both the consumer and small and medium business segments. This will become even more prevalent over the forecast period."[85] The Yankee Group estimated that cable providers sold $1.2 billion dollars in phone, data and video services to companies in 2004, and expected revenues for such services to reach $2 billion dollars in 2005.[86] Notably, a very recent report states that "[c]able executives see explosive growth in sales to businesses."[87] According to these providers, for example, "[b]usiness service is the next big thing" for cable, and cable has a "tremendous advantage" over telephone providers because of the dominant carrier and other regulations that are the subject of AT&T's Petition: "The cable industry can [offer service] without regulatory approval or tariffs" and have an "upper hand since they face less regulation than telcos."[88]

* * * * *

In short, neither the BOCs nor any other interstate interexchange carrier has market power in any long distance market.[89]

Optical Ethernet and Storage Services Using Nortel Solutions (Feb. 7, 2005) (noting Time Warner rollout of new Ethernet-based business services in New York City); Multichannel News, *Business: Cable's 'Sweet Spot'* (May 9, 2005) (noting cable companies' drive to market to large business, including investment of $95 billion for advanced hybrid fiber infrastructure capable of delivering advanced voice, data, and video to business).

[85] IDC, U.S. Landline 2005-2009 Forecast and Analysis, December 2005 at 13.

[86] Ken Belson, *Not Just TV: Cable Competes for the Office Domain*, N.Y. Times, Aug. 3, 2005, at C1, available at 2005 WLNR 12179832 (citing Yankee Group Report).

[87] "New Cable Initiatives Target Enterprise Market," Comm. Daily, at 7 (Apr. 13, 2006).

[88] *Id.*; *see also* "Cable Wants Your Office, Comcast, Others Seek To Lure Business Customers," Rocky Mountain News (Apr. 12, 2006) (quoting Cablevision executive as saying "We have the opportunity to sell to the whole business marketplace").

[89] The Commission already has concluded that the new, post-merger AT&T would have no ability to "raise and maintain prices above competitive levels." *SBC-AT&T Merger Order* ¶ 75 (enterprise customers); *see id.* ¶ 101 (mass market).

B. Elimination Of BOC Structural Separation Could Not Change These Competitive Realities.

Given these competitive realities, the elimination of AT&T's separate affiliate structure would not result in any material marketplace changes that could justify the imposition of dominant carrier regulations. Structural separation was imposed on BOCs to address two very specific concerns – the possibility of either cross-subsidization or discrimination. Given the enormous regulatory, competitive, and technological changes over the last two decades, neither of those concerns has any continuing validity. Indeed, the advent of intermodal competition in itself precludes any possibility that an integrated AT&T could engage in either cross-subsidization or discrimination to gain market power in today's long distance market.

In all events, there would be no reason to apply dominant carrier regulation to AT&T's *retail* long distance services even if there were any lingering (if misguided) concerns that AT&T might have market power in the provision of in-region *wholesale* local access services. AT&T could not possibly have any ability to leverage its last-mile facilities to impede interexchange competition because it faces substantial facilities-based competition for both mass market and enterprise local services.[90] Equally important, the Commission has explained that "[d]ominant carrier regulation" is *not* intended "to prevent other harmful types of anti-competitive activity, such as cost misallocation, access discrimination, and attempts to engage in a price squeeze," that a BOC could potentially engage in if it controlled bottleneck facilities.[91] If any legitimate last mile market power concerns existed – and in today's robustly competitive environment, none do – those concerns are appropriately addressed directly in the Commission's ongoing special access and intercarrier compensation proceedings. In contrast, dominant carrier regulations are

---

[90] *See, e.g., SBC-AT&T Merger Order* ¶¶ 44-45.

[91] *LEC Classification Order* ¶ 8.

"at best a clumsy tool" to address such concerns and are instead designed to address the relationship between a provider and its *retail* customers.[92]

Cross-Subsidization. Competition, together with the establishment of pure price cap regulation in all of AT&T's in-region states, have eliminated any incentive or ability AT&T may once have had to cross-subsidize. As explained above, AT&T faces effective competition for both its "local" and "long distance" services. Thus, even if AT&T had the ability to shift costs from its interstate interLATA services to local services, competition would prevent AT&T from raising local service prices. Any attempt to raise local rates to cross-subsidize long distance would be self-defeating, because it would serve only to drive customers to AT&T's many local competitors.

