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April 28, 2004

## BY ELECTRONIC FILING

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

Re: *Oral Ex Parte Presentation*  
In the Matter of Performance Measurements and Standards for Interstate  
Special Access Services, CC Docket No. 01-321; Review of Regulatory  
Requirements for Incumbent LEC Broadband Telecommunications  
Service, CC Docket No. 01-337; and Section 272(f)(1) Sunset of the BOC  
Separate Affiliate and Related Requirements, WC Docket No. 02-112

Dear Ms. Dortch:

On April 27, 2004, Lisa Smith, Kimberly Scardino and Alan Buzacott of MCI and A. Richard Metzger, Jr. of Lawler, Metzger, Milkman, counsel to MCI, met with William Maher, Jeffrey Carlisle, Carol Matthey, William Dever, and Robert Tanner of the Wireline Competition Bureau to discuss the above-referenced proceedings. During the meeting, MCI discussed the attached presentation. Consistent with its prior written submissions in these proceedings, MCI stressed that if the Commission considered relaxing regulation of incumbent local exchange carriers' (LECs') provision of intraLATA frame relay and ATM services as dominant carriers, the FCC must adopt specific safeguards such as special access metrics, grooming rules and separate affiliate requirements to ensure that such ATM and frame relay services are available on a competitive basis. MCI also emphasized that similarly effective safeguards would have to be adopted if the FCC decided to consider relaxation of its dominant carrier regulation of incumbent LECs' provision of DSL services.

Marlene H. Dortch  
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In accordance with the Commission's rules, this letter is being provided to you for inclusion in the public record of the above-referenced proceedings.

Sincerely,

A handwritten signature in black ink, appearing to read 'G. Strobel', with a long horizontal flourish extending to the right.

Gil M. Strobel

Attachment

cc: William Maher  
Jeff Carlisle  
Carol Matthey  
William Dever  
Robert Tanner



**Safeguards for Incumbent LECs'  
Provision of Frame Relay, ATM and DSL  
Services**

**CC Docket Nos. 01-337, 02-112, and 01-321**

**April 27, 2004**

# Incumbent LECs Continue to Exercise Market Power in Local Telecommunications Markets

- Incumbent LECs' ownership of bottleneck "last-mile" facilities gives them control over vital inputs to rival ATM, Frame Relay and DSL services
- FCC must not consider relaxing regulation of retail Frame Relay, ATM and DSL offerings without first putting in place necessary safeguards

# Safeguards for Frame Relay and ATM Services

- Special Access Metrics:
  - Adopt JCIG special access proposal, including measurement, reporting, performance standards and enforcement
- Grooming:
  - Eliminate unreasonable grooming restrictions
  - Eliminate existing incumbent LEC grooming backlogs
  - Require incumbent LECs to provide transitional billing for grooming requests that are more than 60 days past due
- Separate Affiliates:
  - Require ILECs to provide all Frame Relay and ATM services through a section 272 separate affiliate, subject to review after 3 years

# Mass Market (DSL) Safeguards

- Stand-alone Copper Loops: Incumbent LECs must continue to provide non-discriminatory access to unbundled copper loops
- Hybrid Loops
  - Incumbent LECs must offer a packet-switched “bit stream” service over hybrid copper-fiber loops at just and reasonable rates to competing carriers and ISPs
  - Service must be available over stand-alone loop facilities as well as UNE-P arrangements
- Line-sharing service
  - Incumbent LECs must provide access, at just and reasonable rates, to the high frequency portion of incumbent LEC loops used to provide voice service

# Mass Market Transitional Non-Discrimination Safeguards

- Transitional safeguards are needed to deter anticompetitive conduct by incumbent LECs previously dominant in the provision of broadband access services
  - Non-Discriminatory Access: Require previously-dominant ILECs to offer high-speed network transmission services and capabilities to all CLECs and ISPs at rates, terms and conditions that are just, reasonable and not unreasonably discriminatory
  - Transparency: Require previously-dominant ILECs to post on websites information regarding offerings
  - Access to New Transmission Services and Capabilities: Require previously-dominant ILECs to provide access to new services and capabilities requested by CLECs and ISPs at just and reasonable rates within 90 days
  - Expedited Enforcement Procedure: Establish expedited Commission complaint process