

---

---

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Promotion of Competitive Networks	)	WT Docket No. 99-217
In Local Telecommunications Markets	)	
	)	
Wireless Communications Association	)	
International, Inc. Petition for Rulemaking to	)	
Amend Section 1.4000 of the Commission's Rules	)	
To Preempt Restrictions on Subscriber Premises	)	
Reception or Transmission Antennas Designed	)	
To Provide Fixed Wireless Services	)	
	)	
Cellular Telecommunications Industry	)	
Association Petition for Rulemaking and	)	
Amendment of the Commission's Rules	)	
To Preempt State and Local Imposition of	)	
Discriminatory And/Or Excessive Taxes	)	
And Assessments	)	
	)	
Implementation of the Local Competition	)	
Provisions in the Telecommunications	)	CC Docket No. 96-98
Act of 1996	)	

---

**COMMENTS OF SBC COMMUNICATIONS INC.**

---

SBC COMMUNICATIONS INC.

ALFRED G. RICHTER JR.  
ROGER K. TOPPINS  
HOPE THURROTT  
One Bell Plaza, Room 3023  
Dallas, Texas 75202  
214-464-3620

Its Attorneys

October 12, 1999

---

---

## TABLE OF CONTENTS

I.	State and Local Administration of Rights-Of-Way .....	2
A.	Scope of Carriers Covered by Rights-Of-Way Ordinances.....	4
B.	Fees Charged for Rights-of-Way Usage.....	5
C.	“Third Tier” Regulation .....	6
II.	Inconsistent Application of State and Local Taxes and Fees Regarding Wireline and Wireless Service Providers.....	8
A.	Disparate Tax Treatment of the Telecommunications Industry .....	8
B.	Special Fees Assessed Against CMRS Providers.....	12
III.	Conclusion.....	13

## SUMMARY

SBC Communications Inc., on behalf of itself and its subsidiaries, (collectively referred as “SBC”) strongly encourages the Commission to initiate a rulemaking proceeding related to the administration of rights-of-way and the imposition of taxes and other fees on telecommunications service providers by state and local authorities. As the situations discussed in these Comments illustrate, there is apparent confusion as to the standards set by Section 253 of the Telecommunications Act relating to the rights-of-way authority of States and local entities. Does the application of rights-of-way regulation solely to incumbent local exchange carriers (ILECs) and other facilities-based providers comply with the Act’s requirement of “competitive neutrality”? What are the standards for determining whether the fees assessed by State and local authorities on these carriers constitute “fair and reasonable compensation” as allowed by the Act? Facilities-based providers are bearing the brunt of this regulation. Rights-of-way fees and associated special charges are totaling in the hundreds of millions of dollars and increasing every year. In some cases, these fees appear unrelated to the costs incurred by the governmental entity in maintaining its rights-of-way.

Also as evidenced by these Comments, the traditional telecommunications industry is targeted by State and local authorities for more burdensome tax treatment than that imposed on other industries. In relation to transactional and property taxes, telecommunications service providers are subject to higher assessments and special charges. There is also differentiation among the categories of service providers, with competitors subject to varying tax standards.

SBC requests that the Commission not conclude its investigation and involvement with this Notice of Inquiry, but recognize the need for intervention in the areas described in these Comments.

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Promotion of Competitive Networks	)	WT Docket No. 99-217
In Local Telecommunications Markets	)	
	)	
Wireless Communications Association	)	
International, Inc. Petition for Rulemaking to	)	
Amend Section 1.4000 of the Commission's Rules	)	
To Preempt Restrictions on Subscriber Premises	)	
Reception or Transmission Antennas Designed	)	
To Provide Fixed Wireless Services	)	
	)	
Cellular Telecommunications Industry	)	
Association Petition for Rulemaking and	)	
Amendment of the Commission's Rules	)	
To Preempt State and Local Imposition of	)	
Discriminatory And/Or Excessive Taxes	)	
And Assessments	)	
	)	
Implementation of the Local Competition	)	
Provisions in the Telecommunications	)	CC Docket No. 96-98
Act of 1996	)	

**COMMENTS OF SBC COMMUNICATIONS INC.**

SBC Communications Inc., on behalf of itself and its subsidiaries (collectively referenced as "SBC"), in response to the Notice of Inquiry (NOI) released in this proceeding on July 7, 1999, discusses its experiences as they relate to the administration of rights-of-way by State and municipal authorities and the disparate taxing of telecommunications service providers. SBC strongly encourages the Commission to initiate a rulemaking proceeding with respect to the following issues: (1) the manner in which rights-of-way fees can be assessed against all carriers in a "competitively neutral" fashion; (2) the standards which should be employed in determining if the fees imposed constitute "fair and reasonable compensation;" and (3) the elimination of burdensome tax treatment imposed on telecommunications service providers.

During the past several years, many local authorities have tried to adopt ordinances which apply to all carriers in a competitively neutral, non-discriminatory manner. However, the application and interpretation of some of these ordinances has had a disparate impact on incumbent local exchange carriers (ILECs), such as Pacific Bell and Southwestern Bell Telephone Company, and other facilities-based providers. Adding to this burden is the assessment of fees by some governmental entities in excess of the cost recovery allowed to states and local governments for rights-of-way management. Taken in concert, these factors act to undercut the “competitive neutrality” precept of the Act. ILECs and other facilities-based providers incur significant costs, which are not being assessed on their competitors. Higher costs translate into higher, less competitive customer rates.

Certain local and State governments have also disparately imposed a greater tax burden on telecommunications service providers, in comparison to other industries. These governmental entities appear to have adopted the position that telecommunications service, as a necessity for the public, is an easy avenue for increasing general revenues.

#### **I. State and Local Administration of Rights-Of-Way**

As noted in the NOI, Section 253 of the Act governs the management of rights-of-way by local and State governments. No State or local authority is to prohibit or have the effect of prohibiting the ability of any entity to provide interstate or intrastate telecommunications service.<sup>1</sup> States are permitted to impose “competitively neutral requirements” for purposes of preserving and advancing universal service, protecting public safety and welfare, ensuring the quality of telecommunications services and safeguarding the rights of consumers.<sup>2</sup> State and local governments retain the authority to require “fair and reasonable compensation from telecommunications providers, on a

---

<sup>1</sup> 47 U.S.C. . 253(a).

<sup>2</sup> 47 U.S.C. . 253(b).

competitively neutral and nondiscriminatory basis, for use of the public rights-of-way on a nondiscriminatory basis....”<sup>3</sup>

Two areas of regulation are of particular concern: (1) entry and use regulation and; (2) assessment of fees and taxes. In this context, it is perplexing how the Commission can state that rights-of-way regulations are being passed which predominantly favor incumbent ILECs to the detriment of their competitors.<sup>4</sup> In fact, the reverse is often true with ILECs being competitively disadvantaged by the administrative practices and regulations of governmental entities or the courts’ interpretations concerning such regulations. ILECs and other facilities-based providers are oftentimes the only carriers subject to local rights-of-way regulation and fees, pursuant to judicial interpretation.

The level of these fees is in the millions of dollars and is increasing every year. However, it is debatable whether, in certain cases, these levels bear any relation to the costs incurred by government entities in maintaining the rights-of-way.

SBC has also encountered some situations in which State and local entities have adopted a “third tier” of regulation, ostensibly based on their police powers and interests in the efficient management of rights-of-way. Certain of these regulations unnecessarily increase the costs of providing telecommunications service. Other regulations, considered in a vacuum, appear reasonable on their face until one considers that no telecommunications carrier operates within only one city’s boundaries. Because these requirements differ by locale and impose multiple, and sometimes inconsistent, standards, they act as a barrier to entry and interfere with the abilities of all carriers to provide service. Examples of this type of regulation include differing insurance requirements and construction standards.

Further individual situations are discussed in detail below.

---

<sup>3</sup> 47 U.S.C. . 253(c).

<sup>4</sup> NOI, . 75.

### **A. Scope of Carriers Covered by Rights-Of-Way Ordinances**

As discussed above, some rights-of-way ordinances are being interpreted as pertaining to ILECs and facilities-based providers alone, even where that conclusion is contrary to the intent of the municipality. For example, in early 1997, the City of Austin passed an ordinance relating to rights-of-way management with the objective of meeting the Section 253 requirements.<sup>5</sup> The ordinance calculated the monthly fee to be provided to the municipality on a per line basis.<sup>6</sup> Carriers that “own or operate [their] own network” utilizing the municipal rights-of-way were subject to the assessment. It was the express intent of the City to assess all carriers who, directly or indirectly, use its rights-of-way.

Shortly thereafter, AT&T challenged in federal district court the City’s assessment, claiming that, although as a reseller and purchaser of unbundled network elements (UNEs) its services traversed the rights-of-way, it did not “own” the network located in the rights-of-way and therefore, it could not be charged the related fees. The district court agreed with AT&T’s position and this matter is currently on appeal.

