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December 11, 2003

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

Re: **Notice of Ex Parte Meeting** CC Docket Nos. 01-338, 96-98, 98-147

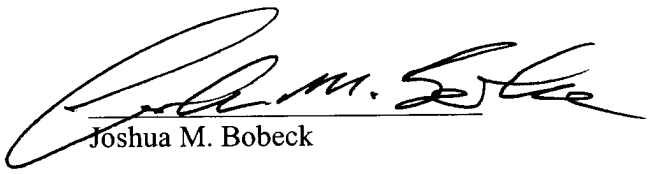
Dear Ms. Dortch:

Pursuant to Section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, this will provide notice that on December 10, 2003, Neil Flynn, President of FPL FiberNet ("FiberNet"); Russell M. Blau of Swidler Berlin Shereff Friedman, LLP, and the undersigned met with William Maher, Jeffrey Carlisle, Robert Tanner, Brent Olson, Pamela Arluk and Marcus Mayer of the Wireline Competition Bureau, to discuss regulatory issues relating to the above-referenced dockets. Consistent with the Commission's rules, FiberNet is electronically filing an this notice with the Office of the Secretary and attaching a copy of the PowerPoint presentation provided to the participants in the meeting.

FiberNet discussed its concerns regarding the petition filed by BellSouth requesting reconsideration of the Commission's Triennial Review Order regarding the unbundling of dark fiber. In particular, FiberNet stressed that it opposed BellSouth's petitions because although FiberNet has deployed fiber to reach a significant percentage of the market in Florida, it still requires access to ILEC dark fiber to expand its network to reach customers in locations where constructing its own fiber is not economically justifiable or efficient.

Further, FiberNet explained the difficulty it has accessing customers that BellSouth serves from its fiber fed remote terminals. Although FiberNet would prefer to deploy its own fiber to serve such customers it cannot justify such investment because the cost to duplicate BellSouth's fiber feeder is not economically justifiable.

Sincerely,



Joshua M. Bobeck

Counsel for FPL FiberNet, LLC

Enclosure

cc: William Maher
Jeff Carlisle
Brent Olson
Rob Tanner
Pamela Arluk
Marcus Mayer
Neil Flynn
Russell M. Blau

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FPL
FiberNet
CONNECTING
at the SPEED
of LIGHT

WHO IS FPL FIBERNET?

- Subsidiary of FPL Group, an $8B company
- CLEC with 120 employees
- Wholesale carrier since 1996, providing dark fiber and bandwidth/capacity
- Customers include almost all of the major telcos in Florida
- Providing telecom solutions in the major Florida metros
- Connect major metros and 2nd and 3rd tier cities with long-haul network
- Invested $350M in fiber/optical infrastructure

