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TDS METROCOM

November 12,2002

EX PARTE OR LATE FILED

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street. S.W.
Room TWB-204
Washington, D.C. 20054

Re: Notice of Ex Parte Communication

Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers. CC Docket No. 01-338

Implementation of the Local Competition Provisions of the Telecommunications Act of 1996. CC Docket No. 96-98

Deployment of Wireline Services Offing Advanced Telecommunications Capability, CC Docket No. 98-147

Dear Ms. Dortch:

On November 12,2002, the attached letter was sent to Christopher Libertelli, Legal Advisor to Chairman Michael K. Powell. Courtesy copies were also sent to those listed at the end of the letter.

If you have any questions concerning this matter, please contact me.

Sincerely.

Mark Denn
Manager - Federal Affairs
TDS METROCOM
608.664.4196

Enclosure

TDS METROCOM

November 12. 2002

Christopher Libertelli
Legal Advisor to Chairman Michael Powell
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20054

Re: Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers. CC Docket No. 01-338

Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98

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Dear Mr. Libertelli,

On October 22-23, Jim Butman, Peter Healy and I met with you as well as the legal advisors for each of the FCC Commissioners and Wireline Competition Bureau staff to discuss the concerns of TDS Metrocom regarding the pending UNE Triennial Review and related proceedings. Much interest was expressed in the business model used by TDS Metrocom to serve its customers. In particular, numerous questions arose surrounding our use of a mix of self-provisioned facilities such as switches and interoffice transport combined with UNE loops (UNE-L) to serve both business and residential customers. (A nearly SO-SO split in business and residential lines.)

At that time you suggested that it would be helpful to the Commission if more specific information about our business model were placed in the record. This letter provides more detailed information about why TDS Metrocom has chosen a business model based on UNE-L. how we determine what markets can support such a model and potential impediments to the long-term success of a UNE-L model.

Benefits of the UNE-L Business Model

Control - As a company with a long ILEC heritage, TDS Telecom is accustomed to having a significant level of control over both the facilities used to provide service as well as the information generated by control of those facilities. Therefore, it was natural

for TDS Telecom's CLEC operations (TDS Metrocom and USLink in particular) to desire as much control as possible in these areas.

- **Network** Operations - Limiting the number and type of leased facilities helps to limit failure points outside the control of the company. With control over facilities TDS Metrocom feels that it can better manage current traffic flows on the network and deal with the explosive growth that has occurred in the company over the past several years. Furthermore, network control can be very beneficial in trouble situations. Obviously, when TDS Metrocom owns the facilities. troubles can be addressed internally without the need to coordinate a response with another carrier, thus accelerating the repair process. Even if problems arise on the loop portion of facilities that are owned by other carriers, TDS Metrocom is able to perform a significant amount of testing to pinpoint and locate problems on the loop prior to submitting trouble reports to the owner of the loop facilities. This can help lead to quicker dispatch and resolution of issues.

- **Information** - Sometimes even more important than having direct access to facilities is the information that such access generates. By having access to information, TDS Metrocom has been able to avoid billing issues that have plagued other carriers such as not even knowing what customers have been switched over to the CLEC or when billing for services should commence. Even more importantly, control of information has allowed TDS Metrocom to better manage its relationships with ILECs. TDS Metrocom can collect data on traffic, troubles, hot cuts and a myriad *of* other functions, compare it to ILEC self-reporting, identify chronic problems and, if necessary, report data to regulatory bodies when issues need escalation. Without such data, many times only one side of a story is heard completely.

  Additionally, access to information on traffic patterns and customer services is of great assistance in developing new and innovative products, services and packages for consumers and businesses alike. Based on this type of data TDS Metrocom has been a leader in crafting unique calling scopes, local calling plans and bundled service offerings. Innovations such as these are due in large part *to* the ability to collect data on usage and identify and address the specific needs of customers in different markets.

