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January 25, 2010

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: GN Docket Nos. 09-29, 09-47, 09-51; RM-11358
Ex Parte Notice

Dear Ms. Dortch:

On Friday, January 22, 2010, Heather Burnett Gold, Senior Vice President of External Affairs at XO Communications, LLC ("XO"), Lisa Youngers, Vice President, Federal Affairs at XO, Richard Metzger of Lawler, Metzger, Keeney & Logan, LLC, and I met with Christine Kurth, Policy Director & Wireline Counsel for Commissioner Robert McDowell. At this meeting, XO's representatives urged that the Commission recognize in its National Broadband Plan (1) the vital importance of pro-competition polices to promoting affordable broadband service, and (2) the key role of copper plant in achieving wider broadband deployment.

In asking that the Commission's National Broadband recognize the need for pro-competition policies, we described how robust competition is critical to advancing the Commission's broadband goals, including increased broadband penetration, greater innovation, and lower prices. We explained that a competitive broadband marketplace requires efficient access to last-mile facilities and services, bottlenecks that are currently dominated by incumbent local exchange carriers ("LECs").

We also emphasized that today's existing, ubiquitously deployed copper infrastructure is a ready solution for the delivery of broadband services throughout the United States and asked that the Commission's National Broadband Plan recognize the key role copper plant can play in spurring broadband deployment. Given its nationwide reach, copper facilities can be used for faster and more cost-effective deployment of broadband than other technologies, including the fiber facilities that currently extend to less than twenty percent of the nation's business locations. Significantly, advances in copper technology have enabled the deployment of "Ethernet Over Copper" ("EoC") technology, which supports data speeds up to 45 Mbps today and possibly greater than 100 Mbps in the future. Certainly, the cost-effective deployment of EoC promises important benefits for rural areas of the United States that have previously lacked affordable broadband access. This technology will promote regional economic development in rural areas

by attracting small, medium, and large businesses that require high-speed transmission services. XO's representatives also discussed the attached editorial column in the Richmond Times-Dispatch by Carl Grivner, XO's Chief Executive Officer, describing the particular benefits of broadband over copper for America's small business entrepreneurs.[1]

The attached slide presentation on these broadband issues formed the basis for our discussion at this meeting. Pursuant to section 1.1206(b)(2) of the Commission's rules, 47 C.F.R. § 1.1206(b)(2), this *ex parte* notification, the attached presentation, and a copy of Mr. Grivner's recent editorial column are being filed electronically for inclusion in the public record of the above-referenced proceedings.

Respectfully submitted,

/s/ *Regina M. Keeney*
Regina M. Keeney

cc: Christine Kurth

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[1] *National Recovery: Broadband Over Copper Right Choice,* Editorial by Carl J. Grivner, Richmond Times-Dispatch (Dec. 21, 2009). Subsequent to the meeting, XO also provided Ms. Kurth with copies of (i) a report from Hatteras Networks on EoC filed in GN Docket No. 09-51 in June 2009, and (ii) a petition for rulemaking filed by XO and other competitive LECs in 2007 requesting that the Commission amend its Part 51 rules applicable to retirement of copper loops and copper subloops by the incumbent LECs. *See Leveraging Installed Copper to Reach Underserved and Unserved Community Anchor Institutions*, Hatteras Networks (filed in GN Docket No. 09-51 on June 8, 2009); Petition for Rulemaking to Amend Certain Part 51 Rules Applicable to Incumbent LEC Retirement of Copper Loops and Copper Subloops, XO Communications, LLC; Covad Communications Group, Inc.; NuVox Communications; and Eschelon Telecom, Inc., RM-11358 (Jan. 18, 2007).

XO Communications

XO Communications

A National Broadband Strategy

January 22, 2010

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About XO Communications

XO Communications

- One of the nation's largest providers of innovative broadband and other competitive services
- Leading alternative for businesses - 90,000 customers - small and medium businesses and large enterprises
- Over $7 billion in network investment, annual revenues of nearly $1.5 billion, 4,000 employees
- Serves 75 markets in 23 states