A POWERFUL STORY

1987
Started constructing, fiber optic network for electric utility

1996
Began selling capacity as carrier's carrier

1998
Stopped long haul builds, started metro builds

2000
Launched FPL FiberNet as unregulated subsidiary of FPL Group

2001
Became one of the largest metro network providers in the US

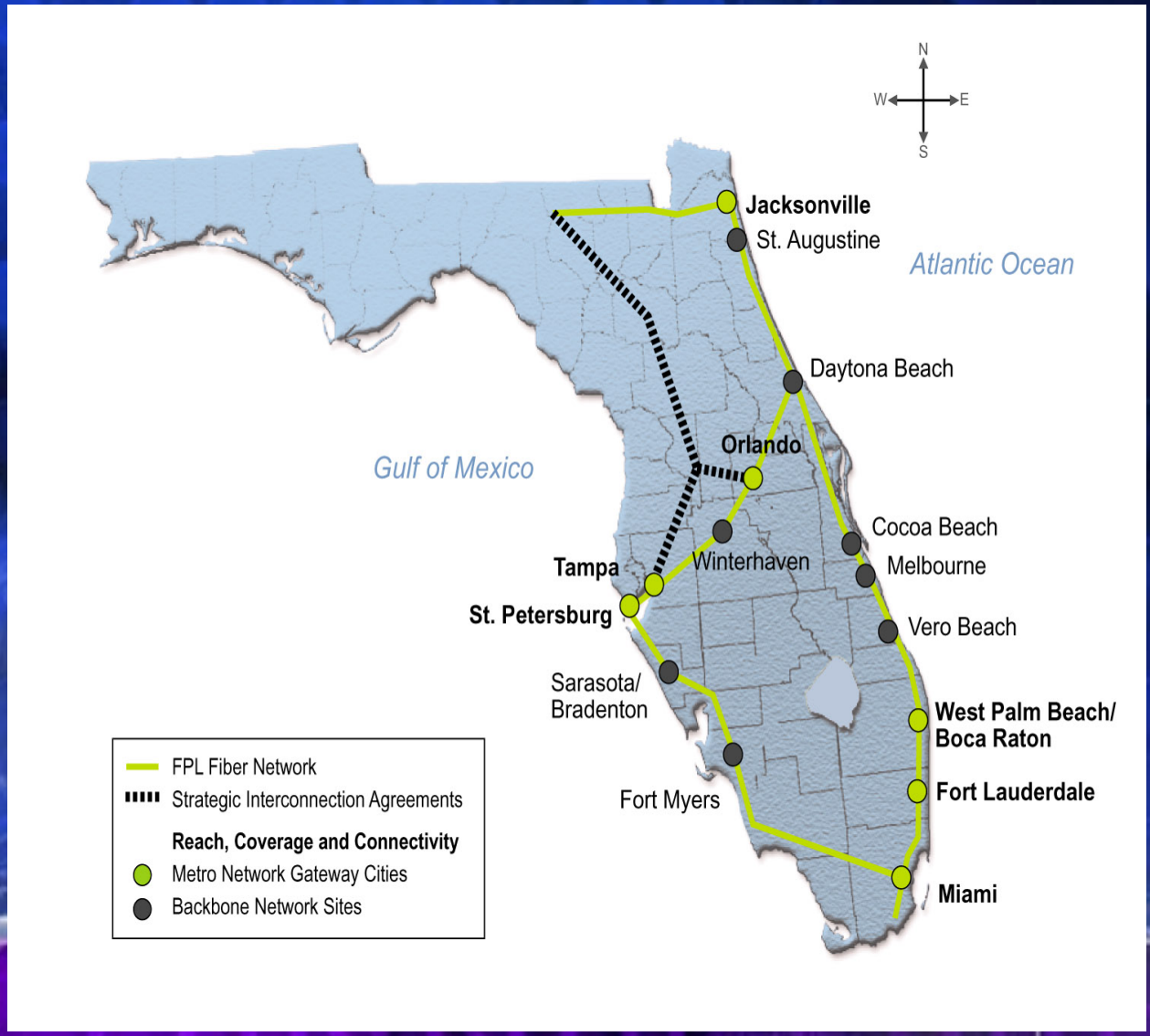
"of utilities building metropolitan networks …FPL FiberNet has been arguably the most successful" -- Fred Koerner, UTC Journal

OUR VALUE PROPOSITION

- Network reach
  - On-net central offices have almost as many Florida access lines as BellSouth and more than Sprint and Verizon
- Reliability
  - Financial stability and network built to highest standards - and we commit to SLAs
- Price
  - Competitive alternative to ILEC
- Flexibility
  - Payments and products (such as our “Virtual DS3” product) tailored to customer requirements

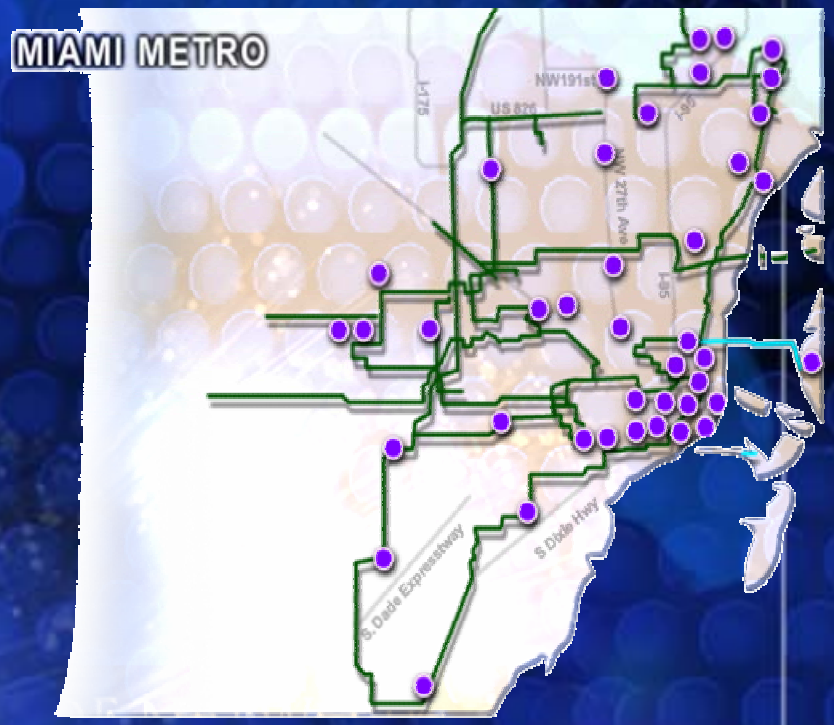
NETWORK REACH – LONG-HAUL

- 1,600 route-miles, connecting major Florida metros, as well as 2nd and 3rd Tier cities
- Through interconnection agreements, provide connectivity throughout the southeast

