

HIGH TECH BROADBAND COALITION



A Demarcation Is Needed.

- To increase the investment in broadband needed to spur competition and adoption, the FCC must draw a clear and sound demarcation between the incumbent LEC's legacy facilities, which should be unbundled, and its integrated packet-fiber facilities in the last mile, which should not.
- The investment in packet-fiber facilities that is needed to make *true* broadband available to most American homes is expensive, risky and discretionary.
- By rewarding those who take the risk of investment, this reform would foster facilities-based competition and deployment.
- Competitive LECs should continue to have regulated access to existing non-packet loop capabilities over hybrid fiber/copper loop facilities, but not to packet capabilities.
- Given the ILECs' insurgent position in the broadband market, this reform is both good legal and public policy.
- Both the small business and residential segments of the market should be covered by this reform—cable companies and CLECs using unbundled DS-1s can and are competing for small business customers.

The HTBC Has Provided A Specific Proposal.

- The ILEC should not have to unbundle the broadband loop and dark fiber.
- The broadband loop includes *all transmission paths in the local loop over fiber facilities, and attached equipment, used to transmit packetized information or video information utilizing optical technology. It also includes any electronics attached to a copper loop that is used in conjunction with or facilitates packetized transmission over such loop.*
- Competitors would continue to have access to existing non-packet voice and data capabilities including DS-1s, subject to the impairment analysis.
- The ILEC could not deprive a CLEC of access to an existing copper loop without FCC approval but in FTTH "over build" situations the ILEC need not maintain the copper loop unless a competitor requests access.

The Commission Faces A Turning Point.

- A clear and sound demarcation, and the regulatory certainty it brings, will lead to substantial new fiber-packet investment in the broadband market.
- The record, including the CSMG and Strategic Policy Research studies, demonstrates that unbundling reform will make this investment more profitable and thus more likely.
- The minimum bandwidth proposals rumored to be under discussion will be enormously counterproductive and will not provide the needed regulatory relief:
 - Legal insufficiency
 - Technical uncertainty and operational complexity
 - Regulatory uncertainty
 - Slippery slope
 - Significantly reduced incentives/cost prohibitive
 - Investment and innovation inhibitor