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

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

Initial Comments of Integra Telecom

Summary

Integra Telecom comments on two different issues: First, Integra Telecom addresses the impairment analysis of section 251(d)(2)(B) of the 1996 Telecom Act. Integra asks the FCC to create a class of customers called "small to medium sized business customers," defined as customers with no more than 96 access lines at one location. This class of customers is distinct from mass market and enterprise customers. Having defined this class, the FCC should find impairment under section 251(d)(2)(B) of the 1996 Telecom Act for CLECs serving this class for the following ILEC products: DS-0 and DS-1 loops; (including EELS) DS-1, DS-3, and dark fiber Transport.

In support of this request, Integra conducted an extensive impairment analysis of loops and transport in the specific markets in which it serves. This analysis provides the FCC with the factual record it needs to determine that the small to medium sized business customer is a unique and distinct class; to determine that self-provisioning of loops and transport to this customer class is economically and operationally impossible; to determine that there is no wholesale market for loops and transport for this customer class sufficient to eliminate an ILEC's obligation to unbundle; and to determine that special access is not an economically or operationally viable method of serving this customer class.

The impairment analysis begins on page 5 and continues through page 39.

The second category of comments addresses pricing for section 271 network elements. Integra asks the FCC to further define "just and reasonable" by choosing a pricing methodology that state commissions apply in individual state proceedings, mirroring how pricing decisions have been made under the 1996 Telecom Act. Integra believes the FCC should choose among three alternatives: the prices for network elements that were in place when a BOC was given 271 approval; the TELRIC methodology that was in place when a BOC received 271 approval; or the network element prices that BOCs impute to themselves when determining their own retail pricing. The anti-discrimination provision of section 202 of the Communications Act of 1934 requires that how the BOC treats itself be included in the analysis of what is discriminatory vis-à-vis a CLEC. These comments begin on page 39 and continue through page 44.

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I. Introduction

Integra Telecom asks the FCC to create a class of customers called "small to medium sized business customers," defined as customers with no more than 96 access lines at one location. This class of customers is distinct from mass market and enterprise customers. Having defined this class, the FCC should find impairment under section 251(d)(2)(B) of the 1996 Telecom Act for CLECs serving this class with the following ILEC products: DS-0 and DS-1 loops; (including EELS) DS-1, DS-3, and dark fiber Transport.

In support of this request, Integra has conducted an extensive analysis of loops and transport in the specific markets in which it serves. This analysis provides the FCC with the factual record it needs to determine that the small to medium size business customer is a unique and distinct class; to determine that self-provisioning of loops and transport to this customer is economically and operationally impossible; to determine that there is no wholesale market for loops and transport for this customer class sufficient to eliminate an ILEC's obligation to provide unbundled network elements; and to determine that special access is not an economically or operationally viable method of serving this customer class.

This impairment analysis is conducted in compliance with the decision of the D.C. Circuit court in USTA v. FCC, 359 F.3d 554 (D.C. Cir. 2004)("USTA II"), and the decision of the same court in USTA v. FCC, 290 F.3d 415 (D.C. Cir. 2002)("USTA I"). The analysis supporting the request also incorporates portions of the FCC's decision in the Triennial Review Order, 18 FCC Rcd 16978 (2003). Finally, the analysis also incorporates portions of the recently issued FCC Notice In the Matter of Unbundled Access to Network Elements, WC Docket No. 04-313, CC Docket No. 01-338.

II. Integra's Market: Unique Characteristics of the Company and the Customer.

A. Integra Telecom: hundreds of millions of dollars invested.

Integra Telecom is a facilities-based CLEC headquartered in Portland, Oregon. The Company was started in 1996 as a direct consequence of the 1996 Telecom Act opening the telecom markets to competition. Integra does business in five states and employs over 600 people. It has invested approximately $300 million in switches, co-location, transport, infrastructure, and other start-up costs. The company receives no support from federal or state universal service funds. While Integra has some UNE-P lines (less than 5%), the Company has not relied on UNE-P for its success.

The marketplace has embraced the products and services Integra offers. Integra has grown from 3,800 access lines in 1996 to 73,000 in 2000 to over 200,000 today. Since Integra's entry into the market, Integra's retail prices for small to medium sized business customers have fallen approximately 5%, per year. Affidavit of Dudley Slater, Appendix A.

Integra customers are served with an almost even mix of DS-0 and DS-1 loops: 44% DS-1 and 56% DS-0. This means that the continued availability of DS-1 loops is critical to Integra's future. Integra's network is built in a multiple ring configuration, with dark fiber transport connecting each collocation. DS-1, DS-3, and dark fiber transport are critical to Integra's success.

Integra operates its own data network. The Company is poised to launch a VOIP offering to both residential and small to medium sized business customers. However, Integra can only launch facilities-based VOIP if it has continued access to DS-0 and DS-1 loops and DS-1, DS-3, and dark fiber transport. The success of Integra as a broadband provider depends upon the continued availability of loops and transport. Affidavit of Dudley Slater, Appendix A.

B. Average Integra customer has eight access lines and is not located in a large, densely populated MSA.

Integra Telecom currently serves a very specific, very identifiable segment of the marketplace: small to medium sized business customers. The average Integra Telecom business customer has eight access lines at one location, generating less than $400 per month in revenue. These customers have no in-house telecom expertise and rely on Integra Telecom for technical advice and design.

The geographic area served by Integra is depicted generally in Appendix B. Integra serves business customers in five states: Minnesota, North Dakota, Oregon, Utah, and Washington. On average, these states are sparsely populated. For example, North Dakota is ranked 47 out of 50 in population, with 50 being the smallest population; Utah is 34 of 50; Oregon 28 of 50; Minnesota, 21; Washington, 15. See Chart in Appendix B. These are not the densely populated areas of the East Coast.

Integra's serving areas include the following metropolitan and micropolitan statistical areas: Portland (and Vancouver, Washington), Salem, McMinnville, and Eugene in the state of Oregon; Seattle, Tacoma, and Everett in the state of Washington; Salt Lake City, Provo, Park City, and Ogden in the state of Utah; Fargo and Grand Forks in the state of North Dakota; Moorhead, Duluth, Brainerd, Baxter, Nisswa, Little Falls, St. Cloud, Minneapolis, and St. Paul in the state of Minnesota.

