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October 23, 2002

VIA ELECTRONIC SUBMISSION

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

Re: **Ex Parte Communication**
CC Docket No. 02-33
CS Docket No. 02-52

Dear Ms. Dortch:

On October 22, 2002, Donald E. Cain, Jeffrey A. Brueggeman, James K. Smith, Ahmad Ansari, Cliff Yackle and myself on behalf of SBC Communications, Inc. met with Brent Olson, Michelle Carey, Rob Tanner, Cathy Carpino, Jeremy Miller, Elizabeth Yockus of the Wireline Competition Bureau, Richard Hovey, and Behzad Ghaffari of the Office of Engineering and Technology and Harry Wingo of the Office of General Counsel. The purpose of our meeting was to discuss technical issues addressing broadband ISP access for wireline and cable networks. In addition, there was a discussion on the need to eliminate *Computer Inquiry* Requirements for broadband. The attached presentations formed the basis for our discussion.

Pursuant to Section 1.1206(b) of the Commission's rules, this letter and the attached presentations are being electronically filed in each of the proceedings identified above.

Please call me if you have any questions regarding this matter.

Sincerely,

A handwritten signature in black ink that reads "Jonathan J. Boynton". The signature is written in a cursive, flowing style with a large initial "J" and "B".

Attachments

Multiple ISP Access to Cable and Wireline Broadband Networks

Technical Analysis

Ahmad Ansari, Ph.D.
Lead Member of Technical Staff

Cliff Yackle
Lead Member of Technical Staff

SBC Technology Resources, Inc.
9505 Arboretum Blvd.
Austin, TX 78759

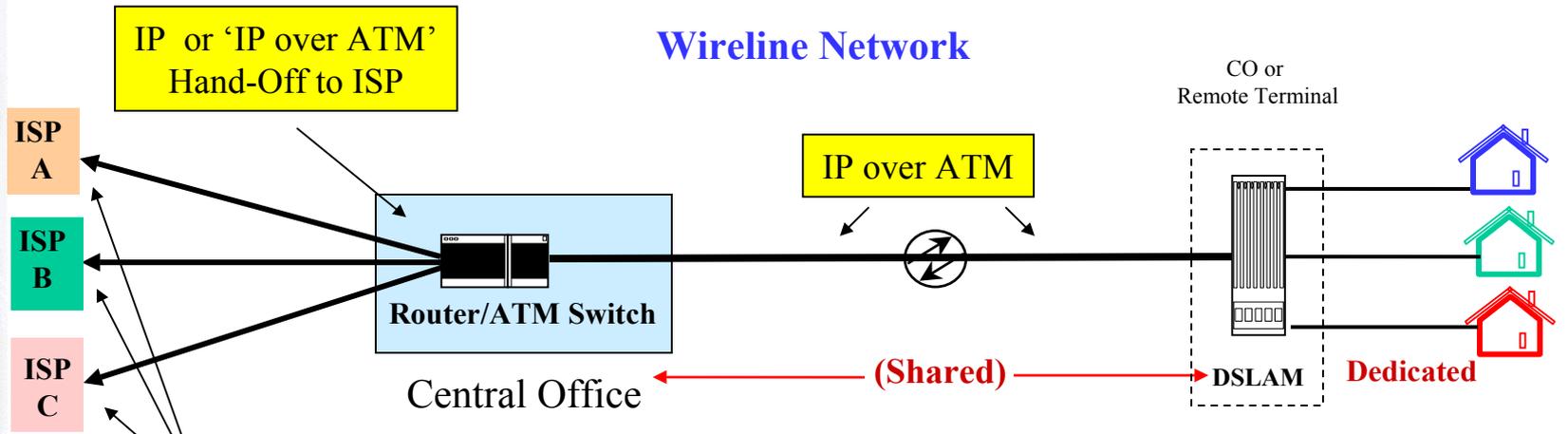
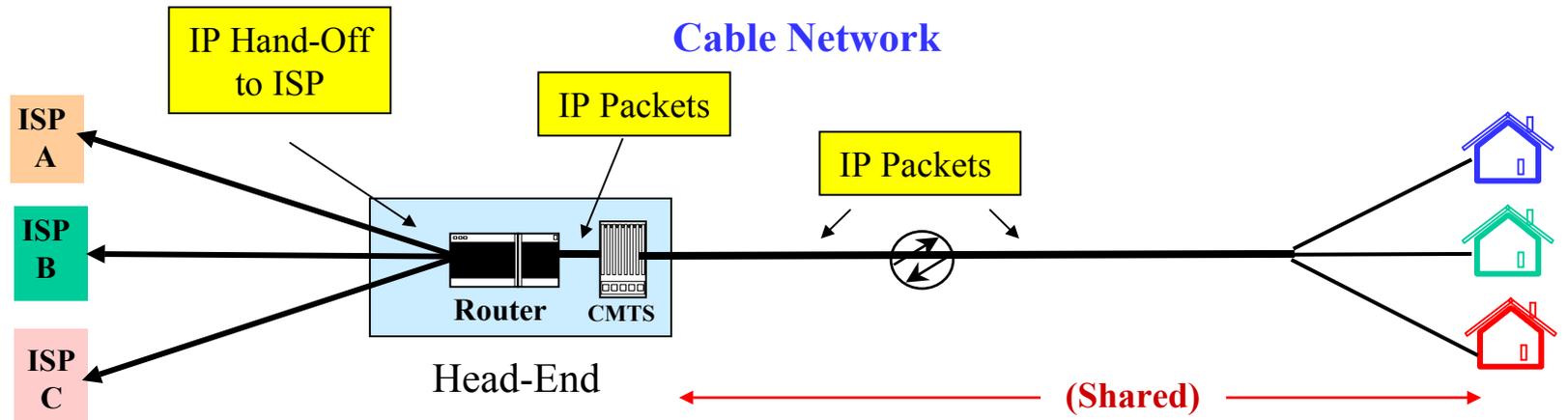


Overview

There are no technical or operational differences between wireline and cable networks that justify disparate ISP access requirements:

