

Fiber in the Loop Networks Should be Free from Unbundling

Timothy J. Regan
Senior Vice President
October 16, 2002

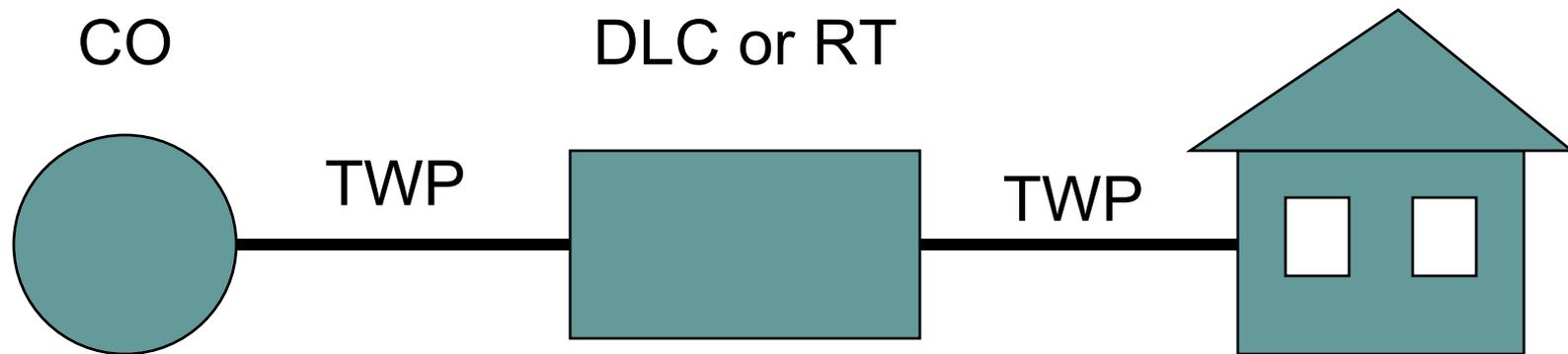
Corning's public policy platform

Recommendations --

- Relieve fiber in the loop from the unbundling requirement in Section 251(c)(3)
- Pre-empt state authority to change the unbundling requirements
- Regulate voice service, but deregulate broadband service

Corning's Public Policy Platform

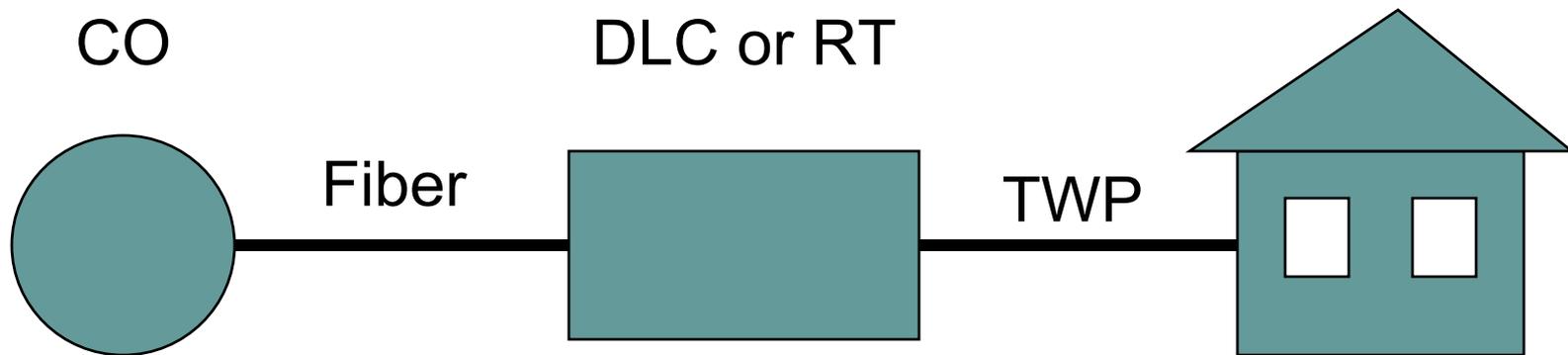
I. Copper Loop



- No change from current rules.

