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January 30, 2003

EX PARTE

CC 01-338
CC 96-98
CC 98-147

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

Dear Ms. Dortch:

On January 30, 2003, Herschel Abbott sent the attached letter to Commissioner Kevin Martin. The letter provides information on competition to provide Internet access services to businesses and discusses the ability of CLBC's to compete using UNE Loops.

I am filing this notice in the dockets identified above, as required by Section 1.1206(b)(2) of the Commission's rules, and request that you associate this notice with the record of those proceedings.

Sincerely,

Jon Banks

Jon Banks

Attachment
Cc: Christopher Libertelli
Matt Brill
Jordan Goldstein
Lisa Zaina
Rich Lerner
Bill Maher
Jeffrey Carlisle
Scott Bergman
Michelle Carey
Tom Navin

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Herschel L. Abbott, Jr.
Vice President -
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Dear Commissioner Martin:

This letter supplies the additional information we promised to provide you during our recent meeting. This information relates to competition and market shares in supplying Internet access to businesses and to the average revenues used in our analysis of UNE loop-based competition.

Business Internet Access Services

There are many firms that compete to provide Internet access services to business customers. The attached chart provides shares as of 2001. The principal supplier of that service is WorldCom. The Bell companies have relatively small shares.

Cable companies have also entered into this market, and are concentrating principally on smaller businesses. In general, while measuring competition in the provision of high-speed data services to smaller businesses has proven difficult, at least one market research firm has concluded that cable has enjoyed considerable success at providing a truly facilties-based competitor. A second chart that depicts those results is attached.

Revenue Data

Earlier this month, WorldCom filed its view of the costs of competing for residential customers using UNE loops instead of the UNE-Platform.[1] WorldCom calculated the monthly cost of serving customers using UNE loops, and broke down the results of its cost modeling by wire center size.[2] BellSouth has taken WorldCom's per-line cost analysis and compared it to revenues per line. This common sense comparison shows that CLECs would not suffer any meaningful overall economic impairment in moving

[1] Letter from Gil Strobel, Lawler, Metzger & Milkman, LLC, to Marlene H. Dortch, Secretary, FCC, January 8, 2003

[2] WorldCom then compared this cost calculation to the TELRIC costs of using the UNE-P to serve customers. WorldCom's suggestion that the Commission calculate impairment by focusing solely on whether a CLEC's costs may exceed purely hypothetical TELRIC costs cannot provide the basis for any real world finding of impairment.

BellSouth package of local service and features called Complete Choice. The revenue included access and subscriber line charges.[4]

BellSouth believes that the $50 figure is the most appropriate revenue figure to use. Including business revenues is correct because when a competitor analyzes whether to compete for customers served out of a particular wire center, it would not ignore the revenue opportunity provided by high margin business customers. In particular, once a carrier deploys its own facility it makes no economic sense not to go after every customer that can be served profitably from that facility (let alone the most profitable ones) in order to maximize the utilization of that facility. All the market evidence to-date is that CLECs focus on winning business customers, not ignoring them, and that they have been very successful at winning these high margin customers.

In addition to being economically irrational, excluding revenues from business customers in any assessment of possible economic impairment would likely run afoul of the D.C. Circuit's USTA decision. As the court pointed out, much residential service (the court cites support for 40%) is provided by incumbents at prices below the costs of providing service. Higher margin business customers traditionally support the provision of service to these customers. Because CLECs have no duty to provide "underpriced service to rural and/or residential customers," and '[c]ompetitors will presumably not be drawn to markets where customers are already charged below cost" an impairment finding built on residential revenues of customers that CLECs have not and will not serve would be very unlikely to pass muster with the court. *USTA v. FCC*, 290 F.3d 415, 422-23 (D.C. Cir. 2002).