- Both are shared-packet networks
- Multiple ISP access is dependent on headend/central office configuration, not the last mile architecture
- Last mile architectures will converge with fiber closer to the home
- Routing methodologies are not unique to wireline or cable
- ISP access creates similar costs and operational issues for cable and wireline

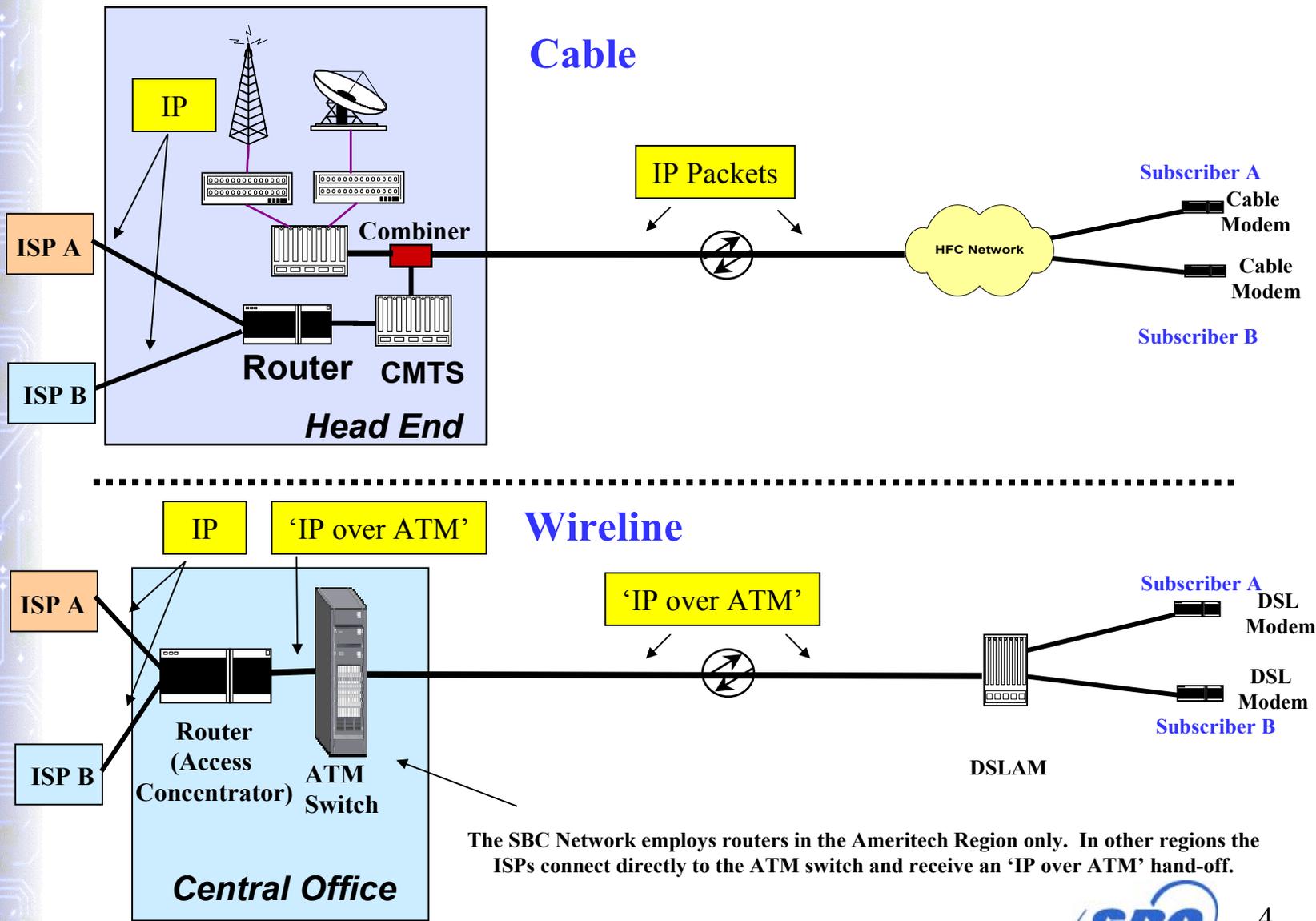
Cable & Wireline: Shared Packet Networks



A CMTS coupled with a cable modem provides basically the same functionality as a DSLAM coupled with a DSL modem.

If handed an 'IP over ATM' bit stream, the ISP strips off the ATM overhead - leaving it with IP only.

