

Russell M. Blau
Direct Phone: 202.373.6035
Direct Fax: 202.373.6001
russell.blau@bingham.com

October 28, 2008

Via ECFS

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

**Re: Notice of Ex Parte Communication, Dockets 96-45, 99-68, 01-92, 04-36, 05-337,
& 06-122**

Dear Ms. Dortch:

Pursuant to section 1.1206(b) of the Commission's Rules, this is to notify you that, on October 28, 2008, Robert Hale, Jr., Chief Executive Officer of Granite Telecommunications, Inc. ("Granite"), along with the undersigned, spoke by telephone with Amy Bender, Legal Advisor to Chairman Martin, concerning the above-referenced dockets.

The purpose of this conversation was to discuss Granite's position on intercarrier compensation and universal service reform. Granite is concerned about the Intercarrier Compensation and Universal Service Reform proposal currently being considered by the FCC, and asks the Commission to reflect and seek public input before taking potentially devastating actions affecting the entire telecommunications industry and tens of millions of telephone customers.

Granite Telecommunications is a competitive telecommunications carrier that employs 700 workers in eastern Massachusetts, serving over 750,000 business lines nationwide. Like many other smaller carriers, the company is concerned by the press reports that have appeared in recent days about the intercarrier compensation and universal service proposals that have tentatively been scheduled for the November 4 agenda meeting. These proposals would impact 10 to 15 billion dollars of revenue and expenses for telecommunications carriers and interconnected VoIP providers, yet there has been no opportunity for carriers and customers to offer meaningful comments on the specific rule changes being considered. Granite is limited to the bits of information provided through the trade press, filtered by leaked information and second-hand analyses.

Under these circumstances, it is impossible for Granite to offer substantive comments. From what Granite does know, however, it is evident that the proposals before the Commission are complex, inter-related, and would have far-reaching effects on both telecommunications carriers and their customers. Granite understands that, among other things, the Commission may be considering drastic reductions to call-termination rates,

Boston
Hartford
Hong Kong
London
Los Angeles
New York
Orange County
San Francisco
Santa Monica
Silicon Valley
Tokyo
Walnut Creek
Washington

Bingham McCutchen LLP
2020 K Street NW
Washington, DC
20006-1806

T 202.373.6000
F 202.373.6001
bingham.com

A/72727589.1

which could cause Granite to lose up to \$25 million in annual revenue; major changes in cost responsibility for interconnection trunking arrangements, which may require major network reconfigurations; changes to the obligations of transit providers; and possibly pre-empting State regulation of some or all intrastate access services.

The issue of intercarrier compensation has been before the Commission for a long time; the NPRM on which the comprehensive reform docket is based was released on April 27, 2001. After seven and a half years of deliberation on three plans that failed to garner broad industry or public support (the original bill-and-keep proposal in the NPRM, the Intercarrier Compensation Forum proposal, and the Missoula Plan), there is no reason for the Commission to rush to adopt a fourth, different plan after only three weeks for consideration.

The only deadline facing the Commission is the court order requiring action by November 5 on the remand of the compensation rule for dial-up Internet traffic (which itself has been pending for many years). The Commission can, and should, adopt an order addressing only this narrow issue at its November 4 meeting. The broader intercarrier compensation and universal service fund reform items should be deferred, if only for a few months, to permit publication of, and public comment on, the details of the actions the FCC is being asked to adopt.

Granite also expressed its opposition to the October 20, 2008 proposal made by AT&T and Verizon to implement a universal service contribution mechanism based on phone numbers and dedicated connections.¹ This proposal would impose universal service surcharges of \$35/month on every business broadband service (plus an additional per line charge), which would impose price increases of 50% or more on small business users. Adoption of this plan would have a grossly disproportionate effect on businesses with widely dispersed operations, such as many of Granite's customers. Granite specializes in managing the telecommunications needs of large companies with multiple small locations, including many household names among national retail chains. Granite has approximately 9,100 customers, utilizing approximately 750,000 analog business lines, in approximately 172,000 individual locations, using a centralized, electronic billing system. Granite's average individual customer has between 4 and 5 lines and a broadband connection at each location.

Under the AT&T/Verizon Proposal, a typical Granite customer location would be assessed \$5.85 per line per month, plus an additional \$35 per broadband connection. Granite estimates that the result would be a \$40-50 increase per month (or \$480-\$600 on an annual basis) over its current universal service contribution for each of the approximately 172,000 individual locations, for a total of \$80 to \$100 million per year, which would be passed through to the customers. This immense redistribution of universal

¹ See *Ex Parte* Presentation of AT&T and Verizon, CC Docket No. 96-45, dated October 20, 2008 ("AT&T/Verizon Proposal").

Ms. Marlene H. Dortch
October 28, 2008
Page 3

service contribution obligations would be gravely detrimental to America's retail sector at a time of national financial crisis. There is absolutely no reason for the Commission to seriously consider adopting the AT&T/Verizon proposal, which was slipped into the record at the last minute without any opportunity for even the most cursory review by the Commission and interested parties. Granite urges the Commission to promptly reject this unfounded, eleventh hour proposal in light of its potentially devastating consequences.

Where billions of dollars are changing hands and facilities serving tens of millions of customers are being rearranged, the FCC cannot just take its chances with the Law of Unintended Consequences. Companies like Granite have long-term contracts with its business customers. Regulatory actions that change the company's cost structure or require rearrangement of its network could impair Granite's ability to fulfill these existing contracts. Further, today's financial climate makes this the worst possible time for actions that could make it even harder for companies like Granite to obtain financing for their businesses.

To ensure that there is an adequate record to support such a dramatic overhaul of the compensation rules, we urge the Commission to issue a Further Notice of Proposed Rulemaking setting forth its latest proposed comprehensive intercarrier compensation and universal service reform proposals.

Should you have any questions, please do not hesitate to contact the undersigned.

Very truly yours,

/s/ electronically signed

Russell M. Blau

cc (by e-mail): Amy Bender
Robert Hale, Jr.