Levine Blaszak
Block & Boothby LLP

March 4, 2005

ELECTRONICALLY FILED

Ms. Marlene H. Dortch
Secretary
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Ex Parte Notice

Re: Petition of BellSouth Telecommunications, Inc. for Forbearance under 47 U.S.C. § 160(c) from Application of Computer Inquiry and Title II Common Carriage Requirements – WC Docket No. 04-405

Dear Ms. Dortch:

On March 3, 2005, the undersigned and Susan Gately, of Economics & Technology, Inc., met with Tako Iijima, Bill Kehoe, Terri Natoli, Assistant Chief, Ann Stevens, Associate Chief, Christi Shewman, Carol Simpson, and Julie Veach, Deputy Chief, of the Competition Policy Division of the Wireline Competition Bureau, on behalf of the Ad Hoc Telecommunications Users Committee.

The parties discussed the matters described in greater detail in the handout attached to this letter. The parties also discussed procedural options for summarily resolving forbearance petitions that seek accelerated disposition of issues identical to those raised by the Commission in pending rulemaking proceedings.

Pursuant to Section 1.1206(b) of the Commission's Rules, 47 C.F.R. § 1.1206(b), copies of this letter and attachment are being filed with the Office of the Secretary.

Sincerely,

Colleen Boothby

Colleen Boothby

Counsel for Ad Hoc Telecommunications Users Committee

Attachment

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Bell South Forbearance Petition: Same old, same old

Seeking forbearance from Title II and *Computer Inquiry* rules for "broadband" market (200 Kbps and above)

Rationale: Competition

- Evidence limited to DSL
- But "broadband" is more than DSL
    - Special access
    - T1s, DS3s, OCns, SONET, etc.

Same issues, same evidence, same defects as pleadings in broadband rulemakings

- Enterprise customer broadband is not competitive
    - Cable competes only with residential DSL
    - Wireless, satellite, broadband over powerline are not viable substitutes for special access
    - CLECs rarely provide alternatives to BOC special access
- BOCs use market power to exploit customers
    - Higher prices under existing regulatory flexibility
    - Patently unreasonable rates of return

BellSouth proffers no evidence that market has changed

BellSouth freely admits that this petition is an end run of the broadband rulemakings

Special access/broadband market: Same old, same old

Ad Hoc *Access Competition White Paper* analyzed state of competition in local markets

ETI examination of updated data reveals no change in indicators

Members report no improvement in purchasing options

Existing competitive alternatives under siege

End users depend on *Computer II/III* protections

Preserves end user control over CPE, ISPs

Enables technological innovation and downward pricing pressure of open markets for CPE and information services

Curbs ILEC ability to leverage market power in adjacent markets

Broadband rulemaking is proper venue for addressing these issues

BOCs are abusing forbearance process to create artificial deadlines

Rulemakings are proper forum for resolving issues

- Evidentiary record is developed
- Consistent, global policies and rules for similar services

Forbearance petitions are unnecessary drain on resources of Commission and other parties