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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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July 6, 2001

MARGOT SMILEY HUMPHREY
202-457-5915

Internet Address:
mhumphrey@hklaw.com

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

Re: CC Docket No. 96-262

Dear Ms. Salas:

On July 6, 2001, the attached letter and attachment was sent to Dorothy Attwood on behalf of TDS Metrocom, Inc.

Pursuant to Commission Rule 1.1206(b)(2), two copies of that letter and attachment are being provided to you for inclusion in the public record for the above-referenced proceeding.

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

Very truly yours,

Margot Smiley Humphrey

Margot Smiley Humphrey

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MARGOT SMILEY HUMPHREY
202-457-5915

Internet Address:
mhumphrey@hklaw.com

Dorothy Attwood, Esq.
Chief, Common Carrier Bureau
Federal Communications Commission
445 Twelfth Street, S.W., Room 5-C450
Washington, D.C. 20554

Re: Access Reform; Reform of Access Charges Imposed by Competitive Local Exchange Carriers – CC Docket No. 96-262

Dear Ms. Attwood:

TDS Metrocom, Inc. (Metrocom), a Competitive Local Exchange Carrier (CLEC) that targets its services to small and midsized markets and residential customers in several Midwestern states, submits this ex parte letter in connection with the above-captioned proceeding, in which TDS Metrocom and others have requested reconsideration and stay of the Commission's April 27, 2001 decision. TDS Metrocom has urgently requested that the Commission refrain from applying its benchmarks for lawful tariff charges to CLECs that serve less dense, higher-cost markets in competition with large urban-centered price cap carriers. Smaller market CLECs, including Metrocom, do not qualify for the Commission's narrow exemption for the most rural CLECs, but lack the lowest-cost urban markets that allow the biggest incumbents to recover their costs via averaged access charges that would not recover the largest carriers' stand-alone costs for smaller markets, let alone the costs of CLECs trying to gain market presence outside the nation's Tier 1 markets.

The only means (other than infeasible end user rate increases) the Commission's order identifies for CLECs whose costs exceed the incumbent-based benchmark charges to recover the lost revenues formerly recovered in their access charges is to negotiate higher access charges with the interexchange carriers (IXCs) with which the CLECs interconnect. The attached letter, received after TDS Metrocom had submitted its filings indicating that negotiations with IXCs are not a realistic prospect to recover CLECs' costs above the benchmarks, confirms a major IXC customer's written refusal to negotiate any above-benchmark rates with TDS Metrocom.

TDS Metrocom urges the Commission to grant timely and adequate relief that will enable CLECs to serve otherwise neglected non-Tier 1 markets and residential customers and to recover a fair share of their access costs from their wholesale IXC customers.

Very truly yours,

Margot Smiley Humphrey

Margot Smiley Humphrey

cc: Kyle Dixon
Jeff Dygert
Rich Lerner
Tamara Preiss
Jack Zinman

Sprint

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JUL 2 2001

Gary B. Lindsey
6500 Sprint Parkway
Mailstop KSOPHL0412-4A153
Overland Park, KS 66251-1666
Voice: (913)315-5406
Fax: (913)315-0304
e-mail:
gary.b.lindsey@mail.sprint.com

June 26, 2001

TDS Metrocom
Attn: Brenda Wendt
N.W. 8702
P.O. Box 1450
Minneapolis, MN 55485-8702

Re: *Access Charge Reform* (CC Docket No. 96-262), *Seventh Report and Order*, FCC 01-146 (April 27, 2001)

Dear TDS Metrocom:

As you are no doubt aware, the Federal Communications Commission ("FCC") in the above-referenced *Seventh Report and Order* in the *Access Charge Reform* proceeding has prescribed benchmark levels for the access rates that CLECs are able to charge their switched access-service consumers. Specifically, the FCC determined that if CLECs set their access rates at or below the FCC prescribed benchmark, such rates "will be conclusively presumed to be just and reasonable." *Id.* at ¶40

Under the regulatory paradigm established by the FCC, the tariff rates for access services in those metropolitan statistical areas (MSAs) where the CLEC is actually serving end users will, upon the effective date of the decision, not be allowed to exceed the lower of the CLEC's lowest tariffed rate charged at any time during the 6 months preceding such effective date or the FCC's prescribed benchmark rate which for the first year is $0.025 per minute. *Id.* at ¶57. If, however, the access rates of the ILEC with which the CLEC is competing in the study area of the relevant end user are higher than $0.025, the CLEC will be permitted to tariff access rates up to the level charged by such ILEC. *Id.* at ¶51. Moreover, CLECs that begin to provide service in any MSA after the effective date of the decision will only be allowed to tariff access rates at the level of the competing ILEC. *Id.* at ¶58. *See also* 47 C.F.R. §61.26. In addition, TDS Metrocom will need to ensure that its tariffed rates continue to comply with the Commission's benchmark regulation in each subsequent year beginning June 20.

Even if TDS Metrocom does not modify its access tariffs as required by the FCC or decides to operate on a detariffed basis, Sprint will pay TDS Metrocom no higher than the FCC's prescribed rates for all access traffic received from or delivered to TDS Metrocom from June 20 forward. Sprint is simply not interested in and will not enter into a contract (either express or implied) with TDS Metrocom that establishes rates higher than those prescribed by the FCC's benchmark mechanism. And, of course, no CLEC will be able to unilaterally impose such higher rates. *Seventh Report* at ¶40.

Sprint continues to be interested in negotiating a settlement of outstanding billing disputes with TDS Metrocom. Please contact Linda Shipman at (913) 315-5434 to initiate those discussions.

Sincerely,

Gary Lindsey
Director, Access Verification