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July 22, 2004

EX PARTE

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

Re: ***Ex Parte Communication Opposing Proposals to Reinstate Mandatory Line Sharing; CC Docket Nos. 01-338, 96-98, & 98-147***

Dear Ms. Dortch:

This letter responds to a number of arguments made by Earthlink and the CHOICE Coalition (the "Coalition") in support of Earthlink's petition that the Commission re-impose a mandatory line-sharing requirement.[1] In the *Triennial Review Order*[2] (or "*Order*"), the Commission correctly *declined* to require line sharing, and the D.C. Circuit upheld that decision in *USTA II*.[3]

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[1] *See generally* Reply to Oppositions of the Coalition for High-Speed Online Internet Competition and Enterprise (CHOICE), CC Docket Nos. 01-338, 96-98, 98-147 (FCC filed Nov. 17, 2003) ("CHOICE Reply"); Reply to Oppositions of EarthLink, Inc., CC Docket Nos. 01-338, 96-98, 98-147 (FCC filed Nov. 17, 2003) ("EarthLink Reply").

[2] Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, 18 FCC Rcd 16978 (2003) ("*Triennial Review Order*" or "*Order*"), *vacated in part and remanded, United States Telecom Ass'n v. FCC*, 359 F.3d 554 (D.C. Cir. 2004) ("*USTA II*"), *petitions for cert. pending*, Nos. 04-12, 04-15 & 04-18 (U.S. filed June 30, 2004).

[3] *United States Telecom Ass'n v. FCC*, 359 F.3d 554 (D.C. Cir. 2004) ("*USTA II*"), *petitions for cert. pending*, Nos. 04-12, 04-15 & 04-18 (U.S. filed June 30, 2004).

In arguing that the Commission could easily re-impose line sharing, EarthLink and the Coalition both ignore the basis of the D.C. Circuit's vacatur of the Commission's line-sharing rules. The D.C. Circuit chastised the Commission for failing to consider the existence of competition from cable modem service and other competitive alternatives – an omission that left the Commission with no valid reason to believe that ordering line sharing "would bring on a significant enhancement of competition." *USTA I*, 290 F.3d at 429. The court noted that "mandatory unbundling comes at a cost, including disincentives to research and development by both ILECs and CLECs and the tangled management inherent in shared use of a common resource." *Id.* The D.C. Circuit's vacatur plus the evidence in the record essentially compelled the Commission's determination that it would "decline" to "make available the high frequency portion of the copper loop." *Order* ¶ 255. Any effort to impose line sharing must fail for the same reason that the Commission's original attempt to impose line-sharing failed: to require mandatory unbundling of the high-frequency portion of the loops requires a finding of impairment that the record simply does not support, given the robust intermodal competition in the broadband marketplace.

Indeed, in upholding the Commission's *Triennial Review Order* decision not to impose line sharing, the D.C. Circuit explained, "We read the Commission as concluding that, at least in the future, line sharing is not essential to maintain robust competition in this market, a conclusion based on permissible considerations and supported by evidence in the record." *USTA II*, 359 F.3d at 585. Moreover, the Court found that "even if the CLECs are right that there is some impairment with respect to the elimination of mandatory line sharing, the Commission reasonably found that other considerations outweighed any impairment" – namely, the negative impact on investment and deployment that mandatory unbundling would entail. *Id.* The court noted with approval that "intermodal competition in broadband, particularly from cable companies, means that, even if CLECs proved unable to compete with ILECs in the broadband market, there would still be vigorous competition from other sources." *Id.* at 580 (citing *Order*, ¶ 292).

Market Activity Since the Commission Began the Transition Away From Line Sharing Only Reinforces the Arguments Against An Impairment Finding. The Coalition attempts to get around the evidence in the record regarding competition and investment incentives by breezily making a list of "circumstances" that have ostensibly "changed since the last opportunity to present them to the Commission." Coalition Reply at 3. Yet none of the supposedly changed circumstances even remotely justifies the re-imposition of line sharing and the negative incentives that such a move would create for ILECs and CLECs alike. To the extent circumstances have changed, they have made mandatory line sharing even more inappropriate.

