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UNE-P to UNE-L: The New Battleground

CLECs arm themselves with new competitive weapons.

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Whether it's line sharing, reciprocal compensation or long-distance wholesale rates, there's always a battle to be fought in the competitive telecom market. After the FCC decided not to challenge a March 2004 U.S. Court of Appeals decision that overturned the FCC's UNE rules, the battle shifted to the UNE-P (unbundled network element-platform). Because this ruling states that the RBOCs are no longer obliged to supply UNE-P to their competitors, it could be the start of a new phase in the competitive telecom market.

Born out of the 1996 Telecom Act, UNE-P gave competitive carriers a foothold in the consumer and business dialtone market and a path to migrate to a facilities-based UNE-L (unbundled network element-loop) platform. With the UNE-P platform, carriers rent various pieces of the ILEC's Class 5 infrastructure, including local loops, switch ports and dedicated common transport facilities. From there, a carrier can transition to a facilities-based network by utilizing a UNE-L platform where the competitive carrier would just buy wholesale access to the RBOC's copper access loop.

The UNE-P ruling is a blow to many national CLECs, including Trinsic, AT&T Local and MCI, all of which relied on UNE-P for mass-market penetration. Trinsic has adopted a smart-build strategy of building out facilities and using UNE-P where it has a nationwide base of retail and wholesale customers such as Sprint. The March ruling caused AT&T, which gained 4.4 million customers via UNE-P, to actually opt out of nine local phone markets. Alternatively, MCI, which has 3.5 million consumer and SMB customers, says it will stay the course. MCI is taking what it calls a patchwork approach that utilizes commercial agreements, alternative providers (such as its relationship with McLeod Communications) as well as using UNE-L where possible to meet the needs of each market it serves.

For all the wrangling, some analysts argue the end of UNE-P could spur an increase in facilities-based carrier builds. "We are seeing what the FCC had hoped for—which is an acceleration off UNE-P," said Craig Clausen, President of NPRG (New Paradigm Resource Group). "As analysts, we have always believed that true competition resides in facilities-based carriers, not resellers, and for all intents and purposes, that's what UNE-P is. It's a nice point of entry, but if you're using an incumbent's facilities, what are you really adding to the mix?"

Making the Switch

With the phasing out of UNE-P, carriers now have to find new ways to compete. CLECs, for example, have put contingency plans in place that move along a path to becoming facilities-based competitors via UNE-L. These plans include commercial wholesale agreements, UNE-L TDM, UNE-L softswitch or wholesale VoIP arrangements.

In the near term, CLECs will negotiate wholesale RBOC arrangements that allow for a transition to a facilities-based infrastructure. MCI and Trinsic, for example, have garnered agreements with SBC and Qwest. Under these wholesale arrangements, RBOCs have agreed to set commercial deals for CLECs which will not be affected by new regulation. Birch Telecom, Z-Tel and LDMI are going along a similar path. Birch Telecom, a competitive provider in the southeast, signed a long-term commercial agreement with BellSouth, while Michigan-

based LDMI continues to negotiate arrangements with SBC. In addition, wholesale VoIP providers such as Level 3, Covad and McLeod continue to gain ground with a series of wholesale VoIP services as a viable UNE-P migration

CLEC Migration Strategies					
OPTION	Incremental Capital Investment Required	Investment in Colocations Required	Class 5 Local Switch Investment	Able to provision broadband to customer	Service Footprint Preserved
UNE-P at proposed commercial rates	No Change from Current UNE-P	No Change from Current UNE-P	No Change from Current UNE-P	No	No Change from Current UNE-P
UNE-L with TDM	Substantial Impact vs. Current UNE-P	Substantial Impact vs. Current UNE-P	Substantial Impact vs. Current UNE-P	Yes, with network overlay	Modest Impact vs. Current UNE-P
UNE-L with softswitch	Substantial Impact **	Substantial Impact **	Substantial Impact **	Yes, with broadband loop carrier	Modest Impact vs. Current UNE-P
Bring your own broadband wholesale VoIP service	Modest Impact vs. Current UNE-P	No Change from Current UNE-P	No Change from Current UNE-P	No	Modest Impact vs. Current UNE-P

