] reported 2nd Quarter 2001 loss of $32.7 million.[liv]
Network Access Solutions	-98.25% ($0.01)	Filed for bankruptcy in June 2002 on $84.9 million in debt, and reported net operating losses of $104.4 million and negative cash flow from operations of $33.2 million in 2001;[lv] laid off 95 employees in November 2001, and closed approximately 205 unprofitable central office collocation facilities and laid off 140 employees (34% of workforce) in May 2001.[lvi]
PaeTec Communications	N/A	Never returned profit and does not expect to be profitable until 2003;[lvii] canceled planned initial public offering in early 2001.[lviii]
StarBand Communications	N/A	Filed for bankruptcy in June 2002 because capital ran out, listing liabilities of $229 million;[lix] laid off 30% of employees in 2001 and has not made a profit for investors due in part to slower than expected demand.[lx]
WorldCom/MCI Group	-99.00% ($0.16)/ -98.65%	Revealed in June 2002 that nearly $4 billion in operating expenses were hidden in financial statements from 2001 and 1st Quarter 2002, bank

Facilities-Based Providers (NH, DE)	Change in Mkt. Cap.[i]	Current Financial Situation
	($0.22)	lenders suspended $4.25 billion in loans and canceled $1.5 billion securitization of receivables, and laid off 17,000 employees (over 20% of workforce) with additional layoffs possible;[lxi] CEO stated on July 11, 2002 that avoiding bankruptcy filing "is looking much more difficult" and that decision will be made within three weeks, and announced no dividend payment for MCI Group tracking stock;[lxii] expected to cut $1 billion from 2002 capital expenditures;[lxiii] announced in August 2001 cut in capital spending by $2 billion for 2002;[lxiv] laid off 6,300 employees (6-7% of workforce) in February 2001,[lxv] 361 in March 2001,[lxvi] and 832 in April 2001,[lxvii] and 1,000 across Europe in October 2001.[lxviii]
XO Communications, Inc.	-98.75% ($0.03)	Filed for bankruptcy in June 2002, listing total liabilities of $8.5 billion and owing lenders more than $4.4 billion;[lxix] reported 1st Quarter 2002 net loss of $2.2 billion;[lxx] delisted by Nasdaq and erased value of public stock as part of $800 million restructuring plan attempting to avoid bankruptcy;[lxxi] reported 3rd Quarter 2001 loss of $50.8 million and Standard & Poor's downgraded credit rating in November 2001;[lxxii] announced in October 2001 elimination of 600 jobs (8% of workforce) and reported 2nd Quarter EBITDA loss of $70.7 million;[lxxiii] posted 1st Quarter 2001 loss of $443.5 million, cutting $2 billion from planned capital expenditures over the next five years, halting European expansion, delaying some domestic expansions, and curtailing some costly services that had limited potential.[lxxiv]

[i] The figures in this column represent the percentage below the 52-week high for the respective publicly traded stocks—as calculated by Morningstar.com—and the last price of each stock at the close of trading on July 11, 2002.

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