

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

1750 K Street NW
Suite 600
Washington, DC 20006

Mark J. O'Connor
oconnor@l-olaw.com

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

December 8, 2004

Ms. Marlene Dortch, Secretary
Federal Communications Commission
The Portals, TW-A325
445 12th 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); *Unbundled Access to Network Elements* (WC Docket No. 04-313)

Dear Ms. Dortch:

On December 7, 2004, Dave Baker, Vice President, Law and Public Policy for EarthLink, Inc.; Jennifer Phurrough; and the undersigned met with Commissioner Adelstein and Mr. Scott Bergmann, Legal Advisor to Commissioner Adelstein, regarding the above-referenced dockets. In addition to positions previously filed in the above-captioned dockets, EarthLink discussed the status of the proceeding and urged the Commission to reinstate line sharing in the anticipated December vote on UNE permanent rules. EarthLink emphasized that such reinstatement would be legally sustainable. Further, EarthLink described the extent to which line sharing enhances broadband competition under current market conditions, including the ability of a line sharing competitive LEC to address the continuing anticompetitive practices of incumbent LECs.

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/

Mark J. O'Connor
Counsel for EarthLink, Inc.