The Coalition claims that line splitting cannot be a substitute for line sharing because most Americans still obtain local phone service from an ILEC, and because line-splitting is "not fully implemented." *Id.* at 3-4. As an initial matter, by failing to acknowledge the effects of intermodal competition – particularly from the cable modem providers that have the lion's share of the market (and that are free from any obligation to make their facilities available to competitors at zero or near-zero cost) – the Coalition repeats the error that resulted in the D.C. Circuit's vacatur of the line sharing rules in the first place. Since the *Triennial Review Order*

was released, cable companies have continued to deploy cable modem service even more broadly, so that it is now available in 85-90% of U.S. households.[4] In the top 25 Metropolitan Statistical Areas where Verizon provides local phone service as an incumbent, cable modem service is available to about 92% of homes.[5] And the head-to-head competition between cable companies and local telephone companies has further intensified since the *Order* was issued, as telephone companies are able to compete without the one-sided unbundling obligations that have never applied to cable.

Far from leading to reduced investment and higher prices, as the Coalition direly predicted, the elimination of line sharing has been accompanied by unprecedented price cuts, higher speeds, and new service packages for consumers. Moreover, Verizon – not any competitive LEC – was the leader in cutting DSL prices. Earlier this year, Verizon lowered DSL prices to $34.95 per month (or $29.95 when bundled with phone service), while increasing download speeds to 1.5 Mbps from 768 kbps.[6] In May, Verizon announced an additional tier of consumer DSL service with a maximum connection speed of 3 Mbps/768 kbps.[7] In addition, Verizon has rolled out a new symmetrical DSL offering designed to compete with cable modem services for small and medium-sized business customers.[8] In 2003, Verizon added more than 10 million DSL-qualified lines, and Verizon currently plans to add an additional seven million qualified lines by the end of 2004.[9] Cable operators have responded in kind with promotional and targeted price reductions and by increasing data speeds (which effectively lowers the price of

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[4] *See, e.g.*, National Cable & Telecommunications Association, *Industry Overview: Statistics and Resources*, http://www.ncta.com/Docs/PageContent.cfm?pageID=86 (102.9 million occupied homes passed by cable as of Dec. 2003); National Cable & Telecommunications Association, *2004 Mid-Year IndustryOverview*, at 1, http://www.ncta.com/pdf_files/ Overview.pdf ("advanced services" were available via cable to "more than 95 million households" by year-end 2003); J. Halpern, *et al.*, Bernstein Research Call, *Broadband Update: DSL Share Reaches 40% of Net Adds in 4Q . . . Overall Growth Remains Robust* at Exhs. 1 & 6 (Mar. 10, 2004) (cable broadband available to 92.3 percent of total cable homes passed; 110.0 million U.S. households in 2003).

[5] *See* Ex Parte: Technological and Market Developments Since the *Triennial Review* Further Demonstrate that Competitors Are Not Impaired Without Access to Unbundled Mass Market Switching at 9 & Attachments 2 & 12, *attached to* Ex Parte Letter from Dee May, Verizon, to Marlene Dortch, FCC, CC Docket Nos. 01-338 et al. (FCC filed June 24, 2004).

[6] *See* Declaration of Jerome Holland ¶¶ 3-4, CC Docket No. 01-338 (FCC filed Mar. 29, 2004) ("Holland Decl."), attached as Exhibit B to Verizon Comments, GN Docket No. 04-54 (FCC filed May 10, 2004); *see also Broadband Competition Update* at Table 4.

[7] *See* Verizon Press Release, *Verizon to Expand DSL Offerings With New, Higher-Speed Service and Voice-Over-IP Package* (May 4, 2004).

[8] *See* Letter from Richard Ellis, Verizon, to Marlene Dortch, FCC, Transmittal No. 343 (July 22, 2003) (filing revisions to Verizon Tariff FCC Nos. 1 & 20 to introduce Verizon Infospeed Premium Digital Subscriber Line Service, a high-speed symmetrical data-only access service).

[9] *See* Holland Decl. ¶ 3.

bandwidth).[10] This flourishing of competition fatally undermines the Coalition's claims that line sharing was somehow a spur to increased deployment and lower prices. Plainly, just the opposite is true.