The Last Mile Architecture has No Bearing on ISP Access



Cable and Wireline Networks are Scalable

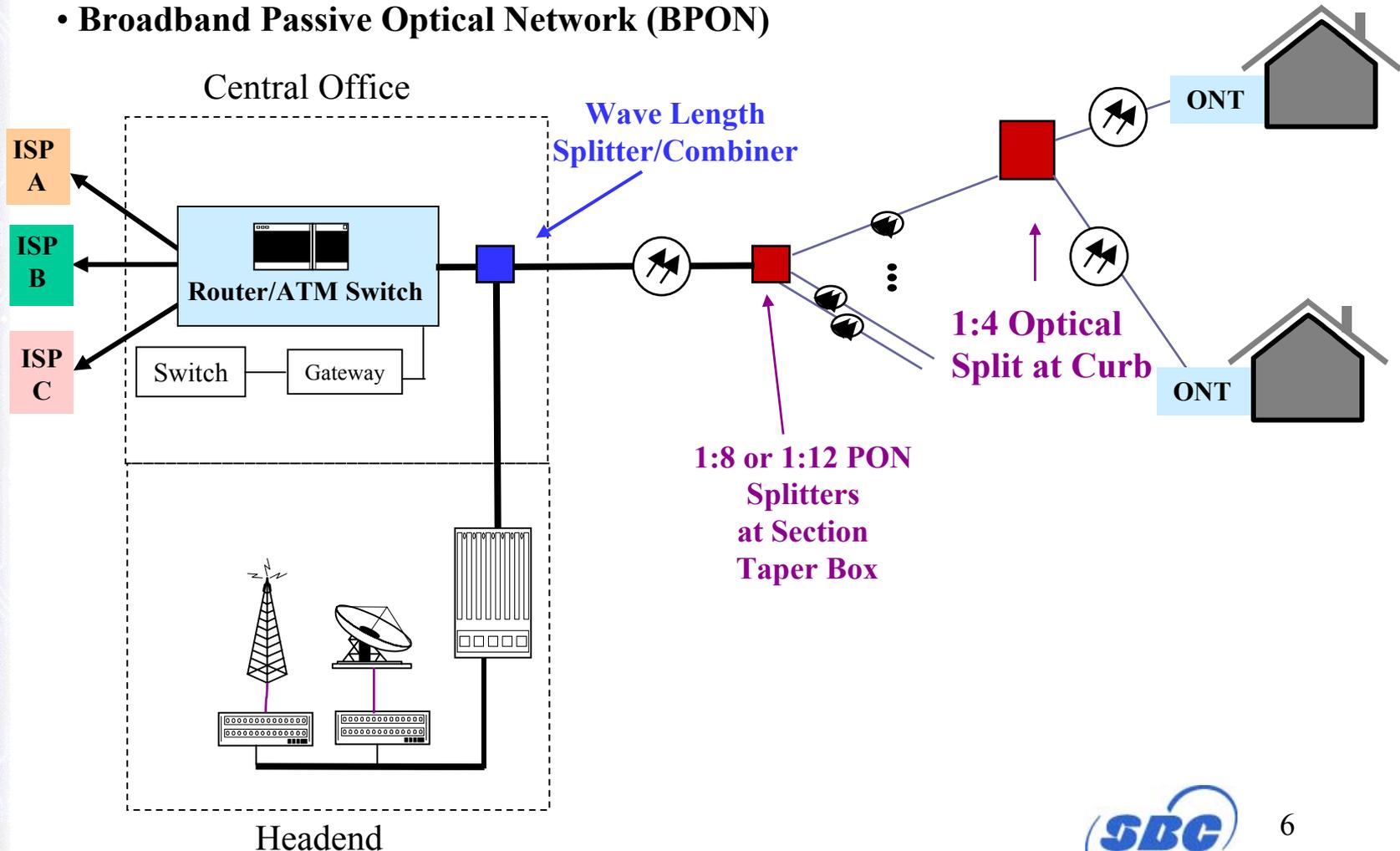
Cable and wireline networks are:

- LARGE networks
- Designed by professionals trained in the issues of performance and scalability
- Supported by world class vendors
- Supported by national and international standards
- Both are scalable at great cost and effort

