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BellSouth Clarification Petition

FCC Presentation
5/2004

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T-1 loop availability is crucial for CLEC services and broadband deployment

- T-1 capable loops represent the only broadband option for:
  - consumers and small businesses beyond the CO distance limitation for DSL
  - customers served via hybrid loops, who are barred from purchasing CLEC DSL.
- T-1 loop access will be critical to rollout of competitive VoIP services
- CLEC T-1 services are priced 50-75% lower than legacy BOC T-1 retail services, providing opportunities for consumers and small businesses that could never afford T-1s before.
- BOC "no facilities" policy is designed to prevent CLECs from accessing T-1 loops to any customer not already served by the ILEC retail arm.
- Triennial Review Order ends BOC "no facilities" gaming once and for all and thus ensures competition for T-1 services.

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BellSouth petition seeks permission to reinstate "no facilities" policy for T-1 loops.

- What BellSouth claims to be asking for: simple clarification "that an ILEC is not required to deploy a new multiplexer that provides TDM functionality if it has no plans to do so for its own customers." Petition at 17.
- What BellSouth is really asking for: to reinstate BOC "no facilities" policy. If granted, petition would permit BOCs to claim "no facilities" in any CO where they have packet switching equipment deployed
  - BellSouth would like permission to add "using packet capabilities in a CO" to its list of reasons to refuse to provide a T-1 loop.
- BellSouth seeks to overturn the clear direction provided in the TRO.
  - "[W]e find that loop modification functions that the incumbent LECs routinely perform for their own customers, and therefore must perform for competitors, include, but are not limited to, rearrangement or splicing of cable; adding a doubler or repeater; adding an equipment case; adding a smart jack; installing a repeater shelf; adding a line card; and deploying a new multiplexer or reconfiguring an existing multiplexer." TRO para. 634.

BOC clarification request is a back-door effort to reinstate "no facilities" policies.

- BOCs seek authority to define conditioning obligation on a broad scale. For example, if any loop in a CO has been "packetized" by adding packet equipment in the CO, BellSouth would deny CLEC T-1 access for the entire CO.
- TRO decision makes clear that the T-1 loop obligation is network wide – if BOCs traditionally condition loops and make routine modifications for retail customers on the BOC network, BOCs must do the same for CLECs.
  - "We therefore conclude that the local loop definition includes routine modifications and we require incumbent LECs to add types of electronics that incumbent LECs ordinarily attach to a loop for a customer requiring a DS1 loop, even if such electronics are not attached to a particular loop." TRO para. 637
- BOCs must not be permitted to reinstate "no facilities" policy under the guise of clarification.
- Commission should clarify that, so long as BOCs continue to make TDM capabilities available on their networks, the TDM unbundling obligation remains.

Line sharing transition must be revised by grant of CHOICE Coalition stay petition or otherwise

- TRO cutoff date is only 150 days away
- Line sharing phaseout had two key premises:
  - TRO order's admonition that ILECs enter into commercial arrangements
  - Availability of line splitting via UNE-P/DSL combination
- Subsequent events have undermined both premises
- Despite Covad's best efforts and willingness to pay fair rates for line sharing, only Qwest has agreed to commercial terms, after more than a year of negotiations
  - Qwest deal provides for $5 monthly recurring rate at expected volumes, $35 nonrecurring charge
  - Other BOCs have declined to date to enter into agreements on similar terms
  - Other BOCs have proposed very unreasonable terms, including a MRC more than three times the Qwest rate
- Line splitting is not a viable alternative
  - USTA II has cast a large cloud over line splitting business plans
  - Line splitting nowhere near line sharing operationalization
  - Rapid line sharing phaseout does not give adequate incentive to BOCs to implement line splitting. They will wait for October 2004 to capture the market.
- Line sharing also supports competitive VoIP services