Furthermore, the Commission based its conclusions about line splitting on Coalition member Covad's own public statements that line splitting provides a viable commercial strategy. *See Order* ¶ 259 & n.767 (finding that "Covad's argument that . . . there are no third-party alternatives to" line sharing was not "credible"). After the issuance of the *Triennial Review Order*, Covad publicly touted its "business strategy to sign up both national and regional line-splitting partners and capitalize on the growing demand for bundled voice and data services."[11] Covad CEO Charles Hoffman predicted that "bundling will be a major contributor to our growth in 2004 as the demand for line splitting builds momentum"[12] and claimed that "Covad is in a unique position to continue driving increased DSL adoption throughout the United States" because of the availability of line splitting.[13] "It's not that we've artificially created this market to escape the FCC," Covad has insisted, "We're taking advantage of an already existing market."[14] There is simply no evidence in the record to support the Coalition's claims that line splitting has not been effectively implemented to date, much less that such implementation is so technically daunting that it *cannot* be implemented.[15]

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[10] *See, e.g.*, Merrill Lynch, *3Q03 Broadband Update* at 2 (Nov. 3, 2003) (cable operators "are increasingly moving 'off the rate card,' with market-specific pricing and increased use of promotional and bundled-price discounts specific to certain markets").

[11] Press Release, *VarTec and Excel Select Covad DSL for Their Local/Long Distance Voice and Data Bundles*, Aug. 28, 2003 (quoting Charles Hoffman, President and CEO of Covad).

[12] *Covad Communications Group Announces Third Quarter 2003 Results*, Business Wire (Oct. 22, 2003).

[13] *Covad Extends Partnership with MCI; New Line Splitting Partnership Enables MCI To Combine Local and Long Distance Services with Covad's DSL High-Speed Internet Service*, Business Wire (Sept. 2, 2003).

[14] Kevin Fitchard, *Covad Signs Line-Splitting Deal with Z-Tel*, TelephonyOnline.com, Aug. 7, 2003 (quoting Andy Lockwood, Executive Vice President and General Manager for Covad strategic partnerships), *at* http://telephonyonline.com/ar/telecom_covad_signs_linesplitting/index.htm.

[15] The Commission's 271 orders have repeatedly found that BOCs have complied with their obligation to allow line-splitting. *See, e.g.*, *Qwest Minnesota Order*, 18 FCC Rcd 13323, ¶ 53 (2003); *Qwest New Mexico/ Oregon/South Dakota Order*, 18 FCC Rcd 7325, ¶ 93 (2003); *SBC Nevada Order*, 18 FCC Rcd 7196, ¶ 65 (2003); *Verizon Maryland/D.C./West Virginia Order*, 18 FCC Rcd 5212, ¶ 119 (2003); *Qwest Nine State Order*, 17 FCC Rcd 26303, ¶ 355 (2002); *SBC California Order*, 17 FCC Rcd 25650, ¶ 132 (2002); *BellSouth Florida/Tennessee Order*, 17 FCC Rcd 25828, ¶ 132 (2002); *Verizon Virginia Order*, 17 FCC Rcd 21880, ¶ 138 (2002); *Verizon New Hampshire/Delaware Order*, 17 FCC Rcd 18660, ¶ 105 (2002); *BellSouth Five State Order*, 17 FCC Rcd 17595, ¶¶ 164, 232, 251 (2002); *Verizon New Jersey Order*, 17 FCC Rcd 12275, ¶¶ 135, 153 (2002); *Verizon Maine Order*, 17 FCC Rcd 11659, ¶ 51 (2002); *BellSouth Georgia/Louisiana Order*, 17 FCC Rcd 9018, ¶ 243 (2002); *Verizon Vermont Order*,

Furthermore, Covad has now suggested that line splitting itself may be passé. Covad has announced a new "dedicated-loop ADSL" that, according to Covad, "is ideal for customers who rely on other modes of voice communication such as Voice over Internet Protocol (VoIP) and cell phone service. . . . The increased flexibility and functionality of DSL offers customers the option to integrate VoIP directly onto the broadband line, relieving them of the need for traditional analog telephone service from the local voice provider."[16] This development further confirms that DSL competitors can compete effectively using unbundled loops, without access to the high-frequency portion of the loop on an unbundled basis.