Wireline and Cable are Converging Toward FTTH

--- Current Differences are Short Lived ---

- **Broadband Passive Optical Network (BPON)**



Routing Methodologies are Not Unique to Cable or Wireline

For IP-based Networks

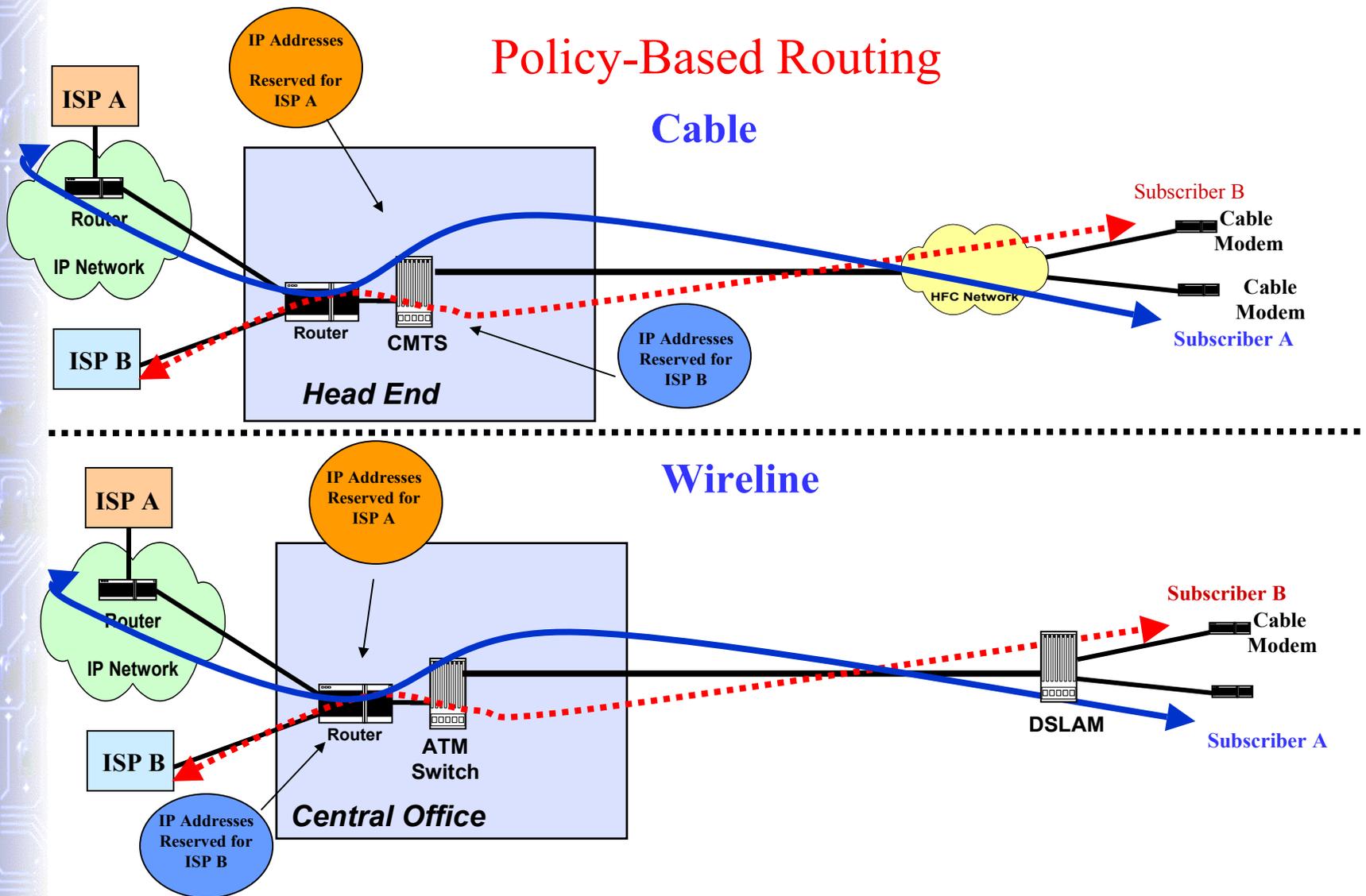
- Policy-based routing
- Tunneling

For ATM-based Networks

- Virtual path
- Virtual circuit

Cable and wireline companies are both evolving toward IP-based networks

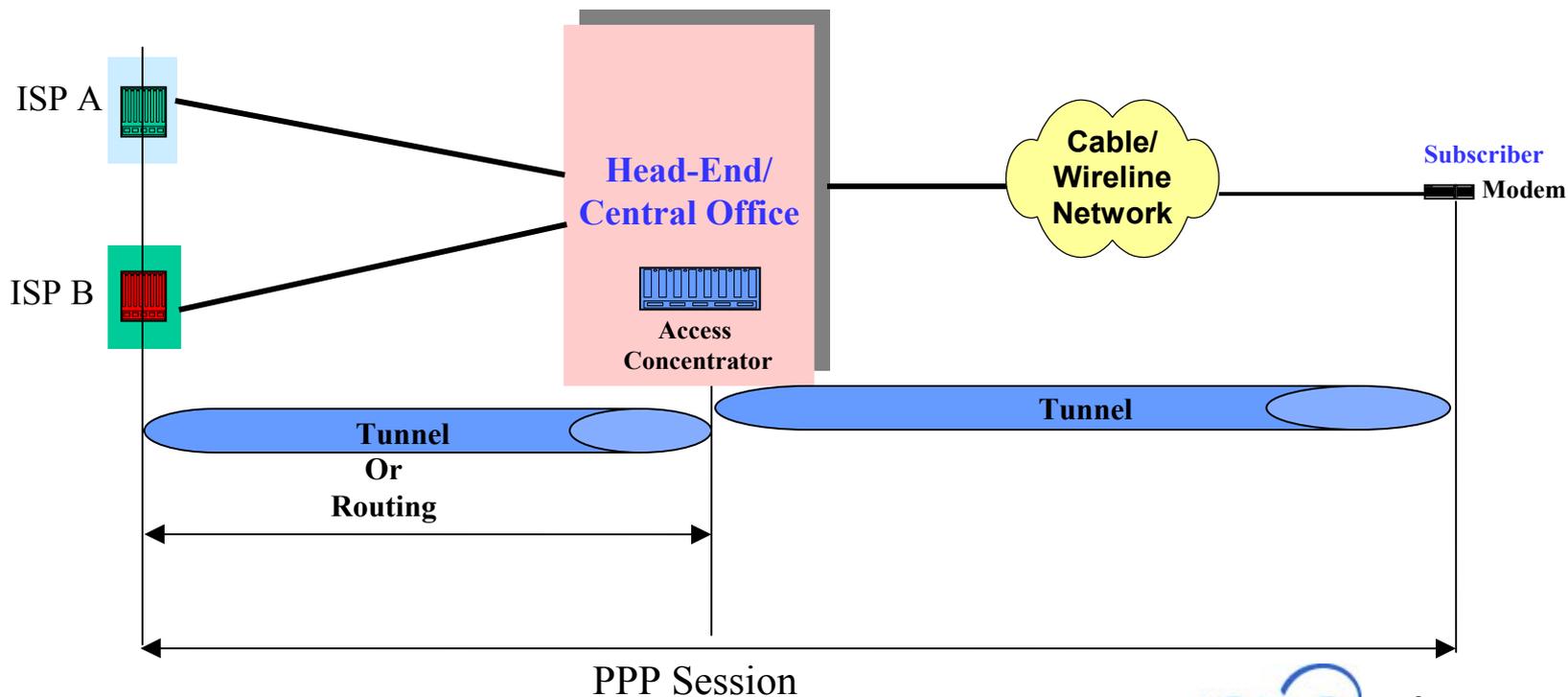
Policy-Based Routing



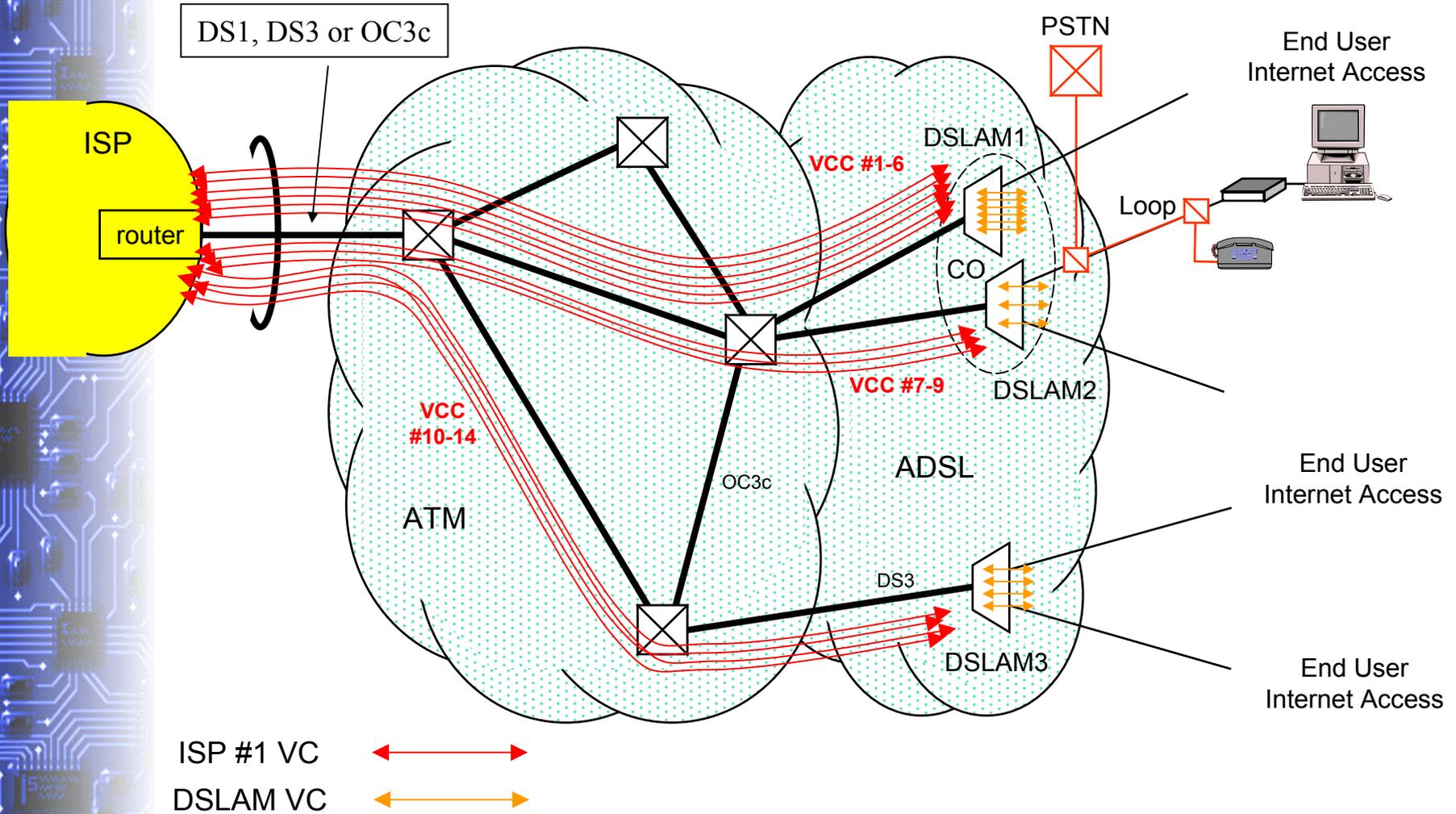
- Each pool of IP Addresses is dedicated to a specific ISP. The network operator assigns and administers the IP addresses for subscribers on behalf of all ISPs
- Each subscriber's IP address is associated with the subscriber's chosen ISP
- The CMTS/routers update routing tables with an entry associating the subscriber's IP address with a path to the designated ISP's network

Tunneling

- A Tunnel is a virtual dedicated connection between two points in a network
- It uses Point to Point Protocol (PPP) to maintain integrity of data that travels over the link, identifies and authenticate users and provisions IP addresses.



