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December 3, 2004

BY ELECTRONIC FILING

Marlene M. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Notification of Oral Ex Parte, *In the Matter of Review of the Section 251
Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket 01-
338 and WC Docket 04-313

Dear Ms. Dortch:

On December 1, 2004, Bettina Cardona, President of Fones4All Corporation ("Fones4All") and the undersigned met with Commissioner Adelstein and Scott Bergmann. During the meetings, the parties discussed the need for the Commission to, at a minimum, preserve UNE-P availability to allow competitive carriers to serve single line residential customers who qualify for universal service subsidies. Without UNE-P availability to serve this market, low-income consumers will be forced to either obtain service from the ILECs, who do not actively market universal service availability; obtain service from pre-paid providers that charge exorbitant prices, or forego basic service altogether. In accordance with the Commission's rules, 47 C.F.R. Sec. 1.1206(b)(1), Fones4All is electronically filing in the above-referenced dockets this letter, along with the attached materials.

Respectfully submitted,

A handwritten signature in black ink that reads "Ross Buntrock / emc".

Ross A. Buntrock
Counsel to Fones4All Corporation

cc: Scott Bergmann (electronic mail)



Fones4All Corp.
Triennial Remand Proceeding
WC Docket 04-313

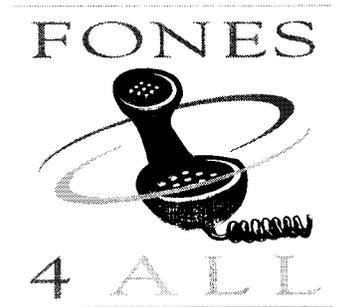
Bettina Cardona, President
Ross Buntrock, Womble Carlyle
Dec. 1, 2004

Who is Fones4All?



- A UNE-P CLEC based in California.
 - Leases loops and switch ports from SBC and Verizon.
- Markets to and serves **low income single line residential** customers who qualify for Universal Service.
 - Most customers do not have access to high speed broadband services through ILECs or Cable providers.
- Has signed up 35,000 first time single line residential ULTS eligible customers in Southern California over the course of two years.

Why Fones4All?



- Fones4All actively markets to ULTS Eligible Consumers
 - Fones4All’s mission is to actively seek out single line ULTS eligible consumers.
 - ILECs have a duty to provide Universal Service
 - ILECs do not actively seek ULTS customers.
 - Fones4All is helping to achieve the FCC’s and California’s goal of Universal Service.
 - Fones4All has little competition other than ILECs and unscrupulous prepaid phone service providers.
 - Prepaid service providers often charge ULTS eligible customers significantly more than market rates.
 - Prepaid providers do not offer ULTS service.

Availability of Telephone Service to the Low Income Subscriber



- According to FCC's Aug. 2004 report, California has 95.9% telephone penetration rate.
- Approximately 2 M households in California have no basic telephone service.
- In California, as in the rest of the country, low income Hispanic and African American households are much less likely to have basic telephone service than counterparts, as demonstrated in the FCC's most recent penetration report.

The California ULTS Program



- The Moore Universal Telephone Service Act, enacted in 1987, created the state Universal Lifeline Telephone Service (ULTS) program.
- Goal of ULTS program is to offer high quality basic telephone service at affordable rates to the greatest number of California residents.
- Competitive alternatives are key to achieving goals of ULTS program to ensure that every person qualified to receive lifeline telephone service is informed of and is afforded the opportunity to subscribe to that service.
- The Commission should ensure that UNE-P is available to serve low income residential ULTS customers.
 - UNE-P is the only way that competition will exist for ULTS customers
 - UNE-P is the only way that ULTS customers will be actively sought out and educated about the ULTS program.

The Low Income Residential Market



- The Commission must conduct an independent impairment analysis of the residential market.
- The low-income residential market is separate and distinct from both the business market, and even the mainstream residential market.
 - Different products
 - Different pricing
 - Different customer expectations
 - Different customer needs
- The low income market is either ignored completely or exploited by predatory and unscrupulous pre-paid providers.

There Is Extreme Impairment in the Low Income Res Market



- Economic Impairment
 - Cost of duplicating the PSTN is prohibitively high.
 - Low incremental income opportunity in the low income residential market.
 - High customer churn.
- Operational Impairment
 - ILEC network built for a single carrier.
 - Very difficult and expensive to access loops unbundled from switching.
 - Scattered population makes capturing market share difficult and network build expensive.

Intermodal Products Are Not Substitutes for Basic Service in the Low Income Market



- **Low income customers cannot afford even unsubsidized basic wireline service.**
- **Any of the intermodal alternatives are clearly out of reach for low income subscribers.**
 - **VoIP requires a broadband connection that, according to *UNE Fact Report*, costs between \$72-\$90 per month.**
 - **Cable telephony requires cable service availability and means to subscribe—often no cable plant in these areas.**
 - **Wireless service requires credit checks and long term contracts and does not provide consumer protections of wireline service.**
 - **Most of the plant in poor urban areas has not been upgraded to support broadband services with no plans for future upgrades.**

Intermodal Products Are Not Substitutes for Basic Service in the Low Income Market



- Low income populations, the most overlooked and vulnerable, should not be relegated to obtaining service only from unscrupulous pre-paid providers.
 - The people that need the most assistance generally get taken advantage of due to lack of knowledge about the ULTS program.
- Low income populations should not be required to obtain ULTS service only from ILECs
 - In California, the PUC litigated a case where Pacific Bell was alleged to have failed to inform eligible subscribers of the availability of ULTS service.
 - The CPUC also found that Pacific had improperly marketed vertical features to ULTS subscribers.
 - The CPUC fined Pacific Bell \$22.5 M.
 - See *TURN v. Pacific Bell*, Case 90-04-004, D. 01-09-058 (Sept. 20, 2001)
- There must be a competitive alternative for all segments of the communications marketplace.

At a Minimum the Commission Should Adopt a UNE-P Carve Out for ULTS/LifeLine Link Up Subs



- **Without competitive providers of ULTS/LifeLine/LinkUp low income subscribers will be forced to rely on either unscrupulous prepaid providers or ILECs.**
- **ILECs have little incentive to serve high-cost, low income customers.**
- **Competitors cannot economically serve low income populations without access to UNE-P.**
- **Resale and UNE-L are not viable substitutes.**
- **As Chairman Powell has recognized, even Bells agree that UNE-P should be available to serve residential consumers.**

Conclusion



- The Commission should preserve UNE-P availability for single line residential use.
- At a minimum, the Commission should preserve UNE-P availability for low income (ULTS/LifeLine/LinkUp eligible) customers.