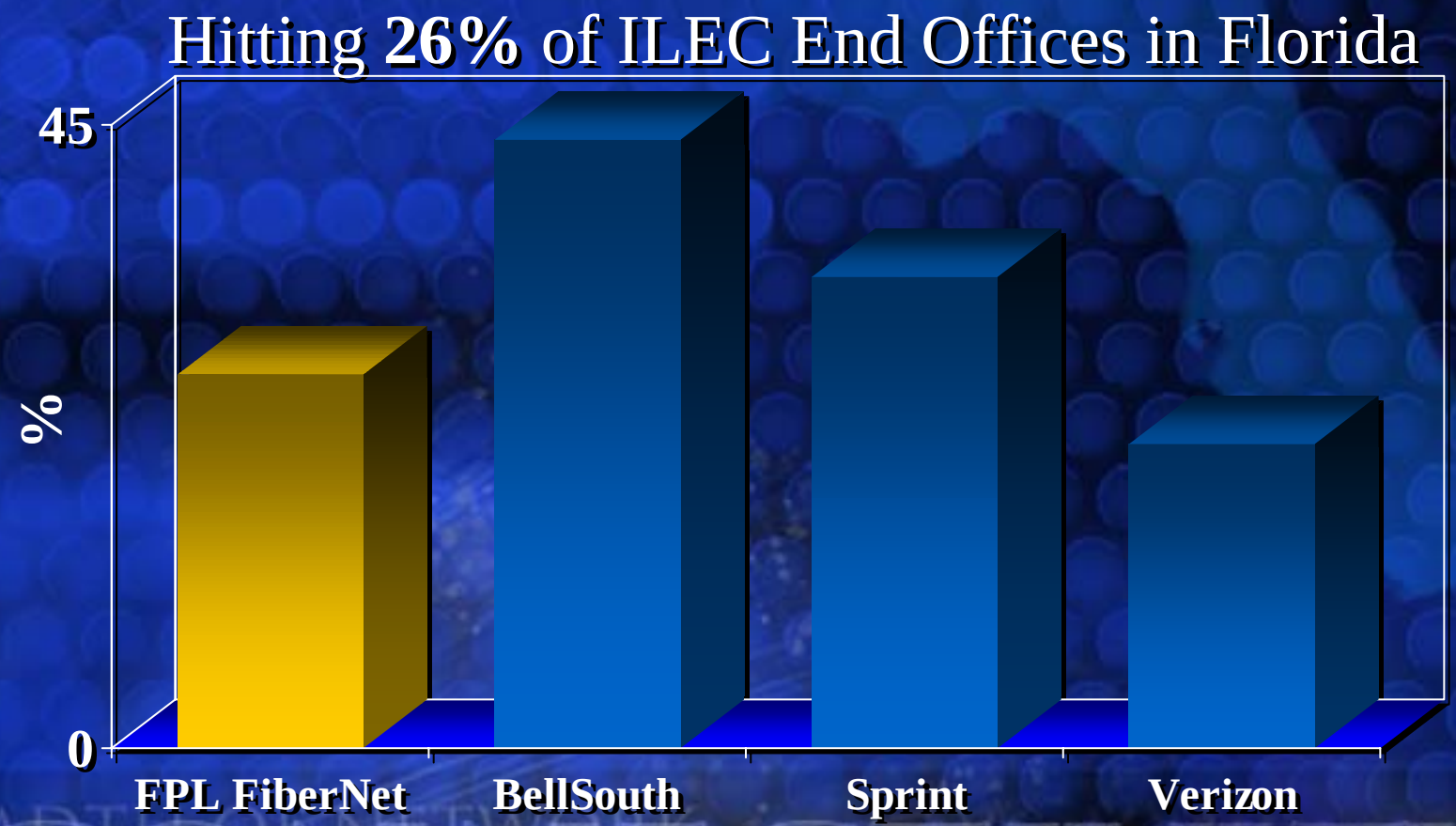


NETWORK REACH – METROS

- 900 route-miles in Florida's major metro markets
- Span territories of the 3 major ILECs in Florida
- Connect the major carrier hotels and cable heads in Florida
- Unlike other wholesale carriers in Fla., we also reach 115 central offices
- Miami, Ft. Lauderdale, Boca, West Palm Beach, Tampa, St. Petersburg, Orlando, and Jacksonville

