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November 21, 2003

VIA ECFS

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: **Ex Parte: CC Docket No. 01-338; 96-98**

Dear Ms. Dortch:

Pursuant to Section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, this will provide notice that on November 21, 2003, Jake Jennings, Senior Vice President-Regulatory Affairs and Carrier Relations of NewSouth Communications and the undersigned met with Commissioner Kevin J. Martin, and Daniel Gonzalez, Commissioner Martin's Senior Legal Advisor. We discussed the materials contained in the attached presentation concerning access to unbundled DS1 loops.

Please include this letter and the attachment in the above-referenced docket.

Sincerely,


Michael H. Pryor

MHP/jdr
Attachment

Triennial Review Order – Access to Enterprise Loops

CC Docket 96-98

The Triennial Review Order Fosters Facilities Based Competition and Broadband Deployment in the Enterprise Market By Ensuring Carriers Continue to Have Access to DS1 and DS3 Loops

- Impairment Findings:
 - The Commission made clear and specific findings of impairment without access to DS1 and DS3 enterprise loops.
 - Impairment findings predicated on (1) “extremely high economic and operational barriers” to self-deployment, Order at ¶ 325, and (2) lack of sufficient revenues from small and medium size enterprise customers to make self-deployment of DS1/DS3 loops economically feasible. Order ¶¶ 320, 326.
- Lowering Transaction Costs of Obtaining DS1 and DS3 Loops:
 - Requiring ILECs to make routine network modifications in order to provide access to high capacity loops. Order ¶ 632.
 - Eliminating commingling restrictions. Order ¶ 579.
 - Clarifying that requesting carriers may convert stand alone UNEs. Order ¶ 586.

The Commission's Determination that Requesting Carriers Have Access to DS1 and DS3 Enterprise Loops Without Regard to the Technology Deployed by the ILEC is Critical to Continued Competition in the Enterprise Market

- The Commission made clear that next-generation unbundling rules were limited to the mass market and no technology restrictions exist for DS1 and DS3 enterprise loops:
- “DS1 loops will be available to requesting carriers, without limitation, regardless of the technology used to provide such loops, *e.g.*, two-wire and four-wire HDSL or SHDSL, fiber optics, or radio, used by the incumbent LEC to provision such loops and regardless of the customer for which the requesting carrier will serve unless otherwise specifically indicated. *See supra* Part VI.A.4.a.(v) (discussing FTTH). The unbundling obligation associated with DS1 loops is in no way limited by the rules we adopt today with respect to hybrid loops typically used to serve mass market customers. *See supra* Part VI.A.4.a(v)(b)(i).”
Order ¶ 325, n. 956.

Access to DS1 Loops and EELs Have Enabled NewSouth to Meet the Commission's Goals of Facilities-Based Competition and Access to Broadband Services

