REDACTED FOR PUBLIC INSPECTION
Pursuant to Protective Order in CC Docket Nos. 01-338 & WC Docket No. 04-313

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Unbundled Access to Network Elements	)	**WC Docket No. 04-313**
	)	
	)	
Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers	)	**CC Docket No. 01-338**

DECLARATION OF JOHN D'APOLITO
AND MILFORD STANLEY
ON BEHALF OF AT&T CORP.

I. Introduction

1. My name is John D'Apolito. I am a Director in AT&T Business Services Finance. My responsibilities include Financial Analyses in Support of Customer Proposals and Contracts, including Pricing Authorizations for Local Access Services. I am also responsible for establishing the economic measures that lead to investment approvals for Local Access customer related network elements.

2. I have previously held numerous finance positions, including positions in Treasury and Cash Management, International Wireless Business Development and Operating License Applications in Asia, Eastern and Western Europe and Latin America. I have had operating experience at Omnitel (Italy), Iusacell (Mexico), Euro-Tel, (Slovak and Czech Republic), ExcelComindo (Indonesia),

TeleCom New Zealand, and Bell Atlantic Mobile. I have also held positions in Network Planning, and Capital and Investment Strategy.

3. My name is Milford Stanley. I am a Group Manager in AT&T's NEO organization. My duties include the preparation of initial business case analysis and Design Engineering for requests to construct new facilities connecting AT&T's existing metropolitan rings to individual customer building locations. I am also responsible for coordinating such requests with other internal AT&T organizations, including the CFO and High Speed Access Transport Solutions Center (HSATSC) organizations. In addition, my group manages AT&T's capital budget for these and Existing LNS OnNet locations construction projects.

4. I have 25 years of experience with AT&T in various job functions in Local Networking with Pacific Bell prior to divestiture, Account Service Operations Management, Product Management & BellLabs in New Jersey, Access Supplier Management overseeing Bellsouth & SWBT, AT&T Local Services Engineering for PreSale Opportunities and Capital Budget Management. I hold a Bachelor's degree in Economics & Mathematics and an MBA in Business Management & Finance.

5. The purpose of this declaration is to describe the cost drivers associated with placing a building on a competitive local exchange carrier's ("LEC" or "CLEC") pre-existing metro fiber network ("on-net") and the financial controls that AT&T applies to assure that its capital expenditures are prudent. In the *Triennial Review Order*, the FCC adopted a rule that a CLEC would be entitled to purchase

unbundled loops up to 2 DS3s of capacity. In this declaration, we show that, based on our historical business cases, it would not be economic to build loop facilities to serve only 2 DS3s of capacity, unless AT&T's metro fiber network was literally right in front of the building such that the outside plant cost was minimal. The Commission's previous rule was thus a reasonable estimate of when loop deployment is economical, and the Commission should maintain access to unbundled loops below that previously established threshold.

II. Current Conditions Dictate the Need for Stringent Financial Controls

6. As the Commission has correctly found, competitive deployment of new loops is capital intensive and is characterized by very high fixed costs that are of little value except in connecting a particular building – and often a specific customer – to a single CLEC's network. As such, they are sunk investments, because they cannot be reused to serve any other customer location if the CLEC loses the business of the customers for which the facility was built. *Triennial Review Order* ¶ 88. Moreover, the bankruptcies of numerous competitive entrants clearly demonstrate that if a carrier that does not manage its capital efficiently it will not remain in the market for long. CLECs currently face a shortage of available capital that carries an increasing premium for its use. Therefore, competitive carriers must apply stringent financial controls over the use of their capital – such as for construction of new loop or transport facilities – and only undertake projects that have low financial risk. Indeed, lacking the incumbents' ability to self-fund capital, a CLEC can only obtain sufficient capital for projects with internal rates of return that are well above those that might otherwise be

undertaken if capital were plentiful and relatively inexpensive. This means that in today's environment, if a project just achieves a zero net present value (NPV) it is unlikely to be funded. Accordingly, the limitations discussed in the analysis below are extremely conservative, because they are based upon achieving only a zero NPV and are based upon a very modest (for a CLEC) 12% cost of money. Thus, the results of the analyses – while directionally correct – will substantially overstate the projects that would likely be pursued in today's market.

