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Resolution for 2003: Real Telephone Competition in State

Laurence J. Kotlikoff Commentary

As they consider their New Year's resolutions, Tennessee regulators should pledge that Bell-South's new ability to sell long-distance service in the Volunteer State be the beginning, not the end, of telephone competition for the state's residents.

Having been given the go-ahead by federal regulators to begin selling long-distance service, BellSouth is offering consumers the chance to buy all their phone services and Internet access from one company. But unless regulators take steps to attract other phone service providers to Tennessee, this seemingly attractive opportunity could be the death knell of consumer choice in phone service.

The all-in-one bundle of telecom goodies is possible thanks to the Telecommunications Act of 1996 (TA96). The act said BellSouth and the other Bell companies could get into longdistance if they let competitors into their own local phone markets. This meant renting to competitors the use of the Bells' telephone lines, switches and other facilities. The Bells have now won the right to sell long distance to about three-quarters of Americans. They should gain access to the rest of the country by the middle of this year.

Why has it taken six years for the Bells to collect their bribe? The reason is, they fought tooth and nail to circumvent TA96 and maintain their monopoly positions. How? By making the rental of their facilities as cumbersome, time-consuming and expensive as possible. And when ordered to behave, they refused and chose instead to pay billions of dollars in fines.

Finally, some state public utility commissions just started ordering the Bells to place local calls for their competitors' customers and charge a reasonable wholesale price for doing so. As these wholesale prices have fallen, local phone competition has heated up. In Tennessee, rates remain too high and competition has been relatively limited, but across the country, 10 million households and small businesses have left their Baby Bells for local phone competitors whose rates are often one third lower.

UNE-P is the technical term for this requisite wholesaling of local phone transmissions. Upheld by the Supreme Court in early 2002, the process is similar to a requirement that long-distance companies sell long-distance transmission to competitors.

The Bells aren't happy losing their local phone monopoly, and they have developed a two-step counterattack. Step one: Use the entry into their local phone markets as an opportunity to claim compliance with the '96 Telecom Act and demand long-distance entry. Step two: Team up and lobby like crazy with the administration, Congress and the current set of Federal Communications

Commission officials to eliminate the UNE-P access requirement and exempt broadband service from TA96. Step one is essentially complete. Step two may well be effected via two pending FCC rulings that could take UNE-P off the table and rule that broadband transmissions are information services that are not subject to the act.

Once step two falls into place, we can kiss competition goodbye. The millions who signed up with Bell competitors will see their new phone company driven from the market. And, without this local competition, the Bells will be the only company that can bundle long-distance, local, Internet and perhaps cell phone service in a single package. That's a recipe for renewed monopoly, because if the Bells throw long-distance into the package for free or far below cost, they can drive the big long-distance companies out of business. Having wiped out their competitors, the Bells will do what comes naturally — jack up prices.

It doesn't have to be this way. In Tennessee, state regulators can resolve to boost local competition by cutting wholesale rates to attract new service providers. And, in Washington, the FCC should extract agreements that give competitors a fair chance to compete in the changing marketplace. The commission should tell the Bells that UNE-P stays in place until they make it as easy for consumers to change phone companies for every phone service as it is now for long-distance.

This approach, known as Electronic Loop Provisioning, is being examined by FCC staff. It would put the Bells and their competitors on an equal footing in transmitting voice and data over our telephone lines. The competition it would foster would cut local phone and broadband rates in half and make it possible for competitors to offer consumers the same kind of service packages BellSouth is preparing in Tennessee and elsewhere in the Southeastern states it serves. That would make 2003 a good year for consumers.

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