

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	CC Docket No. 96-262
)	
Access Charge Reform)	CC Docket No. 97-146
)	
)	DA 00-1268

COMMENTS
of the
MINNESOTA CLEC CONSORTIUM

July 12, 2000

Michael J. Bradley
Richard J. Johnson
Moss & Barnett
A Professional Association
4800 Norwest Center
90 South Seventh Street
Minneapolis, MN 55402-4129

SUMMARY

The record in this proceeding does not support the premise that there has been any significant “market failure” in regards to CLEC terminating access charges. Comparison of CLEC access charges to ILEC access charges does not demonstrate that CLEC access charges are either excessive or unjust and unreasonable within the meaning of Section 201. Comparison is not meaningful because there are significant differences in the structure and components of those respective access charges and because there are obvious differences between the costs of CLECs and ILECs. These cost differences result from several factors, including differences in the size and location of CLEC and ILEC service areas, the predictably higher start-up costs and smaller customer bases of CLECs, and the averaging of the access rates of large ILECs, which typically reflect a majority of low cost urban access lines.

Mandatory detariffing of CLEC access charges would not facilitate a market based approach to CLEC terminating access rates. Large IXCs retain very substantial shares of the total interstate market, and AT&T is already leveraging its terminating market share by attempting to prevent delivery of any of its terminating traffic to CLECs that do not acquiesce in its demands to reduce access charges to levels that AT&T finds acceptable. No CLEC will be able to provide a viable local service offering without the ability to deliver traffic from AT&T’s nationwide customer base. Negotiations are not possible if AT&T is allowed to fulfill that threat. Mandatory detariffing of terminating access charges would enhance AT&T’s threat.

Permissive detariffing would provide the great majority of administrative and cost savings without enhancing the leverage of large IXCs.

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

In the Matter of)	CC Docket No. 96-262
Access Charge Reform)	
)	CC Docket No. 97-146
)	
)	DA 00-1268

To: The Commission

COMMENTS OF MINNESOTA CLEC CONSORTIUM

The Minnesota CLEC Consortium (“Minnesota Consortium”) and its members Ace Telephone Association; HomeTown Solutions, LLC; Hutchinson Telecommunications, Inc.; Integra Telecom of Minnesota, Inc.; Local Access Network, LLC; Mainstreet Communications, LLC; NorthStar Access, LLC; Otter Tail Telcom, LLC; Paul Bunyan Rural Telephone Cooperative; Tekstar Communications Systems, Inc.; U.S. Link, Inc.; VAL-ED Joint Venture, LLP; and WETEC, LLC, by their attorneys, submit these Comments pursuant to the Public Notice released June 16, 2000, DA 00-1268 (“*Public Notice*”).

A. THERE IS NO INDICATION OF ANY SIGNIFICANT MARKET FAILURE IN REGARDS TO CLECs’ TERMINATING ACCESS RATES.

The June 16th Public Notice is based on the premise that there has been a “market failure” in regards to CLEC terminating access rates and infers that CLEC terminating access rates are excessive.¹ However, there is no basis in the record to conclude that any significant number of

¹ The Commission requested comments in regards to; “[W]hether and, if so, how mandatory detariffing: (1) addresses any market failure to constrain terminating access rates; (2) provides a market-based solution to excessive terminating charges by encouraging parties to negotiate terminating access charges;” *Public Notice*, p. 2.

CLECs are imposing terminating access rates that are unjust or unreasonable under the standards of Section 201(b), 47. U.S.C. § 201(b). In the Fifth Report and Order and Further Notice of Proposed Rulemaking, CC Docket 96-262, 14 FCC Rcd 14221 (1999) (“*FNPRM*”), the Commission noted that assertions that CLEC access charges were excessive were disputed, and that there was no satisfactory basis for comparison with the rates of incumbent Local Exchange Carriers (“ILECs”).² Subsequent comments have not resolved this issue, instead merely repeating comparisons to the access charges of large ILECs.³ However, such a comparison does not provide a substantial basis for concluding that there is either a “market failure” or that the rates charged by the CLECs are “unjust or unreasonable.”

