

Law Offices

# HOLLAND & KNIGHT LLP

2099 Pennsylvania Avenue, N.W.  
Suite 100  
Washington, D.C. 20006-6801

202-955-3000  
FAX 202-955-5564  
www.hklaw.com

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June 6, 2001

MARGOT SMILEY HUMPHREY  
202-457-5915

Internet Address:  
mhumphrey@hklaw.com

VIA CAPITAL FILING SPECIALISTS

Magalie Roman Salas  
Office of the Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Re: CC Docket Numbers 96-262, 97-146, 96-98

Dear Ms. Salas:

On behalf of TDS Metrocom, a Competitive Local Exchange Carrier (CLEC) serving Tier 2 and Tier 3 cities and suburban areas in Illinois, Michigan and Wisconsin, representatives made an ex parte presentation to Kyle Dixon, Legal Advisor to Chairman Powell, on June 5, 2001. Attending the meeting for TDS Metrocom were its President and CEO, James Butman, its Vice President – Business Operations, Nick Jackson, James Barr, President and CEO of its parent company, TDS Telecom, Mark Jenn, Manager – Federal Affairs for TDS Telecom, and the undersigned.

The group explained to Mr. Dixon why mistaken assumptions and adverse impacts on competition necessitate significant changes in the Commission's decision to require CLECs to tariff and charge only access charges up to the level of the incumbent local exchange carrier's access charges or prescribed transitional levels, except to the extent higher charges are negotiated with interexchange carriers. They explained that TDS Metrocom had set its access charges based on both a broader market rate analysis and examination of its own costs, so that its charges

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Ms. Magalie Roman Salas

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are appropriate and necessary for a CLEC competing in less dense markets and for residential customers without the BOCs' extensive scale economies. The group also stressed the ineffectiveness of relying on negotiations between small CLECs and large interexchange carriers to achieve adequate access rates. The group also gave Mr. Dixon the attached written presentation.

In the event of any questions concerning this matter, please let me know.

Very truly yours,

  
Margot Smiley Humphrey

Enclosure

cc: Kyle Dixon, Esq.

WAS1 #981698 v1

## TDS METROCOM BACKGROUND

TDS METROCOM is a successful, facilities-based CLEC providing service to residential and business customers in various small to medium-sized markets in Illinois, Michigan and Wisconsin. TDS METROCOM is a subsidiary of TDS TELECOM, which also owns 106 ILECs serving predominantly rural areas in 28 states.

<b>Characteristic:</b>	<b>What Makes TDS METROCOM Different from Other CLECs</b>
Investor Funding:	We are not run by short-term venture capital money. Our corporate parent, Telephone & Data Systems provides funding.
Market Segment:	Many other carriers provide voice and data services to small and medium-sized businesses, but our company also focuses on residential voice and data. Of our 90,000 lines, over 35,000 are residential. (In comparison, Ameritech has over 14 million lines in IL, MI and WI.)
Geographic Focus:	We serve small to medium-sized cities that most CLECs have ignored. For example, the Wisconsin communities of Appleton, Beloit, Depere, Fond Du Lac, Green Bay, Janesville, Middleton, Neenah, Oshkosh, Pewaukee, Stoughton to name a few and a number of communities under 10,000 in population. The actual density of customers being served in our market areas is more similar to that of independent ILECs than RBOCs. (METROCOM lines per square mile in service: S. Central Wisconsin - 71, NE Wisconsin - 34, SE Wisconsin - 9) Therefore, things such as access rates have been set in comparison to these peer companies - around 4 cents per minute.
Product Focus:	Our product line is very broad based and it includes local voice, long distance, and data services such as DSL. This includes 3,600 DSL lines of which 2,400 are residential.
Growth Curve:	Although we are growing by over 100% a year, unlike most CLECs our expansion has been well managed and limited to what our support systems can realistically digest. We have plans to expand into Indiana and Ohio, but only if we can project adequate returns.
Provisioning Method:	Given the culture and history of the company we have been very successful using a strict business case focus. As with some other CLECs, we deploy our own switches and use unbundled loops and T-1s, along with limited, business case-justified, fiber over-builds, but we avoid resale and UNE-P as a market entry strategy.
Regulatory Resources:	Our limited regulatory resources have been focused on important operational issues at the state level such as interconnection negotiations, unbundled element pricing dockets, proceedings to ensure adequate access to ILEC OSS and complaint and enforcement activities.
RBOC Relationship:	We are viewed as a credible competitor who manages issues with factual data and is serious about solving operational problems. We want to spend our time winning customers, not winning regulatory games.

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## ISSUES OF CONCERN TO TDS METROCOM

### General

- Increasing trend of policymakers to assume costs for CLECs are equivalent to those of RBOCs, when CLEC cost structure is much more similar to independent ILECs.
- Issues of concern to smaller and regional CLECs are not adequately represented when national CLECs, IXCs and RBOCs negotiate proposals and battle in regulatory arenas.
- Recent rulings establishing "regulatory certainty" have made it more difficult to compete profitably in smaller cities and the residential market, where margins are thin.

### CLEC Access Order (CC 96-262, CC 97-146)

- The CLEC Access Charge Order has significant consequences for small to medium-sized CLECs that don't have national scale or qualify for a rural exemption. Revenue losses jeopardize business plans and make it difficult to convince investors to fund expansion.
- TDS METROCOM's proposal to use cost and density-based RBOC access pricing zones to allow for the recovery of legitimate CLEC access costs in certain geographic areas was not considered or even read by the Commission, although it was properly filed and the FCC has recognized the need for UNE and USF deaveraging to reflect geographical cost differences
- The provision to exclude new markets from the transition plan penalizes CLECs. It ignores the fact that it takes 12-18 months to plan and execute a new market deployment. Carriers with growth plans already in process will be deprived of the revenues needed to justify new market deployment.
- The provision allowing negotiation of rates above ILEC-based rates is in effect useless. Major IXCs refuse to negotiate in good faith with non-national CLECs. For example, one major IXC rescinded all settlement proposals after the CLEC Access Charge Order was released, claiming that the 2.5-cent cap should be applied to past access traffic as well.
- 800 traffic has the same cost characteristics as other access traffic and should be treated subject to the same modified transition plan needed for lower tier and residential markets.

### Unbundled Network Elements (CC 96-98)

- RBOC claims that high capacity loops and dedicated transport are "ubiquitously" available are unsupported in the urban core and ridiculous everywhere else. Elimination of these UNEs will severely harm competition in the business market, especially for small businesses where it will never be economically viable to over-build facilities using current technology.
- RBOC pressure to raise UNE prices will hurt competition, especially in the residential market. In WI, proposed loop rates would rise from \$10 to \$30-44 when retail rates are \$6-8.
- Access to UNE-Ps should continue in order to allow CLECs flexibility and it will help efficient competition as CLECs over-build only where it makes economic sense.

### Performance Problems

- Provisioning problems still occur especially when it comes to high capacity loops which can take up to 2-3 months to provision instead of the 72 hours that is required in most areas.
  - Responsiveness of RBOC personnel is erratic and those that gain knowledge on CLEC issues are reassigned frequently or have taken early retirement packages. (TDS METROCOM has had 6 different account managers in 5 years.) Most problems must be escalated several levels for resolution.
  - Long, drawn-out complaint proceedings tax limited CLEC resources and usually result in insignificant penalties that do little to deter anti-competitive behavior.
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