BOULT
CUMMINGS
CONNERS
& BERRY PLC

LAW OFFICES
414 UNION STREET, SUITE 1600
POST OFFICE BOX 198062
NASHVILLE, TENNESSEE 37219

Henry Walker
(615) 252-2363
Fax: (615) 252-6363
Email: hwalker@bccb.com

TELEPHONE (615) 244-2582
FACSIMILE (615) 252-2380
INTERNET WEB http://www.bccb.com/

February 5, 2001

Mr. David Waddell
Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

In Re: *Generic Docket to Establish UNE Prices for Lines Sharing per FCC 99-355, and Riser Cable and Terminating Wire as Ordered in TRA Docket 98-00123.*
Docket No. 00-00544

Dear David:

Please find enclosed the original and thirteen copies of the Supplemental Brief filed on behalf of the Data Coalition in the above-captioned proceeding.

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By: Henry Walker by WHM w/permission
Henry Walker

HW/nl
Attachment
c: Parties

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BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

In re:	)	
Generic Docket To Establish UNE Prices	)	
for Line Sharing Per FCC 99-355, and	)	Docket No. 00-00544
Riser Cable and Terminating Wire as	)	
Ordered in Authority Docket 98-00123	)	

SUPPLEMENTAL BRIEF OF THE DATA COALITION

Eric J. Branfman
Thomas R. Lotterman
Joshua M. Bobeck
Swidler Berlin Shereff Friedman, LLP
3000 K Street, NW, Suite 300
Washington, DC 20007-5116
Telephone (202) 424-7500
Facsimile: (202) 424-7645

Attorneys For Broadslate Networks
of Tennessee, Inc.

John Kerkorian
Mpower Communications Company, Inc.
5607 Glenridge Drive
Suite 300
Atlanta, GA 30342
Telephone: (404) 554-1217
Facsimile:

Attorney for MGC Communications, Inc.,
d/b/a Mpower Communications, Inc.

Catherine F. Boone
Covad Communications Company
10 Glenlake Parkway
Suite 650
Atlanta, GA 30328
Telephone: (678) 579-8388
Facsimile: (678) 320-9433

Attorney for DIECA Communications,
Inc. d/b/a Covad Communications
Company

Henry Walker
Boult, Cummings, Conners & Berry
4141 Union Street, Suite 1600
Nashville, TN 37219

Attorney for the Data Coalition

Dated: February 5, 2001

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INTRODUCTION

Pursuant to the Tennessee Regulatory Authority's ("TRA") recent request, the Data Coalition hereby files this supplemental brief addressing the impact of the FCC's January 19, 2001 Order (In the Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability And Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket Nos. 98-147 and 96-98, Third Report and Order on Reconsideration in CC Docket No. 98-147, Fourth Report and Order on Reconsideration in CC Docket No. 96-98, Third Further Notice of Proposed Rulemaking in CC Docket No. 98-147, Sixth Further Notice of Proposed Rulemaking in CC Docket No. 96-98) ("Line Sharing Reconsideration Order"). The Line Sharing Reconsideration Order clarifies and affirms the ILECs obligation to provide line sharing capabilities through remote terminals.

DISCUSSION

As the TRA is aware, line sharing can be provided over any type of facility, either one that is all copper (known as home run copper) or a loop that is partially fiber in the feeder section and is copper in the distribution section ("fiber fed loop"). As Mr. Zulevic noted in his testimony on behalf of the Data Coalition, in the home run copper scenario, the technically feasible options to provide line sharing include the placement of a competitor owned splitter in the competitor's collocation space, the placement of a competitor owned splitter in the common

area of a central office, and the placement of an ILEC owned splitter directly on the main distribution frame. In essence, when a voice grade loop over which line sharing will be made available is cooper all the way from the customer premise to the central office, the competitor must have access to a splitter in the central office and must place a DSLAM in the central office. Once those two pieces of equipment are available, line sharing is possible through that central office.

