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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

COMMENTS OF
THE NORTH CAROLINA UTILITIES COMMISSION

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October 1, 2004

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I. BACKGROUND

The North Carolina Utilities Commission (NCUC) respectfully submits these comments in response to the Federal Communications Commission's (FCC's) August 20, 2004 *Order and Notice of Proposed Rulemaking* (*August 20, 2004 Order and NPRM*) soliciting comments on final unbundling rules that will implement the obligations of Section 251(c)(3)[1] of the Communications Act of 1934, as amended, *inter alia*, by the Telecommunications Act of 1996 (the Act or TA96), in a manner consistent with the March 2, 2004 decision of the U.S. Court of Appeals for the District of Columbia Circuit (DC Circuit) in *United States Telecom Ass'n v. FCC* (*USTA II*).

Specifically, the NCUC files these comments in response to Paragraph 15 of the *August 20, 2004 Order and NPRM* wherein state commissions were encouraged to "file summaries of the state proceedings, especially highlighting factual information that would be relevant under the guidance of *USTA II*." The FCC further directed that "parties must provide a complete recitation in their current filings of any arguments or data that they wish the Commission to consider."

[1] Section 251(c)(3) requires incumbent local exchange companies (ILECs) to provide to requesting telecommunications carriers "nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms, and conditions that are just, reasonable, and nondiscriminatory in accordance with the terms and conditions of the agreement and the requirements of this section and section 252."

II. NCUC PROCEEDINGS

On August 21, 2003, the FCC released the *Triennial Review Order* (*TRO*). In response to the *TRO*, by Order dated September 11, 2003, the NCUC established two separate dockets:

(1) Docket No. P-100, Sub 133p to consider the impairment of DS1 enterprise customers, and

(2) Docket No. P-100, Sub 133q (Main Proceeding) to consider the balance of matters to be addressed by the NCUC pursuant to the *TRO* within the 9-month time frame set out by the FCC.

Due to the limited time available for NCUC review of impairment of DS1 enterprise customers, the NCUC noted that the proceeding would be conducted on the pleadings by way of Petition, Comments, and Reply Comments. On September 30, 2003, in Docket No. P-100, Sub 133p, the NCUC issued its *Order Finding No Impairment and Closing Docket Without Further Action to Rebut FCC National Finding*. In its *Order*, the NCUC stated that

> [b]ased on the statements of the three largest ILECs[2] providing service in North Carolina, the Commission finds that the provision of DS1 loops in

[2] The three largest ILECs include BellSouth Telecommunications, Inc. (BellSouth), Carolina Telephone and Telegraph Company and Central Telephone Company (collectively known as Sprint), and Verizon South, Inc. (Verizon).

combination with unbundled local switching is *de minimis.* The limited demand for this service leads the Commission to conclude that CLPs are not impaired when not provided with access to unbundled local switching for enterprise business customers served through high-capacity loops. Therefore, the Commission hereby determines that it will not file a petition with the FCC to rebut the FCC's impairment finding and it will not undertake any further investigation in this docket.

On October 22, 2003, the NCUC issued its *Procedural Order.* In the *Procedural Order*, the NCUC:

(1) Renamed Docket No. P-100, Sub 133q to address the continued availability of unbundled local switching for the mass-market (or the unbundled network element platform (UNE-P) case), and

(2) Created Docket No. P-100, Sub 133s to address the continued availability of unbundled high capacity transport on certain routes and unbundled high capacity loops at certain customer locations (or the high capacity loop and transport case).

Further, in the *Procedural Order*, the NCUC set an evidentiary hearing to begin in Docket No. P-100, Sub 133q (UNE-P) on March 22, 2004, and set an evidentiary hearing to begin in Docket No. P-100, Sub 133s (high capacity loop and transport) upon

the conclusion of the hearing in Docket No. P-100, Sub 133q. The NCUC further outlined a schedule for prefiled direct testimony, rebuttal testimony, and surrebuttal testimony. The NCUC instructed parties to file executive summaries of their testimony. Copies of the executive summaries are attached, hereto, as **Appendix A**. Finally, the NCUC detailed the rules governing discovery in the dockets. The NCUC scheduled initial briefs and/or proposed orders to be filed in Docket No. P-100, Sub 133q on April 7, 2004 and initial briefs and/or proposed orders to be filed in Docket No. P-100, Sub 133s on April 23, 2004.

Verizon notified the NCUC by letter filed on October 31, 2003 that it would not actively participate in the NCUC's *TRO* proceedings.

