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ORIGINAL

September 29, 2004

By Hand Delivery

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW, 8th Floor
Washington, DC 20554

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SEP 29 2004
Federal Communications Commission
Office of Secretary

Re: Developing a Unified Intercarrier Compensation Regime, CC Docket No. 01-92; Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket NO. 96-98; Intercarrier Compensation for ISP-Bound Traffic, CC Docket No. 99-68

Dear Ms. Dortch:

This letter is filed on behalf of the VON Coalition. We understand that the Commission is considering issuing an order on remand to its proceeding regarding intercarrier compensation for ISP-bound traffic. While the VON Coalition takes no position on the appropriate rate structure or level for intercarrier compensation for ISP-bound traffic, we are concerned that the Commission not take action in this proceeding that would establish legal precedents that could adversely affect VoIP providers and users with respect to intercarrier compensation issues under consideration in the Commission's IP-Enabled Service proceeding.

We understand that the Commission is considering whether ISP-bound traffic is jurisdictionally mixed, and thus within the scope of the Commission's section 201 jurisdiction over interstate traffic, and also whether such traffic falls within Section 251(b)(5). As the Commission moves forward in its ISP-bound docket, it can and should take care to preserve its ability to later adopt a unified intercarrier compensation regime for all traffic, including VoIP traffic, as well as the unified regime for certain VoIP traffic that would result if the Commission grants Level 3's Petition for Forbearance Under 47 U.S.C. § 160(c) from Enforcement of 47 U.S.C. § 251(g), Rule 51.701(b)(1) and Rule

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69.5(b). Specifically, the Commission should not rely on any theory that categorizes traffic bound for IP networks (such as ISP-bound traffic or VoIP traffic) as beyond the scope of Section 251(b)(5)'s provisions governing the obligation of LECs to enter into agreements for the transport and termination of telecommunications.

Sincerely,



Glenn S. Richards