BellSouth's analysis already includes revenues from residential customers that purchase local service bundled with features. Out of the broad universe of residential customers, CLECs have focused on this subset. WorldCom currently offers residential service bundles that range in price from about $50 to about $70 per month plus a $6.00 subscriber line charge.[5] The average revenue from customers that purchase BellSouth's Complete Choice package of local service and features is $41.56.[6]

The three attached charts summarize BellSouth's analysis. The first accepts WorldCom's calculation of the costs of competing using UNE loops, and adds in the average cost of a UNE loop in BellSouth's region and SG&A costs from the FCC's Synthesis Model. Those costs are compared against BellSouth's average revenue from business customers and residential customers that purchase the Complete Choice bundle of local service and features. WorldCom's price for its bundle of local service is substantially higher. Even accepting WorldCom's bloated cost calculations, only in wire centers with fewer than 5,000 lines do costs exceed revenues.

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[4] Id. at p.#21.

[5] See www.theneighborhood.com.

[6] This figure includes Complete Choice revenue plus a $6.00 subscriber line charge and average switched access revenue of $3.92.

The second attached chart corrects some basic errors in WorldCom's calculation of physical collocation costs. At least by comparison to collocation costs assessed by Bell South, WorldCom's calculation, far overstates the actual cost of physical collocation.[7] It also ignores the various other options open to CLECs, including shared and virtual collocation. The second chart displays a more accurate picture of costs. This chart further underscores the absence of any economic impairment in wire centers with more than 5,000 lines.

The third chart compares WorldCom's costs corrected to reflect realistic actual collocation costs against the average revenue BellSouth receives from residential customers that purchase a bundledof service and features. I emphasize that BellSouth does not believe that using purely residential revenues provides an appropriate basis for comparison. WorldCom, for instance, is a very successful competitor for business lines and revenues in BellSouth's region. As noted above, it would be economically irrational to decline serving high-margin business customers from a collocated switch once it is deployed by a CLEC. Ignoring the revenues from these customers, and the fact that the costs WorldCom has calculated for collocation, switching, digitizing and OSS would be (and are already) spread over these business customers as well as residential customers would produce a nonsensical analysis.

We appreciate your attention and would be happy to answer any questions on the attached materials.

