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April 20, 2005

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APR 21 2005

Federal Communications Commission  
Office of Secretary

VIA ELECTRONIC FILING & HAND DELIVERY

Ms. Michelle Carey  
Deputy Chief, Wireline Competition Bureau  
Federal Communications Commission  
The Portals  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Re: WC Docket No. 04-313; CC Docket No. 01-338;  
In the Matter of Unbundled Access to Network Elements, Review of the Section  
251 Unbundling Obligations of Incumbent Local Exchange Carriers; Triennial  
Review Order on Remand ("TRRO")

Dear Ms. Carey:

I am writing on behalf of XO Communications, Inc. ("XO"). As you may recall, on March 7, 2005, we filed a letter with the Commission highlighting how SBC Telecommunications, Inc. ("SBC") had failed to engage XO in the good faith negotiations required by the TRRO in order to implement the Commission's new rules. We now unfortunately face the same techniques from Verizon. Verizon has refused to negotiate the requisite ICA Amendments to implement the new Commission directives in the TRRO, rather claiming that such rules are essentially self-effectuating and require no such Amendment.<sup>1</sup> Indeed, as you are well aware, the TRRO requires that CLECs and ILECs undertake all necessary steps to in good faith amend their existing interconnection agreements ("ICA") in order to implement the changes reflected in the TRRO. In addition, the Commission provided a transition period of either 12 or 18 months, depending on the affected UNE, in order to implement such ICA changes and to transition off all UNEs that are no longer available. Unfortunately, like SBC, Verizon has also taken it upon itself to ignore the clear directive of the Commission by unilaterally implementing its view of the TRRO without the good faith negotiation the Commission made clear is required. As we did in our letter to you regarding SBC, we now outline the actions Verizon has taken to also thwart XO's efforts to seamlessly comply with Commission directives to ensure the smooth transition of our customers to alternative service arrangements for affected UNEs.

On February 18, 2005, XO sent written requests to Verizon enter into good faith negotiations to amend our ICAs in Verizon's territory to incorporate the rule changes necessitated by the TRRO. See XO Request Letters dated February 18, 2005, attached hereto as Exhibit A. On March 4, 2005, Verizon responded to such requests claiming that except in very limited circumstances, Verizon was not required to enter into good faith negotiations with XO to implement the TRRO rule changes, and that, with respect to the matters addressed by the TRRO, the parties' existing negotiated ICA terms no longer applied. See Verizon Response Letter dated March 8, 2005, attached hereto as Exhibit B. We have attempted to show Verizon the error of its ways by pointing out the Commission's clear requirements to follow the

<sup>1</sup> In some states, Verizon was permitted to modify its wholesale tariffs to implement the TRRO without negotiation or amending the ICA.

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Ms. Michelle Carey  
April 20, 2005  
Page 2 of 3

change of law provisions in the ICAs in effect between the two companies. See XO Response Letter dated March 7, 2005, attached hereto as Exhibit C. However, Verizon has shown that it is not truly interested in following the law as written, but rather only its erroneous interpretation of the law, not surprisingly an interpretation that most benefits it.

Verizon's blatant disregard of Commission direction is evidenced simply and clearly by Verizon's own written words as set forth in its Response Letter:

"The TRRO and the FCC's implementing regulations bar CLECs from ordering new Discontinued Facilities as of the effect date of the order, *irrespective of the terms of existing Section 252 interconnection agreements.*"

(emphasis added). Indeed, Verizon makes no attempt to hide its strategy to thwart XO's attempts to fully comply with the TRRO and to ensure a seamless transition of its customers off affected elements. In the TRRO, the Commission required ILECs and CLECs to, in good faith, amend their ICAs to incorporate the Commission's most recent rule changes. Specifically, ¶ 233 of the TRRO clearly states that:

"[the Commission] expect[s] that incumbent LECs and competing carriers will implement the Commission's findings as directed by Section 252 of the Act. Thus, carriers *must implement changes to their interconnection agreements* consistent with our conclusions in this Order"

(emphasis added and footnotes omitted). The Commission elaborates on this obligation by stating that "the incumbent LEC and competitive LEC *must negotiate in good faith regarding any rates, terms, and conditions necessary to implement our rule changes*" (emphasis added and footnotes omitted).

The Commission further clarified in the TRRO that parties were to rely on the ICA amendment process to incorporate its changes, including all transitional provisions, explicitly referencing carriers' use of the change of law provisions in their ICAs. Indeed, the Commission emphasized that "carriers have twelve months from the effective date of this Order to *modify their interconnection agreements*, including completing any change of law processes." See TRRO ¶¶ 143 and 196. Verizon's position that the rule changes promulgated by the Commission in the TRRO are self effectuating, and that XO is required to enter into the Verizon form ICA amendment by April 3, 2005, just 24 days after the effective date of the TRRO, and almost a year prior to the date authorized under the TRRO, is clearly without basis and wholly inconsistent with TRRO ¶¶ 143 and 196. Verizon's position is further undermined by the language in TRRO ¶¶ 145 and 198, which state that

"the transition mechanism adopted here is *simply a default process*, and pursuant to Section 252(a)(1), *carriers remain free to negotiate alternative arrangements* superseding this transition period. The transition mechanism also does not replace or supersede any commercial arrangements carriers have reached for the continued provision of . . . facilities or services."

Verizon's contentions that it can unilaterally implement the transitional provisions set forth in the TRRO fly in the face of this Commission construct, which by its clear terms allows for the replacement of the stated transition mechanism with terms negotiated or arbitrated between the parties. This Commission construct clearly contemplates nothing less than full bilateral negotiations between the parties of all "*rates, terms and conditions necessary to implement the [Commission's] rule changes.*" See TRRO ¶ 233 .