Competition aside, the advent of pure price cap regulation has completely eliminated any incentive or ability on the part of AT&T to acquire market power in interstate, interLATA services through cross-subsidization. Indeed, as the Commission has repeatedly recognized, pure price cap regulation severs the link between costs and regulated rates and thus largely eliminates *any* risk of cross-subsidization.[93] Thus any suggestion that the elimination of structural separation requirements would enable AT&T to cross-subsidize so blatantly as to quickly acquire market power in what has been for more than fifteen years a hyper-competitive marketplace is patently absurd.

---

[92] *Id.* ¶ 91.

[93] *Wireline Broadband Order* ¶ 83 & n.250; *see also California* v. *FCC*, 39 F.3d 919, 926 (9th Cir. 1994) (price cap regulation had left the BOCs "with little incentive to shift costs" because they are not "able to increase regulated rates to recapture those costs"); *United States* v. *Western Elec. Co.*, 993 F.2d 1572, 1580 (D.C. Cir. 1993) (finding price cap regulation "reduces any BOC's ability to shift costs from unregulated to regulated activities, because the increase in costs for the regulated activity does not automatically cause an increase in the legal rate ceiling"); *LEC Classification Order* ¶ 106 ("price cap regulation severs the direct link between regulated costs and prices . . . thus reducing the incentive for the BOCs to shift nonregulated costs to regulated services"); *OI&M Order* ¶ 22.

Discrimination. An integrated AT&T also could not gain market power through the use of discrimination. The underlying premise of the discrimination theories advanced by proponents of dominant carrier regulation is that the BOCs control a "bottleneck" access facility that others need to provide finished retail long distance services to mass market customers.[94] According to this notion, a BOC could degrade the quality of the access it provides to rivals and thereby win away rivals' customers with its "superior" service. But in light of wireless, cable, and VoIP competition, the BOCs do not control bottleneck access facilities. Thus, discrimination would only *reduce* profits. That is because providing a wholesale access customer with poor quality service is only likely to drive that access customer's retail customer to "cut the cord" entirely and move to an intermodal provider. In that situation, the BOC would lose not only the access charges it previously collected, but likely the local services that it provided the retail customer as well.

In addition, there are numerous regulations and practical considerations that also protect consumers from any attempts at discrimination. Most fundamentally, it is inconceivable that a BOC could discriminate so blatantly as to acquire market power in interexchange services while avoiding detection and punishment. As the Justice Department has noted, "discrimination is unlikely to be effective unless it is apparent to customers. But, if it is apparent to customers, it is likely also to be apparent to regulators or to competitors that could bring it to the attention of regulators."[95] And irrespective of the BOCs' nondominant status, the Commission will have ready means at its disposal to address any discrimination or other anticompetitive conduct in the

---

[94] *See, e.g.*, *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market*, Report and Order and Order on Reconsideration, 12 FCC Rcd. 23891, ¶¶ 144-45 (1997); *BT-MCI Merger Order*, 12 FCC Rcd. 15351, ¶¶ 156-60 (1997).

[95] *Arkansas/Missouri 271 Order*, 16 FCC Rcd. 20719, Appendices B and C, ¶¶ 129-34 (2001) (quoting from Department of Justice submission).

unlikely event it occurs. For example, § 272(e), which is not subject to the § 272 sunset provision, establishes nondiscrimination requirements with respect to the provision of exchange access to non-affiliated entities. In addition, section 202, which applies to all common carriers, prohibits unjust and unreasonable discrimination, while section 201(b) prohibits unjust or unreasonable charges, practices, rates, and classifications. In addition, as the Commission has recognized, anticompetitive behavior may be cognizable under the antitrust laws.[96] Thus ample safeguards will remain in place to ensure that BOCs will not be able to quickly acquire market power through discrimination.