Out of a total of 20 metropolitan service areas, only five are in the top 100 largest MSAs. The average ranking for the 5 in the top 100 is 36. The majority of Integra's service area is in small, more sparsely populated states. See Appendix B for a ranking of Integra's service areas in the 100 largest MSAs.

Integra's potential small to medium sized business customers are broadly dispersed throughout the geographic markets in which Integra serves. They are not nicely clustered in large office buildings or new developments. On average, 94% of the businesses in a given market are small to medium sized businesses that are potential Integra customers. This means that Integra must be connected to a network that is as broadly dispersed and far reaching as its potential customer base. See Exhibit D to the

Affidavit of John Nee, Appendix C.

Qwest is the dominant ILEC in these five states. Verizon is also a dominant ILEC in portions of Oregon and Washington as a result of its acquisition of GTE properties.

C. Small to medium sized businesses are a stand-alone market.

Integra customers are not the large users of telecommunications services with in-house telecom expertise that AT&T, MCI, and Time-Warner are serving with direct fiber on the East coast. They are not the customers Verizon describes in its filings with the FCC. (See, e.g., July 2, 2004 ex parte filing by Michael Glover) Ninety-nine point eight percent (99.8%) of Integra's retail customers have fewer than 96 access lines at any one location. Exhibit C to Appendix C, Affidavit of John Nee. The 100 largest retail customers average only 95 access lines per one location. The average Integra customer has only 8 access lines at one location. Appendix E, Affidavit of Dave Bennett. This is a separate, unique, stand-alone portion of the marketplace that is closer to mass market than enterprise market. This market segment, and the companies who seek to provide services to them, have a distinct, independent identity that must be recognized and treated as such.

III. Impairment methodology for loops and transport: a multiple-step approach focusing on the law and a specific market.

Integra is well aware of the admonitions in USTA I and USTA II that the impairment analysis be focused on the specifics of the marketplace. In USTA I, the court made clear that the Act does not necessarily require the FCC to focus on a localized state-by-state or market-by-market analysis, but must have a "...nuanced concept of impairment..." connected in some way to specific markets or specific market categories. The USTA II decision often lamented the lack of explanation for how alternatives were considered, or why the FCC reached the conclusions it did.

Combining the messages from these two cases, Integra has conducted a loop and transport impairment analysis that focuses on the nuances of the specific market it serves, and explains why the significant economic and operational barriers to self-provisioning loops and transport support a finding of impairment. Further, Integra heard the USTA II message to consider special access and explain why it is not a viable alternative before seeking unbundled network elements from the ILEC. Integra does all of these things, weaving in guidance given by the FCC in the TRO as appropriate.

The comments begin with an over-view of the Loop impairment analysis (section A), then move to the specifics of the loop analysis (sections B through I), then examine Transport impairment (section IV). Following the Transport impairment analysis are comments on the pricing of section 271 network elements.

A. An Overview of the Loop Impairment Analysis

The focus of Integra's loop impairment analysis is on the target market we serve: small to medium sized business customers, located in certain MSAs and service areas surrounding those MSAs. The question we answer is "What economically and operationally feasible alternatives are available to Integra beyond ILEC unbundled network elements?"

To answer this question, we set up a methodology designed to do the following: first, identify the competing carriers in our marketplace and determine if they have self-provisioned any loops that compete with ILEC loops and, if so, if those loops are available for wholesale lease, such that Qwest and Verizon should no longer be required to unbundled loops; second, determine if any of our identified competitors are cable, satellite, or wireless companies, to address the popular view that all markets are served by these inter-modal companies; third, examine our own 100 largest retail customers, the largest 25 in each of four markets, showing that the vast majority of them do not have alternative loops to their premises, with logic dictating that the remaining 99.96% of Integra's customer base, averaging just 8 access lines per location, also do not have alternative loops to their premises; fourth, analyze the operational and economic barriers to self-provisioning loops to our target market, an analysis required by USTA I and the TRO; lastly, having read USTA II, analyze special access as a substitute for unbundled loops.

Identifying all competitive alternatives and analyzing our specific customer base serves two main purposes: First, as described above, identifying all competitive carriers allows Integra to determine which companies have self-provisioned loops that are competitive with ILEC loops and available for wholesale lease by Integra, and which competitors rely on unbundled network elements. This information addresses both whether Integra should be expected to self-provision loops because others have and whether there is a wholesale market for loops serving Integra's customer base sufficient to eliminate the ILEC's obligation to provide unbundled loops.

Second, analyzing our specific customer base allows us to determine whether customers have alternative loops provisioned to their premises, also addressing the issue of whether there is a competitive wholesale market for loops. The two issues over-lap, of course. Analyzing specific customer demarks for multiple loops also results in identifying competitors when non-ILEC loops are present. To be as comprehensive as possible, Integra identifies competitors and analyzes its customer base utilizing a number of different approaches.

First, Integra retained an independent company to conduct a statistically valid survey of all businesses located in our five largest MSAs, with 96 or fewer access lines at any one location, asking them to identify their current local telephone service provider (see section B); second, as part of its marketing program, Integra surveyed customers who left for other carriers, asking them to identify where they went (section B); third, Integra analyzed the demarks at the 25 largest customers in each of its four markets and determined which customers had non-ILEC loops and the identity of the non-ILEC loop

provider (section C); lastly, two Integra service technicians in each market observed the demarks for all customers they serviced during a one week period determining which customers had non-ILEC loops and identifying the non-ILEC loop provider (section D). See also, Exhibit B to Appendix C, Affidavit of John Nee.

Each approach to identifying competitors and analyzing our customer base will be analyzed in turn.

B. Loop Impairment Methodology: A statistically valid, independent survey of all businesses within Integra's target market to identify companies competing with Integra for its target business customer.

Integra Telecom retained an independent, unaffiliated, outside vendor, Riley Research Associates, to conduct a blind (participants were not told that Integra provisioned the study) survey of businesses fitting the profile of Integra's target customer. These businesses were served out of rate centers located in the five largest MSAs (Portland, Seattle, Tacoma, Salt Lake, and Minneapolis/St. Paul) in which Integra does business, with 96 or fewer access lines at any one location. Riley randomly chose businesses fitting this profile and asked them to identify their current local telephone service provider. A total of 1,944 businesses responded to the survey, resulting in a statistically valid representation of each of the five MSAs. The protocol for the survey and the results of the survey are described in Appendix C, Affidavit of John Nee.

