

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

In the Matter of

Computer III Further Remand Proceedings: Bell
Operating Company Provision of Enhanced
Services; 1998 Biennial Regulatory Review –
Review of Computer III and ONA Safeguards and
Requirements

CC Docket Nos. 95-20, 98-10

COMMENTS OF FULL SERVICE NETWORK LP

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July 30, 2013

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Full Service Network LP (“Full Service Network” or “FSN”) submits these comments in response to the Federal Communication Commission’s (“Commission”) request for comment on the potential elimination of critical Bell Operating Company (“BOC”) Open Network Architecture (“ONA”) inputs and Comparably Efficient Interconnection (“CEI”) in the Further Notice of Proposed Rulemaking released on May 17, 2013¹ (“FNPRM”).

I. Introduction

In 1986, when the Commission first established ONA unbundling in its *Computer III Order*,² it did so with the clear pro-consumer and pro-competitive agenda of ensuring that what were then seven BOCs would not engage in “improper cost allocation and discrimination,” to the

¹*Petition of USTelecom for Forbearance Under 47 U.S.C. § 160(c) from Enforcement of Certain Legacy Telecommunications Regulation, Memorandum Opinion and Order and Report and Order, Further Notice of Proposed Rulemaking and Second Further Notice of Proposed Rulemaking*, 28 FCC Rcd. 7627 (2013).

²*Amendment of Section 64.702 of the Commission's Rules and Regulations (Computer III), Report and Order*, 104 FCC 2d 958, 1019 (1986) (“*Computer III Order*”) (subsequent history omitted). For the full subsequent history, see *Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services, Further Notice of Proposed Rulemaking*, 13 FCC Rcd. 6040, n.1 (1998) (“*Computer III FNPRM*”).

detriment of their much smaller competitors.³ Since that time, the seven BOCs have grown substantially through mergers to just three mega-companies, two in the Fortune Top 20, and each a now larger and more formidable roll-up of a number of substantial competitors: AT&T (\$127.4B in revenue) includes SWBT, Pacific Bell, Ameritech, BellSouth, AT&T Wireless, and AT&T Long Distance; Verizon (\$115.8B in revenue) includes Bell Atlantic, GTE, MCI, and Verizon Wireless; and CenturyLink (\$18.4B in revenue) includes US West, CenturyLink, Embarq, and Qwest long distance. Despite the BOCs' substantial growth during the period throughout which they have been subject to the pro-competitive ONA/CEI requirements, they have been campaigning to convince the Commission that in order to compete with their much smaller cable competitors,⁴ the Commission must remove the restrictions that the Commission recognizes preclude BOCs from discriminating against their much smaller competitors. In the name of "pro-business" deregulation, they say, the Commission should eliminate the resellers and establish a duopoly of Telco/Cable "competition."

The Commission should not eliminate pro-consumer and pro-competition ONA unbundling protections which are required to ensure the BOCs do not eliminate resellers such as Full Service Network by leveraging their enhanced services bottlenecks into the local service market. Fortunately, the Commission recognizes in the FNPRM that, if certain ONA elements are eliminated, there may be a way to do so that protects those companies, such as Full Service Network, that currently rely upon such inputs to compete. FSN urges the Commission to continue to consider the interests of these companies and at a minimum protect current competitors if it transitions away from the ONA/CEI framework.

³ FNPRM, ¶ 195.

⁴ Comcast (\$62.6B in revenue) is ranked 46th in the Fortune 500; Time Warner Cable (\$21.4B in revenue) is second at 134.

II. If The Commission Moves Forward, It Should Do So in a Manner That Protects Current Competitors And Their Customers

Full Service Network has provided significant detail in previous comments and reply comments⁵ as to the elements it needs to provide its competitive resold services to approximately 10,000 Pennsylvania customers. As explained in previous comments, Full Service Network requires certain unbundled ONA services that it can only obtain from the incumbent BOC, in its case, Verizon. To remove those ONA services is effectively to eliminate the ability to offer resale service, one of the Telecom Act's principal forms of entry. 47 U.S.C. § 251(c)(4). The BOCs were unable to meet the forbearance standard in the USTelecom forbearance proceeding: "We have denied the immediate relief that the BOCs requested because the record in that proceeding did not support granting relief."⁶ As such, the Commission should not consider eliminating any elements until the forbearance standard has been met, whether on a streamlined basis or otherwise. The Commission should also not do so in a manner that might undermine or eliminate resale, one of the principal entry methods established by the Act.

FSN is opposed to a streamlined process to eliminate ONA service offerings.⁷ If the Commission considers such a plan, it should grandfather all existing customers, but there should not be any end period to such grandfathering. Customers have chosen to purchase services from companies duly relying upon the Act's resale option because the reseller offers the services best suited to their needs. The Commission should not substitute its judgment for the decisions of consumers to choose resellers. If there is a streamlined process, BOCs should be required to

⁵ FSN has provided significant detail concerning the direct impact of eliminating ONA elements on FSN in its comments and reply comments in the USTelecom forbearance proceeding. *See* Opposition of Full Service Network to USTelecom's Petition for Forbearance, WC Docket 12-61 (Apr. 9, 2013); Reply Comments of Full Service Network, WC Docket 12-61 (Apr. 24, 2013). FSN attaches and incorporates those comments and reply comments herein.

⁶ NPRM, ¶ 199.

⁷ *Id.*, ¶ 207.

meet the forbearance standard in order to eliminate an ONA service. They should also be required to demonstrate that they offer and will continue to offer the same services on a tariffed basis and at the same price. Again, the Commission cannot permit those tariffed services to disappear, as that will be tantamount to eliminating Section 251(c)(4) resale as a means of competitive entry.

III. Conclusion

Full Service Network does not believe that the ONA/CEI requirements should be eliminated, particularly in those circumstances where resellers depend upon such services to serve their customers. If the Commission permits the elimination of ONA elements, it should grandfather existing customers and ensure that ONA services, which are necessary to eliminate discrimination, continue to be offered on a tariffed basis.

Respectfully Submitted,

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