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May 5, 1993

EX PARTE OR LATE FILED

Ms. Donna R. Searcy  
Secretary  
Federal Communications Commission  
Room 222  
1919 M Street, N.W.  
Washington, D.C. 20554

Ex Parte

Re: Verilink Corporation's "Petition for  
Rulemaking to Amend the Commission's Part 68  
Rules to Authorize Regulated Carriers to  
Provide Certain Line Build Out Functionality  
as a Part of the Regulated Network Equipment  
on Customer Premises"  
RM-8158

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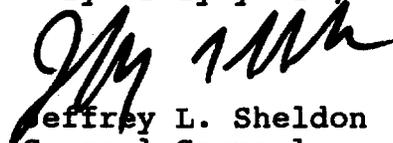
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Dear Ms. Searcy:

The Utilities Telecommunications Council (UTC) hereby submits two copies of its written ex parte presentation which is being filed today with the Common Carrier Bureau in connection with Verilink Corporation's "Petition for Rulemaking", RM-8158, filed December 14, 1993. Although pursuant to Section 1.1204(a)(2) of the Commission's Rules there are no ex parte restraint or disclosure requirements applicable to this proceeding, UTC is voluntarily filing this notice with the Commission.

Should any questions arise concerning this transmittal, please contact the undersigned counsel.

Very truly yours,

  
Jeffrey L. Sheldon  
General Counsel

Enclosure

cc: William Buckley

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

May 5, 1993

Kathleen Levitz  
Acting Chief, Common Carrier Bureau  
Federal Communications Commission  
1919 M Street, NW, Room 500  
Washington, DC 20554

**Ex Parte**

Re: Verilink Corporation's "Petition for Rulemaking to Amend the Commission's Part 68 Rules to Authorize Regulated Carriers to Provide Certain Line Build Out Functionality as a Part of the Regulated Network Equipment on Customer Premises"  
RM-8158

Dear Ms. Levitz:

The Utilities Telecommunications Council (UTC) respectfully submits its informal comments on the "Petition for Rulemaking" (Petition) filed by Verilink Corporation (Verilink) on December 14, 1992. By its Petition, Verilink seeks authority to provide line build out (LBO) functionality for 1.544 Mbps (DS-1) services as part of a carrier-provided device rather than as part of the Customer Premises Equipment (CPE). Specifically, Verilink requests that LBO functionality be provided in a so-called "smart jack" which would be installed in the transmit path of a DS-1 service at the network interface. For the reasons set forth below, UTC requests that the Commission deny Verilink's Petition.

UTC is the national representative on telecommunications matters for the nation's electric, gas, water and steam utilities. Approximately 2,000 utilities are members of UTC, ranging in size from large combination electric-gas-water utilities serving millions of customers, to small rural electric cooperatives and water districts serving only a few thousand customers. All utilities rely on dependable, cost-effective communications facilities to support their public service utility operations. UTC's members have enjoyed the benefits of the Commission's efforts to introduce competitive alternatives to carrier-supplied equipment and functionalities, and oppose attempts by companies such as Verilink to reduce competition.

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Verilink's Petition frustrates the Commission's goal of providing greater competition in the provision of communications equipment and services. Verilink seeks to move CPE functionality out of the competitive CPE environment and into the monopoly province of the local telephone companies. The Commission has found repeatedly that equipment functionality on the customer's premises is best provided as CPE and has given users greater choice in CPE by assuring the right to connect the users' chosen CPE directly to the transmission facilities of the serving carriers. The pro-competitive CPE policies have encouraged the introduction of a variety of innovative products and cost reductions. Verilink's Petition must be denied in order to preserve the benefits of these policies.

Additionally, implementation of the LBO functionality as requested by Verilink would significantly and adversely affect utilities and other users of DS-1 services. It would complicate the engineering and installation of the premises wiring and CPE. Furthermore, it could: (1) require additional regeneration equipment and possibly a change-out of existing CPE; (2) seriously inhibit the innovation and utilization of CPE; (3) complicate system installation and line up and subsequent fault isolation; and (4) adversely affect the reliability and availability of utility service.

Verilink's Petition should be denied for the same reasons that BellSouth Corporation's "Petition for Declaratory Ruling or, Alternatively, Request for Limited Waiver of the Customer Premises Equipment (CPE) Rules" (BellSouth Petition) was denied by the Commission in its Memorandum Opinion and Order, 6 FCC Rcd 3336 (1991). The BellSouth Petition also sought to remove LBO from CPE and have it provided as a network-provided function. The FCC denied the BellSouth Petition on the grounds that BellSouth had not met the proper burden of proof for a declaratory ruling and that the issues presented could not be addressed in a waiver request.

Although Verilink's Petition does not suffer from the same procedural defects as the BellSouth Petition, it provides no new substantive information and is equally unpersuasive. Verilink repeats essentially the same arguments as BellSouth and these arguments are as unpersuasive now as they were then. Therefore, the Commission should not waste its scarce resources to reconsider them and should deny Verilink's Petition.

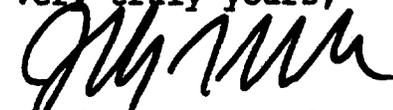
Finally, Verilink's Petition seeks to "fix what is not broken". Currently, LBO functionality is provided in the Channel Service Unit, which has been designated by the Commission as CPE.

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Amendment of Part 68, 94 FCC2d 5 (1983). UTC's members have indicated that they have not had any problems with setting the LBO parameters in the CPE. Thus, permitting the provision of LBO functionality in a network-provided device rather than in CPE would serve no legitimate purpose. It would serve only to frustrate the Commission's goal of encouraging competition in the provision of communications services.

Should any questions arise concerning this transmittal, please contact the undersigned counsel.

Very truly yours,



Jeffrey L. Sheldon  
General Counsel

cc: William Buckley