7. It is obvious to even a casual observer that today's telecommunications marketplace is vastly different from the one that existed in the late 1990's, when prospective entrants to local telecommunications markets had ready access to capital to construct new competitive facilities. Today, even large competitors such as AT&T are very carefully scrutinized as to their every move, and the financial community has demonstrated that it will not provide capital funding to a company that fails to use it wisely.

8. AT&T has in the past and continues to apply a disciplined financial review of all requests to construct new facilities to place individual enterprise customers' premises on-net. These procedures assure, to the greatest extent possible, that the facilities AT&T constructs – which are both costly and require significant time to build – will generate sufficient contractually committed incremental revenues and access savings to reduce the financial risk of the project to manageable levels.

III. AT&T's On-Net Business Case Process

9. We are responsible for the decision process AT&T applies to requests for new construction to place a customer location on-net.[1] When AT&T does not already have fiber to the building where a prospective customer is located, new outside plant construction is required. At a minimum, the new outside plant requires AT&T to extend a customer-dedicated fiber from the closest available access point on our metro fiber network (*e.g.*, a manhole where splicing may occur and that has cable capacity for splicing available) to the customer's building location. In some instances, the metro ring itself must be extended; however, substantial metro ring expansion is hardly ever economically justifiable, except where the customer may commit revenues that dwarf those typically implicit in providing only 2 DS3s of service. Thus, it is only in exceptional cases that a new build is considered if only 2 DS3s of capacity are involved, or if the incremental construction is more than several hundred feet – such cases are generally rejected without detailed analysis. The reason for this is quite simple: the likelihood of achieving payback of our capital investment is so small that it is not even worth assigning resources to perform a *preliminary* analysis.

10. Where the sales opportunity passes the preceding thresholds, a Design Team requests our local outside plant operations organization to estimate the costs (1) of any new "lateral" construction and (2) of obtaining in-building access, including but not limited to installing the riser cable necessary to reach the customer's

[1] A slightly different process is followed if AT&T already has facilities at the customer location. However, because the Commission's review here focuses on whether a CLEC would construct new facilities to a building location, and because these situations represent the vast majority of the business cases we review, we will focus our discussion on the situation where AT&T does not already have its own facilities serving the building.

premises. In parallel, the Design Team determines the terminal electronics required to light the fiber at both the customer premises and the associated AT&T network location.[2] The type of equipment used is a function of the total demand anticipated from the customer at that particular location. The team then validates the design and forwards the design and OSP and electronics costs for further evaluation – more specifically the business case analysis.

11. It should be noted that the concepts of "total building revenue potential" and even "total customer revenue potential" have no relevance in this process. AT&T and other CLECs cannot (and AT&T does not) make construction plans based on revenues they "might" earn from other customers – or even the same customer – at the same location. Very large customers (the only ones whose demand might conceivably merit the costs of new construction) often decide to split their demand between two or more carriers, for any of a number of reasons.[3] In addition, large customers will often not agree to release existing circuits and permit them to be "rolled" (*i.e.*, transferred) to other facilities. As a result, each business case must be based on the specific, *committed* revenues made by the individual customer under each individual contract proposal. As such, any consideration of "total potential building revenues" is an irrelevant exercise – it

[2] Connecting a customer building to the network basically requires (1) an optical multiplexer (generally an OC-3 or OC-12) on the customer's floor, (2) a fiber cable connecting the floor to the location where the fiber cable(s) from the street terminates, (3) fiber cable (s) from the building property to the carrier's access point(s) (generally in a manhole) on its metropolitan fiber facility, (4) previously terminated dark fiber (in the manhole) connecting the manhole to the carrier's network (i.e., its network node), and (5) partnering optical multiplexing equipment in the network node.

has no pertinence to our decision as to whether or not a fiber extension to a building exists, or whether or not one can economically be built to serve the location. Similarly, the size of the incumbent wire center that might ordinarily serve the customer is totally unrelated to the most salient fact in deciding whether a CLEC could economically extend a lateral to a particular building: whether or not the carrier has already-built metropolitan fiber in place with a pre-designed access point in close proximity to the specific customer location.

