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May 9, 2002

EX PARTE

Marlene H. Dortch
Secretary
Federal Communications Commission
Room TW-A325
445 Twelfth Street, S.W.
Washington, DC 20554

Re: CC Docket Nos. 01-318; 98-56; 98-147; 96-98; 98-141

Dear Ms. Dortch:

On May 8, 2002, Kevin Joseph, Mary Albert, and Doreen Best of Allegiance Telecom (“Allegiance”) and I met with Daniel Shiman, John Stanley, Cathy Zima, Ben Childers, and Uzoma Onyeije of the Wireline Competition Bureau; Mark Stone of the Enforcement Bureau; and Jerry Stanshine of the Office of Engineering and Technology. During the meeting, we made the following points.

- Federal performance measurements and standards should establish a minimum set of requirements applicable in all states. States must, however, be allowed to establish standards that are more exacting than those established by federal rules, and states must be allowed to establish measurements and standards governing wholesale functionalities that are not addressed by the federal performance measurements and standards.
- Whenever possible, federal requirements should be based on ILEC best practices. That is, where an ILEC is able to accomplish a wholesale activity in a manner that is more efficient than others, the Commission should establish a rebuttable presumption that the more efficient practice applies to other ILECs. To rebut this presumption, ILECs would be required to come forward with compelling evidence that compliance is technically infeasible.
- The list of 13 performance measurements and standards proposed by Allegiance in its comments in this proceeding should be adopted because they are narrowly tailored to address the most pressing problems facing facilities-based CLECs. Moreover, wherever possible, Allegiance incorporated ILEC best practices into its proposed measurements and standards.

For example, Pacific Bell has established a procedure for performing facilities checks before sending a FOC to Allegiance. The Allegiance FOC performance measurement and associated standard incorporates this best practice.

- Finally, the Commission must reject ILEC arguments that the UNE performance measurement proceeding should be used as a vehicle for reducing national performance requirements to the lowest common denominator by establishing minimal federal requirements and preempting all state requirements. Such an approach would severely and needlessly harm competition. It would be better for the Commission to do nothing in this proceeding than to adopt such an approach.

Pursuant to Section 1.1206(b)(2) of the Commission's rules, 47 C.F.R. § 1.1206(b)(2), a copy of this letter is being filed electronically for inclusion in the public record of each of the above-referenced proceedings.

Sincerely,

/s/

Thomas Jones

cc: Daniel Shiman
John Stanley
Cathy Zima
Ben Childers
Uzoma Onyeije
Mark Stone
Jerry Stanshine