The parties conducted extensive discovery in these two dockets. The NCUC held two conference calls with the parties to address discovery matters.

On November 25, 2003, the NCUC issued its *Order Amending October 22, 2003 Procedural Order*. In that *Order*, the NCUC amended its rules concerning discovery in the dockets.

The parties filed testimony in the dockets as follows:

Docket No.	Direct Testimony	Rebuttal Testimony	Surrebuttal Testimony
Docket No. P-100, Sub 133q	January 1, 2004	February 16, 2004	March 1, 2004
Docket No. P-100, Sub 133s	February 16, 2004	March 1, 2004	N/A

On March 2, 2004, the DC Circuit entered and released its opinion in *USTA II*. In response to *USTA II*, on March 4, 2004, the NCUC issued its *Order Allowing Comments* on *USTA II*. The NCUC allowed parties to file comments regarding whether to continue and hold in abeyance all proceedings in its pending dockets, including the hearing scheduled to begin on March 22, 2004, until all petitions for re-hearing and all appeals were exhausted.

On March 12, 2004, the NCUC issued its *Order Regarding Hearings*. The NCUC stated that it would proceed with the hearings in its *TRO* dockets on March 23, 2004 under revised terms. The NCUC noted that BellSouth Telecommunications, Inc. (BellSouth) and the Public Staff of the NCUC (Public Staff) had urged the NCUC in their comments to suspend and hold the proceedings in abeyance in light of the *USTA II* decision. The NCUC also noted that US LEC and the Competitive Carriers of the Southeast (CompSouth[3]) requested that the NCUC proceed with the hearings as scheduled.

The NCUC concluded in its *March 12, 2004 Order* that

> The arguments on both sides are nearly equally compelling. These arguments, combined with the current regulatory, judicial, and market

[3] CompSouth includes Access Integrated Networks, Inc., Access Point Inc., AT&T of the Southern States, LLC, Birch Telecom of the South, Inc., Cinergy Communications Company, CompTel/Ascent Alliance, Covad Communications Company, ITC DeltaCom Communications, Inc., IDS Telecom, LLC, KMC Telecom III, KMC Telecom V, Inc., LecStar Telecom, Inc., Momentum Business Solutions, Inc., Network Telephone Corp., NewSouth Communications, Corp., Nuvox Communications, Inc., PACE Coalition, Talk America, MCImetro Access Transmission Services, LLC, MCI WorldCom Communications, Inc., Xspedius Management Co., LLC, and Z-Tel Communications, Inc.

uncertainty, render this procedural decision extraordinarily difficult. The dilemma is exacerbated by the sharp split among members of the FCC, both as to the substantive merits of the *TRO* itself and as to the procedural path that should be followed in the wake of the Court's decision. The highly-charged differences among these bright people of good will as to how the law should be interpreted in the public interest mirror the national clash of conflicting positions and signal the importance and difficulty of the underlying policy and legal issues. . . . Thus, the Chair is persuaded that good cause exists to proceed with the hearings under the terms announced herein. Holding such hearings will be an efficient use of time for both the Commission and the parties, who have already prepared their case and put a great deal of time and effort in meeting the stringent deadlines imposed by the Commission's October 22, 2003 Procedural Order. . . . The views in which we are particularly interested include the parties' positions regarding the requirements and effects of the *TRO*, the practical results and ramifications of the *USTA II* opinion, future expectations related to resolution of any *USTA II* appeals, and other matters which may involve *TRO*-related issues that may come before the Commission prior to final resolution of *USTA II* and the *TRO*. Finally, and of equal importance, the Chair believes that these hearings should help inform the Commission as to the current status of competition in North Carolina's geographic markets and that such information will be valuable

to the Commission in exercising its authority regarding unbundling under N.C.G.S. § 62-110(f1) and § 271 of the Act. . . .

The NCUC held its hearing in Docket Nos. P-100, Sub 133q and Sub 133s on March 23, 2004. The NCUC entered the prefiled testimony submitted by the parties into the record; however, cross-examination was not allowed and, in fact, witnesses were not present. In total, the prefiled testimony of 32 witnesses was entered into the record in the NCUC's proceedings. The parties then addressed the NCUC with comments on their positions as to *TRO*-related matters and responded to questions from the NCUC.