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It is also important to emphasize that the Commission explicitly elected to effectuate its rule changes through the ICA Amendment process, recognizing that these ICAs already provide for a mechanism for incorporating changes in the law, and that such changes will take some period of time to complete. The Commission has aptly embraced these change of law mechanisms by requiring carriers to follow their own negotiated processes in order to give effect to the new Commission rules. Also recognized by the Commission decision is the fact that until the change of law process, and resulting negotiations, are completed, albeit within the time frames prescribed in the TRRO, the ICA terms and conditions as previously negotiated and agreed by the respective parties must continue to govern without interruption or alteration.

The TRRO does not create exceptions to this premise or unilaterally permit Verizon to pick and choose which of the Commission rule changes must be incorporated into its ICA with XO and which it can unilaterally implement without negotiation or discussion. Similarly, nothing in the TRRO permits Verizon to breach its ongoing obligations to XO in its ICAs. These positions, taken by Verizon, violate the clear directives of the TRRO. As such, Verizon should not be allowed to circumvent the very terms it negotiated with XO in direct contravention of Commission rules simply because it feels it would benefited by doing so. The Commission has explicitly set forth a process to incorporate its new rule changes into existing ICAs, and Verizon must be made to follow that procedure.

Therefore, we now respectively request that the Bureau take whatever steps are necessary to ensure Verizon complies with the clear directives of the Commission in the TRRO. Verizon must not be permitted to steamroll XO, ignoring the process the FCC put in place, thereby placing XO and its customers in further jeopardy. Conversely, XO has no interest in unreasonably delaying the complete implementation of the Commission's rules. On the contrary, it is XO's hope to quickly and smoothly implement all required rule changes so that its customers can be seamlessly transitioned to new service arrangements where necessary and without interruption. Indeed, as referenced above, XO has already sent requests to Verizon for negotiation of the necessary amendments to their ICAs, as well as a request for the business line and fiber-based collocator counts to support Verizon's Tier 1, Tier 2, and Tier 3 wire center determinations. Despite XO's good faith requests consistent with the process set forth in the TRRO, however, Verizon continues to refuse to engage XO in good faith negotiations. Verizon's blatant refusal to work with XO in good faith to implement the provisions of the TRRO must not be tolerated. Verizon's actions again demonstrate its bad faith as it continues to place unreasonable and inappropriate impediments in the way of its competitors, and in violation of application federal rules. Just as is the case with SBC, after more than 9 years of delays and excuses, it is time for Verizon to fulfill its obligations as required by clear Commission order.

As we stated in our letter to you regarding SBC, this is a tenuous time for small and mid-sized competitive telecommunications carriers, with new mega mergers and consolidations announced almost weekly, and large carriers continuing to dominate the marketplace. It is thus imperative that ILECs, like Verizon, be required to comply with the law so competitive LECs can have the certainty they need to ensure uninterrupted, cost effective, quality service to their customers.

Thank you in advance for your prompt attention to this matter.

Sincerely,

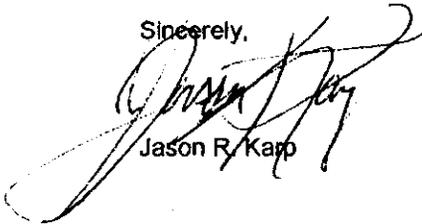
  
Jason R. Karp

EXHIBIT A

February 18, 2005

VIA OVERNIGHT MAIL

SBC Contract Administration

ATTN: Notices Manager  
 311 S. Akard, 9<sup>th</sup> Floor  
 Four Bell Plaza  
 Dallas, TX 75202-5398

Attached are separate notices from XO Communications Services, Inc. requesting SBC begin good-faith negotiations under Section 252 of the 1996 Telecom Act directed toward reaching a mutually agreeable ICA amendment that fully and properly implements the changes that have occurred as a result of the *Triennial Review Remand Order*, and to the extent necessary the *Triennial Review Order*. Attached are individual notices from XO Communications Services, Inc., on behalf of and/or as successor in interest to:

XO Illinois, Inc.	Allegiance Telecom of Illinois, Inc.	Coast to Coast Telecommunications, Inc.
XO Michigan, Inc.	Allegiance Telecom of Michigan, Inc.	
XO Ohio, Inc.	Allegiance Telecom of Ohio, Inc.	
XO Texas, Inc.	Allegiance Telecom of Texas, Inc.	
XO Missouri, Inc.	Allegiance Telecom of Missouri, Inc.	
XO California, Inc.	Allegiance Telecom of California, Inc.	
XO Indiana, Inc.		
XO Wisconsin, Inc.		
XO Oklahoma, Inc.		
XO Arkansas, Inc.		
XO Kansas, Inc.		
XO Connecticut, Inc.		
XO California, Inc.		

XO Communications, Inc.

11111 Sunset Hill Road  
Reston, VA 20190  
USA

February 18, 2005

**VIA OVERNIGHT MAIL**SBC Contract Administration  
ATTN: Notices Manager  
311 S. Akard, 9<sup>th</sup> Floor  
Four Bell Plaza  
Dallas, TX 75202-5396

On February 4, 2005, the Federal Communications Commission ("FCC") released the text of its Order on Remand in *In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338 ("*Triennial Review Remand Order*"). The rules adopted in the *Triennial Review Remand Order* constitute a change in law under the current interconnection agreement ("ICA") between XO<sup>1</sup> and Pacific Bell Telephone Company d/b/a SBC California ("SBC"). Pursuant to Section 2.1 of the Second Amendment Superseding Certain Intervening Law, Compensation, Interconnection and Trunking Provisions of that ICA, formal written notice is required to begin the process of entering into negotiations to arrive at an amendment to implement into the ICA the FCC's determinations in the *Triennial Review Remand Order*.

