

February 12, 2003

Honorable Michael Powell
Chairman, Federal Communications Commission
445 12th St. SW
Washington D.C. 20544

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

Dear Mr. Chairman:

As the President of Americans for Competitive Telecommunications, I encourage you and the FCC to eliminate the current unbundling regulations that have hurt the telecommunications industry and our nations economy. I support the proposals that are before the FCC that would eliminate unbundled switching and the UNE-P provisions. It is time to create new jobs and encourage telecom companies to increase capital spending and investment.

Many experts and analysts have stated that the existing UNE-P rate structure is unsystematic and haphazard. The plan has gone askew because state commissions apply the TELRIC formula unevenly and inconsistently when they set UNE-P rates. They are mostly unreliable and penalizing to the incumbent local telephone company (ILEC).

Many state commissions do not set rates based on provisioning costs, as TELRIC prescribes, but on the retail rates being charged by the incumbent. The result is UNE-P rates that are unfounded and erroneously set. Most state commissions have established UNE-P rates based on the wrong parameters set by the Telecommunications Act of 1996. In essence, they have violated the law, and all these rates should be thrown out.

A recent report by UBS Warburg shows that the ILEC's are subsidizing their competition through the unfair UNE-P pricing currently in place. And other analysts, such as Alex Winogradoff of the Gartner Group, agree with UBS Warburg that the Bells are being required to lease their networks to rivals at below cost. The Gartner analyst agrees the government essentially is requiring the Bells to subsidize their rivals.

The FCC should eliminate the unbundled network element platform and other unbundling requirements where facilities-based competition has developed.

Sincerely,

Mark Phigler

Cc: Commissioner Abernathy
Commissioner Adelstein
Commissioner Martin
Commissioner Copps