

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Petition to Establish Procedural Requirements)	
To Govern Proceedings for Forbearance Under)	WC Docket No. 07-267
Section 10 of the Communications Act of 1934,)	
As Amended)	
)	

COMMENTS OF COMCAST CORPORATION

Comcast Corporation and its affiliates (“Comcast”) hereby submit these comments in response to the Notice of Proposed Rulemaking (“*Notice*”) released by the Federal Communications Commission in the above-captioned proceeding.¹ The Commission’s statutory forbearance authority is essential to the agency’s ability to relax regulatory controls affecting telecommunications carriers and service when those controls have been supplanted by marketplace forces. It is equally important, however, that the Commission not use that authority to relax statutory and regulatory safeguards prematurely.

I. INTRODUCTION AND SUMMARY

Comcast is a facilities-based provider of voice and other services that compete in many geographic areas with the offerings of incumbent local exchange carriers (“ILECs”). Comcast has invested tens of billions of dollars in advanced technologies so that it can offer services to millions of residential and business customers over its own network. Consequently, Comcast does not require access to ILEC unbundled network elements in order to compete. Because, however, ILECs remain dominant in the provision of local exchange and exchange access

¹ *Petition to Establish Procedural Requirements to Govern Proceedings for Forbearance Under Section 10 of the Communications Act of 1934, as Amended*, Notice of Proposed Rulemaking, 22 FCC Rcd 21212 (2007).

services, Comcast must rely on the statutory safeguards imposed on incumbents by section 251(c)(2) of the Communications Act of 1934, as amended (“Act”), to obtain interconnection on just, reasonable, and non-discriminatory rates, terms and conditions. Likewise, Comcast requires access to ILEC transit service provided pursuant to Title II of the Act in order to interconnect indirectly with other voice service providers with which Comcast exchanges relatively small volumes of traffic. The Commission must not forbear from enforcing the obligations of an ILEC under those statutory provisions and implementing regulations unless and until that ILEC can demonstrate through credible record evidence that the safeguards are no longer required to ensure that competitors such as Comcast can obtain interconnection and transit arrangements on a just and reasonable basis. Further, because an accurate assessment of the state of local competition in a particular geographic area will require credible, reliable data regarding the presence of competing providers, an ILEC petitioning for relief under section 10 should be required to submit such data in formats that will enable the Commission to compare the data with information provided by competing providers.

II. ARGUMENT

A. **The FCC Should Not Grant ILECs Relief From The Interconnection Obligations of Section 251 Unless The Record Demonstrates That Those Safeguards Are No Longer Needed to Promote and Preserve Competition in Local Areas.**

As the FCC has recognized, the ability of a competing voice provider to interconnect its facilities and network with an ILEC’s network on reasonable terms and conditions is one of the cornerstones of the pro-competition policy that the Congress established in the 1996 Act.² Indeed, the Commission emphasized in the 1996 *Local Competition Order* that an ILEC “has the

² *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, 11 FCC Rcd 15499, ¶ 997 (1996) (subsequent history omitted) (“*Local Competition Order*”).

ability to act on its incentive to discourage entry and robust competition by not interconnecting its network with the new entrant's network or by insisting on supracompetitive prices or other unreasonable conditions for terminating calls from the entrant's customers to the ILEC's subscribers."³

To prevent such anticompetitive conduct, Congress required ILECs to interconnect their local networks with the facilities and networks of any requesting telecommunications carrier:

- (A) for the transmission and routing of telephone exchange service and exchange access;
- (B) at any technically feasible point within the carrier's network;
- (C) that is at least equal in quality to that provided by the local exchange carrier to itself or to any subsidiary, affiliate, or any other party to which the carrier provides interconnection; and
- (D) 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 252.⁴

These statutory obligations, in concert with the FCC's implementing rules, prevent ILECs from denying reasonable interconnection arrangements to their local rivals.