The Commission has recently held that comparing CLEC access rates to ILEC access rates does not provide a sufficient basis to conclude that CLEC access rates are unjust or unreasonable. In the Memorandum Opinion and Order, *Sprint Communications Company, L.P. v. MGC Communications, Inc.*, FCC 00-206, the Commission said:

We decline Sprint’s invitation to hold that any access rate that is higher than the ILEC’s is necessarily unjust and unreasonable under section 201(b). Nothing in the Commission’s existing rules or orders supports Sprint’s legal position. In particular, Sprint’s reliance on our access reform order is misplaced. There, we noted only that CLEC terminating rates higher than the competing ILEC rates “may suggest” that the CLEC rates are excessive; in no way did we announce a per se rule of the sort for which Sprint now contends. . . . [T]o the extent a review of reasonableness of a CLEC’s rates depends on a carrier-specific review of the costs of providing service, it is impossible to be categorical on this point since a CLEC’s costs may not be comparable to those of an ILEC.

At ¶ 6.

² “Without agreement by the parties on the calculation and accuracy of both the incumbent LEC and CLEC rates, it is impossible to compare them.” *FNPRM* at ¶187.

³ See, e.g. AT&T Comments, Oct. 29, 1999 at p. 28.

Comparing the access rates of a small CLEC to the access rates of a large ILEC is not meaningful for several reasons. First, ILEC and CLEC access rates often contain different components and rate elements. Second, in most cases, the great majority of the access lines served by large ILECs are located in low cost urban and suburban areas. Since the access rates of large ILECs remain averaged across their study areas, the access rates charged by large ILECs in their rural areas reflect the lower costs of their urban and suburban areas, not the costs of their rural areas. In contrast, many small CLECs provide service to areas that are limited in scope and located entirely in high cost rural areas. Third, CLEC access rates may reflect the higher start-up costs of new network construction, small geographic areas, and limited numbers of subscribers.⁴ It would hardly be surprising if their access rates are higher than the averaged rates of the large ILECs, but that would not indicate either that the CLECs' rates are unjust or unreasonable or that there is a market failure.

The record in this proceeding contains no substantial information regarding a comparison of ILEC access rates to CLEC access rates, much less a comparison of CLEC costs to ILEC costs. Further, there is no basis to conclude that CLEC access rates are in excess of their costs, or that CLEC access rates are otherwise "unjust or unreasonable" within the meaning of Section 201. Accordingly, there is no basis to conclude that there has been any significant "market failure" in need of a solution.

B. MANDATORY DETARIFFING WILL NOT LEAD TO A WORKABLE MARKET-BASED APPROACH TO CLEC TERMINATING ACCESS RATES.

The Commission has expressed concern that CLECs possess market power over terminating access rates, and has suggested that mandatory detariffing may "encourag[e] parties

⁴ *FNPRM* at ¶ 244.

to negotiate terminating access charges.”⁵ However, the Commission has not considered the fact that large interexchange carriers ("IXCs") would be able to coerce access rate concessions from small CLECs if the large IXCs were allowed to withhold delivery of their terminating traffic as part of any “negotiations.”

At best, large IXCs have only a limited incentive to bargain with small individual CLECs because those small CLECs have a limited numbers of customers, which may be insignificant to large IXCs. In contrast, large IXCs control vast amounts of terminating traffic that every CLEC must be able to deliver to its customers if it is to provide a viable local service offering. As a result, if mandatory detariffing of CLEC access charges enables large IXCs to refuse to accept CLEC terminating access services, the large IXCs will be able to leverage their control of their terminating traffic and compel small CLECs to accept virtually any demand for access charge reductions. Meaningful negotiations are not possible under those conditions.

1. AT&T Is Already Attempting To Leverage Its Terminating Market Share.

Submissions in connection with the Requests for Emergency Temporary Relief of the Minnesota CLEC Consortium and the Rural Independent Competitive Alliance Enjoining AT&T Corp. from Discontinuing Service Pending Final Decision in CC Docket No. 96-262 demonstrate that AT&T is using , and will continue to use, the threat of withholding terminating traffic from CLEC customers in order to coerce access charge concessions from CLECs. As demonstrated in those submissions: AT&T has expressly stated its intentions:

- 1) to refuse to accept originating traffic from small CLECs’ end-user customers; and

⁵ The Commission requested comments in regards to: [W]hether and, if so, how mandatory detariffing: ... (2) provides a market-based solution to excessive terminating charges by encouraging parties to negotiate terminating access charges; ... (4) offers additional public interest benefits beyond permissive detariffing; ...” *Public Notice*, p. 2.

- 2) to prevent delivery of terminating traffic from all of its customers to small CLECs' end-user customers,

unless the small CLECs acquiesce in AT&T's demands to reduce their access charges to levels that AT&T finds acceptable.⁶ If AT&T is allowed to fulfill this threat, there will be no room for negotiations.