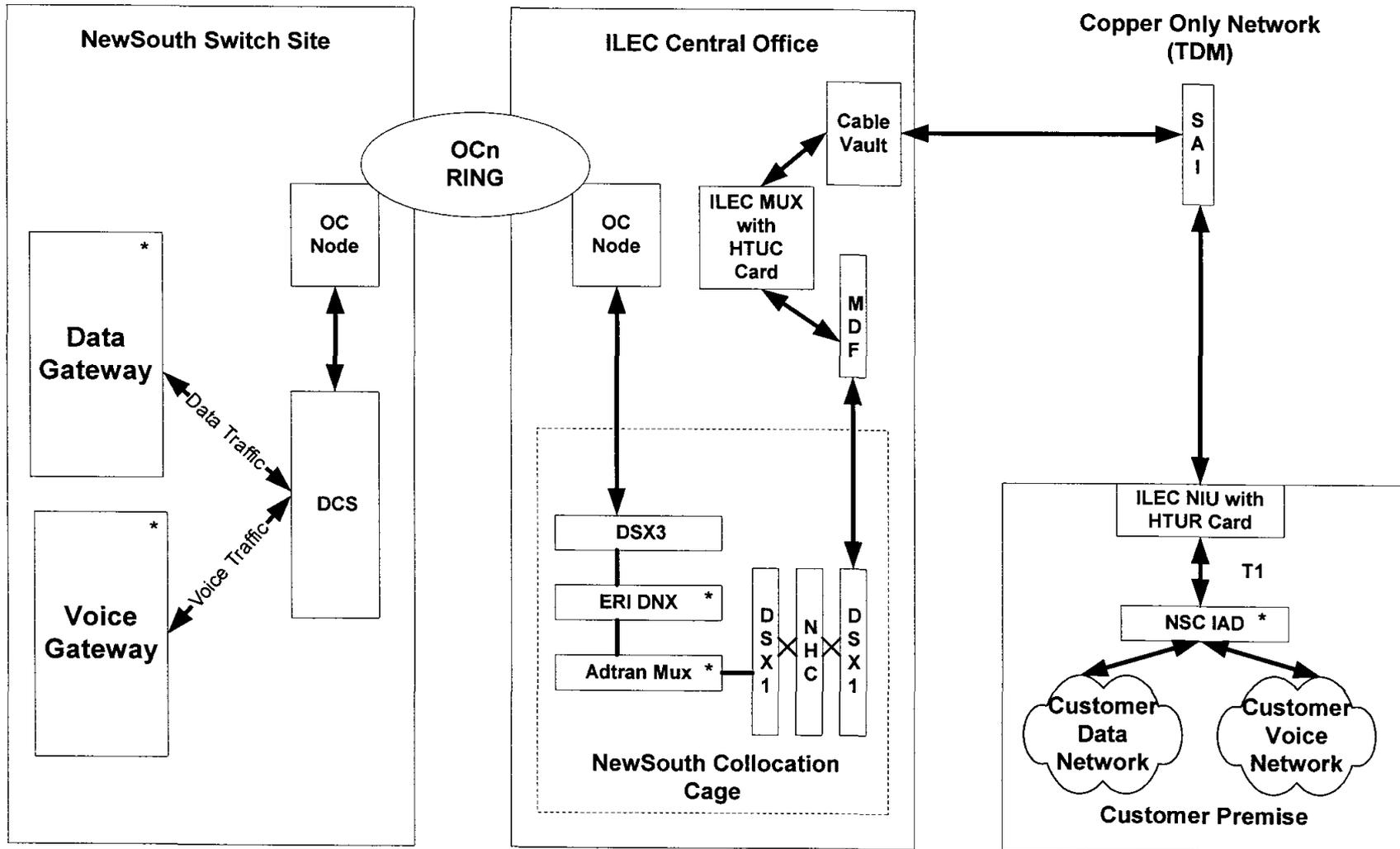
- NewSouth has deployed 13 voice and 14 ATM switches, established more than 80 collocations and invested hundreds of millions of dollars in equipment.
- Through this investment, NewSouth brings integrated voice, data and broadband services to small and medium size enterprise customers in Tier I through Tier IV markets throughout the Southeast.
- Ninety percent of NewSouth customers are upgraded from analog to broadband services.
- 100% of NewSouth DS1 customers have broadband capability.
- Small and Medium size business market is one of the few markets where facilities-based competition works.

The Commission's Finding that Access to DS1 and DS3 Loops is not Restricted to TDM Technology Reflects Current Practices

- DS1 loops are not limited to TDM technology.
- A DS1 or T1 is a digital transmission link with a signaling speed of 1.544 Mbps in both directions (send and receive). This link can be channelized for voice or data with 24 channels (DS0) at 64 Kbps or unchannelized as a bit stream for Broadband, ATM, IP, frame relay, video and Point to Point applications.
- NewSouth obtains DS1s from ILECs today over various transmission media, including TDM, HDSL, and SONET technologies.