Line Sharing Is Not Competitively Significant. The Coalition and EarthLink also suggest that, instead of eliminating the high-frequency portion of the loop as a UNE, the Commission could have resurrected it now and considered the proper pricing for it later – for example, in the pending TELRIC proceeding. Coalition Reply at 4; EarthLink Reply at 10. But this argument, too, is beside the point. Quite apart from the pricing issue, the net effect of creating this UNE is to harm competition rather than to help it – a conclusion that the D.C. Circuit has affirmed on appeal. *See Order* ¶ 263 ("the costs of [line sharing] outweigh the benefits," and *refusing* to require line sharing "will encourage the deployment of new technologies"); *USTA II*, 359 F.3d at 585. As Verizon has previously documented in this proceeding, line-sharing is not competitively significant; it accounts for less than 1% of all broadband connections in a marketplace dominated by cable modem service (with other intermodal alternatives increasingly available).[17] This refutes the Coalition's suggestion that

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17 FCC Rcd 7625, ¶ 55 (2002), *appeal dismissed*, *AT&T Corp. v. FCC*, No. 02-1152, 2002 WL 31619058 (D.C. Cir. Nov. 19, 2002); *Verizon Rhode Island Order*, 17 FCC Rcd 3300, ¶ 90 (2002); *SBC Arkansas/Missouri Order*, 16 FCC Rcd 20719, ¶ 106 (2001), *aff'd*, *AT&T Corp. v. FCC*, No. 01-1511, 2002 WL 31558095 (D.C. Cir. Nov. 18, 2002) (*per curiam*); *Verizon Pennsylvania Order*, 16 FCC Rcd 17419, ¶ 89 (2001), *aff'd*, *Z-Tel Communications, Inc. v. FCC*, 333 F.3d 262 (D.C. Cir. 2003).

[16] Covad Press Release, *Covad Launches Dedicated-Loop ADSL for Consumers and Small Businesses Nationwide* (July 6, 2004).

[17] *See, e.g.*, Response of Verizon to Petitions for Reconsideration at 41-42, WC Docket Nos. 01-338 et al. (FCC filed Nov. 6, 2003) (analysis of former Bell Atlantic territory indicated that line-sharing accounts for less than 1% of broadband connections); Ind. Anal. & Tech. Div., Wireline Competition Bureau, FCC, *High-Speed Services for Internet Access: Status as of June 30, 2003* at Tables 3 & 4 (Dec. 2003) ("*High-Speed Services Report*") (as of June 2003, cable companies controlled more than two-thirds of all high-speed lines provided to residential and small business customers); Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Eighth Report, 18 FCC Rcd 14783, A-4 at n.709 (2003) (FCC estimates that residential fixed wireless Internet access is available in counties that contain approximately 62 million people, or 22 percent of the U.S. population); Hughes Electronics Corp., Form 10-Q (SEC filed Nov. 7, 2003) (one of the two main broadband satellite providers reported 177,000 residential and small office/home-office customers in North America as of third quarter 2003); Notice of Inquiry. *Inquiry Regarding Carrier Current Systems, including Broadband over Power Line Systems*, 18 FCC Rcd 8498, Separate Statement of Chairman Michael K. Powell (2003) ("Power

"competition via line sharing, not cable modem, has been the primary driver of incumbent LEC DSL deployment." Coalition Reply at 10. Moreover, the record here demonstrates that even the complete exit of competitive DSL providers "would not be expected to affect the price that ILECs could charge for ADSL services."[18] Confirming this point, as noted above, the D.C. Circuit cited with approval the Commission's own conclusion that "intermodal competition in broadband, particularly from cable companies, means that, even if CLECs proved unable to compete with ILECs in the broadband market, there would still be vigorous competition from other sources." *USTA II*, 359 F.3d at 580 (citing *Order*, ¶ 292). And, as further noted above, broadband competition has flourished since the issuance of the *Triennial Review Order*, providing additional confirmation that the *elimination* of line sharing has had pro-competitive effects.

EarthLink's Analysis of the Wholesale Market Is Flawed. Similarly flawed is EarthLink's argument (at 3-4) that, because cable companies and other intermodal competitors do not provide transmission services at wholesale, line sharing represents the only practical alternative for CLECs to provide competitive wholesale broadband transport, which, in turn, allows consumers to purchase Internet access from independent ISPs. For starters, cable modem operators and telephone companies alike have begun selling transmission service at wholesale to unaffiliated ISPs – as evidenced by EarthLink's own contracts with Charter, Comcast, Time Warner, BellSouth, SBC, and Sprint.[19] Earthlink has also reached a commercial agreement with Verizon for services that go beyond what Verizon is required to provide under the current rules.[20] So consumer choice does not depend directly on CLECs. The question for the Commission is not what will happen to any given competitor or group of competitors but whether there will be competition from the point of view of the consumer – and the answer to that question is indubitably *yes*, without regard to line sharing, which (as noted above) accounts for less than 1% of the market. *See, e.g.*, *USTA II*, 359 F.3d at 582 ("[R]obust intermodal competition from cable providers . . . means that even if all CLECs were driven from the broadband market, mass market consumers will still have the benefits of competition between cable providers and ILECs.").

