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## VIA ELECTRONIC FILING

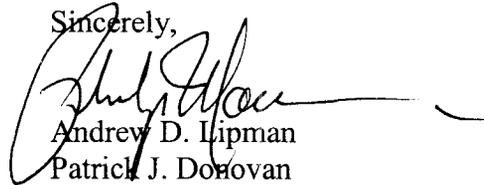
Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Portals  
Washington, DC 20554

Re: Ex Parte, WC Docket No. 04-313, CC Docket No. 01-338

Dear Secretary Dortch:

Pursuant to Section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, this will provide notice that on December 2, 2004, Paul W. Hobby (Alpheus Communications L.P.), Bruce Bennett (ATX Communications, Inc.), Austin McIntire (ATX Communications, Inc.), Eric Wince (Globalcom, Inc.), Gavin McCarty (Globalcom, Inc.), Mary McDermott (NTELOS Network Inc.), Benjamin Thayer (BayRing Communications) and the undersigned met with Commissioner Abernathy and Matthew Brill; Commissioner Martin and Daniel Gonzalez; Commissioner Adelstein and Scott Bergmann.<sup>1</sup> We presented the views set forth in the attached document which were provided at the meetings.

Sincerely,



Andrew D. Lipman  
Patrick J. Donovan  
Philip J. Macres  
Joshua M. Bobeck

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<sup>1</sup> Joshua Bobeck only attended the meeting with Commission Adelstein and Scott Bergmann.

### **Transport/Dark Fiber**

- Actual wholesaling test for DS-1 transport.
  - Sufficient record evidence that competitive providers do not self-provision DS1 transport
- Fiber-based collocation and wire center density thresholds.
- Regardless of merits of application elsewhere, fiber-based collocation does not predict potential deployment in less developed areas.
- Proposed collocation and wire center density thresholds do not strike a balance that will promote facilities-based competition.

### **Loops**

- Wire center density unrelated to impairment.
- Wholesaler: two wholesalers, to customer premises, common carrier, unaffiliated with incumbent, does not use incumbent facilities.

### **DS-1 EELs Are Loops**

- DS1 EELs are functionally loops.
- Commission may define network elements.
- DS1 transport used in a DS1 EEL does not aggregate transport from other customers.
- Impairment should be measured by the loop component.

### **EEL Criteria Should Not Apply to Stand-Alone Loops**

- Devastating impact on CLECs that use DS-1 loops to provide local data service.
- *Triennial Review Order* – No evidence of need to apply EEL criteria to loops.
- Little record debate on this issue.
- No legal necessity – EEL criteria are unrelated to impairment.
- The more cautious approach would be to monitor.

### **Transition**

- Transition period for dark fiber must build-in time to construct.
- TELRIC pricing for cutover to alternative transport provider.
  - Verizon attempting to impose special access NRCs.
- For UNE-P, one year minimum from effective date of rules to accommodate collocation and cutovers.