

establishes that, in most areas, competitive LECs can overcome barriers to serving enterprise customers in an economic manner using their own switching facilities in combination with unbundled loops. The Commission recognizes, however, that in particular markets special circumstances might give rise to impairment without access to unbundled local circuit switching for carriers serving DS1 enterprise customers. The Commission thus allows states 90 days from the effective date of this Order to petition the Commission to waive the finding of no impairment in individual markets based on specific operational and economic factors. State commissions have a continuing responsibility to conduct periodic reviews of impairment for carriers serving the DS1 enterprise market.

37. The Commission further concludes that, on the national level, competitive LECs are impaired without access to unbundled local circuit switching when serving mass market customers. The record indicates that there has been only minimal deployment of competitive LEC-owned switches to serve mass market customers, and that the characteristics of the mass market give rise to significant barriers to competitive LECs' use of self-provisioned switching to serve mass market customers. In particular, inherent difficulties arise from the incumbent LEC hot cut process for transferring DS0 loops, typically used to serve mass market customers, to competing carriers' switches. This national finding of impairment is subject to a more granular review by state commissions within nine months of the effective date of this Order. The state commission must find that competing LECs are not impaired in a particular market if either of two triggers are met: (1) Three or more competing carriers, unaffiliated with the incumbent carrier, each are using their own switches to serve mass market customers in the market or (2) two or more competing carriers, unaffiliated with the incumbent carrier, offer wholesale local circuit switching to carriers serving mass market customers in the market. If the triggers are not satisfied, the state commissions shall examine evidence of the potential for switch self-provisioning in the particular market, taking into account current switch deployment, revenues, costs, processes, network architecture, and the other factors that the Commission identified as potentially giving rise to impairment. If a state commission makes a finding of impairment in a particular market as a

result of such a review, it must consider whether this impairment could be addressed by a narrower rule making unbundled switching temporarily available for a minimum of 90 days for customer acquisition purposes, rather than making unbundled switching available for an indefinite period of time. State commissions have a continuing responsibility to conduct periodic reviews of impairment for carriers serving the mass market.

38. The Commission also requires state commissions to take steps to help mitigate the causes of impairment with respect to the mass market. Specifically, within nine months of the effective date of this Order, state commissions must approve and implement a seamless, low-cost process for transferring large volumes of mass market customers or issue detailed findings that such a "batch cut" process is unnecessary in a particular market.

39. On an interim basis, pending state commission determinations pursuant to the framework described above, the Commission retains the rule that incumbent LECs are not obligated to provide unbundled local circuit switching to requesting carriers for serving customers with four or more DS0 loops in density zone one of the top fifty MSAs. Retaining this rule on a temporary basis minimizes the potential service disruptions that could occur from the changes adopted regarding local circuit switching if carriers were free to accumulate more DS0 customers while states pursued their inquiries, only to risk losing those customers after the states had made their determinations.

40. The Commission also establishes a transition plan to migrate the embedded customer base served using unbundled switching to an alternative service arrangement when unbundled local circuit switching is no longer made available. Competitive carriers must transfer their embedded base of enterprise customers to an alternative service arrangement within 90 days from the end of the 90-day state commission consideration period, unless a longer period is necessary to comply with a "change of law" provision in an applicable interconnection agreement.

41. To the extent a state commission finds that competing LECs are not impaired without unbundled local circuit switching in serving mass market customers in a particular market, the Commission requires mass market carriers to commit to an implementation plan with the incumbent LEC within 2 months from the finding of no impairment. Within 5 months after a

finding of no impairment, competitive LECs may no longer request access to unbundled local circuit switching. Competitive LECs are required to submit the necessary orders to transition their embedded base of unbundled local circuit switching customers, except rolling use customers, in accordance with the following schedule: (1) 13 months after a finding of no impairment: Each competitive LEC must submit orders for one-third of all its unbundled local circuit switching end users; (2) 20 months after a finding of no impairment: Each competitive LEC must submit orders for half of its remaining unbundled local circuit switching end users; and (3) 27 months after a finding of no impairment: Each competitive LEC must submit orders for its remaining unbundled local circuit switching end users.

42. *Shared Transport.* The Commission finds that shared transport and switching are inextricably linked. Therefore, the Commission finds that requesting carriers are impaired without access to unbundled shared transport to the extent that they are impaired without access to unbundled local circuit switching. Thus, state commissions in identifying impairment for unbundled circuit switching should also incorporate into their analyses the economic characteristics of shared transport.

43. *Packet Switching.* Incumbent LECs are not required to unbundle packet switching, including routers and DSLAMs, as a stand-alone network element. The Order eliminates the current limited requirement for unbundling of packet switching.

44. *Signaling Networks.* The Commission finds that, in the instances in which incumbent LECs will be required to provide access to switching as a UNE, carriers purchasing the switching UNE must also gain access to incumbent LEC signaling. In all other cases, however, the Commission determines that there are sufficient alternatives in the market available and competitive LECs are no longer impaired without access to signaling networks as UNEs for all markets. The Commission concludes that, in the last several years, the market for signaling networks has matured. The Commission explains that multiple alternative providers are available to provide rival signaling services to competitive LECs, and that several competitive carriers are building their own signaling network capabilities. Accordingly, the Commission finds that, for competitive carriers deploying their own switches, there are no barriers to obtaining signaling or self-provisioning signaling