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August, 6, 2001

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Magalie R. Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: ***Ex Parte***
CC Docket No. 96-262

Dear Ms. Salas:

Pursuant to Section 1.1206(a) and (b) of the Commission's rules, this will provide notice that on August 3, 2001, the undersigned and Pamela Arluk, Focal Communications Corporation, met with Jeffrey Dygert and Tamara Preiss of the Common Carrier Bureau concerning issues in the above-captioned proceeding. We presented the views set forth in the attached document which was provided at the meeting.

Sincerely,

Patrick J. Donovan

cc: Jeffrey Dygert
Tamara Preiss

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8YY TRAFFIC ISSUES

- The *CLEC Access Charge Reform Order* Addressed AT&T's complaints regarding 8YY traffic. AT&T has complained that CLECs aggregate 8YY traffic from customers, charge high switched access rates from interexchange carriers ("IXCs") and share the revenue with their customers. The *Access Charge Reform Order* establishes a benchmark which eliminates CLEC ability to engage in such practices. All traffic, including 8YY traffic, is subject to the benchmark rate that will eventually be equal to the ILEC rate.

- There is no reason for 8YY traffic to be treated any differently than 1+ traffic. CLECs incur the same costs in originating 8YY traffic as they do for originating or terminating standard 1+ traffic. 8YY traffic travels the same path and utilizes the same facilities as 1+ traffic. Indeed, ILECs charge the same access rates for 8YY calls as they do for 1+ calls. There is no reason that the standard should be different for CLECs.

- Contrary to AT&T's claims, there is no link between commission payments to customers and access charges. Indeed, commission payments are used in competitive markets as a market entry mechanism. Hospitals, hotels and universities are desirable customers because they generate a substantial volume of calls. However, the volume of calls is unrelated to whether commissions are paid to the customer—the calls would occur regardless.

- To the extent CLECs have a higher percentage of 8YY access traffic than ILECs, this is a function of the fact that CLECs serve businesses that use 8YY services more on average than ILEC customers, which include more residential customers.

- Focal has never charged higher access rates to IXCs for 8YY traffic. Focal has only used commissions, in the form of credits for future service, to help entice customers to switch its service to Focal.

- Commissions to desirable customers are standard industry practices and are used by numerous carriers. AT&T, for example, provides commissions to payphone premises owners for choosing AT&T as the preferred interexchange carrier serving the payphones on their premises.

- For the same policy reasons the Commission determined CLECs need a transition in lowering their access charges, 8YY traffic needs the same transition. As the Commission noted, CLECs need a gradual transition rather than a "flash cut" to allow them to adjust their business plans.