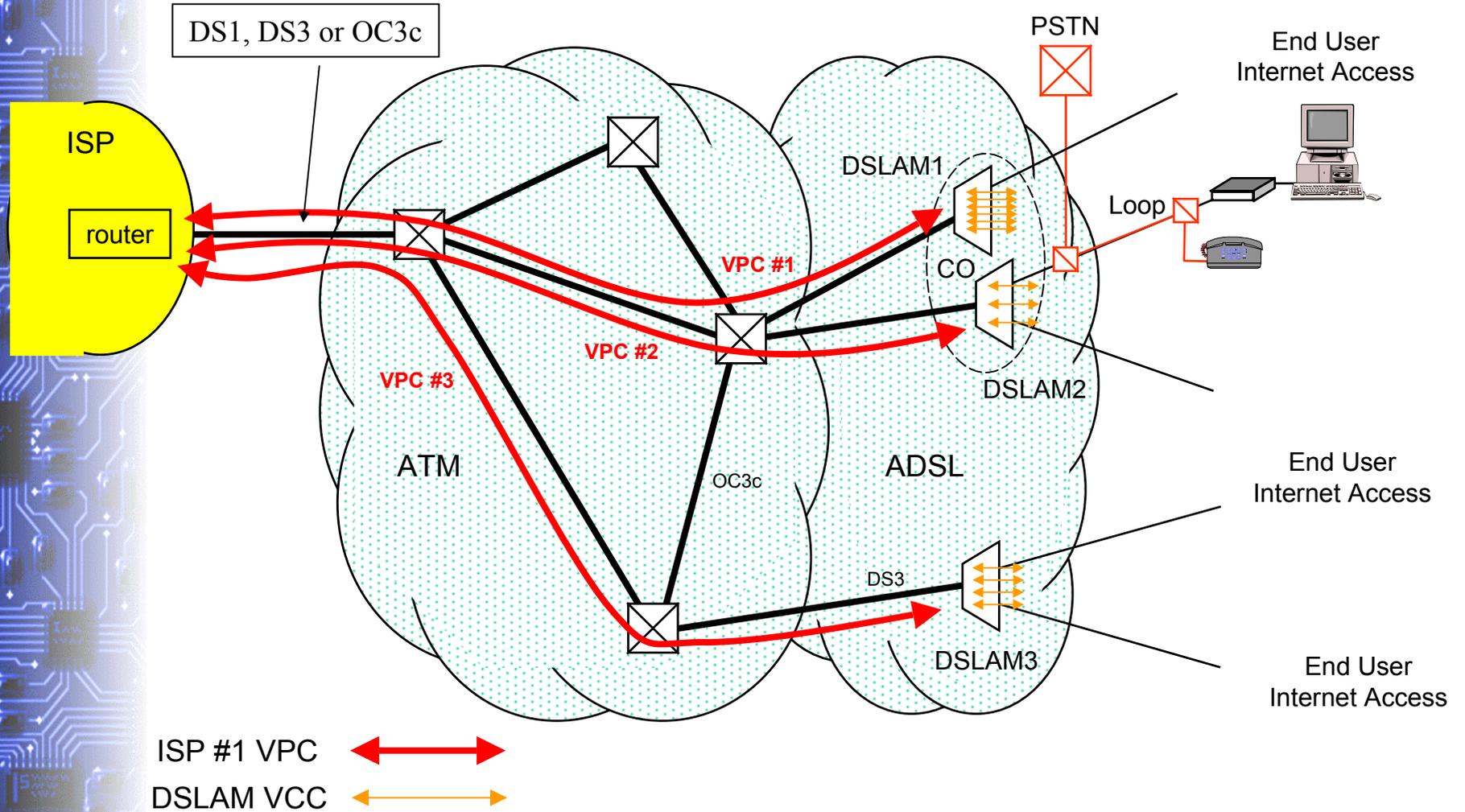
PVC Provisioning



Multiple ISPs get Access at Multiple Switches



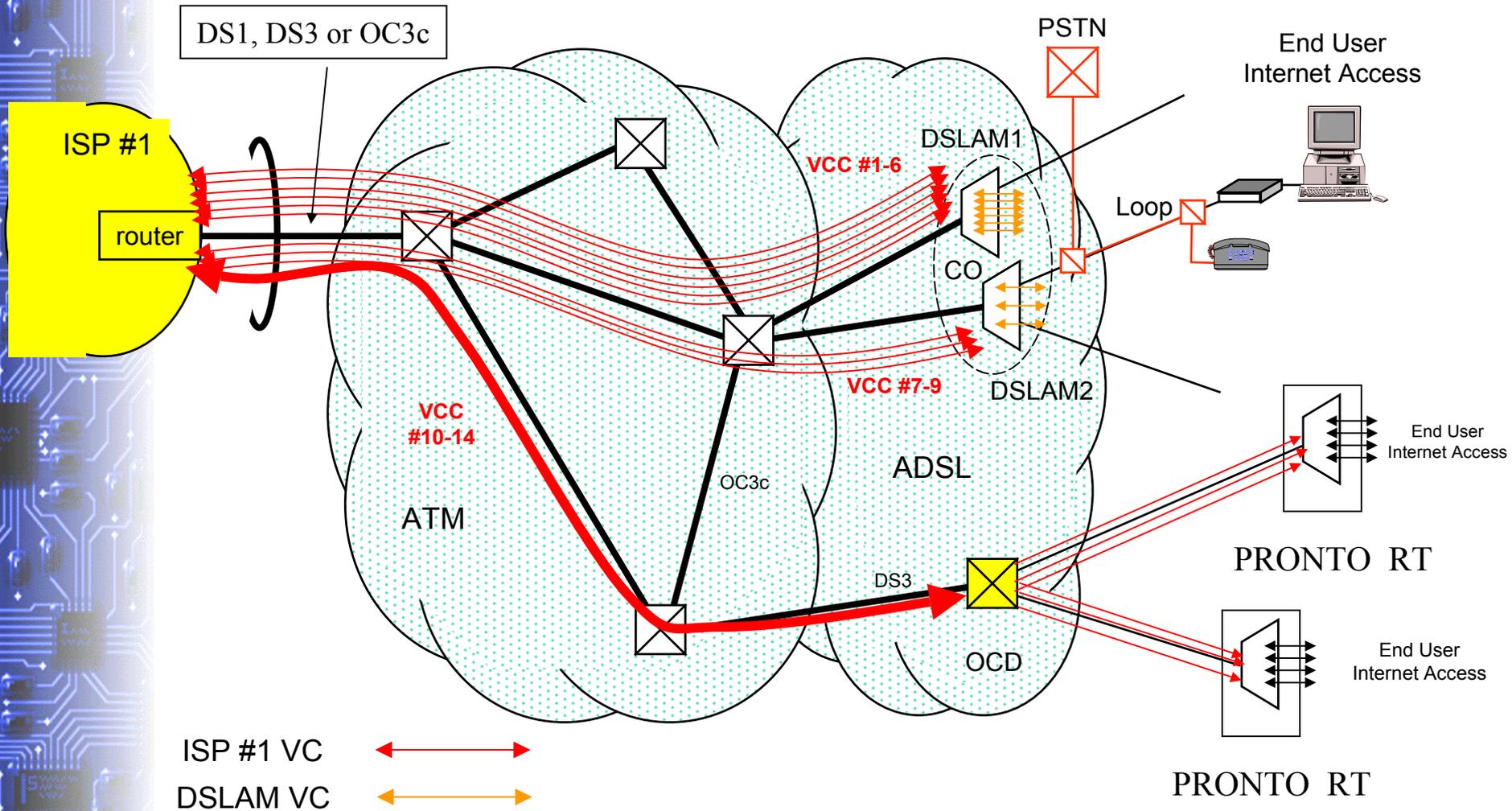
PVP Method



Multiple ISPs get Access at Multiple Switches



PVC and PVP Provisioning



Multiple ISPs get Access at Multiple Switches



Cable and Wireline Have the Same Routing Issues

ATM: The route from A to B must be established at time of service turn-up.

- Virtual Circuits are established from every A to every B, sometimes using Virtual Paths to minimize the provisioning effort.

IP: Policy-Based Routing

- No end-to-end route must be established. The server uses source addresses to route packets

Tunneling

- Traffic travels between the subscriber and the selected ISP inside a “Tunnel”

It's All Accomplished Through Table Entries

Policy-based routing, Tunneling, VCs and VPs are available solutions to common routing problems encountered by Network Providers in the management of packet networks. Their selection and use is dependant on the needs and priorities of the Network Provider.

