

September 19, 2003

**NOTICE OF DEADLINE TO FILE PETITIONS
CONCERNING IMPAIRMENT WITHOUT UNBUNDLED
ACCESS TO ENTERPRISE SWITCHING
(By, Friday, October 3, 2003)**

RE: In the Matter of the Implementation of the Federal Communications Commission's Triennial Review Order, Docket No. UT-033025.

On August 21, 2003, the Federal Communications Commission (FCC) released its Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, also known as the Triennial Review Order (Order), in CC Docket Nos. 01-338, 96-98, and 98-147. This Order adopts certain new rules concerning unbundled network elements. The Order also imposes certain requirements on state commissions to make determinations concerning whether incumbent local exchange carriers (ILECs) must provide on an unbundled basis certain network elements requested by competitive local exchange carriers (CLECs) pursuant to 47 U.S.C. § 251(c)(3).

In one part of the Order, the FCC makes a national finding that competitors are not impaired without access to unbundled switching that serves enterprise market customers at the DS1 capacity level or higher. The FCC allows states to rebut the national finding of no impairment by conducting a granular market-by-market analysis of DS1 capacity level and higher enterprise market switching, and to petition the FCC to waive the finding of no impairment for certain markets within 90 days of the effective date of the Order. The Order and rules will become effective on October 2, 2003, thirty days after the publication of the Order in the Federal Register on September 2, 2003.

On August 22, 2003, the Commission issued a notice inviting comments by September 4, 2003, concerning the Commission's process for implementing the Triennial Review Order. By notice dated September 3, 2003, the Commission extended until September 11, 2003, the deadline for comments.

Nearly all of the interested parties that filed comments indicated that the Commission should not initiate a proceeding to address the enterprise market switching analysis. Those filing comments stated that the Commission should require parties who seek to rebut the FCC's presumption of no impairment to file a petition with the Commission.

In order for the Commission to complete a review of the enterprise switching issue within the 90-day timeframe required by the FCC, the Commission establishes a filing deadline consistent with the comments filed. **Any person requesting that the Commission rebut the national presumption of no impairment for enterprise switching must file a petition, including evidence in the form of prefiled testimony and exhibits, by 5.p.m., Friday, October 3, 2003.** Any petition must also address the issue of how the Commission should define the market for enterprise switching, following the guidelines set forth in paragraph 495 of the Triennial Review Order, and identify any particular markets in which the petitioner asserts that it would be impaired without unbundled access to enterprise switching.

Deadlines for responding to petitions, as well as other scheduling matters will be addressed at the prehearing conference in this docket scheduled for Friday, September 26, 2003. The Commission has scheduled hearings for the week of November 10, 2003, to address the enterprise market switching issue should any person file a petition with the Commission.

Sincerely,

CAROLE WASHBURN
Executive Secretary

cc: UT-003022, UT-003040 Service List
UT-023003 Service List
UT-011219 Service List
UT-030614 Service List