The results of the survey are important for three basic reasons: First, the companies actually competing with Integra for its target business customers in the five largest MSAs are now known. These are not just companies with certificates of authority from state Public Utility Commissions; these are carriers actually competing in the marketplace.

The competitors identified in the independent survey are: Integra, AT&T, Eschelon, McLeod, Allegiance/XO, Popp, ATG (Advanced Telecom Group), Comcast, MCI, Sprint, US Link, ELI, and Tel West.

The competitors identified in the internal market survey of where customers go upon leaving Integra are: Eschelon, US Link, McLeod, Verizon, Popp, and Allegiance/XO. See Appendix C, Affidavit of John Nee.

Second, the survey data makes clear that a view of the Telecom marketplace that has cable, wireless, and satellite providers as the bastions of choice is simply wrong for Integra Telecom's marketplace. These types of carriers do not compete in Integra's marketplace for Integra's target customers and therefore play no role in an impairment analysis.

None of the local service providers identified in the independent or internal surveys were a wireless or satellite company. Only one cable company appeared in the independent survey, with a total of 20 customers out of 1,944.[1] Which leads to the third and most important point:

Twelve of the thirteen local service providers identified in the independent survey are wire-line telephony CLECs, all of whom rely on either UNE-P or UNE-L to serve their customers. These wire-line CLECs, when added together with the ILECs, hold 99.99% of the market for small to medium sized business customers in Integra's geographic market. Likewise, all of the local service providers identified in the Integra internal market survey are wire-line telephony CLECs relying on either UNE-P or UNE-L. See Affidavit of John Nee, Appendix C.

Having a choice of local service providers as a retail customer in Integra's marketplace means a choice brought to the retail customer by wire-line telephony providers, all of whom need loops and transport from the ILEC to serve customers. If the FCC fails to facilitate wire-line CLECs, it destroys retail choice for this customer class.

Eight years after the passage of the Telecom Act, it is not cable, satellite, and wireless technologies that have brought choice to the small to medium-sized business market. Retail choice for businesses in Integra's market is solely attributable to wire-line CLECs. Wire-line CLECs are the bastions of competition; the purveyors of choice. This is why USTA II correctly insists on a focused approach to the impairment analysis.

There is great danger in making Telecom policy based on mistaken notions of which technologies and providers are "right" or "the future". This is why it is important for policy makers to remain neutral, create a level playing field, and let the marketplace choose winners and losers.

It is also important to understand that, eight years after the passage of the Telecom Act, the ILEC monopoly has moved, not vanished. The retail monopoly that once prevented retail customer choice is now gone, thanks to wire-line CLECs. However, the monopoly is alive and well and living in the wholesale world. The companies responsible for bringing choice to retail customers are themselves subject to the monopoly. What once was a retail monopoly is now a wholesale monopoly. The retail customers that rely on wire-line CLECs for retail choice only have that choice if wire-line CLECs continue to have access to monopoly owned loops and transport.

There is really no reason to continue reviewing the monopoly status of loops and transport to the Integra customer base. The ILEC's position as the only carrier that has loops and transport to every potential Integra customer will not change. The Telecom Act recognizes that the ILEC network is a natural monopoly and that is the reason why the Telecom Act gives competitors access to the ILEC network. No company can afford

[1] Comcast does not appear to have a tariffed business offering in the State of Washington. See Affidavit of John Nee, Appendix C. Given that Comcast's market share is already statistically insignificant, there is no need to belabor the point.

to duplicate the ILEC network unless it has what the ILEC had when it built it: a 100% market share and a guaranteed rate of return.

Will any company ever duplicate the ILEC network? As explained throughout these comments, the economics do not support replication by wire-line CLECs. For a company to replicate the ILEC network, it would have to enjoy market position similar to that which telecom ILECs had when they built their networks. What other company has a 100% market share and government- guaranteed returns? The cable company comes close to being similarly situated.

If one accepts the argument that the cable companies will replicate the network, then one must ask, "Will wire-line telephony CLECs no longer need access to ILEC loops and transport?" Yes, of course they will. Why? Neither cable, satellite, nor wireless companies are required to make their loops and transport available for wholesale lease, and they do not do so voluntarily. So, the presence of any of these inter-modal providers in any given market, even one that has completely replicated the ILEC network, has no meaning to wire-line telephony CLECs. Even in markets where an inter-modal company has significant market share and significant infrastructure, absent a change in the law requiring the wholesale availability of loops and transport, wire-line CLECs will still be impaired without access to ILEC loops and transport.

There is no relationship between a BOC's obligation to make its loops and transport available to wire-line CLECs and the presence of inter-modal competitors. Section 251(d)(2) of the Telecom Act of 1996 requires unbundled network elements to be made available by an ILEC if "the failure to provide access to such network elements would impair the ability **of the telecommunications carrier seeking access** to provide the services that **it seeks to offer**." The question is whether Integra, as the requesting carrier, is impaired without access to Qwest/Verizon network elements, for the services that Integra seeks to offer, not whether Qwest or Verizon is losing market share to a cable company. The Telecom Act does not permit the creation of a duopoly, consisting of monopoly cable companies and monopoly ILECs.

VOIP/broadband is touted as the technology of the future. Policy makers must remember that every wire-line CLEC with a facilities-based data network, like Integra, is a potential purveyor of broadband/VOIP technology. Failure to facilitate wire-line competition is a failure to facilitate the future.

Every CLEC in Integra's marketplace today needs access to loops and transport to serve a customer base that is broadly dispersed throughout the geographic market. If loops and transport are not available in the wholesale market, wire-line CLECs must get these critical elements from the ILECs.

C. Loop Impairment methodology-focus on Integra's top 100: the largest 25 retail business customers in each of four markets.

To further determine which carriers have self-provisioned loops, and to underscore the uniqueness of Integra's marketplace, Integra analyzed the demarcation points for its 25

largest retail customers in each of the four markets it serves (Minnesota and North Dakota were combined, so the four are Minnesota/North Dakota, Washington, Oregon, and Utah). By analyzing the demarcation points, Integra can tell if companies other than

the ILEC have provisioned a loop to a building. To the extent they have, these carriers can be contacted and asked about the availability of those loops for wholesale lease by Integra. Also, if companies have not provisioned loops to a majority of Integra's largest customers, this is an important distinction between Integra's customer base and the customer base of the large, institutional CLECs like AT&T and MCI.