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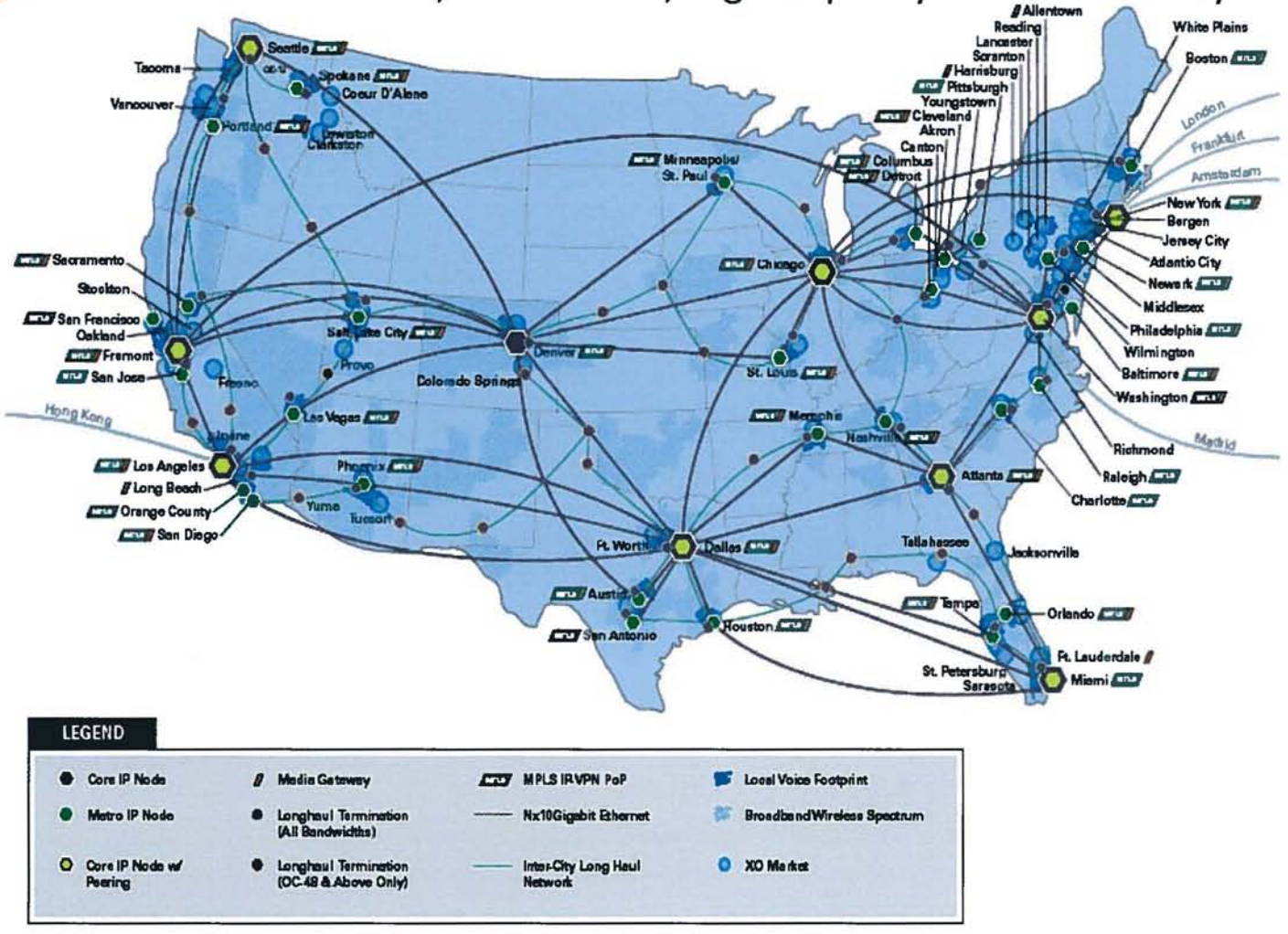
Broad Nationwide Reach

XO Communications

State of the Art, Nationwide, High-Capacity IP and Inter-City Transport Networks



LEGEND

Core IP Node	Media Gateway	MPLS IP/VPN PoP	Local Voice Footprint
Metro IP Node	Longhaul Termination (All Bandwidths)	Nx10Gigabit Ethernet	BroadbandWireless Spectrum
Core IP Node w/ Peering	Longhaul Termination (OC-48 & Above Only)	Inter-City Long Haul Network	XO Market

FIBER ASSETS

- Terabit-Capable Nationwide IP Network
- 1.2 Terabit Inter-City Transport Network
- 18,000 Route Miles
- 75 Markets
- Reach 40% of U.S. businesses
- Robust Softswitch Platform
- >15B Minutes of VoIP Traffic Each Year

WIRELESS ASSETS

- 28 GHz-31 GHz spectrum
- Deliver 10-100 Mbps DIA and Ethernet services
- Reach locations up to 10 miles

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National Broadband Strategy

XO Communications

- **Competition Policy is Key**
- **Robust Competition Advances FCC Broadband Goals:**
  - **Promotes Broadband Entry - Now**
  - **Promotes Broadband Penetration - Now**
  - **Encourages Innovation**
  - **Puts Downward Pressure on Prices**

