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June 15, 2004

EX PARTE

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
The Portals
445 12th St. SW
Washington, DC 20554

Re: WC Docket 03-251

Dear Ms. Dortch:

During BellSouth's June 2, 2004 meeting with Staff in the above referenced proceeding, Staff requested that BellSouth provide further information concerning AT&T's claim that Covad serves fewer than 14 percent of the central offices in BellSouth's territory. In response to Staff's request, BellSouth performed additional analysis of Covad's coverage area within BellSouth's region. Based on this analysis, BellSouth confirms that Covad has purchased collocation in BellSouth central offices that serve approximately 45% of BellSouth's total access lines. Further, 63% of BellSouth's DSL subscribers are served out of the central offices in which Covad has chosen to purchase collocation.

Thus, Covad has a much larger footprint within BellSouth's service area than AT&T's 14% figure would seem to suggest. Further, Covad has recently informed the Commission that it plans to dramatically increase its DSL coverage area by "[e]xpansion into 200 additional central offices in 2004".¹ Covad's actual service area and robust expansion plans further undermine AT&T's assertion that line splitting is not a viable competitive option for it to pursue.

In addition to AT&T and Covad's expanding relationship, MCI, Inc. recently announced that it has "tripled" its DSL coverage through an expanded relationship with New Edge Networks to deliver additional DSL services to MCI business

¹ See Letter from Gregg Hyde, Covad Communications Company, to Marlene Dortch, Secretary, FCC, Docket Nos. 04-36, 04-29, 01-338, 96-98 and 98-147, at 3 (June 4, 2004).

customers nationwide. In a June 7 press release, MCI stated that this relationship would “enable MCI to triple its current DSL footprint to reach more than 7800 switching locations across the U.S.” MCI’s use of New Edge’s “BigFoot” broadband reach will allow MCI to serve more than 300 metropolitan areas across the United States, reaching approximately 75 percent of all U.S. locations where DSL is available today. A copy of MCI’s June 7 press release is attached hereto.

These competitive developments underscore the success of this Commission’s policy of promoting innovation by encouraging narrowband services-only competitive LECs to take full advantage of an unbundled loop’s capabilities by partnering with a second competitive LEC that will offer xDSL service. See *Triennial Review Order*, ¶ 269. Allowing state commissions to subvert this policy by requiring the provision of DSL over UNEs will harm competition and consumers. In addition, multiple and inconsistent state regulation of the rates, terms, conditions and provisioning of broadband services is regulatory underbrush of the first order and must be cleared out to accomplish the President’s ambitious goals for broadband deployment.

Pursuant to Commission rules, please include a copy of this notice and the attachment in the docket identified above.

Sincerely,



Glenn T. Reynolds

Cc: Tom Navin
Ian Dillner
Russell Hanser
Christopher Libertelli
Matt Brill
Jessica Rosenworcel
Daniel Gonzalez
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Jeffrey Carlisle
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