Corning's Public Policy Platform

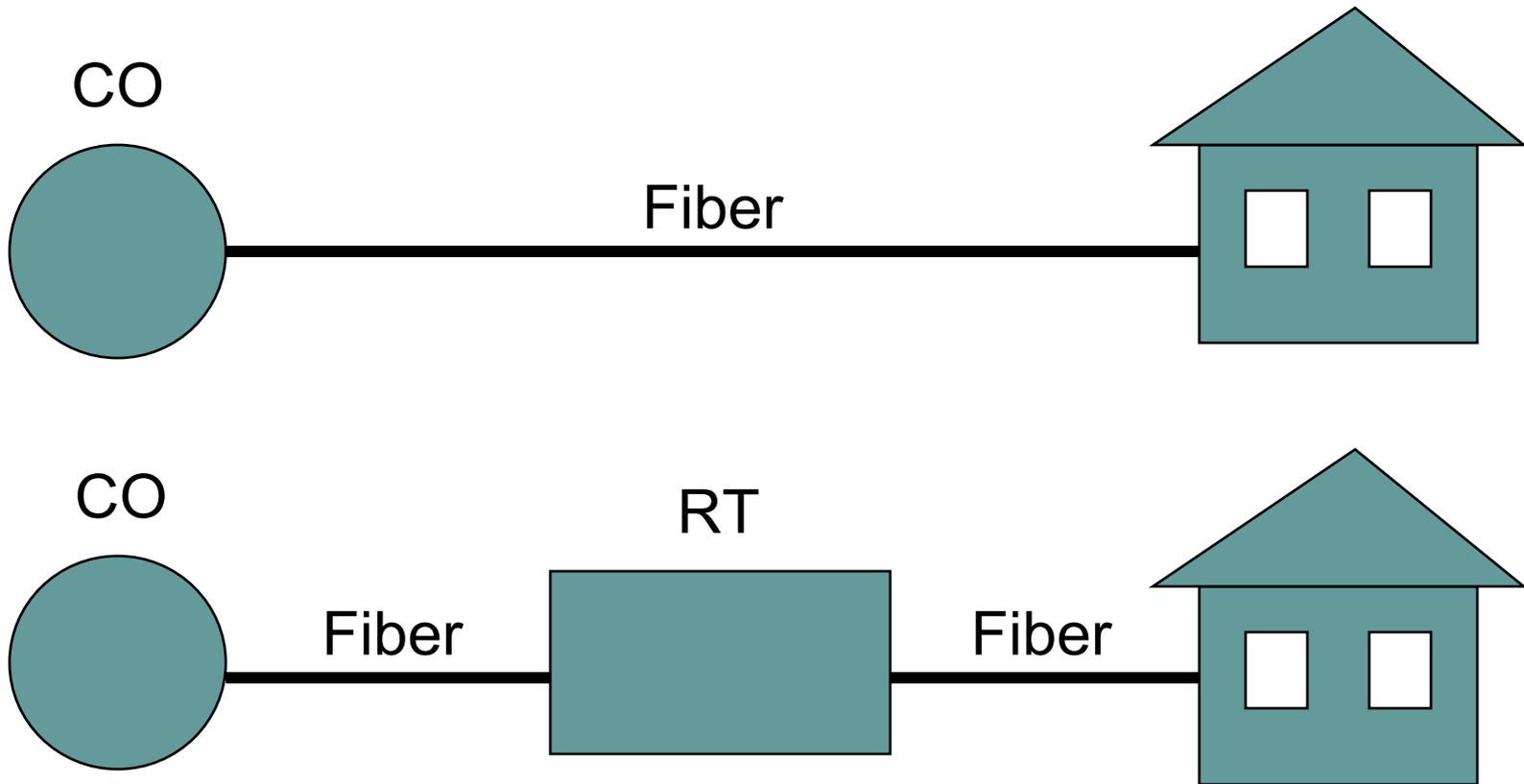
II. Hybrid Copper-Fiber Loop



- No change in current regulations if loop is deployed before a date certain (e.g., January 1, 2003)
- If the loop is deployed after a date certain, it is not unbundled (i.e., neither the fiber, RT, DLC, nor TWP are unbundled)
- High-Tech Broadband Coalition's approach

Corning's Public Policy Platform

III. Fiber Loop



- No elements of the loop are unbundled

Corning's public policy platform

Legal rationale

Rationale --

- Lack of access to fiber in the loop will not “impair” a CLEC’s ability to provide service
- FCC regs (Section 51.317(b)(i)) -- FCC will find impairment if lack of access “materially diminishes” a requesting carrier’s ability to provide service, taking into account:
 - Alternative elements outside the incumbent’s network
 - **Degree of self-provisioning by the requesting carrier** (emphasis added)
 - Alternative access from a third party

Corning's public policy platform

Legal rationale

- CLECs have demonstrated their ability to “self-provide” fiber to the home.

