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October 27, 2003

VIA HAND DELIVERY

Blanca S. Bayo, Director  
Division of Records and Reporting  
Betty Easley Conference Center  
4075 Esplanade Way  
Tallahassee, Florida 32399-0870

Re: Docket Nos.: 030852-TP

Dear Ms. Bayo:

On behalf of the Florida Competitive Carriers Association (FCCA), enclosed for filing and distribution are the original and 15 copies of the following:

- ▶ The Florida Competitive Carriers Association's Comments on Staff's Proposed Issues List

Please acknowledge receipt of the above on the extra copy of and return the stamped copies to me. Thank you for your assistance.

Sincerely,

*Vicki Gordon Kaufman*

Vicki Gordon Kaufman

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*Vh*  
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**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

Implementation of Requirements Arising )  
From Federal Communications Commission ) Docket No. 030852-TP  
Triennial UNE Review: Location Specific )  
Review For DS1, DS3, and Dark Fiber Loops and ) Filed: October 27, 2003  
Route-Specific Review for DS1, DS3, and )  
Dark Fiber Transport )  
\_\_\_\_\_ )

**FLORIDA COMPETITIVE CARRIERS ASSOCIATION COMMENTS ON  
STAFF'S PROPOSED ISSUES LIST**

The Florida Competitive Carriers Association ("FCCA"), through its undersigned counsel and pursuant to the Commission's conference held on October 23, 2003, respectfully submits its comments on Staff's proposed issues list in the above-captioned proceeding.<sup>1</sup> Staff's list identifies many of the issues in this proceeding and provides an appropriate starting point for structuring the scope of this proceeding. FCCA recommends that Staff modify the issues list to identify issues regarding the interpretation and application of each trigger. Such additional information will help focus the proceeding on the information necessary to apply the "wholesale availability" and "self-provisioned deployment" triggers in a meaningful way. In addition, FCCA recommends that Staff defer certain issues not related to the application of the triggers to a follow-on proceeding, if such inquiries are necessary after application of the triggers.

The Commission should limit the scope of this proceeding to determining whether an ILEC has rebutted the Federal Communications Commission's ("FCC") national finding of impairment on a particular route or at a specific location. To this end, the issues list should focus solely on the application of the triggers that the FCC identified in the *Triennial Review Order*.

<sup>1</sup> DIECA Communications, Inc. d/b/a Covad Communications Company joins in these Comments.

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The FCC considered actual deployment to be the most relevant evidence of whether impairment exists on a particular loop or route. As such, the triggers are designed to be satisfied only when actual, fact-based non-impairment exists.

In these comments, the FCCA provides an overview of its proposed revisions to Staff's list. The FCCA requests that the Commission modify and supplement Staff's list as discussed below and as indicated in the attached document.<sup>2</sup>

## **I. ILECS MUST IDENTIFY THE LOOPS AND ROUTES AT ISSUE**

As an initial matter, particularly given the stringent time constraints in this proceeding, FCCA is concerned with a significant omission in the structure of this proceeding. Neither the existing procedural schedule nor the Staff issues list contemplates a filing by each ILEC that identifies the specific routes on which it will challenge the FCC's finding of impairment. Such a filing, as early as possible in this proceeding, is necessary to provide CLECs with a fair opportunity to respond to the ILECs' claims and, equally importantly, will help to narrow this proceeding to those relatively few routes that will require further analysis under the triggers.

In the *Triennial Review Order*, the FCC made a national finding that carriers are impaired without access to DS1, DS3, and Dark Fiber loops and transport. The FCC recognized, for example, that, "the inability to recover fixed and sunk costs of deploying transport facilities, coupled with the barriers to obtaining rights-of-way, impairs the ability of requesting carriers [to self-provision transport]."<sup>3</sup> In accordance with national finding made in the *Triennial Review Order*, if a party believes that certain facts exist that would support a finding of no impairment

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<sup>2</sup> For your convenience, the FCCA has attached a redlined version of Staff's issues list to this document.

<sup>3</sup> *Triennial Review Order* ¶ 386. The RBOC data submitted in the Triennial Review proceeding – which was not subject to discovery or cross-examination by the CLECs – indicated that only 13% of BOC wire centers had even a single competing carrier using its own transport facilities. *Id.* at note 1198.

on a particular loop or route, the burden is on that challenging party to bring sufficient evidence to the state commission. In light of the national finding of impairment, the Commission need not and should not review every single customer location or route within the state; the Commission should focus its review on the specific locations and routes upon which an ILEC has challenged the FCC's finding of impairment. Indeed, the FCC has stated that "the review need only address routes for which there is relevant evidence in this proceeding that the route satisfies one of the triggers."<sup>4</sup>

The Commission will be able to narrow the scope of the proceeding to the benefit of all parties if it requires the ILECs to identify as soon as possible the loops and routes that are at issue. Requiring ILECs in Florida to make this identification up front also would be consistent with the approach taken in several other states to date, including, for example, Texas, Massachusetts, and New York.<sup>5</sup> In each of these states, the ILEC will be making a filing that serves to narrow the discovery and testimony to be presented in the proceeding, thereby avoiding having parties waste valuable time and resources compiling data that is highly sensitive, burdensome, and, most importantly, irrelevant.

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<sup>4</sup> *Triennial Review Order* ¶¶ 339, 417.

