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Jason D. Oxman
***Vice* President and Assistant General Counsel**

20 November 2002

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

96-98

Re: *Triennial Review.* WCB Docket No. **01-338**

Dear Ms. Dortch:

Covad Communications Company (Covad), by its attorneys, hereby respectfully submits this *ex parte* letter and attached declaration in response to rhetorical claims made by certain incumbent telephone companies that the FCC's linesharing rules have not benefited consumers. In stark contrast to these unsubstantiated claims, the facts on the record in this proceeding demonstrate conclusively that the linesharing UNE has been directly responsible for an explosion in broadband deployment, and a pro-consumer reduction in broadband prices, since 1999. Not only is broadband deployment exploding overall, hut also digital subscriber line (DSL) services in particular are posting heretofore unseen growth levels. Just this week, on the third anniversary of the FCC's Linesharing Order, Telecommunications Reports released its quarterly Online Census, which found that the growth of the DSL customer base in the U.S. is significantly outpacing cable modem services. For example, DSL customers now make up more than 43 percent of broadband subscribers – up from 33 percent only one year ago.[1] Today, ***6.5*** million Americans subscribe to DSL services, a growth rate of more than 47 percent since March I of this year (cornpared to only 12 percent cable modem growth), and a growth rate of 83 percent in the last year (compared to 62 percent cable modem growth).[2]

In short, the three short years since the FCC required incumbent LECs to unbundle the upper frequencies of loops has been marked by unparalleled growth in DSL services in this country. Consumers and small businesses have been the benefificiaries of the Commission's linesharing rules: as the attached declaration sets out, consumer welfare of over *one billion dollars* is the direct consequence of linesharing rules. The simple explanation for this consumer welfare is competition: in a competitive market, all players have incentive to deploy service as widely as possible and offer competitive

[1] TR Online **Census** at 1 (attached).
[2] *Id.*

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prices and innovative services to woo potential customers. **As** Covad has argued *to* the Commission in great detail, DSL competition is only possible through linesharing, and that basic fact is unchallenged on the record.

In order to ensure that the Commission has the best possible economic data available on the record in this proceeding, Covad hereby submits the analysis of economists Stephen Siwek and Su Sun of Economists, Inc. These experts analyze the consumer welfare benefits of the FCC's linesharing rules, and conclude that consumers have already enjoyed over a *billion dollars* in economic benefit from linesharing, and that benefit will continue to grow only if the FCC's linesharing rules remain in place. In addition, the attached declaration examines the benefits of linesharing to deployment of both ILEC and CLEC broadband services, and concludes that a broadband duopoly – which would result if the FCC were to eliminate its linesharing rules --would lead to higher prices and decreased deployment of broadband services. In short, this expert economic analysis reaches the same conclusions that the Commission itself has reached in numerous proceedings – the broadband competition made possible by linesharing is bringing consumers lower prices, innovative service offerings, and widespread broadband deployment from a variety of facilities-based providers, incumbents and competitors alike.

Please do not hesitate to contact me if I can provide any further information.

Respectfully submitted,

Jason D. Oxman

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