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November 3, 2004

BY ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: *Oral Ex Parte Presentation*
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 November 2, 2004, Thomas Sugrue and Jamie Hedlund of T-Mobile USA, Inc. and Ruth Milkman, of Lawler, Metzger & Milkman, counsel to T-Mobile, met with Christopher Libertelli, Senior Legal Advisor to Chairman Powell and Aaron Goldberger of the Wireless Telecommunications Bureau to discuss the above-captioned proceeding. During the meeting, T-Mobile explained the importance of ensuring that wireless carriers have nondiscriminatory access to unbundled network elements, which are critical to the ability of wireless carriers to compete with incumbent local exchange carriers. The discussion was consistent with T-Mobile's previous written submissions in the above-referenced dockets and the attached presentation.

Marlene H. Dortch
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In accordance with the Commission's rules, this letter is being provided to you for inclusion in the public record of the above-referenced proceeding.

Sincerely

A handwritten signature in black ink, appearing to read 'Gil M. Strobel', with a long horizontal flourish extending to the right.

Gil M. Strobel

Attachment

cc: Christopher Libertelli
Aaron Goldberger

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Importance of UNEs to Wireless Competition for Local Exchange Services

**T-Mobile USA, Inc.
WC Docket 04-313; CC Docket 01-338**

November 2004

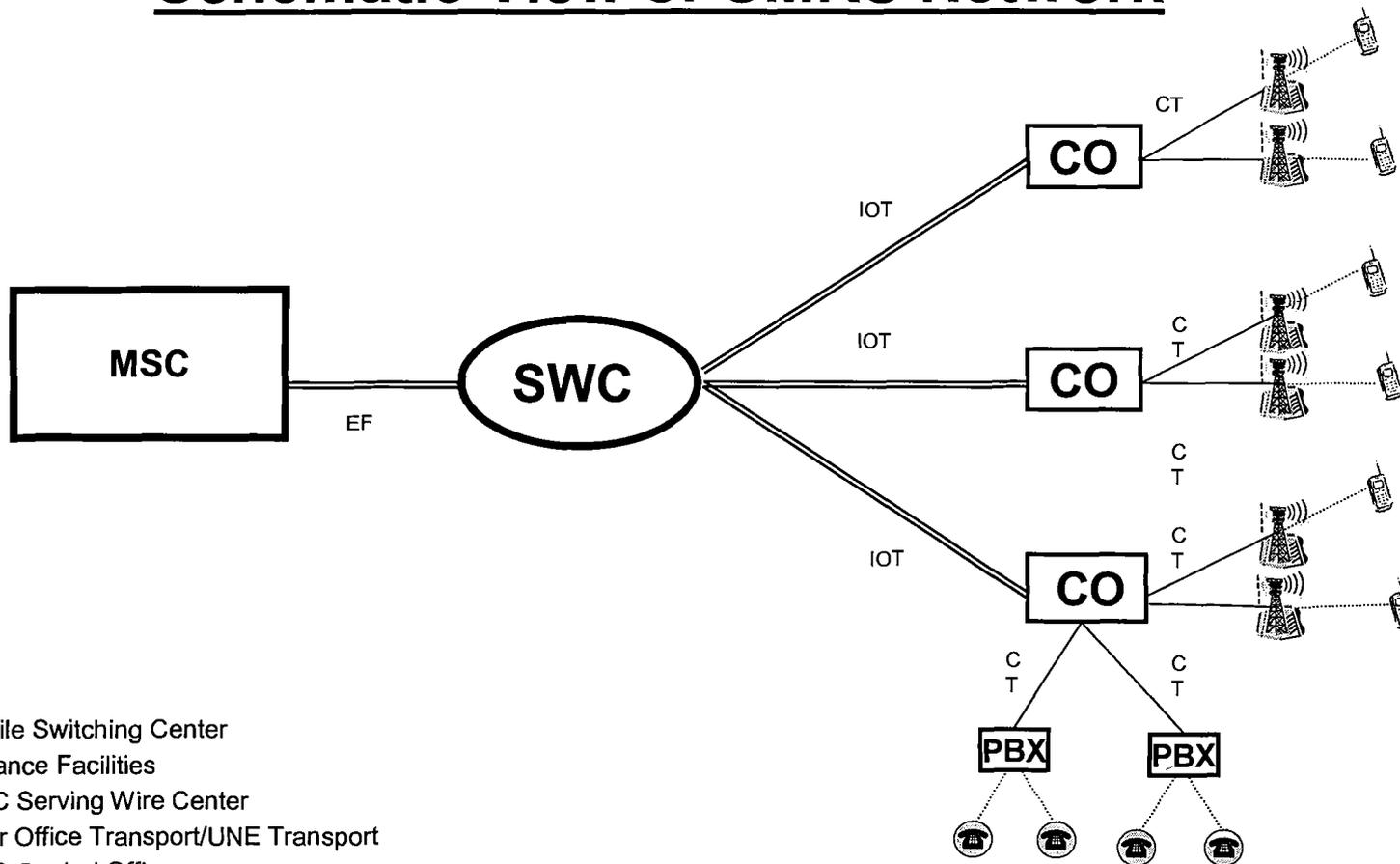
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- **Largest independent wireless company with a principal focus on residential**
 - Young subscribers most likely to “cut the cord”
 - Largest bucket of minutes at most popular price points
- **Attacking wireline market requires substantial investment in cell sites and transmission facilities**
 - Existing network must be expanded to carry additional traffic and improve quality
 - Availability of UNEs essential for T-Mobile to realize full potential as alternative to incumbent LEC local wireline services
 - If T-Mobile successfully attacks the wireline market other CMRS carriers will be under competitive pressure to provide similar offerings

CMRS Providers Depend on ILEC Facilities to Reach End-User Customers

Schematic View of CMRS Network



- MSC - Mobile Switching Center
- EF - Entrance Facilities
- SWC - ILEC Serving Wire Center
- IOT - Inter Office Transport/UNE Transport
- CO - ILEC Central Office
- CT - Channel Termination/UNE Loop/subloop



- **Base station-to-central office link is a network element that should be unbundled**
 - FCC could establish a new network element; or conclude that this link is a loop or a subloop
 - CMRS providers have no alternatives to incumbent LECs for these DS1 facilities
- **Commission previously has concluded that interoffice transport is a network element to which CMRS carriers must be given access on an unbundled basis**
 - CMRS carriers have no alternatives to incumbent LECs on the vast majority of transport routes



- **Contrary to the court's assumption in *USTA II*, CMRS and wireline telephony do not currently compete in the same market**
 - **CMRS is currently a complement to, not a substitute for, wireline service**
 - **Price and service quality differences usually cited as principal barriers to CMRS competition for primary wireline service**
- **CMRS carriers cannot compete effectively if they are forced to pay special access rates that significantly exceed their competitors' economic costs of obtaining the same inputs**

**Availability of Special Access Should Have
No Material Effect on Impairment Findings (cont.)**

- **USTA II** court recognized that FCC could find impairment where special access is available because of concerns about “risk of ILEC abuse” and “administrability”

Risk of ILEC abuse:

- Incumbent LECs’ cost of service is the actual economic cost of the transmission links, while CMRS carriers’ actual costs are the excessive prices they must pay for special access service for the same links
- Looking forward, pricing flexibility will enable incumbent LECs to increase the cost of this input in response to competitive entry

Administrability:

- It would be administratively infeasible for the FCC to compare on an ongoing basis special access prices with retail rates for every local service in every jurisdiction to determine whether competition is feasible without UNEs