<sup>5</sup> See, e.g., *Impairment Analysis for Enterprise Market Loop Facilities*, Docket No. 28745, Order No. 1 at 3 (Tx. Pub. Util. Comm'n Oct. 15, 2003) (requiring identification of the "specific customer location and the loop capacity level" for each loop where the ILEC asserts "no impairment" and a "detailed basis for the assertion of no impairment."). In New York, the ILECs were ordered to identify the "geographic areas" for which they would challenge the FCC's findings of impairment. Unfortunately, the ILECs' filings, including the supplement filed on October 24, 2003, have thus far failed to provide the specific loop and transport routes that they will challenge. In Massachusetts, though, Verizon has committed to filing its "complete case" by November 17, three weeks after response to the DTE's initial discovery requests were due. Massachusetts DTE Docket 03-60, Letter from Bruce Beausejour, Vice President and General Counsel – New England, to Mary L. Cottrell, Secretary, MA DTE, at 2 (Oct. 3, 2003) (stating that "the Company [will] present a complete case with supporting data and testimony that fully supports its claims that impairment does not exist for particular loop locations, transport routes, and switching markets").

Under the Commission's current procedural schedule, ILECs will not identify the loops and routes at issue until filing their initial testimony. All parties are required to submit their initial testimony on December 22, 2003, and their rebuttal testimony on January 21, 2004. This schedule places CLECs at a significant disadvantage in preparing their case in this proceeding. Absent an early identification of the loops and routes that are at issue in this proceeding, CLECs would have to review literally thousands of potential transport routes and hundreds of thousands of potential customer locations in order to guess where the ILECs might attempt to make their case. CLECs would not be able to present any meaningful route-specific analysis in their initial testimony in this scenario. Additionally, the length of time between initial and rebuttal testimony is insufficient to allow CLECs to respond in rebuttal to this evidence. CLECs need to conduct discovery necessary to determine if the entities identified by the ILECs are qualifying carriers. For example, until CLECs know which routes and which carriers will be relevant, they cannot obtain necessary information to determine whether the carrier is "operationally ready" to use the facilities in question, whether a purported wholesale carrier makes its services "widely available" or the processes by which CLECs requesting loops or transport could connect to and use such facilities from the wholesale carrier.<sup>6</sup>

Incorporation of a route identification does not require any delay in the initial testimony due dates or in the proposed hearing. Rather, FCCA recommends that the Commission require each ILEC to submit the detailed filing described above shortly after initial responses to discovery are made. In other states, ILECs have been ordered to provide such a filing

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<sup>6</sup> Not only must adequate and cost-based cross connects be available, but also the ILECs must have processes in place that allow requesting carrier to use the facilities in conjunction with other UNEs (for example, to order a UNE loop into the transport facilities of a wholesale carrier). Much of this information must be obtained through discovery that would not be possible until the relevant carriers on the routes were identified.

approximately 3 weeks after initial discovery.<sup>7</sup> Since BellSouth has already served discovery on most CLECs in Florida, these filings could be made on or about December 1 at the latest. It will not be necessary for the Commission to modify or otherwise alter the remainder of the existing procedural schedule to accommodate this step.

## **II. SCOPE OF THIS PROCEEDING**

The Commission should limit the scope of this proceeding to determining whether the triggers have been satisfied for a particular location or route. Depending upon the outcome of this proceeding, it may be necessary for the Commission to address related issues in subsequent proceedings. For example, if the Commission de-lists certain loops, then it will be necessary to establish rules for the transitional use of loops that have already been provisioned, the price at which the LECs will be required to offer the loops pursuant to section 271 of the Act, and the operational ability of CLECs to use non-ILEC loops.<sup>8</sup> Particularly given the time constraints of this proceeding, these related issues should be addressed at the conclusion of – and not during – the scope of this proceeding. Accordingly, the FCCA proposes that the Commission remove issues pertaining to the transition period for loops and transport from this proceeding.

The Commission also should defer Staff Issues 4, 6, 13, and 18, which pertain to the potential deployment of loops and transport, until a subsequent proceeding. The Commission should consider potential deployment only to the extent that the ILEC requests an analysis under potential deployment. If the Commission declines to defer potential deployment until a

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<sup>7</sup> See, e.g., *Impairment Analysis for Enterprise Market Loop Facilities*, Docket No. 28745, Order No. 1 at 3 (Tx. Pub. Util. Comm'n Oct. 15, 2003) (requiring identification of the "specific customer location and the loop capacity level" for each loop where the ILEC asserts "no impairment" and a "detailed basis for the assertion of no impairment."); Massachusetts DTE Docket 03-60, Procedural Memorandum and Schedule (Sept. 26, 2003).

<sup>8</sup> See, e.g., *Triennial Review Order* ¶ 417 ("We expect that States will require an appropriate period for competitive LECs to transition from any unbundled transport that the state finds should no longer be unbundled.").

subsequent proceeding, then the Commission should require the ILECs to provide notice by a date certain of their intent to raise potential deployment issues. Indeed, to the extent that potential deployment might become an issue, BellSouth already has stipulated with CompSouth that it will raise potential deployment by a date certain.

### **III. PROPOSED MODIFICATIONS AND ADDITIONS**

#### **A. Issues Pertaining to the Evaluation of the Triggers**

The FCCA proposes that the Commission modify Staff's list by including issues that address the appropriate application of each trigger. Staff's list provides a starting point for identifying the issues in this proceeding, but does not include issues regarding the interpretation of the triggers themselves. For example, in evaluating whether the wholesale facilities trigger has been satisfied with regard to DS-3 transport, Staff's includes the following issue:

along what particular routes have at least two or more competing providers ...deployed their own DS-3 level dedicated transport facilities...and are operationally ready to use those transport facilities...and are willing to provide DS-3 level dedicated transport facilities immediately over their facilities on a widely available basis to other carriers?

Staff's list does not include issues regarding the definition of "operationally ready" or "widely available" for purposes of application of this trigger.

