

EX PARTE OR LATE FILED

RECEIVED & INSPECTED
SEP 10 2002
FCC - MAILROOM

EX PARTE OR LATE FILED



COLUMBIA
BUSINESS
SCHOOL

Columbia University
Graduate School
of Business

Suite 1-A Uris Hall
New York, NY 10027
212 854-7576
Fax 212 854-1471
rca53@columbia.edu

Columbia Institute for
Tele-Information

Robert C. Atkinson
Director of Policy Research

September 9, 2002

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

Re: *Ex Parte* Presentation in UNE Triennial Review - CC Docket No. 01-338

Dear Ms. Dortch:

On September 5, 2002, the Columbia Institute for Tele-Information (CITI) hosted a Workshop on UNEs at the L'Enfant Plaza Hotel. CITI is a non-profit academic research institute focusing on the telecommunications industry. CITI is affiliated with the Columbia University Business School in New York. Because a number of FCC employees observed the Workshop, CITI is filing this *ex parte* notice in the above-referenced matter.

Attached to this letter is a list of workshop attendees and the seven proposals commissioned by CITI that were discussed during the Workshop.

The following points were made during the course of the discussion:

- While some attendees thought that greater margins between retail rates and UNE rates would minimize some of the urgency associated with resolving UNE issues, other attendees pointed to experience in states such as New York, where retail rates have increased and UNE rates decreased, to suggest that this is not the case.
- Some attendees noted that the economic analysis of UNE margins must take into account the pressure on retail rates from wireless and cable services.
- There were widely divergent (and predictable) views on the impact of UNEs (particularly UNE-P) on ILECs, with some arguing that the benefits (including long distance entry and minimizing "bypass") outweigh the

No. of Copies rec'd 41
List ABCDE

negatives and others arguing that the pernicious impact of UNEs of ILECs' investment incentives and the suppression of facilities-based competition overwhelm any possible benefits.

- It was difficult to separate the discussion of the more mechanical aspects of what constitutes a UNE (i.e., what constitutes impairment) from the pricing of UNEs.
- There was discussion (but no consensus) about whether "impairment" or "non-impairment" can be demonstrated on a "hypothetical" rather than "actual" basis. In addition, there was discussion (but again no consensus) about whether CLEC business failures can be evidence of "impairment" if CLEC entry can be evidence of "non-impairment."
- Some parties suggested that UNEs would not need to be provided on a regulated, compulsory basis when ILECs have a rational business motivation for offering them voluntarily. Attendees expressed various views on the sources of such motivation, including:
 - 1) When prices for UNEs rise to attractive levels;
 - 2) To discourage overbuilding by competitors.
 - 3) In response to a working competitive wholesale market.
- One attendee suggested that the telecom industry's greatest current problem is access to capital so that resolution of the UNE issue must take into account investor sentiment and reaction. This attendee suggested that policymakers must ask and answer a fundamental question with respect to any policy outcome: is it financially sustainable?
- One attendee suggested that negotiated ILEC-CLEC Interconnection Agreements would be the best way to achieve "granularity" of UNEs. This raised the question of whether the Interconnection Agreement process could be changed to encourage negotiated agreements. It was noted that a CLEC generally doesn't have much bargaining leverage but one exception has been in rural markets where a CLEC has effectively given up its right to overbuild in return for attractive UNE rates.
- There was considerable discussion about whether the FCC's forbearance authority should be the vehicle for introducing "granularity" into the availability of UNEs. There was concern that the FCC might be overwhelmed by a flood of forbearance petitions.
- There was discussion about whether the switching UNE could be phased out in many markets if the ILEC consistently meets certain metrics for the

timely provisioning of loop and transport UNEs (for example, by using electronic loop provisioning, improved manual systems or combinations of the two, depending on the market demand). The notion is that a CLEC would prefer to use its own switch if loops and transport were provided as quickly and reliably as the UNE-P. While RBOCs satisfy such metrics in the sec. 271 approval process, CLECs were concerned that the RBOCs would not be able to satisfy similar metrics when substantially higher volumes are involved if the UNE-P is not available.