The parties were instructed by the Presiding NCUC Commissioner to work cooperatively to agree upon the evidence to be entered into the record in our *TRO*-related dockets. In addition to the prefiled testimony of the 32 witnesses, the parties also agreed to enter portions of the related evidentiary records from similar proceedings held by the State Commissions in Florida and Georgia into the North Carolina record of evidence. At the conclusion of the March 23, 2004 hearing, the Presiding Commissioner recessed the hearing and held the dockets in abeyance pending further order of the NCUC.

The only additional action that the NCUC has taken with respect to these dockets was a status conference in May 2004. In particular, by Order dated May 21, 2004, the NCUC scheduled a conference to discuss the general status of its *TRO*-related dockets

and to discuss matters raised by CompSouth in its letter to the NCUC dated May 17, 2004.

III. CONCLUSIONS

Since the NCUC did not proceed with its full evidentiary hearing in its *TRO*-related dockets after the *USTA II* decision, the NCUC does not have any factual information or analysis of such factual information to provide to the FCC concerning its *TRO*-related dockets. However, the NCUC believes that it is important to file these comments outlining its procedural history in the *TRO* dockets for the FCC's information.

Furthermore, by Order dated September 20, 2004, the NCUC has instructed the parties to its proceedings to coordinate with each other to file summaries of the NCUC's proceedings and to submit any materials developed for the proceedings that the parties wish to submit to the FCC for its consideration in its proceedings to craft unbundling rules that comply with *USTA II*. The NCUC instructed the parties to file their comments in accordance with the FCC's instructions and to avoid unnecessary duplicative filings. Further, the NCUC informed the parties that it would file this brief procedural summary of its *TRO* proceedings.

As a final note, the NCUC initiated a study on local telecommunications competition in the State in April 2004. The NCUC contracted with RTI International, Inc.

(RTI) to conduct the study. The NCUC anticipates that RTI will provide its final report to the NCUC by October 15, 2004.

The NCUC appreciates the opportunity to file these comments.

Respectfully submitted,
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APPENDIX A

EXECUTIVE SUMMARIES OF TESTIMONY

APPENDIX A
(Of NCUC's Comments)

APPENDIX A PROVIDES THE DIRECT, REBUTTAL, AND SURREBUTTAL MATRICES OF ISSUES AND EXECUTIVE SUMMARIES FOR THE WITNESSES WHO MADE SUCH FILINGS WITH THE COMMISSION IN ITS TRO PROCEEDINGS IN:

(1) DOCKET NO. P-100, SUB 133q: TRO → UNE-P, and

(2) DOCKET NO. P-100, SUB 133s: TRO → HIGH CAPACITY LOOP AND TRANSPORT.

AT&T COMMUNICATIONS OF THE SOUTHERN STATES, LLC

(Docket No. P-100, Sub 133q: TRO → UNE-P)

The NCUC is Providing the Direct, Rebuttal, and Surrebuttal Matrices of Issues and Executive Summaries for the Following AT&T Witnesses:

Mark E. Argenbright – Rebuttal (2/16/04)
Jay M. Bradbury – Direct (1/9/04), Rebuttal (2/16/04), Surrebuttal (3/1/04)
Cheryl Bursch - Rebuttal (2/16/04), Surrebuttal (3/1/04)
John C. Klick - Rebuttal (2/24/04)
Steven E. Turner - Direct (1/9/04)
Mark Van de Water – Direct (1/9/04), Rebuttal (2/16/04), Surrebuttal (3/1/04)
Don J. Wood - Direct (1/9/04), Rebuttal (2/16/04), Surrebuttal (3/1/04)

AT&T COMMUNICATIONS OF THE SOUTHERN STATES LLC'S
MATRIX SUMMARY
DOCKET NO. P-100, SUB 133q

WITNESS	SUBJECT MATTER OF TESTIMONY	TRO DECISIONAL CRITERIA
Jay M. Bradbury	Local Circuit Switching	47 C.F. R. §51.319(d)(2)(iii)(A)
Steven E. Turner	Economic Barriers to CLEC Entry	47 C.F. R. §51.319(d)(2)(iii)(B)
Mark Van de Water	Hot Cut Processes	47 C.F. R. §51.319(d)(2)(ii)
Don J. Wood	Economic Barriers to CLEC Entry	47 C.F. R. §51.319(d)(2)(iii)(B)

EXECUTIVE SUMMARY OF THE DIRECT TESTIMONY OF JAY M. BRADBURY

The differences in the way end users' loops are connected to carriers' switches are among the most important factors that cause CLPs to face substantial operational and economic entry barriers when they seek to offer Plain Old Telephone Service ("POTS") to mass-market (residential and small business) customers using their own switches and ILEC-provided loops (i.e., *via* unbundled network element-loop or "UNE-L" facilities-based entry). Until these barriers are removed, the FCC's finding of impairment cannot be overturned.

