



Consumer Federation of America

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AN END TO UNBUNDLED SWITCHING COULD MEAN AN END TO COMPETITION *Court mandated, market-by-market analysis finds widespread impairment for residential customers*

Washington, D.C. – Allowing Bell companies to stop leasing unbundled switching to competitive local exchange carriers (CLECs) will undermine competition for residential customers, the Texas Office of Public Utility Counsel (OPUC) and the Consumer Federation of America (CFA) concluded in comments filed today in response to the Federal Communications Commission’s (FCC) “Final Unbundling Rules.”

“Because the Court has required a granular analysis of local telephone markets, the FCC must conclude that withdrawing unbundled switching will impair competition in most areas,” said Mark Cooper, Director of Research at the CFA. “In recent filings in states like Ohio, SBC seems to have forgotten that the FCC is still under a mandate to conduct market-by-market analysis and the court did not overturn the analytic framework the FCC adopted in the Triennial Review Order (TRO).”

“The TRO proceedings in Texas showed that competitive deployment of switching is limited to small clusters of central offices in the downtown areas of the largest cities,” said Lauri Pappas, Deputy Public Counsel for OPUC.

“Our analysis found that the high cost of switching and the onerous conditions the incumbent local exchange carriers (ILEC) place on transport and aggregation of remotely reaching residential customers make it uneconomic to serve large geographic areas from a single central office,” Cooper, who served as an expert witness for PUC during the Texas Public Utility Commission TRO proceeding, added.

The comments point out that the ultimate challenge for the Commission remains identifying where network elements, in the words of the Appeals Court, “are significantly deployed on a competitive basis,” indicating that withdrawing those elements on an unbundled basis would not impair competition.

“The economic analysis is exactly what the court demanded, and the analytic framework and policy recommendations apply nationwide,” Pappas said. “We have addressed all of the controversial issues flagged by the court.”

“We count cable operators and those serving only small businesses as mass-market CLECs,” Cooper pointed out. “We use a very low threshold of scale to find a market competitive – only one CLEC needs to have secured 1% of the market. And we determined that the presence of five competitors in a market is a solid indicator that the market is unimpaired and can support competition. This threshold is well grounded in economic and antitrust analysis.”

The comments lay out a detailed and aggressive plan for competitive carriers to transition away from leasing Bell switching via the unbundled network element platform (UNE-P) and instead lease the Bell loop (UNE-L).

Clusters of central offices where there are currently five CLECs serving residential customers without relying on ILEC switching and at least one CLECs has achieved a 1% market penetration would immediately begin the process of transitioning to UNE-L. A “hot cut” process that ensures service will not be disrupted must be in place. In Texas this covers about one-sixth of SBC’s residential customers.

When that first transition phase is completed, the remaining clusters of central offices with five CLECs serving residential customers without relying on ILEC switching would transition to UNE-L. This would cover about one-quarter of SBC’s residential customers.

“This ensures that the transition will be orderly and gives the ILECs an incentive to speed the process, so they can withdraw unbundled switching in a larger area,” Cooper added. “Moreover, if policy makers want more customers to be served by competitive switching, then they can institute policies to extend the reach of central offices by making the use of enhanced extended loops (EEL) easier by removing the artificial costs and operational impediments the Bells have imposed on this approach.”

A copy of the comments is available at: <http://www.consumerfed.org/uneremand.pdf>

The Consumer Federation of America is the nation’s largest consumer advocacy group, composed of two hundred and eighty state and local affiliates representing consumer, senior citizen, low-income, labor, farm, public power and cooperative organizations, with more than fifty million members.

The Texas Office of Public Utility Counsel’s (OPUC’s) is an independent agency, separate from the state’s Public Utility Commission of Texas (PUC), created to represent the interests of 9 million residential and small commercial customers in state and federal utility matters before the PUC, FCC, courts, and other utility regulatory agencies.