



# STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC UTILITY CONTROL  
TEN FRANKLIN SQUARE  
NEW BRITAIN, CT 06051

## DOCKET NO. 98-02-27 DPUC INVESTIGATION INTO THE PROVISION OF SHARED TRANSPORT

June 21, 2000

By the following Commissioners:

Jack R. Goldberg  
John W. Betkoski, III  
Linda Kelly Arnold

### DECISION

#### **I. BACKGROUND**

In its First Report and Order in CC Docket No. 96-98, Implementation of the Local Competition Provisions in the Telecommunications Act of 1996 (August 8, 1996) (First Report and Order), the Federal Communications Commission (FCC) required incumbent local exchange carriers (ILEC) to provide, *inter alia*, unbundled access to shared transmission facilities between end offices and the tandem switch. This determination was appealed to the Eighth Circuit Court of Appeals, and ultimately, to the U.S. Supreme Court. During the pendency of these appeals, the Department of Public Utility Control (Department) initiated the instant docket to investigate issues associated with the provisioning shared transport.<sup>1</sup> The Department issued a draft

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<sup>1</sup> The Department recognized as interested persons to this proceeding the Office of Consumer Counsel, Ten Franklin Square, New Britain, Connecticut 06051; the Southern New England Telephone Company (Telco), 310 Orange Street, New Haven, Connecticut 06510; New York Telephone Company d/b/a Bell

Decision on January 5, 1999. However, prior to the issuance of a final Decision in this proceeding, the Supreme Court remanded portions of the First Report and Order associated with unbundled network elements, finding that the FCC had not adequately considered the “necessary and impair” standard. AT&T v. Iowa Utilities Board, 525 U.S. 366 (1999). Further, on June 4, 1999, the Supreme Court required the FCC to also reconsider the issue of whether shared transport meets the “necessary and impair” standard. Ameritech Corp. v. FCC, *vacated per curium*, 525 U.S. 366 (1999)

On September 15, 1999, the FCC adopted its Third Report and Order and Fourth Notice of Proposed Rulemaking in CC Docket No. 96-98 (Third Report and Order). That order defined shared transport as transmission facilities shared by one or more carrier, including the ILEC, between end office switches, between end office switches and tandem switches, and between tandem switches in the ILEC’s network. The Third Report and Order also required ILECs to offer unbundled access to shared transport where unbundled local circuit switching is provided. The FCC did not reach a conclusion as to whether requesting carriers can use shared transport facilities in conjunction with unbundled switching to originate or terminate interstate toll traffic to whom the requesting carrier does not provide local exchange service, and instead invited further comment on that issue in its Fourth Notice of Proposed Rulemaking.

## II. DEPARTMENT ANALYSIS

The Department believes that the Third Report and Order contains sufficient information for the ILECs to design a shared transport product that conforms to the FCC’s definition. On May 17, 2000, the Telco filed its proposed local switching/shared transport product.<sup>2</sup> According to the Telco, it has filed this proposed in accordance with the Third Report and Order.

As of this date, BA-NY has not filed a proposed shared transport tariff with the Department for its review and approval. Therefore, the Department will order the BA-NY to submit a shared transport tariff no later than July 28, 2000.

Additionally, during the course of this proceeding, CLI requested that the Department address the need for loop-transport interconnection, or extended loops. The rules under which the necessary elements would be combined to create extended loops were overturned by the Eighth Circuit in Iowa Utilities Board v. FCC, 120 F.3d 753 (1997). While the FCC has petitioned the Eighth Circuit to reinstate the rules under

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Atlantic New York (BA-NY), 1095 Avenue of the Americas, New York, New York 10036; Woodbury Telephone Company, 299 Main Street, South, Woodbury, Connecticut 06798-0478; AT&T Communications of New England, 32 Avenue of the Americas, New York, New York 10013; Cablevision CLI – CT (CLI), 111 New South Road, Hicksville, New York 11801; Connecticut Telephone and Communications, 1271 South Broad Street, Wallingford, Connecticut 06492; Cox Connecticut Telcom, LLC, 9 J.P. Murphy Highway, West Warwick, Rhode Island 02893-2381; MCI Telecommunications Corporation, Five International Drive, Rye Brook, New York 10573-1095; NEXTLINK Communications, Inc. 1730 Rhode Island Avenue, N.W., Washington, D.C. 20036; Sprint Communications Company, L.P., 1850 M Street N.W., Washington, D.C. 20036; and TCG Connecticut, 1133 21<sup>st</sup> Street, N.W., Washington, D.C. 20036.

<sup>2</sup> The Telco’s proposed local switching/shared transport tariff was immediately suspended and was incorporated in Docket No. 00-05-06, Application of the Southern New England Telephone Company for a Tariff to Introduce Unbundled Network Elements.

which extended loops could be provided, it has ruled that ILECs are already obligated to provide extended loops under certain circumstances. Specifically, the FCC stated that ILECs may not separate loop and transport elements that are currently combined and purchased through the special access tariffs. Third Report and Order, ¶ 480. In December 1999 a supplemental order was issued by the FCC in CC Docket 96-98 that modified provisions of the Third Report and Order relative to extended links. Recently, the FCC extended those temporary restraints on the use of extended links and clarified conditions on their use. Significantly, the FCC indicated that it would issue a public notice in early 2001 to resolve issues associated with the unbundling of extended links. Supplemental Order Clarification in CC Docket No. 96-98 (FCC No. 00-183) (May 19, 2000).

In light of the current unbundling status of extended links at the Federal level, the Department will not order that extended links be tariffed. The Department expects that ILECs will adhere to all applicable FCC requirements when negotiating interconnection agreements.

### **III. ORDER**

For the following Order, please submit an original and 12 copies of the requested material identified by Docket Number, Title and Order Number to the Executive Secretary.

1. No later than July 28, 2000, BA-NY shall file a tariff for shared transport that comports with the shared transport requirements imposed by the FCC.

**DOCKET NO. 98-02-27 DPUC INVESTIGATION INTO THE PROVISION OF  
SHARED TRANSPORT**

This Decision is adopted by the following Commissioners:

Jack R. Goldberg

John W. Betkoski, III

Linda Kelly Arnold

CERTIFICATE OF SERVICE

The foregoing is a true and correct copy of the Decision issued by the Department of Public Utility Control, State of Connecticut, and was forwarded by Certified Mail to all parties of record in this proceeding on the date indicated.

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Louise E. Rickard  
Acting Executive Secretary  
Department of Public Utility Control

June 23,  
2000  
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Date