ILECs Lack Market Power In Any Geographic Market. The Coalition is mistaken in its suggestion (at 7) that "in many areas of the country DSL rather than cable modem is the dominant form of broadband service." In making this suggestion, the Coalition purports to rely on the Commission's own data, but it misconstrues that data. The data on which the Coalition relies show ADSL with more total high-speed lines than cable in only three states (California, Georgia, and North Dakota), and in all three cases the edge is slight.[21] In the overwhelming

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line networks are being tested today in a dozen states around the country and are a testament to the incredible innovations taking place in broadband network technologies.").

[18] Reply Declaration of Dennis W. Carlton, Hal S. Sider and Gustavo Bamberger (accompanying Reply Comments of Verizon, WC Docket 01-337 (FCC filed April 22, 2002)).

[19] *See* EarthLink, Inc., Form 10-Q, at 18 (SEC filed Aug. 14, 2003); EarthLink Press Release, *EarthLink Widens Nationwide High-Speed Access Footprint* (July 17, 2003).

[20] Earthlink News Release, *Earthlink and Verizon Sign New Agreement to Broaden High-Speed Internet Footprint* (Feb. 10, 2004).

[21] *High-Speed Services Report* at Table 7.

majority of states, cable modems are the dominant technology by a wide margin.[22] Furthermore, as recently documented before the Commission in the present dockets, between 85 and 90 percent of U.S. homes have access to broadband service from a provider other than the incumbent local telephone company, principally cable modem service. In the states where Verizon provides local exchange service as an incumbent, there were already nearly 10 million cable modem subscribers by the end of 2003 – a 44 percent increase since the previous year alone.[23] In the top 25 Metropolitan Statistical Areas where Verizon provides local telephone service as an incumbent, cable modem service is available to roughly 92 percent of homes.[24]

Even in those very limited geographic areas where DSL is currently available but cable modem is not, this situation can be expected to change rapidly as cable operators complete upgrading their networks. And, in the interim, DSL providers cannot exercise market power in those few areas where cable modem service is not available. Because DSL is marketed over wide regions using mass-media advertising that includes standard prices and terms, it is not feasible to offer different prices or terms to customers that live in areas served by cable modem operators, on the one hand, and those that live in areas where cable modem service is not yet available, on the other. As a result of this inability effectively to target different offers to customers depending upon where they live, competition from cable provides effective price discipline even where cable modem service is not actually available. Moreover, even if it were possible to raise DSL prices only in limited geographic areas, such a move would simply provide an incentive for cable modem operators and other intermodal competitors to enter those areas more rapidly.

The Coalition Misunderstands Investment Incentives. The Commission correctly found that allowing CLECs to use the high-frequency portion of the loop at a cost of roughly zero skews their investment incentives and business plans. *See Order* ¶ 261. By contrast, allowing CLECs to *negotiate* mutually acceptable terms for the use of the high-frequency portion of the loop is a sensible, market-oriented outcome. The Coalition asks rhetorically what is skewed about providing data-only services in response to demand for data-only services. As the Commission properly recognized, however, if the high-frequency portion of the loop is available at artificially low (or zero) cost, while the whole loop (or the low-frequency portion of the loop) costs some money, then carriers have an incentive to provide data-only services *regardless of demand.* That was the skewed incentive that the Commission correctly seeks to end.[25]

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[22] *Id.*

[23] *See* Verizon Ex Parte: Technological and Market Developments Since the *Triennial Review Order* Further Demonstrate that Competitors Are Not Impaired Without Access to Unbundled Mass Market Switching, at 10 and attachment 3 (submitted with Ex Parte Letter from Susanne A. Guyer, Senior Vice President, Federal Regulatory Affairs, Verizon, to the Chairman and Commissioners, FCC, CC Docket Nos. 01-338 et al. (FCC filed June 24, 2004)).

