

eligibility criteria due to the potential for a provider of exclusively non-qualifying service to obtain access to these combinations at UNE prices.

53. The Commission does not, however, impose these additional requirements on access to UNEs other than high-capacity EELs. To ensure that the Commission's rules on service eligibility are not gamed in whole or in part, the Commission makes clear that the service eligibility criteria must be satisfied (1) to convert a special access circuit to a high-capacity EEL; (2) to obtain a new high-capacity EEL; or (3) to obtain at UNE pricing part of a high-capacity loop-transport combination (commingled EEL).

54. *Service Eligibility Criteria for High-Capacity EELs.* The Order concludes that where a requesting carrier satisfies the following three categories of criteria, it is a bona fide provider of qualifying services and thus is entitled to order high-capacity EELs. Requesting carriers must certify to meeting all three criteria (authorization, local number and E911 assignment, and architectural safeguards) to qualify for the high-capacity circuit, subject to the separate certification and auditing requirements.

55. First, the Commission finds that each requesting carrier must have a state certification of authority to provide local voice service. Second, to demonstrate that it actually provides a local voice service to the customer over every DS1 circuit, the Commission finds that the requesting carrier must have at least one local number assigned to each circuit and must provide 911 or E911 capability to each circuit. To ensure the legitimacy of these assignments, the origination and termination of local voice traffic should not include a toll charge, and should not require dialing special digits beyond those normally required for a local voice call. Further, the Commission also clarifies that each DS1-equivalent circuit of a DS3 EEL must have its own local number assignment, so that each DS3 must have at least 28 local voice numbers assigned to it.

56. Third, the Commission finds additional circuit-specific architectural safeguards to prevent gaming are necessary. Each circuit must terminate into a collocation governed by section 251(c)(6) at an incumbent LEC central office within the same LATA as the customer premises. In particular, for this collocation safeguard, the Order finds that termination of a circuit into a section 251(c)(6) collocation arrangement in an incumbent LEC central office is an effective tool to prevent arbitrage, because collocation is

a necessary building block for providing local voice services and is traditionally not used by interexchange carriers.

More specifically, because traditional interexchange configurations route long-distance traffic from a customer premises over tariffed channel termination and transport facilities directly to an interexchange point-of-presence, a section 251(c)(6) collocation requirement ensures that a carrier has set up an architecture that ensures that traffic can leave the incumbent network prior to hitting the POP. As further evidence that a carrier provides qualifying voice service, the collocation arrangement must be within the same LATA as the customer premises. The Commission determines that a requesting carrier can satisfy this prong through reverse collocation, and that any non-incumbent LEC collocation arrangement pursuant to section 251(c)(6) meets this test.

57. As an additional indicator of providing local voice service, the Commission concludes that each EEL circuit must be served by an interconnection trunk in the same LATA as the customer premises served by the EEL, and that for every 24 DS1 EELs or the equivalent, the requesting carrier must maintain at least one active DS1 interconnection trunk for the exchange of local voice traffic. As a further safeguard against gaming, where a requesting carrier strips off the calling party number on calls exchanged over the interconnection trunk, that trunk shall not be counted towards meeting the trunk/EEL ratio. The costs and difficulties of network configuration necessary to satisfy the interconnection and collocation requirements minimize the potential for these safeguards to be gamed; only a bona fide provider of qualifying local services would undertake these measures, all of which are a necessary precondition to compete directly against the incumbent LEC's voice service. The 24-to-1 EEL to interconnection trunk ratio provides a reliable gauge that the competitive LEC exchanges local traffic with the incumbent LEC in a manner that indicates that it is a bona fide provider of local voice service. The Commission finds that this ratio therefore provides a reasonable proxy for the capacity of interconnection that a bona fide provider of local voice service competing against the incumbent LEC would require.

58. In addition, the Commission finds that each EEL circuit must be served by a Class 5 switch or other switch capable of providing local voice traffic. To ensure that the traffic carried over each EEL is not exclusively non-local, a

requesting carrier must certify that the switching equipment is either registered as Class 5 or that it can switch local voice traffic.

59. The Commission applies the service eligibility requirements on a circuit-by-circuit basis, so each DS1 EEL (or combination of DS1 loop with DS3 transport) must satisfy the service eligibility criteria. For a requesting carrier to obtain a DS3 EEL as a UNE, the requesting carrier must satisfy the criteria for service eligibility for the DS1-equivalent circuit capacity of that DS3 EEL. The Commission is persuaded that while no single requirement can prevent gaming, the criteria the Commission adopts are collectively sufficient to restrict the availability of these UNE combinations to legitimate providers of local voice service.

60. *Certification and Auditing.* The Commission concludes that requesting carriers may self-certify to satisfying the qualifying service eligibility criteria for high-capacity EELs. The Order does not specify the form for such a self-certification, but re-adopts the Commission's prior findings that a letter sent to the incumbent LEC by a requesting carrier is a practical method. The Order concludes that incumbent LECs may obtain and pay for an independent auditor to audit, on an annual basis, compliance with the qualifying service eligibility criteria. The independent auditor must perform its evaluation in accordance with the standards established by the American Institute for Certified Public Accountants (AICPA), which will require the auditor to perform an "examination engagement" and issue an opinion regarding the requesting carrier's compliance with the qualifying service eligibility criteria. To the extent the independent auditor's report concludes that the competitive LEC failed to comply with the service eligibility criteria, that carrier must true-up any difference in payments, convert all noncompliant circuits to the appropriate service, and make the correct payments on a going-forward basis.

61. In addition, to the extent the independent auditor's report concludes that the competitive LEC failed to comply in all material respects with the service eligibility criteria, the competitive LEC must reimburse the incumbent LEC for the cost of the independent auditor. Similarly, to the extent the independent auditor's report concludes that the requesting carrier complied in all material respects with the eligibility criteria, the incumbent LEC must reimburse the audited carrier for its costs associated with the audit.