

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

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

**ORDER**

**Adopted: January 9, 2004**

**Released: January 9, 2004**

By the Chief, Wireline Competition Bureau

1. In its *Triennial Review Order*, the Commission found, on a national basis, that there were few barriers to competitive local exchange carrier (LEC) deployment and use of competitive switches to serve customers in the enterprise market at the DS1 capacity and above.<sup>1</sup> The Commission permitted state commissions to rebut the Commission's national finding by undertaking a more granular analysis utilizing the economic and operational criteria detailed by the Commission.<sup>2</sup> State commissions were granted 90 days from the effective date of the *Triennial Review Order* to petition the Commission to waive its finding of no impairment.<sup>3</sup> After publication in the Federal Register, the *Triennial Review Order* became effective on October 2, 2003, and state commission petitions were therefore due on December 31, 2003.

2. On December 29, 2003, the Public Utility Commission of Oregon (Oregon

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<sup>1</sup> *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket Nos. 01-338, 96-98, 98-147, Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, 18 FCC Rcd 16978, 17257-59, para. 451 (2003) (*Triennial Review Order*), corrected by Errata, 18 FCC Rcd 19020 (2003) (*Triennial Review Order Errata*), petitions for review pending, *United States Telecom Ass'n v. FCC*, D.C. Cir. No. 00-1012 (and consolidated cases).

<sup>2</sup> *Id.* at 17260-62, para. 455.

<sup>3</sup> *Id.*; 47 C.F.R. § 51.319(d)(5)(i).

Commission) filed a request for a 60-day extension of the December 31, 2003 deadline for filing a petition for waiver of the Commission's national finding.<sup>4</sup> The Oregon Commission initiated a proceeding on September 23, 2003, to investigate whether competitive LECs were impaired without access to unbundled switching and had planned to conclude the proceeding by December 29, 2003.<sup>5</sup> The Oregon Commission asserts, however, that the schedule was delayed by the development of a new protective order to safeguard commercially and competitively sensitive data filed by competitive LECs.<sup>6</sup>

3. It is the policy of the Commission that extensions of time are not routinely granted.<sup>7</sup> In this instance, the Bureau finds that the Oregon Commission has not shown good cause for an extension of the deadline for filing a waiver petition.<sup>8</sup> We are not persuaded that the delay caused by the need for a new protective order is, by itself, sufficient to extend the 90-day deadline.<sup>9</sup>

4. ACCORDINGLY, IT IS ORDERED that, pursuant to sections 4(i) and 4(j), of the Communications Act, 47 U.S.C. §§ 154(i) and 154(j), and sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, the request of the Public Utility Commission of Oregon for an Extension of the Deadline for Filing a Petition Pursuant to 47 C.F.R. § 51.319(d)(5)(i) IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

William F. Maher, Jr.  
Chief, Wireline Competition Bureau

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<sup>4</sup> *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket Nos. 01-338, 96-98, 98-147, Request of the Public Utility Commission of Oregon for an Extension of the Deadline for Filing a Petition Pursuant to 47 C.F.R. § 51.319(d)(5)(i) (filed Dec. 29, 2003).

<sup>5</sup> *Id.* at 2.

<sup>6</sup> *Id.* at 3.

<sup>7</sup> 47 C.F.R. § 1.46(a).

<sup>8</sup> Accordingly, we expect that the competitive LECs will transition their end-user customers served by DS1 and above capacity loops and unbundled local circuit switching to an alternative arrangement within the 90-day period established by our rules, unless a longer period is necessary to comply with a "change of law" provision in an applicable interconnection agreement. 47 C.F.R. § 51.319(3)(ii)(A).

<sup>9</sup> We note that the *Triennial Review Order* allows states to revisit whether competitive LECs are impaired without access to unbundled switching to serve enterprise customers due to changes in the specified operational and economic criteria. *Triennial Review Order* at 17260-62, para. 455. State commissions must also petition for a waiver of the Commission's national finding in any such subsequent review as well. *Id.* at 17262 n.1398, para. 455.