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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

February 4, 2000

VIA HAND DELIVERY

EX PARTE OR LATE FILED

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, N.W.
Washington, D.C. 20554

Re: CC Docket No. 96-149; Ex Parte Notice Filing

Dear Ms. Salas:

In accordance with the Commission's *ex parte* rules, this letter is to notify you that the Commercial Internet eXchange Association ("CIX") faxed the attached letter on February 3rd to Bob Atkinson, Ann Stevens, Staci Pies, and Michael Jacobsen of the Common Carrier Bureau. The letter was sent to Chairman Kennard by Representative Markey and Largent expressing their view of the need to extend the section 272 safeguards for interLATA information services.

Two copies of this letter are attached. Should you have any questions, please contact the undersigned.

Sincerely,

Stuart Ingis

SI/kap

Cc: Bob Atkinson
Ann Stevenson
Staci Pies
Michael Jacobsen

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Congress of the United States
House of Representatives
Washington, DC 20515

February 1, 2000

The Honorable William E. Kennard
Chairman, Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Dear Mr. Chairman:

We are writing with respect to Section 272 of the Communications Act of 1934 and the need to extend the competitive safeguards contained in that provision. Congress enacted the competitive safeguards in Section 272 to complement Section 271, the process by which Regional Bell Operating Companies (RBOCs) operating as incumbent local exchange carriers obtain approval to enter the long distance market in a particular State.

We believe that the Section 272 safeguards play an important role in a successful transition to a fully competitive market after RBOCs enter inter-LATA information service markets. Even in the most competitive of the RBOC markets, New York, the incumbent still controls an overwhelming majority of local access lines, and has significant opportunities to favor its own affiliate in the provision of inter-LATA information services absent the transparency and nondiscrimination protections that the Section 272 safeguards provide. The Commission itself has recognized the continuing power of incumbents to control the local loop, even after receiving Section 271 approval. If these safeguards are allowed to expire concurrently with the initial RBOC entry into in-region, inter-LATA services markets, an important protection of the Telecommunications Act of 1996 will have been lost.

Moreover, the Section 272 safeguards that Congress adopted for interLATA information services were designed for the Commission to build a record important for its enforcement role. For instance, the biennial audit provision of Section 272(d) is itself designed to provide the Commission with a record of RBOC participation in the inter-LATA information services market before the Commission decides whether the requirement should sunset. In the absence of any such record, it would be premature to sunset these protections only a month after they have taken effect for inter-LATA information services.

As you well know, it has only been one month since the Commission approved the Section 271 application of Bell Atlantic in New York State. Until that approval, the Commission had unanimously rejected each previous application, ruling in each case that the market-opening requirements of Section 271 had not been met. Anticipating the possible need to extend the Section 272 sunset for RBOC provision of in-region, inter-LATA information services, Congress

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The Honorable William E. Kennard
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built flexibility into the statute and granted the Commission the authority to extend the Section 272 requirements. Given that Bell Atlantic in New York State has only recently become the first RBOC to gain Section 271 approval, we urge the Commission to extend the Section 272 safeguards so that they work in concert with Section 271 as intended. Extending these congressionally-designed safeguards during a reasonable transitional period to evaluate the competitive effects of RBOC entry into these markets is a prudent measure most consistent with the market opening structure of the 1996 Telecommunications Act.

Sincerely,



Edward J. Markey
Member of Congress



Steve Largent
Member of Congress