



August 28, 2007

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

Re: **Notice Ex Parte Meeting, WC Docket No. 05-25 and RM-10593**

Dear Ms. Dortch:

Pursuant to Section 1.1206 of the Commission's rules, COMPTEL hereby gives notice that on August 27, 2007, its representative met with Commissioner Robert M. McDowell via teleconference. In this meeting, COMPTEL explained, consistent with its comments and reply comments in the above-referenced proceedings that the special access market—when unregulated by the FCC—fails to perform competitively, because the market lacks any alternative providers with the same scope and scale as the Bell companies. COMPTEL noted that this anticompetitive performance has been exhibited through the existence of higher-than-competitive prices and exclusionary contracts, which limit the development of future facilities-based competition.

COMPTEL went on to explain that any FCC solution to these anticompetitive problems must not only address the issue of supra-competitive price levels, but also anticompetitive pricing structures (anticompetitive bundled discounts and anticompetitive termination penalties) that are commonly seen in Bell contract tariffs. COMPTEL noted that the FCC may want to look to competitive market practices for future rules regarding access services in areas for which no single competitor can match the scope and scale of the Bell company services. For example, due to the exclusionary nature of the Bell contract tariffs, there are very few customers for which COMPTEL members can offer a true competitive alternative to the incumbent. Yet, for those circuits that are not “locked down” by term and volume contracts with punitive termination penalties, COMPTEL members do compete with one another on a city-specific basis.

In these instances, COMPTEL explained that many of its members who provide metro transport service in competition with one another (and occasionally the Bell companies) use an “on-net”-to-“on-net” pricing structure for metro area transmission services. Thus, there is no distance-sensitive component to competitive-carrier pricing. Similarly, where competitive carriers are available, they typically offer price levels and terms of service (such as “five nines” service level commitments) that are much more consumer-friendly than those offered by the Bell companies. COMPTEL suggested that, for certain density zones, where the Bells claim there are a large number of competitive carriers, the FCC might want to establish a statistically significant number of data points for prices and terms being offered by competitors. If there are sufficient data points within a given pricing density zone, the FCC would have a basis of comparison to determine whether the Bell company prices and terms are just and reasonable and not unduly discriminatory.

Representing COMPTEL was the undersigned attorney. Please do not hesitate to contact me at 202-872-5743 with any further questions.

Respectfully submitted,

A handwritten signature in cursive script that reads "Jonathan D. Lee".

Jonathan Lee
General Counsel