Table 1-Integra's average customer is a small business

Total number Of Integra retail Business customers	Top 100 As a % of Total customers	Total Access lines For Top 100	Average access lines for the top 100	Total access lines for remaining 25,680 customers	Average access lines for 99.6% of Integra customers
25,780	.003894	9,468	95	211,532	8

Integra's largest 25 retail business customers in each of four markets comprise less than four-tenths of 1% of Integra's total customer base--.00389. The largest customer has 408 access lines at one location. The average number of access lines for this customer group is 95. The average number of access lines for all Integra customers is 8. This means that the vast majority of Integra customers use dramatically fewer access lines than the 100 largest customers. If a majority of customers with 95 access lines do not have competitive loops, it follows that customers with only 8 access lines also do not have competitive loops.

To justify a conclusion that a CLEC is not impaired without the ILEC loop, a customer would have to have at least two companies, in addition to the ILEC, with loops to the customer's premise, both willing to make their loops available for wholesale lease. There are two elements to this equation: first, there must be at least two companies with loops, in addition to the ILEC loop. Integra refers to this scenario as a "competitive loop" scenario, to be distinguished from situations where there is only one non-ILEC loop to a premise. Only one company providing a loop is not a competitive situation. As soon as this company knows that the ILEC no longer has to provide the loop as a UNE, this company now knows that it has become the monopolist. Trading one monopolist for another is not what the impairment analysis is about.

Second, the companies with loops must be willing or required to lease those loops. If companies with loops are not willing or required to lease them, then those loops are not competitive and play no role in an impairment analysis.

The analysis in this section addresses the first point, the number of loops to a given premise. The analysis in section III.E addresses the second point, the willingness of a company to make the loop available for wholesale lease.

Table 2-Analysis of 25 Largest Customers in Each Geographic Market

	MN/ND	WA	UT	OR	Total
Number of customers with competitive loops (two or more non-ILEC loops)	2	1	0	0	3/100
Number of customers with non-competitive loops (only one non-ILEC loop)	4	1	3	0	8/100
Number of customers with only the ILEC loop.	19/25	23/25	22/25	25/25	89/100

In the state of Washington, only one customer has a competitive loop scenario, with two providers of loops other than the ILEC. Another customer has just one alternative loop. The companies with demarcations at these two customers are ELI and MCI at one and Click Networks at the other.

The remaining 23 largest customers in the state of Washington, with an average of 97 access lines per location, have only the ILEC loop running to their premises.

In the state of Oregon, none of the 25 largest customers, with an average of 110 access lines at one location, has loops provisioned by an alternate provider.[2]

In the state of Utah, no customers have competitive loops. Three of the 25 have loops from only one alternate provider. All three loops were provisioned by ELI. None of the other 22 customers, with an average of 67 access lines per location, has any alternate provider loops.

In the Minnesota/North Dakota market, only two customers have competitive loop scenarios. Four of the 25 largest customers have loops from just one alternate provider. The companies that provisioned loops are: Winstar, GST/Time-Warner, Onvoy, SHAL, and Eventis.

The remaining 19 customers, with an average of 76 access lines per location, have only the ILEC loop running to their premises. See Affidavit of Dave Bennett, Appendix E.

In substantially all of the above instances where non-ILEC loops are present, these loops terminate in large office buildings or commercial complexes, typically associated with large enterprise customers. These buildings do not represent the broad, ubiquitous distribution of the class of customers served by Integra.

[2] Pre-Telecom Act of 1996, the Oregon Graduate Institute provisioned loops for connecting its buildings with its PBX. The founders of Integra acquired the Oregon Graduate Institute's telecom service in 1996, so the loops provisioned by the Institute to serve itself show up today as Integra loops. These pre-Telecom Act loops provisioned by a customer to serve its own needs are not the type of loops under scrutiny in an impairment analysis. Integra only identifies this issue in the interest of full disclosure.

Table 3-Percent of customers with competitive loops

Total number of Access lines held by the 25 largest customers in each geographic market	Average number of access lines for the 25 largest customers in each geographic market	Number of customers with loops from two or more carriers other than the ILEC	Percentage of top 100 customers with loops from two or more carriers other than the ILEC	Over-all percentage of Integra customers with competitive loops
9,468	95	3	3%	3% of .003894 or .0001168

This means that 97% of Integra's 100 largest customers, averaging 95 access lines per customer location, do not have competitive loops to their premises. Eighty-nine percent have only the ILEC loop. Certainly, if 97% of Integra's largest 100 customers do not have competitive loops, and 89% have only the ILEC loop, a customer-by-customer inspection is not necessary to conclude that the remaining customers, with an average of 8 access lines, do not have multiple loops to their premises. To illustrate the point by looking at the total number of Integra business customers: 99.9999% of Integra customers do not have competitive loops. See Appendix D, Affidavit of Bill Littler.

The carriers that provisioned loops are identified as ELI, MCI, Click Networks, Winstar, Onvoy, SHAL, Enventis, and GST/Time-Warner. The carriers not already appearing in the independent survey are Click Networks, Winstar, Onvoy, SHAL, and Eventis. These carriers will be added to the list of carriers who are contacted or about whom information is gathered to determine if their loops are competitive with ILEC loops and are available for wholesale lease by Integra. See section III.E.

D. Loop Impairment methodology-survey of demarcations by service technicians.

In addition to the independent survey and the analysis of the twenty-five largest customers in each geographic market, Integra also conducted a service technician survey of demarcation points. Two Integra Telecom service technicians in each of Integra's four market areas were asked to observe the demarcation points for customers for whom new installs or trouble tickets were done during the period July 27, 2004 through August 2, 2004. This is another way of distinguishing the Integra customer base from the Enterprise market.