While Section 253 requires the assessments of States and local authorities to be competitively neutral and this objective was the basis for the City of Austin’s ordinance, the district court’s interpretation seemingly defeats this concept. Under this interpretation of the term “use,” only the ILEC, Southwestern Bell Telephone Company, and other facilities-based providers are subject to these fees. It may be impossible to achieve “competitive neutrality” if resellers and UNE-based providers pay, if at all, on the basis of the “wholesale” use of facilities while facilities based providers pay on the basis of the retail services offered.

---

<sup>5</sup> Chapter 15-12 of the Austin City Code, Ordinance No. 990826-30.

<sup>6</sup> Historically, Texas municipalities based the calculation of rights-of-way fees on a percentage of gross receipts (typically 4%). Recently, many cities have shifted to charging a flat fee based on the number of lines used by each carrier in an attempt to fairly allocate the charge among all telecommunications providers.

## B. Fees Charged for Rights-of-Way Usage

The level of fees for rights-of-way usage is significant. In Texas alone in 1999, Southwestern Bell Telephone Company (Southwestern Bell) will pay rights-of-way fees totaling approximately \$175 million, an increase from the \$56.2 million it paid in 1990 and the \$142.7 million it paid in 1998.<sup>7</sup> Under the rights-of-way ordinances for Houston and San Antonio, Southwestern Bell's obligations related to right-of-way fees in these cities have nearly tripled; in San Antonio, Southwestern Bell in 1998 paid \$14 million up from the \$3.7 million it paid in 1990 and in Houston, in 1998, Southwestern Bell paid \$39.4 million in 1998 in comparison to the \$16.1 million it paid in 1990. With regard to Dallas rights-of-way fees, Southwestern Bell paid the City approximately \$9.3 million in 1990; this amount nearly doubled in 1998. Recently, the Texas legislature passed H.B. 1777, a bill which standardizes municipal fee mechanisms across the state and attempts to apply such fees on a competitively neutral basis. However, the bill also permits the retention of fees the cities had in effect before the bill was passed and allows many cities the opportunity to increase their fees dramatically.<sup>8</sup> Moreover, while well-reasoned court decisions to date have defined "fair and reasonable compensation" to mean that rights-of-way fees are to be based on the government's costs of maintaining and improving the rights-of-way and on a carrier's use of the rights-of-way,<sup>9</sup> many municipalities continue to assess fees exceeding their actual costs.

Nor are general rights-of-way fees the only fees imposed under the guise of rights-of-way management. For example, in the City of Belvedere in California, if

---

<sup>7</sup> Under Texas law, Southwestern Bell and other telecommunications providers are permitted to pass these fees through to customers.

<sup>8</sup> Under the legislation, Austin, Dallas and certain other cities may receive revenues based on either statewide average rates or 21% of their total sales tax revenue. Again, because the new rate structure bears no nexus to the actual costs borne by the cities relating to rights-of-way management, the issue arises whether the new rates constitute "fair and reasonable compensation" within the meaning of the Act. *See* Tex. Loc. Gov't Code Ann. Ch. 283 (Vernon Supp. 1999).

<sup>9</sup> *See, AT&T Communications of the Southwest, Inc. v. City of Dallas*, 8 F. Supp. 2d 582 (N.D. Tex. 1998); *Bell Atlantic-Maryland v. Price George's County*, 1999 WL 343646 (D. Md. May 24, 1999).

Pacific Bell must replace a pole to correct a possible safety hazard, the City will charge \$800.00 to “design review” its permit application.

A number of cities, including Sacramento, Los Angeles, San Francisco and Union City in California, impose “street cut” fees to be paid prior to each excavation. The stated basis for the fee is that any type of excavation irreparably damages the streets and, in that way, reduces the street life. Therefore, the cities reason, they are entitled to compensation. Although the fees vary by city, each excavator is charged the same amount regardless of the quality of the restoration work or the type of facilities to be placed in the trench. The highest fee to date is that charged by Union City – \$17.50 per square foot.<sup>10</sup> Even in locales that have not adopted street damage ordinances, Pacific Bell has encountered burdensome requirements related to street excavation restoration. For example, in El Dorado County, a recent permit was conditioned on excessive repaving requirements which required Pacific Bell to repave three lanes of traffic and the area 100 feet beyond its trench.

Another example of extraordinary charges relates to the City of Lincoln, California’s decision to construct a “joint trench” so that all utilities could be installed at once to prevent future excavations. The City then advised the utilities of their “share,” without any opportunity for negotiation or any evidence of its costs. The total amount charged was well above the utilities’ normal construction costs.

### **C. “Third Tier” Regulation**

The ordinance which has been adopted by the City of Corona serves as an example of redundant “third tier” regulation which reaches beyond traditional rights-of-way management.<sup>11</sup> Although state law permits telecommunications carriers to use

---

<sup>10</sup> In California, several other cities and one county (Bakersfield, Oxnard, Redlands and the County of Sacramento) have adopted street cut ordinances that allow franchised utilities to warrant their work for the life of the street in lieu of the payment of a street cut damage fee. Pacific Bell and other excavators have supported a warranty-based approach to maintaining the local infrastructure.

<sup>11</sup> NOI, . 76.

public rights-of-way without obtaining franchises or subordinate grants from local governments, the City of Corona's ordinance requires carriers to obtain an agreement with the City before using Corona rights-of-way. The ordinance gives the City Council the rights to deny an application for such an agreement based on the carrier's financial, legal and technical ability to provide and maintain its facilities or the service the carrier will provide to the community.<sup>12</sup>

There are additional examples. In San Antonio and El Paso, the authority to provide service is conditioned on the provider's network being subject to sale to the highest bidder upon either a "breach" of the cities subjective standard of care or mere "expiration" of the ordinances. These ordinances clearly chill telecommunications providers' abilities to install competing networks and place embedded networks at risk.

In addition, while Texas law permits cities to direct the location of poles, cables and other facilities, only in cases of street widening or straightening is the telecommunications provider to fund the cities' requested movements. In all other cases, the provider is not required to move its facilities without just compensation. However, in many Texas cities, contrary to the law, municipal authorities are adopting ordinances requiring providers to move their facilities at their own expense where such is in furtherance of civic projects, or even where it benefits a private entity.

Furthermore, under Texas law, owners of underground facilities are required to provide a central authority with information about their location and obligates the parties to "locate" the facilities for any person that needs to dig in the vicinity.<sup>13</sup> Part of this obligation includes providing a "grid" of the facilities for the central authorities use. Despite the fact that facilities owners must locate underground facilities at their own expense in the event of a potential excavation, many cities, including Irving, Texas, have imposed additional mapping and drawing requirements. These requirements relate not

---

<sup>12</sup> The requirement of this information was found by the *Prince George's County* court to be unrelated to the management of rights-of-way and therefore, invalid.

<sup>13</sup> Tex. Rev. Civ. Stat., Ann., Art. 9033 (Vernon's Supp. 1999).

only to new networks but also to existing facilities. Oftentimes, these cities further require that the maps be electronically coded, to be read by software neither owned or used by the carrier. Cities have also threatened to make such competitively sensitive information available on the Internet.

## **II. Inconsistent Application of State and Local Taxes and Fees Regarding Wireline and Wireless Service Providers**

The Commission, in the NOI, recognizes that tax policies which impose excessive or unequal burdens on competitive service providers “have the potential to inhibit the development of competitive facilities-based providers in local telecommunications markets.”<sup>14</sup> In this regard, the Commission is seeking comments generally on the nature and prevalence of unreasonable or discriminatory tax burdens placed on competitive providers, including wireless carriers.<sup>15</sup>

### **A. Disparate Tax Treatment of the Telecommunications Industry**

In the new competitive environment, the continuation of a tax structure which discriminates against differing segments of the providers of telecommunications service is outdated and adversely affects traditional facilities-based carriers. The SBC Companies and other telecommunications providers have encountered the governmental mentality that an acceptable means for increasing public coffers is to increase the types and amounts of the taxes imposed on telecommunications providers.

The Telecommunications Tax Task Force of the Committee on State Taxation (“COST”)<sup>16</sup> recently completed a nationwide study documenting the complex and excessive taxation of the telecommunications industry under state and local transactional

---

<sup>14</sup> NOI, . 81.

<sup>15</sup> NOI, . 84.

<sup>16</sup> The Committee On State Taxation (COST) is a non-profit association based in Washington, D.C. COST was formed in 1969 as an advisory committee to the Council of State Chambers of Commerce, and today has an independent membership of more than 500 major multi-state corporations engaged in interstate and international business.

and property tax laws.<sup>17</sup> The study shows that the average total effective transactional tax rate (inclusive of federal excise tax and fees) for the telecommunications industry is 18.5%, nearly three times the average effective rate applied to general business.<sup>18</sup> The states of Arkansas, California, Oklahoma and Texas were ranked among the top ten states with the largest number of transaction taxes imposed on telecommunications services. In addition, the States of Kansas, Missouri, Oklahoma and Texas were among the top ten states with the highest total rates.

