December 6, 2004

VIA ELECTRONIC FILING (ECFS)

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

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

Dear Ms. Dortch:

The undersigned are rural CLECS offering service in a wide range of states. We are all facilities-based carriers, providing competitive telecommunications service to rural areas. Many of us have started the process of building our own fiber networks to service our regions. For understandable business reasons, our goal is to constantly reduce to an absolute minimum the UNE items for which we depend on RBOCs.

By virtue of our locations, we serve rural consumers, businesses, government organizations and schools. These customers are traditionally the last to be served by new technologies. We hear a constant concern from potential customers that they are being bypassed by ILECs and isolated from advances in networking. They understand that lack of advanced networks in their regions leads to weaker economic development. They are concerned that they are losing their children to regions with more economic opportunity. They are aware that they are in markets that are less attractive for telecommunications companies. They are aware that they have fewer competitive choices than urban markets.

In these rural markets, we serve a vital purpose by bringing competition that would not otherwise exist. In some of our markets, there is no intermodal competition. In all of our markets, there is less competition than in urban areas.

We choose to serve these areas because this is where we live. We are willing to make investments in areas less lucrative than urban markets because of our belief in the importance of the benefits of competitive telecommunications in these less affluent areas.. The country as a whole benefits from our willingness to make these investments. The regulatory regime should certainly not punish our companies for this commitment.

To serve the rural regions, we need to be able to reach from urban areas to rural centers. We need to be able to transmit between rural centers. Between many rural centers, there

is no alternative other than RBOC Inter-Office Facilities (IOF).

Moreover, in the vast majority of cases, it is not economical or practical for us to build our own IOF. The distances between rural towns are large, dozens if not hundreds of miles (Example even on the East Coast, Bangor to Houlton ME.) It is not unusual for even a small rural CLEC to need hundreds of miles of fiber IOF. In many rural areas, the costs of pulling fiber is higher because of difficult mountainous terrain. In northern rural areas the climate reduces the fiber build window to five months. These higher costs caused by distance, terrain and climate must be supported by less density per rural center. The higher costs per customer in rural areas has been recognized for decades by regulators. The bottom line is that is it is not economically feasible for rural CLECs to self-provide any significant proportion of their own IOF.

We are concerned that the impairment test for IOF that the Commission may be considering does not adequately assess impairment. Our experience is that many IOF UNE routes would become unavailable under the tests being considered by the Commission even though there is no realistic possibility that we could build our own IOF and even though there are no alternative providers.

There are three problems with the transport test under consideration by the Commission as we understand it: the definition of fiber collocator, the definition of business lines and the logical conjunction "or".

The problem with "fiber collocator" is that the limits being considered by the Commission may be exceeded in rural areas simply because there are fewer wire centers in rural areas. To the extent the Commission relies on fiber collocators as a predictor of the potential for self-deployment, the fiber collocators must be limited to those carriers that are collocating for the purpose of providing IOF. However, this is not the case in many less densely populated areas. Instead, fiber collocators could include a cell company which has a fiber run from a tower to a RBOC rural center. Such a run would not be useful for providing IOF and would provide no insight into the potential for IOF self-deployment. Other collocators could be a CLEC that has a fiber run just from a tandem located in a rural center and its switch or an IXC which has a fiber run between a tandem and a location out of state that does not enter any intermediate COs. None of these fiber collocators are useful in showing a potential for self-deployment. Nor do they show that wholesale providers are available over a route.

If the Commission chooses to rely on a fiber collocator test is should require that the fiber collocator be in the business of selling dark fiber runs and has excess capacity to sell. At a minimum, the definition of a fiber collocator should only consider fiber runs that terminate in a wire center in the same LATA.

The definition of business lines must include only active business lines that terminate in the CO rural center because there is no motivation for an alternate IOF carrier to build facilities in to a CO if the lines are not there. Lines that are contained in a region served by a CO, but are not actually currently served out of a CO should not be counted.