DS1 Loop Access: T1/TDM over Copper Only Loop

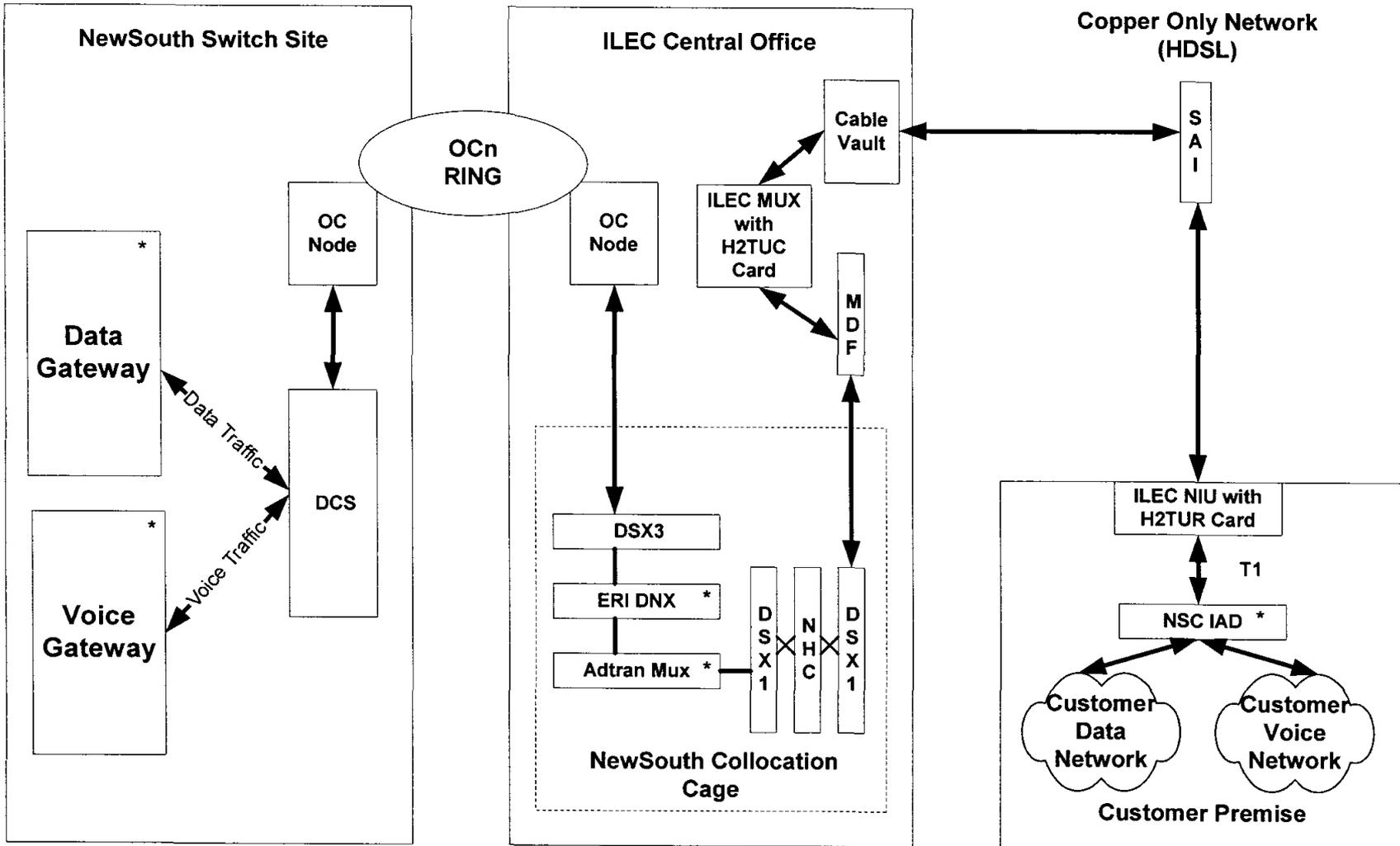
NewSouth offers high speed voice, Internet access and data services to its customers using non-channelized UNE DS1 Loops/EELs. All transmission protocols e.g. ATM, IP, etc. are generated through use of the equipment and technologies that NewSouth deploys at its switch sites, collocation spaces and customer's premises.



* Channelization functions are performed by the ERI while multiplexing, coding and framing for DS1s is performed by the Adtran. The IAD at the Customer Premise and the voice and data gateways generate the voice and data packets/streams that transit the Network.

