



May 6, 2004

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

Re: Ex Parte Presentation in CC Docket Nos. 96-262, 01-92

Dear Ms. Salas:

Pursuant to Section 1.1206 of the Commission's rules, NewSouth Communications ("NewSouth") hereby files this written ex parte in the above-captioned proceedings. Today, I met with Daniel Gonzalez in Commissioner Martin's office. NewSouth made the arguments that it has previously raised in these dockets as memorialized in *ex parte* letters filed on January 9 and March 1 and 2, 2004.

A number of parties have proposed that the Commission clarify its *CLEC Access Charge Order* allowing CLECs to charge only for the functionality that is actually provided.¹ To the extent that the Commission agrees with those proposals, then NewSouth request that the Commission clarify that CLECs are entitled to charge for common transport if their switch subtends an ILEC access tandem. In addition, NewSouth requests that the Commission allow CLECs to establish a single common transport charge based on its average mileage between its switch and the ILEC's tandem on a state-by-state basis.

Nothing is gained by requiring that mileage be priced exactly as a particular rate element is priced in an ILEC's tariff. ILEC's themselves are often permitted to tariff prices based on averaged data.² The methodology also has the inherent advantage that a single, averaged rate would be easier to bill and audit, rather than pricing facilities on a route-by-route basis. CLECs do not have the legacy billing systems that ILECs do. Therefore, allowing an averaged rate

¹ Letter from Peter H. Jacoby, AT&T, to Marlene H. Dortch, FCC, CC Docket Nos. 01-92, 96-262 (March 30, 2004); Letter from Henry G. Hultquist, MCI, to Marlene H. Dortch, FCC, CC Docket Nos., 96-262, 01-92 (March 22, 2004).

² For instance, ILECs are permitted to tariff averaged access prices for loops, without charging separate mileage charges for each customer's loop length.

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would avoid the costly upgrades to billing systems that would be necessitated by charging mileage on a route-by-route basis.

NewSouth urges the FCC to reemphasize the conclusions outlined in the January 9 and March 1 and 2 letters so that there is no further litigation and uncertainty with respect to CLEC access charges after June 21, 2004. Please let me know if you have any questions.

Sincerely,

/s/ Jake E. Jennings

Jake E. Jennings
Senior Vice President, Regulatory Affairs
and Carrier Relations

cc: Dan Gonzalez