- Smaller/Midsized ILECs have different concerns and issues than the RBOCs. The smaller/midsized ILECs are concerned that UNE rules that are appropriate for the larger markets would not be appropriate for their circumstances so that "geographic granularity" is important. It was noted that the FCC's pricing flexibility rules, which take into account geographic factors, have been sustained by courts so that it is reasonable to expect that geographic granularity for UNEs would be sustained. However, it was also noted that some State PUCs make granular decisions whereas as other PUCs seem to give little weight to the different circumstances of rural and non-rural LECs.

I ended the Workshop by thanking the participants and encouraging the industry participants to consider whether the industry might collectively formulate a UNE policy that would be acceptable to a broad spectrum of stakeholders. I said that CITI would be pleased to facilitate the development of such a policy.

Sincerely,



Robert C. Atkinson

- cc: Brent Olson - FCC
Rob Tanner - FCC
Tom Navin - FCC
Jeremy Miller - FCC
Julie Veach - FCC



Attendees
Columbia Institute for Tele-Information (CITI)
UNE Workshop
L'Enfant Plaza Hotel, Washington, DC

September 5, 2002

Robert Atkinson	CITI
Kim Scardino	Worldcom
Chris Frentrup	Worldcom
Donna Sorgi	Worldcom
Jonathan Askin	ALTS
Don Cain	SBC
Jake Jennings	New South
Michael Pryor	Mintz Levin
Susanne Guyer	Verizon
Dennis Weller	Verizon
Dick Juhnke	Sprint
Russell Frisby	CompTel
Jonathan Lee	CompTel
Becky Sommi	Broadview Networks
Joan Marsh	AT&T
Leonard Cali	AT&T
Mark Jenn	TDS Telecom
Bob Blau	BellSouth
Rita Whitmore	SureWest Communications
Brent Olson	FCC
Rob Tanner	FCC
Tom Navin	FCC
Jeremy Miller	FCC
Julie Veach	FCC

The Purpose of UNEs

- To allow competitive providers to *supplement* their facilities using unbundled network elements where impairment exists
- Therefore, competitive providers should be required to provide *at a minimum* one of the basic network building blocks (e.g. loops, switching or transport)

Proposal 1

Citi UNE Workshop

1

So What is a UNE?

A facility for which a competitor cannot practically deploy alternative facilities

Proposal 1

Citi UNE Workshop

2

What is *not* a UNE?

- New investment, both “greenfield” & packet-based
- Offerings:
 - where alternatives are either available or self-provisioning is possible
 - with high volumes or large revenue potential (e.g. DS-3 and above transport & entrance facilities)
 - used to provide service in competitive markets (e.g. Broadband, wireless & long distance)

(continued)

Proposal 1

Citi UNE Workshop

3

What is *not* a UNE? (cont.)

- Combinations of individual UNEs (e.g. UNE-P or EELs)
 - No combinations for combination’s sake
- Additions beyond a national list

Proposal 1

Citi UNE Workshop

4

Granularity

- Evaluation of geographic or temporal factors may be considered by the FCC
- Wire centers or MSAs can define “carve-outs”
- Examples:
 - In a wire center, unbundled transport is not required if it has 2 or more fiber-based collocators, *or* $\geq 15K$ business lines *or* has $\geq \$150K$ in special access revenues
 - Unbundled switching is not required in an MSA if 60% of COs have ≥ 3 competitors which are collocated *or* have ported numbers

Proposal 1

Citi UNE Workshop

5

Pricing Considerations

- Prices should be set to stimulate investment
- Prices are to be set based on forward-looking costs, not competitors’ desired margins
- Existing FCC guidance is limited
 - 1996 Local Competition Order committed to “issue additional guidance as necessary” (para. 620)

(continued)

Proposal 1

Citi UNE Workshop

6

Pricing Considerations (cont.)

