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August 16, 2002

Marlene Dortch
Secretary
Federal Communications Commission
The Portals
TW-A325
445 12th Street, S.W.
Washington, D.C. 20554**RECEIVED**

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Reference: CC Docket Nos. 01-321, 00-51, 98-147, 96-98, 98-141, 96-149, 00-229, and
RM 10329.

Dear Ms. Dortch:

On January 22, 2002, the Joint Competitive Industry Group ("JCIG") submitted for the record in the above-referenced dockets a "Proposal Regarding Performance Metrics and Installation Intervals for Interstate Special Access Services" in which it set forth proposed performance standards for the provision of special access services by incumbent local exchange carriers ("LECs"). In its Reply Comments filed February 12, 2002 in the Special Access Performance Standards proceeding, EarthLink, Inc. ("EarthLink") urged the Commission to adopt performance standards and reporting requirements for Digital Subscriber Line ("DSL") services as part of its special access services decision.

Although it does not specifically so state, the JCIG proposal would appear to encompass DSL service: DSL meets the proposal's definition of special access as an "exchange access service that provides a transmission path between two or more points, either directly or through a central office, where bridging or multiplexing functions are performed, not utilizing ILEC end office switches," and the proposal states that special access services include "broadband services." This is consistent with the points noted in EarthLink's Reply Comments of February 12 that the FCC has repeatedly classified DSL services as within the special access category of interstate access services, and that LECs include DSL in the special access portions of their tariffs. However, despite this apparent acknowledgement that DSL services are special access services, the individual performance measurements and standards themselves are unclear as to whether or how the JCIG-proposed measurements and standards apply to DSL services.

As a national Internet Service Provider ("ISP") with a particular focus on offering consumer broadband services, EarthLink depends on the wholesale DSL provisioning performance of incumbent LECs to offer its end-user subscribers high-speed Internet access services. Incumbent LEC performance in ordering, provisioning, maintenance and repair of DSL

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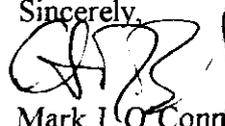
service arrangements strongly influences EarthLink's ability to provide high-quality services to end-users and to enter new markets quickly and efficiently. Reliable, timely, and efficient performance enhances consumer welfare by spurring the introduction of new services and reducing obstacles to consumer satisfaction.

A clear set of performance metrics and attendant reporting obligations will serve the public interest in promoting efficient, reliable and competitive DSL services. Not only will consumers and their ISPs be able to assess the relative performance of the incumbent LECs in providing, maintaining and repairing services, they will be able to adjust their expectations to be consistent with actual provisioning performance.

Providing such benefits to consumers need not require substantial changes to the JCIG proposal. Rather, EarthLink proposes simply to add a reference to DSL wherever the JCIG proposal refers to DS0 or DS1 services.

Clarifying the JCIG proposal to ensure that it includes DSL services will serve the public interest by improving incumbent LEC DSL services ordering, provisioning, and maintenance and repair. Accordingly, EarthLink urges the FCC to adopt the JCIG proposal with the explicit inclusion of DSL services as described above.

Sincerely,



Mark J. O'Connor

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