

There's No "There" There

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In Asimov's classic novel *Foundation*, there is a memorable scene in which a high-ranking emissary visits a planet that gravely needs help. After five days of reassurances, almost everyone feels more optimistic, but one skeptic doesn't accept what he's heard. So he runs the emissary's words through a "linguistics analysis" computer, which confirms his worst fears: Stripped of the hype, the emissary spent five days saying absolutely nothing.

It's possible to reach the same conclusion about a proposal submitted to the FCC last month by five incumbent local exchange carriers (ILECs) and six high-tech companies/associations. According to the letter and attached 10 Principles (10P), the ILECs would obtain regulatory concessions to create incentives for them to build DSL networks, in exchange for their agreement to take specific actions to facilitate competition. At first blush, this seems like a win-win; unfortunately, the outlook may not be so rosy.

Striking a "Grand Bargain"

It's tempting to seek a "Grand Bargain" among all interested parties that would result in a flood of bandwidth becoming available to end users. But for such a compromise to work, it would have to include *all* key parties; in fact, *none* of the 10P signatories is a competitive LEC (CLEC), Internet service provider (ISP) or interexchange carrier (IXC).

So, from the start, this looks less like a Grand Bargain than an attempt by one side in the telecom wars to gain allies from Silicon Valley in order to outflank the enemy. Those tactics are more likely to inflame the debate than end it.

The 10P plan is noteworthy for its lack of balance, as shown in Table 1. Some of the key elements favoring the ILECs:

- Excluding DSL from the list of network elements that have to be unbundled.

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- Price deregulation for DSL service.
- Liberal interLATA waiver requirements for the ILECs.

On the other side of the ledger, most of what's "offered" to CLECs are things they're already entitled to under the Telecom Act and existing/prospective FCC regulations. Such one-sided proposals don't generally get approved.

Moreover, the 10P provisions that are most important to the ILECs aren't likely to survive FCC scrutiny. They're really not anything new: Last August, the FCC issued its Section 706 Order, which rejected positions the ILECs are now resurrecting (see Table 1, items 4 and 10).

As for the ILECs' other "biggie"—price cap/tariffing deregulation (Table 1, item 8)—it is unlikely to be approved until two conditions can be met: First, the ILECs unbundle their networks and not engage in anticompetitive behavior and, second, the broadband market must be demonstrably competitive.

There may be slightly more flexibility in some other areas. But these alone

won't change the competitive landscape in the way the ILECs would like.

Less Than Meets the Eye

So, there is a lot less here than meets the eye; this proposal will probably be a non-starter at the FCC. There are only two ways we'll see progress on broadband access:

- The Grand Bargain idea is resurrected, but includes all interested parties.

- The market drives upgrades. This is the path we're on, and while it takes time, history shows this approach works. For example, back in the early 1980s, AT&T claimed that, because of unfavorable economics, it would take a decade or so to fully convert its network to fiber. But then along came Sprint with its 100-percent optical "You Can Hear a Pin Drop" network. Magically, the economics changed and AT&T had its network converted within a few short years.

The same approach could work here. Once the competitors pose a serious threat, the ILECs will have to either build out their networks or get hurt badly □

TABLE 1 Review of the 10 Principles

Proposal	Who Would Gain
1. No ILEC discrimination between affiliated and nonaffiliated ISPs.	No Gains: As common carriers, ILECs are not allowed to discriminate anyway.
2. Colocation guarantees.	CLECs Likely to Get This Soon Anyway: FCC has signaled as much.
3. Loop conditioning guarantees.	CLECS Gain Nothing: Loop conditioning is already required by the FCC.
4. DSL electronics need not be provided as UNE when offered on an integrated basis.	Big ILEC Gain: Would reverse 20–30 years of FCC policy.
5. Resale discount not required when advanced services offered as access service	No Gains: The Telecom Act already gives ILECs this right.
6. Relaxed rules on transfer of ILEC assets to separate subsidiary.	ILEC Gain: FCC is willing to consider transfers during an interim period.
7. Relaxed rules on how much the ILECs could share with their new separate affiliates	ILEC Gain: FCC wants more complete separation.
8. Eventual price deregulation of advanced telecommunications services.	Big ILEC Gain: Other ILEC basic telecom services are subject to price cap and tariffing rules.
9. When offering advanced service on an integrated, untariffed basis, ILECs should be subject to existing nonstructural safeguards to prevent cross-subsidization among services.	No Gains: These are the existing rules.
10. Liberalized policy on waivers for changes in interLATA boundaries for data services.	Big ILEC Gain: The FCC previously rejected this, in the Section 706 Order.