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Chérie R. Kiser

**FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY**

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November 5, 1998

HAND DELIVERY

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

**Ex Parte Presentation**

GTE Telephone Operating Cos., GTOC Tariff No. 1, GTOC Transmittal No. 1148  
CC Docket No. 98-79

Bell Atlantic Telephone Companies, Tariff No., Transmittal No. 1076  
CC Docket No. 98-168

Implementation of the Local Competition Provisions in the  
Telecommunications Act of 1996, CC Docket No. 96-98

Dear Ms. Salas:

On November 4, 1998, the following representatives of Cablevision Lightpath, Inc. ("Lightpath"), Lisa Rosenblum, Senior Vice President of Regulatory and Legal Affairs; Lee Schroeder, Director of Government Affairs and Regulatory Strategy; and David Ellen, Senior Counsel Telephony and Data Services, met with Commissioner Harold Furchtgott-Roth; Kevin Martin, Office of Commissioner Furchtgott-Roth; Paul Gallant, Office of Commissioner Gloria Tristani; Kyle Dixon, Office of Commissioner Michael Powell; and Jim Casserly, Office of Commissioner Susan Ness, to discuss the issue of reciprocal compensation for the termination of traffic to Internet Service Providers ("ISPs").

Also on November 4, 1998, Ms. Rosenblum, Ms. Schroeder, Mr. Ellen and Leo Maese, Director of Regulatory Planning, Lightpath, met with Thomas Power, Office of Chairman William Kennard; Robert Pepper, Chief, Office of Plans and Policy; Bill Rogerson, Chief Economist; and Don Stockdale of the Common Carrier Bureau, to discuss the issue of reciprocal compensation for the termination of traffic to Internet Service Providers ("ISPs").

On November 4, 1998, Ms. Rosenblum and Ms. Schroeder also met with Lisa Zaina of the Common Carrier Bureau, and Ms. Rosenblum met with Kathryn C. Brown, Chief of Staff of

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the Federal Communications Commission, to discuss the issue of reciprocal compensation for the termination of traffic to Internet Service Providers ("ISPs").

The points raised in each of these meetings are reflected in the attached document, which was provided to Commissioner Furchtgott-Roth and the Commission personnel participating in the meetings.

Pursuant to sections 1.1206(b)(1) and (b)(2) of the Commission's rules an original and five copies of this letter and the attached document are being filed with the Office of the Secretary. Copies of this letter and the attached document are also being served on Commissioner Furchtgott-Roth and the Commission personnel that attended the meeting.

Sincerely,

A handwritten signature in cursive script that reads "Cherie R. Kiser" followed by the initials "EAD" in a separate, slightly larger and bolder script.

Cherie R. Kiser

Counsel, Cablevision Lightpath, Inc.

Attachment

cc: Commissioner Harold Furchtgott-Roth  
Kevin Martin  
Kathryn C. Brown  
Thomas Power  
Paul Gallant  
Kyle Dixon  
Jim Casserly  
Robert Pepper  
Bill Rogerson  
Don Stockdale  
Lisa Zaina  
Lisa Rosenblum  
Lee Schroeder  
David Ellen  
Leo Maese

The FCC has determined that ISP dial up traffic is interstate in nature consistent with our order in the GTE ADSL tariff proceeding. At the same time, we recognize that, pursuant to Sections 251(b)(5) and 252 of the 1996 Act, carriers have negotiated interconnection agreements which include comprehensive terms by which carriers recover the cost of exchanging traffic, and States, as required under the 1996 Act, have interpreted, arbitrated, and enforced those agreements. Under these agreements and state decisions interpreting them, ISP traffic is subject to reciprocal compensation.

We recognize that the critical importance of these agreements to carriers' business strategies currently being followed and give deference to the expertise of the States in interpreting these agreements. In the interest of promoting the investment in facilities-based competition, our order in no way disrupts or alters any interconnection agreement or state interpretation providing for the payment of reciprocal compensation, or any such agreement or interpretation that defers to our jurisdiction, including payment for ISP traffic, even though we have declared this traffic to be interstate. This ruling is fully consistent with the FCC's plenary jurisdiction over interstate traffic under Section 201 and the states' jurisdiction over reciprocal compensation under Sections 251 and 252 of the Communications Act.

Thus, we do not here preclude a finding by the FCC or overturn state decisions that ISP traffic is "Local traffic" and eligible for reciprocal compensation. The issues concerning the application of reciprocal compensation to ISP traffic will be addressed in our NPRM.<sup>1/</sup>

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<sup>1/</sup> The Commission has previously ruled that traffic over which it has jurisdiction is local traffic eligible for reciprocal compensation. See e.g., Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers, 11 FCC Rcd 15499, 16014 ¶ 1036 (1996) ("[T]raffic to or from a CMRS network that originates and terminates within the same MTA is subject to [reciprocal compensation] under section 251(b)(5), rather than interstate and intrastate access charges."); 47 C.F.R. § 51.701(b)(2).