In it's Line Sharing Reconsideration Order, the FCC reaffirmed its position that ILECs likewise have an obligation to unbundle line sharing capabilities when a loop is fiber from the central office to a remote terminal and then is copper from the remote terminal to the customer premise. In particular, the Commission clarified that the requirement to provide line sharing applies to the entire loop, even where the incumbent has deployed fiber in the loop (e.g., where the loop is served by a remote terminal). Because incumbents had interpreted the FCC's use of the word "copper" in Section 51.319(h)(1) as limiting an ILEC's obligation to provide line sharing in a "copper only loop," the FCC clarified that no such limitation regarding access to the fiber portion of the DLC loop for the provision of line shared services was intended. (Line Sharing Reconsideration Order at ¶ 10.)

In the January 19, 2001 Order, the Commission noted that this clarification was crucial to ensure that ILECs facilitate line sharing UNE availability through remote terminals, even if a CLEC chooses not to collocate a DSLAM at that remote terminal. The Commission concluded that:

> In the absence of this clarification, a competitive LEC might undertake to collocate a DSLAM in an incumbent's central office to provide line-shared xDSL services to customers, only to be told by the incumbent that it was migrating those customers to fiber-fed facilities and the competitor would now have to collocate another DSLAM at a remote terminal in order to continue providing line-shared services to those same customers. If our

> conclusion in the Line Sharing Order that incumbents must provide access to the high frequency portion of the loop at the remote terminal as well as the central office is to have any meaning, then competitive LECs must have the option to access the loop at either location, not the one that the incumbent chooses as a result of network upgrades entirely under its own control.

(Line Sharing Reconsideration Order at ¶ 11.) This provides CLECs with maximum flexibility.

In certain limited situations, CLECs may chose to deploy a DSLAM in a remote terminal, like perhaps in an office park where the CLEC has an arrangement with the office park owner to provide high speed DSL to all of its tenants. More often, however, CLECs need to obtain access to the high frequency portion of the loop from the customer premise all the way back to the central office. To do so, CLECs need to be able to place a line card in the digital loop carrier unit that contains both the DSLAM and the splitter functionalities. In this way, CLECs access the high frequency portion of the copper distribution segment of the loop and also have access to the fiber feeder section to bring the signal back to the central office.

In it Line Sharing Reconsideration Order, the FCC made clear that its definition of a local loop encompasses any facility or combination of facilities used by the incumbent (copper or fiber) from the customer premise to the distribution frame in the central office. (Line Sharing Reconsideration Order at ¶ 10) Thus, when the FCC granted CLECs access to the high frequency portion of the local loop, that access is not limited to a local loop that is all copper from the distribution frame to the customer premise.

BellSouth will argue that it is providing CLECs with access to the high frequency portion of the loop by allowing CLECs to collocate DSLAMs in the remote terminals. This is not a workable solution. As previously mentioned, there may be rare cases in which such collocation is economically feasible. However, the vast majority of the time collocation of DSLAM equipment in the remote terminal will strand thousands of dollars of equipment in a terminal that

can only serve a small number of customers, making it prohibitively expensive for CLECs to serve those customers. Moreover, space at remote terminals is limited and rights-of-way may not be available to CLECs to collocate their equipment. Therefore, collocation at the remote terminal is neither an effective nor efficient method of offering xDSL over fiber-fed loops. The Line Sharing Reconsideration Order recognizes that and expressly requires incumbents like BellSouth to provide access to the high frequency portion of the loop, irrespective of where the CLEC places its DSLAM (the central office or the remote terminal). (Line Sharing Reconsideration Order, p. 7).

As Mr. Starkey testified on behalf of the Data Coalition, line sharing over fiber fed loops is most efficiently accomplished with a line card placed in a digital loop carrier system. This line card has both the DSLAM and the line splitter functionality and can be placed easily in next generation digital loop carrier systems. (Starkey Rebuttal at p. 104) BellSouth's witness Milner testified that over 14.5% of BellSouth's digital loop carrier systems in Tennessee are these next generation systems, capable of supporting such a line card placement. (Vol. IIB, Milner Testimony at p. 82). The placement of the line card is infinitely more affordable for CLECs than is stranding expensive DSLAM capability in a remote terminal. Furthermore, it ensures that consumers served by digital loop carrier systems will have access to competitive high speed internet services.