	Homes Passed by FTTH	Percent of Total
CLECs	44,890	67.0%
Small ILECs	3,600	5.4%
RBOCs	400	0.6%
Munis	18,100	27%
Total	<hr/> 66,990	<hr/> 100%

Corning's public policy platform

Legal rationale

Rationale --

- FCC regs (51.317(c)) states that the Commission may consider the following factors in deciding whether to require unbundling of any network element:
 - (1) whether unbundling the element will “promote the rapid introduction of competition”;
 - (2) whether unbundling promotes “facility based competition”;
 - (3) whether unbundling promotes “reduced regulation”;
 - (4) whether unbundling provides “certainty” to the requesting carrier; and
 - (5) whether unbundling is “administratively practical.”

Corning's public policy platform

Legal rationale

Response --

- Re.(1), relieving fiber in the loop from the unbundling requirements will actually increase competition as ILECs deploy fiber to compete against the cable television's provision of integrated voice, data, and video service, a market which today is dominated by cable
- Re.(2), relieving fiber in the loop from the bundling requirement will enhance facilities-based competition as ILECs deploy fiber to compete against cable

Corning's public policy platform

Legal rationale

- Re.(3), relieving fiber in the loop of the unbundling requirement will reduce regulation
- Re.(4), this is admittedly a weakness for deregulating fiber in the loop
- Re.(5), it is not administratively practical to unbundle fiber in the loop because no one has found an easy way to do line sharing on fiber. For example, the system has to be shut down to add each new customer

Corning's public policy platform

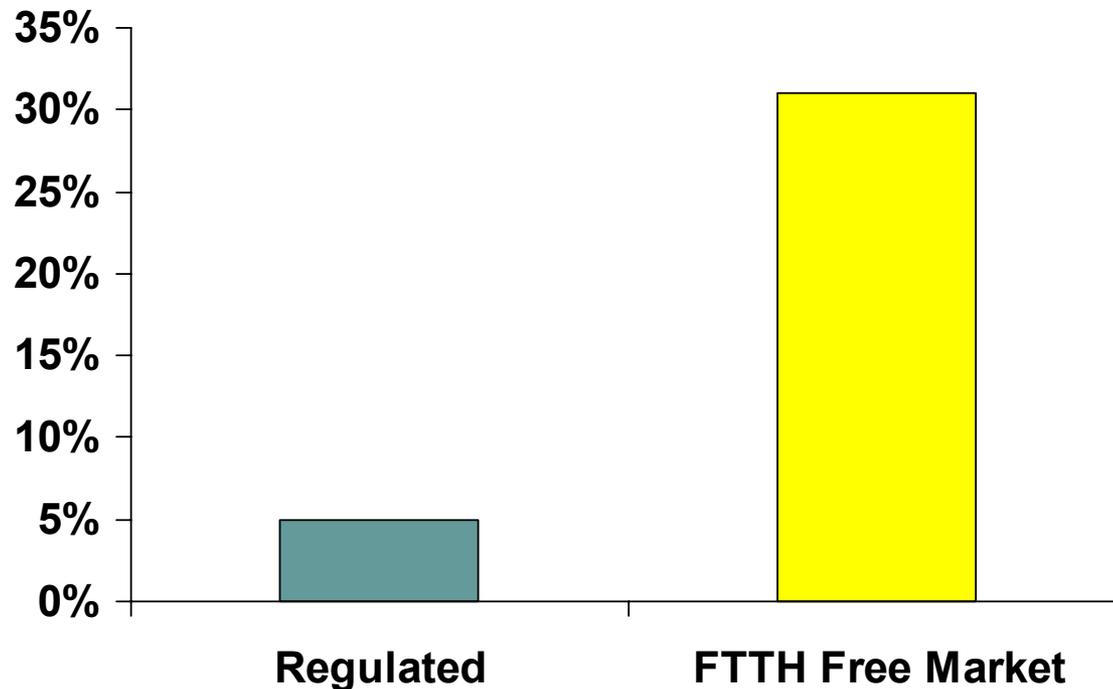
Policy rationale

- Other reasons to relieve fiber in the loop from unbundling:
 - Can't unbundle a facility that doesn't exist
 - All carriers are in the same position to compete
 - Will enhance competition between ILECs and CATV
 - Will increase investment 6X according to CSMG study

Corning's public policy platform

CSMG findings were alarming

- CSMG found our proposal to free FTTH from UNE regulation would create a NPV positive business case to bring FTTH to 31% of all households



Corning's public policy platform

Other supporters

- Fiber to the Home Council
- Atlantic Engineering Group
- Ciena Corporation
- Iamba Networks, Inc.
- Intertainer, Inc.
- Pacion
- Pirelli Communications Cables and Systems North America
- Eagle Broadband
- ZERO dB