Inconsistent definitions and sourcing methodologies for telecommunication services gives rise to potential double taxation. For example, it is unclear for taxing purposes where the sale of service occurs for mobile communications products such as wireless service and calling cards. With respect to wireless calls, the service address may be the first cellular tower from which the call is transmitted or the customer's billing address. Regarding prepaid calling cards, some states tax the product as tangible personal property imposing the tax at the point of sale, while other states tax the cards as a telecommunications service imposing the tax upon provisioning of the service.

Taxing jurisdictions often have a special tax for telecommunications services. For example, in Illinois, telecommunications service providers are taxed under state and local excise/utility taxes separate from general sales taxes. It is estimated that Ameritech Illinois collects \$67 million more annually from its customers in state and municipal excise and utility taxes, than it would if its services were subject to the ordinary state and local sales taxes.

---

<sup>17</sup> The following companies participated in the Study: AirTouch Communications, ALLTEL Corporation, Ameritech Corporation, AT&T Corporation, Bell Atlantic Corporation, BellSouth Corporation, Citizens Utilities Company, CommNet Cellular Inc., Frontier Corporation, GTE Corporation, MCI WorldCom, Nextel Communications, Inc., SBC Communications Inc., Sprint Corporation, U S West, VoiceStream Wireless, and Western Wireless Corporation.

<sup>18</sup> The average effective tax rate for general business is approximately 6.31%.

The various levels and types of taxes imposed upon a telecommunications provider requires the design, implementation and maintenance of sophisticated billing systems which results in a higher operational expense than that incurred by other industries for these purposes. Many of these systems must be manually updated by the service provider given the lack of available, externally developed resources for this purpose.

Additionally, most of the states within SBC's territory continue to impose transactional taxes on the equipment purchased to provide telecommunications service. Approximately forty-five states currently provide some type of exemption or reduced rate of tax for purchases of equipment used in the manufacture of tangible personal property. Yet, this tax treatment is not afforded to telecommunications providers. For example, in Illinois and Wisconsin, carriers' purchase of central office equipment is subject to sales taxes, as high as 8% in Illinois and 6% in Wisconsin, while equipment purchased by manufacturers and other businesses is exempt. At this time, only twelve states and Washington D.C. currently exempt telecommunications equipment from sales tax. It is commonly accepted that the rationale for exempting manufacturing equipment from sales tax is to avoid "pyramiding" (*i.e.*, imposing a tax on a tax) and to encourage industrial expansion. This rationale applies equally to the telecommunications industry.

In relation to property taxes, wireline companies' assets, tangible and intangible, are valued in most states on a centrally assessed, unit-value basis. This assessment involves developing a correlated value using both an income approach to value and a market approach to value, with heavy weightings on the value of the net operating income of the wireline company. Other types of business have their assets valued on a cost approach, by subtracting depreciation from the original cost. For example, in Michigan, the property of "utilities" – including local exchange carriers – is assessed centrally at the state level, while other types of business are assessed locally on the value of their property in the local jurisdiction. As a result, it is estimated that Ameritech

Michigan pays annually from \$24 million to \$36 million more in property taxes than it would pay if it were assessed on the same basis as other carriers and other businesses. In Oklahoma, Arkansas and California, SBC's wireless companies are also centrally assessed based on the same concepts employed for wireline carriers.

In California, Pacific Bell and other public service companies are centrally assessed. They are valued based upon a "unit valuation method" which is arguably outdated. Locally assessed business assets are separated between personal and real property. Business personal property is valued at fair market value based upon depreciated book cost. Business real property is subject to Proposition 13 protection which protects the assets from being revalued until one of the Proposition 13 "triggers," signaling the transference of property ownership, occurs. Proposition 13 protection is not available to public service companies.

As a further example of discriminatory treatment, in Kansas, telecommunications carriers and other public utilities are assessed at a higher rate than any other type of business. Public utilities are assessed at a 33% rate with other types of businesses assessed at a 25% rate. This same practice is also true in Oklahoma where public utilities are assessed at a 22.85% rate with other businesses being assessed at rates between 11% and 13%.

Similarly, in Ohio, the property taxes of ILECs are assessed on 88% of the depreciated value of real and personal property in place as of December 31, 1994. ILEC property acquired/installed after that date is assessed on 25% of its depreciated value. On the other hand, interexchange carriers and the general business community is assessed on 25% of the depreciated value of all real and personal property. As a result, Ameritech Ohio's property tax assessment is \$50 million higher than it would be if it were assessed on the same basis as other carriers and other businesses.

In the areas of other taxes, in Ohio, local exchange carriers pay a tax on gross receipts. Other businesses pay a tax on net income. Although the gross receipts tax rate

is lower, it results in a higher tax on equivalent business activity. This result has a direct competitive impact in the area of toll and access, since interexchange carriers and competitive access providers pay the lower net income tax. It is estimated that Ameritech Ohio's gross receipts tax bill is \$25 million higher than it would be if it were taxed on an income basis as the other carriers and businesses in Ohio.

Similarly, the percentage of a business's income subject to tax in Wisconsin is determined by a three-factor formula. Since Ameritech Wisconsin has virtually 100% of its sales, 100% of its employees and 100% of its property in the state, its assessment is undiluted, compared to that of national carriers who have a relatively small percentage of their property and personnel in the state. The income subject to tax of these carriers is substantially reduced by these smaller properties and personnel factors. It is estimated that, in relative terms, interexchange carriers in the state pay about \$15 million to \$20 million less each year because of this tax basis. If the tax employed a single sales factor, this unequal burden would be eliminated.

Moreover, in some states, telecommunications companies are denied the tax credits permitted to other industries. Many states provide tax credits and other incentives for capital investment and/or job creation, but restrict the types of businesses that are eligible for these incentives. Examples are the Oklahoma Quality Job Program and the Arkansas Manufacturers' Investment Tax Credit.

#### **B. Special Fees Assessed Against CMRS Providers**

As noted in the Petition for Rulemaking filed by CTIA as cited in the NOI, CMRS providers in certain circumstances have been impeded in their provisioning of service by the imposition of special fees. For example, in California, the Department of Transportation (Caltrans) administers much of the roadway infrastructure and all of the interstate highways in the state. For a number of years, wireless carriers, including Pacific Bell Wireless, have attempted to place antenna installations on existing third-party structures located in rights-of-way. California Public Code, Section 7901

authorizes telegraph and telephone corporations to erect fixtures and equipment on public roads and highways. Nonetheless, Caltrans has insisted that the statute does not include wireless service providers, reasoning that the provision was intended to facilitate the provisioning of wireline service, alone. Based on this logic, Caltrans has imposed on wireless providers a special fee for any sites within the rights-of-way, even those located on existing third-party structures. Other telecommunications providers are not charged any fees associated with rights-of-way use.

Originally, Caltrans charged carriers an annual “encroachment” fee roughly equivalent to market site rental rates. In 1998, it introduced a standardized wireless carrier rental rate structure. Currently, the rental rates are based on the minimum size of the carrier’s installation and in which category the location falls: “prime urban,” “suburban” or “rural.” In the Bay area, the standard rate per site for Pacific Bell Wireless is approximately \$16,000 per year. This rate is about 25% above the rental rate paid for sites which are not located on rights-of-way. While this rate may appear reasonable for a fully-sized installation, it also applies to a simple “microcell” installation on an existing structure, such as a utility pole or a light standard.<sup>19</sup> Given the fact that in many cases, the wireless carrier is already paying the third party a rental charge to locate on its structure, the barriers to entry posed by an additional governmental charge are clear.

### **III. Conclusion**

As is clear from the information provided above, State and local governments, as well as the courts, require guidance as to the meaning of Section 253’s. Without uniform standards consistently applied, carriers are subjected to piecemeal regulation in numerous locales. Rights-of-way fees which bear no relation to the costs incurred for rights-of-way maintenance are a huge burden on the telecommunications industry and its customers. These exactions are neither “reasonable” nor “fair.” It acts to stifle competition by

---

<sup>19</sup> Caltrans is developing a new category for wireless sites on existing third party structures which, if approved, should be significantly less than the standard rate.

discouraging the entry of new facilities-based carriers while it penalizes existing carriers for their ownership of facilities in rights-of-way. SBC is not suggesting that State and local governments are not entitled to compensation commensurate to their responsibilities related to rights-of-way management, but such monies should be reasonably related to the reasons for which they are ostensibly owed. Moreover, the regulation of rights-of-way must be administered in a competitively neutral manner, a requirement which State and local governments, even with their best intentions, appear incapable of achieving.

For these reasons, SBC encourages the Commission to initiate a rulemaking proceeding to address these inequities.

Respectfully submitted,

SBC COMMUNICATIONS INC.

By:           /s/ Hope Thurrott          

Alfred G. Richter Jr.  
Roger K. Toppins  
Hope Thurrott  
One Bell Plaza, Room 3023  
Dallas, Texas 75202  
214-464-3620

Attorneys for SBC Communications Inc.