Sincerely,

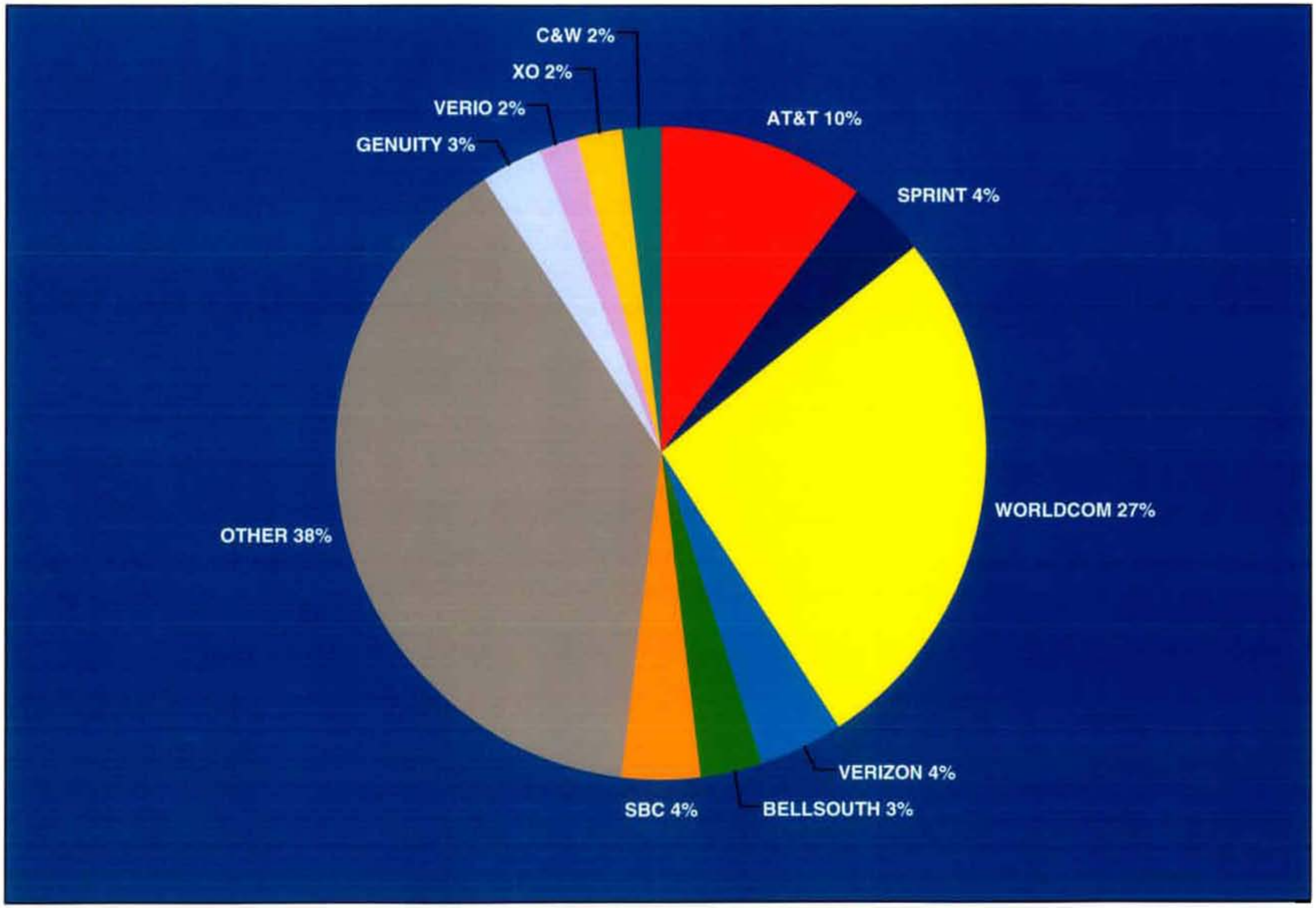
Herschel L. Abbott

Attachments

Cc: Dan Gonzales

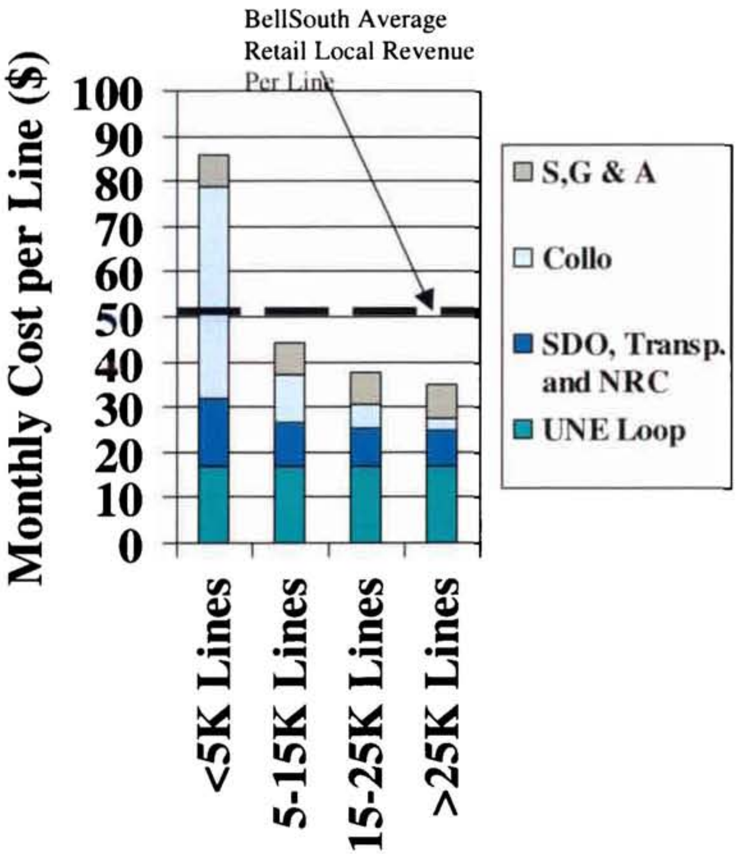
[7] The backup for BellSouth's calculation of actual physical collocation costs based on current rates in BellSouth's Statement of Generally Available Terms and Conditions is attached.

