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September 30, 2004

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

Re: *Ex Parte* Presentation – Review of the Section 251 Unbundling Obligations of Incumbent LECs (CC Docket Nos. 01-338, 96-98, 98-147)

Dear Ms. Dortch:

On September 30, 2004, Mark J. O'Connor and the undersigned, both of Lampert & O'Connor, P.C., on behalf of EarthLink, Inc., met with Matthew Brill, Senior Legal Advisor to Commissioner Abernathy, to discuss Verizon's request for forbearance from Section 271 unbundling obligations for broadband facilities. The arguments raised by EarthLink were consistent with materials previously filed in the above-referenced dockets.

Specifically, EarthLink urged the FCC to clarify that the current obligations upon the Bell Operating Companies ("BOCs"), including Verizon, to offer non-discriminatory access to information service providers are not affected by the forbearance request, and stressed the importance of ensuring that any decision regarding possible forbearance from Section 271 broadband unbundling requirements be consistent with the continuation of these obligations.

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/

Donna N. Lampert  
Counsel for EarthLink, Inc.