Greater Availability of Broadband = Economic Development and Job Creation

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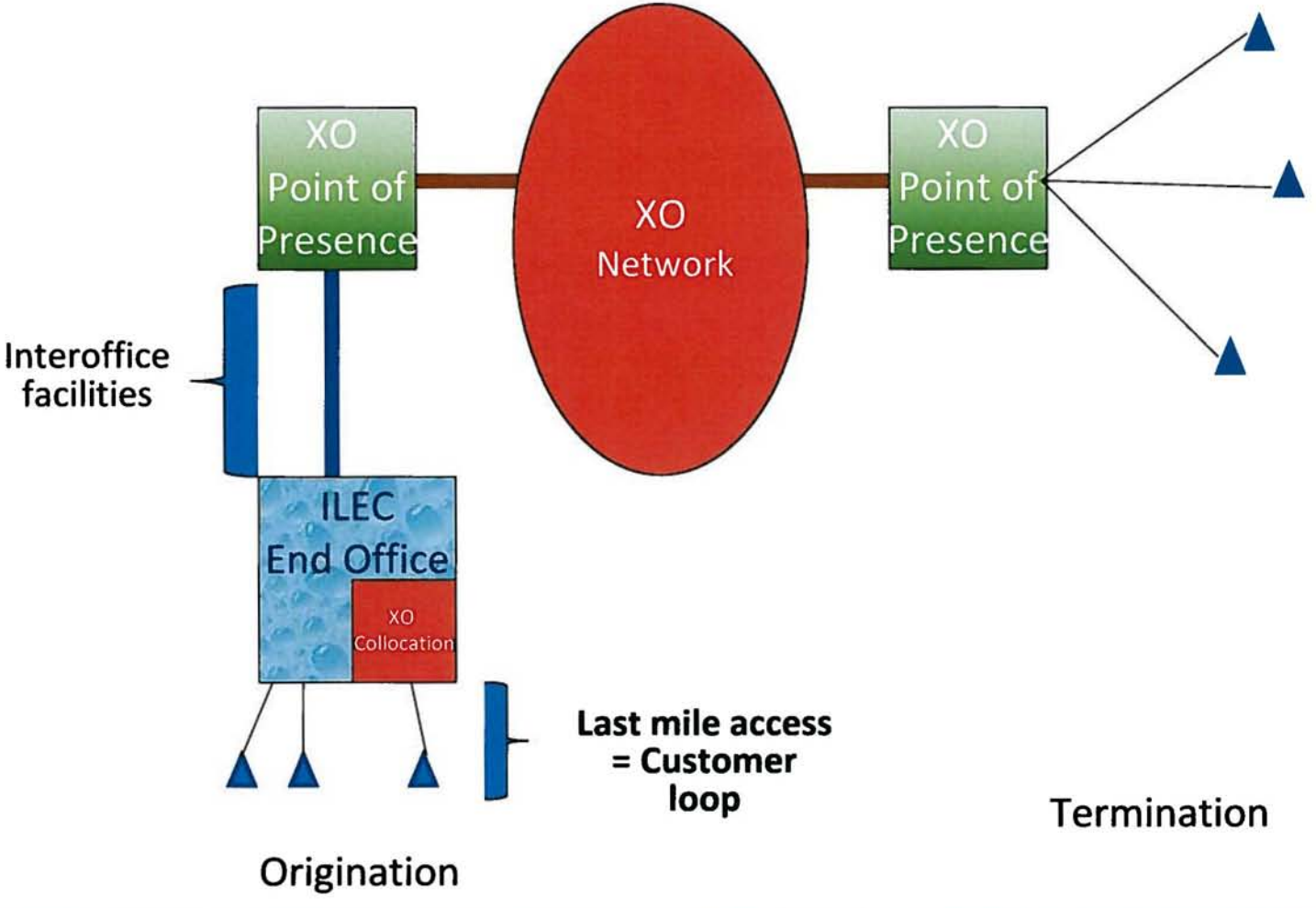
How XO Provisions Its Services



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Last Mile Access

XO Communications

Vigorously Competitive Broadband Requires Cost-Effective Access to Last Mile Bottlenecks

- **Despite billions of dollars in investment, XO remains highly dependent upon the incumbent for last mile access**
  - **96% ILEC**
  - **3% alternative vendors**
  - **1% XO owned**
- **Existing facilities -- *Copper* -- could be used for more rapid and cost-effective deployment of Broadband**
  - **To all business customers**
  - **Many underserved residential customers**

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Lack of Last Mile Options

XO Communications

Even wire centers with the largest number of competitors offer few last mile alternatives.