Accordingly, we hereby provide this notice, and request that SBC begin good-faith negotiations under Section 252 of the 1996 Telecom Act directed toward reaching a mutually agreeable ICA amendment that fully and properly implements the changes that have occurred as a result of the *Triennial Review Remand Order*. We intend that the negotiations will include the effect of any independent state authority to order unbundling on SBC's ongoing obligation to provide access to certain unbundled network elements.

XO notes that, pursuant to Section 2.1 of the Second Amendment Superseding Certain Intervening Law, Compensation, Interconnection and Trunking Provisions of the current ICA and paragraph 233 of the *Triennial Review Remand Order*, the existing terms of the parties' ICA continue in effect until such time as the Parties have executed a written amendment to the ICA. As such, XO expects that both it and SBC will continue to honor all terms and conditions of the current interconnection agreement until such time as a written amendment is executed.

---

<sup>1</sup> "XO," for purposes of this notice, refers to XO Communications Services, Inc., on behalf of and/or as successor in interest to XO California, Inc.

XO

The main company contact for these negotiations is:

Gegi Leeger  
Director Regulatory Contracts  
11111 Sunset Hills Road  
Reston, VA 20190  
703-547-2109 voice  
703-547-2300 facsimile  
Email: gegi.leeger@xo.com

Please initiate the internal processes within SBC that will facilitate this request, and respond to this letter as expeditiously as possible with written acknowledgement of your receipt so that we may begin the negotiation process.

Further, in order to timely incorporate the *Triennial Review Remand Order's* rules into our revised interconnection agreement, the wire centers in your operating areas that satisfy the Tier 1, Tier 2, and Tier 3 criteria for dedicated transport and DS1 and DS3 loops must be identified and verified. Accordingly, XO hereby requests that SBC provide all backup data necessary to verify the number of lines and the identity of the fiber-based collocators by end office for each end office that SBC claims fall within each tier as those tiers are defined in the *Triennial Review Remand Order*. This data should be provided by no later than Friday, February 25, 2005.

Sincerely,



Gegi Leeger  
Director Regulatory Contracts

XO Communications, Inc.

11111 Sunset Hill Road  
Reston, VA 20190  
USA

XO

February 18, 2005

**VIA OVERNIGHT MAIL****SBC Contract Administration  
ATTN: Notices Manager  
311 S. Akard, 9<sup>th</sup> Floor  
Four Bell Plaza  
Dallas, TX 75202-5398**

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Accordingly, we hereby provide this notice, and request that SBC begin good-faith negotiations under Section 252 of the 1996 Telecom Act directed toward reaching a mutually agreeable ICA amendment that fully and properly implements the changes that have occurred as a result of the *Triennial Review Remand Order*. In addition, formal notice is hereby being given for purposes of again commencing negotiations on the changes in law implemented by the *Triennial Review Order* that were unaffected by the *Triennial Review Remand Order*.<sup>2</sup> We intend that the negotiations will include the effect of section 271 of the 1996 Telecom Act on SBC's ongoing obligation to provide access to certain unbundled network elements, as well as independent state authority to order unbundling.

<sup>1</sup> "XO," for purposes of this notice, refers to XO Communications Services, Inc., on behalf of and/or as successor in interest to XO Wisconsin, Inc.

<sup>2</sup> The inclusion of changes in law implemented by the *Triennial Review Order* in this request should not be construed as a waiver of any right XO may have, and XO hereby reserves all such rights, to seek immediate relief for SBC's continued refusal, after months of negotiation between the parties, to implement those provisions of the TRO not affected by appeal or vacatur.

XO™

XO notes that, pursuant to Section 2.1 of the Second Amendment Superseding Certain Intervening Law, Compensation, Interconnection and Trunking Provisions of the current ICA and paragraph 233 of the *Triennial Review Remand Order*, the existing terms of the parties' ICA continue in effect until such time as the Parties have executed a written amendment to the ICA. As such, XO expects that both it and SBC will continue to honor all terms and conditions of the current interconnection agreement until such time as a written amendment is executed.

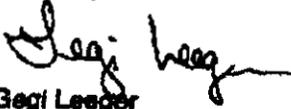
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Further, in order to timely incorporate the *Triennial Review Remand Order's* rules into our revised interconnection agreement, the wire centers in your operating areas that satisfy the Tier 1, Tier 2, and Tier 3 criteria for dedicated transport and DS1 and DS3 loops must be identified and verified. Accordingly, XO hereby requests that SBC provide all backup data necessary to verify the number of lines and the identity of the fiber-based collocators by end office for each end office that SBC claims fall within each tier as those tiers are defined in the *Triennial Review Remand Order*. This data should be provided by no later than Friday, February 25, 2005.

Sincerely,

  
Gegi Leeger  
Director Regulatory Contracts

XO Communications, Inc.

11111 Sunset Hills Road  
Reston, VA 20190  
USA

XO

February 16, 2005

**VIA OVERNIGHT MAIL****SBC Contract Administration  
ATTN: Notices Manager  
311 S. Akard, 9<sup>th</sup> Floor  
Four Bell Plaza  
Dallas, TX 75202-5396**

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Accordingly, we hereby provide this notice, and request that SBC begin good-faith negotiations under Section 252 of the 1996 Telecom Act directed toward reaching a mutually agreeable ICA amendment that fully and properly implements the changes that have occurred as a result of the *Triennial Review Remand Order*. In addition, formal notice is hereby being given for purposes of again commencing negotiations on the changes in law implemented by the *Triennial Review Order* that were unaffected by the *Triennial Review Remand Order*.<sup>2</sup> We intend that the negotiations will include the effect of section 271 of the 1996 Telecom Act on SBC's ongoing obligation to provide access to certain unbundled network elements, as well as independent state authority to order unbundling.