- The FCC should provide specific standards to the states on a small set of critical inputs
 - e.g. depreciation, fill factors, cost of capital, non-recurring costs, etc.
- State and Federal regulators should cooperatively work to achieve retail rate structures that will encourage facilities-based entry.

CITI UNE Workshop: PROPOSAL 2 Layered Policy Model

The ultimate policy goal of the FCC should be to insure that wireline networks are as open as possible. Open networks promote innovation, competition and efficiency. In some cases this openness may need to be compelled through regulatory actions, but eventually and preferably there will be adequate incentives in place so that it is in the best interest of all wireline providers to keep their networks open.

One potential framework in which to view communications policy questions has been proposed by Kevin Werbach, formerly the Counsel for New Technology Policy at the FCC.¹ This model looks at the vertical layers that make up communications and Internet architecture when forming policy as opposed to horizontal service and geographic classifications.

The model proposes four layers:

- content
- applications or services
- logical infrastructure
- physical infrastructure

The level of regulation for each layer, or specific components of each layer, would generally be based on the ability of companies to use control over lower layers to restrict choice and competition in the higher levels. Additionally, it is critical that regulators keep in mind that the interfaces between the layers need to remain open.

Content, as it always has been under common carrier regulation, should be regulated as little as possible and is not very relevant to a discussion of UNEs.

The **applications and services** layer includes things such as voice and data, narrow-band and broadband Internet access, voice over IP, calling features and even OS/DA. This layer should have limited regulation as long as it is shown that carriers are not using control over physical or logical infrastructure in anti-competitive ways. If open networks exist, freeing the flow of services over those networks should benefit consumers and carriers.

The **logical infrastructure** layer is where things start to become more complicated. This layer includes numbering resources, databases and perhaps signaling. In some areas, regulators have completely taken control of the logical infrastructure away from entities providing services at higher layers. Unaffiliated numbering resource and LNP database administrators have insured that anti-competitive actions cannot occur. Other databases and signaling systems have been left to carriers to administer. If it is shown that competitive markets exist in the provision of logical infrastructure components, requirements should remain that carriers offer these services openly, but they can now do so at market prices.

The **physical infrastructure** layer is the most difficult sort out. This layer includes loops, NIDs, transport and switching. The debate should not be over whether these elements of the physical infrastructure are accessible by carriers, but under what conditions and at what prices. The more competitive the market for alternatives, the more prices should be allowed to float to the market

¹ A draft version of this model is available on Kevin Werbach's web site while the final version is forthcoming in the *Colorado Journal on Telecommunications & High Technology Law* (2002).
<http://www.edventure.com/conversation/article.cfm?Counter=2414930>

level. The argument behind this can be viewed in the TELRIC framework. As a market becomes more competitive and therefore more at risk for losses to competitive entrants, inputs in modeling the cost of capital would increase, thus moving regulated prices higher, up to wholesale market prices, or even potentially retail prices.

Looking at specific elements, the competitive provision of NIDs is limited and therefore a higher level of regulatory requirements and TELRIC pricing should remain. The cost of deploying NIDs to all customer locations is uneconomic.

Within the loop category there are variations in the level of competition and ability to self-provision. For standard loops (DS0 and DS1), self-provisioning is not economically viable and competitive alternatives do not exist. Because under the layered model, the physical infrastructure is key, not the services provided over the facility, the broadband/voice debate goes away. The physical transmission pathway to the customer, regardless of technology, electronics, date of deployment or services provided is what should be available at TELRIC prices.

For higher capacity loops (DS3 and above), it is economical for carriers to self-provision facilities if they expect enough traffic to be generated to justify these circuits. Because of the higher level of competition and the higher risk of bypass, TELRIC pricing should not apply to these facilities, but they still should remain available at wholesale market rates, somewhere between TELRIC and retail.

The market for interoffice transport facilities is competitive in pockets. In areas where 3 or more alternative providers exist - providers with their own fiber cables, not simply three providers with fiber in the same cable - pricing should also be allowed to float up to a wholesale rate. However, the facilities should still be made available.