Nor could AT&T, as a practical matter, discriminate with respect to switched services used to access mass market customers. Switched access is a basic service that is almost always provided through the use of automated processes. For a BOC to engage in discrimination it would need to radically alter the way it currently provides switched access so that it could first identify switched access services provided by rivals and then undermine the existing automated mechanisms that would otherwise provision access seamlessly to all access users. Further, to have any impact, the BOC would need to make sure that such discrimination clearly affected retail customers' service quality, but again, discrimination that obvious and persistent could not possibly escape detection. Existing conduct regulation is more than adequate to deal with such hypothetical concerns.[97]

Finally, even if AT&T did have the ability to discriminate in providing wholesale inputs to its own retail interexchange operations – which it assuredly does not – the answer to any such concern is *not* to impose outdated and burdensome dominant carrier regulations on AT&T's *retail* interexchange services. The Commission itself has expressly recognized that "dominant

[96] *LEC Classification Order* ¶ 128.

[97] *LEC Classification Order* ¶ 118; *OI&M Order* ¶ 24.

carrier regulation . . . would not significantly aid in the prevention of most types of discrimination."[98]

In short, allowing AT&T to continue to operate as a nondominant long distance provider following integration of its local and long distance affiliates could only benefit consumers and competition, by removing unnecessary costs and inefficiencies that today apply to only one narrow subset of competitors. The Commission has repeatedly recognized that structural separation requirements impose substantial costs resulting *inter alia* from the duplication of facilities and personnel, deprivation of economies of scope, and increased transaction and production costs.[99] And of course, Congress itself believed that separate affiliates would be unnecessary for the BOCs after the first three years of interLATA authority and that customers would benefit from the efficiencies that arise from vertical integration,[100] a position that the Commission has repeatedly echoed.[101]

---

[98] *LEC Classification Order* ¶ 119.

[99] *Computer III FNPRM*, 13 FCC Rcd. 6040, ¶¶ 47, 56 (1998); *Computer III Further Remand Proceedings*, Report and Order, 14 FCC Rcd. 4289, ¶ 7 (1999). These findings have been upheld by the courts. *California* v. *FCC*, 4 F.3d 1505 (9th Cir. 1993) (*California II*); *California* v. *FCC*, 39 F.3d 919 (9th Cir. 1994) (*California III*), cert. denied, 115 S. Ct. 1427 (1995). *See also COMSAT Corporation Petition Pursuant to § 10(c) of the Communications Act of 1934, as amended, for Forbearance from Dominant Carrier Regulation and for Reclassification as a Non-Dominant Carrier*, 13 FCC Rcd. 14083, ¶ 166 (1998).

[100] 47 U.S.C. § 272(f)(1).

[101] *Request for Extension of Sunset Date of the Structural, Nondiscrimination and Other Behavioral Safeguards Governing Bell Operating Company Provision of In-Region, InterLATA Information Services*, 15 FCC Rcd. 3267, ¶¶ 3-4 (2000) ("Based on the record before us, we find that there are several safeguards that will limit adequately BOCs ability to discriminate against non-affiliated information services providers even after Section 272(f)(2) takes effect. For example, there are non-structural safeguards that will limit the BOCs ability to discriminate against non-affiliated information service providers"); *OI&M Order* ¶ 27 (separate affiliate requirements forces AT&T and other BOCs to "sacrifice economies of scale and scope"); *see also id.* ¶ 18 (structural safeguards are "costly and burdensome"); *cf. Implementation of the Non-Accounting Safeguards of Sections 271 and 272*, 11 FCC Rcd. 21905, ¶¶ 7, 13 & n.18 (1996)

II. THE EXTENSIVE COMPETITION FOR ALL LONG DISTANCE SERVICES REQUIRES THE COMMISSION TO GRANT FORBEARANCE FROM DOMINANT CARRIER REGULATION OF AT&T'S LONG DISTANCE SERVICES.