Flexibility - **A** second benefit that TDS Metrocom believes exists in a UNE-L business model is a wide amount *of* flexibility in potential product and service offerings. In areas where our affiliated CLECs have used other entry models, limitations on feature availability and product and service offerings have hindered customer acquisition. Limitations on the ability to provide voice mail, AIN features, service to pay phone lines, wire maintenance, simultaneous service at dual locations, special circuits, calling scopes, bundled packages and DSL have been problematic. In some cases workarounds have been developed, but in other cases they are not possible. The frustrations and delays associated with not having complete control over the types of services we are able to

offer customers continues to drive our affiliated CLECs away from resale and UNE-P provisioning towards a UNE-L based model. When the next generation of products and services comes along it is our hope that battles on CLEC access to those features and functions can be minimized under the WE-L model.

How Are TDS CLEC Markets Chosen for a UNE-L Model

It is important to note that TDS Metrocom is in no way attempting to imply that the UNE-L business model as described herein is the only or best way to provide service to customers in all cases. However. it is clear from our results over the past 5 years that a UNE-L model can be used to effectively serve both business and residential customers in various sized markets.

The overall philosophy of the TDS Metrocom UNE-L model has been to remain focused in discrete geographic areas, to provide as broad a range of services to as wide a range of customers as possible and to deeply penetrate our chosen markets. We have felt from the beginning that serving both business and residential customers presented the best path to profitability. Serving only residential customers with their lower margins would make it extremely difficult to ever justify extensive facilities deployment, yet serving only business customers severely limits the available access lines in a market. We therefore have attempted to make our company a truly full-service alternative to the incumbent.

In building a business model to identify where facilities could be deployed, the following inputs were carefully evaluated.

Size/Density - While the TDS CLECs have not focused solely on the densest markets, there is a floor below which a central office (CO) is too small to justify collocation. Initially, TDS Metrocom generally only considered COs with 20,000 or more access lines. However, as expansion has occurred, this threshold has varied significantly based on a number of factors. Smaller COs, even down to areas with as few as 10,000 access lines or less have been considered if they are located contiguous to other serving areas, belong to a clear community of interest, are within the ILEC local calling scope or are growing rapidly. Additionally, in areas where USLink began service via resale and WE-P, the threshold has been somewhat lower. This is due mainly to the fact that with revenue generating customers already signed up it is easier to justify facilities deployment because the payback is a bit quicker; there is less of a time gap between when network deployment costs are incurred and when revenues are received.

Market Share - A closely related factor is the percentage of market share one can reasonably expect to capture. While there is no magic number of market share necessary for this model, expectations must be realistic. In our company's 10-year planning horizon, even the most aggressive estimates assume that the ILEC will retain at least a 50% market share with TDS winning anywhere from 10-30%. As you can see, these assumptions lead to a conclusion that in the markets that the TDS CLECs have chosen to enter there will only be room for a handful of facilities-based CLECs.

UNE Rates - Another significant factor in market selection are rates for UNEs and collocation. TDS Metrocom has focused on states in the former Ameritech region because loop rates have been stable in the $8-$12 range. Conversely. USLink, with operations in Minnesota. has been driven to a resale service model because, until recently, UNE loop rates outside of the Minneapolis-St. Paul area were over $20. making UNE-L competition impossible. The level of UNE rates cannot be viewed in isolation and must also he considered in relation to the retail rates of the ILEC. Simply having a UNE loop rate of $ I0 means nothing if compared to basic residential rates of $6. Collocation rates also impact market selection decisions because they can add costs of $1 -$2 per line, per month. Finally, transport rates can affect market decisions when it is necessary to haul traffic a significant distance back to a centralized switch.

Revenue Potential - This is a very broad input into the decision process that can he affected by many things. One revenue stream that is becoming more important is DSL. More market research efforts are being devoted to identifying where ILECs have deployed fiber fed DLCs which cause holes in serving areas where TDS Metrocom currently cannot offer DSL or can due so only on a limited basis. Because reliable information on the location of and customers served by remote terminals (RTs) is nearly impossible to obtain, analysis is difficult. If a large percentage of customers cannot be offered DSL due to this technical architecture, TDS Metrocom will be less likely to enter a market.

