



COMPTEL

The Communications Association of Choice

September 6, 2007

By Electronic Filing

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: Ex Parte Notice; WC Docket Nos. 06-125 and 06-147

Dear Ms. Dortch:

Pursuant to Section 1.1206 of the Commission's rules, COMPTEL hereby gives notice that, on September 5, 2007, the following parties met with Commissioner McDowell and John Hunter, Chief of Staff and Senior Legal Advisor to Commissioner McDowell, with regard to the above-referenced proceedings: Colleen Boothby of Levine Blaszak Block and Boothby on behalf of the Ad Hoc Telecommunications Users Committee; Thomas Jones of Willkie Farr and Gallagher on behalf of Time Warner Telecom; Amy Wolverson of T-Mobile; Anna Gomez of Sprint Nextel; Mark Del Bianco on behalf of PAETEC Communications; John Heitmann of Kelley Drye Collier Shannon on behalf of XO Communications and NuVox Communications; Lisa Youngers of XO Communications; Angela Simpson of Covad Communications; Frances McComb of Cavalier Telephone; Josh Bobeck and Patrick Donovan of Bingham McCutchen on behalf of Cavalier Telephone, McLeodUSA Inc., Deltacom, Integra Telecom, and Alpheus Communications; and Jerry James, Jonathan Lee and the undersigned of COMPTEL.

In the meeting, the parties stressed their collective view that the petitions at issue in the above-captioned dockets should be denied for vagueness, lack of sufficient evidentiary support, and other infirmities. In particular, the parties explained that, in determining the level of ILEC market power in the provision of broadband services demanded by business customers, the Commission must examine local channel termination (i.e., loop) and interoffice transport connections (collectively, special access) separately from data services for which special access services are inputs. The parties further explained that the petitioners failed to demonstrate that the appropriate geographic market for examining competition for special access services such as Ethernet and OCn services is nationwide. Furthermore, the parties observed that the information provided by the BOC petitioners in this proceeding regarding competitors' provision of Ethernet

services failed to account for (1) the BOC petitioners' overwhelming market power throughout their territories over loop and transport facilities needed to provide broadband services to business customer; (2) the evidence in the record showing that the BOCs have been exploiting this market power by charging supra-competitive prices for wholesale Ethernet and OCn special access circuits; (3) the limited scope of Time Warner Telecom's Ethernet service offerings given that high ILEC wholesale prices essentially restrict such offerings to its on-net locations; and (4) the BOCs' limited incentive to cannibalize their legacy broadband services by providing next-generation services such as Ethernet.

Ad Hoc also noted that the evidentiary record established by the petitioners is limited to data regarding interstate interexchange markets, not interstate access markets. Therefore, the petitions do not justify relief beyond that which the Commission provided in its *Report and Order*, released August 31, 2007, concerning the provision of in-region long distance services by Bell Operating Companies.¹ The Commission should therefore dismiss the petitions as moot with regard to the interstate interexchange services covered by that *Report and Order*, and deny the petition as to any other relief sought by the petitioners. The non-BOC petitioners should receive no other relief. Notably, such relief would not include any special access products used by competitors as wholesale loop inputs to their own competitive broadband service offerings.

Sincerely,
/s/ Karen Reidy

cc: Commissioner McDowell
John Hunter

¹ *In the Matters of Section 272(f)(1) Sunset of the BOC Separate Affiliate and Related Requirements, 2000 Biennial Regulatory Review Separate Affiliate Requirements of Section 64.1903 of the Commission Rules, Petition of AT&T Inc. for Forbearance Under 47 U.S.C. § 160(c) with Regard to Certain Dominant Carrier Regulations for In-Region, Interexchange Services, Report and Order and Memorandum and Opinion, WC Docket Nos. 02-112 and 06-120, CC Docket No. 00-175, FCC 07-159 (2007).*