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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

April 13, 2001

VIA HAND DELIVERY

Chairman Michael K. Powell
Federal Communications Commission
445 12th Street, S.W.
The Portals
Washington, D.C. 20554

Re: Ex Parte Letter
CC Docket Nos. 96-262 and 97-146

Dear Chairman Powell:

Network Plus, Inc. ("Network Plus" or "Company") is an established integrated competitive local exchange and interexchange service provider headquartered in Quincy, Massachusetts. Founded in 1990, Network Plus began as a provider of long distance service. Following the 1996 Act, Network Plus expanded its service offerings and began to provide service as a facilities-based, competitive local exchange carrier ("CLEC"). At this time, Network Plus is an integrated communications provider of local, long distance voice and data communications services in seven states with plans to expand to twelve states. Network Plus serves over 50,000 customers, mostly small and medium-sized businesses.

As both a buyer and seller of access services, Network Plus is well positioned to discuss the access charge issue currently before the Federal Communications Commission ("Commission"). As a buyer of exchange access, Network Plus is interested in paying reasonable cost related rates so that it may provide long distance to its customers at competitive rates. As a seller of exchange access, Network Plus is interested in charging long distance carriers a fee to cover the costs of the carriers use of the network. Network Plus, as both a buyer and seller of exchange access, submits that any action by the Commission to immediately and drastically reduce CLEC access charges, as proposed by AT&T, will substantially harm the competitive local exchange industry. As the Commission considers the issue of CLEC access charges, Network Plus urges the Commission to carefully consider the impact of flash-cut reductions on the provision of competitive local telephone service. Any reduction in access charges must be phased-in to avoid distorting the market and impairing the continuance and growth of the competitive facilities-based telephone market.

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As a long distance provider, Network Plus pays access charges and, therefore, has an interest in reducing these charges. At this time, Network Plus pays approximately $12 million annually to local carriers for access charges. Of that amount, approximately $8,400,000 is paid to Verizon with the remaining $3,600,000 paid to independents and CLECs. Despite its interest in reducing these access charges, Network Plus asserts that AT&T's proposal is harmful to the local, facilities-based competitive industry because it fails to reflect the real costs associated with providing service via an alternative facilities-based network.

The access charges imposed on Network Plus by other CLECs range from 1.8 to 8.5¢ per minute of use ("mou"). The CLEC average is 4¢ per mou, which is the rate Network Plus presently charges. To date, access revenue has been relied upon by CLECs to support the establishment of a facilities-based network, which is extremely capital intensive. Network Plus has built and continues to build a local facilities-based network in major cities and in less populated suburban areas; thereby, providing a true alternative choice to many consumers who would not otherwise have a choice. The costs faced by Network Plus to build this network are significantly higher than its ILEC counterparts who have the benefit of a network built and paid for by the public over years of monopolistic provisioning.

The proposed reductions to access charges will reduce the revenues relied upon by CLECs when they planned and committed their resources to their network build out. To drastically reduce the access revenues on a fast track would put at risk the networks of numerous CLECs. For Network Plus, the ALTS proposal (2.5¢ per mou) would result in a 38 % reduction in Network Plus' long distance access revenues. AT&T's proposal (1.5¢ per mou) would result in a 75 % reduction in long distance access revenues with an *immediate* second reduction (.5¢ per mou) resulting in an 88 % reduction in Network Plus' long distance access revenues. The drastic and truncated transition proposed by AT&T would have a significant negative effect on a CLEC's ability and willingness to continue investing in facilities-based networks. In its effort to move access charges to cost, the Commission must be certain not to cripple the still young competitive local exchange market. It is apparent from the numbers that the AT&T proposal would substantially harm, arrest and potentially jeopardize the viability of competitive facilities based local competition.

Network Plus submits that AT&T's proposal and actions in the area of CLEC access charges are abhorrent. As the Commission is aware, AT&T has exercised its tremendous leverage in the telecommunication market to refuse to pay millions of dollars in access charges to CLECs. AT&T's actions have placed a financial stranglehold over many CLECs. Meanwhile, AT&T has escaped from payment and improved its own financial margins. AT&T should not be permitted to unilaterally decide which services to pay for and to force its rate structure on CLECs. To date, many CLEC's have had a Hobson's choice - no payment from AT&T or payment under AT&T's proposed draconian rate structure. The Commission should not permit AT&T to use its leverage in such a destructive and unlawful way. Network Plus urges the Commission to both reject AT&T's proposal and to require AT&T to immediately pay for exchange access services it received from CLECs pursuant to the terms of the lawfully filed tariffs filed by those CLECs.

Network Plus supports a reduction in charges for call termination for all types of traffic – local, long distance, data and voice. Ultimately, Network Plus believes that the price for the same function should not vary based on the type or destination of the traffic. As the Commission has recognized in its gradual reduction of ILEC access charges, this goal cannot be reached overnight. We do not believe that the Commission should impose a draconian reduction on one segment of the industry while providing a more extended transition for another segment of the industry.

Last year the Commission adopted the CALLS proposal, which provided a five year transition period for ILECs to reduce their access charges. While we support an immediate reduction of CLEC access charges to 2.5¢ per mou, as recommended by ALTS, we believe that the further reduction to .5¢ per mou should be done over a five year transition period.

As ALTS recently demonstrated, the proposed reduction in CLEC access charges reflects an 87.1 % reduction in revenue for CLECs over a three year period, compared to a 50 % reduction over a five year period for ILECs. There simply is no reasonable basis for imposing such a punitive reduction on CLECs particularly in light of the extreme pressure faced by CLECs as a result of present capital market conditions. Imposing a substantial reduction on revenues at this time is unjustified, discriminatory and anticompetitive.

While Network Plus endorses the Commission's efforts to fulfill the intent of the 1996 Act by bringing prices for network services closer to costs, in implementing that intent, the Commission must consider, as it has with the ILECs, the impact of any transition or the current circumstances in each market segment. Given the relative financial impact on the CLECs and the ILECs of the CALLS versus the AT&T reduction in access charges, it becomes immediately obvious that public policy does not support the disparate treatment that results. Competition at the local exchange level cannot be enhanced by crippling the new entrants.

Network Plus, therefore, supports a proposal that would immediately reduce CLEC access charges to 2.5¢ per mou declining to .5¢ per mou over a five year period. This reduction would result in equal CLEC/ILEC access charges at the end of the transition period.

Sincerely,

James Crowley / KJF

James Crowley
Chief Operating Officer of Network Plus, Inc.

cc: Commissioner Harold W. Furchtgott-Roth
Commissioner Susan Ness
Commissioner Gloria Tristani
Magalie R. Salas

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