In light of the critical importance of the section 251(c)(2) interconnection obligations to the public interest goal of robust facilities-based voice competition, the Commission should not forbear from enforcing those requirements unless and until petitioning ILECs submit credible, persuasive evidence that the statutory mandates are no longer needed to ensure that they will continue offering interconnection on just and reasonable rates, terms and conditions. As a practical matter, satisfying this standard means that an ILEC must demonstrate that it is no longer dominant in the provision of local exchange and exchange access in the relevant

³ *Id.* ¶ 10.

⁴ 47 U.S.C. § 251(c)(2).

geographic area in order to gain relief from the section 251(c)(2) obligations, *i.e.*, that marketplace forces will provide ILECs with the incentive to enter into reasonable interconnection agreements. As long as an ILEC retains market power in the provision of local exchange and exchange access services, the statutory and regulatory safeguards against ILEC anticompetitive interconnection practices would be needed.

Similarly, Title II of the Act requires ILECs to provide “transit” service that enables Comcast to exchange traffic with voice providers with which it does not interconnect directly. Section 251(a)(1), for example, requires that all telecommunications carriers, both ILECs as well as others, interconnect directly or indirectly with the facilities of other telecommunications carriers.⁵ The Commission has described the provision as a crucial component of Congress’ framework for ensuring that all telecommunications marketplaces are vigorously competitive. Further, the Commission has emphasized that section 251(a) is “central to the 1996 Act”⁶ and is intended to “promot[e] the interconnection of all telecommunications networks by ensuring that [ILECs] are not the only carriers that are able to interconnect efficiently with other carriers.”⁷ A carrier seeking forbearance relief from this fundamental obligation, therefore, must bear a heavy evidentiary burden. Even, assuming *arguendo*, an ILEC were able to demonstrate that it were no longer dominant in the provision of local exchange and exchange access services, it may still

⁵ Section 201(a) of the Act explicitly grants the Commission authority over interstate transit service. 47 U.S.C. § 201(a). Section 251(a) expands the Commission’s jurisdiction to include all transit traffic, including intrastate traffic. 47 U.S.C. § 251(a). In addition, some state commissions have held that the duty to interconnect pursuant to section 251(c)(2) includes the duty to provide transit service. *See, e.g., Level 3 Communications, LLC’s Petition for Arbitration Pursuant to Section 252(b) of the Communications Act of 1934, as Amended by the Telecommunications Act of 1996, and the Applicable State Laws for Rates, Terms, and Conditions of Interconnection with Indiana Bell Tel. Co. d/b/a SBC Indiana*, Cause No. 42663 INT-01, 2004 Ind. PUC LEXIS 465, *29 (IURC Dec. 22, 2004).

⁶ *Local Competition Order* ¶ 997.

⁷ *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, Fourth Report and Order, 16 FCC Rcd 15435, ¶ 84 (2001), *aff’d sub nom. Verizon Tel. Cos. v. FCC*, 292 F.3d 903 (D.C. Cir. 2002).

have the incentive and ability to deny competing service providers access to transit services that they need to interconnect indirectly with one another on reasonable rates, terms and conditions.

Comcast and other emerging voice providers must be able to exchange low volumes of voice traffic with many other local exchange carriers. Because the traffic volumes are insufficient to justify the construction of direct interconnection links between the carriers involved, they must rely on transit service obtained from ILECs to interconnect indirectly with one another. ILECs are currently the only carriers that operate geographically ubiquitous local networks that can provide efficient transit service. Consequently, unless and until adequate competitive transit alternatives are deployed on a sufficiently widespread basis to constrain the anticompetitive incentive and ability of an ILEC in a particular geographic area, the Commission should not forbear from enforcing the ILEC's obligation to offer transit service.

B. A Petitioner Basing a Claim for Forbearance Relief on the Availability of Competitive Alternatives Should Be Required to Submit its Data in Formats That Can Easily Be Evaluated By the Commission and the Asserted Rivals.

