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June 28, 2002

VIA ELECTRONIC FILING

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Notice of Ex Parte Meetings
CC Docket Nos. 01-338, 96-98, 98-147

Dear Ms. Dortch:

Pursuant to Section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, this will provide notice that on June 27, 2002, Kevin O'Hare, President and Chief Executive Officer, and John Lozzi, Vice President, Regulatory and Carrier Relations, of Lightship Telecom, L.L.C. and the undersigned met with Dorothy Attwood, Jeffrey Carlisle, Tom Navin and Jeremy Miller, of the Wireline Competition Bureau, to discuss regulatory issues relating to the above-referenced dockets.

A summary of the facts and legal positions discussed during the meeting is attached to this letter.

Sincerely,

/s/

Russell M. Blau
Attorney for Lightship Telecom, L.L.C.

cc: Dorothy Attwood
Jeffrey Carlisle
Tom Navin
Jeremy Miller

LIGHTSHIP TELECOM, L.L.C.

Summary of *Ex Parte* Meetings, June 26, 2002

Lightship Telecom, L.L.C. is a competitive telecommunications carrier with offices in Maine, New Hampshire, Vermont, and Massachusetts, that provides a full range of local dial tone, long distance, and high-speed digital Internet services to small and medium-sized business customers in northern New England.

Lightship provides services primarily using its own switching equipment, and obtains access to customers by means of unbundled network elements (UNEs) (especially 1.544 Mbps loop elements); UNE combinations (EELs); and high-capacity special access services. For smaller customer locations, constituting a minority of its customer base, Lightship also uses UNE Platform combinations in lieu of its own switching equipment. Lightship is collocated in approximately 30 Verizon central offices across its four-state market. In these offices, where Lightship can connect UNE loops directly to its own facilities, Lightship does not need to obtain EELs or UNE Platform combinations. Due to the relatively low density of most of Lightship's service territory, and the high capital cost associated with collocation, however, it is not economically feasible for Lightship to collocate in a much larger number of central offices scattered throughout northern New England. Therefore, Lightship would be impaired in its ability to compete without continued access to EELs and UNE Platform combinations.

In considering the standard for determining "impairment," particularly in light of the recent D.C. Circuit decision, the Commission should recognize the very significant differences between large metropolitan areas such as Boston, and the smaller suburban and small-urban markets served by Lightship (such as Burlington, VT; Manchester, NH; Portland, ME; and Springfield and Worcester, MA). Some of the markets served by Lightship are outlying portions of the Boston Metropolitan Statistical Area, but the customer densities and switch line-counts in these areas are not comparable to those in downtown Boston by any means. The Commission should not rely on MSA boundaries as a means of differentiating between urban and non-urban areas, as this would paint with far too broad a brush.

While competitive carriers in the large metropolitan markets may have alternatives in some instances to ILEC-provided network elements, similar alternatives are generally non-existent in Lightship's market. Some competitive inter-office facilities do exist in these areas, but very few (if any) end-user premises are served by these facilities. Moreover, in most of the markets Lightship serves there is only one competitive fiber network provider (Adelphia in Vermont, NEON in western Massachusetts and southern Maine), and both of these companies have recently filed for Chapter 11, suggesting that the deployment of any additional facilities in these areas is very unlikely for the foreseeable future. Thus, Lightship has alternatives to ILEC-provided interoffice transport elements only in limited instances, and has no alternatives to ILEC-provided loop elements. Self-provisioning of loops is not a realistic option in these markets, due to the low customer density and the high fixed cost of installing loops. Lightship's ability to compete would clearly be impaired without access to 1.544 Mbps loop elements.

With respect to the local switching UNE, Lightship has found that the economic feasibility of connecting customers to its own switching equipment depends on whether there is a sufficient density of access lines in a particular central office to justify the substantial fixed capital cost of collocation. If a customer desires service in an area where Lightship does not have the necessary density (such as a bank or store that has branch locations in many smaller cities and towns), Lightship is unable to use its own switching capacity due to the high cost of connecting these customers to the switch. Therefore, Lightship would be impaired in its ability to serve these more dispersed customers if it did not have access to UNE combinations that include the local switching element.

Because the need for the local switching element is based on inherent density characteristics of local markets, which are unlikely to change over short periods of time, Lightship believes that any time limitation on the use of UNEs as an incentive for companies to invest in facilities-based networks would be misguided. In some markets, due to low customer density, it will *never* be economically rational for a competitor to transition from a UNE Platform to facilities-based service. Furthermore, time limits would be practically very difficult to administer, and would force CLECs to reallocate their sales and operations efforts in an effort to meet arbitrary deadlines. However, if the Commission believes that some limitation on the use of UNE Platform combinations is needed to create an incentive for investment, Lightship suggests that a line-count limitation would be more effective and reasonable than a time limit. For example, a rule allowing an ILEC to withdraw the local switching UNE from a requesting carrier in a particular central office a certain number of months after that carrier reaches a threshold line count (such as 500 access lines) in that central office would create an incentive for economically rational investment. If the requesting carrier failed to make the necessary investment to connect the customers to its own switch at that point, it would have to convert the access lines to resale service, generally at a much lower margin.

Finally, Lightship disputes the RBOC argument that unbundling obligations deter RBOC capital investment. RBOC investment in outside plant facilities is primarily driven by two factors – trouble reports, and growth. The companies naturally make it a priority to replace older plant that is not in good condition, which is a common problem in northern New England, to reduce the frequency of trouble reports. (Lightship has often experienced outages on Verizon T-1 loop circuits during rainstorms.) They also install new facilities to serve newly developed parcels. Next to these two drivers of investment, competitive considerations such as UNE demand are relatively insignificant factors.