October 12, 1999

**Certificate of Service**

On this 12<sup>th</sup> day of October 1999, I, Mary Ann Morris, hereby certify that the Comments of SBC Communications Inc. in CC Docket No. 96-98, WT Docket No. 99-217 have been served upon the parties listed in the Service List attached to the Comments of SBC Communications Inc.

/s/ Mary Ann Morris

October 12, 1999

INTERNATIONAL TRANSCRIPTION SERVICE  
1231 20TH ST NW  
WASHINGTON DC 20036

MAGALIE ROMAN SALAS  
OFFICE OF THE SECRETARY  
FEDERAL COMMUNICATIONS COMMISSION  
THE PORTALS  
445 TWELFTH STREET SW  
ROOM TW-A325  
WASHINGTON DC 20554

LAWRENCE G MALONE  
PUBLIC SERVICE COMMISSION  
OF THE STATE OF NEW YORK  
THREE EMPIRE STATE PLAZA  
ALBANY NY 12223-1350

WALTER STEIMEL JR  
HUNTON & WILLIAMS  
COUNSEL FOR ELECTRIC UTILITIES  
COALITION  
1900 K STREET NW  
12<sup>th</sup> FLOOR  
WASHINGTON DC 20006

ROBERT N KITTEL  
DEPARTMENT OF THE ARMY  
UNITED STATES ARMY LEGAL SERVICES AGENCY  
901 NORTH STUART STREET  
ARLINGTON VA 22203-1837

SHIRLEY S FUJIMOTO  
CHRISTINE M GILL  
THOMAS P STEINDLER  
McDERMOTT, WILL & EMERY  
COUNSEL FOR AMERICAN ELECTIC POWER  
SERVICE CORPORATION,  
COMMONWEALTH EDISON CO., DUKE  
ENERGY CORP & SOUTHERN CO.  
600 13<sup>TH</sup> STREET  
WASHINGTON DC 20005

PETER ARTH JR  
LIONEL B WILSON  
JONADY HOM SUN  
PUBLIC UTILITIES COMMISSION  
STATE OF CALIFORNIA  
505 VAN NESS AVE  
SAN FRANCISCO CA 94102

PATRICK DONOVAN  
SWIDLER BERLIN SHEREFF FRIEDMAN,  
LLP  
COUNSEL FOR CAPITAL  
TELECOMMUNICATIONS INC  
3000 K STREET NW  
SUITE 300  
WASHINGTON DC 20007-5116

RUSSELL M BLAU  
KATHY L COOPER  
SWIDLER BERLIN SHEREFF FRIEDMAN, LLP  
COUNSEL FOR WINSTAR WIRELESS INC  
3000 K STREET NW  
SUITE 300  
WASHINGTON DC 20007-5116

ELAINE REISS ESQ  
DEPARTMENT OF INFORMATION  
TECHNOLOGY AND  
TELECOMMUNICATIONS OF THE CITY  
OF NEW YORK  
11 METROTECH CENTER  
BROOKLYN NY 11201

EDWARD W KIRSCH  
SWIDLER BERLIN SHEREFF FRIEDMAN, LLP  
COUNSEL FOR LIGHTSHIP TELECOM LLP  
3000 K STREET NW  
SUITE 300  
WASHINGTON DC 20007-5116

NORMAN B SALES ESQ  
CITY OF RICHMOND, VIRGINIA  
OFFICE OF THE CITY ATTORNEY  
SUITE 300  
900 EAST BROAD STREET  
RICHMOND VA 23219

MICHAEL D HESS ESQ  
BRUCE REGAL ESQ  
OFFICE OF THE CORPORATION COUNSEL OF  
THE CITY OF NEW YORK  
100 CHURCH STREET  
NEW YORK NY 10007

FREDRIC V SHOEMAKER  
COSH, HUMPHREY, GREENER & WELSH,  
P.A.  
CARNEGIE BUILDING  
815 WEST WASHINGTON STREET  
BOISE IDAHO 83702

EDWARD P DUNPHY ESQ  
CORPORATION COUNSEL OF THE CITY OF  
WHITE PLAINS  
MUNICIPAL BUILDING  
255 MAIN STREET  
WHITE PLAINS NY 10601

WARD F HOPPE  
HOPPE & HARNER  
SUITE 303 CORNHUSKER BANK BUILDING  
1101 CORNHUSKER HIGHWAY  
LINCOLN NEBRASKA 68521

HOWARD C STROSS  
STROSS LAW FIRM  
33920 U S 19 NORTH SUITE 351  
PALM HARBOR FL 34684-2650

JOHN T FLATTERY  
THE WORTHING COMPANIES  
800 MT VERNON HIGHWAY  
SUITE 350  
ATLANTA GA 30328

AUBREY L LAYNE JR  
GREAT ATLANTIC  
REAL ESTATE - PROPERTY MANAGEMENT  
HARBOUR CENTRE  
2 EATON STREET  
SUITE 1100  
HAMPTON VA 23669

ELAINE GARDNER  
EPOCH MANAGEMENT INCORPORATED  
200 SOUTH ORANGE AVENUE  
SUITE 2800  
ORLANDO FL 32801

BARBARA L YAMARICK CPM  
BRANDYWINE REALITY TRUST  
14 CAMPUS COULEVARD  
SUITE 100  
NEWTOWN SQUARE PA 19073-3280

CLAY W HAMLIN, III  
CORPORATE OFFICE PROPERTIES TRUST  
401 CITY AVENUE  
SUITE 615  
BALA CYNWYD PA 19004-1126

MARSHA E WILSON  
LA CROSSE APARTMENT CARRIAGE HOMES  
100 CROSSROADS BLVD  
BOSSIER CITY LA 71111

ROBERT BRODY  
THE BRODY COMPANIES  
4190 TELEGRAPH ROAD  
SUITE 1000  
BLOOMFIELD HILLS MI 48302-2080

PAUL B WHITTY  
GREENEBAUM DOLL & MCDONALD PLLC  
3300 NATIONAL CITY TOWER  
101 SOUTH FIFTH STREET  
LOUISVILLE KENTUCKY 40202-3197

JEFFREY A HARRIS  
POST PROPERTIES INC  
ONE RIVERSIDE  
4401 NORTHSIDE PARKWAY  
SUITE 800  
ATLANTA GA 30327-3057

JOSHUA GLAZOV  
U S REALTEL INC  
100 SOUTH WACKER DRIVE  
SUITE #850  
CHICAGO ILLINOIS 60606

GRETCHEN OVERDURFF, CMCA®, AMS,  
RCM  
GREENBELT HOMES INC  
HAMILTON PLACE  
GREENBELT MD 20770

NANCY J GARNER  
WOOLSON REAL ESTATE COMPANY INC  
2715 HOUSTON HIGHWAY  
VICTORIA TX 77901

JOHN J KEHRES  
BLACK ROCK CABLE  
2544 MT BAKER HWY  
BELLINGHAM WA 98226

ROBERT S AISNER  
AMLI RESIDENTIAL  
16250 PARKWAY  
SUITE 100  
DALLAS TX 75248-2622

LISA A HUNTER  
CLARK COUNTY HOME BUILDERS  
ASSOCIATION  
5007 NE ST JOHNS ROAD  
VANCOUVER WA 98661

J CHRISTIE DAVENPORT  
CLARK WHITEHILL  
4224 HOLLAND ROAD  
SUITE 104  
VIRGINIA BEACH VIRGINIA 23452

HELEN B ETKIN  
ETKIN & CO  
30600 TELEGRAPH ROAD  
SUITE 1200  
BINGHAM FARMS MI 48025-4531

GARY PARRETT  
MCNEIL REAL ESTATE MANAGEMENT INC  
13760 NOEL ROAD  
SUITE 600, LB70  
DALLAS TX 75240

TOM BRADEMAS JR  
CENTER MANAGEMENT CORPORATION  
425 N MICHIGAN  
SUITE 500  
P O BOX 4077  
SOUTH BEND INDIANA 45634-4077

