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Falls Church, VA 22042

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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July 18, 2000

Magalie Roman Salas, Secretary
Federal Communications Commission
445 12th Street, SW, TW-A325
Washington, DC 20554

ORIGINAL

Ex Parte
WT Docket 99-217
Competitive Access to Multi-Tenant Buildings

Dear Ms. Salas:

On Tuesday, July 18, 2000, Kathleen Abernathy, Broadband Office representing a coalition including OnSite Access, Inc., Cypress Communications, Eureka Broadband Corp., and Allied Riser Communications (who where not present at the meeting) met with the Peter Tenhula, Legal Advisor to Commissioner Powell to discuss the above referenced proceeding. The attached materials were distributed at the meeting.

Pursuant to Section 1.1206(a), an original and one copy of this letter are being filed with our office. Please associate this letter with the file in the above-referenced proceeding.

Should you have any questions regarding this matter, please contact the undersigned.

Sincerely,

BROADBAND OFFICE COMMUNICATIONS

Kathleen Q Abernathy /EJR

Kathleen Q. Abernathy
Vice President, Public Policy

Enclosures

cc: Peter Tenhula

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The New CLECs

Kathleen Q. Abernathy
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Counsel for Allied Riser Communications

Who Are the New CLECs

One type of new competitive local exchange carriers (CLECs) are "building centric." Our business plans focus on providing service to multi-tenant buildings (residential and/or commercial).

Generally we install fiber throughout entire buildings and rely on scale and scope economies to offer advanced telecom, data and other advanced services to tenants, particularly small and mid-sized tenants.

We are responding to property owner frustration with existing carriers who have generally limited their service offerings to only a few, large customers and have failed to provide timely, high capacity service to all building tenants.

We each have differing rental arrangements with the property owners, which were negotiated in the free market, and which may include a flat fee, commissions, revenue sharing, or a combination.

The Marketplace

Building owners are responding to tenant demands and enhancing the value of their core business -- leasing building space -- by managing the telecom related spaces prudently and granting building access to multiple competitors.

As new competitors, we face significant hurdles because we are competing for customers already served by ILECS who have greater resources, brand name recognition, and an existing customer base.

Our competitive response is to offer tenants multiple service offerings and quality improvements like rapid service provisioning, enhanced customer support, and bundled services that are broader and more innovative than past offerings.

This strategy is targeted towards small and mid-size tenants who have historically been underserved by existing carriers who have tended to focus on large customers.

FCC Competitive Networks Proceeding

Competition is fierce in our space and government intervention on the building access issue is unnecessary.

Mandating nondiscriminatory access in fact will distort the competitive environment by shifting resources away from **providing** innovative quality service offerings to simply obtaining space in the telephone closets of as many buildings as possible, as quickly as possible.

Constraints on available space that exist in every building's telephone closet currently provide an incentive for the building owners to seek the best five to seven competitors per building and charge rent for the right to occupy the space. The property owners manage the space to avoid disruptions to the tenants and ensure quality service offerings.

If we are unable to compete based on innovation, customer responsiveness and service quality, and our competitors are locking up scarce space in the telephone closet, we will be forced to redesign our business plans to similarly focus our resources on the acquisition of telephone closet space.

Jurisdictional and Implementation Issues

There are complicated legal and jurisdictional issues associated with regulating the real estate industry. Given that the competitive marketplace is working – we know this based on the number of competitors we see in every building – we see no compelling need for the FCC to "reach out and touch" real estate providers jurisdictionally by dictating the rental space terms and conditions.

Even if the FCC concludes that legally it can exercise jurisdiction over building owners, there is no market failure that would justify such action.

Any attempt to assert jurisdiction over building owners who have an ownership interest in a CLEC, creates its own set of regulatory burdens including: the need to build a record to develop attribution rules; the need to interpret and enforce the attribution rules; and the fact that such a decision establishes precedent for the FCC to regulate any entities -- including large investors -- as telecommunications carriers to the extent they exceed a specified ownership interest in a telecommunications carrier.

We recommend the FCC instead focus its resources on addressing market distortions that occur due to ILEC incumbency and otherwise allow the new CLEC competitors to compete based on innovation and service quality.