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VIA ECFS

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Notice of *Ex Parte*
In the Matter of Updating the Intercarrier Compensation Regime to
Eliminate Access Arbitrage, WC Docket No. 18-155

Dear Ms. Dortch:

On October 2, 2018, Ronald Laudner and Jeff Roiland, the CEOs of OmniTel Communications and BTC, Inc. d/b/a Western Iowa Networks, respectively (collectively the “CLECs”), and Gary Blosser, co-founder of the Amish and Mennonite Conference Line, met with Wireline Competition Bureau and Pricing Policy Division staff members to discuss matters related to the above referenced proceeding. The staff members present included Pricing Policy Division Chief Pamela Arluk, Gregory Capobianco, Lynne Engledow, Lisa Hone, Edward Krachmer, Richard Kwiatkowski, Albert Lewis, and Shane Taylor. Myself and my colleague, John Nelson, also attended as the CLECs’ counsel. The presentation attached as **Exhibit A** was used during the discussion.

During our meeting with Wireline Competition Bureau and Pricing Policy Division staff members, we initially focused on the IXC and CEA provider data requests proposed by the CLECs in their July 20, 2018 comments regarding the Access Stimulation NPRM and certain sections of the comments. We also focused on the developments in the Access Stimulation NPRM Docket that have occurred since our prior meeting with the Wireline Competition Bureau and Pricing Policy Division staff members on August 14, 2018. Those developments include: (1) the findings and conclusions reached in the Expert Report of Dr. Daniel E. Ingberman; (2) the 750-plus comments filed by consumers thus far supporting access stimulation and free conferencing services; and (3) the benefits free conference calls provide to discreet minority groups like the Amish and Mennonite communities spread across the United States.

In referencing back to our previous meeting with Wireline Competition Bureau and Pricing Policy Division staff members and the CLECs’ proposed data requests, Ms. Hone asked what data had been provided by the CLECs so far, to which I directed Ms. Hone to the aggregated traffic and rate data submitted by the CLECs in their opening comments and via the Expert Report of Dr. Oliver Grawe. I reiterated that the CLECs would cooperate in any process that

would enable the Commission to test the veracity of the numerous unsubstantiated assertions made by AT&T and other carriers.

Mr. Krachmer asked, if the CLECs could only obtain one piece of data from the IXCs and CEA providers, what that piece of data would be. I responded that the CLECs believe the Commission should obtain information regarding each IXCs' retail revenues (including their revenues from unlimited long distance plans) and each IXCs' wholesale revenues for traffic terminating to the the access-stimulating CLECs, as well as records sufficient to evaluate the profits derived therefrom. I indicated that such data would be highly relevant to the Commission because, based on Northern Valley's recent collection action against AT&T in federal court, it would prove that IXCs generally profit from access stimulation and therefore cannot substantiate their allegations of harm. I explained how Northern Valley had obtained that data in litigation and had it analyzed by experts, but that, once the case was resolved, AT&T ensured Northern Valley's copies of the data were destroyed pursuant to protective order. Therefore, the Commission – and only the Commission – could require AT&T to provide a reproduction of that data in order to allow Northern Valley to replicate its analysis and ensure that the Commission develops a complete and accurate record.

In connection with this discussion, we discussed in greater detail the assertion made in the NPRM that consumers generally are harmed because all consumers ultimately pay the costs of delivering calls to free conference calling providers. I explained that, without having obtained and examined revenue data from the long-distance carriers, the Commission's assertion was both unsubstantiated and unproven. I reiterated that the actual evidence, a portion of which became public during Northern Valley's litigation with AT&T, showed that AT&T continued to make a profit on the calls it delivered to the free conference calling providers located in Northern Valley's exchange. Thus, the users of free conferencing services pay enough in their long-distance bills to cover their own access charges; free conferencing users as a whole are not shifting those costs to non-users. Thus, the most reasonable conclusion is that AT&T and other long-distance carriers would like to reduce the amount of calls that their subscribers make so that the long-distance carriers can sustain even greater profit margins. In short, I reiterated to the staff members that the data simply does not support the Commission's conclusion that free conference calling users fail to pay their own way or that other consumers are harmed by the existence of these services. I also reiterated that there is no data that would support such a conclusion and that, in practice, the elimination of free conference calling services would not result in a reduction in the cost of long-distance plans.

