**B. Jeannie Fry**
Director -
Federal Regulatory

SBC Telecommunications, Inc.
1401 I Street, N.W.
Suite 1100
Washington D.C. 20005
Phone 202-326-8894
Fax 202-408-4806

DOCKET FILE COPY ORIGINAL

EX PARTE OR LATE FILED

May 28, 1998

RECEIVED
MAY 28 1998
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

**Ex Parte**

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

Re: CC Docket No. 80-286, Jurisdictional Separations Reform and Referral to the Federal-State Joint Board

CC Docket No. 96-45, Federal-State Joint Board on Universal Service

CC Docket No. 96-262, Access Charge Reform

CCB/CPD Docket No. 97-30, Request by ALTS for Clarification of the Commission's Rules Regarding Reciprocal Compensation for Information Service Provider Traffic

Dear Ms. Salas:

In accordance with the Commission's Rules, please be advised the on Wednesday, May 27, 1998, Mr. Paul Cooper, Mr. Stan Brower, Mr. Jay Bennett and the undersigned, representing SBC Communications Inc., met with Mr. Paul Misener, Senior Legal Advisor to Commissioner Harold Furchtgott-Roth, Mr. Courtney Dow and Mr. Tom Kemp, Legal Interns in Commissioner Furchgott-Roth's office.

Specifically, this discussion was held to discuss the issues surrounding Internet Service Provider (ISP) usage.

The FCC, since 1983, has asserted jurisdictional rate authority over ISP Internet usage. Consequently, Internet usage and its costs are interstate access utilization of the local exchange networks and under the jurisdiction of the FCC. In order to (a) remove the barrier to local competition created by intrastate requirements of certain State Commissions to inappropriately pay reciprocal compensation for this traffic and (b) forestall further industry confusion regarding the jurisdiction of this usage, the FCC should immediately reaffirm that all (voice and data) Internet access use of the local exchange network is interstate and not subject to local reciprocal compensation.

The FCC, as a second step, should begin to evaluate an appropriate access structure for Internet access usage. That new structure should avoid significant rate shock for ISPs and their customers but it should also provide reasonably non-discriminatory treatment of ISPs and other carriers that use the local exchange network to provide them services.

As previously discussed in SBC's January 20, 1998 and February 23, 1998 letters to the FCC, SBC also explained that it has developed and is implementing measurement procedures in its central offices to identify Internet usage.

If the FCC determines that it is necessary, certain technical issues involving measurement procedures for Internet usage and mixed use procedures could be referred to the Joint Board in CC Docket No. 80-286 for review.

An original and one copy of this letter and the attachments are being submitted. Acknowledgement and date of receipt of this transmittal are requested. A duplicate transmittal letter is attached for this purpose.

Please include this letter in the record of these proceedings in accordance with Section 1.1206(a)(2) of the Commission's Rules.

Sincerely,

Attachment

**IMMEDIATE FCC ACTION IS NEEDED TO PREVENT FURTHER SUBSTANTIAL HARM TO THE PUBLIC INTEREST CAUSED BY THE ISP ACCESS EXEMPTION AND INAPPROPRIATE APPLICATION OF RECIPROCAL COMPENSATION TO INTERNET USAGE.**

1. **ISP Internet usage is interstate and under the jurisdiction of the FCC.**

   - Since 1983 the FCC has asserted rate jurisdiction over this traffic.
   - The usage can be identified on a mixed-use and end-to-end basis as interstate.

2. **The public interest is substantially harmed by continuing the access charge exemption for ISPs and allowing inappropriate application of reciprocal compensation. This situation causes:**

   - A barrier to local exchange competition.
   - Uneconomic competition for ISP business.
   - Undue preferences and discrimination among service providers (IXCs and ISPs) who use local network access in the same manner.
   - Universal service concerns due to the severe financial and service consequences for LECs.
   - Disruption of the interconnection process.
   - Jurisdictional uncertainty and disputes.

3. **The FCC objectives are being undermined.**

   - ISPs have unreasonable and undue preferences.
   - Inefficient use of the network is encouraged.
   - Uneconomic bypass is encouraged.
   - Preservation of universal service is jeopardized.
   - Barriers to local competition are erected and discriminatory toll competition is encouraged.

4. **Immediate FCC action is needed to:**

   a) Make it clear that ISP Internet usage continues to be classified as interstate access use of the local network and that it is not subject to reciprocal compensation.

   b) Establish an interstate compensation mechanism for this usage that is non-discriminatory.