The FCC has made clear that determining whether a particular trigger has been satisfied such that there is a finding of "no impairment" is not a counting exercise. Instead, the Commission must determine after a review of all of the evidence whether any of the non-ILEC carriers that the ILEC has identified indeed qualify as wholesale providers or, in the case of DS-3 and dark fiber loops and transport, as self-provisioning carriers. To make this evaluation, it is

essential that the Commission determine, for purposes of this proceeding, what it means to be “operationally ready” and what it means to provide service on a “widely available” basis.<sup>9</sup>

To this end, the FCCA has proposed issues regarding the appropriate interpretation of each trigger in the context of both loops and transport. As one example, the FCCA has proposed issues FCCA-3 and FCCA-15, which seek information necessary to determine whether the carrier is operationally ready such as whether the carrier (a) has sufficient systems, method and procedures for pre-ordering, provisioning, maintenance and repair, and billing; (b) processes the ability to provision wholesale dedicated interoffice transport on each specific route identified; and (c) has the ability to provide wholesale dedicated interoffice transport in reasonably foreseeable quantities.

**B. Issues Regarding Potential Barriers**

The Commission also should include issues pertaining to potential barriers to operation. In other words, even if the Commission determines that the trigger has been satisfied on its face, the Commission still must evaluate whether there are any barriers that would foreclose the competing carrier from providing service or deploying additional facilities. To this end, the FCCA has proposed issues FCCA-12, FCC-13, FCCA-16, and FCCA-17.

Furthermore, the Commission also must evaluate whether, even if the trigger is satisfied for a particular loop or route, it can eliminate the loop or route from the Act’s unbundling requirements without eliminating competition in that area or whether carriers will continue to be impaired such that it should petition the FCC for a waiver. The FCCA has proposed issues FCCA-17 and FCCA-18.

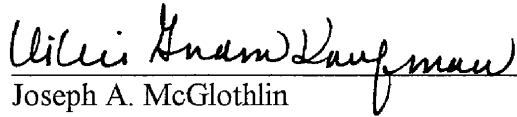
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<sup>9</sup> See, e.g., *Triennial Review Order* ¶ 338 (stating, in the context of loops that “there should be some reasonable expectation that these providers are operationally capable of continuing to provide wholesale loop capacity to that customer location.”).



IV. CONCLUSION

For the foregoing reasons, the FCCA respectfully requests that the Commission modify and supplement Staff's proposed issues list as discussed herein and as indicated in the attached redlined issues list.



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Attorneys for Florida Competitive Carrier's  
Association

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Florida Competitive Carriers Association's Comments on Staff's Proposed Issues List has been provided by (\*) hand delivery, (\*\*) e-mail and U.S. Mail this 27th day of October 2003, to the following:

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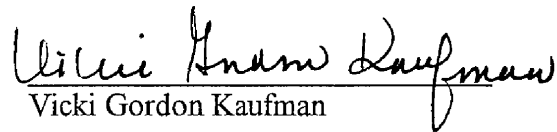
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Vicki Gordon Kaufman

FCCA Comments  
Docket No. 030852-TP (High-Capacity Loops and Transport)  
Staff Proposed Issues

Definitional Issues

FCCA-1: For purposes of analysis of high capacity loop impairment, what is the appropriate definition of:

- a. Loop route;
- b. Customer location;
- c. Wholesale loop facilities;
- d. Wholesale loop facility provider;
- e. Self-provisioned loop facilities.

FCCA-2: For purposes of analysis of interoffice transport impairment, what is the appropriate definition of:

- a. Transport route;
- b. Wholesale transport facilities;
- c. Wholesale transport facility provider;
- d. Self-provisioned transport facilities.

DS-1 Loops

1. (a) In BellSouth's service area, to what specific customer locations does the ILEC or another party assert, by making a detailed demonstration, that there are have two or more competing providers, not affiliated with each other or BellSouth, including intermodal providers of service comparable in quality to that of BellSouth, that have deployed their own DS-1 facilities (including leased, purchased or UNE dark fiber with the carrier's own optronics attached to activate the fiber) and are operationally ready to provide wholesale offer DS-1 loops over their own facilities on a widely available basis to other carriers? For each such location, do the wholesale providers have access to the entire customer location, including each individual unit within the location?

~~(e)~~(b) In Sprint's service area, to what specific customer locations does the ILEC or another party assert, by making a detailed demonstration, that there are have two or more competing providers, not affiliated with each other or Sprint, including intermodal providers of service comparable in quality to that of Sprint, that have deployed their own DS-1 facilities (including leased, purchased or UNE dark fiber with the carrier's own optronics attached to activate the fiber) and are operationally ready to provide offer wholesale DS-1 loops over their own facilities on a widely available basis to other carriers? For each such location, do the wholesale providers have access to the entire customer location, including each individual unit within the location?

~~(d)~~(c) In Verizon's service area, to what specific customer locations does the ILEC or another party assert, by making a detailed demonstration, that there are have two or more competing providers, not affiliated with each other or Verizon, including intermodal providers of service comparable in quality to that of Verizon, that have deployed their own DS-1 facilities (including leased, purchased or UNE dark fiber with the carrier's own optronics attached to activate the fiber) and are operationally ready to provide wholesale offer DS-1 loops over their own facilities on a widely available basis to other carriers? For each such location, do the wholesale providers have access to the entire customer location, including each individual unit within the location?

### DS-3 Loops

#### A. Self-Provisioning Trigger

2. (a) In BellSouth's service area, to what specific customer locations does the ILEC or another party assert, by making a detailed demonstration, that there are have two or more competing providers, not affiliated with each other or BellSouth, including intermodal providers of service comparable in quality to that of BellSouth, that either (1) have deployed their own DS-3 facilities and actually serve customers via those facilities or (2) have deployed DS-3 facilities by attaching their own optronics to activate dark fiber obtained under a long-term indefeasible right of use and actually serve customers via those facilities at that location?