In today's robustly competitive environment, there is no reason to apply any aspect of dominant carrier regulation to AT&T's long distance services, regardless of which AT&T affiliate provides those services. These burdensome requirements – including tariffing requirements, price caps, and entry and exit requirements – increase costs and reduce efficiency and flexibility. Just as important, in markets as competitive as today's long distance markets, they produce no countervailing public interest benefits. To the contrary, retention of these requirements would effectively force AT&T to continue providing its long distance services inefficiently through a full-blown Section 272 affiliate. As explained above, such an outcome would be flatly contrary to the public interest (and Congressional intent), because it would impose entirely unnecessary costs and constraints on AT&T's ability to offer competitive services to meet customers' needs. For many of the same reasons, the Commission should also forbear from applying certain other unnecessary and costly regulatory requirements, including structural separation requirements for non-BOC ILECs and the cumbersome MFJ-era scripting requirements pursuant to which AT&T must inform customers of their choices for long distance service.

Section 10 *requires* the Commission to forbear from enforcing any statutory provision or regulation if it determines that (1) enforcement "is not necessary to ensure that the charges . . . are just and reasonable and not unjustly or unreasonably discriminatory," 47 U.S.C. § 160(a)(1); (2) enforcement "is not necessary for the protection of consumers," *id.* § 160(a)(2); and (3)

(removal of structural safeguards allows BOCs to "offer consumers . . . [bundles of services] and other advantages of vertical integration").

forbearance "is consistent with the public interest," *id.* § 160(a)(3), and, in particular, that forbearance will "promote competitive market conditions" and "enhance competition among providers of telecommunications services." *Id.* § 160(b). AT&T's Petition undeniably satisfies each of these statutory prerequisites as to each regulation at issue.

Tariffing Requirements. Tariffing requirements are clearly unnecessary in today's highly competitive long distance (and all-distance) markets. Thus, the Commission must forbear from requiring AT&T's BOC affiliates to file tariffs for their interstate interexchange services.[102] The Commission used its forbearance authority long ago to relieve all nondominant carriers, including BOC long distance affiliates, from tariffing requirements, and no long distance carrier has filed tariffs for such services for many years.[103] Forbearance here is fully consistent with these Commission precedents.

In its *IXC Detariffing Order*, the Commission found that tariffing requirements are affirmatively harmful because they "(1) remov[e] incentives for competitive price discounting; (2) reduc[e] or tak[e] away carriers' ability to make rapid, efficient responses to changes in demand and cost; (3) impos[e] costs on carriers that attempt to make new offerings; and (4) prevent[] customers from seeking out or obtaining service arrangements specifically tailored to their needs."[104] Moreover, the Commission found, tariffing was not necessary to ensure just and

---

[102] This request encompasses Rules 61.28, 61.32, 61.33, 61.38, 61.58, 61.59 and 63.21(c) as well as any ancillary Commission rules to the extent they could be read to impose a tariff filing obligation. *See, e.g.*, 47 C.F.R. §§ 61.13-61.17. AT&T requests relief only with respect to long distance services, and not with respect to interstate access services.

[103] *IXC Detariffing Order*, 11 FCC Rcd. 20730, ¶ 53 (1996), *aff'd*, *MCI WorldCom* v. *FCC*, 209 F.3d 760 (D.C. Cir. 2000); *see also, e.g., 2000 Biennial Regulatory Review: Policy and Rules Concerning the International, Interexchange Marketplace,* 15 FCC Rcd. 20008 ¶ 118 (2000); *Wireline Broadband Order* ¶¶ 90-91; *MCI Telecomms. Corp.* v. *AT&T,* 512 U.S. 218, 233 (1994).

[104] *IXC Detariffing Order* ¶ 53.

reasonable rates for interexchange services because of high supply and demand elasticities,[105] and carriers' resulting inability to profitably raise prices. It also found that "market forces, our administration of the Section 208 complaint process, and our ability to reimpose tariff requirements, if necessary, are sufficient to protect consumers,"[106] and indeed, that the imposition of tariffing requirements in competitive markets *harms* consumers.[107] And it concluded that the elimination of tariffing requirements was in the public interest, because it "was the most pro-competitive, deregulatory system."[108] As demonstrated above, these findings are equally, if not more, valid today. Accordingly, there is ample basis and precedent to support forbearance from tariffing requirements for BOC long-distance operations.

