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WILLKIE FARR & GALLAGHER

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

VIA HAND DELIVERY

August 14, 2000

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:

I discussed this morning with Leon Jackler of the Wireless Telecommunications Bureau issues concerning the location of the demarcation point in multi-tenant buildings, the effect of a relocation of the demarcation point to the minimum point of entry ("MPOE") on the availability of inside wire subloop UNEs and the ability of CLECs to serve tenants in buildings, and the FCC's authority to require multi-tenant building owners to provide nondiscriminatory telecommunications carrier access.

The demarcation point may already be located at the MPOE in some multi-tenant buildings today. For example, an ILEC may have chosen to locate the demarcation point at the MPOE in a particular building, or the building owner may have chosen that the demarcation point be located at the MPOE. Additionally, state requirements may mandate that the demarcation point be located at the MPOE. In other instances, the ILEC may not own a building's inside wiring (*i.e.*, the wiring has been installed and is maintained by a CLEC or by some other third party). In all of these instances, the inside wire subloop UNE may not be an option for carriers seeking to serve tenants in the building. These scenarios demonstrate the limits of the utility of an inside wire subloop UNE and underscore the importance of an affirmative nondiscriminatory access requirement on owners of multi-tenant buildings.

In response to a question presented by Mr. Jackler, I explained that even where there is no affirmative access requirement placed upon building owners, some carriers *still* would prefer that the FCC uniformly establish the demarcation point at the MPOE of multi-tenant buildings. Carriers such as AT&T, Teligent, Time Warner Telecom, and Winstar Communications believe that under these circumstances, relocation of the demarcation point to the MPOE still would facilitate access to tenants, although the issues of nondiscriminatory access with certain building owners could remain a problem. Even where the building owner is not governed by the FCC's regulations, the building owner -- unlike the ILEC -- tends not to be a competitor of the CLEC and, therefore, the CLEC may find the building owner less resistant than the ILEC to CLEC entry. Indeed, sometimes the building owner denies CLEC access to in-building facilities because the building owner is not certain whether the inside wiring is owned by the building or by the ILEC. Where fixed wireless technology is employed, absent a nondiscriminatory access requirement, landlord acquiescence and approval remains necessary before a carrier may serve tenants in the building on a facilities-basis (in order to obtain approval for the rooftop antenna). In such cases, it is preferable to relocate the demarcation point to the MPOE in order to

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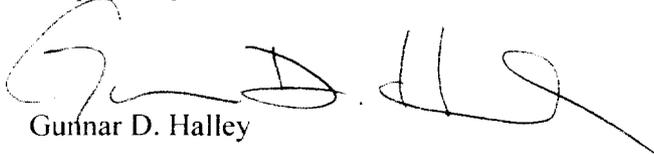
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eliminate the necessity that a fixed wireless carrier negotiate for access with the building owner *and* with the ILEC. Where a carrier does not rely entirely upon its own facilities to reach the tenant customer, it may lease special access circuits which are not affected by the presence or absence of an inside wire subloop UNE. Finally, subloop UNE pricing has yet to be established in many jurisdictions, leaving the economic viability of a subloop UNE service strategy questionable. For some or all of these reasons, the aforementioned carriers would find it preferable to establish a predictable uniform demarcation point location at the MPOE to reduce the opportunity for ILECs to delay or prevent competitive entry. This certainty would also eliminate the confusion as to the location of the demarcation point experienced by many landlords and carriers alike -- confusion which delays or prevents competitive entry.

As noted in the August 4th ex parte presentation of the Association for Local Telecommunications Services filed in the above-referenced dockets, where there is no access requirement imposed on building owners, establishing the demarcation point at the MPOE may worsen the access capabilities of some carriers in some instances. Hence, I explained to Mr. Jackler that the position of the aforementioned carriers concerning the location of the demarcation point in the absence of a nondiscriminatory access requirement may or may not be consistent with the views of other competitive telecommunications carriers in the industry and their position was not being presented to Mr. Jackler as a uniform industry-wide response to his question.

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 Willkie Farr & Gallagher's ex parte presentation.

Respectfully submitted,



Gunnar D. Halley

cc: Kathy Farroba (CCB)
Leon Jackler (WTB)

Christopher Libertelli (CCB)
Joel Taubenblatt (WTB)

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