~~(e)~~(b) In Sprint's service area, to what specific customer locations does the ILEC or another party assert, by making a detailed demonstration, that there are have two or more competing providers, not affiliated with each other or Sprint, including intermodal providers of service comparable in quality to that of Sprint, that either (1) have deployed their own DS-3 facilities and actually serve customers via those facilities or (2) have deployed DS-3 facilities by attaching their own optronics to activate dark fiber obtained under a long-term indefeasible right of use and actually serve customers via those facilities at that location?

~~(d)~~(c) In Verizon's service area, to what specific customer locations does the ILEC or another party assert, by making a detailed demonstration, that there are have two or more competing providers, not affiliated with each other or Verizon, including intermodal providers of service comparable in quality to that of Verizon, that either

(1) have deployed their own DS-3 facilities and actually serve customers via those facilities or (2) have deployed DS-3 facilities by attaching their own optronics to activate dark fiber obtained under a long-term indefeasible right of use and actually serve customers via those facilities at that location?

B Wholesale Facilities Trigger

3. (a) In BellSouth's service area, to what specific customer locations does the ILEC or another party assert, by making a detailed demonstration, that there are ~~have two~~ or more competing providers, not affiliated with each other or BellSouth, including intermodal providers of service comparable in quality to that of BellSouth, that have deployed their own DS-3 facilities (including leased, purchased or UNE dark fiber with the carrier's own optronics attached to activate the fiber) and are operationally ready to provide offer DS-3 loops over these facilities on a widely available wholesale basis to other carriers? For each such location, do the wholesale providers have access to the entire customer location, including each individual unit within the location?

~~(e)~~(b) In Sprint's service area, to what specific customer locations does the ILEC or another party assert, by making a detailed demonstration, that there are ~~have two~~ or more competing providers, not affiliated with each other or Sprint, including intermodal providers of service comparable in quality to that of Sprint, that have deployed their own DS-3 facilities (including leased, purchased or UNE dark fiber with the carrier's own optronics attached to activate the fiber) and are operationally ready to provide offer DS-3 loops over these facilities on a widely available wholesale basis to other carriers? For each such location, do the wholesale providers have access to the entire customer location, including each individual unit within the location?

~~(d)~~(c) In Verizon's service area, to what specific customer locations does the ILEC or another party assert, by making a detailed demonstration, that there are ~~have two~~ or more competing providers, not affiliated with each other or Verizon, including intermodal providers of service comparable in quality to that of Verizon, that have deployed their own DS-3 facilities (including leased, purchased or UNE dark fiber with the carrier's own optronics attached to activate the fiber) and are operationally ready to provide offer DS-3 loops over these facilities on a widely available wholesale basis to other carriers? For each such location, do the wholesale providers have access to the entire customer location, including each individual unit within the location?

4. (a) FCCA submits that Issue 4 should be deferred until after the close of the triggers proceeding. If the Commission declines to defer these issues, then FCCA submits that it should modify Issue 4 as follows: The Commission should consider potential deployment issues only if the ILEC requests an analysis under potential deployment. If neither the self-provisioning nor the wholesale triggers for DS-3 loops is satisfied in BellSouth's service area at a specific customer location, using the potential deployment criteria specified in §51.318(a)(5)(ii) what evidence is there of non-

impairment for a DS-3 loop at that a specific customer location? Is this evidence sufficient to conclude that there is no impairment at a specific customer location?

~~(e)~~(b) If neither the self-provisioning nor the wholesale triggers for DS-3 loops is satisfied in Sprint's service area at a specific customer location, using the potential deployment criteria specified in §1.318(a)(5)(ii) what evidence is there of non-impairment for a DS-3 loop at that a specific customer location? Is this evidence sufficient to conclude that there is no impairment at a specific customer location?

~~(d)~~(c) If neither the self-provisioning nor the wholesale triggers for DS-3 loops is satisfied in Verizon's service area at a specific customer location, using the potential deployment criteria specified in §1.318(a)(5)(ii) what evidence is there of non-impairment for a DS-3 loop at that a specific customer location? Is this evidence sufficient to conclude that there is no impairment at a specific customer location?

#### Issues Relevant to the Wholesale Facilities Trigger (All Loop Types)

FCCA-3: For each carrier identified above, is the carrier operationally ready and willing to provide loops at the applicable transport level (DS-1, DS-3). To determine whether a carrier is operationally ready, the Commission should consider whether each carrier:

- a. Has sufficient systems, methods, and procedures for pre-ordering, provisioning, maintenance and repair, and billing;
- b. Possesses the ability to provision wholesale high capacity loops to each specific customer location identified;
- c. Is capable of providing high capacity loops at a comparable level of capacity, quality, and reliability as the ILEC;
- d. Has access to the entire multiunit customer premises;
- e. Has the ability to provide wholesale high capacity loops in reasonably foreseeable quantities; ~~and~~
- f. Can be expected to provide wholesale loop capacity on a going-forward basis; and
- g. Make available high capacity loops through a standard contract or tariff, both generally and as to each specific customer location?;

#### Dark Fiber Loops

5. (a) In BellSouth's service area, to what specific customer locations does the ILEC or another party assert, by making a detailed demonstration, that there are have two or more competing providers that have deployed their own dark fiber facilities, including dark fiber owned by the carrier or obtained under a long-term

indefeasible right of use (but excluding BellSouth unbundled dark fiber)?

~~(e)(b)~~ In Sprint's service area, to what specific customer locations does the ILEC or another party assert, by making a detailed demonstration, that there are ~~have~~ two or more competing providers that have deployed their own dark fiber facilities, including dark fiber owned by the carrier or obtained under a long-term indefeasible right of use (but excluding Sprint unbundled dark fiber)?