<sup>1</sup> "XO," for purposes of this notice, refers to XO Communications Services, Inc., on behalf of and/or as successor in interest to Allegiance Telecom of California, Inc.

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XO

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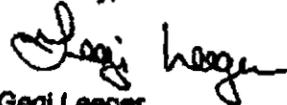
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Further, in order to timely incorporate the *Triennial Review Remand Order's* rules into our revised interconnection agreement, the wire centers in your operating areas that satisfy the Tier 1, Tier 2, and Tier 3 criteria for dedicated transport and DS1 and DS3 loops must be identified and verified. Accordingly, XO hereby requests that SBC provide all backup data necessary to verify the number of lines and the identity of the fiber-based collocators by end office for each end office that SBC claims fall within each tier as those tiers are defined in the *Triennial Review Remand Order*. This data should be provided by no later than Friday, February 25, 2005.

Sincerely,



Gegi Leeger  
Director Regulatory Contracts

XO Communications, Inc.

11111 Sunset Hills Road  
Reston, VA 20190  
USA

XO™

February 18, 2005

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ATTN: Notices Manager  
311 S. Akard, 9<sup>th</sup> Floor  
Four Bell Plaza  
Dallas, TX 75202-5398

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<sup>1</sup> "XO," for purposes of this notice, refers to XO Communications Services, Inc., on behalf of and/or as successor in interest to Allegiance Telecom of Illinois, Inc.

<sup>2</sup> The inclusion of changes in law implemented by the *Triennial Review Order* in this request should not be construed as a waiver of any right XO may have, and XO hereby reserves all such rights, to seek immediate relief for SBC's continued refusal, after months of negotiation between the parties, to implement those provisions of the TRO not affected by appeal or vacatur.

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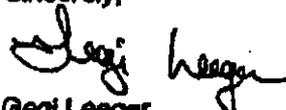
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Sincerely,



Gegi Leeger  
Director Regulatory Contracts

XO Communications, Inc.

XO™

11111 Sunset Hills Road  
Reston, VA 20190  
USA

February 18, 2005

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311 S. Akard, 9<sup>th</sup> Floor  
Four Bell Plaza  
Dallas, TX 75202-5398

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<sup>1</sup> "XO," for purposes of this notice, refers to XO Communications Services, Inc., on behalf of and/or as successor in interest to Allegiance Telecom of Michigan, Inc.

<sup>2</sup> The inclusion of changes in law implemented by the *Triennial Review Order* in this request should not be construed as a waiver of any right XO may have, and XO hereby reserves all such rights, to seek immediate relief for SBC's continued refusal, after months of negotiation between the parties, to implement those provisions of the TRO not affected by appeal or vacatur.

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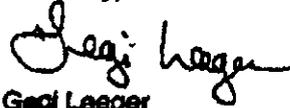
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February 18, 2005

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Four Bell Plaza  
Dallas, TX 75202-5398

On February 4, 2005, the Federal Communications Commission ("FCC") released the text of its Order on Remand in *In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338 ("*Triennial Review Remand Order*"). The rules adopted in the *Triennial Review Remand Order* constitute a change in law under the current interconnection agreement ("ICA") between XO<sup>1</sup> and Southwestern Bell Telephone, L.P. d/b/a SBC Missouri ("SBC"). Pursuant to Section 2.1 of the Second Amendment Superseding Certain Intervening Law, Compensation, Interconnection and Trunking Provisions of that ICA, formal written notice is required to begin the process of entering into negotiations to arrive at an amendment to implement into the ICA the FCC's determinations in the *Triennial Review Remand Order*.

Accordingly, we hereby provide this notice, and request that SBC begin good-faith negotiations under Section 252 of the 1996 Telecom Act directed toward reaching a mutually agreeable ICA amendment that fully and properly implements the changes that have occurred as a result of the *Triennial Review Remand Order*. In addition, formal notice is hereby being given for purposes of again commencing negotiations on the changes in law implemented by the *Triennial Review Order* that were unaffected by the *Triennial Review Remand Order*.<sup>2</sup> We intend that the negotiations will include the effect of section 271 of the 1996 Telecom Act on SBC's ongoing obligation to provide access to certain unbundled network elements, as well as independent state authority to order unbundling.

<sup>1</sup> "XO," for purposes of this notice, refers to XO Communications Services, Inc., on behalf of and/or as successor in interest to Allegiance Telecom of Missouri, Inc.

<sup>2</sup> The inclusion of changes in law implemented by the *Triennial Review Order* in this request should not be construed as a waiver of any right XO may have, and XO hereby reserves all such rights, to seek immediate relief for SBC's continued refusal, after months of negotiation between the parties, to implement those provisions of the TRO not affected by appeal or vacatur.

XO

XO notes that, pursuant to Section 2.1 of the Second Amendment Superseding Certain Intervening Law, Compensation, Interconnection and Trunking Provisions of the current ICA and paragraph 233 of the *Triennial Review Remand Order*, the existing terms of the parties' ICA continue in effect until such time as the Parties have executed a written amendment to the ICA. As such, XO expects that both it and SBC will continue to honor all terms and conditions of the current interconnection agreement until such time as a written amendment is executed.

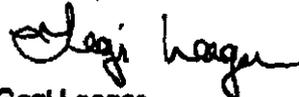
The main company contact for these negotiations is:

Gegi Leeger  
Director Regulatory Contracts  
11111 Sunset Hills Road  
Reston, VA 20190  
703-547-2109 voice  
703-547-2300 facsimile  
Email: gegi.leeger@xo.com

Please initiate the internal processes within SBC that will facilitate this request, and respond to this letter as expeditiously as possible with written acknowledgement of your receipt so that we may begin the negotiation process.

