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EX PARTE OR LATE FILED

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ORIGINAL

VIA HAND DELIVERY

May 8, 2001

EX PARTE

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MAY - 8 2001

Magalie Roman Salas  
Secretary  
Federal Communications Commission  
The Portals  
TW-A325  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: Oral *Ex Parte* Presentation – CC Docket No. 98-141

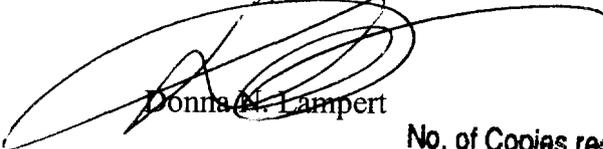
Dear Ms. Salas:

On May 8, 2001, Dave Baker, Vice President of Law and Public Policy for EarthLink, Inc., and the undersigned, of Lampert & O'Connor, P.C., met with Dorothy Attwood, Chief; Glenn Reynolds, Associate Bureau Chief; Michelle Carey, Chief, Policy and Program Planning Division; Jane Jackson, Chief, Competitive Pricing Division; Chris Libertelli; and John Stanley, all of the Common Carrier Bureau, to discuss the above-referenced docket.

In the meeting, we discussed the legal requirement for all dominant carriers to file tariffs under the Communications Act and the FCC's rules, and the impact of the decision of the U.S. Court of Appeals, DC Circuit, in *ASCENT V. FCC* (Case No. 99-1441), January 9, 2001, overturning the FCC's holding that the separate advanced services affiliate of SBC, Inc. is non-dominant. In particular, EarthLink underscored the need to ensure clear, legally enforceable, and publicly available rates, terms and conditions to assist in preventing anticompetitive DSL offerings.

Pursuant to Section 1.1206(b)(2) of the Commission's Rules, four copies of this Notice are being provided to you for inclusion in the public record in the above-captioned proceeding. Should you have any questions, please contact me.

Sincerely,

  
Donna N. Lampert

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**Lampert & O'Connor, P.C.**

May 8, 2001

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CC: Dorothy Attwood  
Glenn Reynolds  
Michelle Carey  
Jane Jackson  
John Stanley  
Christopher Libertelli