The description of the differences between the incumbent local exchange company ("ILEC") legacy network architecture and emerging competitive local exchange carrier ("CLEC"), referred to as Competitive Local Providers ("CLP") in North Carolina, network architecture contained in my testimony provides a perspective and context from which all the issues to be considered in this docket may be viewed objectively. Accordingly my testimony:

- Compares the significantly different network architectures available to an ILEC and a CLP when each wishes to use an ILEC-owned analog voice-grade loop, also referred to as a DSO loop, to connect a mass market customer with its respective switch in order to provide POTS; and

- Provides an overview of the network architecturally-based operational and economic entry barriers to successful UNE-L facilities-based entry and identifies CLP witnesses who will provide more detailed testimony on the impact of those barriers and the fact that until the underlying local network architecture that has created these barriers is changed, CLPs will continue to face significant practical and economic impairments.

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The FCC has found on a national basis that CLECs are impaired in serving the mass market in the absense of ILEC switching (TRO 422, 429) and explains its finding by noting that:

> Competitive LECs can use their own switches to provide services only by gaining access to customers' loop facilities, which predominately, if not exclusively, are provided by the incumbent LEC. Although the record indicates that competitors can deploy duplicate switches capable of serving all customer classes, without the ability to combine those switches with customers' loops <u>in an economic manner</u>, competitors remain impaired in their ability to provide service. Accordingly, it is critical to consider competing carriers' ability to have customers' loops connected to their switches <u>in a reasonable and timely manner</u>. (TRO 429. Emphasis added.)

There are four key structural components that create this impairment. **First**, a CLP must incur the time and cost to install and maintain a significant "backhaul" network infrastructure to connect its switch to the ILEC loops that terminate in the ILEC's wire center, which may also be referred to as a central office ("CO") or local serving office ("LSO"), while the ILEC has no such need for backhaul facilities. As the FCC explained in the TRO, "The need to backhaul the circuit derives from the use of a switch located in a location relatively far from the end user's premises, which effectively requires competitors to deploy much longer loops than the incumbent". (TRO 480) These CLP backhaul costs include the non-recurring costs necessary to establish a collocation arrangement in every ILEC wire center in which the CLP wishes to offer mass market services, the recurring costs paid to the ILEC for maintaining these collocation arrangements as well as the transport equipment and facilities necessary to extend the ILEC's loops to the remotely located CLP switch.

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Second, a UNE-L CLP must aggregate traffic from many locations in order to achieve the same switch economies of scale realized by an ILEC at a single location. This forces the CLP to incur its backhaul cost disadvantage in many wire centers in order to achieve the type of switch scale economies that the ILEC achieves at a single wire center.

Third, the CLP must pay exorbitant charges to the ILEC for transferring loops from the ILEC switch to a CLP collocation facility, or from one CLP to another. This transfer process also forces the CLP's customers to suffer an inferior experience in converting to the CLP's service compared with the treatment they can receive using UNE-P, or that interexchange carriers -- including the ILECs -- can offer customers using the Primary Interexchange Carrier ("PIC") change process for allowing customers to change their long distance service provider.

Finally, the CLP is precluded from serving an entire segment of retail customers, those whose loops are currently served by integrated digital loop carrier (IDLC) systems, unless the ILEC has the spare non-IDLC loop plant in place to replace these customer's lines so that they are eligible for a UNE-L migration to a CLP.

Incumbent LEC networks were designed in a manner that enables them -- and no one else -- to maximize the efficiencies of both their loop and switching assets. This design provides them with substantially higher quality and lower costs compared to their potential competitors. Specifically, ILECs can connect their analog voice grade loops to their switches by using a simple jumper wire pair across the MDF in the customer's local serving office.

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ILECs were able to construct this type of network architecture because, as the historic monopolists, they supplied local telecommunications to all customers in their serving areas.

CLPs cannot maximize the combined efficiencies of both the ILEC loop plant and their own network infrastructure. Rather, in order to compete, they must take the ILEC loop plant as it exists and extend all of their customers' loops to their own switches, which are typically located a significant distance from the customer's serving office, a network architecture that is expensive and necessary. Accordingly, before a CLP can provide POTS service using its own switch and ILEC analog voice grade loops, it must:

> (1) engineer, establish and maintain a collocation, including the associated HVAC and power;
> (2) install and maintain digitization, concentration, and multiplexing equipment at its collocations, as well as related monitoring/testing and power distribution equipment; and
> (3) arrange for and provide transport between its collocation and its switch.