SHERRY DUNCAN  
WINGATE FALLS  
4801 BAKER GROVE ROAD  
ACWORTH GA 30101

JOHN R PANKRATZ  
RIVER PARK DEVELOPMENT CO  
P O BOX 828  
WAUKESHA WI 53187-0828

PHIL H CARLOCK  
ECI MANAGEMENT CORPORATION  
SUITE 100  
2700 DELK ROAD  
MAIETTA GEORGIA 30067

MICHAEL B SMITH  
SIGNATURE MANAGEMENT CORPORATION  
3850 HOLCOMB BRIDGE ROAD  
SIOTE 215  
NORCROSS GA 30092

DAVID M STRONG  
WELLSFORD REAL PROPERTIES  
1623 BLAKE STREET  
SUITE 270  
DENVER CO 80202

CARTER B EWING  
KOLL DEVELOPMENT COMPANY  
1200 17<sup>TH</sup> STREET  
SUITE 550  
DENVER CO 80202

TED FREYER  
CRESCENT  
4 HOUSTON CENTER  
1200 MCKINNEY  
SUITE 545  
HOUSTON TX 77010

ROBERT J WAHLKE  
TOWNE PROPERTIES ASSET MANAGEMENT  
COMPANY  
1055 ST PAUL PLACE  
CINCINNATI OH 45202-1687

MARK W COPELAND  
ALLIANCE RESIDENTIAL MANAGEMENT LLC  
4300 ALPHA ROAD  
SUITE 103  
DALLAS TX 75244

STAN ALTMAN  
THE ALTMAN GROUP OF COMPANIES  
115 NEW STREET  
P O BOX 6  
GLENSIDE PA 19038

CINDY KEMPER  
ALVARADO REALTY COMPANY  
#10 TRAMWAY LOOP N E  
ALBUQUERQUE NM 87122-20174

STANELY R FIMBERG  
9777 WILSHIRE BOULEVARD  
SUITE 820  
BEVERLY HILLS CA 90212

RICHARD BIGHINATTI  
BEACON RESIDENTIAL MANAGEMENT  
6507 SUGAR MAPLE CRIVE  
RICHMOND VA 23225-5718

THOMAS S BOZZUTO  
THE BOZZUTO GROUP  
6401 GOLDEN TRIANGEL DRIVE  
SUITE 200  
GREENBELT MD 20770-3203

BRENDA MELTON  
BRANDON GLEN  
1500 EAST VIEW ROAD  
COVERS GA 30012

WILLIAM A BUTH  
GREATER ST PAUL BOMA  
W-2950 FIRST NATIONAL BANK BUILDING  
332 MINNESOTA STREET  
SAINT PAUL MN 55101-1379

PHILLIP A STEVENS  
BURTONSVILLE OFFICE PARK LIMITED PARTNERSHIP  
3905 NATIONAL DRIVE  
SUITE 250  
BURTONSVILLE MD 20866

JOHN HOOD  
CARBON DEVELOPMENT CORPORATION  
16250 NORTH DALLAS PARKWAY  
SUITE 111  
DALLAS TX 75248

DEAN R DEVILLERS  
CHARTER PROPERTIES INC  
SUITE 300  
1100 S TRYON ST  
CHARLOTTE NC 28203

PATRICIA M BLASI  
9955 N W 116<sup>TH</sup> WAY  
SUITE 10  
MIAMI FL 33178

MARK A DECKER  
COLONIAL PROPERTIES TRUST  
1130 ISLAND LAKE DRIVE  
LAKE MARY FL 37746

ROBERT L TURPIN  
DAYTON METROPOLITAN HOUSTIN  
AUTHORITY  
400 WAYNE AVENUE  
DAYTON OH 45410-1106

EUGENE J BURGER  
EUGENE BURGER MANAGEMENT CORPORATION  
481 VIA HIDALGO  
GREENBRAE CA 94904

ELLIOT BERNOLD  
EDGEWOOD MANAGEMENT CORPORATION  
SILVER SPRING METRO PLAZA II  
8403 COLESVILLE ROAD  
SUITE 400  
SILVER SPRING MD 20910

HENRY HIRSCH  
ECI MANAGEMENT CORPORATION  
SUITE 100  
2700 DELK ROAD  
MARIETTA GA 30067

RUSSELL VANDENBURG  
EPT MANAGEMENT COMPANY  
6090 SURETY DRIVE  
SUITE 102  
EL PASO TX 79905

MARK L WESHINSKEY  
FIRST CENTRUM LLC  
21400 RIDGETOP CIRCLE  
SUITE 250  
STERLING VA 20166

GLEASON E AMBOY  
FIRST HOUSING CORPORATION  
4275 FIVE OAKS DRIVE  
LANSING MI 48911

FRANK BASILE  
GENE B GLICK COMPANY INC  
P O BOX 40177  
8330 WOODFIELD CROSSING BLVD  
SUITE 200  
INDIANAPOLIS IN 46240

STAN SADDORIS  
GENERAL GROWTH PROPERTIES INC  
400 SOUTH HIGHWAY 169  
SUITE 800  
MINNEAPOLIS MN 55426

COLIN E BARKER  
THE GIPSON CO  
7 PIEDMONT CTR  
SUITE 150  
ATLANTA GA 30305

MICHAEL STEINER  
HENDERSEN – WEBB INC  
1025 CRANBROOK ROAD  
HUNT VALLEY MD 21030

LINDA D HORNE  
HORNE COMPANIES INC  
7301 WARFIELD ROAD  
GAITHERSBURG MD 20879

JOHN F O'MEARA  
INVERNESS PROPERTIES LLC  
2 INVERNESS DRIVE EAST  
SUITE 200  
ENGLEWOOD CO 80112

JOHN PRICE  
J P REALTY INC PRICE DEVELOPMENT COMPANY,  
LIMITED PARTNERSHIP  
35 CENTURY PARK-WAY  
SALT LAKE CITY UT 84115

MICHAEL D ROCQUE  
CAMCO INC  
1201 NORTH CLARK STREET  
SUITE 400  
CHICAGO IL 60610-2270

DEBBIE DILLON  
L & B REALTY ADVISORS INC  
8750 NORTH CENTRAL EXPRESSWAY  
SUITE 800  
DALLAS TX 75231-6437

CRAIG LLOYD  
LLOYD COMPANIES  
3101 WEST 41<sup>ST</sup> STREET  
SUITE 203  
SIOUX FALLS SD 57105

EDWARD L DAVIDSON JR  
MID-ATLANTIC REALTY COMPANY INC  
248-C PRESIDENTIAL DRIVE  
GREENVILLE DE 19807

MICHAEL C BOREE  
NEW MILLENIUM ENTERPRISE INC  
P O BOX 261002  
HIGHLANDS RANCH CO 80163-1002

TAMMY ESPONGE  
THE APARTMENT ASSOCIATION OF GREATER  
NEW ORLEANS  
3017 HARVARD AVENUE  
SUITE 201  
METAIRIE LA 70006

WENDY LEISU  
THE OLNICK ORGANIZATION INC  
110 EAST 59<sup>TH</sup> STREET  
20<sup>TH</sup> FLOOR  
NE W YORK NY 10022

T EDGIE RUSSEL III  
PARTNERS MANAGEMENT COMPANY  
105 W CHESAPEAKE AVENUE  
SUITE 307  
TOWSON MD 21204

HOWARD W EDISON  
PARTNERSHIP CONCEPTS REALTY  
MANAGEMENT INC  
SUITE 26  
201 EAST OGDEN AVENUE  
HINSDALE IL 60521-3697

KERRIE FALCO  
PLANTATION RIDGE  
1022 LEVEL CREEK ROAD  
SUGAR HILL GA 30518

EDWARD RIBBECK  
PYRAMID DEVELOPMENTS LLC  
3101 LAKE STREET  
LAKE CHARLES LA 70601

STEVEN SPINOLA  
THE REAL ESTATE BOARD OF NEW YORK INC  
570 LEXINGTON AVENUE  
NEW YORK NY 10022

INGRID L REGAL  
REGAL CREST VILLAGE  
13275 W BURLEIGH ROAD  
BROOKFIELD WI 53005

DOUGLAS J GROPPENBACKER  
RE/MAX COMMERCIAL INVESTMENT  
7110 E MCDONALD DRIVE  
SUITE A-1  
SCOTTSDALE AZ 85283-5426

ROBERT GRINCHUK  
THE SAN DIEGO COUNTY APARTMENT  
ASSOCIATION  
2727 CAMINO DEL RIO SOUTH  
SUITE 327  
SAN DIEGO CA 92180

