



May 25, 2004

BY ELECTRONIC FILING

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

Re: *Ex Parte Presentation*
In the Matter of Review of the Section 251 Unbundling
Obligations of Incumbent Local Exchange Carriers,
CC Docket Nos. 01-338, 96-98, 98-147

Dear Ms. Dortch:

In its Petition for Reconsideration of the *Triennial Review Order*, BellSouth requests that the FCC “ensure that its rules are not misconstrued to impose unbundling or network design requirements on next-generation networks.”¹ In support of its request, BellSouth points vaguely to the danger that “some CLECs could attempt to distort the Commission’s rules,” and argues that it is thus vital that the FCC “ensure that ILECs are not required to provide unbundled access to their next-generation networks or to design, reconfigure, or modify those networks to facilitate an unbundling request for a TDM capability.”² As MCI has explained previously, it is virtually impossible to determine the precise scope of the relief sought by BellSouth. In fact, grant of the relief as requested would result in an impermissibly vague standard that, far from providing clarification, would lead almost certainly to greater confusion regarding the ability of competitors to obtain unbundled access to TDM-compatible loops. MCI thus urges the FCC to deny or decline to address BellSouth’s requested relief at this time.

If the Commission were to decide to address the issue, however, the Commission must ensure that competitors continue to have access to TDM-compatible loops to the

¹ BellSouth Petition for Clarification and/or Partial Reconsideration, CC Dkt. No. 01-338, *et al.*, at 16 (Oct. 2, 2003).

² *Id.* at 16-17.

extent that those loops are available to BellSouth's retail customers. In particular, the Commission should make clear that, to the extent an incumbent LEC continues to make available TDM-compatible DS1 and DS3 circuits in its special access tariffs, the Commission will consider those tariffs to be dispositive evidence that the incumbent LEC routinely makes whatever network modifications are required to offer TDM-compatible circuits to its retail customers, and under the Commission's rules regarding routine network modifications to existing facilities, incumbent LECs must make available TDM-compatible DS1 and DS3 loop and transport unbundled network elements.

Pursuant to the Commission's rules, this letter is being provided to you for inclusion in the public record of the above-referenced proceeding.

Respectfully submitted,

/s/ Henry G. Hultquist

Henry G. Hultquist

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