Further, in order to timely incorporate the *Triennial Review Remand Order's* rules into our revised interconnection agreement, the wire centers in your operating areas that satisfy the Tier 1, Tier 2, and Tier 3 criteria for dedicated transport and DS1 and DS3 loops must be identified and verified. Accordingly, XO hereby requests that SBC provide all backup data necessary to verify the number of lines and the identity of the fiber-based collocators by end office for each end office that SBC claims fall within each tier as those tiers are defined in the *Triennial Review Remand Order*. This data should be provided by no later than Friday, February 25, 2005.

Sincerely,



Gegi Leeger  
Director Regulatory Contracts

XO Communications, Inc.

11111 Sunset Hills Road  
Reston, VA 20190  
USA

XO

February 18, 2005

**VIA OVERNIGHT MAIL**SBC Contract Administration  
ATTN: Notices Manager  
311 S. Akard, 9<sup>th</sup> Floor  
Four Bell Plaza  
Dallas, TX 75202-5398

On February 4, 2005, the Federal Communications Commission ("FCC") released the text of its Order on Remand in *In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338 ("*Triennial Review Remand Order*"). The rules adopted in the *Triennial Review Remand Order* constitute a change in law under the current interconnection agreement ("ICA") between XO<sup>1</sup> and Ohio Bell Telephone Company d/b/a/ SBC Ohio ("SBC"). Pursuant to Section 2.1 of the Second Amendment Superseding Certain Intervening Law, Compensation, Interconnection and Trunking Provisions of that ICA, formal written notice is required to begin the process of entering into negotiations to arrive at an amendment to implement into the ICA the FCC's determinations in the *Triennial Review Remand Order*.

Accordingly, we hereby provide this notice, and request that SBC begin good-faith negotiations under Section 252 of the 1996 Telecom Act directed toward reaching a mutually agreeable ICA amendment that fully and properly implements the changes that have occurred as a result of the *Triennial Review Remand Order*. In addition, formal notice is hereby being given for purposes of again commencing negotiations on the changes in law implemented by the *Triennial Review Order* that were unaffected by the *Triennial Review Remand Order*.<sup>2</sup> We intend that the negotiations will include the effect of section 271 of the 1996 Telecom Act on SBC's ongoing obligation to provide access to certain unbundled network elements, as well as independent state authority to order unbundling.

<sup>1</sup> "XO," for purposes of this notice, refers to XO Communications Services, Inc., on behalf of and/or as successor in interest to Allegiance Telecom of Ohio, Inc.

<sup>2</sup> The inclusion of changes in law implemented by the *Triennial Review Order* in this request should not be construed as a waiver of any right XO may have, and XO hereby reserves all such rights, to seek immediate relief for SBC's continued refusal, after months of negotiation between the parties, to implement those provisions of the TRO not affected by appeal or vacatur.



XO notes that, pursuant to Section 2.1 of the Second Amendment Superseding Certain Intervening Law, Compensation, Interconnection and Trunking Provisions of the current ICA and paragraph 233 of the *Triennial Review Remand Order*, the existing terms of the parties' ICA continue in effect until such time as the Parties have executed a written amendment to the ICA. As such, XO expects that both it and SBC will continue to honor all terms and conditions of the current interconnection agreement until such time as a written amendment is executed.

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Reston, VA 20190  
703-547-2109 voice  
703-547-2300 facsimile  
Email: gegi.leeger@xo.com

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Sincerely,

A handwritten signature in cursive script that reads "Gegi Leeger".

Gegi Leeger  
Director Regulatory Contracts

XO Communications, Inc.

11111 Sunset Hills Road  
Reston, VA 20190  
USA

XO™

February 18, 2005

**VIA OVERNIGHT MAIL**SBC Contract Administration  
ATTN: Notices Manager  
311 S. Akard, 9<sup>th</sup> Floor  
Four Bell Plaza  
Dallas, TX 75202-5398

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<sup>1</sup> "XO," for purposes of this notice, refers to XO Communications Services, Inc., on behalf of and/or as successor in interest to Allegiance Telecom of Texas, Inc.

<sup>2</sup> The inclusion of changes in law implemented by the *Triennial Review Order* in this request should not be construed as a waiver of any right XO may have, and XO hereby reserves all such rights, to seek immediate relief for SBC's continued refusal, after months of negotiation between the parties, to implement those provisions of the TRO not affected by appeal or vacatur.

XO™

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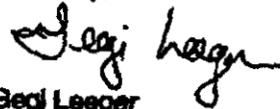
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11111 Sunset Hills Road  
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703-547-2109 voice  
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Further, in order to timely incorporate the *Triennial Review Remand Order's* rules into our revised interconnection agreement, the wire centers in your operating areas that satisfy the Tier 1, Tier 2, and Tier 3 criteria for dedicated transport and DS1 and DS3 loops must be identified and verified. Accordingly, XO hereby requests that SBC provide all backup data necessary to verify the number of lines and the identity of the fiber-based collocators by end office for each end office that SBC claims fall within each tier as those tiers are defined in the *Triennial Review Remand Order*. This data should be provided by no later than Friday, February 25, 2006.

Sincerely,



Gegi Leeger  
Director Regulatory Contracts

XO Communications, Inc.

11111 Sunset Hills Road  
Reston, VA 20190  
USA

XO™

February 18, 2005

**VIA OVERNIGHT MAIL**SBC Contract Administration  
ATTN: Notices Manager  
311 S. Akard, 9<sup>th</sup> Floor  
Four Bell Plaza  
Dallas, TX 75202-6398

On February 4, 2005, the Federal Communications Commission ("FCC") released the text of its Order on Remand in *In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338 ("*Triennial Review Remand Order*"). The rules adopted in the *Triennial Review Remand Order* constitute a change in law under the current interconnection agreement ("ICA") between XO<sup>1</sup> and Michigan Bell Telephone Company d/b/a/ SBC Michigan ("SBC"). Pursuant to Section 2.1 of the Second Amendment Superseding Certain Intervening Law, Compensation, Interconnection and Trunking Provisions of that ICA, formal written notice is required to begin the process of entering into negotiations to arrive at an amendment to implement into the ICA the FCC's determinations in the *Triennial Review Remand Order*.