MARK SILVERWOOD  
SILVERWOOD ASSOCIATES INC  
107 LOUDOUN STREET S E  
LEESBURG VA 20175

WILLIAM H HALPRIN  
S L NUSBAUM REALTY CO  
1000 NATIONSBANK CENTER  
ONE COMMERCIAL PLACE  
NORFOLK VA 23510

JAMES L POCHLMAN  
T & C MANAGEMENT SERVICES INC  
579 D'ONOFRIO DRIVE  
SUITE 10  
MADISON WI 53719-2838

MIKE SMITH  
THOMPSON THRIFT DEVELOPMENT  
1100 SPRUCE ST  
TERRE HAUTE IN 47807

THOMAS RAGAUSKIS  
T J ADAM & COMPANY  
480 EAGLE DRIVE  
ELK GROVE VILLAGE IL 60007

DANIEL J LIPNICK  
TRANSWORLD PROPERTIES INC  
BANK ONE CENTER  
910 TRAVIS STREET  
SUITE 800  
HOUSTON TX 77002

WAYNE A VANDENBURG  
TVO REALTY PARTNERS  
70 EAST LAKE STREET  
SUITE 600  
CHICAGO IL 60601

WILLING L BIDDLE  
URSTADT BIDDLE PROPERTIES INC  
321 RAILROAD AVENUE  
GREENWICH CT 06830

KEVIN P KELLY  
LEON N WEINER & ASSOCIATES INC  
ONE FOX POINT CENTRE  
4 DENNY ROAD  
WILMINGTON DE 19809

DEBRA L BENEIT  
WHITE BIRCH APARTMENTS  
9239 NORTH 75<sup>TH</sup> STREET  
MILWAUKEE WI 53223

PENNY NICHOLS  
WINDSOR AT QUIET WATERS  
11 NORTHWEST 45<sup>TH</sup> AVENUE  
DEERFIELD BEACH FL 33442

RUSS ENDRES  
WISCONSIN MANAGEMENT COMPANY INC  
2040 SOUTH PARK STREET  
MADISON WI 53713

BRENDA BROOKS  
ALLEN HOUSE APARTMENTS  
3601 ALLEN PARKWAY  
HOUSTON TX 77019

BOB FRENCH  
COLONIAL PROPERTIES TRUST  
1665 WESLEYAN DRIVE # 1014  
MACON GA 31210

PAUL J WALTER  
HOUSING AUTHORITY - CITY OF ANTIGO  
PARK VIEW MANOR  
535 THIRD AVE  
ANTIGO WI 54409-2262

TODD R FRED  
TRUST PROPERTY MANAGEMENT  
12000 FORD ROAD  
SUITE 245  
DALLAS TX 75234

DEBRA L BENOIT  
RIDGEDALE APARTMENTS  
7740 WEST GRANGE AVENUE  
GREENDALE WI 53129

DONNA R BALDWIN  
GARDEN COURT INC. DBA PINE CREST  
APARTMENTS  
3734 EAST LA SALLE STREET  
COLORADO SPRINGS CO 80909

JENNIFER ROBERTSON  
WINDSOR AT BUTTERNUT RIDGE  
5800 GREAT NORTHERN BOULEVARD  
NORTH OLMSTED OH 44070

TAMMY VAUGHAN  
WINDSOR AT OLD BUCKINGHAM STATION  
1301 BUCKINGHAM STATION DRIVE  
MIDLOTHIAN VA 23113

SUE KERLEY  
WINDSOR AT RIVER HEIGHTS  
3702 RIVER HEIGHTS CROSSING  
MARIETTA GA 30067

KELLY PERKINS  
WINDSOR AT STERLING PLACE  
5399 COACHMAN ROAD  
COLUMBUS OH 43220

CONNIE SIMMONS  
WINDSOR AT PINE RIDGE  
7100 DUCKETTS LANE  
ELKRIDGE MD 21075

MARY ELLEN KLAMM  
WINDSOR VILLAGE AT HAUPPAUGE  
1312 DEVONSHIRE ROAD  
HAUPPAUGE  
LONG ISLAND NY 11788-4599

HOWARD C STROSS  
STROSS LAW FIRM  
33920 U S 19 NORTH  
SUITE 351  
PALM HARBOR FL 34684-2650

JACK B HARRISON  
ATTORNEY FOR CINCINNATI BELL  
TELEPHONE CO  
FROST AND JACOBS LLP  
201 EAST FIFTH STREET  
CINCINNATI OH 45202

SPECTRAPOINT WIRELESS LLC  
SCOTT MARIN  
1125 E COLLINS  
RICHARDSON TEXAS 75081

PATRICK J BRADLEY  
364 WEST LANE AVENUE  
SUITE C  
COLUMBUS OH 43201

ANTHONY J MORDOSKY  
ACUTA INC  
152 WEST ZANDALE DRIVE  
SUITE 200  
LEXINGTON KY 40503

BRIAN HAWKINS  
1112 16<sup>TH</sup> STREET NW  
SUITE 600  
WASHINGTON DC 20036

LANDER MEDLIN  
1643 PRINCE STREET  
ALEXANDRIA VA 22314

HARRY L PLISKIN  
IRELAND STEPLETON PRYOR AND PASCOE  
PC  
COUNSEL FOR THE COMPETITION POLICY  
INSTITUTE  
1675 BROADWAY  
SUITE 2600  
DENVER CO 80202

RISER MANAGEMENT SYSTEMS  
200 CHURCH STREET  
P O BOX 1264  
BURLINGTON VA 05401

ENSEMBLE COMMUNICATIONS INC  
BILL S SIMPSON  
6256 GREENWICH DRIVE  
SUITE 400  
SAN DIEGO CA 92122

RONALD BINZ  
DEBRA BERLYN  
COMPETITION POLICY INSTITUTE  
1156 15<sup>TH</sup> STREET  
SUITE 520  
WASHINGTON DC 20005

MINNESOTA POWER INC  
INGRID KANE JOHNSON  
30 WEST SUPERIOR STREET  
DULUTH MINNESOTA 55802

HIGHSPEED COM LLC  
KRISTIAN E HEDINE  
1520 KELLY PLACE  
SUITE 202  
WALLA WALLA WA 99362

RF DEVELOPMENT LLC  
CHARLES E WALTERS  
4940 HAMPDEN LANE  
SUITE 212B  
BETHESDA MARYLAND 20817

GREGORY W WHITEAKER  
EDWARD D KANIA  
BENNET AND BENNET PLLC  
COUNSEL FOR CENTRAL TEXAS COMMUNICATIONS  
INC.  
1000 VERMONT AVENUE  
10<sup>TH</sup> FLOOR  
WASHINGTON DC 20005

ALBERTO LEVY  
ECONOMIST  
TEXAS OFFICE OF PUBLIC UTILITY  
COUNSEL  
1701 N CONGRESS AVENUE  
SUITE 9-180  
AUSTIN TEXAS 78701

RICK GUZMAN  
ASSISTANT PUBLIC COUNSEL  
1701 N CONGRESS AVENUE  
SUITE 9-180  
AUSTIN TEXAS 78701

CATHLEEN A MASSEY  
NEXTLINK COMMUNICATIONS INC  
1730 RHODE ISLAND AVENUE NW  
SUITE 1000  
WASHINGTON DC 20036

HOWARD J SYMONS  
UZOMA C ONYEIJE  
MINTZ LEVIN COHN FEERRIS GLOVSKY  
AND POPEO PC  
701 PENNSYLVANIA AVENUE NW  
SUITE 900  
WASHINGTON DC 20004-2608

PHILIP L VERVEER  
GUNNAR D HALLEY  
WILLKIE FARR & GALLAGHER  
COUNSEL FOR TELIGENT INC, THE  
ASSOCIATION FOR LOCAL  
TELECOMMUNICATIONS SERVICES  
THREE LAYFAYETTE CENTRE  
1155 21<sup>ST</sup> STREET NW  
WASHINGTON DC 20036-3384

ROBERT G BERGER  
JOSEPH M SANDRI JR  
RUSSELL C MERBETH  
WINSTAR COMMUNICATIONS INC  
1146 19<sup>TH</sup> STREET NW SUITE 200  
WASHINGTON DC 20036

RODNEY D CLARK  
LARA E HOWLEY  
COMMUNITY ASSOCIATIONS INSTITUTE  
1630 DUKE STREET  
ALEXANDRIA VA 22314

SHIRLEY S FUJIMOTO  
CHRISTINE M GILL  
THOMAS P STEINDLER  
MCDERMOTT WILL & EMERY  
600 13<sup>TH</sup> STREET  
WASHINGTON DC 20005-3096

TERRY LEWIS  
1401 EYE STREET NW  
SUITE 700  
WASHINGTON DC 20005

DOUGLAS M KLEINE  
NATIONAL ASSOCIATION OF HOUSING COOPERATIVES  
1401 NEW YORK AVENUE NW  
WASHINGTON DC 20005

INDEPENDENT CABLE &  
TELECOMMUNICATIONS  
ASSOCIATION  
5335 WISCONSIN AVENUE NW  
SUITE 800  
WASHINGTON DC 20015

GOLDBERG GODLES WIENER & WRIGHT  
OPTEL INC  
1229 NINETEENTH STREET NW  
WASHINGTON DC 20036

LOUISE H RENNE  
MARA ROSALES  
TRACI BONE  
JAYNE LEE  
CHRISTINE FERRARI  
THE CITY AND COUNTY OF SAN  
FRANCISCO  
CITY HALL ROOM 234  
SAN FRANCISCO CA 94102

FLORIDA POWER & LIGHT COMPANY  
JEAN G HOWARD  
9250 WEST FLAGLER STREET  
MIAMI FL 33174

MINNESOTA POWER INC  
INGRID KANE JOHNSON  
30 WEST SUPERIOR STREET  
DULUTH MINNESOTA 55802

THE UNITED STATES TELEPHONE ASSOCIATION  
LAWRENCE E. SARJEANT  
LINDA KENT  
KEITH TOWNSEND  
JOHN HUNTER  
JULIE E RONES  
1401 H STREET NW  
SUITE 600  
WASHINGTON DC 20005

JAMES R HOBSON  
DONELAN CLEARY WOOD & MASER PC  
COUNSEL FOR ARDEN REALTY INC  
1100 NEW YORK AVENUE NW #750  
WASHINGTON DC 20005-3934