~~(d)(c)~~ In Verizon's service area, to what specific customer locations does the ILEC or another party assert, by making a detailed demonstration, that there are ~~have~~ two or more competing providers that have deployed their own dark fiber facilities, including dark fiber owned by the carrier or obtained under a long-term indefeasible right of use (but excluding Verizon unbundled dark fiber)?

6. (a) FCCA submits that these issues should be deferred until after the close of the triggers proceeding. If the Commission declines to defer these issues, then FCCA submits that it should make the modifications noted herein. If the self-provisioning trigger for dark fiber loops is not satisfied in BellSouth's service area at a specific customer location, using the potential deployment criteria specified in §51.318(a)(6)(ii) what evidence is there of non-impairment for dark fiber loops at that a specific customer location? Is this evidence sufficient to conclude that there is no impairment at a specific customer location?

~~(e)(b)~~ If the self-provisioning trigger for dark fiber loops is not satisfied in ~~BellSouth's~~ Sprint's service area at a specific customer location, using the potential deployment criteria specified in §51.318(a)(6)(ii) what evidence is there of non-impairment for dark fiber loops at a specific customer location? Is this evidence sufficient to conclude that there is no impairment at ~~thata~~ a specific customer location?

~~(d)(c)~~ If the self-provisioning trigger for dark fiber loops is not satisfied in ~~BellSouth's~~ Verizon's service area at a specific customer location, using the potential deployment criteria specified in §51.318(a)(6)(ii) what evidence is there of non-impairment for dark fiber loops at ~~thata~~ a specific customer location? Is this evidence sufficient to conclude that there is no impairment at a specific customer location?

#### Wholesale Facilities Trigger Issues Applicable to Loops:

With regard to each loop type, does each potential wholesaler make available high capacity loops through a standard contract or tariff, both generally and as to each specific customer location?

FCCA-4: Are there any ILEC-controlled barriers, including but not limited to ILEC cross connect or hot cut policies or ordering interfaces that foreclose or hinder the deployment



of additional high capacity loop facilities, the provision of wholesale loops, or the use of such loops? If so, what are the barriers and which locations do they affect?

FCCA-5: Are there any non-ILEC-controlled barriers that foreclose or hinder the deployment of additional high capacity loop facilities, the provision of wholesale loops, or the use of such loops? If so, what are the barriers and which locations do they affect?

FCCA-6: For each carrier identified above, is the carrier currently serving customers?

Self-Provisioning Trigger Issues Applicable to Loops:

For each carrier identified above, is the carrier currently serving customers?

FCCA-7: Are there any ILEC-controlled barriers that foreclose or hinder the deployment of additional high capacity and/or dark fiber loop facilities or the use of loop facilities? If so, what are the barriers and what locations do they affect?

FCCA-8: Are there any non-ILEC-controlled barriers that foreclose or hinder the deployment of additional high capacity and/or dark fiber loop facilities or the use of loop facilities? If so, what are the barriers and what locations do they affect?

FCCA-9: Does the purported self-provider have equivalent access to the specific customer locations as the ILEC?

#### Dedicated DS-1 Transport

13-7. (a) In BellSouth's service area, between what two central offices in a LATA does the ILEC or another party assert, by making a detailed demonstration, that there are along what particular routes have two or more competing providers, not affiliated with each other or BellSouth, including intermodal providers of service comparable in quality to that of BellSouth, that have deployed their own DS-1 level dedicated transport facilities (including leased, purchased or UNE dark fiber with the carrier's own optronics attached to activate the fiber) and are operationally ready are willing to provide DS-1 level transport immediately over their own facilities on a widely available basis to other carriers on that route?

(e)(b) In Sprint's service area, between what two central offices in a LATA does the ILEC or another party assert, by making a detailed demonstration, that there are along what particular routes have two or more competing providers, not affiliated with each other or Sprint, including intermodal providers of service comparable in quality to that of Sprint, that have deployed their own DS-1 level dedicated transport facilities (including leased, purchased or UNE dark fiber with the carrier's own optronics attached to activate the fiber) and are operationally ready willing to provide DS-1 level transport immediately over their own facilities on a widely available basis to other carriers on that route?

~~(d)(c)~~ In Verizon's service area, between what two central offices in a LATA does the ILEC or another party assert, by making a detailed demonstration, that there are ~~along what particular routes~~ have two or more competing providers, not affiliated with each other or Verizon, including intermodal providers of service comparable in quality to that of Verizon, that have deployed their own DS-1 level dedicated transport facilities (including leased, purchased or UNE dark fiber with the carrier's own optronics attached to activate the fiber) and are operationally ready ~~willing to provide DS-1 level transport immediately over their own facilities on a widely available basis to other carriers on that route?~~

14.8. (a) In BellSouth's service area, for any particular route where an ILEC or another party asserts that there are at least two competing providers that are operationally ready to ~~will provide~~ wholesale DS-1 dedicated transport, do both competing providers' facilities terminate in collocation arrangements at an ILEC premise or a similar arrangement in a non-ILEC premise? If so, can requesting carriers obtain reasonable and nondiscriminatory access to those competing providers' termination points through a cross-connect to the providers' collocations either at the ILEC premise or similar arrangement if located at a non-ILEC premise?

~~(e)(b)~~ In Sprint's service area, for any particular route where an ILEC or another party asserts that there are at least two competing providers that are operationally ready to ~~will provide~~ wholesale DS-1 dedicated transport, do both competing providers' facilities terminate in collocation arrangements at an ILEC premise or a similar arrangement in a non-ILEC premise? If so, can requesting carriers obtain reasonable and nondiscriminatory access to those competing providers' termination points through a cross-connect to the providers' collocations either at the ILEC premise or similar arrangement if located at a non-ILEC premise?