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<sup>1</sup> "XO," for purposes of this notice, refers to XO Communications, Inc., on behalf of Coast to Coast Telecommunications, Inc.

<sup>2</sup> The inclusion of changes in law implemented by the *Triennial Review Order* in this request should not be construed as a waiver of any right XO may have, and XO hereby reserves all such rights, to seek immediate relief for SBC's continued refusal, after months of negotiation between the parties, to implement those provisions of the TRO not affected by appeal or vacatur.

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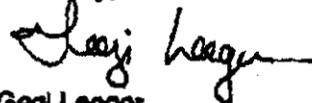
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Gegi Leeger  
Director Regulatory Contracts  
11111 Sunset Hills Road  
Reston, VA 20190  
703-547-2109 voice  
703-547-2300 facsimile  
Email: gegi.leeger@xo.com

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Further, in order to timely incorporate the *Triennial Review Remand Order's* rules into our revised interconnection agreement, the wire centers in your operating areas that satisfy the Tier 1, Tier 2, and Tier 3 criteria for dedicated transport and DS1 and DS3 loops must be identified and verified. Accordingly, XO hereby requests that SBC provide all backup data necessary to verify the number of lines and the identity of the fiber-based collocators by end office for each end office that SBC claims fall within each tier as those tiers are defined in the *Triennial Review Remand Order*. This data should be provided by no later than Friday, February 25, 2005.

Sincerely,



Gegi Leeger  
Director Regulatory Contracts

XO Communications, Inc.

11111 Sunset Hills Road  
Reston, VA 20190  
USA

XO™

February 18, 2005

**VIA OVERNIGHT MAIL**SBC Contract Administration  
ATTN: Notices Manager  
311 S. Akard, 9<sup>th</sup> Floor  
Four Bell Plaza  
Dallas, TX 75202-5398

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---

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XO.

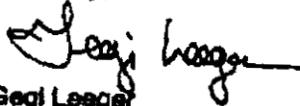
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Gegi Leeger  
Director Regulatory Contracts

XO Communications, Inc.

11111 Sunset Hills Road  
Reston, VA 20190  
USA



February 18, 2005

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ATTN: Notices Manager  
311 S. Akard, 9<sup>th</sup> Floor  
Four Bell Plaza  
Dallas, TX 75202-5398

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XO™

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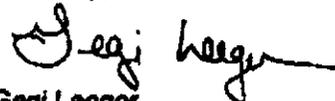
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Reston, VA 20190  
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XO

February 18, 2005

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ATTN: Notices Manager  
311 S. Akard, 9<sup>th</sup> Floor  
Four Bell Plaza  
Dallas, TX 75202-5398

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XO<sup>™</sup>

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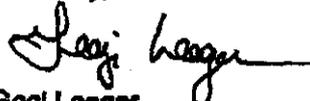
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Reston, VA 20190  
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February 18, 2005

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XO.

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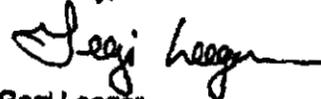
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Email: gegi.leeger@xo.com

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Further, in order to timely incorporate the *Triennial Review Remand Order's* rules into our revised interconnection agreement, the wire centers in your operating areas that satisfy the Tier 1, Tier 2, and Tier 3 criteria for dedicated transport and DS1 and DS3 loops must be identified and verified. Accordingly, XO hereby requests that SBC provide all backup data necessary to verify the number of lines and the identity of the fiber-based collocators by end office for each end office that SBC claims fall within each tier as those tiers are defined in the *Triennial Review Remand Order*. This data should be provided by no later than Friday, February 25, 2005.

Sincerely,



Gegi Leeger  
Director Regulatory Contracts

XO Communications, Inc.

11111 Sunset Hills Road  
Reston, VA 20190  
USA

February 18, 2005

**VIA OVERNIGHT MAIL**SBC Contract Administration  
ATTN: Notices Manager  
311 S. Akard, 9<sup>th</sup> Floor  
Four Bell Plaza  
Dallas, TX 75202-5398

On February 4, 2005, the Federal Communications Commission ("FCC") released the text of its Order on Remand in *In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-398 ("*Triennial Review Remand Order*"). The rules adopted in the *Triennial Review Remand Order* constitute a change in law under the current interconnection agreement ("ICA") between XO<sup>1</sup> and Southwestern Bell Telephone, L.P. d/b/a SBC Kansas ("SBC"). Pursuant to Section 2.1 of the Second Amendment Superseding Certain Intervening Law, Compensation, Interconnection and Trunking Provisions of that ICA, formal written notice is required to begin the process of entering into negotiations to arrive at an amendment to implement into the ICA the FCC's determinations in the *Triennial Review Remand Order*.

Accordingly, we hereby provide this notice, and request that SBC begin good-faith negotiations under Section 252 of the 1996 Telecom Act directed toward reaching a mutually agreeable ICA amendment that fully and properly implements the changes that have occurred as a result of the *Triennial Review Remand Order*. In addition, formal notice is hereby being given for purposes of again commencing negotiations on the changes in law implemented by the *Triennial Review Order* that were unaffected by the *Triennial Review Remand Order*.<sup>2</sup> We intend that the negotiations will include the effect of section 271 of the 1996 Telecom Act on SBC's ongoing obligation to provide access to certain unbundled network elements, as well as independent state authority to order unbundling.