EELs remain an important combination of elements that free alternative LECs from the restrictions of legacy network deployment. Access to EELs should remain open. In areas where transport prices are allowed to float, the transport component of EELs would also rise, but the EEL would still be available. Local use restrictions should also remain in place to eliminate regulatory arbitrage.

The market for switching is also growing more competitive. In wire centers served by 3 or more switch-based alternative providers who have captured at least 20% of the lines in the wire center, switching rates should be allowed to float up to wholesale levels, but the switching element should remain available. Alternatively, consideration could be given to allowing carriers to enter a market and use TELRIC priced switching (and therefore UNE-P) for a limited amount of time in order to build a customer base large enough to justify facilities deployment. (6-12 months) After that time, prices for switching would be allowed to float.

Relaxing switching requirements should also be subject to improvements in loop provisioning. Until hot cut processes, access to DLC loops and fiber loops and efficient conditioning procedures are in place, access to local switching needs to remain in place. Additionally, for loops to customers that cannot be accessed on stand-alone basis because of DLC architecture, switching and therefore UNE-P, must remain available or alternative providers will not have the ability to serve those customers.

The final critical components of this structure are **open interfaces**. In particular, OSS must remain open. Without access to information on physical and logical infrastructure necessary to serve customers, the openness of the other layers is meaningless.

POTENTIAL APPROACH TO IMPAIRMENT

Factors to be considered in all impairment analyses

- All analyses must employ the same scale and parameters used by CLECs in their make/buy decisions for the particular functionality at issue (e.g., an impairment analysis of inter-office transport would have to be made on a point-to-point basis because that is how CLECs choose to purchase or construct such services).
- Similarly, impairment analyses must utilize the specific service capacity required by the CLEC (e.g., DS-0/DS-1/DS-3/OCN, etc.).
- Impairment will be assumed for all UNEs so long as use and commingling restrictions remain in place for any UNE (including UNEs where impairment is not at issue), given that such restrictions preclude a CLEC from: (i) attaining economies of scope comparable to the ILEC's; or, (ii) arranging for alternative transport from a third party without the need for collocation.
- Impairment will be assumed for all UNEs until effective special access and UNE performance measures and consequences are in place.

Factors that need to be considered in assessing whether potential CLEC self-provisioning constitutes non-impairment

- Is capital actually available for self-provisioning?
- What is the CLEC's (not the ILEC's) cost of capital?*
- What is the total amount of demand the CLEC requires for the make/buy issue under consideration (i.e., is there sufficient demand to warrant a build)?
- Does the CLEC have reasonable certainty that it will retain the required level of demand on the route for a period sufficient to justify a build (does it have a long term customer commitments or only short term customer contracts for the route)?
- Can the CLEC obtain ROW in a reasonable time and at a comparable cost to the ILEC?
- How much time is needed by CLECs to migrate from UNE IOT to their own facilities if it chooses to build or purchase alternative facilities?

Factors to be considered in assessing whether the availability of inter-office transport from third-parties constitutes non-impairment

- Is anyone actually purchasing IOT on the alternative facilities for the specific route?
- How many alternative providers are available?
- Are they financially stable?

- Do the competitors offer service on different facilities, or do they share a common facility?
- Are there sufficient competitors to assure long-run supply at efficient pricing levels (i.e., TELRIC) after the ILEC is freed of its unbundling obligations?
- Is alternative supply available on the requested routes at the desired levels?
- Is there enough alternative supply for a large-scale purchase?
- Is there alternative supply available at lower levels (e.g., DS-1) if that is all the CLEC needs?
- Will the ILECs provide necessary technical support?
- Are cross-connects available at cost-based rates?
- Is third party through testing available?
- Will ILECs groom sufficient numbers of circuits in needed volumes?
- Will CLECs be able to purchase alternative supply from a reasonably limited set of providers to avoid the problem of managing a "patchwork network"?
- Do alternative suppliers offer a reasonably sized footprint (thereby obviating the need to manage multiple vendors)?