2. If AT&T And Other Large IXCs Could Withhold Their Terminating Traffic, They Would Be Able To Compel Small CLECs To Acquiesce In Virtually Any Demand.

If AT&T or other large IXCs are allowed to prevent delivery of traffic terminating from their networks, they will be able to wield overwhelming leverage against small CLECs.⁷ That leverage will arise from the fact that virtually no customers would be willing to accept a

⁶ AT&T's intentions are stated in a January 19, 2000 letter from AT&T to Minnesota Consortium Member Integra (attached to the Request for Emergency Relief of the Minnesota Consortium dated May 5, 2000, CC Docket 96-262), which reads in part:

We [AT&T] hereby instruct Integra to immediately cease routing all traffic originating in the State of Minnesota to AT&T's network, including, but not limited to, zero plus, one plus, five hundred plus, seven hundred plus, 8YY plus, 900 plus and all AT&T associated 10-10-XXX traffic. *In addition, Integra should not complete any calls terminating from AT&T's network that are intended for Integra's local exchange customers in Minnesota.*

(Emphasis added.) Minnesota Consortium Member Ottetail received an identical demand from AT&T by letter dated December 6, 1999 (attached to the Request for Emergency Relief of the Minnesota Consortium). Infotel Communications, Inc. (now part of Minnesota Consortium Member Integra) received an identical demand from AT&T by letter dated June 13, 2000. (Attached to Reply Comments of Minnesota Consortium dated June 29, 2000.)

⁷ Comments of Sprint Corporation, June 14, 2000 ("Allowing carriers to decide whether and on what terms to interconnect can result in inconvenience to the public and can also allow carriers with monopoly or monopsony power to exert undue leverage *vis-à-vis* their smaller counterparts.") at p. 2; Comments of US West Communications, Inc., June 14, 2000 ("If AT&T could simply decide that it would provide long distance service only to local exchange carriers ("LEC") and/or cable companies with whom it chooses to deal, it could effectively eliminate much of the competition in all markets in which it participates.") at p. 5. Comments of Association of Communications Enterprises, June 14, 2000, p. 3; Comments of Montana Telecommunications Association, June 14, 2000, p. 3.

competitive local service that precluded receiving long distance calls from the vast number of AT&T customers nationwide.

Although AT&T is a non-dominant carrier, it retains a very substantial share of the total interstate market from which small CLECs' customers will need the ability to receive calls. The report, *Trends in Telephone Service, March 2000*, prepared by the Industry Analysis Division, Common Carrier Bureau ("*Trends in Telephone Service*"), indicates that, as of 1998, AT&T still carried approximately 50% of total interstate minutes.⁸ If AT&T were allowed to block delivery of that traffic to any small CLEC, AT&T would have the ability to prevent customers of small CLECs from receiving interstate interexchange communications from the access lines that originate approximately 50% of total interstate minutes.

If AT&T were able to do this, existing and potential end-user customers of any small CLEC would quickly learn that use of that CLEC's local service would preclude them from receiving calls from customers representing approximately 50% of total interstate traffic. Since no customer would accept such a service, small CLECs would be virtually prevented from competing unless they fully comply with AT&T's demands.

Allowing AT&T or other large IXCs to achieve such coercive power will preclude the effective operation of market forces to set access rates.⁹ As a result, mandatory detariffing

⁸ See, *Trends in Telephone Service*, Chart 11.4.

⁹ There is no indication that the Commission contemplated that IXCs could leverage their terminating traffic against either enduser customers or CLECs when it found IXCs were non-dominant. To the contrary, in the Order, *Motion of AT&T Corp. To Be Reclassified As A Non-Dominant Carrier*, 11 FCC Rcd 3271 (1995) ("*AT&T Non-Dominance Order*"), the Commission said in part:

Declaring AT&T non-dominant will not remove AT&T from regulation. Like other non-dominant carriers, AT&T will still be subject to regulation under Title II of the Act. *Specifically, non-dominant carriers are required to offer interstate services under rates, terms and conditions that are just, reasonable and not unduly discriminatory (Sections*

would not provide a “market-based solution to excessive terminating charges by encouraging parties to negotiate terminating access rates.”¹⁰ Rather, large IXCs, such as AT&T, would be able to leverage their terminating traffic, thus enabling them to achieve virtually dictatorial power in “negotiations” with small CLECs.

