



October 7, 2004

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

RE: **Notice of Ex Parte Communication**

WCB Docket Nos. 04-313, 01-338, 98-147, 96-98

Dear Ms. Dortch:

On October 7, 2004, Chris Davis, McLeodUSA Chairman and CEO, Steve Gray, McLeodUSA President, and Bill Courter, Associate General Counsel, discussed telephonically with Senior Legal Advisor Christopher Libertelli and Aaron Goldberger issues described in the attached letter from Chris Davis discussing the Bell South Reconsideration petition regarding fiber-to-the-curb. McLeodUSA strongly opposed any provision that would eliminate the RBOC obligation to provide TDM equivalence of DS0 loops and DS1 loops if packet switching equipment is installed in a central office. We also urged the FCC to expressly limit any relief to new facilities deployed in greenfield scenarios that serve mass-market customers.

Very truly yours,

William H. Courter
Associate General Counsel



October 5, 2004

The Honorable Michael K. Powell
Chairman, Federal Communications Commission
445 12th Street SW
Washington, D.C. 20554

Dear Chairman Powell:

We understand that the Federal Communications Commission ("FCC") has included language in its draft Order on Bell South's Fiber-to-the-Curb ("FTTC") petition that would eliminate the Regional Bell Operating Companies ("RBOCs") obligation to provide the TDM equivalence of DS0 loops and DS1 loops if an RBOC installs packet switching capabilities in a central office. If this were to become the law, then it would devastate facilities-based, intramodal competition by denying competitive providers access to critical "last-mile" facilities.

Short of eliminating competitors' access to all UNEs, this language could be one of the most damaging decisions to local competition possible. It would eliminate unbundled access to last-mile loops and, therefore, put the very survival of facilities-based carriers such as McLeodUSA at risk.

During the TRO, the RBOCs asserted that they operated two separate networks – a broadband network and a narrowband network. The FCC accepted these assertions over the objections of McLeodUSA and other competitive providers. The RBOCs now seek to eliminate their unbundling obligation by combining broadband network elements with narrowband network elements, proving that their previous assertion that they operate separate "narrowband" and "broadband" networks was disingenuous.

In light of these risks and concerns, we strongly urge the FCC to delete from the draft Order any language that eliminates the RBOC requirement to provide TDM equivalence of DS0 loops and DS1 loops if the RBOC installs packet switching equipment in a central office.

In addition, with respect to broadband deployment, it is important to note that the RBOCs have been deploying fiber deeper into their local networks for several years, irrespective of the requested unbundling relief, because it is more efficient and cheaper to maintain. Indeed, some RBOCs have nearly completed much of this upgrade. Nevertheless, if the

FCC intends to grant FTTC relief at its October 14 meeting in support of perceived motivation for the RBOCs to invest in broadband, it is imperative that the Order expressly limit the unbundling relief to new facilities deployed in “greenfield” scenarios that serve only mass-market customers.

As Ted Fortsmann and I discussed with you in our meeting this past July, certainty regarding McLeodUSA’s continued access to unbundled loops is absolutely critical. McLeodUSA has consistently stated that the FCC’s legitimate desire to support broadband deployment must not undermine competitive carriers’ continued access to unbundled loops. Clarity and predictability are critical to realize the benefit of the \$3 billion we have invested in our facilities-based network and to fulfill our shared vision of intramodal facilities-based competition.

We look forward to working with you on these critical issues.

Sincerely,

Chris A. Davis
Chairman and Chief Executive Officer

cc: Theodore J. Forstmann, Chairman of the Executive Committee
Stephen C. Gray, President
Honorable Kathleen Q. Abernathy
Honorable Jonathan S. Adelstein
Honorable Michael J. Copps
Honorable Kevin J. Martin