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I was in the Policy Division of the then Common Carrier Bureau from January 1996 through 1999. From this perspective, the FCC's primary task was to utilize the framework contained in the 1996 Act[1] to jump start competition in the local telecommunications market. The Act gave the FCC just six months to flesh out a novel regulatory regime establishing the conditions for competition.[2] The resulting *Local Competition Order*[3] was truly an amazing achievement. It established ground rules for interconnection, identified the incumbent local exchange carrier (LEC) network elements that were to unbundled and offered to new entrants, and created a cost-based pricing methodology (TELRIC).

The 1996 Act's directive to jump start local competition seemed to compel entry through the use of incumbent LEC, and particularly Bell company, unbundled network elements (UNE).[4] Facilities-based entry did not seem viable in the near term, particularly for residential consumers. The emphasis on UNE-based entry not only seemed consistent with the statutory directive to open quickly local telecommunications markets to competition, but was also seen as the only practical grounds by which the Bell Companies could satisfy the competitive entry showing required by section 271[5] that Bell Companies needed to provide in-region long distance service. Although some Bell companies attempted early on to demonstrate competitive entry through *de minimis* wireless substitution, practically the only route to section 271 authority ran though UNE-access, and hence the extraordinary focus on the Bell Company back office (OSS) processes through which competitive carriers gained such access.

Of course, we will never know whether broad, UNE-based competitive entry would have resulted in consumer enhancing competition. The District of Columbia Circuit rejected the FCC's interpretation of the so-called impairment standard by which UNEs were to be identified.[6] The FCC's policy migrated toward a preference for facilities-based competition, and over time, facilities-based competition, at least for voice services, arrived through wireless and VoIP services.

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1. Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, 118.
2. *See* 47 U.S.C. § 251(d)(1) (2012).
3. Implementation of the Local Competition Provisions in the Telecomms. Act of 1996, *First Report and Order*, 11 FCC Rcd 15499 (1996).
4. *See* 47 U.S.C. §§ 251, 271 (2012).
5. 47 U.S.C. § 271.
6. *See* U.S. Telecom Ass'n v. FCC, 290 F.3d 415, 422-428 (D.C. Cir. 2002).