DS1 Loop Access: HDSL over Copper Only Loop

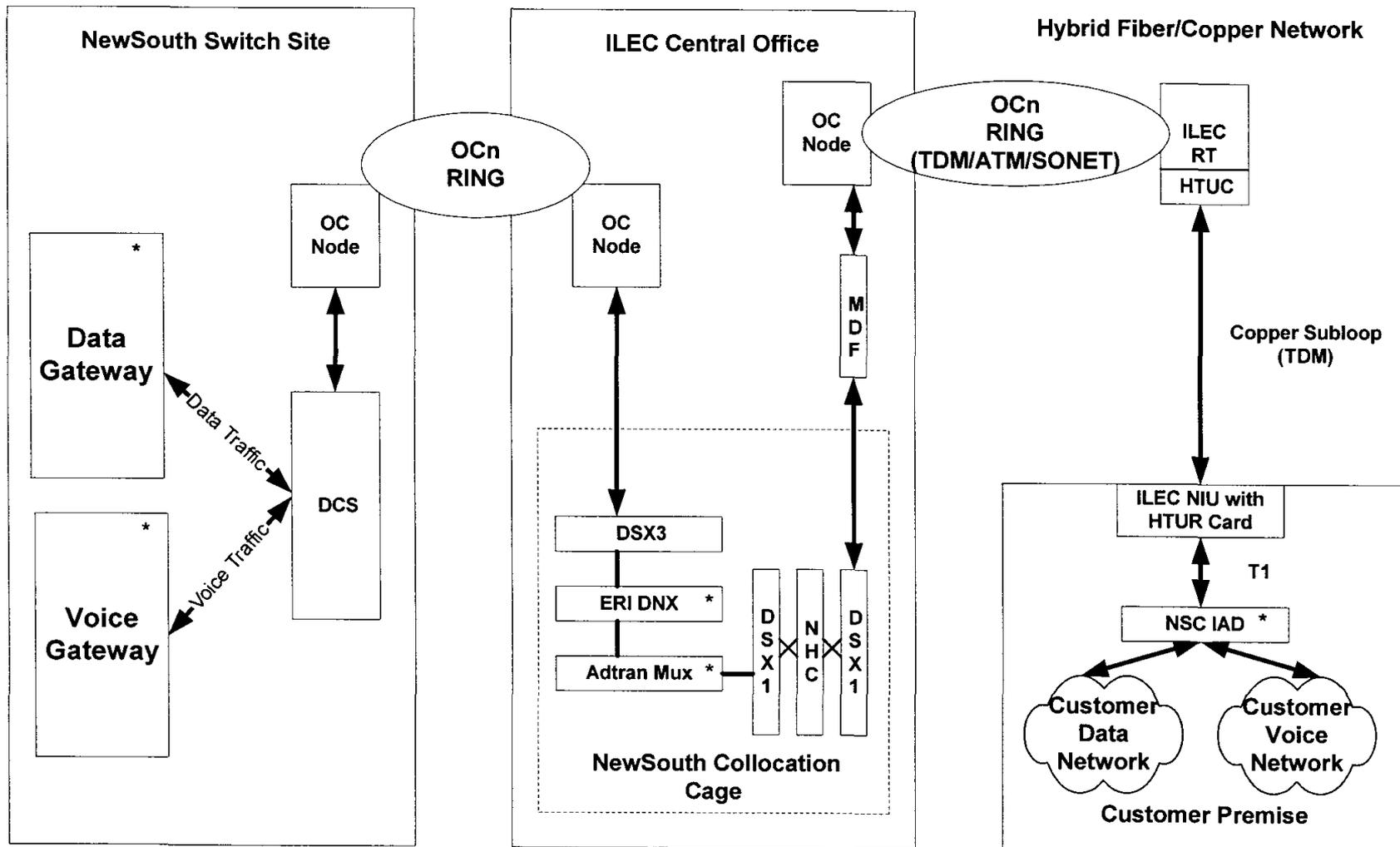
NewSouth offers high speed voice, Internet access and data services to its customers using non-channelized UNE DS1 Loops/EELs. All transmission protocols e.g. ATM, IP, etc. are generated through use of the equipment and technologies that NewSouth deploys at its switch sites, collocation spaces and customer's premises.



* Channelization functions are performed by the ERI while multiplexing, coding and framing for DS1s is performed by the Adtran. The IAD at the Customer Premise and the voice and data gateways generate the voice and data packets/streams that transit the Network.