Price Caps. AT&T also seeks forbearance from price cap requirements that apply to interexchange offerings of dominant carriers under the Commission's rules. 47 C.F.R. § 61.42(d)(4). Prior to the 1996 Act, Bell Atlantic and NYNEX were permitted to provide certain interstate, interLATA "corridor" services between New York and New Jersey and New Jersey

---

[105] *Id.* ¶ 21 ("we believe that market forces will generally ensure that the rates, practices, and classifications of nondominant interexchange carriers for interstate, domestic, interexchange services are just and reasonable and not unjustly or unreasonably discriminatory"). The Commission has long held that "competition is the most effective means of ensuring that . . . charges, practices, classifications, and regulations . . . are just and reasonable." *Petition of U S WEST Communications, Inc. for a Declaratory Ruling Regarding the Provision of National Directory Assistance*, 14 FCC Rcd. 16252, ¶ 31 (1999); *see also Petition of U S West Communications, Inc. for Forbearance from Regulation as a Dominant Carrier, et al.*, 14 FCC Rcd. 19947, ¶ 33 (1999); *Petition of Bell Atlantic for Forbearance from Section 272 Requirements in Connection with National Directory Assistance Services*, 14 FCC Rcd. 21484, ¶ 14 (1999).

[106] *IXC Detariffing Order* ¶ 36.

[107] *Id.* ¶ 37.

[108] *Id.* ¶ 52. Indeed, AT&T's cable competitors boast that they have a "tremendous advantage" today because "the cable industry can [offer service] without regulatory approval or tariffs," while AT&T and other BOCs must maintain separation or abide by dominant carrier regulation. "New Cable Initiatives Target Enterprise Market," Communications Daily, at 7 (Apr. 13, 2006). As a recent report summarized, these cable executives concede that "[c]able operators have an upper hand since they face less regulation than telcos to work with peers." *Id.*

and Philadelphia, and most BOCs provided interstate intraLATA services in some instances. The Commission's price cap rules required these services to be subject to price caps by establishing a separate "interexchange basket" that was required to include any "interstate interexchange services that are not classified as access services for the purpose of part 69" of the Commission's Rules. 47 C.F.R. § 61.42(d)(4). In the *Pricing Flexibility Order*, the Commission recognized that these regulations were obsolete, and promulgated new Rule 61.42(d)(4)(ii), which permitted a BOC to remove "corridor and interstate intraLATA toll services" from the interexchange basket once it had implemented dialing parity in all of its local exchange areas.[109] But while corridor and interstate intraLATA services are now specifically removed from the interexchange basket under Rule 61.42(d)(4)(ii), the broad requirement in Rule 61.42(d)(4)(i) that all other "interstate interexchange services" must be included in price caps remains. Therefore, if read literally, the rule would subject AT&T's long distance services to price caps if it chose to offer those services through its BOC affiliates.

Forbearance from these rules is necessary because forcing AT&T to put all of its long distance services *back* under price caps after all these years would yield an absurd result. Indeed, from an administrative standpoint alone, such a result would be untenable. Among other things, the Commission would have to conduct what would undoubtedly be a lengthy and complex proceeding to determine initial price cap indices and service categories. In addition, the Commission would have to determine how price caps would operate – for example, whether there would be productivity offsets and, if so, how they would be calculated. And the Commission would have to determine how all of this would apply in an intensely competitive industry where carriers routinely and increasingly provide an ever-expanding array of bundled

[109] *Pricing Flexibility Order*, 14 FCC Rcd. 14221, ¶¶ 53-55 (1999).

and highly customized service offerings to their customers. In short, there is no practical way to "put the genie back in the bottle," even if that were desirable, which it is not.