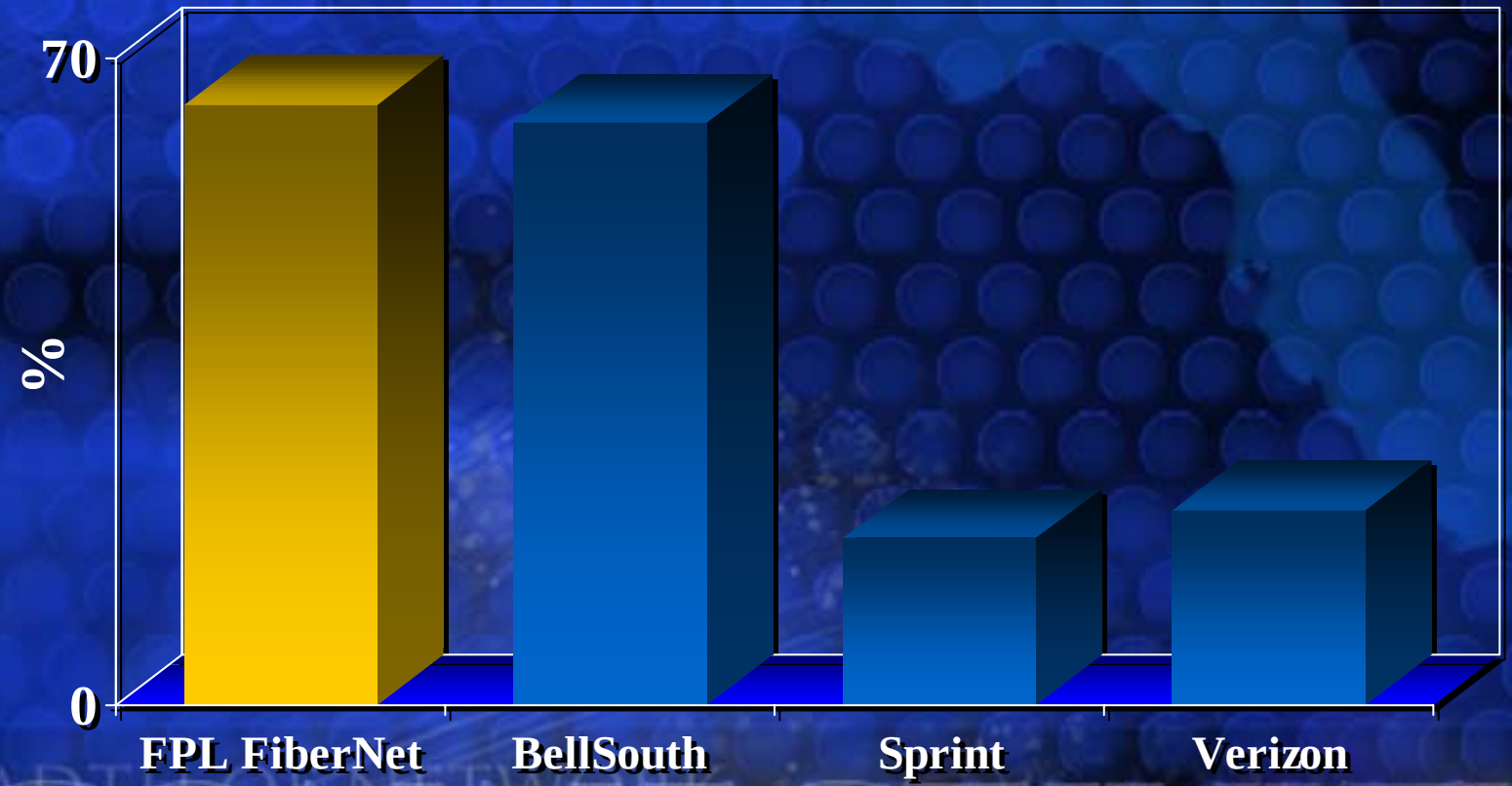


THE VALUE OF OUR NETWORK
End Office Strength

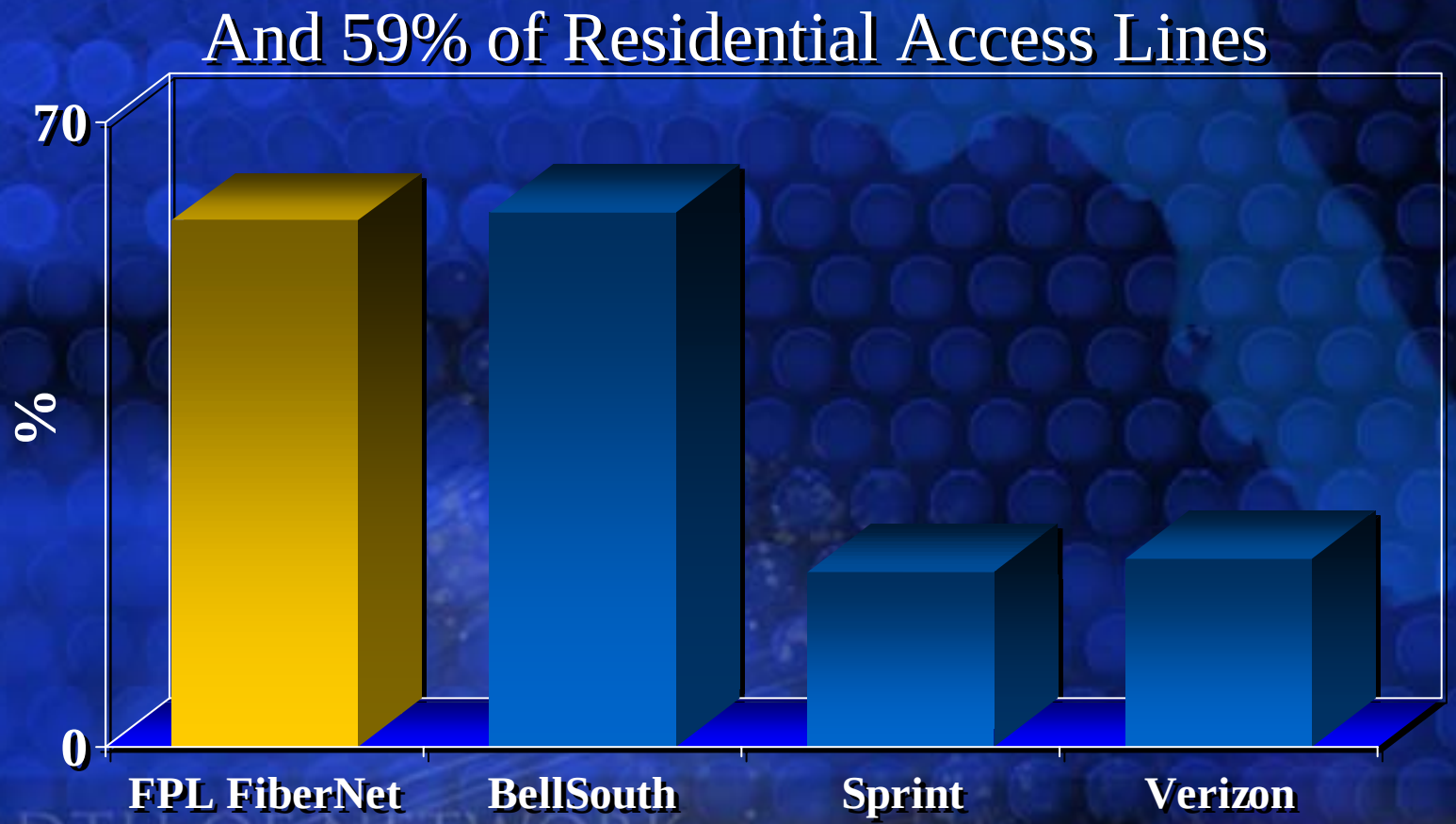


THE VALUE OF OUR NETWORK
Business Strength

Allows Access to **65%** of the Business Lines

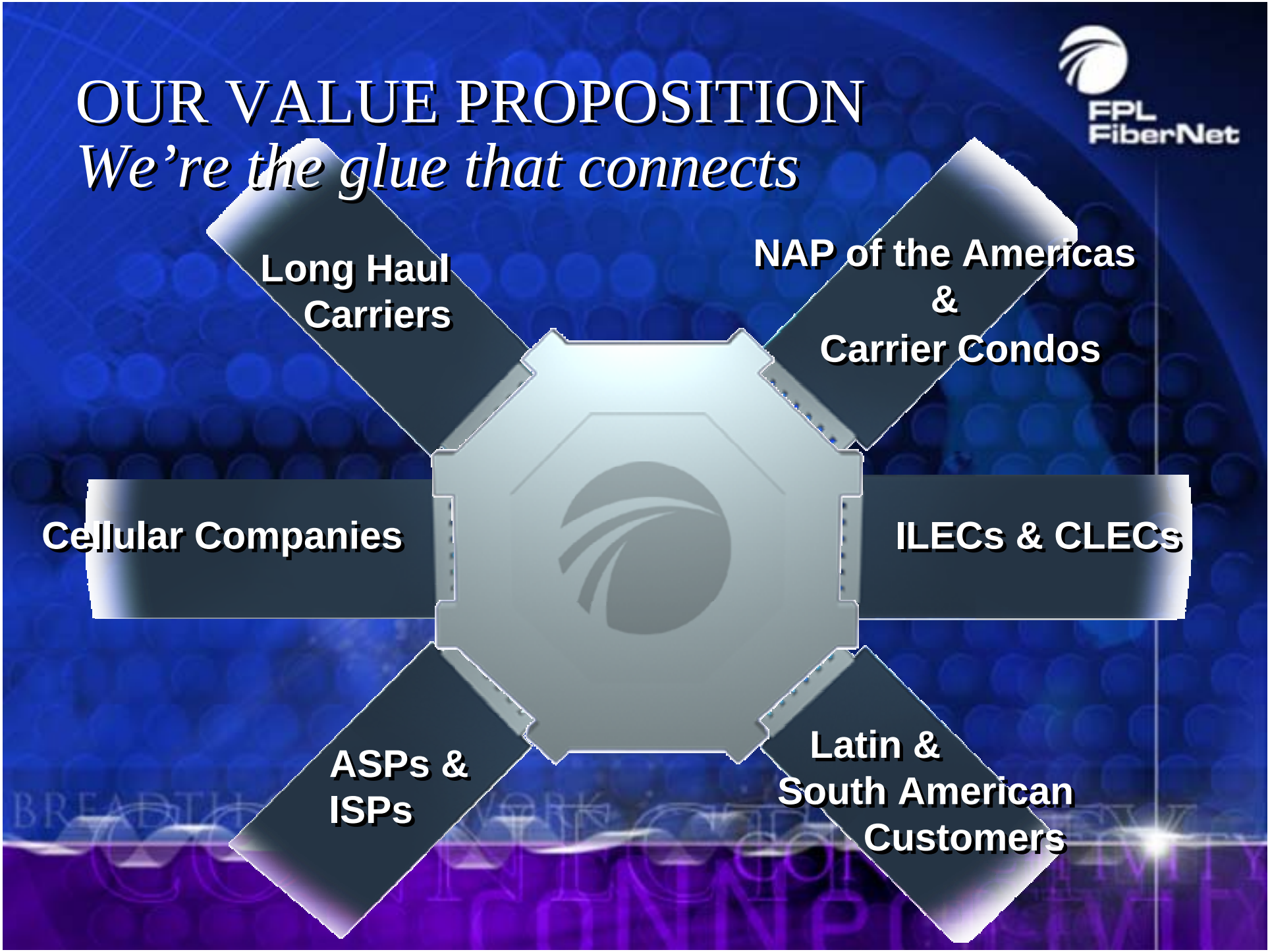


THE VALUE OF OUR NETWORK
Residential Strength



OUR VALUE PROPOSITION

We're the glue that connects



NETWORK RELIABILITY
FPL FiberNet

- 99.999% network reliability to serve critical operations including nuclear units
- 80% underground
- BellCore review
- Telecordia standards
- Hurricane experienced
- 216 or 432 count cables

Next Steps

- Expansion to new central offices (COs) via UNE dark fiber - COs that were uneconomical to construct
- Evaluating expansion beyond of the central office via UNE dark fiber to remote terminals (RTs)
  - Since the 1980s, BellSouth has deployed fiber rings to remote terminals
  - If UNE dark fiber is not available to RTs, no further expansion/fiber deployment will occur
  - FN will sell capacity via UNEs

Deny BellSouth Petitions

- Purpose of FCC rules should be to level the playing field for competitors
- Where the ILEC can extend or augment its existing network, but FPL FiberNet has to build a network from scratch, FPL FiberNet cannot justify that type of investment.