Each of these activities imposes additional costs and operational barriers on CLPs, costs that ILECs do not incur to offer the same service. The additional cost per line in North Carolina that such activities impose on CLPs represents significant, real costs not faced by incumbents that effectively foreclose CLPs from serving mass-market customers through the use of their own switches.

UNE-P has emerged as the entry method capable of and actually bringing competition to the mass market. UNE-P is an electronic service provisioning system that extends to the CLPs many of the same efficiencies and economies available in the ILEC network. UNE-L is not and cannot be made so through the implementation of "batch" hot cut processes and a

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pairing with "rolling access" neither of which, individually or collectively, eliminates any of the fundamental characteristics of the existing single user ILEC network. UNE-P works, and furthermore, benefits not only CLPs, but also the ILECs, and most importantly, the consumer, when compared to forced use of UNE-L.

Until the underlying local network architecture that has created these impairments is changed, CLPs will continue to face significant practical and economic impairments in serving mass market end-users on ILEC loops *via* their own switches—impairments that make UNE-P the only viable entry method for serving the mass market.

The critical issue of this proceeding is not whether CLPs can "deploy" their own switches. Instead, the critical issue upon which this Commission should focus is whether a CLP can "efficiently use" its own switch to connect to the local loops of end users. The differences in the way end users' loops are connected to carriers' switches are among the most important factors that cause CLPs to face substantial operational and economic entry barrier when they seek to offer POTS to mass-market (residential and small business) customers using their own switches and ILEC-provided loops (i.e., UNE-L facilities-based entry). Without fundamental changes to the way in which the ILECs permit CLPs to gain access to the consumers' loops, the impairment found by the FCC will continue and access to UNE-P must be preserved.

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N.C. Utilities Commission

Executive Summary

Direct Testimony of Steven E. Turner on behalf of AT&T

In the first two sections of the testimony, I provide my background and the purpose of the testimony. My testimony describes and quantifies the significant cost disadvantages that an efficient competitive local exchange carrier ("CLP") would confront in attempting to serve mass market customers if continued access to unbundled local switching and the unbundled network element platform ("UNE-P") were denied. My testimony demonstrates that in the absence of unbundled local switching, CLPs face practically insurmountable cost disadvantages relative to the Incumbent Local Exchange Carriers ("ILECs") if unbundled network element loops ("UNE-L") used in conjunction with their own (or a third party provider's) switching is the sole option for providing local services to mass market customers.

My testimony discusses the costs a CLP seeking to serve mass market customers using its own switches would incur for backhauling a customer loop from the ILEC central office to the CLP's switch (i.e., "backhaul costs") as well as attendant costs for transitioning the customer's service from the ILEC to the CLP (i.e., hot cut costs, number portability). The backhaul costs consists of (1) the cost of preparing the loop for transport out of the ILEC's central offices, and (2) the cost of transporting the traffic back to the CLP's switch location. In addition once this expensive backhaul infrastructure is deployed, the CLP must arrange for, and pay ILEC charges for a hot cut. My testimony focuses upon these components of the absolute cost disadvantages associated with this CLP "backhaul," and hot cut costs associated with connecting a customer's

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loop with the CLP switch which are highly significant and contribute to the impairment a CLP faces in using self-provided switches to serve mass-market customers.

The "impairment analysis tools" that underlie my testimony quantify these additional costs of loop connectivity incurred by CLPs, but not by the ILEC, if CLPs are required to provide facilities-based mass-market local services based upon a voice grade UNE-L architecture. The tools I use calculate the minimum level of cost disadvantage an efficient CLP would face. In order to provide the degree of "granularity" required by the FCC's order, the tools utilize data that is specific to BellSouth's operations in North Carolina.

Section III provides the background to my analysis and summarizes the results. Competitors will be impaired if, in the absence of unbundling, an efficient CLP would incur substantially higher costs than do the ILECs in order to self deploy the network facility in question. The substantially higher costs, which equate to an absolute cost disadvantage, analyzed in my testimony are created by differences in the basic characteristics of the network architectures employed by ILECs, on the one hand, and CLPs on the other. These differences in network designs result in difference costs to provide service to mass market customers for CLPs using UNE-L and ILECs. Costs to backhaul customer lines to the CLP switch, hot cuts to provision the migration of service to the CLP switch with limited service interruption, and number portability to maintain the customer's same telephone number are not faced by the ILEC.