<sup>1</sup> "XO," for purposes of this notice, refers to XO Communications Services, Inc., on behalf of and/or as successor in interest to XO Kansas, Inc.

<sup>2</sup> The inclusion of changes in law implemented by the *Triennial Review Order* in this request should not be construed as a waiver of any right XO may have, and XO hereby reserves all such rights, to seek immediate relief for SBC's continued refusal, after months of negotiation between the parties, to implement those provisions of the TRO not affected by appeal or vacatur.

XO

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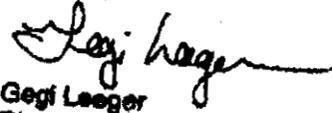
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Director Regulatory Contracts  
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703-547-2300 facsimile  
Email: [gegl.leeger@xo.com](mailto:gegl.leeger@xo.com)

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Gegi Leeger  
Director Regulatory Contracts

XO.

February 18, 2005

**VIA OVERNIGHT MAIL**

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ATTN: Notices Manager  
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Dallas, TX 75202-5398

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<sup>1</sup> "XO," for purposes of this notice, refers to XO Communications Services, Inc., on behalf of and/or as successor in interest to XO Michigan, Inc.

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XO Communications, Inc.

11111 Sunset Hills Road  
Reston, VA 20190  
USAXO<sup>TM</sup>

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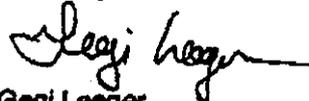
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Gegi Leeger  
Director Regulatory Contracts

XO Communications, Inc.

11111 Sunset Mills Road  
Reston, VA 20190  
USA

February 18, 2005

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Dallas, TX 75202-5398

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<sup>1</sup> "XO," for purposes of this notice, refers to XO Communications Services, Inc., on behalf of and/or as successor in interest to XO Missouri, Inc.

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XO™

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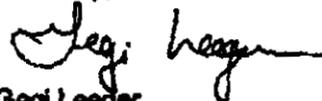
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Director Regulatory Contracts

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Reston, VA 20190  
USA

XO™

February 18, 2005

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<sup>1</sup> "XO," for purposes of this notice, refers to XO Communications Services, Inc., on behalf of and/or as successor in interest to XO Ohio, Inc.

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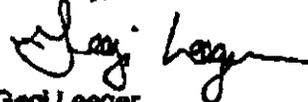
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Sincerely,



Gegi Leeger  
Director Regulatory Contracts

XO Communications, Inc.

11111 Sunset Mile Road  
Reston, VA 20180  
USA

XO.

February 18, 2005

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Four Bell Plaza  
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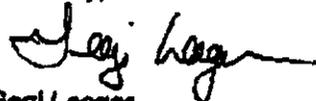
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11111 Sunset Hills Road  
Reston, VA 20190  
USA

XO.

February 18, 2005

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Four Bell Plaza  
Dallas, TX 75202-6398

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XO

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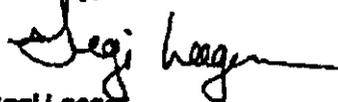
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Sincerely,



Gegi Leeger  
Director Regulatory Contracts

EXHIBIT B

EXHIBIT B

March 8, 2005

VIA OVERNIGHT MAIL

Anthony M. Black  
Assistant General Counsel  
Verizon  
1515 North Courthouse Road, Suite 500  
Arlington, VA 22201

Re: Verizon Response to XO February 18, 2005 Letters

Dear Mr. Black:

XO Communications, Inc. ("XO") appreciates Verizon's prompt response to XO's letters requesting negotiations to incorporate recent changes of federal law into the parties' interconnection agreements ("ICAs"). That response, however, is inconsistent with federal law and the ICAs, and XO provides the following reply to explain its position.

XO is well aware that Verizon has issued notices stating its intention unilaterally to implement Verizon's interpretation of the Triennial Review Remand Order ("TRRO"). Moreover, XO did respond to Verizon's February 10, 2005 notice. In its response, XO explained why Verizon's intended course of action, as outlined in Verizon's February 10, 2005 notice, violates the requirements of the TRRO. Contrary to your assertion, there is not a single word in the FCC's TRRO order that states that its implementing regulations bar CLECs from ordering new Discontinued Facilities . . . "irrespective of the terms of existing section 252 interconnection agreements." Indeed, Verizon's latest "self-help" proposal is fundamentally inconsistent with the TRRO requirement that "the incumbent LEC and competitive LEC must **negotiate in good faith** regarding any rates, terms, and conditions necessary to implement our rule changes." TRRO ¶ 233 (emphasis added). That Order, moreover, provides that "carriers have twelve months from the effective date of this Order to **modify their interconnection agreements**, including completing any change of law process." TRRO ¶¶ 143 & 196 (emphasis added). Indeed, the issue is not what Verizon's rights are or are not, but whether language reflecting those rights must be negotiated and if necessary arbitrated so that they are properly incorporated into interconnection agreements. Verizon thus is required to negotiate appropriate ICA amendment language to implement the provisions of the TRRO, not simply Verizon take unilateral action to implement such provisions without amending the ICA, as required.

As a result, XO's request for negotiations is *not* unnecessary, as you indicate. XO requested negotiations for ICA amendments that implement recent changes in federal law, including the FCC's Triennial Review Order ("TRO") and TRRO. The issues to be negotiated

are all contained in those orders. We will provide you with proposed contract language that addresses all of these issues shortly. XO has no intention of delaying timely implementation of the latest federal requirements, as Verizon has done with provisions of the TRO that do not benefit Verizon, but such timely implementation will require the cooperation of Verizon which, to date, has not been forthcoming.

