



May 7, 2003

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W., TW-A325
Washington, D.C. 20554

**Re: *Ex Parte* Notice
In the Matter of Appropriate Framework for Broadband
Access to the Internet Over Wireline Facilities, CC Docket No. 02-33**

Dear Ms. Dortch:

On Monday, May 5, 2003, Daniel Mitchell and I met with Christopher Libertelli, Legal Advisor to Chairman Michael K. Powell.

The subject of our discussion was the proposed redefinition of wireline broadband Internet access as an "information service" and the impact that such a redefinition would have on rural telephone companies that are regulated under rate of return. NTCA discussed the Commission's policy of promoting broadband deployment in rural areas and pointed out that the policy could be undermined by a broad sweeping redefinition. The Commission can use other means to ensure regulatory flexibility for those carriers needing it and regulatory parity between carriers providing the services in competitive markets.

NTCA discussed the outline in the attached document which was provided to Mr. Libertelli.

Sincerely,

/s/ L. Marie Guillory
L. Marie Guillory
Vice President
Legal and Industry

cc: Christopher Libertelli

Ex Parte
CC Docket No. 02-33
May 5, 2003

**NTCA Position on Appropriate Framework for Broadband
Access to the Internet Over Wireline Facilities**

- The redefinition of wireline broadband Internet access services as “information services” will defeat the Commission’s broadband policy.
 - The Commission’s goal is to encourage broadband deployment throughout the nation.
 - Rural companies have made substantial progress in deploying broadband under existing rules that permit them to invest in rural areas and share risks through participation in the NECA pools.
 - Rural companies offer wireline broadband Internet access services as common carriers and need the ability to continue to do so.
- Regulatory flexibility may be necessary for some ROR carriers, but mandatory reclassification of the services of all carriers would cause substantial adverse consequences and unpredictable side effects for rural carriers.
 - Some ROR carriers face competition from providers that enjoy pricing flexibility and other advantages because they are not regulated under Title II.
 - The Commission can accommodate the needs of these carriers and larger carriers facing competition without redefining their services in a manner that forces them to forfeit the benefits of NECA pooling, the interstate ROR and sufficient cost recovery.
- Changes should promote universal service goals.
 - Services that are assessed today should continue to be assessed even if they are reclassified.
 - All facilities-based broadband Internet access services should be assessed.
 - These providers provide telecommunications to themselves and compete with providers whose services are assessed.
 - The Commission has ancillary jurisdiction to assess these providers and it should do so to ensure that support is adequate to achieve its universal service goals.
 - Only “telecommunications services” can be added to the list of services supported by the federal mechanisms, so redefinition will not permit support to finish the task of nationwide availability when the time comes.