Table 4-Integra Service Technician survey data

Total Demarks Visited:	Number of customers with Competitive loops (two non-ILEC loops)	Number of customers with one non-ILEC loop	Percentage of customers with no competitive loops/only one non-ILEC loop
188	1	5	99.995/97.0

During this one-week period, a total of 188 demarcation points were surveyed. Only 1 customer had a competitive loop scenario. That customer was located at the airport where three companies had provisioned loops: Light Point, ELI, and Time-Warner. Five other customers had only one loop in addition to the ILEC loop. The loops for these five customers were provisioned by XO and ELI. This means that 99.995% of Integra customers, chosen randomly during this one-week period, had no competitive loop scenario, and 97% had only the ILEC loop to their premises.

ELI, GST/Time-Warner, and XO are already identified as carriers that have self-provisioned loops. Light Point is a new carrier added to the list of companies about whom information is gathered. We now turn to these carriers.

E. **Loop Impairment Methodology: The availability of loops from alternate suppliers.**

The notion that there is a ubiquitous, robust wholesale market for loops and transport led by friendly CLECs who socialize and plot business strategy together is simply wrong. To the contrary, the CLEC world is characterized by fierce competition, and Non-Disclosure Agreements that preclude employees like Bill Littler and Dave Bennett from disclosing any information they learn about a competitor's network to third parties. See Affidavits of Littler and Bennett, Appendices D and E. These agreements severely limit the amount of detailed information Integra can disclose in this filing. This is not a free-flowing, glad-to-lease-you-a-loop-world; Integra has Non-disclosure agreements with 18 of the 23 identified carriers. Affidavit of Bill Littler, Appendix D.

Bill Littler, Director of Carrier Services for Integra, gathered information about each of the carriers identified in the independent survey, the internal survey, the analysis of the largest 25 customers in each market, and the service technician survey.

Exhibit A to Appendix D compiles information about the availability of loops from all of these carriers. The information in the chart is based on a combination of telephone contacts and general industry information, within the confines of the Non-disclosure Agreements. The chart addresses every company identified in either the independent or internal surveys, in the analysis of Integra's largest customers, or in the service technician surveys. XO includes Allegiance because XO bought Allegiance's assets out of bankruptcy.

No company other than Qwest and Verizon have loops available to the entire Integra customer base, which is 94% of all businesses located in a given geographic market. See Exhibit D to the Affidavit of John Nee, Appendix C. In fact, because Integra targets small to medium sized businesses, and because alternative loop providers target the largest business locations, it is fair to say that the loops of alternative providers connect with the 6% of businesses that Integra does not serve. Therefore, alternative provider loops are of no value to Integra.

To further illustrate the point: based on Integra's research and analysis, another anonymous ATP has 101 buildings connected to its network in the **entire** greater Seattle area (Seattle, Bellevue, Everett, and Tacoma). This is the broadest foot-print of any

ATP Integra is aware of. According to information from Qwest's ICON Database, in the 13 collocations served by Integra in Qwest's operating area in the greater Seattle area, there are 1,131,077 business loops available. John Nee's Exhibit D to Appendix C provides information from Dunn & Bradstreet that shows 94% of those business loops are in Integra's segment of the market (small to medium sized businesses). This equates to 1,063,212 loops available to Integra as potential customers through Qwest. The 101 buildings with loops from the ATP with the largest footprint in the Seattle area represent .0095% (95/10,000's of 1%) of all potential Integra customers in the greater Seattle area, customers for which the ILEC has a loop running to each and every one. A company with only 95/10,000's of 1 % of the loops in a geographical area is not competitive with an ILEC that has 100%. Affidavit of Dave Bennett, Appendix D.

The loops from companies claiming to have loops available for wholesale lease share two characteristics: first, the loops are all connected to specific large customers or large buildings, not to the general, broadly dispersed customer base that Integra serves. Second, none of the loops connect with the ILEC central offices where Integra needs collocation. All of the loops connect to the provider's network, which means the loop is very different from an ILEC loop and not a competitive product. This issue is analyzed in more detail in section III.F, supra.

It is also important to understand the characteristics of some of these companies and how they differ from Integra. For example, Click Networks is owned by government: the City of Tacoma, Washington. The loops it has connect to only a small fraction of the total buildings in Tacoma. Table 6 shows the companies that provisioned loops or transport on their way to a bankruptcy filing or some other type of financial restructuring. The companies that did not experience bankruptcy or financial restructuring are owned by ILECs, municipalities, or electric power companies.

Table 5

Name of company with self-provisioned loops	**File for bankruptcy, do financial re-organization, or propped up by a parent company?**
SHAL	No, ILEC owned
XO	Yes, bankruptcy
Clicks Network	No, owned by municipality
GST/Time Warner	Yes, GST bankrupt; TW buys assets
ELI	Yes, ILEC owned, parent propped
MCI	Yes, bankruptcy
Winstar	Yes, bankruptcy
Eventis	No, owned by electric power company
McLeod	Yes, bankruptcy
Astound	No, owned by electric power company
Eschelon	Yes, financial reorganization
Onvoy	No, ILEC owned

With regard to the existence of a robust wholesale market for loops, combining Table 1 with Table 2, and Table 5 with Exhibit A to Appendix D results in one powerful conclusion: there is no wholesale market for loops in Integra's marketplace sufficient to eliminate the obligation of Qwest and Verizon to provide unbundled loops, and there will not be any time soon. Exhibit A to Appendix D shows that only four companies actually competing with Integra in the retail market have provisioned any loops. Not only are those loops significantly limited in that they only go directly to certain large customers, but three of the four companies that provisioned them went bankrupt. The fourth company was saved from bankruptcy by an ILEC parent company but had its public stock de-listed. See Table 5. No wire-line CLEC has or will be over-building the ILEC network and thereby creating a wholesale market for loops. Only Qwest and Verizon have loops to the entire potential Integra customer base. As illustrated above, alternate providers loops reach insignificant numbers of potential Integra customers.

With regard to Integra's ability to self-provision loops, Exhibit A to Appendix D makes clear that CLECs are not generally self-provisioning loops. Table 5 makes clear that out of the 7 non-ILEC companies that have provisioned loops of one kind or another, four filed for bankruptcy. The ones that did not file for bankruptcy are either ILEC owned, municipality owned, or owned by an electric company.

This is very important for policy-makers to understand when doing a self-provisioning analysis: The existence of these loops and the subsequent bankruptcies or financial instability of the companies that provisioned them is the best possible proof that Integra cannot self-provision loops.

F. Loop Impairment Methodology: Economic and Operational barriers to self-provisioning of loops to the Integra Telecom customer base.

