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**VIA ELECTRONIC FILING**

October 2, 2003

**EX PARTE**

Ms. Marlene Dortch, Secretary  
Federal Communications Commission  
The Portals, TW-A325  
445 12<sup>th</sup> Street, SW  
Washington, D.C. 20554

Re: Oral *Ex Parte* Presentation – CC Docket Nos. 01-338, 96-98, 98-147

Dear Ms. Dortch:

On October 1, 2003, Mark O'Connor and the undersigned, both of Lampert & O'Connor, P.C., on behalf of EarthLink, Inc., had a telephone conference with Jessica Rosenworcel, Legal Advisor to Commissioner Copps, to discuss the above referenced proceedings.

During the presentation, EarthLink discussed the line sharing portion of the FCC's Report and Order and Order on Remand released August 21, 2003. EarthLink noted that as a major customer of line-shared DSL services, the FCC's decision to eliminate the line sharing UNE will have a detrimental impact on its subscribers. EarthLink outlined several issues that it believes compel the Commission to reconsider its decision, noting in particular inconsistencies in the impairment analysis as well as the *USTA* remand issues. EarthLink also pointed out that the transition mechanism will not adequately protect subscribers from the disruption in service that is likely to result from the elimination of line sharing. Finally, EarthLink noted that the line sharing decision was plagued with procedural irregularities. EarthLink indicated its intention to seek reconsideration of the line sharing decision based on these points.

Pursuant to the Commission's rules, one copy of this letter is being filed electronically in each of the above-referenced dockets for inclusion in the public record. Please do not hesitate to call me if you have any questions.

Respectfully submitted,

/s/

Linda L. Kent  
Counsel for EarthLink, Inc.