Following this discussion, Mr. Krachmer requested clarification of a portion of the CLECs' July 20, 2018 comments, wherein the CLECs stated that they "have in place more than one intermediate provider that delivers long-distance traffic."¹ In clarifying this language, I confirmed that the CLECs each have one TDM connection with their respective CEA provider (Aureon or South Dakota Network, LLC), as well as one or more IP connections with other

¹ See Comments of Competitive Local Exchange Carriers, at 57, WC Docket No. 18-155 (July 20, 2018).

providers that were established pursuant to negotiated agreements. In using this language, the CLECs did not mean to imply that they have chain-linked connections involving more than one provider.

In summarizing the Expert Report of Dr. Daniel E. Ingberman (attached hereto as **Exhibit B**), I noted Dr. Ingberman's important economic analysis regarding the access stimulation regime, including his conclusion that the current regime: (1) does not harm consumers; (2) is efficient; and (3) will not become more efficient by imposing new regulations or reallocating access stimulation traffic away from the access-stimulating CLECs. I thereafter explained how these conclusions do not support the reforms proposed in the Access Stimulation NPRM and how such reforms are unnecessary because of the cost savings long-distance carriers are experiencing via the Commission's continued investigation and lowering of Aureon's CEA rate and the Commission's recent decision to investigate (and likely lower) South Dakota Network's CEA rate.

We then discussed a few of the 750-plus comments filed by consumers in the Docket thus far, which collectively show that free conference calls provide numerous benefits to citizens nationwide – particularly Veterans, minority communities, and those involved in twelve-step addiction support programs. Mr. Laudner reiterated this point, explaining how OmniTel Communications has developed Veteran support conference lines that allow Veterans to talk to each other, doctors, and mental health professionals about post-service-related issues and how free conference lines are also an important mode of communication during Iowa's presidential primary and during and after national emergencies, such as pandemics or terrorist attacks. Mr. Blosser provided the staff members with an overview of how free conferencing services support minority groups like America's Amish and Mennonite populations, who use free conferencing services to not only relay daily news updates, healthcare services, natural disaster updates, and religious services, but also as a way to retain and pass on the Amish and Mennonite history and the Pennsylvania German language. In making these points, Mr. Blosser referenced sections of *German Language: Cradle of Our Heritage*, by Amos B. Hoover (attached hereto as **Exhibit C**), wherein the Amish and Mennonite Conference Line and the effect the service has on preserving the Amish and Mennonite history and language is discussed.

In concluding our meeting, I reiterated that the CLECs' main concern with the Access Stimulation NPRM and the Commission's actions thus far is the Commission's acceptance of the IXCs' unsubstantiated claims and the Commission's failure to obtain the data, evidence, and facts that are necessary for it to reach a well-reasoned decision. I also reiterated the CLECs' belief that their proposed data requests (attached hereto as **Exhibit D**) should be issued so that the Commission has a complete record before it. Ms. Hone then asked what unsubstantiated claims the IXCs had made, to which I promised to provide a specific list of the IXCs' unverified and unsubstantiated assertions, which I do as **Exhibit E**.

Pursuant to Section 1.1206 of the Commission's rules,² a copy of this letter is being filed via the Commission's electronic comment filing system ("ECFS"). If you have any questions, please do not hesitate to contact me.

Sincerely,



G. David Carter

cc: John C. Nelson, Jr., Esq.
Pamela Arluk
Gregory Capobianco
Lynne Engledow
Lisa Hone
Edward Krachmer
Richard Kwiatkowski
Albert Lewis
Shane Taylor

²

47 C.F.R. § 1.1206.