[24] *See id.* at 9-10 and attachments 2 & 12.

[25] Nor would merely adjusting the price resolve the issue. As the D.C. Circuit observed, "[w]ith respect to the skewed incentives from zero pricing of the high frequency portion, it is of course true that alternative cost allocations could have reduced the skew, but any alternative allocation

Equally misguided is the Coalition's suggestion (at 9) that "[w]ithout line sharing, incumbents have incentive to maintain legacy copper loop facilities, rather than upgrade them to fiber." In Verizon's case, this theoretical claim is belied by the facts. Since the *Triennial Review Order* was issued, Verizon has begun construction of new fiber to customer premises. Verizon has already announced the location of its first three fiber-to-the-premises ("FTTP") deployments (in Keller, Texas; Tampa, Florida; and Huntington Beach, California), and it plans to announce additional locations soon, with the goal of offering FTTP in parts of nine states, passing one million homes and small businesses, by the end of 2004. The Coalition's suggestion that things would move faster or more money would be committed if the Commission re-imposed line sharing is absurd. Indeed, the only real constraining factor is the need for the Commission to resolve several outstanding issues with respect to the remaining regulations on broadband services provided by incumbent LECs.[26] SBC Communications has likewise announced plans for a multi-billion-dollar investment in fiber infrastructure over five years, if the remaining regulatory issues are resolved. In the words of SBC's Chairman and CEO Edward Whitacre, "This next generation of services will require us to revolutionize our local networks as well, which we will do as economic and regulatory conditions make practical."[27]

EarthLink Provides No Ground For Prolonging the Phase-Out. Finally, the Commission should reject EarthLink's plea (Reply at 5-6) to postpone the phase-out of line sharing indefinitely based on purported concerns about a "stranded customer base." There is no legitimate basis for delaying the transition. The transitional regime established by the Commission is more than adequate to allow carriers to make alternative business arrangements. Indeed, as noted above, Earthlink itself has *already* reached a commercial agreement with

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of costs would itself have had some inescapable degree of arbitrariness." *USTA II*, 359 F.3d. at 585.

[26] *See, e.g.,* Ex Parte Letter from Susanne A. Guyer, Senior Vice President, Federal Regulatory Affairs, Verizon, to Chairman Powell and Commissioners, re: *Verizon Petition for Forbearance, Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers,* CC Docket No. 01-338; FCC, CC Docket No. 01-331 (FCC filed Oct. 24, 2003) (narrowing forbearance petition to seek relief from Section 271 unbundling requirements on broadband); *Petition of the Verizon Telephone Companies for Declaratory Ruling or, Alternatively, for Interim Waiver with Regard to Broadband Services Provided via Fiber to the Premises and Conditional Petition of the Verizon Telephone Companies for Forbearance Under 47 U.S.C. § 160(c) with Regard to Broadband Services Provided via Fiber to the Premises*, CC Docket No. 04-242 (FCC filed June 28, 2004) (seeking interim relief from *Computer Inquiries* rules and Title II regulation of broadband provided via FTTP); *see generally* Response of Verizon to Petitions for Reconsideration at 5-30, CC Docket 01-338 (FCC filed Nov. 6, 2003) (advocating clarification of certain aspects of *Triennial Review Order*); Comments of Verizon, CC Docket 02-33 (FCC filed May 3, 2002) (advocating Title I classification for all broadband services).

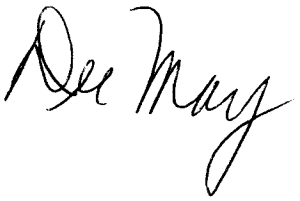
[27] SBC Communications News Release, *SBC Communications Announces Advances in Initiative to Develop IP-Based Residential Network for Integrated Video, Internet, VoIP Services* (June 22, 2004).

Verizon that enables Earthlink to use Verizon's network to reach its customers – and it did so after line sharing had been eliminated.[28]

In sum, neither EarthLink nor the Coalition provides any basis for the Commission to reconsider its decision not to resurrect line sharing in the *Triennial Review Order*.

If you have any questions, please feel free to contact me at (202) 515-2529.

Sincerely,



cc: M. Carey
T. Navin
P. Arluk

[28] Earthlink News Release, *Earthlink and Verizon Sign New Agreement to Broaden High-Speed Internet Footprint* (Feb. 10, 2004).