BUSINESS INTERNET ACCESS SERVICES (2001)



SOURCE: Business Internet Access Market, 2001-2006; IDC Bulletin #26814 – Apr 2002, Steve Harris, Ross Sealfon (Table 3 at p.14) (Market Share for Top 10 Internet Access Service Providers to Businesses)

WorldCom's Cost Model Shows That CLECs Are Not Impaired In Serving Wire Centers with > 5,000 Lines

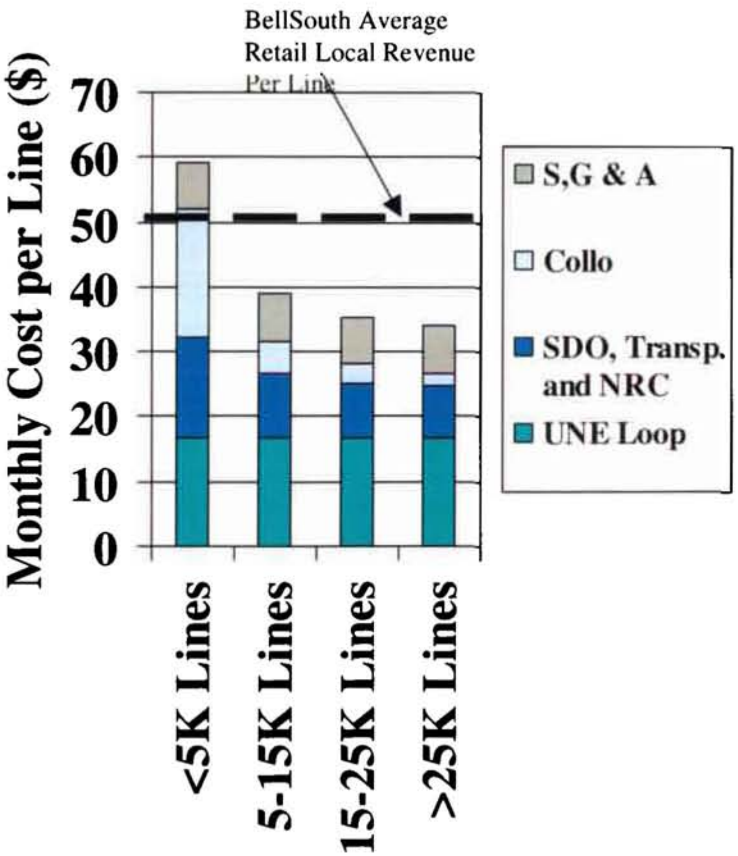


BellSouth's Scenario 1

- WorldCom's 1/08/03 ex parte used as the source for Collocation and "Switching, Digitizing and OSS" (SDO), Transport and Nonrecurring costs
- S,G&A cost taken from FCC Synthesis Model
- UNE Loop rate represents average rate for BST region
- Assumed an average of $50 average retail local revenue per line (which correlates with BellSouth actual revenues per line)

Key Point: Without UNE-P, CLECs can profitably serve wire centers with greater than 5000 lines based on WorldCom's own analysis

Correcting for WorldCom's Overstated Collocation Costs Makes the Case for No Impairment Even Stronger

