

 **Lampert & O'Connor, P.C.**

1750 K Street NW  
Suite 600  
Washington, DC 20006

Donna N. Lampert  
lampert@l-olaw.com

Tel 202/887-6230  
Fax 202/887-6231

October 20, 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); *SBC Communications Inc. 's Petition for Forbearance Under 47 U.S.C. § 160(c)* (WC Dkt. No. 03-235); *Qwest Communications Inc. 's Petition for Forbearance Under 47 U.S.C. § 160(c)* (WC Dkt. No. 03-260); *BellSouth Telecommunications Inc. 's Petition for Forbearance Under 47 U.S.C. §160(c)* (WC Dkt. No. 04-48).

Dear Ms. Dortch:

On October 19, 2004, on behalf of EarthLink, Inc., I had a telephone conversation with Scott Bergmann, Legal Advisor to Commissioner Adelstein, to discuss pending requests of the Bell Operating Companies (“BOCs”) 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 the limited scope of any forbearance relief and to state that the current obligations upon the BOCs to offer non-discriminatory access to information service providers are not affected by the forbearance request. We 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.

cc: Scott Bergmann