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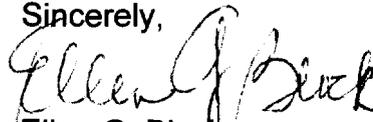
William F. Caton  
Secretary  
Federal Communications Commission  
1919 M. Street, N.W.  
Washington D.C. 20554

Re: Ex parte contact in CC Docket No. 96-61

Dear Mr. Caton:

Today the undersigned and James S. Blaszak, on behalf of the Ad Hoc Telecommunications Users Committee, the California Bankers Clearing House Association, the New York Clearing House Association, ABB Business Services, Inc., and the Prudential Insurance Company of America, met with Dan Gonzales of Commission Chon's office to discuss the above-referenced docket. The substance of the discussion at the meeting is reflected on the enclosure hereto, which was distributed to Mr. Gonzales at the meeting.

Sincerely,

  
Ellen G. Block

Enclosure

200.04/forbexp4

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**THE COMMISSION SHOULD ADOPT  
A MANDATORY FORBEARANCE POLICY  
FOR INDIVIDUALLY NEGOTIATED SERVICE ARRANGEMENTS**

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The Commission has statutory authority to, and should, adopt a mandatory de-tariffing regime.

- The Act's reference to forbearance must be read in light of industry usage.
- The D.C. Circuit has ruled that similar language gave rise to agency authority to require carriers to withdraw their filings.

The application of vendor-controlled tariffs to negotiated service arrangements creates problems that can be solved only by adopting mandatory forbearance.

- Without mandatory forbearance, carriers will continue to unilaterally alter the terms of customer-specific arrangements by:
  - adding to or changing the underlying generic tariffs terms that the customer has neither reviewed nor approved; and
  - retaining the right to change even the customer-specific tariff without consent.
- Without mandatory forbearance, carriers will continue to incorporate into service arrangements terms to which customers would not knowingly consent. Carriers accomplish this via the seemingly innocent act of incorporating their generic tariffs into customer-specific tariffs.

Only a mandatory forbearance policy for customer-specific arrangements will solve these problems.

- It is not clear that the filed rate doctrine would (or could) be eliminated by a permissive forbearance policy.
- Uncertainty can be avoided by adoption of mandatory forbearance.