IV. Experience Confirms That At Least 3 DS3s of Traffic Is Required To Justify Deployment In Nearly All Circumstances.

12. Once the required outside plant and electronics is investment established (and the sales team has identified the incremental revenue commitment), the finance organization performs a business case analysis. The finance organization has this responsibility not only because of its experience in performing business case evaluation but also because it fundamentally operates as an independent gatekeeper in the process of deciding where AT&T's limited capital should be invested, i.e., it serves the role of an internal "investment banker" in making investment decisions. The business case compares the cash inflows (*e.g.*, revenues, access savings) and outflows (investment, operating expenses, taxes, etc) and the timing of these cash flows. In the process, the business case also considers the impacts of related cash flows, such as the tax impacts of accelerated depreciation, residual values of assets at the end of the contract, operating

[3] Some of these reasons include a desire to increase security against the risk of an interruption on one carrier's network and splitting the business also allows the customer to leverage one carrier's prices against another's.

expenses for the services provided, and property taxes associated with the incremental investment.

13. Each business case is based on revenues that will be contractually committed to by the customer, rather than on how many specific "DS3s" of traffic *per se* will be provided. Nevertheless, for purposes of this proceeding, we examined the business cases AT&T has performed between January 2003 and August 2004 that allow us to make such an approximation. In total, this involved the results of almost **[proprietary begin] **** [proprietary end]** business cases. From these data, we determined the typical investment in electronics and outside plant. In addition, we determined the typical revenues and commitment period associated with DS3-based services. Given the investment typically required (which is generally independent of the number of DS3s because of the enormous capacity of a fiber connection) and the revenue commonly committed, it is possible to determine the minimum number of DS3s that would be required to generate a profitable business case under varying conditions – most importantly, the unit cost and length of outside plant required to reach a customer's location.

A. The Cost of Construction

14. As the Commission has already recognized, extending a competitive carrier's network to serve a new building location is capital intensive. *Triennial Review Order* ¶ 205. This is generally not a point of debate. The primary drivers of the capital required are the electronics placed at each end of the connection to "light" the fiber and the investment in incremental outside plant required to connect the

customer location to the carrier's pre-existing metropolitan fiber network. Each are briefly discussed below:

15. **Electronics.** Every new installation requires optical terminal equipment that is placed at both ends of the new fiber connection.[4] This terminal equipment is used to "light" the fiber. The cost of such equipment varies based upon the total bandwidth capacity that could be supported (*e.g.*, an OC3) as well as the subunits of capacity that will be activated (*e.g.*, a DS3). The installed cost of a terminal of the size appropriate for limited volumes of DS3s is approximately **[proprietary begin]** ********** **[proprietary end]**, and one is required on each end of the new circuit.[5] This cost does not vary by location because AT&T uses the same equipment throughout the country and obtains it via a national contract.

16. **Outside Plant.** Virtually all installations also require the placement of new outside plant (conduit and fiber) that connects a pre-designed access point on a

[4] Where a terminal has already been deployed, such as where the customer location is already "on-net" a carrier may only need an additional plug-in card to add capacity to previously deployed add/drop multiplexer common equipment. Such cards, add capacity in increments of 1 DS3, 3 DS3s or an OC-12, depending on the particular multiplexer. These cards represent an investment that generally runs between $5K and $10K, depending on the card's capacity. Two cards are needed (one at each end) for such installations.

[5] This result is consistent with HAI 5.3 inputs that are part of the public record and supported by testimony and cross-examination at the state level. That documentation reflects an average investment of $34,000 for an OC-3 multiplexer (see HAI 5.3, ¶ 5.5.1, p.106). Some adjustment is necessary, is necessary to reflect the price declines since 1998 (the date of the estimate). For OC3 type equipment, the declines have be in the range of 10% to 15% each year. Accordingly, the base equipment cost is now in the range of $15,200. Note that optical multiplexer today are largely a fixed cost regardless of the utilization. In addition to the equipment, another $3,000 to $4,000 is required for frame work, cross-connection panels, cables and etc. Sales taxes and shipping add about 10% and Engineering and Installation (for the multiplexer and peripherals are about 15%. The total is about $23,600 = ($15,200 + $3500)*1.1*1.15

pre-existing AT&T metro ring to the customer's location.[6] Such cost may simply require splicing or terminating of dark fiber in the rare circumstance in which the building is already on-net and the work is needed to serve a new customer in the building.[7] In the vast majority of cases, however – and virtually always in an urban business center – a fiber lateral must be extended from an accessible point on the proximate metro fiber ring through a conduit (a protective structure) that is buried beneath the ground's surface. The conduit is by far the most expensive aspect of outside plant. In AT&T's experience the vast majority – **[proprietary begin]** ********** **[proprietary end]** – of the outside plant investment for placing buildings on-net is attributable to the conduit. The conduit cost is driven by the cost of opening a trench, placing and stabilizing the conduit, and then closing the trench. Such cost are highly correlated with population density. That is, the costs are substantially higher in downtown areas of large cities than they in more suburban/rural office parks. For new entrants, the customer opportunities and enabling metro ring infrastructure tend to be located in the most densely populated and highest cost areas. Therefore, the outside plant unit investment is