Finally, the logical conjunction in the Commission's transport test should be "and," not

"or." There are many rural COs which serve more than 20,000 business lines and have 4 or more fiber collocators, but between which there are no wholesalers nor could CLECs feasibly construct. Accordingly, we suggest that the test for transport be revised to a CO which **actively** serves 25,000 business lines **and** which has 4 or more fiber collocators.

We thank you for consideration of this letter. We provide vital competitive service to rural communities throughout the US. If RBOC IOF is prematurely withdrawn, we have no substitute and will have to withdraw our service from many of these communities.

Sincerely,

William Richey
President
Acme Communications, Inc.
618 Franklin Square
Michigan City, IN 46360
Ph: 219 879-6600
Fx: 219 879-6659
bwrichey@adsnet.com

Benjamin Thayer
President
BayRing Communications
13 Central Street
Farmington, NH 03835
Ph: 603-766-1010
bthayer@utel.com

Steve Mossbrook, President and CEO
Contact Communications
937 West Main Street
Riverton, WY 82501
Ph: 307-856-0980
Fx: 307-856-1499
Steve@contactcom.net

Andrew H. Hinkley
General Manager
Cornerstone Communications, LLC
19 School Road
Charleston, Maine 04422
Ph: 207-285-7174
Fx: 207-285-7173
andy.hinkley@ccmaine.net

Timothy J. Kilkenny, Founder and CEO
FullNet Communications
201 Robert S. Kerr
Oklahoma City, OK 73102
Ph: 405-236-8200
Fx: 405-236-8201
tim@fullnet.net

Andrew Aken President
GlobalEyes Telecommunications
1206 Chestnut St
Murphysboro, IL 62966
Ph: 618-434-1000 x12
ajaken@GETTelco.com

Fletcher Kittredge
CEO
Great Works Internet
8 Pomerleau Street
Biddeford, ME 04005
Ph: 207-286-8686
Fx: 207-286-2061
legal@gwi.net

Donny Smith, CEO and Chairman
of the Board
Jaguar Communications, Inc.
213 S. Oak Ave.
Owatonna, MN 55060
Ph: 507-214-1000
Fx: 507-214-1001
dsmith@jagcom.net

Brent L. Johnson, Chairman of the Board
Chris Dimock, President & CEO
OneEighty Communications, Inc.
206 North 29th Street
Billings, Montana 59101
Tel: (406) 294-4000
Fax: (406) 294-4004
bjohnson@oneeighty.com
cdimock@oneeighty.com
http://www.oneeighty.com

Jeremy Katz
Chief Executive Officer
segTEL, Inc.
9 Landing Road
PO Box 369
Enfield NH 03748
Ph: 603-643-5883
jeremy@segTEL.com

Vernon Burke
President
Skowhegan OnLine Inc
12 Jewett St
Skowhegan, ME 04976
Ph: 207-474-1291
Fx: 207-474-0309
vburke@skow.net

J. Barton (Tony) Elliott - CEO
SoVerNet, Inc (ISP) and National
Mobile Communications Corp (CLEC)
5 Rockingham St. - PO Box 495
Bellows Falls, VT 05101-0495
Ph: 802-460-9123
Fx: 802-460-2113
mailto:regulatory@sover.net

cc: Honorable Michael K. Powell
Honorable Kathleen Q. Abernathy
Honorable Michael J. Copps
Honorable Kevin J. Martin
Honorable Jonathan S. Adelstein
Christopher Libertelli
Matthew Brill
Jessica Rosenworcel
Daniel Gonzalez
Scott Bergmann
Jeffrey Carlisle
Michelle Carey
Thomas Navin
Jeremy Miller
Russell Hanser
Pamela Arluk
Carol Simpson
Tim Stelzig
Ian Dillner

Marcus Maher
Gail Cohen
John Stanley
Christopher Killion
Cathy Zima
Erin Boone