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VIA ELECTRONIC FILING

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W., TW-A325
Washington, DC 20554

Subject: In the Matter of Payphone Access Line Rates, Docket CC No. 96-128

Dear Ms. Dortch:

On behalf of plaintiffs Davel, *et al.*,[1] we provide this brief update regarding the "*Davel Case,*"[2] now pending in the U.S. District Court in Seattle and stayed for the last year awaiting guidance from this Commission in the above-referenced docket.

Pursuant to the court's recent order,[3] Davel and Qwest filed two joint status reports.[4] Moreover, Davel filed a request that the court appoint a settlement judge and order the parties to engage in ADR (alternative dispute resolution) procedures under the court's Local Rules 16(b) and 39.1.[5] Qwest did not join in the request for ADR and instead seeks to file several motions with the court.[6]

As the Commission will note from Attachments C and D, Davel has asked the Court to hold the action in abeyance for an additional 90 days while the parties

[1] Davel *et al.* are plaintiffs in the *Davel Case*. See Note 2, *infra*. Davel *et al.* also filed a petition for declaratory ruling in the above Commission docket on September 11, 2006, which is currently pending.

[2] *Davel Communications, Inc. v Qwest Corporation*, Case No. C03-3680 (W.D. Wash.), brought on behalf of 51 payphone service providers who are suing Qwest for overcharging them for payphone services, in violation of the Communications Act, this Commission's orders, and the Commission's New Services Test.

[3] Attachment A.

[4] Attachments B and C.

[5] Attachment D.

[6] *See* Attachments C and D.

engage in court-ordered ADR, and to allow the Commission to issue a ruling on Davel's pending Petition for Declaratory Ruling. *Id.*, Paras. 4 and 21. Davel feels that ADR could be successful, if ordered by the court. Nevertheless, in case the court does not order ADR, or ADR is not successful, Davel hopes that the Commission will issue a ruling by not later than the middle of June 2008. If the *Davel Case* does not settle, Davel believes the Court would benefit from timely guidance from this Commission.

Very truly yours,

Brooks E. Harlow

Brooks E. Harlow, P.C.

cc: Mr. Matthew Berry
Mr. Ian Dillner
Ms. Dana Shaffer