[6] A small percentage – about **[proprietary begin]** ********** ********** **[proprietary end]** – of AT&T's on-net buildings are reached over broadband wireless connections. Although these connections cost less than wired connections, there are only limited circumstances in which they can be used. In particular, such connections can only be offered where (1) AT&T has a wireless broadband license; (2) the building owner permits AT&T to locate an antenna on the building roof; and (3) there is a line-of-sight path between the antenna and cusomer location. Given the rarity of the cases in which those prerequisites are met, wireless facilities do not serve as a basis for limiting UNE access for loops with 2 or fewer DS3s of capacity.

[7] Although the situation is rare for a new entrant, it is common that the incumbent is already serving larger locations with fiber. DS3 and higher capacity services are dependent on fiber connectivity. And even if the incumbent has not already deployed the fiber for local private line purposes, it more than likely has done so to provide high capacity special access channel terminations for interexchange carriers.

heavily influenced by whether fiber is pulled through an empty duct in existing conduit or whether an entirely new conduit must be deployed.[8] AT&T's experience is that the unit cost of outside plant investment falls within a wide range, but 80 percent of approved business cases fell in the range of **[proprietary begin]** ********** **[proprietary end]** per mile with a central tendency at about **[proprietary begin]** ***** **[proprietary end]** per mile.[9]

17. It important to note customers frequently require diverse routing to ensure service continuity given the highly concentrated nature of the services at their building. This means that two *separate* laterals and riser cables must be installed between the access point on the metro ring and the customer's location. The two paths must be physically separate from at least the customer's floor to the entry points on the metro area fiber. When this occurs the effective break-even distance for construction is cut in half, because the outside plant must establish two connections rather than one.

18. **Other Costs.** The business case also reflects the opportunity cost of using capacity on the metro ring (*i.e.*, allocated capital), operating expenses for supporting the services, and other cash expenses such as income taxes, property

[8] The only practical opportunity to reduce such costs is though structure sharing. This occurs when one party installs the conduit and makes space available to others at a fee.

[9] Here too, the results are consistent with those documented in the HAI Input portfolio version 3.5. There, the cost of the outside plant in the three highest population density zones (i.e, 2,500-5,000, 5,000-10,000 per sqare mile and over 10,000 per square mile) were $114,000, $265,000 and $396,000 per mile, respectively for the structure plus another $7,000 per mile for the cable. See HAI 5.3, ¶¶ 7.1-7.2, pp.145-147 for excavation/restoration; HAI 5.3, ¶ 5.5.17, p.111 for conduit material costs; and HAI 5.3 ¶¶ 2.4 – 2.6, pp.13-14 for cable costs. Assuming two to three service providers share the structure, the costs range from $45,000 per mile ($114,000/3 for the

taxes, and LEC access at the far end of the circuit. It also incorporates a terminal value of the assets at the conclusion of the contract. (This avoids unreasonably burdening the initial sale with the total investment because some customers renew their commitment.) At the same time, the tax benefits of writing off the asset are reflected as a beneficial cash flow for the initial business case.

B. Anticipated Revenues, Converted To DS3s

19. In order to justify construction (and thus devote the necessary capital), AT&T identifies all new revenues and/or access savings to which the customer would be willing to commit. On average, an approved business case (*i.e.*, a case in which the economics allow AT&T to make a customer proposal that requires new construction) generates about **[proprietary begin] ******* [proprietary end]** *per month* in combined revenues and cost savings and generally involves a 3-year contract term. Clearly the typical committed revenue amount is far beyond that implicit in only one or two DS3s. For the purpose of this Commission's limiting rule, however, the question is how many DS3s are necessary to justify a build. To make this assessment, a typical unit revenue for DS3s committed to by enterprise customers must be established. One method to accomplish that is to examine what a special access configuration might cost if it were bought under a multi-year commitment. A reasonable estimate of a DS3 channel termination is $1,300 per month and the interoffice channel is about $588 per month plus $57 per mile per month (this is an arithmetic average across all RBOC density zones and rate