There is ample precedent for the Commission to remove competitively provided services from price cap regulation. The Commission has done so in several forbearance orders, including the *Qwest Omaha Forbearance Order*, where the Commission granted forbearance from price caps for Qwest's switched exchange access services.[110] With respect to those Qwest exchange access services, the Commission found that, because of intermodal competition and Qwest's "loss of residential access lines," price caps were not necessary to ensure just and reasonable rates and practices.[111] The Commission also found that "for many of the same reasons" price caps were not necessary to protect consumers.[112] And the Commission also found that forbearing from price caps was in the public interest, because asymmetric regulation is costly and distorts the market, and because "market pressures created by [intermodal providers] and others will force Qwest to price" its services competitively.[113] Those conclusions likewise apply here because, as shown above, the Commission has consistently held that long distance services are structurally competitive, and neither legacy SBC nor any other provider has been subject to price caps for such services for over a decade. Indeed, forbearance is even more strongly in the public interest here, because the long distance market is so intensely competitive, and implementing price cap regulation for all of AT&T's long distances services at this late date – in an environment in which all long distances services are robustly competitive – would require

---

[110] *Petition of Qwest Corporation for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Omaha Metropolitan Statistical Area*, Memorandum Opinion and Order, FCC 05-170 (released Dec. 2, 2005) ("*Qwest Omaha Forbearance Order*").

[111] *Qwest Omaha Forbearance Order* ¶ 39; *see also id.* ¶¶ 28-38.

[112] *Id.* ¶ 45.

[113] *Id.* ¶¶ 46-48.

extensive, burdensome and expensive changes to AT&T's systems and processes, all for no public benefit.

Section 214 Applications and Discontinuances. AT&T also seeks forbearance from various rules governing the processes for section 214 applications for international and domestic services filed by dominant carriers. 47 C.F.R. §§ 63.12(c)(2), 63.19(b), 63.21(c), and 63.71(c) (second half of the subsection). These rules (1) provide a streamlined process for automatically granting Section 214 authorizations for international services after 14 days, except where the applicant is affiliated with a dominant U.S. carrier (47 C.F.R. § 63.12(c)(2)); (2) provide a streamlined process for discontinuing international services upon 60 days notice, unless the discontinued services have been classified as dominant (47 C.F.R. § 63.19(b)); (3) provide for detariffing of international services, unless the carrier is dominant (47 C.F.R. § 63.21(c)); and (4) provide for a streamlined process for automatically granting applications to discontinue domestic services upon 30 days notice, unless the carrier is dominant, in which case there must be 60 days notice (47 C.F.R. § 63.71(c)).

In light of the robust competition that exists in all long distance markets, there is no longer any need to subject AT&T to these outmoded, non-streamlined procedures.[114] Again, in the *Qwest Omaha Forbearance Order*, the Commission reached a similar conclusion for Qwest's mass market switched access services and broadband Internet access services. In that order, the Commission specifically held that non-streamlined procedures were not necessary to ensure just

[114] *Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor*, 85 F.C.C.2d 1, ¶ 85 (1980) (competitive long distance carriers should be able to "enter new markets quickly where they perceive competitive opportunities exist, or leave others on relatively short notice if their projections are not realized"); *see also Regulation of International Common Carrier Services*, Report and Order, 7 FCC Rcd. 7331 (1992) (adopting streamlined procedures for international services).

and reasonable rates, to protect consumers, or to further the public interest.[115] As with price caps, those conclusions apply with even greater force here, because the Commission has repeatedly found that the national market for interexchange services is robustly competitive, and these more burdensome non-streamlined requirements have not applied to any interexchange carrier for more than a decade. Thus, as in the *Qwest Omaha Forbearance Order*, the Commission should forbear from these requirements, conditioned on AT&T's compliance with the streamlined procedures that apply to nondominant carriers.[116]

Independent LEC Structural Separation. AT&T also seeks relief from regulations that require non-BOC incumbent LECs that offer in-region, interstate, interexchange or international services to provide such services through a separate affiliate that must maintain separate books of account and may not jointly own transmission or switching facilities with the local exchange company (47 C.F.R. §§ 64.1901-1903). Absent forbearance, these separation requirements would continue in effect because they were imposed by the Commission, not Congress, and thus do not sunset by operation of law. Yet continued application of these requirements to independent LECs, including AT&T affiliates SNET and the Woodbury Telephone Company, is both unnecessary and anomalous, particularly in light of the fact that section 272 will soon sunset in all states. To rectify this anomaly, and for all of the same reasons discussed above, the Commission should forbear from applying the separation requirements applicable to independent telephone companies to AT&T's independent LEC affiliates. The Commission should also make clear that such independent LEC long-distance services will continue to be treated as nondominant (as they are today), notwithstanding the elimination of the separate affiliate requirement.

