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August 13, 2004

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Federal Communications Commission
Office of Secretary

The Honorable Michael K. Powell, Chairman
The Honorable Kathleen Q. Abernathy, Commissioner
The Honorable Kevin J. Martin, Commissioner
The Honorable Michael J. Copps, Commissioner
The Honorable Jonathan S. Adelstein, Commissioner

Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

ORIGINAL

Re: WC Docket No. 04-242 and CC Docket No. 01-338

Ex Parte Filing (Via Hand Delivery)

Dear Chairman Powell and Commissioners:

Very often decisions made in one place have a dramatic impact on life somewhere else. The undersigned companies are writing to discuss the impact of several such decisions: one already made by Verizon, and others to be made – hopefully soon – by each of you.

Much has already been written about Verizon's decision to deploy fiber optics to the premises of its customers. There are many projected benefits; crystal clear voice and data transmissions and an alternative media for the delivery of video content. The prospects for new services delivered over fiber will only be limited by the imagination of our nation's entrepreneurs.

But we would like to focus instead on the impact Verizon's decision has had so far on our companies and on the impact your decisions will have on our respective firms and the telecommunications manufacturing industry as a whole.

Collectively, we are small and large companies that have been awarded contracts to make components for the Verizon fiber optic network upgrade project. We've hired numbers of employees at several locations throughout the United States, dedicated to ensuring ubiquitous broadband adoption for all Americans. But, as you know, these have not been the best of times for telecommunications-related companies, yet we want to safeguard these critical jobs in order to fulfill the broadband promise.

Verizon's 2004 plans for fiber optic deployment are now firm. The company has committed to bringing new fiber optic technology to one million households by the end of the year at a cost of $1 billion. But its plans for 2005 and beyond are more tentative. For example, although Verizon has indicated that it hopes to extend its new fiber optic network to an additional two million households in 2005, the company also has made

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clear that a final decision about how fast to pursue network modernization in 2005 and beyond will depend in part on the regulatory environment which exists at that time.

If Verizon proceeds with its initial deployment plans, we would expect that workforces at our respective manufacturing facilities will grow over time. But it doesn't stop with just Verizon or our companies. If Verizon's deployment is successful, we would expect other large telcos to reassess their business risk and begin modernizing their networks too – resulting in even more buying by telcos and more hiring by us and numerous other telecom manufacturing companies.

Verizon's deployment decision – and the other companies' decisions as well – hinges, to a large extent, on a number of factors including importantly, decisions made in your respective offices.

In order to create a regulatory environment that is conducive to the rapid and widespread deployment of fiber infrastructure in ILEC loop plant, we would urge the Commission to move quickly to provide that regulatory relief that ILECs have asked your agency to provide. In the short term, the FCC should take at least the following three steps:

(1) The Commission should make clear that ILECs are not required to provide broadband facilities to competitors as UNEs under <u>any</u> section of the Communications Act. The FCC held more than one year ago in the Triennial Review Order ("TRO") that requiring ILECs to provide broadband facilities to competitors as UNEs creates a disincentive for both ILECs and their competitors to invest in new broadband infrastructure and for that reason the agency repealed the requirement that ILECs provide broadband facilities as UNEs under Section 251. Early last fall, ILECs petitioned the FCC to make clear that the agency's finding in the TRO means that ILECs need not provide broadband facilities to competitors as UNEs under <u>any</u> section of the Act, rather than under Section 251 alone. Verizon also petitioned for forbearance from Section 271 obligations for broadband elements the Commission already determined that do not require unbundling under Section 251 in a separate filing in this docket. The Commission has not yet taken action on these ILEC requests, notwithstanding the agency's own conclusion that the result is a disincentive to invest in fiber and other broadband infrastructure.

(2) The Commission should clarify as Verizon has requested that a "bright line" distinction be established between "mass market" and "enterprise" customers served by broadband service providers. Enterprise business customers, generally speaking, already have access to high-speed networks and applications. Like their larger counterparts, small businesses also stand to benefit from fiber-based deployments. Ensuring definitional clarity regarding "mass market" and "enterprise" customers will provide service providers with greater certainty concerning their respective investments and ensure the benefits of broadband are realized on a local, regional and national scale. Failure to clarify these distinctions could reduce the incentive that Verizon and ILECs have to deploy

fiber loop infrastructure on a rapid and widespread basis by reducing overall revenues ILECs could expect from such deployment.

(3) The Commission should grant the petitions that Verizon filed in Docket 04-242 requesting freedom to enter agreements with ISPs for the use of Verizon's new FTTP fiber optic platform for the provision of high-speed Internet access service without the need to comply with tariff regulations. The Commission already has granted cable TV companies authority to enter agreements with ISPs to use cable networks without the need to comply with such regulations based in large part on the agency's conclusion that cable operators otherwise might slow their network modernization plans. By direct analogy, failure to grant the same relief to Verizon could cause that company to slow the pace at which it pursues its fiber loop infrastructure modernization plans.

Mr. Chairman and fellow Commissioners, the workers in our plants, the employees in our industry, and the many consumers and businesses that depend on advanced telecommunications services have seen our jobs lost or moved overseas. We have seen our country lose its standing as the leader in advanced telecommunications networks. And we have waited for a "tipping point," an indication that a change is about to occur that will get our industry back on stable ground. We believe the Verizon fiber deployment initiative may be an important first step in our industry's recovery.

The decisions you make regarding the deployment of advanced broadband network technology will have a profound impact on our companies and the communities where our employees live and work. While the recent decision eliminating unbundling requirements for fiber buildouts in multi-dwelling buildings will encourage increased broadband deployments by service providers, additional clarification is needed in order to ensure continued deployment and ubiquitous adoption of broadband applications, services and technologies. Our firms and our employees are counting on each of you to act quickly and decisively to encourage investment in 21st century communications technology.

Thank you,

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