

Tamar E. Finn
Michael R. Romano
Direct Phone: 202.373.6000
Direct Fax: 202.373.6001
tamar.finn@bingham.com
michael.romano@bingham.com

December 7, 2009

VIA ELECTRONIC FILING

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

Re: Notice of Ex Parte Communication, GN Dockets No. 09-47, 09-51, and 09-137, WC Docket No. 05-25, and RM Nos. 10593 and 11358

Dear Ms. Dortch:

On December 4, 2009, Nancy Lubamersky, Vice President of Public Policy and Strategic Initiatives of TelePacific Communications (“TelePacific”), together with Tamar Finn and the undersigned, met with Albert Lewis, Pam Arluk, Jay Atkinson, Margaret Dailey, Marvin Sacks, and Nick Alexander of the Wireline Competition Bureau and Thomas Koutsky of the Omnibus Broadband Initiative Task Force.

The participants discussed TelePacific’s interests in middle mile and last mile access as part of the National Broadband Plan. In particular, TelePacific discussed its network deployment in California and Nevada and its small and mid-sized business customer focus. TelePacific explained that, notwithstanding its substantial network presence, it must rely in most cases on interoffice transport provided by the incumbent local exchange carrier (“ILEC”) to reach the wire centers it serves. Moreover, TelePacific explained that ILEC-provided local loops represent the only means of reaching customer premises for the overwhelming majority of customers that TelePacific serves. Thus, these ILEC facilities are critical inputs to the delivery of competitive broadband services.

TelePacific further noted that the Commission’s objective of ensuring affordable and ubiquitous broadband access through a national plan could be best served by leveraging such existing ILEC assets and ensuring that competitors gain reasonable access to these assets -- in lieu of forcing competitors to pay excessive prices for such access, allowing ILECs to take useful facilities out of commission, and/or precluding competitors by regulatory policy from obtaining any access to those facilities altogether. Reasonable access to ILEC facilities would also promote more efficient deployment of capital in furtherance of broadband deployment than compelling competitors to deploy redundant facilities to compete with the ILEC in the provision of broadband services. TelePacific also discussed generally the ways in which various ILECs tend to make middle and last mile facilities available in the form of special access, the complexity associated with attempting to procure such services, and the need for action both on an interim basis and in the longer term to address concerns with respect to the pricing flexibility framework.

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

Ms. Marlene H. Dortch, Secretary
December 7, 2009
Page 2

The attached handout was distributed at the meeting. Thank you for your attention to this correspondence. If you have any questions, please do not hesitate to contact me.

Sincerely yours,

/s/ electronically signed

Michael R. Romano

Enclosure

cc (by e-mail):

Thomas Koutsky
Nick Alexander
Pam Arluk
Jay Atkinson
Margaret Dailey
Albert Lewis
Marvin Sacks