



1230 Peachtree Street, NE Promenade II, 19th Floor Atlanta, GA 30309
W > <http://www.covad.com>

F > 404.942.3495

William H. Weber
Vice President, External Affairs

02 DEC 3 AM 9 30

404.942-3494 (direct)
wweber@covad.com

IN REGULATORY AUTHORITY
November 22, 2002

VIA FIRST CLASS MAIL

Sara Kyle
Chairman
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243-0505

RECEIVED

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SARA KYLE, COMMISSIONER
TN PUBLIC SERVICE COMM.

Re: *Support for Retention of State Authority and Existing UNEs in the Triennial Review/ Success of Line Sharing UNE on Its Third Anniversary*

Dear Chairman Kyle:

As always, it was good getting to see you in Chicago. As you are well aware, the six years that have passed since the Telecommunications Act of 1996 have been tumultuous ones for the telecommunications industry. Throughout these six years the Tennessee Regulatory Authority has wrestled with the issues raised by the 1996 Act by arbitrating Interconnection Agreements, resolving disputes, and setting prices for Unbundled Network Elements.

Today, for the first time, the entire industry is nearing the point where competition can truly begin to flourish. Indeed, consumers in Tennessee are already seeing the benefits of fair ~~UNE pricing for Line Shared Loops~~ with Covad being the first DSL provider to offer a DSL product permanently priced under \$40.00. At this critical juncture in the telecommunications industry, it would be disastrous to see major changes implemented in the legal or regulatory environment, a danger that at least 80 state Commissioners of the National Association of Regulatory Utility Commissioners ("NARUC") recognize in a letter that they sent two weeks ago to all FCC Commissioners (copy enclosed). As these state Commissioners noted, "[a]ny restriction on the State flexibility [to add to the national UNE list] will negatively impact the growth of local competition."

The Florida Public Service Commission ("FPSC") took a similar position in a letter that it sent several weeks ago to Chairman Powell of the FCC and to the entire Florida Congressional delegation (copy enclosed). In the letter, the FPSC urges the FCC and Congress to give competition a chance to work, stating that, "until sufficient time is allowed for the market to mature, Congressional or any other type federal action on this matter is premature."

Chairman Sara Kyle

November 22, 2002

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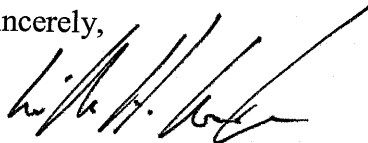
As I write, BellSouth is close to gaining 271 authorization region-wide, an accomplishment that will make it a powerful competitor in the long distance market. At Covad, we continue to expand our nationwide network and the scope of our innovative data offerings. AT&T, Sprint, MCI and others are giving BellSouth a run for its money in the local voice market. In short, despite the messages that you may be hearing from some quarters, competition is flourishing. Now is not the time to have UNEs removed from the national list or to see other changes in the current regulatory framework. Instead, it is time for some regulatory certainty so that the market can be given a chance to work.

The astonishing success of the Line Sharing UNE is perfect example of the consumer benefits that competition can bring to the telecommunications market. As you can see in the enclosed chart, before the FCC's 1999 Line Sharing Order—and despite the fact that line sharing technology had been in the hands of the RBOCs for nearly ten years and cable modem deployment had begun four years earlier—there were less than 500,000 DSL lines deployed nationwide. Today, a mere three years after Line Sharing competition began, there are more than **5.5 million** DSL subscribers in the United States. In short, the RBOCs began their aggressive deployment of DSL only after they were goaded into it by competition. Any cutback in the availability of the Line Sharing UNE or the authority of the states to add UNEs to the list would be a tremendous step backward for competition and for Tennessee consumers.

If the Tennessee Public Service Commission feels—as the FPSC does—that “UNEs are a method of entry into the market that should not, at this time, be undermined,” I urge you to communicate your concerns about the possible outcome of the Triennial Review both to the FCC and to Tennessee's Congressional delegation.

Should you have any questions or desire any further information about any subjects discussed above, please do not hesitate to contact me.

Sincerely,



William H. Weber

WHW/jb
Enclosures