

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
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 Offering Advanced Telecommunications Capability)	CC Docket No. 98-147

OPPOSITION TO MOTION FOR EXTENSION OF TIME

BellSouth, by its attorneys and pursuant to Section 1.45 of the Commission’s Rules, 47 C.F.R. § 1.45, respectfully submits this Opposition to ALTS’s Motion for Extension of Comment Period Regarding Petitions for Reconsideration. It is the Commission’s longstanding policy that “motions for extension of time shall not be routinely granted.” 47 C.F.R. § 1.46(a). ALTS has provided no basis for making an exception to that policy here.

First, ALTS claims that it needs more time “to consider and evaluate thoughtfully the multiple petitions for reconsideration” that were filed. Motion at 1. However, only nine petitions were filed, and only three of those (from BellSouth, SureWest, and USIIA, with a grand total of 38 pages) raised issues that ALTS might have any interest in opposing. Plainly, the volume of pleadings does not warrant grant of ALTS’s motion.

ALTS next asserts that BellSouth’s proposal, in particular, “could cripple facilities-based competition,” and should not be acted upon without “development of a full record.” *Id.* Setting aside for the moment ALTS’s overheated rhetoric, ALTS already has had more than enough time to formulate its arguments in opposition, as is evident from its Motion. BellSouth’s petition for reconsideration was filed on October 2, and oppositions are due on November 6. *See Petitions*

for Reconsideration and Clarification of Action in Rulemaking Proceedings, 68 Fed. Reg. 60391 (Oct. 22, 2003). By that time, ALTS will have had five full weeks to digest and respond to the arguments raised in BellSouth's 20-page petition. Indeed, ALTS actually will have had more than seven full weeks to prepare its response, since BellSouth filed a detailed *ex parte* in mid-September previewing the relief sought and arguments made in its petition. *See* Letter from Glenn T. Reynolds, Vice President-Federal Regulatory, BellSouth, to Marlene H. Dortch, Secretary, FCC, filed in CC Docket No. 01-338 on September 17, 2003.

In addition, as a substantive matter, ALTS grossly mischaracterizes the nature and impact of BellSouth's request for relief. BellSouth is not seeking "radical, disruptive changes" to the fiber loop rules that require a "thorough record backed by detailed studies." *See* Motion at 2. To the contrary, the record in this proceeding, and the reasoning and outcomes in the *Triennial Review Order*, already provide all the basis the Commission needs for granting BellSouth's petition. In initiating the Triennial Review, the Commission itself equated the architectural design and capabilities of FTTC and FTTH when it drew a distinction between "the deployment of fiber optic facilities directly to the home (*i.e.*, 'fiber to the curb') and fiber optic facilities only to remote terminals."¹ Likewise, presentations to the Commission during the Triennial Review proceeding established the fundamental equivalence of FTTC and FTTH,² and a Telcordia document cited in the *Triennial Review Order* notes that a fiber architecture extending to within

¹ Review of the Section 251 Unbundling Obligations for Incumbent Local Exchange Carriers, CC Docket No. 01-338, Notice of Proposed Rulemaking, ¶ 50 (rel. Dec. 20, 2001).

² *See* Stagg Newman, FCC Tutorial: Broadband Access Platforms (McKinsey and Company, April 14, 2002), at 33 (showing a PON architecture with fiber deployed to an optical splitter and then connected to homes over either fiber, copper, or coax).

500 feet of the user provides “broadcast video, high speed internet data, and the latest voice applications,” just as FTTH does.³

BellSouth’s petition provided further confirmation that FTTC and FTTH should be treated equivalently from a regulatory standpoint, because both architectures support “truly broadband transmission capabilities.” Petition at 1-6, *citing Triennial Review Order*, ¶ 272. BellSouth also showed that “[t]here is no cognizable difference in impairment between FTTH and FTTC” loops. As with FTTH, an ILEC contemplating an FTTC build-out has “no advantages concerning the sunk cost” of any network component and has no “first-mover advantage,” and FTTC “affords carriers the same revenue opportunities as FTTH.” *Id.* at 6-7, *citing Triennial Review Order*, ¶¶ 274, 275. Accordingly, there is no need for an extensive re-assessment of the legal and policy reasons underlying the Commission’s decision to exclude FTTH loops from unbundling. Those same arguments apply just as forcefully to FTTC, and BellSouth’s petition – far from being an attempt to “undo [a] purportedly delicate balance” – is simply an effort to assure that the Commission’s rules achieve their intended objective.⁴

Finally, it is imperative that the Commission adopt the rule changes and clarifications requested in BellSouth’s petition for reconsideration without delay. BellSouth’s petition

³ Telcordia Notes on Fiber-in-the Loop at 9-2, 9-11 (*cited in* footnote 811 of the *Triennial Review Order*).

⁴ BellSouth’s petition also sought reconsideration or clarification of certain other issues, in order to assure that (1) fiber deployment to multiple-unit premises is not constrained by overbroad unbundling obligations, (2) there is no separate broadband unbundling requirement under Section 271, (3) any unbundling obligation under Section 271 is co-extensive with that under Section 251, (4) any services “unbundled” only under Section 271 need not be combined with other services or UNEs, (5) the rules are not misconstrued to impose unbundling or network design requirements on next-generation networks, and (6) the obligation to unbundle enterprise dark fiber loops does not conflict with the exclusion of next-generation networks from unbundling requirements. ALTS does not specifically address any of these other requests for relief in its extension motion. Should ALTS or any other party oppose these requests, BellSouth will rebut their arguments in its Reply.

explained that treating fiber-to-the-curb loops the same as fiber-to-the-home loops would “markedly ... increase the number of new-build households that receive the benefits of true broadband.” Given the tremendous public interest benefits that will flow from expanded broadband deployment, *see, e.g., Triennial Review Order*, ¶¶ 212, 241 (broadband deployment is “a critical policy objective” and is “vital to the long-term growth of our economy as well as our country’s continued preeminence as the global leader in information and telecommunications technologies”), the Commission should grant the relief BellSouth seeks as expeditiously as possible. Decisions on whether to deploy hybrid loops or FTTC loops must be made constantly as local networks expand. The failure to accord FTTC the same regulatory status as FTTH tips the scales against FTTC deployment, and is operating on a daily basis to deprive consumers in new developments the benefits of true broadband.”

For these reasons, the Commission should deny ALTS's motion for extension of time and grant BellSouth's petition promptly after close of the comment cycle set forth in the Federal

Register notice cited above.

Respectfully submitted,

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October 24, 2003

Certificate of Service

I hereby certify that, on this 24th day of October, 2003, the foregoing Opposition to Motion for Extension of Time was served by First Class U.S. mail on:

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A copy also was delivered to the following individuals by electronic mail:

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/s/ Jeffrey S. Linder
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