~~(d)(c)~~ In Verizon's service area, for any particular route where an ILEC or another party asserts that there are at least two competing providers that are operationally ready to ~~will provide~~ wholesale DS-1 dedicated transport, do both competing providers' facilities terminate in collocation arrangements at an ILEC premise or a similar arrangement in a non-ILEC premise? If so, can requesting carriers obtain reasonable and nondiscriminatory access to those competing providers' termination points through a cross-connect to the providers' collocations either at the ILEC premise or similar arrangement if located at a non-ILEC premise?

### Dedicated DS-3 Transport

#### A. Self-Provisioning Trigger

15.9. (a) In BellSouth's service area, between what two central offices in a LATA does the ILEC or another party assert, by making a detailed demonstration, that there are ~~along what particular routes~~ locations have three or more competing providers, not

affiliated with each other or BellSouth, including intermodal providers of service comparable in quality to that of BellSouth, that have deployed their own DS-3 level dedicated transport facilities (including leased, purchased or UNE dark fiber with the carrier's own optronics attached to activate the fiber) and are operationally ready to use those transport facilities?

~~(e)(b)~~ In Sprint's service area, between what two central offices in a LATA does the ILEC or another party assert, by making a detailed demonstration, that there are ~~along what particular routes/locations have~~ three or more competing providers, not affiliated with each other or Sprint, including intermodal providers of service comparable in quality to that of Sprint, that have deployed their own DS-3 level dedicated transport facilities (including leased, purchased or UNE dark fiber with the carrier's own optronics attached to activate the fiber) and are operationally ready to use those transport facilities?

~~(d)(c)~~ In Verizon's service area, between what two central offices in a LATA does the ILEC or another party assert, by making a detailed demonstration, that there are ~~along what particular routes/locations have~~ three or more competing providers, not affiliated with each other or Verizon, including intermodal providers of service comparable in quality to that of Verizon, that have deployed their own DS-3 level dedicated transport facilities (including leased, purchased or UNE dark fiber with the carrier's own optronics attached to activate the fiber) and are operationally ready to use those transport facilities?

~~16.10.~~ (a) In BellSouth's service area, for any particular route where an ILEC or another party asserts that there are at least three competing providers have self-provisioned DS-3 level dedicated transport facilities, do the competing providers' facilities terminate in collocation arrangements at an ILEC premise or a similar arrangement in a non-ILEC premise?

~~(e)(b)~~ In Sprint's service area, for any particular route where an ILEC or another party asserts that there are at least three competing providers have self-provisioned DS-3 level dedicated transport facilities, do the competing providers' facilities terminate in collocation arrangements at an ILEC premise or a similar arrangement in a non-ILEC premise?

~~(d)(c)~~ In Verizon's service area, for any particular route where an ILEC or another party asserts that there are at least three competing providers have self-provisioned DS-3 level dedicated transport facilities, do the competing providers' facilities terminate in collocation arrangements at an ILEC premise or a similar arrangement in a non-ILEC premise?

B. Wholesale Facilities Trigger:

~~17-11~~ (a) In BellSouth's service area, between what two central offices in a LATA does the ILEC or another party assert, by making a detailed demonstration, that there are ~~along what particular routes locations have~~ two or more competing providers, not affiliated with each other or BellSouth, including intermodal providers of service comparable in quality to that of BellSouth, that have deployed their own DS-3 level dedicated transport facilities (including leased, purchased or UNE dark fiber with the carrier's own optronics attached to activate the fiber), are operationally ready to use those transport facilities, and are willing to provide DS-3 level dedicated transport immediately over their facilities on a widely available wholesale basis to other carriers?

~~(e)~~(b) In Sprint's service area, between what two central offices in a LATA does the ILEC or another party assert, by making a detailed demonstration, that there are ~~along what particular routes locations have~~ two or more competing providers, not affiliated with each other or Sprint, including intermodal providers of service comparable in quality to that of Sprint, that have deployed their own DS-3 level dedicated transport facilities (including leased, purchased or UNE dark fiber with the carrier's own optronics attached to activate the fiber), are operationally ready to use those transport facilities, and are willing to provide DS-3 level dedicated transport immediately over their facilities on a widely available wholesale basis to other carriers?

~~(d)~~(c) In Verizon's service area, between what two central offices in a LATA does the ILEC or another party assert, by making a detailed demonstration, that there are ~~along what particular routes locations have~~ two or more competing providers, not affiliated with each other or Verizon, including intermodal providers of service comparable in quality to that of Verizon, that have deployed their own DS-3 level dedicated transport facilities (including leased, purchased or UNE dark fiber with the carrier's own optronics attached to activate the fiber), are operationally ready to use those transport facilities, and are willing to provide DS-3 level dedicated transport immediately over their facilities on a widely available wholesale basis to other carriers?

~~18-12~~ (a) In BellSouth's service area, for any particular route where the ILEC or another party asserts that there are at least two competing providers will provide wholesale DS-3 level dedicated transport, do both competing providers' facilities terminate in collocation arrangements at an ILEC premise or a similar arrangement in a non-ILEC premise? If so, can requesting carriers obtain reasonable and nondiscriminatory access to those competing providers' termination points through a cross-connect to the providers' collocations either at the ILEC premise or similar arrangement if located at a non-ILEC premise?

~~(e)~~(b) In Sprint's service area, for any particular route where an ILEC or another party asserts that there are at least two competing providers will provide wholesale DS-3 level dedicated transport, do both competing providers' facilities terminate in

collocation arrangements at an ILEC premise or a similar arrangement in a non-ILEC premise? If so, can requesting carriers obtain reasonable and nondiscriminatory access to those competing providers' termination points through a cross-connect to the providers' collocations either at the ILEC premise or similar arrangement if located at a non-ILEC premise?