Another revenue stream that has impacted market selection decisions is access charges. Because of limitations on CLEC interstate access rates, plans to enter less densely populated markets with facilities have been abandoned. Access charges are an important revenue stream necessary to recover the cost of facilities deployment, especially where there is a large base of low-margin residential customers. Without sufficient access revenues the cost of facilities cannot be recovered.

ILEC Relations and Facilities - This final factor includes many items. For TDS Metrocom an overriding principle has been to stay focused on the area of a single RBOC. The time, cost and effort involved in setting up OSS interfaces, learning processes and procedures and managing the RBOC is so enormous that remaining focused in SBC's Ameritech region has been necessary and beneficial. TDS Metrocom has also shied away from competing in other RBOC territories where there are significant concerns with the quality of the underlying loop facilities. Provisioning service on poor quality loops would only hurt the TDS brand and could limit customer acquisition if customer service is impacted by poor quality facilities outside the control of TDS.

Critical Success Factorsfor the UNE-L Model

While the UNE-L model used by TDS Metrocom has been successful in our chosen markets, the model does not necessarily work in every instance nor is it immune from

problems caused by technical limitations and RBOC reluctance to provide adequate service. Specifically:

- Limitations on access to loop facilities can kill UNE-L business models. The UNE-L model needs access to high capacity loops to serve small to medium-sized business customers and DSL-capable loops. including those where the transmission path runs over fiber or through DLCs, to serve residential customers. The UNE-L model is only effective when all customers in a market can be accessed and a full suite of services can be offered.

- Timely and accurate loop provisioning is critical to success. The initial cut over process has a huge impact on long-term customer loyalty and the ability to sell additional products and services to customers. Loop provisioning has to be at parity with the incumbent. Where RBOC retail customers can get service much faster than wholesale customers, UNE-L CLECs are placed at a serious disadvantage. Baseline federal performance measures supplemented by state measures and remedy plans can go a long way in promoting adequate provisioning by RBOCs.

- Information on loop makeup and availability must be easily accessible and accurate. Too many times information on service addresses, loop makeup and qualification, network design and facility availability is unavailable or incorrect. For example, even if UNE-L CLECs desired to build out to RTs to expand their networks, data on the location of RTs and what customers they serve is nearly impossible to come by and ordering sub-loops from those locations is a nightmare. Mandating access to facility record-keeping systems would be a step in the right direction.

- Interpretational games played by RBOCs hamper UNE-L competition. The operational business of loop ordering and provisioning is complicated on what seems like a daily basis by internal changes in RBOC policy. Recently, active TDS Metrocom DSL customers have been taken out of service based on a new SBC interpretation of its policies on bridge taps. Other carriers have had to deal with internal RBOC policy shifts related to attaching electronics to loops (i.e. the "no facilities" issue). For UNE-L competition to survive, regulators must send strong signals to the RBOCs that a clearly defined loop UNE must be provided without games.

- Some COs are too small to justify collocation and alternatives must be available to UNE-L carriers. In areas with low customer density, the costs associated with collocating facilities cannot be recouped. The same argument can be made for collocation in most remote RTs. If UNE-L based competition is ever going to reach more sparsely populated areas, access to loop-transport combinations down to the DS-0 and DS-I level must be available to carriers.

TDS Metrocom has proven that the UNE-L model can be used to provide service to both business and residential customers and it can be done in small to medium-sized markets. However. the UNE-L model can just as easily be decimated; quickly by regulatory action

that limits the availability of loop facilities or slowly by the never-ending barrage of procedural and interpretational games played by the RBOCs.

It is the hope of TDS Metrocom, that the above explanation of the UNE-L model under which we operate will assist the Commission in developing a well-informed decision in its Triennial Review and related proceedings. The Commission should do all it can to reaffirm and strengthen its long-standing position that unimpeded access to loop facilities is critical to the success of local competition.

If you have any additional questions please feel free to contact me at any time

Sincerely.

Mark Jenn
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