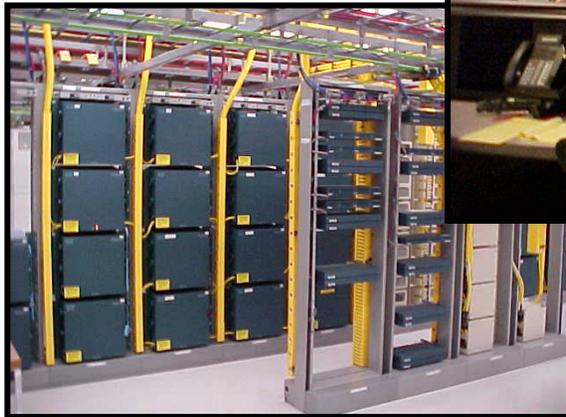




ALPHEUS

Dark Fiber: Promoting Facilities Based Competition

October 15, 2004



Poster Child for the Innovation and Investment Intended by the Act

- Unbundled access to dark fiber stimulates investment in facilities and equipment.
- There can be no “arbitrage” with dark fiber; it is an idle raw material that requires investment and expertise to utilize.
- Dark fiber unbundling adds new capacity to local transport market.
- Neither financial markets nor municipalities will allow each company to lay separate fiber down every street.
- Dormant legacy facilities the ILEC is unlikely to ever use.

Encouraging a Competitive Market

- Post legal monopoly, complete vertical integration is economically unrealistic:
 - healthy competitive ecosystem will require horizontal specialization.
 - need efficient wholesale providers so retailers can compete.
- CLECs cannot transform to 100% facilities-based overnight.
- As UNE-P goes away, dark fiber is crucial in enabling the transition to facilities-based competition.
- Re-affirm TRO findings on common carriage.

Alpheus Business Model

- Over \$300MM spent to overlay legacy infrastructure efficiently.
- Alpheus never wants to be an involuntary tenant; we are a walking-talking impairment test.
- Preference is to deploy our own fiber; where financial metrics do not allow and alternatives do not exist, Alpheus still needs certain UNEs for transport.
- ***No special access offering for dark fiber.***
- Consequence of loss of impairment is not incremental cost, it is physical network disruption.
- No claim to greenfield fiber (deployed post-effective date)

Dedicated Transport Dark Fiber Three Tier Impairment Test

- **Tier One**: No impairment between wire centers each having more than 40,000 business access lines.
- **Tier Two**: Impairment subject to TRO triggers on routes between wire centers each having 20,000 to 40,000 business lines.
- **Tier Three**: Conclusive finding of impairment on routes between wire centers below 20,000 business access lines.

Progressive Transition to Facilities Based Competition

- Carriers who are found to be unimpaired without access to DS3 can purchase and deploy equipment, utilizing UNE dark fiber.
- Carriers who are found to be unimpaired without access to Dark Fiber Transport can build if roped and rodded duct is available within a year.
- If roped and rodded duct is not available, considering the many obstacles to trenching the streets, 48 months is needed for the transition.
- ILEC has choice to eliminate impairment immediately by converting existing UNEs to market-based IRUs.

Dark Fiber Loops

CLECs, in light of the overwhelming evidence from the TRO cases, are impaired on a national basis.

Policy Considerations

- ILECs refuse to make fiber available on any terms...refuse to participate in this wholesale market.
- Motive to hoard dormant fiber: Inhibit Facilities Based Competitionturning away very profitable business in order to retain broadband infrastructure is anti-competitive on its face.
- Restraint of trade in idle facilities is a naked abuse of market power.
- Transition process for UNE dark fiber must account for availability of ILEC conduit.
- Eliminating UNE fiber rents will put upward pressure on ILEC consumer rates.
- Stranding rate-payer financed infrastructure is economic waste.