DS1 Loop Access: T1/TDM over Hybrid Fiber Copper Loop

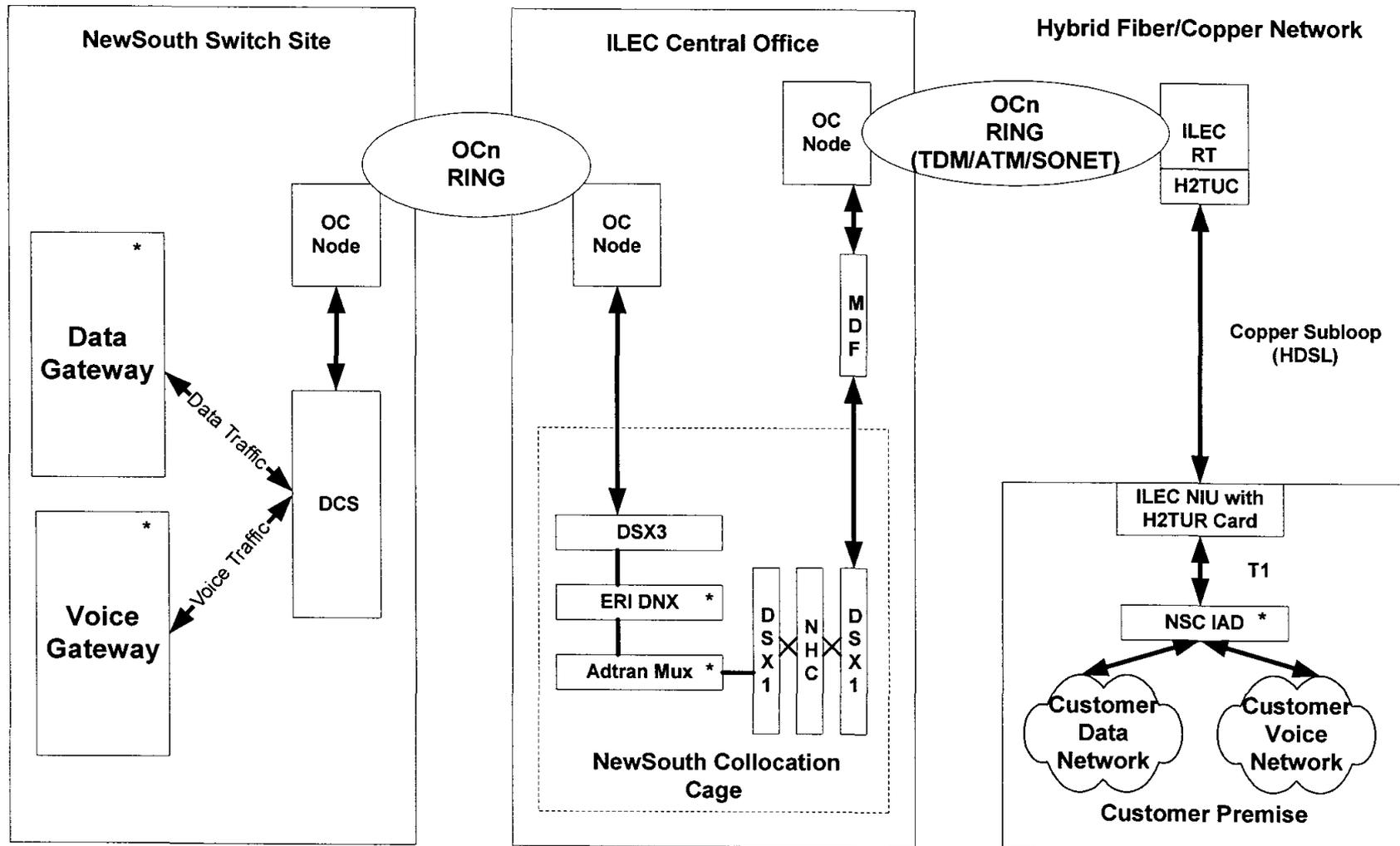
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* Channelization functions are performed by the ERI while multiplexing, coding and framing for DS1s is performed by the Adtran. The IAD at the Customer Premise and the voice and data gateways generate the voice and data packets/streams that transit the Network.

DS1 Loop Access: HDSL over Hybrid Fiber Copper Loop

NewSouth offers high speed voice, Internet access and data services to its customers using non-channelized UNE DS1 Loops/EELs. All transmission protocols e.g. ATM, IP, etc. are generated through use of the equipment and technologies that NewSouth deploys at its switch sites, collocation spaces and customer's premises.



* Channelization functions are performed by the ERI while multiplexing, coding and framing for DS1s is performed by the Adtran. The IAD at the Customer Premise and the voice and data gateways generate the voice and data packets/streams that transit the Network.

DS1 Loop Access

Equipment Legend



NewSouth Switch Site

Data Gateway

NewSouth's Data Gateway performs the ATM and IP routing and switching functions in the NewSouth network. This is the heart of the NewSouth data network allowing us to provide packet switching and high speed data services to our customers.

Voice Gateway

NewSouth's Voice Gateway, in concert with its Data Gateway enables NewSouth to provide integrated solutions to its customers over a single DS1 UNE/EEL Loop.

DCS

The DCS is NewSouth's software configurable Digital Crossconnect System. NewSouth uses the DCS to separate data and voice channels for termination to either the Voice and Data Gateway.

OC Node

The Optical Node in NewSouth's Switch Site is our point of interface with the ILEC Network. High speed optical connection to the ILEC allows NewSouth to exchange traffic and provides the path for termination of our customer's facilities to our voice and data gateways.

