

# SWIDLER BERLIN LLP

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## VIA ELECTRONIC FILING

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

Re: Ex Parte Notice, CC Dockets 98-141, 98-184 and 01-338, and WC Docket 04-313

Dear Ms. Dortch:

Pursuant to Section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, this letter provides notice that on February 15, 2005, Paul Hudson and Philip Macres of Swidler Berlin LLP spoke by telephone with Christopher Libertelli, senior legal advisor to Chairman Powell, on behalf of Access One, Inc.; ACN Communications Services, Inc.; Alpheus Communications, L.P. f/k/a El Paso Networks, L.P.; ATX Communications, Inc.; Biddeford Internet Corporation d/b/a Great Works Internet; Big River Telephone Company, LLC; BridgeCom International, Inc.; Broadview Networks, Inc.; BullsEye Telecom, Inc.; Capital Telecommunications, Inc.; Cavalier Telephone, LLC; CTC Communications Corp.; CTSI, Inc.; DSLnet Communications, LLC; Focal Communications Corp.; Freedom Ring Communications, LLC d/b/a BayRing Communications; Gillette Global Network, Inc. d/b/a Eureka Networks; Globalcom, Inc.; Intelcom Solutions, Inc.; KMC Telecom Holdings, Inc.; Lightship Telecom, LLC; Lightwave Communications, LLC; Lightyear Network Solutions, LLC; McGraw Communications, Inc.; McLeodUSA Inc.; Mpower Communications Corp.; RCN Telecom Services, Inc.; segTel, Inc.; TDS Metrocom, LLC; US LEC Corp.; and Vycera Communications, Inc. f/k/a Genesis Communications Int'l, Inc.

During the telephone conversation, we discussed problems that could arise if the Commission did not act on these parties' Petition for Declaratory Ruling that was filed on September 9, 2004 in Dockets 98-141 and 98-184 prior to March 11, 2005, which is the effective date of the Commission's *Triennial Review Remand Order*. We explained that if SBC or Verizon attempt to implement changes to their UNE provisioning prior to the Commission's resolution of the Petition for Declaratory Ruling, numerous disputes between carriers are likely to arise and fall upon the state commissions. We then discussed possibilities for the Commission to at least partially offset the potential for such consequences by issuing clarifications or

modifications of the *Triennial Review Remand Order* that would make clear that the Order can only be implemented in accordance with the change of law provisions of the parties' interconnection agreements. We also discussed the possibility of clarifying the Order's (1) limitations on the number of EELs that can be ordered as result of the cap on unbundled DS1 transport circuits CLECs may obtain and (2) provisions in the revised Rules 51.319(a)(4) and (5) that once a wire center exceeds the impairment thresholds that no future unbundling will be required in that wire center.

Respectfully submitted,

  
Paul B. Hudson  
Philip J. Macres

cc: Christopher Libertelli