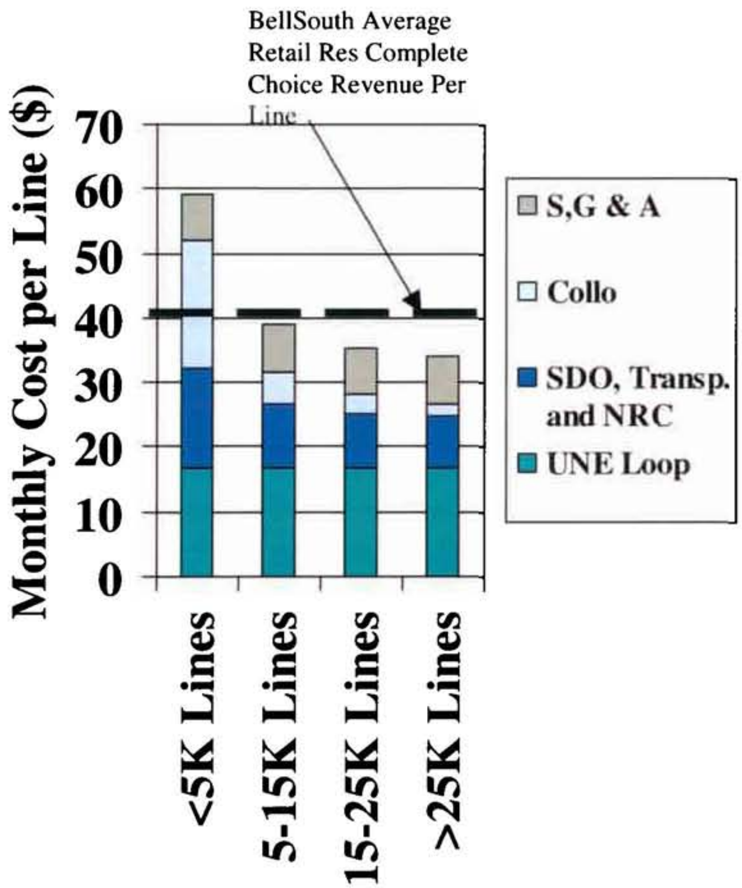


- WorldCom used collocation costs that are totally out of line with current rates
- Replacing WorldCom's overstated collocation costs with current actual collocation rates provides a more accurate picture of the margin available to facility based CLECs
- No changes made to WorldCom's calculation of SDO, transport and NRC costs

Key Point: Correcting for WorldCom's overstated collocation costs makes it even more apparent that CLECs can profitably serve wire centers with greater than 5000 lines

BellSouth's Scenario 2

View with Corrected Collocation Costs and Retail Residential Complete Choice Service



- Average Retail Revenue consists of Residence Complete Choice Service ($31.64), SLC ($6) and SWA ($3.92)
- WorldCom and AT&T are currently targeting high revenue residential customers as evidenced by their pricing plans

Key Point: CLECs can profitably serve residential customers in wire centers with greater than 5000 lines

Calculation of Collocation Costs Based on Actual Rates

Collocation

	Georgia - SGAT	
	NRC	Recurring
Space Availability Report	$2,148.00	$0.00
Application Fee per Collo (initial)	$3,850.00	$0.00
Space preparation - firm order processing	$1,187.00	$0.00
Space preparation - CO mod per sq ft	$0.00	$2.02
Space preparation - Common Sys mod per cage	$0.00	$95.23
Cable records, per request	$1,706.00	$0.00
Cable Installation, per cable	$2,750.00	$0.00
Cable support structure, per entrance cable	$0.00	$13.35
Floor Space per sq ft	$0.00	$7.50
Power, per Fused Amp	$0.00	$8.06
Welded Wire Cage - First 100 sq ft	$0.00	$161.27
Welded Wire Cage - Each additional 50 sq ft	$0.00	$15.82
Security System per sq ft	$0.00	$0.0172
Security Access System per card	$46.20	$0.0607
Collocation Build-out	$16,281.80	
Monthly Recurring Charges		$1,720.76
Assumptions:		
Amps used		60
Square Feet		100
Security Cards		4
Requests for Cable Records		2
Cable Support Structures		2
Nonrecurring Charge per 2-Wire Cross Connect	$12.60	
Monthly Recurring Charge per 2-Wire Cross Connect		$0.30

Case 2: UNEs and 5% market share	Avg Lines in CO per MCI	5% share of avg lines in CO
Lines>25k	38,203	1,910
25k>Lines>15k	19,601	980
15k>Lines>5k	9,042	452
Lines<5k	1,968	98