ILEC Central Office

ILEC MUX with HTUC Card

The ILEC Mux with HTUC card generates DS1 signal out of the ILEC Central Office.

ILEC MUX with H2TUC Card

The ILEC Mux with H2TUC card generates HDSL signal out of the ILEC Central Office.

OC Node

The Optical Node at the ILEC Central Office is the point of interface with the NewSouth network.

MDF

The MDF, or Main Distribution Frame, is the metallic interface carrying signal between various pieces of equipment in the ILEC Central Office.

NewSouth Collocation Cage

DSX3

The DSX3 provides a hard-wired crossconnect to DS3/STS1 signals from the ILEC OC Node.

ERI DNX

The ERI DNX is an edge grooming device which allows efficient transport of data and voice separately. Performs channelization functions.

Adtran Mux

The Adtran performs muxing, framing and coding functions allowing NewSouth to break DS3/STS1 signals into DS1s.

NHC

The NHC provides remotely configurable "many-to-many" metallic crossconnect capability.

DSX1

The DSX1 provides a hard-wired crossconnect to the BellSouth Main Distribution Frame (MDF).

Public Network

OCn RING TDM/ATM/SONET

The ILEC employs Optical Carrier in the network as a means of efficient transport for TDM, ATM and SONET.

ILEC RT

The RT, or Remote Terminal, is used to convert High Speed Optical signals, DS1s and POTS lines for end user applications. The ILEC also places equipment in the RT that enables them to provision xDSL services.

SAI

The SAI, or Serving Area Interface is used to crossconnect Central Office Feeder Cable (F1) to Distributed Feeder Cable (F2).

DS1 Loop Access

Equipment Legend (cont.)



Customer Premise



NewSouth provides Video and Teleconferencing, Point to Point Voice and Data, VPN as well as Firewall and Security applications through its integrated platform.



NewSouth also provides traditional voice applications including PBX, DID, DOD and combination voice trunking.



NewSouth uses an Integrated Access Device (IAD) at the customer premise to provision voice, data and broadband applications. This device can handle multiple protocols including IP, ATM, PPP, ISDN, Frame Relay and GR303.



The ILEC Network Interface contains an H2TUR Card to receive the HDSL signal from the Remote Terminal or Central Office. Communication between the NewSouth IAD and the NIU is via TDM and/or ATM.



The ILEC Network Interface contains an HTUR Card to receive the DS1 signal from the Remote Terminal or Central Office. Communication between the NewSouth IAD and the NIU is via TDM and/or ATM.

Continued Access to ILEC Transmission Facilities for DS1/DS3 Enterprise Loops Will Stimulate Investment in Broadband Facilities

- NewSouth is poised to deploy ATM technology to the edge of its network bringing substantial benefits to enterprise customers (e.g., dynamic bandwidth) while substantially enhancing the efficiency of its network (and thereby reducing costs).
- Precluding access to transmission facilities cannot create incentives for CLEC investment in loop facilities – as the Commission found, it is economically infeasible to self-deploy DS1/DS3 loop facilities.
- Unlike mass market broadband, there is little, if any, intermodal competition for enterprise customers.

The Commission Should Take the Opportunity in the BellSouth Petition for Clarification/Reconsideration to Confirm that ILECs Must Provide Unbundled DS1 and DS3 Loops Without Regard to the Technology Deployed by the ILEC

- BellSouth's requested relief with respect to TDM technology is not expressly limited to mass market consumers.
- BellSouth's request to expand FTTH to multi-unit premises must be denied, or at least expressly limited to mass market customers.
- A significant percentage of NewSouth's enterprise customers are located in commercial buildings, strip malls, and other multiunit premises.

Requested Relief: Modify DS1/DS3 Loop Rules to Confirm the Commission's Finding That Such Facilities Must Be Made Available Regardless of Technology and That FTTH and Hybrid Loops Rules Apply Only to Mass Market Customers

- Proposed Rule Modification (the proposal tracks the Commission's language in footnote 956)

Add the following language to the Commission's rules on DS1 and DS3 loops, sections 51.319(a)(4) and (a)(5) respectively: "DS1 [DS3] loops shall be available to requesting telecommunications carriers, without limitation, regardless of the technology used by the incumbent LEC to provide such loops, *e.g.*, two-wire and four wire HDSL and SHDSL, fiber optics, or radio. Access to DS1 [DS3] loops shall in no way be limited or restricted by the provisions of sections 51.319(a)(2) or 51.319(a)(3)."