The economics relating to the class of customers Integra serves (with an average of 8 access lines) simply do not justify an investment in loops. There are powerful economic barriers to self-provisioning, barriers confirmed by the bankruptcies and debt restructuring of CLECs who have tried.

The ILECs made their loop investments under rate of return regulation, where recovery of the investment plus a rate of return was guaranteed. There is no such guarantee for CLECs. In fact, the evidence shows that virtually every CLEC that made significant investments in fiber also either filed for bankruptcy, or lost staggering amounts of money but was propped up by a parent company. Of course, the relationship between revenue per loop and economic justification for building loops has resulted in most companies that have built loops targeting larger, enterprise customers.

For example, Time-Warner Telecom operates in the Western states by virtue of having bought most of the assets of GST Telecom, Inc. in January 2001out of GST's bankruptcy estate. This was after GST defaulted on $1.2 billion in debt in May, 2000 after building out significant facilities. ELI is now a wholly owned subsidiary of Citizens Communications Company. Citizens was an early investor in ELI at its formation in 1990. ELI was publicly traded from November 1997 until June 2002, at

which time Citizens bought all outstanding shares. The Citizens Form 10-K for 2003 notes that in the third quarter of 2002, Citizens "recognized non-cash pre-tax impairment losses of $656.7 million related to property, plant and equipment in the ELI sector..." ELI had, of course, made significant investments in loops without a customer base. XO Communications filed for bankruptcy after building extensive loop facilities. Winstar and Global Crossing built extensive facilities throughout multiple states before filing for bankruptcy.

The independent survey identified twelve wire-line CLECs competing in Integra's marketplace for Integra's target customer base. Of those twelve, seven have either filed for bankruptcy (6) or restructured debt (1). Two are owned by ILECs. One has announced its intention to withdraw from the market segment served by Integra.

Table 7-Characteristics of CLECs in Integra's market-place

Name of CLEC	Filed for bkrpcy/restructured debt?	Owned by an ILEC?	Self-provision any loops?
Eschelon	Yes, debt restructured	No	No
XO	Yes, bankruptcy	No	Yes
Allegiance	Yes, bankruptcy	No	No
Popp	No	No	No
McLeod	Yes, bankruptcy	No	No
US Link	No	Yes	No
ATG	Yes, bankruptcy	No	No
Sprint	No	Yes	No
ELI	No, propped by ILEC parent	Yes	Yes
Tel West	No	Yes	No
AT&T	No	No	No
Comcast	No	Monopoly	No

These are the harsh economic realities of trying to compete in a marketplace where one of the competitors has a one hundred year head start and monopoly ownership of key network elements.

The FCC's TRO has an excellent record on the inability of competitive carriers to duplicate ILEC loops. See, e.g., paragraphs 226 (mass market loops), 298 and note 856, 325, 326 (DS-1 loops), 311 and 313 (dark fiber loops). The breadth of the record does not seem to be in dispute and Integra reincorporates it herein. Just to be clear, provisioning a loop to a business premise is about more than just the cost of the loop: in addition to the actual loop, investment is also needed in distribution and feeder plant to service that loop.

Essentially, to self-provision loops, a CLEC would have to completely replicate the ILEC network. This is true both because of how the ILEC network is designed (tree and branch configuration) and because Integra does not know the location of its next customer. What Integra does know is that its next customer could be located literally anywhere in the geographic market, because 94% of the businesses in the market are potential Integra customers. Exhibit D to Appendix D, Affidavit of John Nee. In order

to be able to serve a customer in whatever location it might be, Integra would have to replicate the entire ILEC network, completely replicating the same tree and branch configuration. This is why building loops is about much more than just the loop: the loop is just one part of the design. The loop must then be connected to the network, to the nearest central office. The CLEC would literally have to build the same tree and branch design, following the same streets, using the same distribution and feeder plant to the same premises as the ILEC.

Of course, the ILEC built its system with a 100% market share under a rate of return regulatory scheme where it was guaranteed recovery of every dollar spent plus a double-digit profit. CLECs have no such market share and no such guarantee of cost recovery. With an average market share of 10%, and an average customer generating a revenue stream of less than $400 per month, Integra cannot possibly duplicate the ILEC loop, feeder, and distribution network. Affidavit of Dave Bennett, Appendix E.

When Integra examined the demarks for its largest 100 customers, only 3 customers had competitive loops, eight others had one non-ILEC loop. A total of 9 providers had provisioned those loops. Of those 9 providers, five had either filed for bankruptcy or been propped up by a parent company. One is owned by a municipality; two by a consortium of rural ILECs, one by an electric power company; two are data only providers. There is no better proof that self-provisioning of loops is not economically viable in Integra's marketplace.

G. Loop Impairment Methodology: additional economic and operational barriers to purchasing loops from alternate providers.

Starting with what should be obvious but seems to be getting lost: Integra Telecom is not a government agency or a non-profit corporation. Integra Telecom is in business solely to make a profit for its shareholders. This means that Integra is completely motivated to find the best prices on everything it purchases, from office supplies to loops and transport. If Integra is not purchasing loops or transport from alternate providers, you can be assured there is a very good reason, based on economics, pricing, and profit making. The Company does not need to be pushed toward competitive loops and transport. If competitive loops and transport are available at better prices, Integra will purchase them. See Affidavit of Dave Bennett, Appendix E.

1. Virtually none of Integra's customer base has loops from alternate providers.

To date, Integra has not purchased loops from alternate providers. One reason is very simple: as the analysis of Integra's largest 100 business customers proved, virtually none of Integra's customer base has loops from alternate providers.

Even if a customer has a loop from an alternate provider, Integra cannot use the loop because alternate provider loops are completely dissimilar to ILEC loops and therefore are completely different products and do not compete with ILEC loops.

2. **Loops from alternate providers are completely dissimilar to ILEC loops and therefore are an inadequate substitute and non-competitive.**

Loops available from alternate providers are a completely different product than ILEC loops. Alternate provider loops were built for a very different reason and intended to accomplish an entirely different objective than ILEC loops. These differences make for completely dissimilar products that cannot substitute for one another, and result in cost differences that are not competitive with ILEC products. Appendix E, affidavit of Dave Bennett. Some network design background is important to understanding this issue.

