

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Review of Section 251 Unbundling	)	CC Docket No. 01-338
Obligations of Incumbent Local Exchange	)	
Carriers	)	
	)	
Implementation of Local Competition	)	CC Docket No. 96-98
Provisions of the Telecommunications Act of	)	
1996	)	
	)	
Deployment of Wireline Service Offering	)	CC Docket No. 98-147
Advanced Telecommunications Capability	)	

**Reply Comments of the  
Alabama Public Service Commission**

The Alabama Public Service Commission (APSC) respectfully submits the following comments in response to the pleadings filed in the Federal Communications Commission's (Commission or FCC) Notice of Proposed Rulemaking (Notice or Triennial Review) issued in the above-captioned proceeding<sup>1</sup> regarding the provision of unbundled network elements (UNEs) by incumbent local exchange carriers (ILECs).

The Alabama PSC has recently completed proceedings which provided an extensive review of the provision and prices of BellSouth's UNEs and a review of the existing competitive climate in Alabama for § 271 evaluation . The Alabama UNE proceeding heightens our awareness of the critical impact this proceeding may have on the existing policy initiatives in our State. Therefore, the Alabama PSC strongly endorses the spirit of NARUC's comments in this docket. The APSC supports the

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<sup>1</sup> *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket Nos. 01-338, 96-98 and 98-147 Notice of Proposed Rulemaking (released Dec 20, 2001) (NPRM)

establishment of a Federal-State Joint Conference to facilitate, inform and coordinate the implementation of the FCC's three-year UNE review. Additionally, the APSC the urges the FCC to assure that States retain the authority to impose additional unbundling obligations upon incumbent LECs beyond those imposed by the national list, as long as they meet the requirements of §251.

Specifically, we endorse the following NARUC positions:

- (1) *A Joint Conference is in the Public Interest:* Given the critical role played by State regulators in implementing the statutory UNE regime, as well as the intensive data- and State-specific nature of the three-year review, *at a minimum*, the FCC should establish a formal mechanism to secure the State participation necessary for an informed application of the statutory “necessary” and “impair” standards.
- (2) *State Authority To Add New UNEs/Obligations:* NARUC agrees with the FCC findings that § 251(d)(3) of the 1996 Act “grants State commissions the authority to impose additional obligations upon incumbent LECs beyond those imposed by the national list, as long as they meet the requirements of [§] 251.” We believe Congressional intent as outlined in the 1996 federal statute, existing State enabling statutes, and the FCC rules and prior findings in this and related dockets support this approach.
- (3) *Impact of Federal Minimum List:* As recognized implicitly in the *UNE Remand Order's* specific State authority findings, the States are better positioned to conduct a detailed review of additional unbundling that is appropriate for local market conditions. Consequently, the FCC should defer to State determinations of whether unbundling requirements in any State should collapse to the existing or new federal minimums. Assuming any new federal minimum removes one or more UNE from the national list or restricts availability of any UNE, such limitations should not apply in any State unless that State first determines that competitors access is “necessary” or whether lack of access “would impair” that competitor's ability to offer services, or is required as a matter of State rule or statute.
- (4) *Impact of Federal Action on UNE-P:* The FCC “. . . should support the implementation of universal availability of the UNE-P, on the basis that one form of entry should not be favored over another.” Specifically, the FCC should assure that its implementation of § 251 “does not favor one method of entry, at the expense of other methods of entry.”

The Alabama PSC like many of the states that have filed comments in this proceeding believes that the states are in the best position to know the need of its citizens and balance the needs of both the incumbent local providers and the competitive carriers. States are better able to judge the appropriateness of a particular UNE in light of local market conditions and can be more responsive to changes in those conditions. States need the flexibility to tailor UNE requirements to their needs and to address state specific technical, demographic and geographic issues.

We urge the FCC to be responsive to the requests and comments of the states and we appreciate the opportunity to make our views known.

Respectfully submitted,

By: s/ Mary E. Newmeyer  
Mary E. Newmeyer  
Federal Affairs Advisor

Alabama Public Service Commission  
100 North Union Street  
P.O. Box 304260  
Montgomery, Alabama 36130  
(334)242-5025

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