

ORIGINAL

EX PARTE OR LATE FILED

BELLSOUTH

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Robert T. Blau, Ph.D., CFA
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August 1, 2001

RECEIVED

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

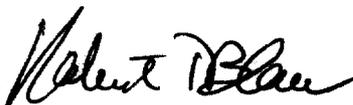
Re: Ex Parte in CC Docket 96-98

Dear Ms. Salas:

This is to request that you please add the attached notice of ex parte to the file of CC Docket 96-98. It was filed on July 26, but inadvertently omitted this docket number. As you will see, it listed only CC Docket 98-147.

Pursuant to Section 1.1206(a)(1) of the Commission's rules, we are filing two copies of this notice and the previously filed ex parte notice. Please associate this notification with the record of CC Docket 96-98. Please contact Steve Long at 202-463-4107 if you have any questions regarding this matter.

Sincerely,



Attachment

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BELLSOUTH

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**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Ex Parte in CC Docket 98-147

Dear Ms. Salas:

I am writing to advise you that Herschel Abbott, Vice President of Government Affairs, and I met on July 24, 2001 with Kyle Dixon, Legal Advisor to Chairman Powell to discuss issues raised by permitting commingling or otherwise modifying the "safe harbors" adopted in the Commission's Supplemental Order Clarification in the above-captioned docket. BellSouth argued that any action that would increase the ability of CLECs to convert special access circuits to unbundled loop/transport combinations would be contrary to the law and sound public policy.

In particular, BellSouth explained that CLECs cannot be impaired by an inability to make such conversions because they already are successfully providing the services they seek to offer through combinations of their own facilities, circuits obtained from other CLECs or wholesalers, and ILEC special access services. BellSouth also noted that expanding conversion rights would improperly prejudice issues raised by the RBOC Joint Petition regarding high-capacity loops and dedicated transport as well as the broader special access conversion proceeding, and would increase rather than decrease CLECs' reliance on ILEC networks.

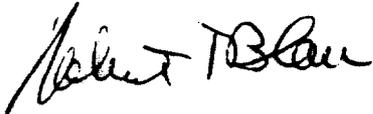
Modifying the safe harbors, in addition, could cause substantial and unwarranted revenue losses for BellSouth and other ILECs and would undermine past and future investments by facilities-based CLECs. We further discussed our view that there is no compelling need for action on the commingling proposal, and we suggested that the Commission would be better served by addressing all pending UNE issues in a logical progression. To that end, we recommended that the Commission first

Ms. Magalie Roman Salas
July 26, 2001
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consider whether the component parts of loop/transport combinations continue to meet the impairment test. If the Commission concludes that they do not, then the commingling issue is moot. If the Commission concludes that they do, it would then need to consider whether CLECs are impaired without the ability to convert special access services to UNE combinations under any circumstances. Only if the Commission determines that such impairment exists in some cases -- a conclusion that BellSouth believes cannot rationally be made -- should it address the scope of the "safe harbors."

Pursuant to Section 1.1206(a)(1) of the Commission's rules, we are filing two copies of this notice and that ex parte presentation. Please associate this notification with the record of CC Docket 98-147. Please contact the undersigned if you have any questions regarding this matter.

Sincerely,



Attachment

cc: Kyle Dixon

CCB's Commingling Proposal

- **Commingling means that CLECs would be allowed to connect special access services directly to unbundled network elements without having to use collocation space.**
- **Under the CCB proposal, as much as 50 percent of BLS' DS1 circuits and about 15 percent of our DS3 circuits would have to be re-priced at TELRIC rates.**
- **There are at least three compelling legal reasons why the Commission should not relax the commingling restrictions at this time.**
 1. **CLECs cannot possibly be "impaired" without being able to convert existing SA services to loop-transport combos given that they are currently using SA services to profitably provision high cap services to end users.**
 2. **Commission cannot rationally permit re-pricing of special access at TERIC rates only months after affording BLS and other ILECs pricing flexibility in large MSAs on the grounds that those markets are becoming increasingly competitive.**
 3. **It would be irrational for the Commission to expand access to loop/transport combos without first determining whether the component parts continue to meet the impairment test. Adopting the CCBs recommendation would improperly prejudice this and a host of related UNE issues.**
- **Relaxing the commingling restrictions will inflict further financial harm on the entire local exchange carrier industry, not just the ILECs, at a time when telecom stocks are clearly out of favor with investors.**
 1. **With 10 or more facilities based CLECs operating in larger metro markets, any reductions SA charges that accrue to the CLECs as a result of the Commission relaxing commingling restriction will almost certainly get flowed through to end users – as cash strapped carriers cut rates in an attempt to gain market share. Because other carriers will naturally follow suit, operating margins of CLECs as well as ILECs will get squeezed at a time when access to capital is already very problematic.**
 2. **Because the lion's share of saving that result from relaxing the commingling restriction will accrue to Big 3 LD carriers, the CCB proposal will put CLECs that compete with AT&T, WorldCom and Sprint in the LD market at a competitive cost-disadvantage.**
 3. **Since any Order on commingling will invariably give rise to a new wave of disputes and complaints about which circuits qualify for UNE pricing vs. those that don't, the CCB proposal will very likely add confusion and perceived regulatory risk of investing in local network facilities.**
- **The Commission should address all pending UNE-related issues in coordinated and coherent fashion, instead of bumping the commingling issues up to the head of the line.**