Integra Telecom has invested approximately $300 million in switches, infrastructure, and start-up costs. Those investments were made over the last eight years. They were made based on the existing network configuration and where the most ILEC network efficient access points could be obtained. They were made based on the ILEC network configuration: the only network configuration in existence when companies were invited to compete in the Telecom industry. The sole focus was connecting Integra switches with the ILEC central offices in a multiple ring configuration using ILEC transport (typically, dark fiber), and using the ILEC loops to reach retail customers. This is the design the Telecom Act provided for, and this arrangement forms the basis of the Integra business plan and determined the amount of its sunk investment.

For a recently installed loop or transport to be competitive with the ILEC loops and transport, it must be installed and configured in the same manner as the ILEC loops and transport. In other words, it has to be the same product. A product is not competitive with another product if it differs in some significant degree, especially if the differences result in either stranded investment or in significantly increased costs for a potential user.

Non-ILEC loops in Integra Telecom's marketplace are not competitive with ILEC loops because they were never intended to be a product needed by Integra Telecom. Competitive loops are a completely different product with a completely different approach: competitive loops were built to connect a CLEC hub with a large retail customer, or a large office building housing many potential retail customers. The focus was on connecting with large retail customers, not connecting with an ILEC network and using unbundled network elements to make the retail connection. From an operational standpoint, this is a completely different configuration, a completely different product. And the difference between this product and Integra's need to interconnect with the ILEC's network makes the CLEC product unusable in many ways.

First, because of how competitive loops were designed and built, they do not terminate in the same ILEC central offices in which Integra is and needs to be collocated. Integra built its network around termination in ILEC central offices, using a ring configuration. Alternate provider loops do not use a ring configuration

(or any other configuration for that matter) and are not designed to connect central offices. Further, non-ILEC loops are not competitive because they do not connect from the same access points as the ILEC loops, access points around which Integra built its system. These differences mean that multiple, new connections are necessary just to connect Integra to the CLEC loop. These new connections, and the design difference where the CLEC loop connects a retail customer rather than into an ILEC office, also mean that more product is needed for the connection. Because the loop prices are distance sensitive, more product means a higher cost-a significantly higher cost.

Exhibit A to Appendix E contains a diagram depicting a typical ILEC loop design and a typical CLEC loop design. As Dave Bennett explains in his affidavit in Appendix E, the ILEC and CLEC loops designs have significant design differences that result in significant pricing differences, differences that make the CLEC loop significantly more expensive. These differences reflect the significant advantage the monopoly ILEC enjoyed: investment in loops and infrastructure was GUARANTEED recoverable, therefore, the most direct routes were deployed, without regard for system efficiencies. There was no threat that a competitive company would find a more efficient way to design a system and threaten the ILEC's existence. ILEC loops are therefore shorter, more direct connections. CLEC loops were built without guaranteed recovery and had to maximize certain efficiencies that make them non-competitive.

Integra Telecom receives no extra value for purchasing a loop from an alternate supplier that is significantly more expensive than an ILEC loop. A profit making entity will not make this choice. The economics of the marketplace will not support this choice. Since the law does not require this, government should not force this choice upon Integra Telecom.

Not only do operational considerations make clear that a CLEC loop is not similar enough to an ILEC loop to be considered a competitive product, the FCC has recognized the need for alternative products to be significantly similar before being considered competitive. For example, in discussing the availability of alternative Transport sufficient to justify a finding of non-impairment, the FCC required that the alternate transport connect two ILEC central offices. Paragraph 401. The FCC specifically rejected proposals where the alternate transport was only connected at one end of a route. Id. It also rejected proposals that required cobbling together multiple vendor links to complete a route between two incumbent LEC central offices. I.d. The FCC properly recognized that these approaches resulted in increased costs and operational problems for requesting carriers. Id., paragraph 402.

H. Loop Impairment methodology- an analysis of special access as an alternative to ILEC loops.

Special access is a pricing methodology, not a product. The product is the same, whether special access or unbundled network element. The actual facility used to

provide the underlying service is the same. The only difference is how that facility is priced. Special Access is a way of saying it will be priced on monopoly terms.

Unbundled network element is a way of saying it will be priced on competitively neutral, wholesale terms (TELRIC).

To ask whether special access is a substitute for an unbundled network element is really nonsensical. The product is the same. What you are really asking is "Is paying monopoly prices for a product an adequate substitute for paying non-monopoly prices?"

For example, you wish to purchase this laptop computer from me for use in your business. You have budgeted $1000 for this purchase, based on the market for laptops over the past few years. Would you prefer to purchase the laptop for $1000 (TELRIC) or $6,000 (special access)? It is the same computer either way; there is no product called special access. Special access is simply a pricing mechanism based on historic, monopoly embedded cost. Affidavit of Dave Bennett, Appendix E.

Integra only purchases loops out of special access when an EEL or other unbundled network element is not available. An EEL is not available as an unbundled network element when it crosses a rate center, a LATA, or a state border. In these instances, Integra must purchase loops out of special access tariffs, and it does. Affidavit of Dave Bennett, Appendix E.

Special access can never be a substitute for ILEC network elements at TELRIC for this simple reason: the business plan for Integra Telecom and all companies similarly situated was based on TELRIC pricing for unbundled network elements. It was based on TELRIC pricing for unbundled network elements because TELRIC was and continues to be the pricing methodology the FCC established as the law of the land. To ask today, eight years later, if a pricing methodology that increases costs by 220 to 600% is an adequate substitute for what has been is nonsensical.

If Integra were forced to move all EEL and loop costs from TELRIC to special access, the economic impact would destroy the company. Today, Integra pays ILECs approximately $500,000 per month for loops and EELs. At special access prices, loops and EEL costs jump to $1.1 million per month, a 220% increase. A 220% increase in the cost of loops and EELs is not an economically adequate substitute for TELRIC prices. Affidavit of Dave Bennett, Appendix E.

Verizon's own bills show that these calculated increases probably understate the real economic impact on Integra of moving to special access.

I. Verizon's claim that companies are buying special access instead of un bundled network elements is very misleading.

Verizon claims that the evidence shows that carriers are purchasing from special access and therefore do not need access to unbundled network elements. This is a very misleading, incomplete statement as to Integra.