There is no need for any impairment analyses concerning loop facilities

- CLECs are not currently self-provisioning loops.
- There are virtually no third party wholesalers of loop facilities in America.
- The rare instances where loop self-provisioning might be economically viable involve either: (1) high-end customers who typically demand redundant, high-speed entry facilities, thereby precluding any utilization of existing ILEC loop facilities anyway; or (2) carriers [like RCN] that provide services (such as cable) in addition to traditional wireline services.
- Accordingly, there is no need at the present time for the Commission or state PSCs to conduct any granular impairment analysis of loop facilities.

Unbundled Local Switching

- Switching no longer need be provisioned as a UNE where the ILEC has proven to the satisfaction of the regulatory body that it meets the metrics and standards set forth to guarantee timely, efficient and cost-effective provisioning of unbundled loops, transport and enhanced extended links.

UNEs Must Be CLEC-Specific

- Sec. 251(d)(2)(B) **requires** "impairment" to be determined with reference to the services the requesting CLEC seeks to offer
 - Just because another CLEC can provide the services *it* seeks to offer without a particular UNE does not mean that any other CLEC can provide the services *it* seeks to offer without the UNE
 - Since the circumstances of each CLEC is different, the impairment analysis for each CLEC will always be different

Proposal 4

CITI UNE Workshop

1

UNE's Must Be Time-Specific

- Changing circumstances may mean a CLEC is impaired one day and not impaired the next
 - Changes in the circumstances of technology, supplier prices, CLEC's financial performance and maturity, ILEC's wholesale and retail rates are only some of the factors that may change the result of an impairment analysis
 - How frequently must the impairment analysis be done for each CLEC: daily? weekly?....

Proposal 4

CITI UNE Workshop

2

UNEs Must Be Market-Specific

- Differing circumstances may mean that the same CLEC is not impaired in one geographic market but it is impaired in another geographic market
 - What is the relevant market? State; MSA; Municipality; Wire Center; Street; Customer Premises?
 - Depending on the service, each could be appropriate

Proposal 4

CITI UNE Workshop

3

Regulations Cannot Accommodate Vastly Different UNE Circumstances

- The permutations and combinations of relevant and changing circumstances doom prescriptive UNE regulation to a highly "regulatory" and highly unpredictable morass
 - Uncertainty hurts everyone
- Fortunately, TA'96 introduced a deregulatory mechanism for determining UNE obligations in a way that accounts for the myriad relevant circumstances:

INTERCONNECTION AGREEMENTS!!!

Proposal 4

CITI UNE Workshop

4

UNEs Should Be Determined Through (Improved) Interconnection Agreements

- FCC should "fix" the Interconnection Agreement process rather than fooling around with prescriptive UNE rules. For example:
 - Inexpensive, fast arbitration, not traditional PUC hearings
 - "Opt-in" rather than "pick and choose" to encourage ILEC-CLEC "deals"
 - Etc, etc, etc.
- FCC should provide substantive and procedural guidance to PUCs for use in arbitrations
- But... would FCC have to prescribe default UNE rules to equalize bargaining leverage???

Proposal 4

CITI UNE Workshop

5

Conclusion

- Let's discuss how to improve the Interconnection Agreement process and rules so that carriers can negotiate their own UNE arrangements

Proposal 4

CITI UNE Workshop

6

Non-RBOC ILEC Perspective of UNE's

- One size does not fit all
- The non-RBOC ILEC is unique in that they provide services to a relative small number of customers within a much smaller geographic area than a large LEC.
- Making all UNEs available is uneconomical for non-RBOC ILECs.