Verizon's willful refusal to negotiate over language that incorporates the rights of the parties in light of the changes in law arising out of the TRO and TRRO comes at your own risk. XO intends to offer specific language reflecting its understanding of its legal rights. If Verizon refuses to negotiate over these terms, XO will seek arbitration and will seek to bar Verizon from offering any alternative language to that offered by XO that was not first presented by Verizon as part of the negotiation process.

Verizon's revisionist history of events since the FCC issued its TRO is a prime example of Verizon's recalcitrance. XO received Verizon's notices of that order and request for negotiation, and XO responded that XO, too, wished to engage in good faith negotiations. Verizon, however, refused to engage in such negotiations. Verizon instead filed for arbitration in every state where it had a telephone operating company. Verizon subsequently filed a motion to dismiss XO from certain state proceedings based on Verizon's erroneous interpretation of the change of law provisions in some of XO's interconnection agreements. In ruling on Verizon's motion, no state commission substantively agreed with Verizon's position that Verizon could unilaterally cease providing unbundled network elements without first negotiating an amendment to XO's interconnection agreement. Moreover, while the arbitration was pending, XO continued to negotiate an amendment with Verizon and continues to seek negotiation of appropriate contract language to implement requirements of both the TRO and the TRRO. XO certainly will work within the framework of existing proceedings, to the extent they exist, but that should not delay the parties' efforts to negotiate appropriate ICA amendments.

XO rejects Verizon's refusal to include Section 271 and state-required unbundled network elements ("UNEs") in the negotiations. Verizon's state unbundling requirements must be considered as long as those requirements are in effect. The plain language of Section 271 requires Verizon to provide certain UNEs pursuant to an ICA. 47 U.S.C. § 271(c)(2). Neither the availability of special access services under Verizon tariffs nor Verizon's so-called "commercial agreements" offered outside the section 252 process can satisfy Verizon's Section 271 obligations. Verizon's refusal to negotiate just and reasonable rates, terms, and conditions for these UNEs is further evidence of Verizon's continuing bad faith.

The most immediately troubling aspect of your letter is Verizon's anticipatory breach of the parties' ICAs by stating Verizon's intention to reject orders for UNEs that Verizon contends are to be under "the unconditional no-new-add directive ordered in the TRRO." The FCC would not have expressly required the rates, terms, and conditions in the TRRO be incorporated into ICAs if no amendment were necessary. Indeed, Verizon apparently recognizes the need for ICA amendments by proposing just such an amendment that "must be completed early enough within the transition period that the transition of the embedded base itself be completed before the transition period closes." Verizon's threatened refusal to comply with its lawful and effective ICAs will serve only to further delay appropriate implementation of the TRRO if XO must devote its limited resources to taking actions necessary to compel Verizon to comply with its ICAs.

XO will proceed as if Verizon intended to negotiate in good faith for ICA amendments to establish appropriate rates, terms, and conditions to implement the TRRO and other changes in federal law. If Verizon refuses to respond accordingly, XO will take the steps necessary to enforce its legal rights.

Sincerely,

Gegi Leeger

cc: Douglas Kinkoph  
Jeffrey A. Masoner

EXHIBIT C

VA01/KARPJ/58137.2

XO Communications

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USA

XO™

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MAR - 7 2005

Federal Communication Commission  
Bureau / Office

March 7, 2005

Mr. Jeffrey Carlisle  
Chief, Wireline Competition Bureau  
Federal Communications Commission  
The Portals  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Re: WC Docket No. 04-313; CC Docket No. 01-338;  
In the Matter of Unbundled Access to Network Elements, Review of the Section  
251 Unbundling Obligations of Incumbent Local Exchange Carriers; Triennial  
Review Order on Remand

Dear Mr. Carlisle:

I am writing on behalf of XO Communications, Inc. ("XO"). As you are well aware, the recent Order on Remand released in the above referenced Docket ("TRRO"), requires that CLECs and ILECs undertake all necessary steps to in good faith amend their existing interconnection agreements ("ICA") in order to implement the changes reflected in the TRRO. In addition, the Commission provided a transition period of either 12 or 18 months, depending on the affected UNE, in order to effectuate such ICA changes and transition off all de-listed UNEs. Unfortunately, SBC has taken it upon itself to ignore this clear directive of the Commission by unilaterally implementing its view of the TRRO without the good faith negotiation the Commission has made clear is required. Below we outline the unfortunate, albeit not unexpected, actions SBC has already taken in the short period of time since the TRRO was released to again thwart XO's efforts to seamlessly comply with Commission directives to ensure the smooth transition of their customers to alternative service arrangements for affected UNEs.

On or about February 11, 2005, SBC sent to XO Accessible Letter Numbers CLECALL05-019 and CLECALL05-020 ("Accessible Letters"), in which SBC claims, among other things, that

1. as of March 11, 2005, XO "may not place, and SBC will no longer provision New, Migration or Move Local Service Requests (LSRs) for affected elements", and that this directive is "*operative notwithstanding interconnection agreements or applicable tariffs*"; and
2. a signature-ready ICA Amendment, prepared solely by SBC, was made available as of February 21, 2005, which XO should "*download, print, complete and return to SBC*" by March 10, 2005.

See SBC Accessible Letters, attached hereto as Exhibit A (emphasis added). On February 18, 2005, XO sent (i) a letter to SBC rebutting SBC's positions in its Accessible Letters as violative of the TRRO, and (ii) written requests to enter into good faith negotiations to amend their ICAs in the SBC territory states to incorporate the rule changes necessitated by the TRRO. See XO Rebuttal Letter and XO Request Letters, attached hereto as Exhibits B and C, respectively. On February 24, 2005, SBC responded to the XO Rebuttal Letter, again refusing to enter into the good faith negotiations required by the TRRO. See

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