EX PARTE OR LATE FILED

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VIA HAND DELIVERY

EX PARTE

May 10, 2000

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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

Re: Ex Parte Presentation in WT Docket No. 99-217 and CC Docket No. 96-98

Dear Ms. Salas:

Please find attached a letter from myself, on behalf of the Smart Building Policy Project, delivered today to Leon Jackler of theWireless Telecommunications Bureau regarding the above-referenced proceedings.

In accordance with the Commission's rules, for each of the above-mentioned proceedings, I hereby submit to the Secretary of the Commission two copies of this notice of the Smart Building Policy Project's written ex parte presentation.

Respectfully submitted,

Gunnar D. Halley

cc: Leon Jackler
Jeffrey Steinberg
Joel Taubenblatt
Lauren Van Wazer
Eloise Gore

Enclosure

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May 10, 2000

EX PARTE

Leon J. Jackler, Esq.
Wireless Telecommunications Bureau
Federal Communications Commission
Room 4-A207
445 12th Street, S.W.
Washington, D.C. 20554

Re: *Promotion of Competitive Networks in Local Telecommunications Markets*, WT Docket No. 99-217, CC Docket No. 96-98

Dear Mr. Jackler:

During the course of an April 11th *ex parte* meeting between members of the Smart Building Policy Project[1] and you and several other members of the Commission staff working on the *Competitive Networks* item, you inquired about the practical issues and costs involved in relocating the

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1 The Smart Building Policy Project is a growing coalition of telecommunications carriers, equipment manufacturers, and organizations that support nondiscriminatory telecommunications carrier access to tenants in multi-tenant environments. The SBPP presently includes Alcatel USA, the American Electronics Association, the Association for Local Telecommunications Services, AT&T Corp., the Competition Policy Institute, the Commercial Internet Exchange, Digital Microwave Corporation, Harris Corporation, the Information Technology Association of America, the International Communications Association, MCI WorldCom, NEXTLINK Communications, Siemens, Telecommunications Industry Association, Teligent, Inc., Time Warner Telecom, Winstar Communications, Inc., and the Wireless Communications Association.

demarcation point in multi-tenant buildings to the Minimum Point of Entry ("MPOE"). Please find below a written response to that inquiry.

In approximately 90 to 95 percent of multi-tenant buildings, the relocation of the demarcation point is a virtual process. That is, moving the demarcation point from the customer premises to the MPOE does not involve the physical rearrangement of facilities. Where the demarcation point is located at the customer premises, the existing carrier in the building typically has installed racks and cross-connect blocks in the basement equipment room in addition to the cross-connect blocks that have been installed in the telephone closets on the individual floors. When the demarcation point is relocated from the customer premises to the MPOE, the equipment room facilities serve as the point where other carriers interconnect their facilities and where the ILEC's network control ends. However, the facilities typically do not need to be altered to serve that purpose. As a result, in these situations, there is no cost associated with the relocation of the demarcation point from the customer premises to the MPOE.

In those five to ten percent of circumstances in which adequate facilities do not exist near the MPOE, the relocation of the demarcation point from the customer premises to the MPOE will involve some expense. The costs of this process can vary substantially ranging from a $200 to approximately $8,000 (or more) per building depending upon the size of the building, the state of existing facilities within the building, and the facilities that must be added.

During the course of our meeting, some questions were raised concerning the effect that a change in the location of the demarcation point would have on ILEC network equipment. Specifically, there was some inquiry into whether ILEC equipment on the network side of a customer premises demarcation point would transform into customer-side equipment should the demarcation point location change. Typically, relocation of the demarcation point will not affect ILEC facilities. To the extent that ILEC facilities (facilities such as a PBX or multiplexer) are located on the customer-side of the demarcation point after that point is moved to the MPOE, the facilities will remain customer-specific, ILEC-owned facilities after the demarcation point is moved. The ILEC's ownership and control of those facilities will not be affected and there is no need to move those facilities in the event of a demarcation point location change.

The SBPP would also like to call your attention to the reply comments filed by CAIS in the above-referenced proceeding concerning the demarcation point matter. Consistent with the SBPP experience, CAIS states that:

> [i]t is already common practice to place provider-owned electronic equipment on the customer's side of the demarcation point. This practice is

> frequently used by ILECs when they offer bundled data and voice services. For example, frame relay services may be offered by an ILEC, bundled with the same provider's local voice services, on one T-1 circuit. This will require placement of electronic equipment (a PBX or MUX) on the customer's side of the demarc. Therefore, it is unreasonable for incumbents to assert that moving the point of demarcation to the minimum point of entry will always require relocation of electronics.[2]

CAIS also expressed its belief that "most ILEC-owned in-house wiring has been fully depreciated by reasonable accounting standards, and has a current value of less than the cost of its removal."[3]

The relocation of the demarcation point to the MPOE will allow facilities-based carriers to serve consumers in MTEs without reliance on the ILEC.[4] Elimination of the ILEC middleman

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2 Promotion of Competitive Networks 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 Rule Making 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 Act of 1996, WT Docket No. 99-217 and CC Docket No. 96-98, *Reply Comments of CAIS, Inc.* at 5 (filed Sept. 27, 1999).

3 Id. at 6.

4 Notwithstanding the FCC's rules, building owners, too, experience delays, resistance and outright refusal from ILECs when they request that the demarcation point be relocated to the MPOE. "In those states where the ILEC has not made it standard practice to establish the network demarcation point at the MPOE, it has been virtually impossible for a building owner to do so under the rules. For example, several of the Joint Commenters have attempted to declare MPOE with respect to thirty-three specific buildings in thirteen different states and with seven different ILECs. The ILECs rebuffed them each time." Promotion of Competitive Networks 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

eliminates a layer of cost and delay for CLECs serving consumers in MTEs.[5] Moreover, a uniform demarcation point located at the MPOE will lessen the confusion that multiple possible demarcation point locations imposes upon the deployment of competitive networks. Finally, a single demarcation point at the MPOE also would facilitate and lower the cost of ILECs' compliance with some of their other federal obligations. ILECs are required by the Commission's rules to establish a single point of interconnection ("SPOI") in every multi-tenant building.[6] A single demarcation point at the MPOE could serve as that SPOI.

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for Rule Making 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 Act of 1996, WT Docket No. 99-217 and CC Docket No. 96-98, *Comments of Cornerstone Properties, et al.* at 32 (filed Aug. 27, 1999).

5 In its comments, OpTel explained that "the establishment of demarcation points by the ILECs in order to raise the cost of entry has operated as a barrier to competition." Promotion of Competitive Networks 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 Rule Making 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 Act of 1996, WT Docket No. 99-217 and CC Docket No. 96-98, *Comments of OpTel.* at 4 (filed Aug. 27, 1999).

6 See 47 C.F.R. § 51.319(a)(2)(E)("The incumbent LEC shall provide a single point of interconnection at multi-unit premises that is suitable for use by multiple carriers.").

As demonstrated above, rarely are there costs or physical rearrangements involved in relocation of the demarcation point to the MPOE. Moreover, ILEC facilities on the customer side of the demarcation point used to serve a customer -- such as multiplexers or PBXs -- will not be stranded nor will the ILEC's ownership or control of those facilities be modified by a relocation of the demarcation point. Consequently, the practical implementation of relocating the demarcation point in MTEs to the MPOE should not impose hardships or financial burdens upon carriers, building owners, or consumers.

Very truly yours,

Gunnar D. Halley

cc: Jeffrey Steinberg
Joel Taubenblatt
Lauren Van Wazer
Eloise Gore