Levine Blaszak Block & Boothby LLP

February 18, 2009

VIA ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

Re: *Ex Parte* filing in WC Docket Nos. 07-21, 07-273, 07-204

Dear Ms. Dortch:

On February 17, 2009, Karen Reidy of COMPTEL, Maria L. Cattafesta and Christopher Frentrup of Sprint Nextel Corporation, and the undersigned representing the AdHoc Telecommunications Users Committee met with Nicholas Alexander of Commissioner McDowell's office to discuss the Wireline Competition Bureau's approval of the cost assignment compliance plans filed by Bell Operating Companies. The substance of the discussions is reflected in the attachment hereto.

Respectfully submitted,

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Cc: Nicholas Alexander

Ex Parte Presentation Regarding
WCB Approval of Cost Assignment Plans
(WC Docket Nos. 07-21, 07-273, 07-204)

A. The Commission should vacate, then reverse or remand the WCB decision approving the BOCs' cost assignment compliance plans.

B. "After review of the compliance plans filed by AT&T, Verizon and Qwest, and the record of this proceeding, the Bureau approves the three plans effective immediately."

C. AT&T Cost Assignment Forbearance Order

a. Continuing exclusionary market power
b. Continuing regulatory responsibilities
    i. Guard against improper cost shifting
    ii. Enforce compliance with sections 201, 202, 254(k) and 272(e)(3), possibly revise price caps
c. Forbearance petition granted, conditioned upon AT&T winning WCB approval of cost assignment plan that explains "in detail" how it will produce the data needed by the Commission to meet its continuing regulatory responsibilities.
d. Pending petitions for reconsideration

D. Material deficiencies in cost assignment compliance plans

a. Less than "2" double spaced pages
b. Unspecified and probably changing ratios and special studies to allocate costs – when costs are allocated.
c. Unbounded discretion in allocating costs between regulated and unregulated services and among regulated services
d. Trend data would disappear.
e. Admitted incentive and ability to manipulate cost data
f. Ominously similar to voluntary regulation of financial services industry
g. Impact on availability of high speed Internet access in rural areas

E. WCB provided "no" explanation of the reasoning supporting the decision to approve the compliance plans.

a. No findings; no analysis
b. Inconsistent with well-settled law on the requirements for reasoned decision making
c. At a minimum, vacate and remand.
d. Time is of the essence.

F. In light of material deficiencies in the compliance plans and the need for prompt action to preserve important data, a better alternative would be to vacate and reverse

G. Vacatur, then reversal or remand would not constitute action on a new, controversial matter. Approval of the compliance plans as filed exceeded the WCB's delegated authority.

H. The best alternative would be to reconsider the decisions granting forbearance from the Commission's cost assignment rules.