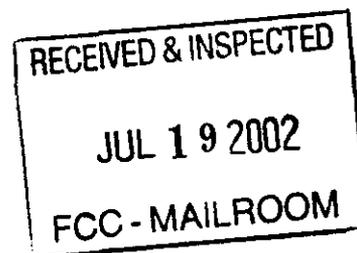




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July 17, 2002 (Filed via Fax at 4:51 PM)

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 Rules¹ CIENA Corporation submits the following reply comments in the above-referenced Notice of Proposed Rulemaking.

CIENA is a manufacturer of intelligent optical networking systems and software for integrated next-generation communications networks. Our products provide service providers with customized transport and switching systems for use in the core of the network and in the local loop. By simplifying the network and reducing the cost to operate it, CIENA is helping service providers realize the economic and competitive advantages associated with managing simpler, smarter networks.

CIENA has a significant interest in the outcome of the Commission's proceeding. Rapid deployment of affordable broadband technologies is good for consumers, good for the nation's economy, good for the telecommunications industry generally, and good for companies, like CIENA, that provide the materials equipment used in our communications infrastructure.

We believe that the deployment of fiber to the home ("FTTH"), one element of an improved broadband infrastructure, is being inhibited by the Commission's current unbundling rules. The Commission has an opportunity in these proceeding to modify these rules in a way that would stimulate investment in FTTH without hindering the development of competition. This is a balance that is quite achievable.

CIENA Corporation endorses the Comments filed by Corning Incorporated.² Corning's proposal, that ILECs not be required to unbundled and wholesale to CLECs new fiber loops built to deliver FTTH, would represent a modest, narrowly-focused change in existing rules.

¹ 47 CFR § 1.415

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.

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Nevertheless, there is good reason to believe that it would have a significant favorable impact on the deployment of FTTH.

We are persuaded by the arguments advanced by Corning, as well as by some of the ILECs, that the current rules create a significant disincentive for ILECs to deploy FTTH. The Cambridge Strategic Management Group ("CSMG") study included in Corning's comment suggests that FTTH will be deployed much more extensively if ILECs are freed from the obligations to unbundle and make fiber loops available to competitors.

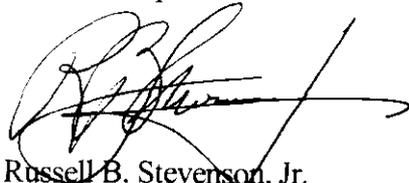
As Corning's Comment argues, Section 706 obligates the Commission to "encourage the deployment on a reasonable and timely basis of advanced telecommunications capability,"³ which clearly includes the services that FTTH would permit. Fortunately, there is no conflict between the Commission's obligations under Section 706 and the unbundling provisions of Section 251, which require unbundling only if lack of access to a network element would "impair" the ability of CLECs to compete.⁴ As Corning points out, there are today far more homes served by FTTH deployed by CLECs than by ILECs. This would hardly be the case if CLECs were unable to deploy fiber on their own.

While the case might be different if the dispute were about access to fiber loops already deployed by the ILECs. It is obvious that the economics of overbuilding existing facilities are significantly different from the economics of deploying new ones. The Commission should recognize this and, as Corning urges, relieve the ILECs from unbundling and resale of newly-deployed FTTH systems.

At a minimum, if it is not persuaded that the existing record sufficiently demonstrates that the change proposed by Corning would have the desired results, the Commission should move quickly to address the question in a separate proceeding. Time is of the essence. Neither consumers, nor industry, nor the nation, can afford to wait much longer for the deployment of this powerful tool for reaping the full benefits of the Internet.

Sincerely,

CIENA Corporation



Russell B. Stevenson, Jr.
Secretary and General Counsel

³ Telecommunications Act of 1996, Pub. L. 104-104, Feb. 8, 1996, 110 Stat. 153, Title VII § 706.

⁴ 47 USC §251(d)(2)(B).

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cc: Mr. Michael K. Powell, Chairman
Ms. Kathleen Q. Abernathy, Commissioner
Mr. Michael J. Coops, Commissioner
Mr. Kevin J. Mann, Commissioner