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VIA ELECTRONIC FILING

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

Re: CC Docket No. 01-338, 96-98, 98-147, 01-117

Dear Ms. Dortch:

This letter contains comments of Choice One Communications Inc. ("Choice One") for filing in the above-captioned proceeding. Choice One is a publicly traded CLEC company with headquarters in Rochester, New York. As a CLEC, we provide voice and data services to residential and business customers in eleven states.

Choice One is a facilities-based provider, serving over 90% of our customers through our own switching network. As such, Choice One makes widespread use of UNEs for loops and transport, via collocation arrangements at over 500 sites. Choice One has its own switches located throughout its service areas.

Choice One understands the importance of UNEs for bringing competition to the marketplace. Without the historical UNE process – i.e. access to bottleneck RBOC facilities, at TELRIC prices, with available mandatory arbitration and pick and choose, competition would not be where it is today.

However, this government-defined regulated space, in which CLECs and RBOCs struggle to run their businesses and protect their interests, could fairly be described as a war zone. The war is over mandated access and pricing for CLECs on old and new RBOC networks. While this war rages, regulations change, courts make decisions, and technology marches on. It is increasingly difficult for regulators to keep pace with these realities.

Choice One believes that a new approach is needed – an alternative approach that allows CLECs and RBOCs to sit down at the bargaining table - with an appropriate set of incentives - and negotiate voluntary, region-wide commercial agreements ("commercial contracts"). Commercial contracts would be an alternative or a supplement, but not a substitute, for the UNE process.

Current FCC rules make it difficult, if not impossible, for CLECs and RBOCs to do this. New FCC rules are needed to encourage and facilitate such commercial contracts. In the view of Choice One, the following points should be reflected in the new rules.

1) Voluntary – Commercial contracts should not be subject to mandatory state-arbitration of negotiation impasses. The parties would be free to negotiate the deal or walk away from the table as their business interests dictate.

2) Disclosure – Commercial contracts should be disclosed and readily available, including to other carriers (e.g. on a web site) so that they can decide whether or not to "opt in".

3) Opt In - Other similarly situated carriers should have the right to enter into the same commercial contract with that RBOC.

4) Pick and Choose – Another carrier should not be able to pick and choose only selected parts from a commercial contract, because the commercial contract reflects an integrated balancing of interests - across different subjects and state lines.

5) Dispute Resolution – There should be a mechanism for the FCC to quickly resolve "opt in" disputes, including claims of discrimination and poison pills. Other contractual disputes should be resolved as provided in the commercial contract – e.g. by courts, state regulators, or arbitration.

6) Scope of Commercial Contract - A commercial contract should be able to include any network element, whether or not available as a UNE. Parties should be encouraged to negotiate terms, conditions, and pricing that apply uniformly to all states in an RBOC region, similar to FCC tariffs today.

7) State Involvement - State regulators should refrain from changing the terms of commercial contracts, to avoid disruption of their integrated, balanced contexts.

8) Pricing – Commercial contracts should be able to include term, volume and other pricing discounts, provided that the discounts are reasonably related to economic savings, so they don't become poison pills or discriminate unlawfully.

9) Prejudice – Commercial contract terms, including pricing terms, should not be taken out of their integrated, balanced context and used to prejudice either party in other forums - e.g. TELRIC proceedings.

10) Safety Net - It is essential that a strong UNE-based safety net process (including UNEs, TELRIC pricing, and available mandatory arbitration and pick and choose) remain in place for CLECs. A CLEC must be able to pursue a "Section 251/252" ICA. This is why a UNE-based safety net process is still very important - as protection for CLECs and as an incentive to encourage RBOCs to negotiate commercial contracts. Commercial contracts should function as a voluntary alternative or supplement to the UNE-based process, but not as a substitute.

The telecommunications landscape is changing. Inter-modal competition is coming. Technology brings innovation. The Internet erodes old paradigms. CLECs and RBOCs need rules that encourage them to face these challenges. Voluntary region-wide commercial agreements could play a key role here, if permitted and encouraged by new FCC rules.

Choice One urges the FCC to modify its rules as noted above, including a pick and choose rule that would continue to apply to the UNE- process, but would not apply to commercial contracts,

Yours sincerely

Choice One Communications Inc.

By: _____

Kevin S. Dickens, Chief Operating Officer

cc: The Hon. Michael K. Powell / Chris Libertelli Esq.
The Hon. Kathleen Q. Abernathy / Mathew Brill Esq.
The Hon. Michael J. Copps / Jessica Rosenworcel Esq.
The Hon. Kevin J. Martin / Dan Gonzales Esq.
The Hon. Jonathan S. Adelstein / Scott Bergmann Esq.