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May 5, 2004

FEDERAL COMMUNICATIONS COMMISSION  
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Paul C. Besozzi  
(202) 457-5292  
pbsozzi@pattonboggs.com

ORIGINAL

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

Re: Ex Parte Filing - WC Docket No. 04-30

Dear Ms. Dortch.

I am writing on behalf of Gemini Networks CT, Inc. ("Gemini") to respond to the *ex parte* letter filed by AT&T Corp on or about April 26, 2004 in the above captioned docket

Gemini agrees with AT&T Corp. that there is no basis for the Commission to act on SBC's preemption petition at this point. Pursuant to the April 1, 2004 action of the Connecticut Superior Court, the matter is back before the Connecticut Department of Public Utility Control ("DPUC"). The DPUC has reinitiated the proceeding to consider one further requirement ("technical feasibility") of the applicable Connecticut law and has set an expeditious procedural schedule. This could result in modifications to the DPUC decision that SBC has asked the FCC to preempt.<sup>1</sup> Therefore, the SBC petition in effect asks the Commission to preempt a state action that may be changed.

Sincerely yours,

Paul C. Besozzi

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List ABCDE

cc: Richard C. Rowleson, Esquire  
Jennifer D. Janelle, Esquire

<sup>1</sup> On April 21, 2004, the Superior Court did confirm that it had otherwise determined that the DPUC decision was in accordance with Federal law by denying an SBC Motion For Clarification of its April 1, 2004 decision. A copy of the Court's denial of that Motion is attached

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JUDICIAL INFORMATION SYSTEMS  
COUNSEL/PRO SE NOTIFICATION REPORT

REPORT DATE 04/21/2004  
PAGE 01 OF 01

PLAINTIFF - ATTORNEYS AND PRO SE PARTIES

GEORGE MONTEIRO MOREIRA  
310 ORANGE STREET

NEW HAVEN CT 06510

TYLER COOPER & ALCORN  
205 CHURCH STREET  
PO BOX 1956

NEW HAVEN CT 06510

DEFENDANT - ATTORNEYS AND PRO SE PARTIES

AAG TATIANA D BYPRO  
ATTY GEN-FINANCE  
10 FRANKLIN SQUARE

NEW BRITAIN CT 06051

AAG JOHN G HAINES  
ATTY GEN-DPUC  
10 FRANKLIN SQUARE

NEW BRITAIN CT 06051

SHIPMAN & GOODWIN LLP  
ONE AMERICAN RDW

HARTFORD CT 06103

CONN OFFICE OF CONSUMER  
10 FRANKLIN SQUARE

NEW BRITAIN CT 06051

DOCKET NUMBER: CV-04-0525443-5

CASE CAPTION: SOUTHERN NEW ENGLAND  
VS:  
CT.DEPT.OF.PUBLIC

PLEASE BE ADVISED THAT THE FOLLOWING ORDER HAS  
BEEN ENTERED IN CONNECTION WITH THE ABOVE  
CAPTIONED MATTER:

MOTION FOR CLARIFICATION DATED 4/6/04.

DENIED - THE COURT WAS OBLIGATED TO ADDRESS  
THE CRITERIA OF SECTION 16-247B IN DETERMINING  
WHETHER THE DPUC DECISION WAS IN ACCORDANCE  
WITH STATE LAW.

MCWEENY, J.

4/21/04

DANON GOLDSTEIN, COURT OFFICER

SUPERIOR COURT  
20 FRANKLIN SQUARE  
NEW BRITAIN, CT 06051

DATED: APR 21, 2004

MHS NEW BRITAIN

P.02

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Apr 23 '04

FAX:860-515-5146

TRK SESSION