C. MANDATORY DETARIFFING WOULD NOT PROVIDE SIGNIFICANTLY GREATER REDUCTIONS IN ADMINISTRATIVE AND COST BURDENS THAN WOULD PERMISSIVE DETARIFFING.

The Commission requested comments on whether mandatory detariffing is a better means of reducing the administrative burden on the Commission of maintaining tariffs; and reducing the economic burden on non-ILEC’s for filing tariffs.¹¹ Permissive detariffing will provide the vast majority of the administrative and cost savings without the adverse consequences of mandatory detariffing and the added leverage provided to large IXCs.

The Commission has recognized the benefits of permissive detariffing.¹² The Commission has noted that permissive detariffing will reduce the transaction costs of preparing and filing tariffs for those carriers who elected to forego tariff requirements,¹³ and that the

201-202), and non-dominant carriers are subject to the Commission’s complaint process (Sections 206-209).

(Emphasis added.) At ¶13.

¹⁰ June 16, 2000 Public Notice.

¹¹ The Commission requested comments on: “[W]hether and, if so, how mandatory detariffing: ... (4) offers additional public interest benefits beyond permissive detariffing; ... (6) reduces the administrative burden on the Commission of maintaining tariffs; and (7) reduces the economic burden on the non-ILECs of filing tariffs.” *Public Notice*, p. 2.

¹² Memorandum Opinion and Order and Notice of Proposed Rule Making, *Hyperion Telecommunications, Inc. and Time Warner Communications, Inc. Petitions for Forbearance, Complete Detariffing for Competitive Access Providers and Competitive Local Exchange Carriers*, CC Docket No. 97-146, 12 FCC Rcd 8596 (1997). (“*Hyperion Order and NPRM*”)

¹³ *Id.*, at ¶27.

Commission would benefit from the reduction in tariff filings by the corresponding reduction in demand for its resources.¹⁴

Commenting parties have pointed out that consumers would ultimately benefit from permissive detariffing because carriers could dedicate more time to introducing services, which might otherwise be impeded by the time and expense it takes to prepare and file tariffs.¹⁵ Permissive detariffing would also lower the cost of market entry for new service providers.¹⁶

For carriers that choose to avoid those costs, permissive detariffing would provide flexibility to CLECs and enable them to obtain cost savings. Those benefits would be accomplished without increasing the large IXCs leverage even further.

The Commission has stated a preference for complete detariffing. However, there is no indication that the Commission was aware of efforts by AT&T to leverage its substantial terminating market share, or that the Commission was in any way endorsing those efforts. The Court of Appeals affirmed the Commission's decision to require mandatory detariffing of IXC rates over the opposition of MCI and other IXCs that had urged permissive detariffing. *MCI WorldCom v. FCC*, 209 F.3d 760, 766 (D.C. Cir. 2000). The Court of Appeals did not, however, suggest that the Commission may not use permissive detariffing in this or any other proceeding.

Indeed, the substantial differences between the retail long distance market and the access markets require a different approach. In the context of this demonstrated effort by AT&T, the Commission should refrain from mandatory detariffing, which would increase AT&T's

¹⁴ *Id.*, at ¶27.

¹⁵ *Id.*, at ¶17.

¹⁶ *Id.*, at ¶27.

already excessive leverage over small CLECs. Rather, the Commission should prohibit IXCs from withholding terminating traffic from CLECs.

D. CONCLUSION.

The Commission should not require mandatory detariffing of CLEC access charges. Rather, the Commission should adopt rules that: 1) clarify the obligations of national IXCs to interconnect with CLECs in areas where those IXCs provide long distance service; and 2) establish appropriate benchmarks for CLECs' access rates that reflect the characteristics of the CLECs.

Respectfully submitted,

MINNESOTA CLEC CONSORTIUM

By: /s/ Richard J. Johnson

Michael J. Bradley

Richard J. Johnson

MOSS & BARNETT

A Professional Association

4800 Norwest Center

90 S Seventh Street

Minneapolis, Minnesota 55402-2149

Telephone: 612-347-0300

Attorneys on Behalf of the Minnesota CLEC
Consortium

CERTIFICATE OF SERVICE

I, Kim R. Manney, do hereby certify that, on this 12th day of July, 2000, I have caused the foregoing Comments of the Minnesota CLEC Consortium in CC Docket No. 96-262, CC Docket No. 97-146, DA 00-1268 to be filed electronically with the FCC by using its Electronic Comment Filing System, and copies of the Comments were served by first-class U.S. mail, postage prepaid, on the following parties:

Chairman William E. Kennard
Federal Communications Commission
445 12th Street S.W., Room 8-C302
Washington, DC 20554

Commissioner Susan Ness
Federal Communications Commission
445 12th Street S.W., Room 8-B115
Washington, DC 20554

Commissioner Michael Powell
Federal Communications Commission
445 12th Street S.W., Room 8-A204
Washington, DC 20554

Commissioner Harold W. Furchtgott-Roth
Federal Communications Commission
445 12th Street S.W., Room 8-302
Washington, DC 20554

Commissioner Gloria Tristani
Federal Communications Commission
445 12th Street S.W., Room B-201
Washington, DC 20554

David Cosson
Sylvia Lesse
Kraskin, Lesse & Cosson, LLP
2120 L Street N.W., Suite 520
Washington, DC 20037

Mark C. Rosenblum
Peter H. Jacoby
295 North Maple Ave.
Basking Ridge, NJ 07920

Peter D. Keisler
Daniel Meron
C. Frederick Beckner III
Sidley & Austin
1722 I Street N.W.
Washington, DC 20006

Robert B. McKenna
US West Communications, Inc.
Suite 700
1020 19th Street N.W.
Washington, DC 20036

Charles C. Hunter
Catherine M. Hannan
Hunter Communications Law Group
1620 I Street N.W., Suite 701
Washington, DC 20006

Geoffrey A. Feiss
General Manager
Montana Telecommunications Association
208 North Montana Avenue, Suite 207
Helena, Montana 59601

Henry G. Hultquist
WorldCom, Inc.
1801 Pennsylvania Avenue N.W.
Washington, DC 20006

Leon M. Kestenbaum
Jay Keithley
Richard Juhnke
Sprint Corporation
401 9th Street N.W., #400
Washington, DC 20004

David A. Irwin
Loretta J. Garcia
Tara B. Shostek
Irwin Campbell & Tannenwald, P.C.
1730 Rhode Island Avenue N.W., #200
Washington, DC 20036-3101

Lawrence E. Sarjeant
United States Telecom Association
1401 H Street N.W., #600
Washington, DC 20005-2164

L. Marie Guillory
Jill Canfield
National Telephone Cooperative
Association
4121 Wilson Boulevard, 10th Floor
Arlington, VA 22203

Mitchell F. Brecher
Debra A. McGuire
Greenberg Traurig, LLP
800 Connecticut Avenue N.W.
Washington, DC 20006

Patricia D. Kravtin
Scott C. Lundquist
Economics and Technology, Inc.
One Washington Mall
Boston, MA 02108-2617

Colleen Boothby
Levine, Blaszak, Block & Boothby, LLP
2001 L Street N.W., Suite 900
Washington, DC 20036

Robert W. McCausland
Mary C. Albert
Allegiance Telecom, Inc.
1950 Stemmons Freeway, Suite 3026
Dallas, TX 75207-3118

Russell M. Blau
Patrick Donovan
Swidler Berlin Shereff Friedman, LLP
3000 K Street N.W., Suite 300
Washington, DC 20007

Carolyn C. Hill
Alltel Communications, Inc.
601 Pennsylvania Avenue N.W., #720
Washington, DC 20004

Joseph DiBella
Michael E. Glover
Bell Atlantic
1320 North Courthouse Road, 8th Floor
Arlington, VA 22201

Jonathan Askin
Emily Williams
The Association for Local
Telecommunications Services
888 17th Street N.W., Suite 900
Washington, DC 20006

Jonathan E. Canis
Charles M. Oliver
Enrico Soriano
Kelley Drye & Warren, LLP
1200 19th Street N.W., 5th Floor
Washington, DC 20036

Albert H. Kramer
Robert F. Aldrich
Dickstein Shapiro Morin & Oshinsky
2101 L Street N.W.
Washington, DC 20037-1526

M. Robert Sutherland
Richard M. Sbaratta
Bellsouth Corporation
1155 Peachtree Street N.E., Suite 1700
Atlanta, GA 30309-3610

Rachel J. Rothstein
Brent M. Olson
Cable & Wireless USA, Inc.
8219 Leesburg Pike
Vienna, VA 22182

Danny E. Adams
Robert J. Aamoth
Joan M. Griffin
Kelley, Drye & Warren, LLP
1299 19th Street N.W., Suite 500
Washington, DC 20036

Douglas A. Dawson
Competitive Communications Group, LLC
Calvert Metro Building
6811 Kenilworth Avenue, Suite 302
Riverdale, MD 20737

