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January 23, 2004

Via Electronic Filing

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

Re: Access Charge Reform, CC Docket No. 96-262
US LEC Petition for Declaratory Ruling, CC Docket No. 01-92
Oral Ex Parte Notice

Dear Ms. Dortch:

On January 22, 2004, Hank Hultquist of MCI and the undersigned of Lawler, Metzger, and Milkman, LLC, counsel to MCI, met with John Rogovin, Linda Kinney, John Stanley, Jeffrey Dygert, Debra Weiner, and Paula Silberthau of the Office of General Counsel and Victoria Schlesinger of the Wireline Competition Bureau. On the same day, Donna Sorgi of MCI, Mr. Hultquist and the undersigned met separately with Commissioner Copps and Jessica Rosenworcel, Legal Advisor to Commissioner Copps. The purpose of both meetings was to discuss certain matters pending before the Commission in the above-referenced proceedings.

With respect to the petitions for reconsideration and other requests pending in CC Docket No. 96-262, MCI urged the Commission to conclude that the provisions of its April 2001 Order in that proceeding authorized competitive local exchange carriers (LECs) to tariff and assess the benchmark rate for switched access services only if their access service satisfied the requirements of that Order. *See Access Charge Reform, Seventh Report and Order, 16 FCC Rcd 9923 (2001) (Order)*. Otherwise, the Order required competitive LECs to negotiate the terms of their access service with interexchange carriers. MCI also pointed out that both the express text of the FCC's Order (for example, paragraph 58 and 47 C.F.R. § 61.26(a)(3)) as well as the Commission's overall objectives in the proceeding (as noted, for example, in paragraphs

2, 3, 44 and 54) clearly support the conclusion that the Order only authorized competitive LECs to tariff and assess the benchmark rate for traffic originated by or terminated to their end users.

Consistent with this finding and MCI's prior submissions in CC Docket No. 01-92, MCI also urged the Commission to deny US LEC's Petition for Declaratory Ruling. In that regard, MCI pointed out that traditional meet point billing arrangements offered by incumbent LECs involve the provision of service to an interexchange carrier by incumbents each of which is authorized to provide service pursuant to an interstate exchange access tariff. In the case of the US LEC service arrangement, the FCC has explicitly refused to permit Commercial Mobile Radio Service (CMRS) providers to file tariffs governing their provision of interstate access service to interexchange carriers. *See Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services, Second Report and Order, 9 FCC Rcd 1411 (1994)*. MCI argued that the Commission clearly did not intend to overturn this policy when it adopted the April 2001 Order. Moreover, MCI noted that US LEC's tariff did not contain a description of either the jointly provided access service that it claims to offer or the terms and conditions under which such service would be billed to interexchange carriers.

Finally, MCI urged the Commission to act promptly to deny the US LEC petition. MCI noted that it has disputed approximately \$25 million in US LEC charges that do not appear to be generated by end users on US LEC's network and that that amount would continue to grow by about \$1 million per month until the FCC resolved the issues pending before it.

Pursuant to section 1.1206(b)(2) of the Commission's rules, 47 C.F.R. § 1.1206(b)(2), this letter is being provided to you for inclusion in the public record of the above-referenced proceedings.

Sincerely,

/s/ A. Richard Metzger, Jr.
A. Richard Metzger, Jr.

cc: Commissioner Michael Copps
Jessica Rosenworcel
John Rogovin
Linda Kinney
John Stanley
Jeffrey Dygert
Debra Weiner
Paula Silberthau
Victoria Schlesinger