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VIA HAND DELIVERY

August 9, 2000

EX PARTE

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:

On behalf of the Smart Buildings Policy Project, Professor Viet Dinh of Georgetown University Law Center, Philip Verveer and the undersigned met this morning with Helgi Walker, Senior Legal Advisor and Chief of Staff to Commissioner Furchtgott-Roth to discuss issues concerning the provision of nondiscriminatory telecommunications carrier access to multi-tenant buildings.

We explained the various bases of Commission jurisdiction within the Communications Act that provide authority to issue nondiscriminatory access rules. As part of that discussion, we provided Ms. Walker with a copy of the Supreme Court's *Ambassador* decision.[1] We also explained that the issue of constitutional takings does not operate as a bar to the Commission's actions. Finally, we explained why the limits of the D.C. Circuit's *Bell Atlantic v. FCC*[2] decision do not apply to the actions considered in the above-referenced dockets, particularly in light of subsequent D.C. Circuit opinions narrowly construing that decision.

Because these topics concern a pending rulemaking at the Commission, 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 ex parte presentation.

Respectfully submitted,

Gunnar D. Halley
Counsel for the
SMART BUILDINGS POLICY PROJECT

cc: Helgi Walker

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[1] Ambassador, Inc. v. United States, 325 U.S. 317 (1945).

[2] Bell Atlantic Telephone Cos. v. F.C.C., 24 F.3d 1441 (D.C. Cir. 1994).