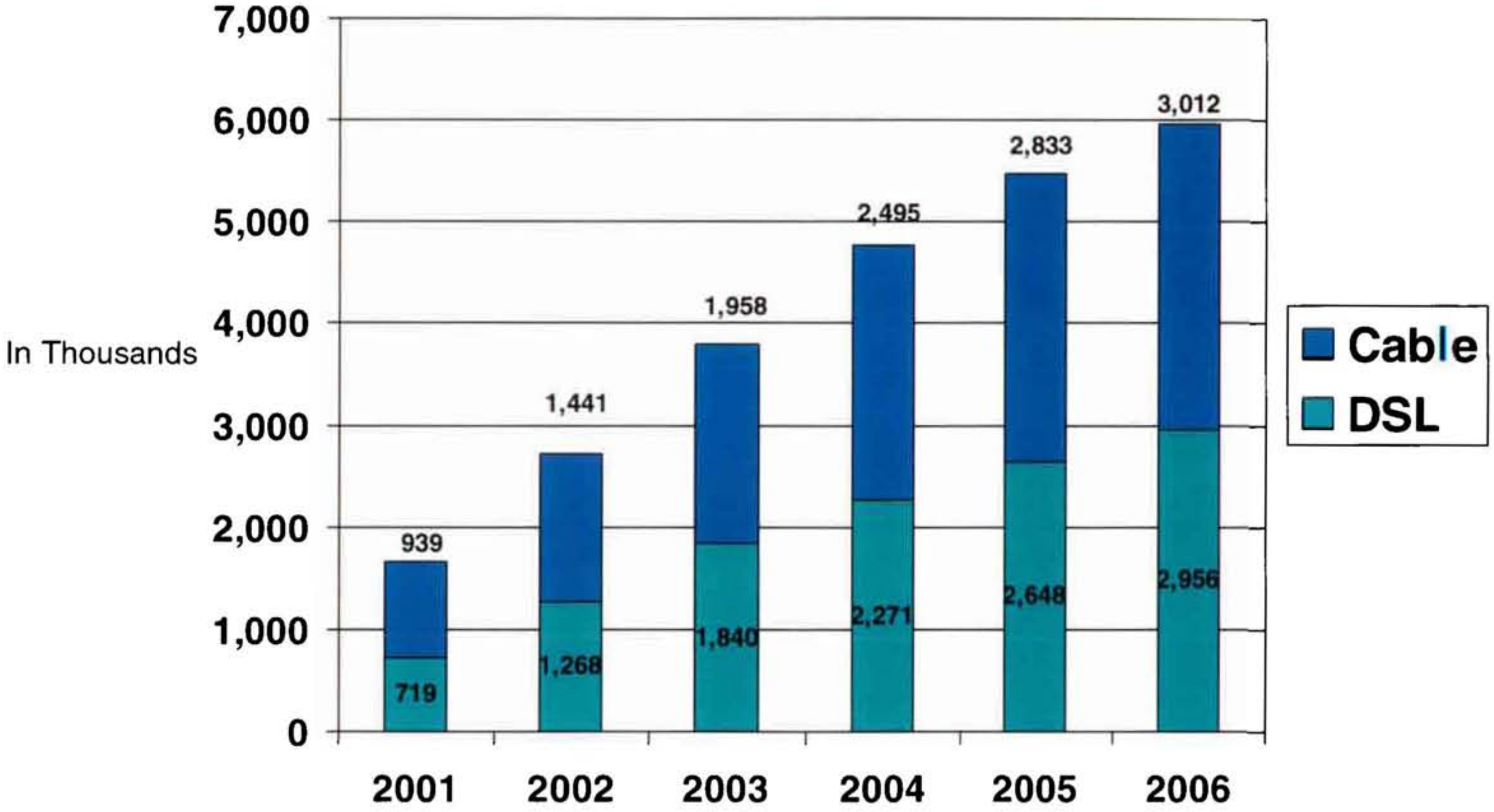
Case 2: UNEs and 5% market share	Collo NRC per line *	Collo Recurring per line	2-W cross connect NRC per line **	2-W cross connect Recurring per line	**Collo Total per line**
Lines>25k	$0.07	$0.90	$0.70	$0.30	**$1.97**
25k>Lines>15k	$0.14	$1.76	$0.70	$0.30	**$2.89**
15k>Lines>5k	$0.30	$3.81	$0.70	$0.30	**$5.11**
Lines<5k	$1.38	$17.49	$0.70	$0.30	**$19.87**

* Collocation Build-out costs amortized over 10 years and divided by 5% share of lines in CO
** 2-W Cross Connect NRC amortized over 18 months customer life

BELLSOUTH

INSITE
The Voice of the Market.

DSL & Cable Modem Subscribers – Small Business



Source: In-Stat/MDR (May 2002)