Non-RBOC ILEC Perspective of UNE's

- It is unreasonable to expect a non-RBOC ILEC to incur the costs to develop, provision and offer every UNE
 - The cost to perform the typical forward-looking cost studies and develop provisioning methods of every UNE for a non-RBOC ILEC is unduly prohibitive as it is costly and a labor-intensive process.
 - A non-RBOC ILEC should be able to rely on forward-looking costs established by the large LEC and adjust those costs based on quantifiable cost differences between the two local exchange carriers.
 - This approach yields forward-looking costs for the non-RBOC ILEC without incurring the substantial cost of a full-blown forward-looking cost study.
 - The number of UNEs should be reduced to a basic list of loops and dedicated transport.

Non-RBOC ILEC Perspective of UNE's

- Requiring non-RBOC ILEC's to offer a UNE platform is unreasonable due to the high cost of development and provisioning.
 - There has been no demand for UNE-P in many of the non-RBOC ILEC territories as CLECs have their own switch.
 - CLECs competing in some of the areas have not ordered any basic UNE's available to them per the interconnection agreements.
 - These CLECs either have built their own networks or have purchased tariff services to provide competing services in the smaller service area.

Non-RBOC ILEC Perspective of UNE's

- The Pick and Choose rule is not efficient, cost effective or practical for a non-RBOC ILEC.
 - We have worked diligently to negotiate agreements that are appropriate and acceptable to the CLECs, while at the same time, keeping agreements closely aligned to each other.
 - Different rates, terms or conditions for different CLECs is not feasible for a company with a small workforce and standard methods and procedures.

Interoffice Transport (IOF) **Impairment Issues**

Almost all Competitive Carriers, regardless of their entry strategy, depend upon ILEC transport facilities (IOF) when connecting central offices in which they are collocated back to their switch and/or other collocation cages. These facilities are the cornerstone of most Competitive Carrier's networks, and are not readily available from alternative sources. There is a general misconception that if there is more than one Competitive Carrier in any given central office, self-provisioning wholesale interoffice transport, that there are competitive alternatives available. This is just not true. The presence of a competitive alternative does not mean that there are facilities available for other competitors. In order to determine if there are real competitive alternatives to the ILEC facilities, the following impairment issues must be considered:

1. Wholesale Offerings
2. Availability of Capacity
3. Access to Competitive Carrier
4. Distance Limitations between Frames
5. Ubiquity
6. Financial Viability

Wholesale Offerings – The presence of a Competitive Carrier in a central office does not imply that the Competitive Carrier offers transport on a wholesale basis, nor that the Competitive Carrier is facilities-based.

Availability of Capacity – In order to obtain service from a Competitive Carrier, that carrier must have excess capacity along the route that is needed. Many fiber-based Competitive Carriers built networks as dictated by the needs of end-user customers versus an infrastructure to support wholesale IOF requirements between central offices, thus capacity is often limited.

Access to Competitive Carrier – The offering of a wholesale IOF alternative by a fiber-based Competitive Carrier does not mean that the service is available to all carriers. In order to gain access to the Competitive Carrier's facilities the Competitive Carrier must build into a carrier's location. Frequently this requires a substantial revenue/term commitment by the carrier.

Distance Limitations between Frames – When purchasing IOF transport to connect one carrier's collocation cage to another carrier's collocation cage there is an accepted industry technical standard for the cable run between the carriers' frames. If the distance between the frames exceeds the standard requirements, the circuit will not operate at an acceptable service level. In addition such carrier to carrier connection must be fully compliant with the FCC's collocation and cross connect rules.

Ubiquity – Although a fiber-based Competitive Carrier may have a presence in a marketplace the presence is not ubiquitous. As indicated before, many fiber-based Competitive Carrier's built their networks to accommodate their business plans, not the needs of would-be competitors. Only the ILEC can offer the ubiquity of geographic reach that allows any and all competitors to reach all consumers.

Financial Viability – The fact that the telecom market place is in a state of flux cannot be ignored. If a fiber-based Competitive Carrier offering wholesale transport services is in financial distress it may not be prudent to provision IOF transport with that Carrier. Due to the criticality of these facilities e.g. supporting dial-tone to 100's of customers out of a given end office, a carrier can not risk a possible short-term network shutdown that could jeopardize service to its customer base.

