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JUN 26 1998

June 26, 1998

Federal Communications Commission  
Office of Secretary

**Memorandum of Ex Parte Communication**

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

Dear Ms. Salas:

Re: *CC Docket 96-262 - Access Charge Reform*  
*CC Docket 94-1 - Price Cap Performance Review for Local Exchange Carriers*  
*CCB/CPD 97-30 Request by ALTS for Clarification of the Commission's Rules*  
*Regarding Reciprocal Compensation for Information Service Provider Traffic*

On Thursday, June 25, 1998, Mr. Zeke Robertson, Vice President - FCC and the undersigned met with Mr. Tom Power, Common Carrier Legal Advisor to Chairman Kennard. The purpose of the meeting was to demonstrate that the Commission should continue its reliance upon the market-based approach in reforming interstate access charges, rather than adopting a prescriptive approach as advocated by some interexchange carriers. Additionally, prompt adoption of a Commission Order granting local exchange carriers pricing flexibility, beginning with special access and dedicated transport services, was discussed. Lastly, developments regarding reciprocal compensation for the termination of Internet traffic including the recent Order issued by the US District Court for the Western District of Texas were referenced. Consistent with its position in the record of CC Docket 97 - 30, SBC again indicated that the Commission should reaffirm that Internet traffic is subject to interstate jurisdiction and therefore reciprocal compensation arrangements for local traffic are not applicable to Internet traffic.

We are submitting the original and one copy of this Memorandum to the Secretary in accordance with Section 1.1206(b)(2) of the Commission's rules. The attached written material was referenced.

Please stamp and return the provided copy to confirm your receipt. Please contact me at (202) 326-8889 should you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Jay Bennett". The signature is fluid and cursive, with the first name "Jay" being more prominent and the last name "Bennett" following in a similar style.

cc: T. Power (w/o attachment)

## Interstate Access & Price Caps – IXC Representations vs. The Facts

IXC Representations	The Facts
<ul style="list-style-type: none"> <li>LEC earnings are inappropriately high and therefore the productivity factor should immediately be increased.</li> </ul> <p style="text-align: center;"><b>RECEIVED</b> <b>JUN 26 1998</b></p> <p style="text-align: center;"><small>Federal Communications Commission Office of Secretary</small></p>	<ul style="list-style-type: none"> <li>Price cap regulation was designed to sever the relationship between prices and earnings.</li> <li>Increased returns demonstrate price cap incentives work.</li> <li>Regulatory earnings are overstated due in part to prescribed depreciation rates that are artificially low.</li> <li>LEC earnings have lagged those of other U.S. businesses.</li> </ul>
<ul style="list-style-type: none"> <li>Access rate levels have not declined sufficiently and have impaired IXC financial performance.</li> </ul>	<ul style="list-style-type: none"> <li>Price cap filings during the past year reduced interstate access rates to IXCs by approximately \$3B.</li> <li>From 1985 through 1997, access charges declined dramatically, from 56% to 38% of LD revenues.</li> <li>A properly designed and implemented Universal Service Fund should remove implicit subsidies from access rates.</li> </ul>
<ul style="list-style-type: none"> <li>The Commission's market-based approach has failed because competition has not developed.</li> </ul>	<ul style="list-style-type: none"> <li>Chairman Kennard told Congress 20% of the local business market is being served by carriers other than the incumbent BOCs and the top 10 CLECs have switches in 132 cities.</li> <li>CLEC business line growth reported to have surpassed BOCs.</li> <li>Special access and dedicated transport are especially competitive. For example, a 3Q '97 survey in CA reports that Pacific Bell has only 52% of special access in San Francisco and 47% of the dedicated transport market in Los Angeles.</li> <li>TCG reports that during the past year, revenue increased 53%, buildings served grew 56% and switched service revenue exceeded dedicated service revenue.</li> </ul>
<ul style="list-style-type: none"> <li>Even with entry barriers removed and competitors established, additional regulatory oversight over price cap LECs' interstate access services is required.</li> </ul>	<ul style="list-style-type: none"> <li>Dedicated transport services are competitive and therefore should be removed from price cap regulation.</li> <li>Pricing flexibility, including customer-specific offerings and forbearance of new service regulation, will result in the marketplace determining efficient outcomes.</li> <li>Rapid marketplace evolution (Sprint's ION announcement, ATT/TCG/TCI &amp; WorldCom/MCI) demonstrate that regulatory focus should be looking forward, not backward.</li> </ul>
<ul style="list-style-type: none"> <li>The Commission should prescribe reductions in interstate access now without resolution of interrelated issues such as Universal Service, pricing flexibility and separations reform.</li> </ul>	<ul style="list-style-type: none"> <li>In May '97 the FCC said that "lacking the tools for making accurate prescriptions, precipitous action could lead to significant errors" and "would further impede the development of competition in the local markets and disrupt existing services." (CC Docket 96-262, First R&amp;O, para. 46)</li> </ul>