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Priscilla Hill-Ardoin
Senior Vice President

SBC Telecommunications, Inc.
1401 I Street, N.W.
Suite 1100
Washington, D.C. 20005
Phone: 202.326.8856
Fax: 202.289.5699



May 23, 2001

EX PARTE OR LATE FILED

Memorandum of Ex Parte Communication

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
TW-A325-Lobby
Washington, D.C. 20554

RECEIVED

MAY 23 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Dear Ms. Salas:

Re: CC Docket No. 98-147, Deployment of Wireline Services Offering
Advanced Telecommunications Capability and
CC Docket No. 96-98, Implementation of the Local Competition Provisions
of the Telecommunications Act of 1996

On Tuesday, May 22, 2001, Priscilla Hill-Ardoin – Sr. Vice President – Federal Regulatory, Matthew Adams – General Manager - Network Regulatory - Collocation, and Christopher Heimann – General Attorney, and Chamar Phillips -Associate Director - Federal Regulatory met with Kyle Dixon, Common Carrier Legal Advisor to Chairman Powell, regarding the above-listed proceedings. The purpose of the meeting was to discuss the remand issues arising from the District of Columbia Circuit Court of Appeals Opinion on the FCC's March 31, 1999 Collocation Order. Specific issues discussed were cross-connects between collocated CLECs, collocation of multifunctional equipment, and selection of collocation space.

The attached material was distributed and discussed during the meeting. We are submitting the original and one copy of this Memorandum to the Secretary in accordance with Section 1.1206 of the Commission's rules.

Please include a copy of this submission in the record of the above-listed proceedings. Also, please stamp and return the provided copy to confirm your receipt. You may contact me at (202) 326-8886 should you have any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Priscilla Hill-Ardoin", is written over a horizontal line.

Attachment

cc: Kyle Dixon

SBC Communications Inc.
Ex Parte Re: Collocation Remand Issues
CC Docket Nos. 98-147, 98-96

The DC Circuit Court ruling was clear and correct: The FCC may not require ILECs to offer CLEC-to-CLEC cross-connects, the collocation of equipment not necessary for interconnection or access to UNEs, or CLEC selection of collocation space.

CLEC-to-CLEC Cross-Connects

The DC Circuit Court ruled that requiring ILECs to provide cross-connects is inconsistent with Section 251(c) (6), which is "focused solely on connecting new competitors to LECs' networks."

- Cross-Connects are not necessary for interconnection or access to UNEs.
- CLECs have the option of provisioning the cross-connects in locations other than the ILEC central office.
- SBC has a market offering that allows cross-connects between collocation arrangements.
 - The cross-connects may be either CLEC self-provisioned or SBC provisioned at access rates.

Multifunctional Equipment

On the issue of multifunctional equipment, the DC Circuit Court ruled that ILECs are only required to allow the collocation of equipment directly necessary for the establishment of interconnection or access to UNEs.

The Court's ruling found that:

- Equipment must be "necessary, required or indispensable" for interconnection or access to UNEs.
- Requiring collocation of equipment not necessary for interconnection or access to UNEs is an improper taking.
- "[D]elay at higher cost for new entrants... cannot be used by the FCC to overcome statutory terms."

Applying these principles, collocation of multifunctional equipment would be permitted under the following conditions:

<u>The equipment must:</u>	<u>The equipment must not:</u>
Contain functions necessary for interconnection or access to UNEs, including such functions required to provide a telecommunications service through the incumbent's network, but which cannot be performed elsewhere.	Contain stand-alone switching functionalities
Utilize power and electronics	Contain enhanced services functionalities
Provide aggregation of traffic and or transport capabilities	Must not duplicate infrastructure functions performed by ILEC (e.g. BDFB's, power plants, batteries, HVAC)

Selection of Collocation Space

It is the responsibility of the ILEC as the property owner to protect and manage its central office. If the ILEC retains the responsibility of selecting collocation space the following benefits would be realized:

- Efficient utilization and management of central office space.
- Consistent protection and management of the network.