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structure + $7,000 for the cable) to $205,000 per mile ($396,000/2 for the structure + $7,000 for the cable). The mid-point of the range is $125,000 per mile.

regulation). Thus, a 10-mile end-to-end connection would run $3,758 per month (2*$1,300 + $588 +10*$57).[10] This figure is a high estimate compared to what we found when we examined recent business cases that explicitly identified DS3 private line revenue commitments. On average, a DS3 can reasonably expect to yield about **[proprietary begin] ***** [proprietary end]** in monthly revenue. The disparity is not surprising, because a CLEC would generally need to price about 10% below the ILEC to win the business (i.e., the CLEC would see revenues of about 0.9*$3,758 or no more than $3,382).

C. Comparison of Costs To DS3s Served

20. The cost of the infrastructure and the revenue generated by a typical DS3 are set forth above (*i.e.*, electronics costs per end: $23,600 per DS3, outside plant: $125,000 per mile, average revenue/DS3 < $3,758 per month). The only unknown that must be established in order to "run" a business case is the length of the connecting lateral.[11] However, for the Commission's purposes, that need not be specified. What is important is the length of the lateral at which the NPV becomes negative. This can be calculated by using the preceding inputs and then

[10] Any such cost comparison must include the cost of getting the customer's traffic all the way to an AT&T node, not merely the cost of the lateral itself. These costs are incorporated into the AT&T business case by the inclusion of the cost of using the AT&T metro ring facility to convey traffic to the AT&T node. If AT&T were to buy an ILEC configuration to provide the same connectivity, it would have to pay for all of the elements listed in the text.

[11] We also assume that the operating expense and network cost are about 15% of the retail revenues, property taxes of 2.5% of the net new asset value, and franchise fees of 0.5%. AT&T's actual experience is that network and other operating expenses are about **[proprietary begin]** ********** ********** **[proprietary end]**.

solving for the off-net distance that produces a zero NPV.[12] When this is done, the resulting permissible outside plant mileage is only 598 feet[13] – for 2 DS3s of committed capacity. That means that a carrier could not economically support a new investment to serve only two DS3s of capacity unless it literally has an access point to its metro ring immediately outside the front door of a building location. The likelihood of this occurring in any individual case is close to nil.

21. Clearly, the unit investment in outside plant is highly influential to the outcome of the business case. Even so, varying the unit investment over a broad range does not change the fundamental conclusion that CLECs cannot self-provide loops when only 2 or fewer DS3s of demand are addressed. At the upper bound of the unit revenue and assuming typical OSP costs, the location must be within a city block for the deployment to be justified. At the more likely revenue level, deployment would not be justified unless the OSP cost was exceptionally low (i.e., about one-fourth of the typical OSP cost). The following table illustrates the point:

Maximum OSP distance (ft) for O NPV
with 2 DS3s

OSP investment/mile	assumed revenue per DS3	
	$3,758.00	$3,382.00
$31,250	2392 ft	350 ft
$62,500	1196 ft	175 ft
$125,000	598 ft	88 ft
$250,000	299 ft	44 ft
$375,000	199ft	29 ft

[12] This is easily accomplished using the Microsoft EXCEL goal seeking function.

[13] We assume for these purposes that an average city block is 350 feet long.

22. Since a city block is typically about 350 feet long, this vividly demonstrates that even at very low OSP investment levels, a CLEC cannot afford to construct a new facility to serve only 2 DS3s of demand if the nearest access point on its metro ring is over one block away – and it can access the building on a "straight-shot" basis.[14] As I explain further below, these examples show that the 2 DS3 limitation the Commission applied to loops rigorously (indeed, over-rigorously) identifies situations in which a CLEC cannot expect to self-provision its own loops – even when it already has a nearby metro ring in place.

D. Implications

23. These results have several important implications. First, the Commission's 2 DS3 rule is significantly *over-predictive* of non-impairment for new entrants. If anything, a blanket rule that limits loop UNE access to 2 DS3s of capacity in all cases fails to acknowledge significant "real world" considerations that seriously hamper competition. When a carrier's nearest network access point is more than just a very short distance from a building location, the costs of network extension rise rapidly, and the revenues from only 2 DS3s of capacity will quickly fail to support new construction. Thus, as the distance between a building location and the nearest access point on an existing CLEC metro fiber increases -- particularly when, as is typically the case, new conduit must be constructed -- the carrier's ability to justify deployment of even higher capacity facilities diminishes rapidly.

