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August 17, 2000

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 Twelfth Street, S. W. – Room TWB-204
Washington, D. C. 20554

Re: *Ex parte*, WT Docket No. 99-217, Promotion of Competitive Networks in Local Telecommunications Markets; CC Docket No. 96-98, Implementation of Local Competition Provisions in the Telecommunications Act of 1996

Dear Ms. Salas:

On Thursday, August 17, 2000, Douglas Brandon and the undersigned, of AT&T, Gunnar Halley of Wilkey Farr & Gallagher representing the Smart Buildings Policy Project and Jonathan Askin representing the Association for Local Telecommunications Services met with Peter Tenhula, Legal Assistant to Commissioner Michael Powell. The purpose of the meeting was to discuss the difficulties carriers encounter when attempting to serve customers residing in multiple tenant environments and the various jurisdictional theories under which the Commission could adopt an order providing for nondiscriminatory access to tenants in multiple tenant environments. Views expressed by the representatives of AT&T, the Smart Buildings Policy Project and the Association for Local Telecommunications Services were consistent with their previously filed comments in the above-captioned proceeding. The attached outline describes the topics discussed during the course of our meeting.

Two copies of this Notice are being submitted to the Secretary of the FCC in accordance with Section 1.1206 (b) of the Commission's rules.

Sincerely,

ATTACHMENT

cc: P. Tenhula

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

Multiple Tenant Environments (MTEs")

Ownership of the "inside wire"

ILECs use ambiguity over who owns the inside wire to delay or limit CLEC use of the inside wire

- ILECs refuse to offer unbundled network elements (loops/sub-loops) because the ILEC claims no ownership or control
- Building owners refuse to permit interconnection to inside wire because they don't "believe" they own the wiring

Single Point of Interconnection ("SPOI")

"...we agree that the availability of a single point of interconnection will promote competition .... we encourage parties to cooperate in any reconfiguration of the network necessary to create one. If parties are unable to negotiate a reconfigured single point of interconnection at multi-unit premises, we require the incumbent to construct a single point of interconnection that will be fully accessible and suitable for use by multiple carriers." UNE Remand Order, ¶ 226.

ILECs propose SPOI arrangements that impose significant operational difficulties and unnecessary cost upon CLECs

- installation of duplicative and unnecessary "feeder" cross connect panel
- unnecessary use of and payment for ILEC technicians
- ILEC continued control of the first pair of wire to each unit

Rules Governing the Demarcation Point

The Commission should adopt a single demarcation point for all MTEs at the Minimum Point of Entry ("MPOE") or 12 inches from an individual unit where the building owner has ceded control to the ILEC

ILEC Must Provide Nondiscriminatory Access To and Forward-Looking Pricing For All Network Elements and Support Related to the Use of Wiring Between the MPOE and the Demarcation Point

ILECs cannot rely upon tariffed rates or contractual arrangements as justification for UNE pricing

Commission should clarify that nondiscriminatory access required under Section 224 of the Act applies to utility-owned or controlled ducts, conduits and rights-of-way. Specifically, the CLECs must have the rights to use in-building/intra-premise ducts, conduits or rights-of-way employed by the ILEC:

- whether the facilities are owned or merely controlled by the ILEC
- regardless of whether the ILEC currently uses the facilities

The FCC should preempt restrictions on fixed wireless antennae

Rules similar to OTARD with the ability of local authorities to impose restrictions necessitated by safety or historic preservation concerns

FCC Authority

The Commission may prescribe regulations based on the opinion that a practice of a carrier or carriers will violate provisions of the Act. Section 205(a).

Discrimination by a carrier in the form of participating or cooperating with a building owner to prevent tenants from selecting their own carrier is unjust and unreasonable. Section 201(b).

A confirmation of this conclusion can be found in the prohibition on carriers "unjust or unreasonable discrimination in ...practices...for or in connection with like communication service, directly or indirectly, by any means or device...." Section 202(a). [Emphasis added]

A regulation prohibiting cooperation in, or service to a building affected by, discrimination inhibiting subscriber choice can be enforced, inter alia, through the Commission complaint process. Section 208.

A building owner may be joined as a party and subjected to orders issued by the Commission. Section 411(a). In such an action, very often the carrier will be only a nominal defendant as was the case in Ambassador.

The FCC may aid in the resolution of any dispute by requiring affected carriers to file contracts with building owners whenever complaints are brought. Section 211(b).