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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

October 9, 2002

VIA COURIER

Marlene H. Dortch, Secretary
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, D.C. 20554

EX PARTE OR LATE FILED

Re: Notice of *Ex Parte* Meeting in CC Docket No. 99-68, CC Docket No. 96-98, CC Docket No. 01-339, and WC 02-306

Dear Ms. Dortch:

Pursuant to Section 1.120(b)(2) of the Commission Rules, this letter is to provide notice in the above-captioned proceedings of an *ex parte* meeting. On October 8, 2002, John Sumpter (Vice President-Regulatory of Pac-West Telecomm, Inc.) and the undersigned met with Pamela Arluk, Renee R. Crittendon, Brad Koerner, John Stanley, Jack Yackbes (all of whom are with the WCB/CPD), Joanne Wall (OGC), Rhonda Lien (CCB/PPD), Aaron Goldschmidt (WCB/PPD), Connie Hellmer (EB/IHD), John Hays (WCB/IATD), Susan German (EB/TCD), and Sean O'More (CGB/DRO).

At the meeting, we discussed the structure of the Pac-West network and the negative impact on network development and deployment of the Commission's interim compensation structure for intercarrier compensation for ISP-bound traffic. As a result of that compensation structure, Pac-West exited markets it had entered shortly before the imposition of the compensation structure and did not expand into new markets. Given the anticompetitive impact of the interim compensation structure, Pac-West urged that the Commission remove the new market and growth cap provisions of its intercarrier compensation Order for ISP-bound traffic.

We also discussed the pending application of Pacific Bell for interLATA authority. We noted that Pac-West has experienced significant delays in having large blocks of numbers ported from Pacific Bell to Pac-West and the negative effect of such delays on Pac-West's customer relations. We noted that Pacific Bell's pricing for resale DSL services created a classic price

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squeeze resulting in Pacific Bell's continued monopoly in that market. We also noted that the Commission must carefully consider the factual findings concerning Pacific Bell's anti-competitive conduct made by the California Public Utility Commission in the Commission's determination as to whether approval of the Application is in the public interest under Section 271(d)(3)(C).

Pursuant to Section 1.1206(a)(i) of the Commission's Rules, an original and one copy for each docket of this letter are being submitted to the Secretary for filing in the above-referenced proceeding.

Sincerely,

Richard M. Rindler

RMR/kas

cc: Pamela Arluk (WCB/CPD)
Renee R. Crittendon (WCB/CPD)
Susan German (EB/TCD)
Aaron Goldschmidt (WCB/PPD)
John Hays (WCB/IATD)
Connie Hellmer (EB/IHD)
Brad Koerner (WCB/CPD)
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