ILECs seeking forbearance relief under section 10 frequently contend that marketplace forces have supplanted the need for continued enforcement of the section 251(c) and other statutory requirements. Such petitioning carriers should be required to provide any evidence of the availability of competitive alternatives in a format readily usable by the Commission and parties participating in the proceeding, particularly the rival providers. Specifically, in order to satisfy the statutory standards of section 10, ILECs seeking to rely on such evidence should be required to submit evidence of the presence of alternative providers in the same format that those providers use to measure their presence in a geographic area.

ILECs in the past have failed to provide data regarding the availability of alternative services in a useable format. The Commission has responded by requiring competitive providers to convert their data into the format that the ILEC uses, for example, by converting subscriber

data organized around rate centers into subscriber data organized around ILEC wire centers. The FCC should require a petitioner, as the party seeking relief, to submit its data regarding competitive offerings in the format used by its competitor rather than forcing the competitor to incur data conversion costs and burdens.

Comcast and other cable-based competitors typically collect and maintain subscriber and other information about their networks on a rate center basis. Rate centers are physical boundaries used by all service providers for number allocation, rating of calls and the FCC number resource utilization forecast (NRUF), which links NPA-NXXs to rate centers. Their contours do not align with the boundaries of ILEC wire centers, which represent the physical plant boundaries of the ILEC. Indeed, a single rate center may encompass portions of one or more wire centers,⁸ and, in some cases, a rate center may be served by multiple ILECs. As a result, in order for the Commission and parties participating in the forbearance proceeding to assess the accuracy and credibility of a petitioner's wire center data, Comcast and other cable-based competitors have been required to expend substantial time and resources in converting and reporting their rate center data on a wire center basis.

Comcast agrees that granular data are needed in order to assess properly the actual availability of alternatives to the ILEC offerings in a particular geographic area. Such data, however, must be in a useable format. The burden of making any data conversions necessary for the Commission and participating parties to determine whether granting the requested relief will "promote competitive market conditions" and "enhance competition among providers"⁹ should be the responsibility of the petitioning carrier. Therefore, the Commission should permit

⁸ North American Numbering Council, Local Number Portability Administration Working Group, *Wireless-Wireline Service Provider Portability Rate Center Discussion*, at 1, ¶ 1.1 (Feb. 27, 1998), *available at*: <<http://www.fcc.gov/wcb/cpd/Nanc/part001.pdf>>.

⁹ 47 U.S.C. § 160(b).

competitors to submit data in the format in which it is collected and maintained, and require the petitioner to undertake any necessary conversions.

III. CONCLUSION

For the foregoing reasons, the Commission should adopt the procedural rules proposed above governing the consideration of petitions for forbearance.

Respectfully submitted,

/s/ Mary P. McManus

A. Richard Metzger, Jr.
A. Renee Callahan
LAWLER, METZGER, MILKMAN & KEENEY, LLC
2001 K Street NW, Suite 802
Washington, D.C. 20006

Attorneys for Comcast Corporation

Mary P. McManus
COMCAST CORPORATION
2001 Pennsylvania Avenue, Suite 500
Washington, D.C. 20006
(202) 379-7141

Brian A. Rankin
COMCAST CABLE COMMUNICATIONS, LLC
One Comcast Center, 50th Floor
Philadelphia, PA 19103

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Certificate of Service

I, Ruth E. Holder, hereby certify that on this 7th day of March, 2008, I caused true and correct copies of the foregoing Comments of Comcast Corporation to be served by electronic mail addressed to:

Competition Policy Division
Wireline Competition Bureau
Federal Communications Commission
Room 5-C140, 445 12th Street SW
Washington, DC 20554
CPDcopies@fcc.gov

Best Copy & Printing, Inc.
Portals II, 445 12th Street SW
Room CY-B402
Washington, DC 20554
fcc@bcpiweb.com

/s/ Ruth E. Holder
Ruth E. Holder