Source: Northbridge Group

platform. Level 3's HomeTone provides a turnkey residential voice service platform for non-facilities-based carriers that can be bundled with any broadband service, while its Enhanced Local Service provides various Class 4 features (e.g., DID and E911). Meanwhile, Covad, over its nationwide UNE-L network, offers customers a mixture of not only nationwide VoIP and DSL but also the trial of a line-powered VoIP service. Just as aggressive is McLeod Communications, which after emerging from bankruptcy has scored deals with AT&T and MCI. In its latest deal with MCI, McLeod will migrate 200,000 of MCI's UNE-P customers onto its UNE-L infrastructure.

Although a competitive carrier could use a number of alternatives, Maggie Hallbach, MCI's vice president of strategy and business development, argues that a large number of consumers could lose out.

"Even when you combine all these alternative technologies and alternative networks, you will never be able to replicate the mass-market footprint the likes of a Z-Tel/Trinsic, AT&T, Sprint or an MCI was able to serve via UNE-P," said Hallbach. "By definition, where those

alternatives reside tends to be in the suburban, urban or the top 50 MSA type locales. There's going to be a huge proportion of the United States that will be left behind for competitive choice until the MSOs have full-scale national rollouts of their voice offerings, which might not happen until the 2007 timeframe."

Obviously, the ultimate facilities-based strategy will be a migration from UNE-P to UNE-L. Upon making a migration to UNE-L, the CLEC can invest in either a Class 5 TDM switch or a softswitch. With the TDM option, the CLEC would purchase a TDM-based switch and build out colocations, while purchasing a UNE-L access loop and OSS. To provision broadband services on the TDM-based network, the carrier would create a DSLAM overlay. While the UNE-L softswitch option requires a similar investment in OSS and colocations, the difference is that a carrier can integrate with a BLC (broadband loop carrier) to deliver a set of converged voice/data services. As proposed by such vendors as Ciena and Integral Access, the BLC not only combines the capabilities of a DSLAM and DLC but can also automate the broadband provisioning process. As a result, a CLEC can rapidly provision a sticky set of bundled services to its constituency.

A good number of CLECs, including LDMI, Trinsic and Xchange, have begun a migration to an IP UNE-L-based network. In addition to its commercial agreement with Qwest and other RBOCs, Trinsic is building out its own IP-based network, deploying a BLC with a softswitch in its Florida and New York markets with Integral Access. LDMI is utilizing not only commercial agreements but is also deploying a Cisco softswitch and examining WiMAX wireless. Similarly, Xchange is migrating from UNE-P to a broadband VoIP network by offering a hybrid VoIP/TDM service via Excel Switching.

However, UNE-L migration won't be a simple slam-dunk. A CLEC still has to deal with the cost of switching to UNE-L as well as negotiating rates for both single line cutovers or mass cutovers, which are sometimes referred to as hot cuts.

"If the battle to maintain UNE-P rate regulation really is lost, the battle will switch to new fronts," says Brian Washburn, senior analyst for Network Services, Current Analysis, in a competitive intelligence report. "Rates for UNE-L, which continue to be regulated, represent one of these new fronts. Another concern will be hot cuts—ensuring that ILECs let their local competitors switch customers singly or in bulk from UNE-P to UNE-L quickly, seamlessly, and most importantly, cheaply. Bundling VoIP with broadband may be another alternative, despite the lifeline and service quality issues. Even straight dialtone resale from incumbent carriers is an option. Unless CLECs decide that a UNE-P defeat signals that they should simply exit the local services business, the history of telecom competition shows that there's always another avenue to continue the fight."

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