During the period 1996, the beginning of competition, until January 2002, Verizon's computer systems were unable to bill for unbundled network elements. When Integra purchased unbundled network elements from Verizon, Verizon sent a bill at special access rates, then discounted the bill by 80% for all UNEs to approximate UNE rates. See bills marked as Exhibit C, Appendix E, Affidavit of Dave Bennett.

To say or imply that companies like Integra were purchasing from special access is misleading at best. Other companies undoubtedly have their own stories. Integra was purchasing unbundled network elements and it took Verizon six years to configure its billing systems so it could bill for UNEs. Integra did not purchase special access; it purchased unbundled network elements from a company that took six years to fix its computer systems.

Verizon's bills are powerful evidence of the devastating economic impact moving to special access rates would have on Integra. Consider that Verizon had to discount special access rates by 80% to approximate UNE rates. This means that a product costing $100 on the special access price list cost only $20 on the UNE cost list. The difference between $100 and $20 is 500%, meaning that special access rates are 500% higher than UNE rates. A 500% increase in the cost of network elements is not a viable economic alternative.

J. Summary of Loop Impairment analysis and Request for FCC finding of Impairment.

99.9999 % of Integra's customers have only the ILEC loop to their premises. Only Qwest and Verizon have provisioned loops to Integra's potential customer base. Non-ILEC companies that provisioned loops suffered insolvency. The economic and operational barriers to Integra self-provisioning loops are extreme at this time, with costs significantly higher than current revenue streams can support. Finally, special access is a pricing methodology that increases Integra's loop and EEL costs by an average of 220% for the very same product. This is not an adequate substitute for unbundled network elements at TELRIC. Therefore, the FCC should find that Integra is impaired within the meaning of section 251(d)(2)(B) of the Telecom for DS-0 and DS-1 loops (including EELS) when serving customers with 96 or fewer access lines at a single location.

IV. An Overview of the Transport (DS-1, DS-3 and dark fiber) Impairment Analysis.

Consistent with the loop impairment analysis, the question Integra answers is "Why hould the FCC find that Integra Telecom is impaired in its ability to serve its customer base without access to ILEC DS-1, DS-3, and dark fiber transport?"

To determine the identity of potential alternate transport providers, Integra established a three-step process: first, Integra either contacted or gathered information on every ATP doing business in its geographic market. Much of this information is subject to Non-disclosure Agreements and can be included in this analysis only in general form. Second, information was gathered about transport from all CLECs known to

be competing with Integra. This information is also subject to Non-disclosure Agreements and can only be provided in general form. Finally, Integra's two primary ILECs, Verizon and Qwest, were contacted to ascertain the identity of any competitive access providers with facilities terminating in their central offices. At the end of these three steps, all possible wholesale providers of alternate transport have been identified, contacted, and analyzed.

Once the identity and offerings of all possible alternate transport providers are known, Integra analyzes the offerings and compares them with ILEC transport (section D). Integra also applies the Transport impairment standards established in the TRO (section E). Next, the economic and operational barriers to self-provisioning transport or using special access transport are analyzed and described (sections F and G). The misleading nature of Verizon's claim that carriers are purchasing from special access rather than UNEs is examined in section H. Lastly, section I explains why DS-3 and dark fiber, not just DS-1, are critical to Integra's success.

A. Step one:

Gathering information and Contacting Alternative Transport Providers Regarding the Availability of Transport for Lease at Wholesale.

Integra employee Bill Littler either contacted or gathered information on each ATP operating within the same market area as Integra. The ATPs were identified based on the independent and internal surveys and the local market knowledge of Integra. His objective was to determine if the ATP owned transport facilities and, if so, which ILEC collocations their facilities connected. The results of his information gathering are contained in Exhibit A to his affidavit, Appendix D.

B. Step two:

Gathering Information and Contacting CLECs Regarding the Availability of Transport for Lease at Wholesale.

Mr. Littler also either contacted or gathered information about each CLEC operating within the same market areas as Integra to determine if any of them owned transport and, if so, which ILEC collocations their facilities connect, and if they are available for lease and under what terms, conditions, and prices. The results of this data gathering are found in Exhibit A to Appendix D, Affidavit of Bill Littler.

Only Qwest and Verizon have transport facilities connecting every central office in which Integra is collocated. Only Qwest and Verizon have transport facilities that allow Integra to serve a small to medium sized business customer base that is widely dispersed throughout the geographic area.

C. Step three:
Contacting Qwest and Verizon Regarding Information on ATPs Whose Facilities Terminate in Their Central Offices.

Mr. Littler also contacted the ILECs in Integra's service territory, Qwest and Verizon. He requested any information they had on the identity of ATPs whose facilities terminate in their central offices. Neither Qwest nor Verizon identified any companies other than those Integra already identified. See Appendix D, Affidavit of Bill Littler.

D. Transport Impairment Analysis: Economic and Operational Barriers to using Transport from Alternate Providers.

This section focuses on analyzing the economic and operational barriers that preclude Integra from using the transport that small numbers of alternate providers claim to have available for wholesale lease on limited routes. The TRO has an extensive record on dark fiber, DS-1, and DS-3 impairment. See, e.g., paragraphs 381-387; 390-393. Integra incorporates this record into its comments.

i. The Design of Alternate Transport is so different from ILEC transport that it cannot be considered a competitive product.

Because most of the operational and economic barriers to Integra utilizing alternate provider transport are directly related to the differences in design between ATP and ILEC transport, it is important to understand the design differences. Much of the analysis of the design of alternate provider loops also applies to alternate providers of transport: the products offered cannot be said to compete with ILEC transport because they are different products, designed for different purposes, resulting in differences that render them economically and operationally unusable. Integra Telecom is motivated to use efficient, economical products. ATP products simply do not meet that standard. Below, Integra shows that in the market where Integra has found the ATP with the most substantial overlap with ILEC UNE transport, Integra would see its direct costs increase significantly to manage less efficient networks of one ATP and one ILEC would be required. This would make this market uneconomic for Integra to serve, thereby establishing impairment. Affidavit of Dave Bennett, Appendix E.

As explained in the loop analysis, Integra's business plan is based on a network configuration that interconnects with the ILEC network at carefully chosen, negotiated points of access. Integra installs its own switch in a market area, uses ILEC dark fiber to create a ring that connects the ILEC central offices with Integra's hub, installs equipment in the ILEC central offices, and