In a similar decision, the Massachusetts Department of Telecommunications and Energy ordered Verizon to file a tariff that would enable CLECs to place or have Verizon place CLEC-purchased line cards in Verizon's DLC electronics at the remote terminal.[1] The DTE indicated

[1] D.T.E. 98-57-Phase III, In Re: Investigation by the Department on its own motion as to the propriety of the rates and charges set forth in M.D.T.E. No. 17, p. 92.

that it was concerned that if Verizon were able to utilize these line cards while requiring CLECs to deploy entire DSLAMs in the remote terminals, many Massachusetts customers would be shut out of the benefits of high speed, competitive internet access. As BellSouth further deploys next generation DLC systems capable of supporting line cards to DSL service over fiber-fed loops, the TRA must ensure that CLECs are able to access similar equipment "on the same terms and conditions" as BellSouth can. (UNE Remand Order at ¶ 313). Without such equal access, BellSouth will gain an unwarranted competitive advantage over the high speed internet markets.

In sum, ILECs are under a clear legal obligation to facilitate the CLEC access to line sharing and subloop UNEs at the remote terminal, even if the CLEC deploys it's DSLAM in the central office rather than the remote terminal. The FCC made clear that such a clarification was vital to the future of competition because "it would be inconsistent with the intent of the Line Sharing Order and the statutory goals behind Section 706 and 251 of the 1996 Act to permit the increased deployment of fiber based networks by incumbent LECs to unduly inhibit the competitive provision of xDSL services." (Line Sharing Reconsideration Order at ¶ 13).

CONCLUSION

In conclusion, the Data Coalition requests that the TRA order that BellSouth make available to CLECs in Tennessee the option of placing a line card with DSLAM and splitter functionality in a digital loop carrier system, where such carrier system is capable of supporting the functionality. Since BellSouth has testified that 14.5% of its digital loop carrier in Tennessee is so equipped, this will enable CLECs to compete on an even basis with BellSouth where BellSouth can use the efficient line card placement to deliver DSL, rather than deploying a DSLAM in the remote terminal for access to those customers. In this way, as an incumbent rolls out its next generation digital loop carrier systems and enables itself to place a line card with

DSLAM splitter functionality in a remote terminal, CLECs are given an equal footing to access the customers served by those systems. Furthermore, as the Data Coalition requested in its testimony, the TRA should require BellSouth to file costs for obtaining access to line cards in next generation digital loop carrier units.

Henry Walker
Boult, Cummings, Conners & Berry, PLC
4141 Union Street, Suite 1600
Post Office Box 198062
Nashville, TN 37219
Telephone: (615) 252-2363
Facsimile: (615) 252-6363

Attorney for the Data Coalition

Catherine F. Boone
Covad Communications Company
10 Glenlake Parkway, Suite 650
Atlanta, GA 30328
Telephone: (678) 579-8388
Facsimile: (678) 320-9433

Attorney for DIECA Communications, d/b/a
Covad Communications Company

Eric J. Branfman
Thomas R. Lotterman
Joshua M. Bobeck
Swidler Berlin Shereff Friedman, LLP
3000 K Street, NW, Suite 300
Washington, DC 20007-5116
Telephone (202) 424-7500
Facsimile: (202) 424-7645

Attorneys For Broadslate Networks
of Tennessee, Inc.

John Kerkorian
Mpower Communications Company, Inc.
5607 Glenridge Drive
Suite 300
Atlanta, GA 30342
Telephone: (404) 554-1217
Facsimile: (404) 554-0010

Attorney for MGC Communications, Inc.
d/b/a Mpower Communications, Inc.