Wire Centers in Each MSA With Highest % of CLEC Lit Buildings	Commercial Buildings	% Commercial CLEC Lit Buildings
Boston WLHM WE	1,007	1.49%
New York NYCMNS	4,008	1.07%
Philadelphia PHLAP ALO	4,676	0.68%
Pittsburgh PITBP ADT	4,137	1.09%
Providence PRVDRIWA	8,129	0.97%
Virginia Beach NRL V ABL	1,654	4.29%

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Copper: Key to Robust, Cost-Effective Broadband Deployment

XO Communications

- **Copper Plant: Nationwide, Ubiquitous, Ready-to-go, and Cost-Effective**
  - **Far greater reach and more cost-effective than fiber**
- **Advances in copper technology have enabled Ethernet deployment**
  - **Up to 50 Mbps today, possibly 100 Mbps+ in future**
- **Needless Retirement of Copper Plant: A Major Obstacle to Quick and Robust Broadband Deployment by Competitors**

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Copper Issues Pending for 3 Years

XO Communications

- January 2007: XO and other CLECs filed detailed proposal for reforming the rules governing copper plant retirement
- New rules would make copper retirement process transparent and prevent premature retirement of an invaluable asset
- The Commission should act now to reform its copper retirement rules

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National Broadband Plan

XO Communications

National Broadband Plan Should Recognize:

- Vital Importance of Pro-Competition Policy to Promoting Affordable Broadband Service
- Key Role of Copper Plant in Achieving Wider Broadband Deployment

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The Richmond Times-Dispatch
Monday, December 21, 2009

National Recovery: Broadband Over Copper Right Choice

CARL J. GRIVNER Guest Columnist

HERNDON—As we near year's end, we contemplate 2009's historic economic challenges.

The global financial system approached collapse. Entire industries suffered unprecedented downturns. Unemployment skyrocketed to over 10 percent, while estimates of underemployment—particularly in some of the hardest hit regions—neared devastating levels of over 17 percent. America has been continually confronting unprecedented crises, and the need for new, bold solutions has never been greater.

Yet all is not bleak. Just as the nation has pulled itself from previous cycles of "economic bust" through new technologies (electricity, railroads, assembly lines, the telephone, and personal computing), today's leading technology, the Internet, stands poised to deliver the next generation of American success stories. There remains just one missing link: lack of affordable "last mile" broadband access for much of America's small businesses—one of our greatest sources of job creation.

As CEO of a business that creates small-business broadband solutions, I remain amazed at how many of my small-business customers remain desperately in need of technologies now considered basic tools for their larger competitors. In other words, it is the small businesses of our economy—tomorrow's entrepreneurs and innovators—who find themselves least able to take advantage of the latest broadband technologies that could be giving birth to a huge boom in sustainable employment.

Fortunately, the Federal Communications Commission chairman, Julius Genachowski, has recognized broadband's importance to small business. Right now, the FCC is formulating a blueprint for improving broadband deployment in its National Broadband Plan.

One easy way to achieve wider deployment and adoption of affordable broadband access today is by making greater use of the nation's existing copper infrastructure. Advances in copper technology allow us to deliver speeds many times faster and at lower cost than ever envisioned during the early 2000s when fiber was considered the only mechanism for broadband access.

Companies such as mine are deploying Ethernet over Copper and delivering up to 45 Mbps over copper to small businesses where we have access to this vital—and existing—infrastructure. Some experts predict that copper's delivery capacity will eventually hit 100 Mbps. But that innovation is threatened by existing rules that allow large telecom providers to remove copper wiring—a communications resource originally subsidized by ratepayers—without regard to potential public benefits.

That's important because copper infrastructure is already available nationwide, while fiber only reaches approximately 20 percent of American businesses. Because of this, if utilized properly, copper can extend broadband services into currently unserved or underserved communities today, and at a fraction of the cost of installing new fiber.

For reasons of regulatory efficiency, social equality, and economic strategy, it is imperative that the FCC's National Broadband Plan include the recognition of copper as an efficient and inexpensive way to deliver broadband to small businesses today. The plan should also promote continued access to copper.

The benefits of such changes would be immediate. High-resolution video conferencing, secure data protection, sophisticated video security, and telemedicine—and many applications we can't think of yet—could revolutionize the way in which today's small-business entrepreneurs mature into tomorrow's job-creating economic superstars. And benefits produced by such advances are never just limited to the specific industries they serve, but spread across communities and especially into sectors most affected by technological growth.

We applaud the vision of FCC Chairman Genachowski to develop a National Broadband Plan. Promising signs have already emerged from this commission, and I and other industry leaders look forward to working with the FCC in furtherance of a plan that ensures improved broadband to America's small businesses.

After all, without the personal computer there would have been no Microsoft, and without the Internet, Google would have remained something out of science fiction. Widespread access to high-speed broadband is our most critical technological opportunity, and adopting a pro-competitive, pro-copper National Broadband Plan will remove yet another obstacle to transforming our present economic morass into an explosion of dynamism and job growth.

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Carl J. Grivner is the CEO of XO Communications, a Herndon-based provider of communications services.