---

[115] *Qwest Omaha Forbearance Order* ¶¶ 43, 45, 47.

[116] *See Qwest Omaha Forbearance Order* ¶ 43.

MFJ-Era Scripting Requirements. Finally, the Commission should also forbear from enforcing equal access script requirements.[117] Those requirements force AT&T and other BOCs to market their services inefficiently, by reading to new local customers, who overwhelmingly demand all-distance services from a single provider, a list of long distance providers that could provide them with long distance services separate from the local services they have chosen to buy from the BOC. These obligations were imposed over twenty years ago, before vigorous long-distance competition had developed, to ensure that customers were aware that they had a choice of long distance providers. Since that time, customers have been literally bombarded with advertisements and inducements from long distance carriers seeking their business in the face of fierce competition. It is inconceivable that customers today are unaware that they have the right to choose different local and long distance carriers. To be sure, customers increasingly avail themselves of bundled local and long-distance service packages offered by BOCs, CLECs, wireless carriers, cable providers, and over-the-top VoIP providers, but they do so, not out of ignorance of their choices, but because they *prefer* the simplicity and value that attend such choices.

In these circumstances, the equal access script requirement clearly has outlived its usefulness. It is not necessary to ensure just and reasonable rates, protect consumers, or to further the public interest. The elimination of this outmoded requirement is long overdue.[118]

---

[117] *See Investigation of Access and Divestiture Related Tariffs, Allocation Plan Waivers and Tariffs*, 101 F.C.C.2d 935, ¶ 40 (1985); *Non-Accounting Safeguards Order*, 11 FCC Rcd. 21905, ¶ 292 (1996) (expressly continuing to enforce this equal access requirement pursuant to § 251(g)).

[118] In its recent forbearance petition, Verizon asked the Commission to forbear from its accounting rules to the extent that they would require a BOC's post-sunset, in-region interLATA services to be classified as "non-regulated." *See* Verizon Petition for Forbearance, WC Docket No. 06-56, Verizon Memorandum of Points and Authorities at 30-34 (filed Feb. 28, 2006). AT&T believes that the Commission can and should simply clarify that such services are treated

CONCLUSION

For the foregoing reasons, AT&T's Petition for Forbearance should be granted.

Respectfully submitted,

Jack Zinman /jm

Jack Zinman
Gary L. Phillips
Paul K. Mancini
AT&T INC.
1401 I Street, N.W.
Washington, D.C. 20005
(202) 326-8800

David W. Carpenter
SIDLEY AUSTIN LLP
One South Dearborn
Chicago, Illinois 60603
(312) 853-7000

David L. Lawson
James P. Young
SIDLEY AUSTIN LLP
1501 K Street, N.W.
Washington, D.C. 20005
(202) 736-8000

Attorneys for AT&T Inc.

June 2, 2006

---

as regulated under current law. The Commission's rules have long provided that "[a]ll activities that are classified as common carrier communications for Title II purposes will be classified as regulated activities for purposes of our accounting rules." *Joint Cost Order*, 2 FCC Rcd. 1298, ¶ 70 (1987). To the extent that AT&T offers integrated interLATA services through its BOC affiliates post-272-sunset, those services would be Title II services, and therefore a straightforward application of the *Joint Cost Order* would require these services to be treated as regulated for accounting purposes under current rules. Although the Commission held in the *Accounting Safeguards Order* (11 FCC Rcd. 17539, ¶ 45) that integrated incidental interLATA services should be treated as non-regulated for federal accounting purposes even though they are common carrier services, that order did not explicitly address in-region interLATA services provided on a post-272-sunset basis, and the Commission should now simply clarify that there was never any intention to address the accounting treatment of such services in that order.