



Jay Bennett
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November 5, 2002

VIA ELECTRONIC SUBMISSION

Ms. Marlene H. Dortch
Secretary
Office of the Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Dear Ms. Dortch:

Re: **Memorandum of Ex Parte Communication**
CC Docket No. 01-338, Review of the Section 251 Unbundling
Obligations of Incumbent Local Exchange Carriers

CC Docket No. 96-98, Implementation of the Local Competition
Provisions in the Telecommunications Act of 1996

CC Docket No. 98-147, Deployment of Wireline Services Offering
Advanced Telecommunications Capability

On November 1, 2002, Dr. Howard Shelanski, met separately with Chairman Powell, Christopher Libertelli, Legal Advisor and Jonathan Cody of the Office of Plans and Policy; Commissioner Abernathy and Matt Brill, Acting Senior Legal Advisor; and Commissioner Martin and Daniel Gonzalez, Senior Legal Advisor. The meetings were on behalf of BellSouth, SBC, Qwest and Verizon.

Dr. Shelanski stated that where CLECs are not impaired without access to unbundled switching, the FCC must eliminate the UNE platform. Any resulting transition plan for customers served using UNE-P must be clear, finite and provide meaningful incentives for both CLECs and ILECs. He explained that the impairment analysis for transport must be considered independently of any other UNE. Such an analysis should not be carrier specific and the current use of special access supports a strong presumption against impairment. Additionally, the FCC should not modify its local use and commingling conditions for the conversion of existing special access services to EELs. Finally, Dr. Shelanski urged the FCC to provide a clear determination of what constitutes impairment and not permit states to override that determination.

Pursuant to Section 1.1206(b) of the Commission's rules, this *ex parte* is being electronically filed. I ask that this *ex parte* be recognized with the proceedings identified above.

Please call me should you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Jay Bennett". The signature is written in a cursive style with a large, looping initial "J" and a horizontal line extending from the end of the name.

cc: Chairman Powell
Commissioner Abernathy
Commissioner Martin
C. Libertelli
J. Cody
M. Brill
D. Gonzalez