Carol Ann Bishoff
Competitive Telecommunications Assoc.
1900 M Street, NW, Suite 800
Washington, DC 20036

Christopher A. Holt
Regulatory and Corporate Affairs
CoreComm Limited
110 East 59th Street, 26th Floor
New York, NY 10022

Stuart Polikoff
OPASTCO
21 Dupont Circle, NW, Suite 700
Washington, DC 20036

James L. Casserly
Ghita J. Harris-Newton
Mintz, Levin, Cohn, Ferris, Glovsky
& Popeo, PC
701 Pennsylvania Avenue, NW, #900
Washington, DC 20004

Laura H. Phillips
J.G. Harington
Dow, Lohnes & Albertson, PLLC
1200 New Hampshire Ave, NW, #800
Washington, DC 20036

Andrew D. Lipman
Tamar E. Finn
Swidler Berlin Shereff Friedman, LLP
3000 K Street, NW, Suite 300
Washington, DC 20007

George N. Barclay
General Services Administration
1800 F Street, NW, Room 4002
Washington, DC 20405

Snavely King Majoros O'Connor & Lee Inc.
1220 L Street, NW, Suite 410
Washington, DC 20005

Gail L. Polivy
GTE Service Corporation
1850 M Street, NW, Suite 1200
Washington, DC 20036

Thomas R. Parker
GTE Service Corporation
600 Hidden Ridge, MS HQ-E03J43
P.O. Box 152092
Irving, TX 75015-2092

Gregory J. Vogt
William B. Baker
Wiley, Rein & Fielding
1776 K Street, NW
Washington, DC 20006

Susan M. Eid
Richard A. Karre
MediaOne Group, Inc.
1919 Pennsylvania Avenue, NW, Suite 610
Washington, DC 20006

Kenneth A. Kirley
McLeodUSA Telecommunications Services
400 S. Highway 169, No. 750
Minneapolis, MN 55426

Kent F. Heyman
Scott A. Sarem
Richard E. Heatter
MGC Communications, Inc.
3301 N. Buffalo Drive
Las Vegas, NV 89129

Margot Smiley Humphrey
Koteen & Naftalin, LLP
1150 Connecticut Avenue, NW, #1000
Washington, DC 20036-4104

Lynda L. Dorr, Secretary to the Commission
Public Service Commission of Wisconsin
610 North Whitney Way
P.O. Box 7854
Madison, WI 53707-7854

William L. Fishman
Swidler Berlin Shereff Friedman, LLP
3000 K Street, NW, Suite 300
Washington, DC 20007

Alfred G. Richter, Jr.
Roger K. Toppins
Michael J. Zpevak
Thomas A. Pajda
SBC Communications, Inc.
One Bell Plaza, Room 3003
Dallas, TX 75202

Robert M. Halpern
Crowell & Moring, LLP
1001 Pennsylvania Avenue, NW
Washington, DC 20004

John W. Katz, Esquire
Special Counsel to the Governor
Director, State-Federal Relations
Office of the State of Alaska
444 North Capitol Street, NW, Suite 336
Washington, DC 20001

Lawrence G. Malone
Public Service Commission of NY State
Three Empire State Plaza
Albany, NY 12223-1350

Mr. Micheal Wilson
Mr. John Mapes
Dept. of Commerce and Consumer Affairs
State of Hawaii
250 South King Street
Honolulu, Hawaii 96813

Herbert E. Marks
Brian J. McHugh
Squire, Sanders & Dempsey, LLP
1201 Pennsylvania Avenue, NW
P.O. Box 407
Washington, DC 20044

Edward B. Krachmer
Teligent, Inc.
8065 Leesburg Pike, Suite 400
Vienna, VA 22182

John H. Harwood II
Samir Jain
David M. Sohn
Julie A. Veach
Dan L. Poole
Wilmer, Cutler & Pickering
2445 M Street, NW
Washington, DC 20037-1420

Danny E. Adams
Joan M. Griffin
Enrico Soriano
Kelley Drye & Warren, LLP
1200 19th Street, NW, Suite 500
Washington, DC 20036

Russell C. Merbeth
Lawrence A. Walke
Winstar Communications, Inc.
1615 L Street, NW, Suite 1260
Washington, DC 20036

Catherine R. Sloan
Richard L. Fruchterman, III
Richard S. Whitt
Worldcom, Inc.
1120 Connecticut Avenue, NW
Washington, DC 20036

/s/ Kim R. Manney
Kim R. Manney