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January 26, 2005

ORIGINAL

EX PARTE

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

Re: MB Docket No. 02-144

Dear Ms. Dortch:

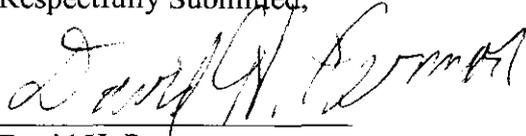
On January 18, 2005, TJCOG submitted an ex-parte notice with the Commission in the above docket. (attached) This letter describes a January 14, 2005 ex-parte meeting between representatives of the North Carolina Triangle J Council of Governments and FCC staff which included a discussion cable operators' use of the Form 1235 to recover upgrade costs. More specifically, we described local communities' concern that the Form 1235 could allow over-recovery by cable operators of their cable system upgrade costs. Since that meeting, we have developed a worksheet designed to evaluate whether over-recovery of upgrade costs by cable operators has occurred. We submit this to the record to illustrate the simplicity of discerning such information.

Coincident with exposure of the Form 1235 issue at the local level, the cable industry has made a series of ex-parte visits to the FCC. The purpose of these visits appears to be to persuade the Commission to weaken the evidentiary standard for "effective competition" and "streamline" the process, so that local government rate regulatory authority can be more rapidly and immediately revoked. This conveniently means that local governments could no longer hold cable operators accountable through the rate regulatory process for questionable accounting practices, such as those attached to the Form 1235. As noted in our meeting of January 14, 2005, we encourage the FCC to stay true to the terms established by Congress, and by the FCC itself, regarding the evidentiary standards for effective competition.

List ABOVE 0+1

Pursuant to Section 1.206(b) of the Commission's rules, an original and one copy of this letter and attachment are being submitted to the Secretary's office for inclusion in the record of the above-proceeding.

Respectfully Submitted,



David H. Permar
Council to Triangle J. Council of Governments

Attachments

cc: Marjorie "Peggy" Greene
John Norton
Jonathan Cody
Wanda Hardy

Date: _____

Franchise Area: _____ CUID: _____

FCC Form 1235 Update Worksheet

The purpose of this form is to account for all upgrade fees paid by regulated Cable Service.

The next table is to be completed by cable operators subject to the upgrade provisions of a Social Contract.¹

Table 1

	Subscribers	Amount	Months ² @	Revenue
Social Contract 1995		\$1.00		
Social Contract 1996		\$1.00		
Social Contract 1996		\$2.00		
Social Contract 1997		\$2.00		
Social Contract 1997		\$3.00		
Social Contract 1998		\$3.00		
Social Contract 1998		\$4.00		
Social Contract 1999		\$4.00		
Social Contract 1999		\$5.00		
Social Contract 2000		\$5.00		
Total Pre-Capitalization Collected				

¹ The Social Contract is for a term of five years (60 months).

² Accommodates Social Contract anniversary dates that do not coincide with the calendar year.

Table 2

Category	Amount
Net Upgrade Rate Base from Form 1235 Part I, line 3a.	
Number of Subscribers from Form 1235, Part 3, line 2a	
Monthly Network Upgrade Add-on Charge from Form 1235, Part 3, line 4a	

Table 3

Year	Subscribers	Upgrade Charge ³	Months	Revenues
1999				
2000				
2001				
2002				
2003				
2004				
Total Upgrade "Add-on" Charges				

Table 4

Year	Depreciation taken on Upgrade Investment
2000	
2001	
2002	
2003	
2004	
Total Depreciation	

Table 5

³ Table 2, line 3

Category	Amount
Total Pre-Capitalization Collected (Table 1)	
Total Upgrade "Add-on" Charges (Table 3)	
Total Depreciation (Table 4)	
Total Adjustments	

Table 6

Category	Amount
Net Upgrade Rate Base from Form 1235 Part I, line 3a.	
Total Adjustments (Table 5)	
Residual Upgrade Rate Base	

Attach a copy of the original FCC Form 1235 to this worksheet.