[14] It is essential to remember that metro rings can only be accessed at pre-designed splice points. Thus, the straight-line physical distance between a building location and the nearest point on a CLEC metro ring demonstrates nothing at all. The critical distance is that from the building entrance to the nearest access point on the CLEC ring that has available capacity.

Given, for these purposes, that an average city block is assumed to be only 350 feet long, serving a customer that is just one city block away seems an insubstantial distance. But for a new entrant competing with the incumbent, a single city block represents an insurmountable obstacle to serving a customer that only needs 2 or fewer DS3s of demand.

24. Accordingly, even where there may be an isolated situation in which it might be economically feasible for one CLEC to construct a lateral to particular location,[15] that CLEC's experience sheds no light on what any other CLEC in the very same city could do if the nearest pre-designed access point on the other carrier's metro ring is only one or two blocks farther away from that location. As a result, the many "fiber maps" the incumbents have provided to the Commission – which neither account for the capacity limitations applicable to UNE loops (or transport) nor identify access points on CLEC backbone facilities – do not remotely address the central question of actual impairment for high capacity loops.

25. Second, the high sensitivity of business cases to the length and cost of outside plant highlights the incumbents' enormous advantages that result from their widely deployed fiber facilities. The incumbent's widely deployed fiber facilities – an investment for which the incumbents are seeking further protective sanctions from this Commission – create a significant competitive barrier for CLECs, even where they are seeking to serve a customer that requires more than 2 DS3s of capacity. On the one hand, experience shows that CLEC construction is often

either uneconomic (*i.e.*, cannot be cost-justified) or impractical (*i.e.*, is barred because of building access or customer refusals to roll existing circuits). On the other hand, if the CLEC is forced to use special access in a customer proposal, its costs are raised significantly relative to the ILEC's, and it often cannot offer the customer an economic alternative to the incumbent. This occurs because, even in cases where the ILEC does not already serve the particular building with fiber, its ubiquitous metro fiber network generally has accessible fiber located very close to the customer's building. Accordingly, the incumbent can generally self-provide such facilities at costs that are well below the CLEC's costs.[16] Indeed, when a CLEC does not have a fiber access point that is extremely close to the customer's location, the ILEC knows the CLEC simply cannot self-provide its own facilities and has only the option of buying special access – a connection that allows the ILEC to appropriate much if not all of the CLEC's potential profits on the transaction. Thus, application of the 2 DS3 limit significantly constrains CLECs' ability to compete, even in situations where a customer needs more than 2 DS3s of capacity.

26. But the ILECs' advantages do not stop there. In a large majority of cases, CLECs' proposals are made to supplant existing ILEC-provided services. As a general rule, the ILEC can match a CLEC offer without incurring *any* additional cost to provide the services the CLEC is proposing – it is already doing so and has

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[15] Note that our analysis above does not account at all for other problems that could prevent a CLEC from constructing a new lateral, i.e., lack of timely and relatively cost-free building access. Fea-Giovannucci Dec. ¶¶ 42-45.

[16] When the ILEC already serves the building with fiber – which is most often the case -- its advantages are even greater, as described below.

substantial room between its price and marginal cost to do so. At worst, the ILEC would only need to augment its existing terminal multiplexers by inserting plug-in cards (into a pre-provisioned empty slot) at each end of the new circuit for a total investment on the order of $10,000 to $15,000. In comparison to the CLEC's investment will likely be at least an order of magnitude higher.

27. In short, access to DS3 loop UNEs provides a critical input that allows competitors to retain at least a minimal opportunity to compete against the incumbent for customer locations that require two or fewer DS3s of demand. Moreover, allowing access to such UNEs will not deter facilities-based carriers from constructing their own facilities wherever economics and capital availability permit. Loops are the "last mile" extension of competitors' network capabilities. If CLECs do not have economic access to high capacity loops on an equal cost footing with the ILECs, they cannot expect to be able to support their investments in their other network assets. Thus, the availability of DS3 loops increases, rather than decreases, competitors' incentives to maintain – and expand – the remainder of their networks.

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VERIFICATION

I declare under penalty of perjury that the foregoing is true and correct.

October 4, 2004 /s/ John D'Apolito
John D'Apolito

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I declare under penalty of perjury that the foregoing is true and correct.

October 4, 2004 /s/ Milford Stanley
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