

**WILLKIE FARR & GALLAGHER<sub>LLP</sub>**

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September 3, 2004

***EX PARTE***

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

Re: CC Docket Nos. 96-98 and 01-338

Dear Ms. Dortch:

On September 2, on behalf of Conversent Communications, I met with Jeff Carlisle, Chief of the Wireline Competition Bureau. During our discussion, I argued that the Commission must, among other things, (1) perform any impairment analysis for unbundled loops on a location-by-location basis because building access problems, among other things, preclude any other approach; and (2) retain dark fiber as an unbundled network element because it allows the Commission to target its impairment analysis to the facilities (*i.e.*, fiber) characterized by the highest entry barriers. Pursuant to Section 1.1206(b) of the Commission's rules, 47 C.F.R. § 1.1206(b), one electronic copy of this notice is being filed in the above-referenced proceedings.

Sincerely,

/s/

Thomas Jones

cc: Jeff Carlisle