MICHAEL A RUMP  
KANSAS CITY POWER & LIGHT COMPANY  
1201 WALNUT  
P O BOX 418679  
KANSAS CITY MO 64141-9679

WILLIAM L FISHMAN  
KATHLEEN L GREENAN  
SWIDLER BERLIN SHEREFF FRIEDMAN LLP  
COUNSEL FOR RCN CORPORATION  
3000 K STREET NW  
SUITE 300  
WASHINGTON DC 20007-5116

LARRY FENSTER  
MCI WORLDCOM INC  
1801 PENNSYLVANIA AVENUE NW  
WASHINGTON DC 20006

PATRICIA PAOLETTA  
WILLIAM P HUNT III  
LEVEL 3 COMMUNICATIONS LLC  
1025 ELDORADO DRIVE  
BROOMFIELD CO 80021

JOHN F RAPOSA  
GTE SERVICE CORPORATION  
600 HIDDEN RIDGE  
HQE03J27  
IRVING TEXAS 75038

M ROBERT SUTHERLAND  
THEODORE R KINGSLEY  
BELLSOUTH CORPORATION  
SUITE 1700  
1155 PEACHTREE STREET NE  
ATLANTA GA 30306-3610

ANDREW D LIPMAN  
TAMAR E FINN  
SWIDLER BERLIN SHEREFF FRIEDMAN LLP  
COUNSEL FOR LEVEL 3 COMMUNICATIONS LLC  
3000 K STREET NW  
SUITE 300  
WASHINGTON DC 20007

MARTIN L STERN  
JOHN LONGSTRETH  
LISA L FRIEDLANDER  
PRESTON GATES ELLIS & ROUVELAS  
MEEDS LLP  
1735 NEW YORK AVENUE NW  
SUITE 500  
WASHINGTON DCJ 20006

PAUL KOUROUPAS  
GLOBAL CROSSING DEVELOPMENT CO  
12 HEADQUARTERS PLAZA  
4<sup>TH</sup> FLOOR NORTH TOWER  
MORRISTOWN NJ 07960

KAREN NATIONS  
METROMEDIA FIBER NETWORK SERVICES  
ONE MEADOWLANDS PLAZA  
EAST RUTHERFORD NJ 07073

TERRY LEWIS  
COOPERATIVE HOUSING COALITION  
1401 EYE STREET NW  
SUITE 700  
WASHINGTON DC 20005

FIXED WIRELESS COMMUNICATIONS  
COALITION  
1300 NORTH 17<sup>TH</sup> STREET  
11<sup>TH</sup> FLOOR  
ARLINGTON VA 22209

KATHY L SHOBERT  
GENERAL COMMUNICATION INC  
1500 K STREET NW  
SUITE 1100  
WASHINGTON DC 20005

STEVEN G ROGERS  
PARKWAY PROPERTIES  
ONE JACKSON PLACE  
188 EAST CAPITOL STREET  
SUITE 1000  
JACKSON MS 39201-2195

JOHN B GLICKSMAN  
JANET S LIVENGOOD  
ADELPHIA BUSINESS SOLUTIONS  
500 THOMAS STREET  
DD1 PLAZA II  
SUITE 400  
BRIDGEVILLE PA 15017

JOHN P MCCANN  
JOHN S SCHNEIDER  
UNITED DOMINION REALTY TRUST INC  
10 SOUTH SIXTH STREET  
RICHMOND VA 23219-3802

J WAYNE ANDERSON  
MATTHEW R SUFFERN  
J CHRISTOPHER NEEL  
ENTERGY SERVICES INC  
639 LOYOLA AVENUE  
NEW ORLEANS LA 70113

GERALD A FRIEDERICHS  
MICHAEL S PABIAN  
COUNSEL FOR AMERITECH  
39<sup>TH</sup> FLOOR  
30 S WACKER DR  
CHICAGO IL 60606

LAWRENCE W KATZ  
BELL ATLANTIC  
1320 NORTH COURTHOUSE ROAD  
EIGHTH FLOOR  
ARLINGTON VA 22201

HENRY M RIVERA  
LARRY S SOLOMON  
J THOMAS NOLAN  
SHOOK HARDY & BACON LLP  
COUNSEL FOR METRICOM INC  
600 14<sup>TH</sup> STREET NW  
WASHINGTON DC 20005-0004

JAMES R HOBSON  
HEIDI C PEARLMAN  
DONELAN CLEARY WOOD & MASER PC  
COUNSEL FOR APEX SITE MANAGEMENT INC  
1100 NEW YORK AVENUE NW  
SUITE 750  
WASHINGTON DC 20005-3934

RICHARD B STERN  
APEX SITE MANAGEMENT INC  
555 NORTH LANE  
SUITE 6138  
CONSHOHOCKEN PA 19428

ROBERT J MILLER  
GARDERE & WYNNE LLP  
COUNSEL FOR DALLAS WIRELESS BROADBAND LP  
dba COSERV BROADBAND  
3000 THANKSGIVING TOWER  
1601 ELM STREET  
DALLAS TX 75201-4761

LAURENCE BROWN  
EDISON ELECTRIC INSTITUTE  
701 PENNSYLVANIA AVE NW  
WASHINGTON DC 20004

JEFFREY L SHELDON  
BRETT KILBOURNE  
UNITED TELECOM COUNCIL  
1140 CONNECTICUT AVENUE NW  
SUITE 1140  
WASHINGTON DC 20036

MICHAEL SPECHT  
FIRST REGIONAL TELECOM LLC  
962 WAYNE AVENUE  
SUITE 701  
SILVER SPRING MARYLAND 20910

GLENN B MANISHIN  
LISA N ANDERSON  
BLUMENFELD & COHEN – TECHNOLOGY LAY GROUP  
COUNSEL FOR FIRST REGIONAL TELECOM LLC  
1625 MASSACHUSETTS AVE NW  
SUITE 300  
WASHINGTON DC 20036

PAUL A COLBERT  
CINERGY CORP  
139 EAST FOURTH STREET  
P O BOX 960  
CINCINNATI OH 45201

ROBERT E NEATE  
PAINE HAMBLIN COFFIN BROOKE & MILLER LLP  
COUNSEL FOR AVISTA CORPORATION  
717 W SPRAGUE AVE  
SUITE 1200  
SPOKANE WA 99201-3505

DAVID L LAWSON  
DANIEL MERON  
PAUL J ZIDLICKY  
RUDOLPH M KAMMERER  
SIDLEY & AUSTIN  
COUNSEL FOR AT&T CORP  
1722 I STREET NW  
WASHINGTON DC 20006

MARK C ROSENBLUM  
STEPHEN C GARAVITO  
AT&T CORP  
295 NORTH MAPLE AVENUE  
ROOM 1130M1  
BASKING RIDGE NJ 07920

NORTON CUTLER  
BLUESTAR COMMUNICATIONS  
401 CHURCH STREET  
NASHVILLE TN 37219

ANDREW D LIPMAN  
PATRICK DONOVAN  
SWIDLER BERLIN SHEREFF FRIEDMAN LLP  
COUNSEL FOR BLUESTAR COMMUNICATIONS LLP  
3000 K STREET NW  
SUITE 300  
WASHINGTON DC 20007

CHARLES A ROHE  
JOHN M BEAHN  
SWIDLER BERLIN SHEREFF FRIEDMAN  
LLP  
COUNSEL FOR CAIS INC  
3000 K STREET NW  
SUITE 300  
WASHINGTON DC 20007

JOHN W CONNOR  
C & G INVESTMENT ASSOCIATES  
1690 BOB-O-LINK BEND  
COLUMBUS OH 43229

MATTHEW C AMES  
NICHOLAS MILLER  
WILLIAM MALONE  
MARC L FRISCHKORN  
MILLER & VAN EATON PLLC  
1155 CONNECTICUT AVENUE  
SUITE 1000  
WASHINGTON DC 20036-4306

DEBORAH C COSTLOW  
TREG TEMONT  
ARENT FOX KINTNER PLOTKIN & KAHN  
COUNSEL FOR INDEPENDENT CABLE &  
TELECOMMUNICATIONS ASSOCIATION  
1050 CONNECTICUT AVENUE NW  
WASHINGTON DC 20036

JONATHAN M ASKIN  
ASSOCIATION FOR LOCAL  
TELECOMMUNICATIONS SERVICES  
SUITE 900  
888 17<sup>TH</sup> STREET NW  
WASHINGTON DC 20006

MARY MCDERMOTT  
BRENT H WEINGARDT  
PERSONAL COMMUNICATIONS INDUSTRY  
ASSOCIATION  
500 MONTGOMERTY STREET  
SUITE 700  
ALEXANDRIA VA 22314-1561

ANDREW KREIG  
THE WIRELESS COMMUNICATIONS  
ASSOCIATION INTERNATIONAL INC  
1140 CONNECTICUT AVE NW  
SUITE 810  
WASHINGTON DC 20036-4001