Section IV of my testimony describes, in general terms, the tools that I relied upon to measure the CLPs' cost disadvantage and the analysis that has been undertaken for BellSouth-North Carolina LATAs using those tools. Because UNE-L entry requires CLPs to connect ILEC loops to their own switches, the forward-looking cost of such connections is central to any

analysis of the economic viability of UNE-L as an entry strategy to serve mass-market customers. The DS0 Impairment Analysis Tools described in this section of my testimony compute the loop-related impairment costs of providing service that would be incurred by an efficient CLP using UNE-L that are *not* incurred by incumbents.

The DS0 Impairment Tools are a collection of spreadsheet models that calculate the cost associated with connecting a customer's loop that terminates in an incumbent's central office to a CLP's switch, and the associated customer acquisition costs. DS0 Impairment Tools calculate the costs that CLPs face in three broad categories: (1) preparation of the loop for transport from ILEC central offices (including DS0 equipment infrastructure and collocation); (2) backhaul transport between the ILEC's central offices and the CLP's switch; and (3) customer transfer costs for hot cuts and number portability.

The two major components of the costs of preparing loops for transport out of the ILEC's central offices are: (1) the cost of DLC and related equipment housed within the ILEC's central office (together with associated equipment at the CLP's central office) used to digitize, concentrate and multiplex the signals on the CLP's customers' loops, and (2) the CLP's cost to obtain collocation space in the ILEC's central office in which to place the DLC and related equipment.

The costs of connecting to the CLP's switch (backhaul infrastructure) are calculated by two of the spreadsheet models: (1) the Facility Ring Processor Tool, and (2) the Transport Cost Analysis Tool. The Facility Ring Processor Tool builds the transport ring and develops the distances between on-net locations and from satellite offices to on-net locations. The Transport Cost Analysis Tool determines the transport equipment and facilities that are required to

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efficiently connect collocation arrangements where unbundled loops are collected back to the CLP switch. This tool essentially identifies the "backhaul" transport architecture that is needed to establish connectivity between a customer's loop that terminates in the ILEC's central office and a CLP switch.

The third major component of the CLP's economic impairment is the costs associated with transitioning customer loops from the ILEC to a CLP using UNE-L. This customer transfer is referred to in the industry as a "hot cut." In addition to the cost of hot cuts, the DS0 Impairment Analysis Tool calculates costs associated with (1) digital loop carrier equipment, (2) collocation, including space and power, (3) interconnection arrangements at the collocation and the CLP switching office, and (4) transport costs.

Finally, in Section V, I present the results for BellSouth in each LATA in North Carolina. The results demonstrate that CLPs cannot practically overcome the significant cost disadvantages identified in this study. Thus, the modeling results for the "hypothetical CLP" and actual market experience are entirely consistent: there currently is a notable absence of actual, broad based facility-based competition for mass market customers using voice grade UNE-L which corroborates the FCC's national finding of impairment for switching to serve mass market customers.

Executive Summary

Direct Testimony of Mark Van de Water

The purpose of my testimony is to address the operational constraints associated with the hot cut process, to describe issues this Commission should consider in developing any bulk migration process for unbundled loops, and to recommend the parameters that should be included in any bulk migration process. My testimony covers four key areas in this proceeding.

First, I address the operational and economic barriers presented by the hot cut process, by which customers are migrated to a CLP-owned switch using an Incumbent Local Exchange Carrier ("ILEC") loop (also referred to as an Unbundled Network Element-Loop or "UNE-L" hot cut). This section of my testimony explains the findings of the Federal Communications Commission ("FCC") in the Triennial Review Order ("TRO").[1] It summarizes the FCC's conclusions that competitive carriers are impaired without access to unbundled local switching as a result of economic and operational impairment due to the hot cut process and describes the FCC's directions to state commissions to approve and implement a batch loop migration process.

Second, I describe the specifics of the current hot cut process and AT&T's unsatisfactory experience with hot cuts in the BellSouth region. My testimony summarizes why AT&T's experience led it to choose the Unbundled Network Element-

[1] *Report and Order and Order on Remand and Further Notice of Proposed Rulemaking*, In the matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, Federal Communications Commission, CC Docket No. 01-338, Released August 21, 2003 (hereafter referred to as the "Triennial Review Order" or "TRO")

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