~~(d)(c)~~ In Verizon's service area, for any particular route where an ILEC or another party asserts that there are at least two competing providers will provide wholesale DS-3 level dedicated transport, do both competing providers' facilities terminate in collocation arrangements at an ILEC premise or a similar arrangement in a non-ILEC premise? If so, can requesting carriers obtain reasonable and nondiscriminatory access to those competing providers' termination points through a cross-connect to the providers' collocations either at the ILEC premise or similar arrangement if located at a non-ILEC premise?

~~19.13.~~ (a) FCCA submits that potential deployment should be deferred until after the close of the triggers proceeding. If the Commission declines to defer these issues, then FCCA submits that it should only consider potential deployment issues if the ILEC requests an analysis under potential deployment. If neither the self-provisioning nor the wholesale triggers for DS-3 level dedicated transport is satisfied in BellSouth's service area along any routes, using the potential deployment criteria specified in §51.318(e)(2)(ii) what evidence is there of non-impairment for DS-3 level dedicated transport on ~~that~~ a specific route? Is this evidence sufficient to conclude that there is no impairment along this route?

~~(e)(b)~~ If neither the self-provisioning ~~nor~~ the wholesale triggers for DS-3 level dedicated transport is satisfied in Sprint's service area along any routes, using the potential deployment criteria specified in §51.318(e)(2)(ii) what evidence is there of non-impairment for DS-3 level dedicated transport on ~~that~~ a specific route? Is this evidence sufficient to conclude that there is no impairment along this route?

~~(d)(c)~~ If neither the self-provisioning ~~nor~~ the wholesale triggers for DS-3 level dedicated transport is satisfied in Verizon's service area along any routes, using the potential deployment criteria specified in §51.318(e)(2)(ii) what evidence is there of non-impairment for DS-3 level dedicated transport on ~~at~~ that specific route? Is this evidence sufficient to conclude that there is no impairment along this route?

### Dark Fiber Transport

20 (a) In BellSouth's service area, between what two central offices in a LATA along what particular routes/locations does an ILEC or another party assert, by making a detailed demonstration, that there are ~~have~~ three or more competing providers, not affiliated with each other or BellSouth, that ~~have~~ deployed their own dark fiber

transport facilities?

14.

~~(e)(b)~~ In Sprint's service area, between what two central offices in a LATA does an ILEC or another party assert, by making a detailed demonstration, that there are along what particular routes/locations have three or more competing providers, not affiliated with each other or Sprint, that have deployed their own dark fiber transport facilities?

~~(d)(c)~~ In Verizon's service area, between what two central offices in a LATA does an ILEC or another party assert, by making a detailed demonstration, along what particular routes/locations have that there are three or more competing providers, not affiliated with each other or Verizon, that have deployed their own dark fiber transport facilities?

21-15. (a) In BellSouth's service area, for any particular route where an ILEC or another party asserts that there are at least three competing providers have self-provisioned dark fiber dedicated transport facilities, do the competing providers' facilities terminate in collocation arrangements at an ILEC premise or a similar arrangement in a non-ILEC premise?

~~(e)(b)~~ In Sprint's service area, for any particular route where the ILEC or another party asserts that there are at least three competing providers have self-provisioned dark fiber dedicated transport facilities, do the competing providers' facilities terminate in collocation arrangements at an ILEC premise or a similar arrangement in a non-ILEC premise?

~~(d)(c)~~ In Verizon's service area, for any particular route where the ILEC or another party asserts that there are at least three competing providers have self-provisioned dark fiber dedicated transport facilities, do the competing providers' facilities terminate in collocation arrangements at an ILEC premise or a similar arrangement in a non-ILEC premise?

23-16. (a) In BellSouth's service area, between what two central offices in a LATA has an ILEC or another party asserted, by making a detailed demonstration, that there are along what particular routes/locations have two or more competing providers, not affiliated with each other or BellSouth, that have deployed their own dark fiber transport facilities (including dark fiber obtained from an entity other than the ILEC), and are operationally ready to lease or sell those transport facilities to provide transport along the route, and are willing to provide dark fiber immediately over their facilities on a widely available wholesale basis to other carriers?

~~(e)(b)~~ In Sprint's service area, between what two central offices in a LATA has an ILEC or

~~another party asserted, by making a detailed demonstration, that there are along what particular routes/locations have two or more competing providers, not affiliated with each other or Sprint, that have deployed their own dark fiber transport facilities (including dark fiber obtained from an entity other than the ILEC), and are operationally ready to lease or sell those transport facilities to provide transport along the route, and are willing to provide dark fiber immediately over their facilities on a widely available wholesale basis to other carriers?~~

~~(d)(c)~~ In Verizon's service area, between what two central offices in a LATA has an ILEC or another party asserted, by making a detailed demonstration, that there are along what particular routes/locations have two or more competing providers, not affiliated with each other or Verizon, that have deployed their own dark fiber transport facilities (including dark fiber obtained from an entity other than the ILEC), and are operationally ready to lease or sell those transport facilities to provide transport along the route, and are willing to provide dark fiber immediately over their facilities on a widely available wholesale basis to other carriers?

23-17. (a) In BellSouth's service area, for any particular route where an ILEC or another party asserts that there are at least two competing providers will provide wholesale dark fiber, do both competing providers' facilities terminate in collocation arrangements at an ILEC premise or a similar arrangement in a non-ILEC premise? If so, can requesting carriers obtain reasonable and nondiscriminatory access to those competing providers' termination points through a cross-connect to the providers' collocations either at the ILEC premise or similar arrangement if located at a non-ILEC premise?