LEON M KESTENBAUM  
JAY KEITHLEY  
NORINA T MOY  
SPRINT CORPORATION  
1850 M ST NW  
SUITE 1100  
WASHINGTON DC 20036

RICHARD MORRIS  
CRAIG T SMITH  
SPRINT CORPORATION  
7301 COLLEGE BLVD  
OVERLAND PARK KS 66210

MICHAEL R CARPER  
ALLIED RISER COMMUNICATIONS CORPORATION  
1700 PACIFIC AVENUE  
SUITE 400  
DALLAS TX 75201

DONALD N DAVID ESQ  
FISCHBEIN BADILLO WAGNER HARDING  
COUNSEL FOR SHARED COMMUNICATIONS  
SERVICES INC  
909 THIRD AVUE  
NEW YORK NY 10022

ROBERT M BLICK  
POLEN MORTGAGE REALTY CO  
BOX 103  
G-8308 OFFICE PARK DRIVE  
GRAND BLANC MI 48439-0103

DANIEL VAN EPP  
THE HOWARD HUGHES CORPORATION  
1645 VILLAGE CENTER CIRCLE  
SUITE 200  
LAS VEGAS NV 89134

CINDY Z SCHONHAUT  
JULIA WAYS DORF  
LACHARLES KEESEE  
ICG COMMUNICATIONS INC  
161 INVERNESS DRIVE WEST  
ENGLEWOOD CO 80112

RICHARD S LIPMAN  
MCLEODUSA TECHNOLOGY PARK  
6400 C STREET SW  
CEDAR RAPIDS IA 52406-3177

ANDREA D WILLIAMS  
MICHAEL F ALTSCHUL  
RANDALL S COLEMAN  
CELLULAR TELECOMMUNICATIONS INDUSTRY  
ASSOCIATION  
1250 CONNECTICUT AVENUE NW  
SUITE 800  
WASHINGTON DC 20036

CHARLES C HUNTER  
CATHERINE M HANNAN  
HUNTER COMMUNICATIONS LAW GROUP  
TELECOMMUNICATIONS RESELLERS  
ASSOCIATION  
1620 I STREET NW  
SUITE 701  
WASHINGTON DC 20006

MICHAEL STEELE  
SEAN BURNS  
EQUITY OFFICE PROPERTIES TRUST  
THE NORTH RIVERSIDE PLAZA  
SUITE 2200  
CHICAGO IL 60606

DAVID SWARTZ  
ARDEN REALTY INC  
11601 WILSHIRE BOULEVARD  
4<sup>TH</sup> FLOOR  
LOS ANGELES CA 90025

LARRY A PECK  
COUNSEL FOR AMERITECH  
ROOM 4H86  
2000 WEST AMERITECH CENTER DRIVE  
HOFFMAN ESTATES IL 60196-1025

DONNA WILLIAMS  
HUNINGTON LAKES  
7324 SKILLMAN  
DALLAS TX 75231

SUSAN GENOVESE  
WINDSOR HEIGHTS AT MARLBOROUGH  
SUSAN GENOVESE  
39-5 BRIARWOOD LANE  
MALBOROUGH MA 01752

RONDA WENGER  
WINDSOR AT ASBURY SQUARE  
2000 ASBURY SQUARE  
DUNWOODY GA 30346

CARL KIDD  
PRESCOTT PLACE  
2701 FRANKLIN DRIVE  
MESQUITE TX 75150

KARA MORAN  
WINDSOR MEADOWS AT MALBOROUGH  
141A-8 BROADMEADOW ROAD  
MALBOROUGH MA 01752

GREG CARLSON  
FEDERATION OF NEW YORK HOUSING COOPERATIVES  
138-10 FRANKLIN AVENUE  
SUITE 8K  
FLUSHING NY 11374

JENNIFER BLACKSTONE  
WINDSOR COURTS AT BEVERLY  
201 BROUGHTON DRIVE  
BEVERLY MA 01915

MARY HUNT  
RITTENHOUSE SQUARE  
201 SOUTH 18<sup>TH</sup> STREET  
PHILADELPHIA PA 19103

FERD LIGHTNER  
JEFFERSON WEST  
810 WILDWOOD DR R-2  
JEFFERSON CITY MO 65109

JENNY DONELLON  
WINDSOR AT BRITTON WOODS  
5489 CRESCENT RIDGE DRIVE  
DUBLIN OH 43016

KAREN WILLIAMSON  
THE BERKSHIRES OF ADDISON  
14600 MARSH LANE  
DALLAS TX 75234

RICHARD B SMAGALA  
THE CHATEAU APARTMENTS CO  
PHILADELPHIA PIKE & SHIPLEY ROAD  
WILMINGTON DELAWARE 19809

SHIREE SPENCER  
GOLF SIDE APARTMENTS  
5613 COVENTRY PARK  
HALTOM CITY TX 76117

SUSAN YOUNG  
THE INDIGO ON FOREST  
9669 FOREST LANE  
DALLAS TX 75243

NANCY CAMPBELL  
P O BOX 43  
GREENDALE WI 53129

BEVERLY LANHAM  
BERKSHIRE SPRINGS  
5704 SPRING VALLEY ROAD  
DALLAS TX 75240

GRACE SALAZAR  
BENCHMARK APARTMENTS  
3424 W COUNTRY CLUB DRIVE  
IRVING TX 75038

PATRICIA K ORENDER  
WINDSOR AT WOODGATE  
5400 EAST 21<sup>ST</sup> STREET  
WICHITA KS 67208

THEODORE M SELDIN  
SELDIN COMPANY  
MONTCLAIR PROFESSIONAL CENTER  
13057 WEST CENTER RD  
OMAHA NE 68144-3790

MATT SCARBOROUGH  
WINDSOR AT ARBORS  
5250 DUKE STREET  
ALEXANDRIA VA 22304

DAVID C MACOAB  
ARROWHEAD MANAGEMENT COMPANY  
1320 D STREET  
P O BOX 87  
SALIDA CO 81201

LAURA ARNETT  
WINDSOR AT CEDARBROOKE  
8406 EAST HARRY  
WICHITA KS 67207

PATRICK M KELLY CPM  
FDC MANAGEMENT INC  
2600 E NUTWOOD AVE  
PENTHOUSE SUITE  
FULLERTON CA 92831-3114

PAMELA ADAMS  
HUNTER'S GLEN  
6400 INDEPENDENCE PARKWAY  
PLANO TX 75023

JERRY KELLEN  
FLAGSTONE  
2002 FLAGSTONE DRIVE  
MADISON AL 35758

SONIA J PATANO  
WINDSOR VILLAGE AT WALTHAM  
976 LEXINGTON STREET  
WALTHAM MA 02451

MARCIE WICALL  
WINDSOR AT GOLDEN POND  
3300 ALDEN POND LANE  
EAGAN MN 55121

WILLIAM D GOHL  
LIBERTY HEIGHTS AT NORTHGATE  
12105 AMBASSADOR DRIVE  
COLORADO SPRINGS CO 80921-3640

DAWN EASTMAN  
WINDSOR AT BASLIGHT SQUARE  
6516 N UNIVERSITY  
PEORIA IL 61614

RALPH PAUL  
COLONY NORTH  
319 EAST LEA BOULEVARD  
WILMINGTON DELAWARE 19802

KRISTINE M DINGLEY  
WINDSOR RIDGE AT WESTBOROUGH  
WINDSONR RIDGE DRIVE  
WESTBOROUGH MA 01581

DEBRA L BENOIT  
RIDGEDALE APARTMENTS  
7740 WEST GRANGE AVENUE  
GREENDALE WI 53129

CARLEEN HILMES  
PLEASANT WOODS  
9236 CHURCH ROAD  
DALLAS TX 75231

LANA LANE  
SWEETWATER RANCH  
540 BUCKINGHAM ROAD  
RICHARDSON TX 75081

KATHY FLETCHER  
PROVIDENCE APARTMENT HOMES  
11700 AUDELIA ROAD  
DALLAS TX 75243

SHANNON SCHMITT  
HUNTINGTON BROOK  
12516 AUDELIA ROAD  
DALLAS TX 75243

DENISE SILVA  
WINDSOR AT BRENTWOOD  
630 SMITHFIELD ROAD  
NORTH PROVIDENCE RI 02904

MICHAEL S YONGE  
CONCORD MANAGEMENT LTD  
1551 SANDSPUR ROAD  
MAITLAND FL 32751

MARY RUSH  
KEY MANAGEMENT  
125 NORTH MARKET  
SUITE 1510  
WICHITA KS 67202

SUSAN M EID  
TINA S PYLE  
RICHARD A KARRE  
MEDIA ONE GROUP INC  
1919 PENNSYLVANIA AVENUE NW  
SUITE 610  
WASHINGTON DC 20006

MARY ELLEN BURNS  
KEITH H GORDON  
JILL ELLEN SANDFORD  
STATE OF NEW YORK  
BUREAU OF TELECOMMUNICATIONS AND  
ENERGY  
OF COUNSEL  
120 BROADWAY ROOM 23-76  
NEW YORK NY 10271