

 **Lampert & O'Connor, P.C.**

1750 K Street NW
Suite 600
Washington, DC 20006

Mark J. O'Connor
oconnor@l-olaw.com

Tel 202/887-6230
Fax 202/887-6231

July 22, 2004

Ms. Marlene Dortch, Secretary
Federal Communications Commission
The Portals, TW-A325
445 12th Street, SW
Washington, DC 20554

Re: *Ex Parte* Presentation – Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers; CC Docket Nos. 01-338, 96-98, 98-147

Dear Ms. Dortch:

On July 21, 2004, the undersigned had a telephone conversation with Mr. Matt Brill, Senior Legal Advisor to Commissioner Abernathy, regarding the above-referenced dockets. During this conversation, I argued that the Commission's upcoming Notice of Proposed Rulemaking to set rules for unbundled network elements (UNEs) in light of the D.C. Circuit's USTA II decision should include consideration of the line sharing UNE. I pointed out that it was particularly important to revisit the basis of the FCC's elimination of the line sharing UNE since the USTA II court has ended the likelihood of UNE-P competition and, with that, the likelihood of data and voice CLECs partnering to offer a competitive replacement for line sharing.

Pursuant to the Commission's rules, one copy of this memorandum is being filed electronically in each of the above-referenced dockets for inclusion in the public record. Please do not hesitate to call me if you have any questions.

Respectfully submitted,

/s/

Mark J. O'Connor
Counsel for EarthLink, Inc.