Trigger to Consider Removal of IOF as a UNE

At such time as the Competitive Carrier marketplace meets the trigger defined below, the ILEC may petition the state regulatory agency to remove IOF from the list of UNEs for pricing purposes using the factors identified above. IOF as well as Special Access must still be a generally available common carriage service.

Competitors are collocated and competitive transport is provided by fiber-based competitive carriers in at least fifty-percent of the wire centers and along fifty-percent of the routes (A and Z locations) between an ILEC's wire centers in the zone in which the ILEC is seeking removal of UNE IOF (e.g. zone 1,2 or 3). During the course of the state review, if a competitive carrier demonstrates that a given route in that zone is not competitive, that route must continue to be available at UNE rates.

PROPOSAL 7

Overview

- What are the telecom policy goals?
- Where do we still need UNEs?
- How can UNE-P be justified?
- What UNE rule changes are needed?
- Where do we go from here?

Proposal 7

CITI UNE Workshop

1

What are the telecom policy goals?

- Open markets to competition
- Stimulate investment in facilities by both incumbents and new entrants
- Deliver innovative products and services to consumers

Proposal 7

CITI UNE Workshop

2

Where do we still need UNEs?

- Only where competing carriers would be "impaired" without the ability to use UNEs in offering a competitive service
- There is no evidence that competitors are being impaired in the marketplace for most ILEC services
 - ✓ ILECs' access lines have declined in each of the last three years
 - ✓ Competitors serve up to 23 million lines nationwide over their own facilities
 - ✓ There has been a rapid emergence of inter-modal competition from cable operators and wireless carriers

Proposal 7

CITI UNE Workshop

3

How can UNE-P be justified?

- "To create UNE-P prices that may be attractive to the CLECs, regulators are forcing the RBOCs to wholesale their network at rates that are significantly below the costs that the financial community looks at." (Anna Maria Kovacs - Commerce Capital Markets, May 1, 2002)
- "The relative meager cost savings associated with the shift in access line mix to more wholesale lines exacerbates the revenue decline impact on EBITDA margins. While the Bells lose roughly 60% of the revenues when they lose a line to a UNE-P based competitor, we estimate that they retain 95% of the costs." (Marc Crossman - JP Morgan, July 12, 2002)

Proposal 7

CITI UNE Workshop

4

What UNE rule changes are needed?

- The FCC should eliminate unbundling requirements for:

UNE	Competitive reality
✓ Circuit switching (and the UNE-P)	✓ 1300 CLEC switches serve up to 29M access lines in wire centers that cover 86% of all BOC switched access lines
✓ Dedicated transport and high-capacity loops	✓ CLECs have installed 184,000 route miles of fiber and obtained fiber-based collocation in BOC wire centers serving 44% of all lines
✓ Non-high capacity loops (where both cable telephone and digital CLECs are available)	✓ Cable telephony is offered to 10M homes in the nation and is gaining 70K customers each month; it has penetrated 43% of the residential market in some areas
✓ Loops used to serve multiple-dwelling units and new developments	✓ Wireless has displaced about 10M wireline lines; about 16% of cellphone owners consider a cellphone to be their primary phone, according to a national poll
✓ Mass market broadband facilities	✓ "Overbuilds" are deploying facilities to MDUs or neighborhoods
	✓ "Greenfield" deployment involves building facilities in new developments with no incumbent provider
	✓ Cable modems serve 66% of the broadband residential market, while DSL has only 30%

Proposal 7

CITI UNE Workshop

5

Where do we go from here?

- FCC should consider unbundling requirements in three specific categories
 - ✓ Traditional dedicated
 - ✓ Traditional switched
 - ✓ Broadband
- These categories reflect meaningful differences in service functionality or type of customer
- Each category involves a different set of UNEs
- FCC should adopt a three-year sunset for any remaining UNEs

Proposal 7

CITI UNE Workshop

6