**Section 790.320 Access to Unbundled Network Elements**

a) Each ILEC has the duty to provide, to any requesting carrier for the provision of a telecommunications service, nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on terms and conditions that are just, reasonable, and nondiscriminatory in accordance with an interconnection agreement, the requirements of sections 251 and 252 of the Federal Act, and this Subpart.

b) Network elements to be made available. Network elements to be provided by an ILEC, include at a minimum:

1) Any network element that the FCC determines must be unbundled through rules enacted by the FCC pursuant to sections 251 and 252 of the Federal Act, and

2) Any other network element that the Commission determines can be, and that the public interest requires to be, unbundled, consistent with the Federal Act, the Act and decisions of the federal courts and the FCC.

c) Quality of unbundled network elements. To the extent technically feasible, the quality of an unbundled network element, as well as the quality of the access to such unbundled network element, that an ILEC provides to a requesting telecommunications carrier shall be at least equal in quality to that which an ILEC provides to itself. An ILEC that denies a request to provide a requested unbundled network element or access to such unbundled network element that is at least equal in quality to that which an ILEC provides to itself, if contested, must prove to the Commission that such request cannot be granted.

d) An ILEC may not refuse to provide a telecommunications carrier with loop and subloop profile information, to the extent that such information must be provided, while the telecommunications carrier's State certification is pending, nor while the telecommunications carrier is awaiting a final approved interconnection agreement. The telecommunications carrier requesting unbundled network elements and/or physical collocation is responsible for obtaining any necessary certifications or approvals from the Commission prior to the offering of telecommunications service by using unbundled network elements.