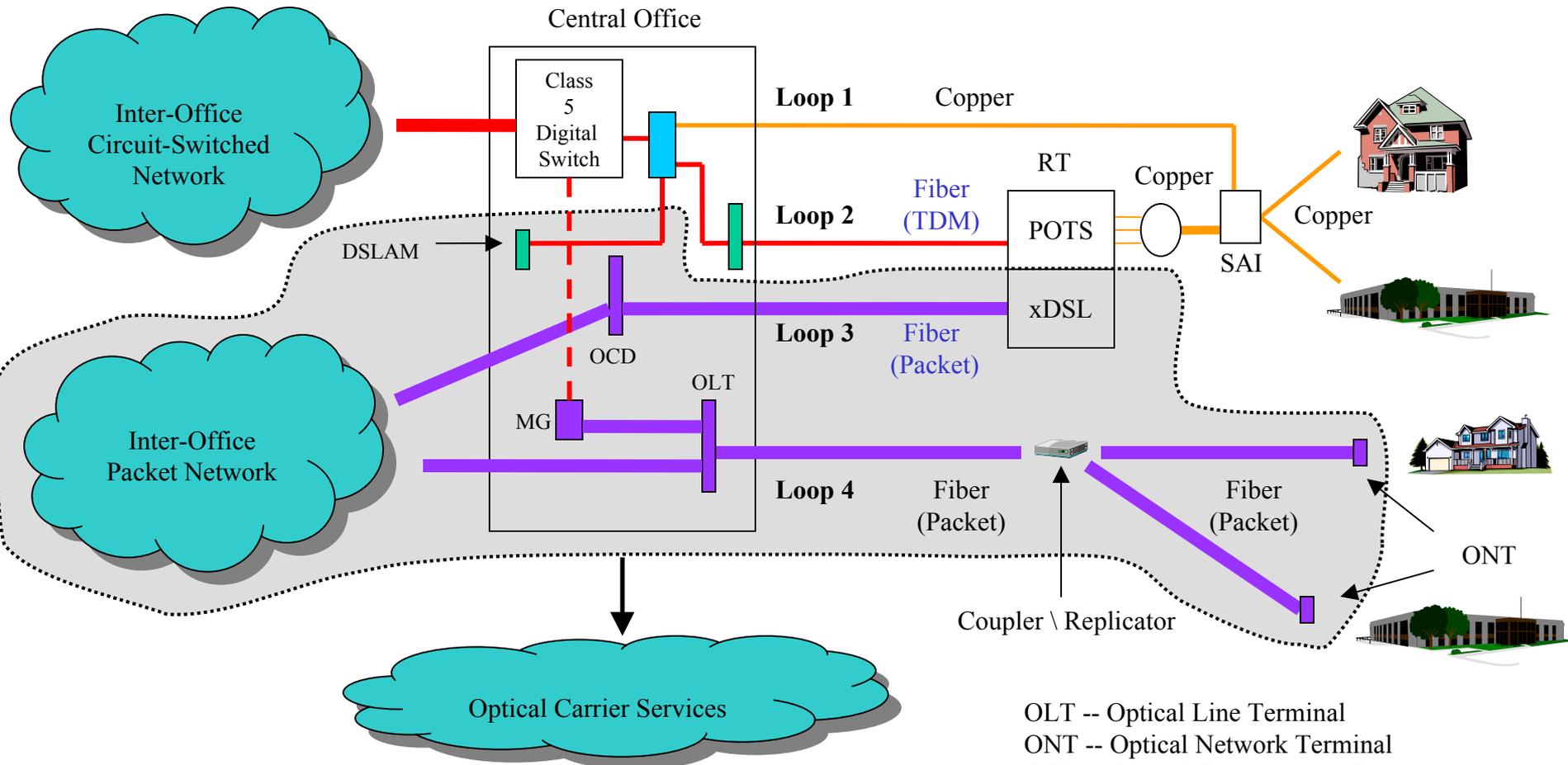
Conclusions

1. There are no technical differences in cable and wireline networks that could form the basis for disparate ISP access requirements
2. Broadband ISP access inherently relies on "shared" packet-based networks for both cable and wireline companies
3. Differences in cable/wireline "last-mile" architectures are irrelevant to the issue of multiple broadband ISP access requirements
4. Routing techniques are well established; trend is toward more policy-based routing for both cable and wireline networks
5. Both cable and wireline networks are faced with similar costs, routing, network, and bandwidth managements issues in providing broadband ISP access



Broadband ISP Access
October 22, 2002

Regulatory Framework: Packet-Based Services



OLT -- Optical Line Terminal
 ONT -- Optical Network Terminal
 OCD -- Optical Concentration Device
 MG -- Media Gateway

- *At a minimum, packet-based networks and services should be regulated differently from legacy circuit-switched networks*

Broadband ISP Access: Consistent Approach For Competing Platforms is Essential



- Title I provides framework for addressing broadband ISP access in a competitively neutral and uniform manner across competing platforms
- Public interest/policy considerations can not justify imposing or maintaining more onerous requirements on wireline providers
 - No technical basis for cable/wireline differentiation
 - The same regulatory cost/benefit analysis is required for both cable and wireline
 - Irrational to impose more onerous ISP requirements on secondary market participants
- Subjecting competing broadband facility providers to asymmetric ISP access requirements is fundamentally anti-competitive
 - Affects costs, network evolution, service introduction, investment

Broadband ISP Access: Minimal Regulation is Warranted



- Preference is to let market develop through commercial arrangements -- will best serve interests of ISPs, broadband providers, and consumers (SBC/U.S. Internet Industry Association Memorandum of Understanding)
- Title II *Computer II/III* requirements do not constitute minimal regulation. In the *Cable Modem Ruling* the Commission:
 - Declined to require “radical surgery” for cable broadband
 - De-linked tariff regulation and ISP access for the market leader
 - Recognized private carriage as an option
- Any requirements under Title I must provide maximize flexibility to structure business relationships with ISPs

Eliminate *Computer Inquiry* Requirements for Wireline Broadband



- Predicate for *Computer Inquiry* rules does not exist:
 - Wireline industry structure is fundamentally different today -- no “Bell System”
 - No “one-wire” world
 - No vertical integration with R&D, manufacturing, and nationwide wireline network ownership
 - Wireline providers are, and will continue to be, secondary players in the broadband market
 - Legacy wireline regulation does not reflect new broadband reality
 - Broadband market is nascent and developing based on inter-modal facilities-based competition
 - Competing facility providers must have the same opportunity to use technology and design and package broadband services

Computer Inquiry Requirements are Anti-Competitive in the Broadband Market



- Limit use of technology --“radical surgery” requires separation of telecommunication and information capabilities
 - Restricts full utilization of technology integration in design and evolution of broadband networks
 - Restricts full utilization of technology integration in developing broadband services
 - Restricts relationships with ISPs
- Impede competition -- deprive wireline providers of the same ability/opportunity to develop, design, package, and provision new broadband information services as is available to the market leaders
- Inhibit investment -- restricts efficient development of new broadband applications and services

Options for Wireline Broadband ISP Access



- Commission retains authority under Title I to establish uniform cable/wireline broadband ISP access requirements, if necessary

