

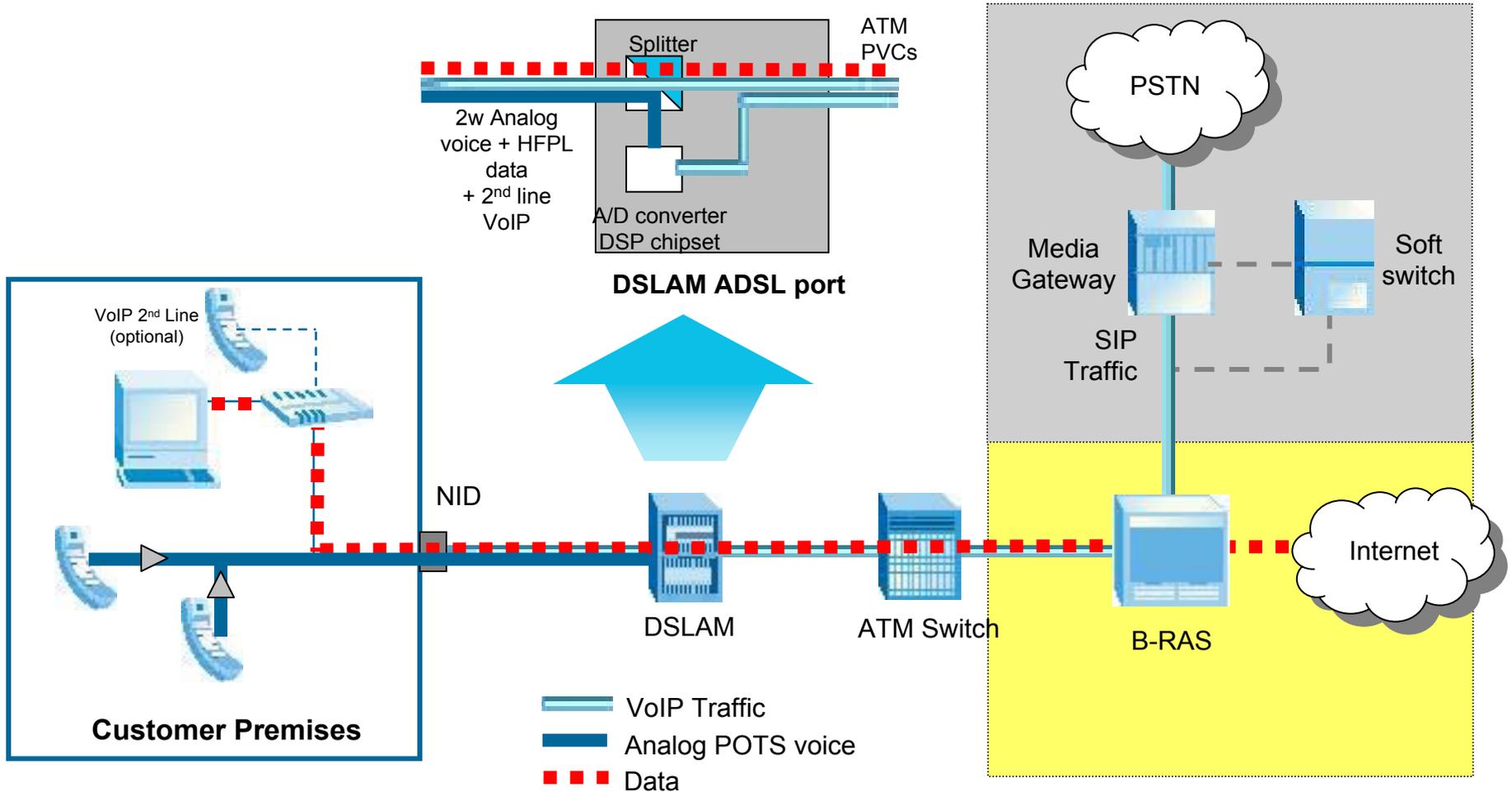


FCC Presentation
6/2004

- Insufficiency of Bell commitment letters has already been well documented (e.g., Broadview, et al., ex parte 6/16/04).
- Interim order is critically needed to maintain marketplace stability while FCC develops permanent rules for all UNEs.
 - FCC should ensure that status quo is maintained for all UNEs subject to *USTA II* vacatur, including UNE loops and transport.
 - Administration supports maintaining status quo for one year for all UNEs subject to vacatur (NTIA letter 6/16/04).
- FCC has wide legal authority to adopt an interim order immediately.
 - FCC can perform “any and all acts...necessary in the execution of its functions.” (§ 4(i)).
 - FCC should require carriers to abide by rates, terms and conditions set forth in existing interconnection agreements until it issues new permanent rules.
 - FCC need not reinstate vacated rules. It can simply order carriers to maintain ongoing business-to-business relationships under existing contracts while new rules are worked out.
 - Interim order thus simply accounts for the time the FCC requires to develop new rules responsive to the D.C. Circuit’s decision.

- By declining to appeal *USTA II* and allowing mandate to go into effect, FCC set the stage for UNE-P phaseout.
- UNE-P phaseout means that line-splitting will not be available as a long-term replacement for line-sharing.
 - AT&T & Z-Tel beginning to withdraw from local mass markets, others may follow.
 - The availability of line-splitting was a key premise of the FCC's decision on line-sharing (TRO ¶¶ 259-60).
- *USTA II* simply defers to the FCC's reasoning in the TRO, including the FCC's reliance on the availability of line-splitting alternatives (*USTA II*, 359 F.3d at 584-85).
 - *USTA II* decision does not preclude the FCC from reaching a different conclusion on line-sharing today, particularly since a key premise underlying the FCC's decision has now changed.
- Line sharing continues to provide benefits to competition.
 - Rate increases and phase out not appropriate without resolution of UNE-L migration issues.
- The FCC should act immediately to provide line sharing relief.
 - Earthlink Petition for Reconsideration; OR
 - CHOICE Coalition Petition for Stay

DSL Facilities-Based Competition



- UNE-L, UNE DS-1, line-sharing and line-splitting are all critical to rolling out VoIP services.
- Covad is offering VoIP today and expanding its rollout.
 - Nationwide business-class VoIP deployment in 2004.
 - SMB and SOHO VoIP deployment in 2004-2005.
 - Consumer deployment plans to be developed in 2005.
- Much is needed before UNE-L voice competition becomes marketplace reality.
 - Development of batch and individual processes for various hot cut scenarios.
 - Stable UNE-L rates for ~3 years (for nationwide rollout).