**ROC-CENTURY ASSOCIATES**
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August 10, 1999

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street. S. W.
TW-A325
Washington, D.C. 20554

**Re: Promotion of Competitive Networks in Local Telecommunications Markets, WT Docket No. 99-217; Implementation of the Local competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98**

Dear Ms. Salas:

We write in response to the FCC's Notice of Proposed Rulemaking released on July 7, 1999, regarding forced access to buildings.

We are concerned that any action by the FCC regarding access to private property by large numbers of communications companies may inadvertently and unnecessarily adversely affect the conduct of our business and needlessly raise additional legal issues. There are several other issues in the FFC notice that also raise concerns.

ROC-Century Associates is in the residential real estate business. We own and manage a significant number of units in luxury cooperative and condominium apartment houses.

**Issues Raised by FCC Notice**

We do not believe that the FCC needs to take action in this area because we are acting reasonably to meet our tenants' demands for access to telecommunications. In addition, the FCC's request for comments raises the following issues of concern to us: nondiscriminatory access to private property; expansion of the scope of existing easements; location of the demarcation point; exclusive contracts; and expansion of the satellite dish rules to include nonvideo services.

**1. FCC Action is Not Necessary**

- In rental buildings we are aware of the importance of all services including telecommunication services to tenants, and that we would not jeopardize rent revenue

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stream by actions that would displease tenants. In cooperatives and condominiums these matters are considered by the elected members of the apartment owners themselves.

- There are significantly more complaints about how the cables look in the public areas than about lack of services. Access by numerous companies would grossly exaggerate this problem.

## 2. Nondiscriminatory Access

- There is no such thing as "nondiscriminatory access." There are dozens of providers out there, but limited space in buildings means that only a handful of providers can install facilities in buildings. Nondiscriminatory access discriminates in favor of the first few entrants.

- Building owners must have control over space occupied by providers, especially when there are multiple providers involved. This is especially true for cooperative corporations and condominiums where the residents are the building owners.

- Building owners must have control over who enters the building: owners face liability for damage to building, leased premises, and facilities of other providers, and for personal injury to tenants and visitors. Owners are also liable for safety code violations. Qualifications and reliability of providers are a real issue.

- What does "nondiscriminatory" mean? Deal terms vary because each deal is different. A company without a track record poses greater risks than an established one, for example, so indemnity, insurance, security deposit, remedies and other terms may differ. Value of space and other terms also depend on many factors.

- A single set or rules won't work because there are different concerns depending on whether the building is commercial, residential or shopping center.

- Building owners often have no control over terms of access for Bell companies and other incumbents: they were established in monopoly environment. The only fair solution is to let the new competitive market decide and allow owners to renegotiate terms of all contracts. An owner can't be forced to apply old contracts as lowest common denominator when owner had no real choice initially.

- If carriers can discriminate by choosing which building and tenants to serve, building owners should be allowed to do the same.

## 3. Scope of Easements

- FCC cannot expand the scope of the access right held by every incumbent to allow every competitor to use the same easement of right-of way. Grants in some buildings may be broad enough to allow other providers in, but others are narrow and limited to facilities owned by the grantee.

- If owners had known governments would allow other companies to piggy-back, they would have negotiated different terms. Expanding rights now would be a taking of private property.

**4. Demarcation Point**

- Current demarcation point rules work fine because they offer flexibility - there is no need to change them.

- Each building is a different case, depending on the owner's business plan, nature of property and nature of tenants in the building. Some building owners are responsible for managing wiring and some are not.

**5. Exclusive Contracts**

- Our local cable companies are offering steep discounts where buildings sign up a certain percent of tenants for a certain number of years. In some buildings these programs have been popular and act as quasi-exclusive agreements.

**6. Expansion of Satellite Dish Rule**

- We oppose the existing rule because we do not believe that Congress meant to interfere with our ability to manage our property.

- The FCC should not expand the satellite rule to include data and other services, because the law only applies to antennas used to receive video programming.

In summary, we urge the FCC to carefully consider any action it may take. Thank you for your consideration of our views.

Sincerely yours,

**ROC-CENTURY ASSOCIATES**

By: _____

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