- ISP will continue to have wireline broadband options
 - Use of copper UNE loops in CLEC/ISP arrangements
 - About two-thirds of U. S. Homes are addressable for xDSL with loop 18,000 feet or shorter (UNE Fact Report 2002 at IV-20)
 - DS-1 and DS-3 tariffs available for broadband services
 - Commercial arrangements -- SBC Commitment to make commercial agreements for broadband Internet access available (SBC/USIIA MOU)

Conclusions



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- Broadband ISP access requirements should be addressed uniformly under Title I
 - The predicate for *Computer Inquiry* requirements does not exist in the broadband market
 - *Computer Inquiry* requirements are anti-competitive in the broadband market
 - *Computer Inquiry* requirements inhibit broadband investment and the development of new and innovative services

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Vice President-Federal Regulatory

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May 3, 2002

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington, D.C. 20554

**Re: USIIA and SBC Joint Submission
CC Docket Nos. 02-33, 95-20 and 98-10**

Dear Ms. Dortch:

The US Internet Industry Association (USIIA) and SBC Communications Inc. (SBC) hereby file this Joint Submission in the above-referenced dockets. In addition to this Joint Submission, USIIA and SBC are separately filing individual comments in this proceeding.

The attached Memorandum of Understanding (MOU) represents the shared view of USIIA — a trade association representing nearly 300 diverse members of the Internet industry — and SBC — a leading provider of broadband services — as to the optimal regulatory and business environment for all broadband Internet services. In particular, USIIA and SBC agree on a number of fundamental principles that will facilitate the maximum deployment of broadband Internet services:

- the Commission must establish a uniform national broadband framework with minimal regulation for all broadband Internet services;
- all providers of broadband services must be allowed to operate pursuant to the same regulatory framework so that no provider is advantaged or disadvantaged by asymmetrical regulation; and
- market-based commercial arrangements, rather than regulation, will best serve the interests of ISPs, broadband providers and consumers.

Consistent with these principles, SBC commits that commercial agreements for broadband Internet access will be available and negotiated between SBC and ISPs in a deregulated broadband market.

We believe the MOU is important because it demonstrates that SBC is committed to doing business with ISPs and that ISPs recognize the business advantages of negotiating commercial agreement with SBC in a deregulated, market-driven environment.

Respectfully submitted,

A handwritten signature in cursive script that reads "Donald E. Cain". The signature is written in black ink and is positioned above a horizontal line.

Donald E. Cain
SBC Communications Inc.

A handwritten signature in cursive script that reads "David P. McClure". The signature is written in black ink and is positioned above a horizontal line.

David P. McClure
US Internet Industry Association

Memorandum of Understanding

SBC and USIIA

Purpose: The purpose of this document is to delineate points of agreement between SBC Communications Inc. (SBC) and the US Internet Industry Association (USIIA) as it relates to the joint provisioning of high-speed Internet services to customers in SBC's operating territory.

Intent: The intent of this document is to facilitate consumer choice through regulatory parity, deregulation, and the implementation of fair and reasonable commercial contracts.

Outcome: If implemented, the following proposal and rules will facilitate the maximum deployment of high-speed (broadband) Internet services throughout the SBC operating territory.

National Broadband Framework

Technological convergence has made it possible for a variety of facility platforms to offer broadband services. The Federal Communications Commission (Commission) is the only regulatory body with authority over competing broadband platform providers -- cable, wireless, wireline and satellite. Accordingly, the Commission is the only regulatory body with the requisite jurisdiction to establish a uniform national framework governing this new and evolving convergent broadband marketplace. The Commission must exercise exclusive authority to encourage broadband investment and deployment in a manner that fairly governs the entire marketplace. The Commission must preempt any current or future state action that is inconsistent with the national framework or that seeks to impose regulatory requirements in a disparate manner on competing broadband platforms or providers.

Regulatory Parity

Fundamental to any uniform national framework is the premise that all providers of broadband services must be allowed to operate pursuant to the same regulatory framework with minimal regulation. This is essential to encourage investment, deployment, and the creation of new and beneficial market-driven products and services. No operators or technology platforms should be artificially advantaged or disadvantaged by asymmetrical regulatory rules.

Market-Driven Commercial Terms

Commercial agreements between SBC and ISPs should determine their business relationship. National policy must facilitate the formation of creative commercial arrangements that allow for differentiation in business relationships based on volume, terms, points of connection, and other established market services. Market-driven commercial contracts will facilitate the most efficient, productive, creative and technology-neutral provisioning of broadband services. SBC and the USIIA support market-based approaches to prices, terms, and conditions governing the business relationship between SBC and ISPs. Accordingly, existing Federal and State tariffs and other common carrier obligations should be replaced by market-based commercial arrangements. These business arrangements would remove constraints on both parties that deprive them of the opportunity to provide creative and innovative services to consumers.

Universal Service

No broadband service provider should be disadvantaged in the marketplace by having certain government-imposed universal service fund costs asymmetrically applied to its products while competitors are free from any such government obligation.

SBC Commitment

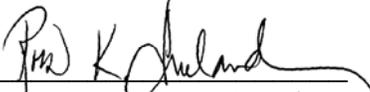
In a deregulated broadband market, SBC is willing to commit that, at a minimum, commercial agreements for high-speed Internet access will be available and negotiated between SBC and ISPs with connection at either Layer 2 (ATM) or Layer 3 (IP) (including converged Layer 2/3 networks) for the provision of Internet services to end users. Furthermore, the Commission could spur investment and improve efficiencies and ISP options even further if it was willing to allow SBC to transport and aggregate data traffic without regard to LATA boundaries.

Transition to Market-Based Commercial Agreements

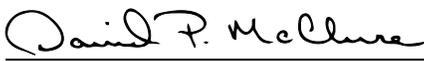
In a deregulated broadband market, SBC is willing to grandfather existing agreements with ISPs for the remaining term of existing agreements or for one year, at the choice of the ISP. Information about generic business options will be made available for review by ISPs when they are considering SBC as a business partner for the delivery of broadband Internet services to customers.

Dated: May 2, 2002

SBC Communications, Inc.

Name: 
Title: Sr. Exec. VP-Services

US Internet Industry Association

Name: 
Title: President and CEO, USIIA