



October 15, 2004

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Room TW B204
Washington, DC 20554

Re: **Notice of ex parte communication**
In the matter of Unbundled Access to Network Elements (WC Docket No. 04-313)
Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange
Carriers (CC Docket No. 01-338)

Dear Ms. Dortch:

On October 14, 2004, representatives of the National Association of State Utility Consumer Advocates¹ (“NASUCA”) met with Federal Communications Commission (“FCC”) Staff to respond to questions in clarification of NASUCA’s position in the above-captioned matter as set forth in NASUCA’s Comments filed October 4, 2004. Representing NASUCA in person were Charles A. Acquard, Executive Director and Kathleen F. O’Reilly, counsel for NASUCA. Representing NASUCA via telephone was David C. Bergmann, Assistant Consumers’ Counsel with the Ohio Consumers’ Counsel and Chair of the NASUCA Telecom Committee. Also participating via telephone were the following representatives of NASUCA members:

California - California Office of Ratepayer Advocate: Natalie Billingsley (Program and Project Supervisor), Bill Johnson (Public Utilities Regulatory Analyst), Michael Ochoa (Public Utility Regulatory Analyst); TURN (The Utility Reform Network): Regina Costa (Telecom Research Director)

¹ NASUCA is a non-profit, national association organized in 1979, whose members are designated by the laws of their respective jurisdictions to represent the interests of utility consumers before state and federal regulators and in the courts. NASUCA members operate independently from state utility commissions, primarily as advocates for residential ratepayers, although some members also represent small business ratepayers. Some NASUCA member offices are separately established advocate organizations while others are divisions of larger state agencies (*e.g.*, the state Attorney General’s office). Associate and affiliate NASUCA members also serve utility consumers, but have not been created by state law or do not have statewide authority.

Indiana - Office of Utility Consumer Counselor: Robert G. Mork (Deputy Consumer Counselor for Federal Affairs), Karol H. Krohn (Assistant Consumer Counselor)

Maine - Office of Public Advocate: Wayne Jortner (Senior Counsel to the Public Advocate)

Ohio - Ohio Consumers' Counsel: Terry Etter (Assistant Consumers' Counsel), Kathy Hagans (Principal Regulatory Analyst)

Pennsylvania - Office of Consumer Advocate: Phil McClelland (Senior Assistant Consumer Advocate), Joel Cheskis (Assistant Consumer Advocate)

FCC staff members present were: Russell Hanser, Special Counsel to the Division Chief; Tim Stelzig, Attorney Advisor; Ian Dillner, Attorney Advisor; Marcus Maher, Attorney Advisor; Cathy Zima, Acting Deputy Division Chief, Industry Analysis and Technology Division; and Erin Boone, Attorney Advisor, Office Strategic Planning & Policy Analysis.

The meeting covered the appropriate FCC process for a determination of whether impairment exists, including adequate and pertinent state data as necessary for compliance with judicially directed standards. Also discussed were representative examples reflected in state proceeding records as relevant to: the definition of geographic market; the demonstrated and critical factor that UNE-P has played in the emergence of competition in the residential market; the significance of incumbent cross subsidization; and the anticompetitive consequences of any undue flash cut away from UNE-P.

Respectfully submitted,

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CC: Named FCC Staff
Jeffrey Carlisle, Bureau Chief, Wireline Competition Bureau