(e)(b) In Sprint's service area, for any particular route where an ILEC or another party asserts that there are at least two competing providers will provide wholesale dark fiber, do both competing providers' facilities terminate in collocation arrangements at an ILEC premise or a similar arrangement in a non-ILEC premise? If so, can requesting carriers obtain reasonable and nondiscriminatory access to those competing providers' termination points through a cross-connect to the providers' collocations either at the ILEC premise or similar arrangement if located at a non-ILEC premise?

(d)(c) In Verizon's service area, for any particular route where an ILEC or another party asserts that there are at least two competing providers will provide wholesale dark fiber, do both competing providers' facilities terminate in collocation arrangements at an ILEC premise or a similar arrangement in a non-ILEC premise? If so, can requesting carriers obtain reasonable and nondiscriminatory access to those competing providers' termination points through a cross-connect to the providers' collocations either at the ILEC premise or similar arrangement if located at a non-ILEC premise?

24-18. (a) FCCA submits that the Commission should not consider potential deployment issues until after the close of the trigger proceeding. If the Commission declines to

defer consideration of potential deployment, then it should consider potential deployment only if the ILEC requests such an analysis. If neither the self-provisioning nor the wholesale triggers for dark fiber transport is satisfied in BellSouth's service area along any routes, using the potential deployment criteria specified in §51.318(e)(3)(ii) what evidence is there of non-impairment for dark fiber on a specific route? Is this evidence sufficient to conclude that there is no impairment along this route?

(e)(b) If neither the self-provisioning nor the wholesale triggers for dark fiber transport is satisfied in Sprint's service area along any routes, using the potential deployment criteria specified in §51.318(e)(3)(ii) what evidence is there of non-impairment for dark fiber on a specific route? Is this evidence sufficient to conclude that there is no impairment along this route?

(e)(c) If neither the self-provisioning nor the wholesale triggers for dark fiber transport is satisfied in Verizon's service area along any routes, using the potential deployment criteria specified in §51.318(e)(3)(ii) what evidence is there of non-impairment for dark fiber on a specific route? Is this evidence sufficient to conclude that there is no impairment along this route?

FCCA submits that this issue should be considered in a separate proceeding after the close of the trigger proceeding. If the Commission considers transition issues, however, then it also should modify this issue as follows and include FCCA-10 as an issue.

25.19. If unbundling requirements for loops at customer-specific locations or dedicated transport along a specific route are eliminated, what is the appropriate transition period after which a CLEC no longer is entitled to these loops or transport under Section 251(c)(3)? What is the appropriate transition period for existing loops or transport circuits in order to allow a carrier to transition to an alternative ILEC or non-ILEC arrangement?

FCCA-10: If unbundling requirements for loops at customer-specific locations or dedicated transport along a route are eliminated, what is the appropriate pricing for such loop or transport during the transition period?

Self-Provisioning Trigger:

FCCA-11: With regard to dedicated transport, what does it mean to be operationally ready for purposes of satisfying the self-provisioning trigger?

FCCA-12: Are there any ILEC-controlled barriers that foreclose or hinder the deployment of additional dedicated interoffice transport facilities or the use of transport facilities? If so, what are the barriers and what routes do they affect?

FCCA-13: Are there any ILEC-controlled barriers that foreclose or hinder the deployment of additional dedicated interoffice transport facilities or the use of transport facilities? If so, what are the barriers and what routes do they affect?



FCCA-14: Based on an analysis of a full evidentiary record for each interoffice transport route and location and capacity level challenged, which routes and locations, in the Commission's judgment, should qualify as exceptions to the FCC's national finding of impairment? For those routes and locations that qualify, can the Commission exempt those routes and locations from the Act's unbundling requirements without eliminating competition in that area, or are carriers still impaired such that a petition for waiver is appropriate?

Wholesale Facilities Trigger:

FCCA-15: With regard to dedicated transport, for each of the carriers identified above, is each carrier "immediately capable and willing to provide [DS-1, DS-3, and dark fiber, as applicable] transport along a specific route between incumbent LEC switches or wire center"? See *Triennial Review Order* ¶ 400. In determining whether a carrier is operationally ready to provide wholesale dedicated interoffice transport, the Commission must evaluate whether each carrier:

- a. Has sufficient systems, methods and procedures for pre-ordering, provisioning, maintenance and repair, and billing;
- b. Possesses the ability to actually provision wholesale dedicated interoffice transport on each specific route identified;
- c. Is capable of provisioning dedicated interoffice transport equal to or exceeding the level of quality provided by the ILEC;
- d. Has the ability to provide wholesale dedicated interoffice transport in reasonably foreseeable quantities; and
- e. Does each of the potential wholesalers make dedicated interoffice transport generally and widely available, through a standard contract or tariff, both generally available and as to each party route?

FCCA-16: Are there any ILEC-controlled barriers that foreclose or hinder the deployment of additional dedicated transport facilities, the provision of wholesale transport, or the use of such transport? If so, what are the barriers and which routes do they affect?

FCCA-17: Are there any ILEC-controlled barriers including but not limited to ILEC cross connect or hot cut policies or ILEC ordering interfaces that foreclose or hinder the deployment of additional dedicated transport facilities, the provision of wholesale transport, or the use of such transport? If so, what are the barriers and which routes do they affect?

FCCA-18: Based on an analysis of a full evidentiary record for each interoffice transport route and loop and capacity level challenged, which routes and locations, in the Commission's judgment, qualify as trigger-based exceptions to the FCC's national finding of impairment? With regard to each route and location, can the Commission exempt those routes and

locations from the Act's unbundling requirements without eliminating competition in that are or are carriers still impaired such that a petition for waiver is appropriate?

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