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FEDERAL COMMUNICATIONS COMMISSION
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October 16, 1998

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EX PARTE

Ms. Magalie Roman Salas
Office of the Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222 - Stop code: 1170
Washington, D.C. 20554

Re: Ex Parte Presentation in CC Docket No. 96-98; CCB/CPD Docket No. 97-30; CC Docket Nos. 98-79; 98-103; 98-161; 98-168

Dear Ms. Salas:

On Thursday, October 15, 1998, Don Shepheard, Vice President of Federal Regulatory Affairs, Time Warner Communications Holdings Inc. d/b/a Time Warner Telecom, and I met with Kyle Dixon, Legal Advisor to Commissioner Michael Powell to discuss reciprocal compensation for delivery of ISP traffic. We left the attached paper.

Sincerely,

Thomas Jones

cc: Kyle Dixon

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Reciprocal Compensation for ISP Traffic

- **The current legal/policy framework for ESPs/ISPs mandates that reciprocal compensation apply to switched dial-up ISP traffic.**
  - The FCC has repeatedly affirmed its determination to treat ISPs as end users utilizing local exchange services purchased out of state tariffs.
    - Local exchange carriers are compensated through the state local service regulatory regime, <u>not</u> the interstate exchange access regulatory regime.
  - Section 251(b)(5) of the 1996 Act provides the legal basis for reciprocal compensation for <u>all</u> local calls terminating on interconnecting networks.
    - Reciprocal compensation is an integral part of the local compensation regime.
    - The Act recognizes that termination of traffic on a competing network generates costs to the terminating network provider.
  - There is no difference between local calls placed to ISPs and calls placed to any other local end user where reciprocal compensation applies.
    - The call from the end user to the ISP is dialed and routed like any other local call to an end user.
    - End user calls to ISPs are treated like other local calls for billing, accounting, separations, and network operations purposes.

Don Shepheard, Vice President
Federal Regulatory Affairs
Time Warner Telecom

Reciprocal Compensation for ISP Traffic

- **To the extent that existing interconnection agreements and local rate structures do not fully compensate interconnecting carriers, state commissions are authorized to take corrective action.**
  - Renegotiation/arbitration of exisiting interconnection agreements upon expiration.
  - Generic rate proceedings to explore alternative rate structures and compensation mechanisms.
  - As repeatedly stated by the Commission: *To the extent that some intrastate rate structures fail to compensate ILECs adequately for providing service to customers with high volumes of incoming calls, incumbent local exchange carriers may address their concerns to state regulators.*

Reciprocal Compensation for ISP Traffic

- **In maintaining the status quo for ISPs as end users, the Commission should preserve the status quo of reciprocal compensation, and defer to carrier negotiations and state commissions for future resolution. Other options should be rejected.**
  - There are three possible scenarios going forward:
  - ILECs seek to eliminate the access charge exemption.
    - Reverses long-standing, recently-affirmed Commission policy and would disrupt Internet development.
  - ILECs alternatively seek to eliminate reciprocal compensation from the local compensation regime for ISP traffic.
    - Denies CLECs any opportunity to recover legitimately-incurred interconnection costs and denies competitive choice to ISPs.
  - Others suggest creation of a unique access charge structure for ISPs.
    - Complex undertaking that would create confusion, lead to further litigation, and accomplish nothing.