

VIA ECFS

EX PARTE

February 4, 2010

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW, Suite TW-A325
Washington, DC 20554

Re: GN Docket No. 09-51, WC Docket No. 09-223

Dear Ms. Dortch:

Yesterday, Bill Weber, Chief Administrative Officer of Cbeyond, Inc. (“Cbeyond”) and Julia Strow, Co-Founder of, and now outside consultant to, Cbeyond, met with Carolyn Fleming Williams, Senior Deputy Director, Office of Communications and Business Opportunities. During the meeting, Mr. Weber and Ms. Strow provided an overview of Cbeyond and urged the FCC to grant the Cbeyond petition for expedited rulemaking regarding unbundled access to fiber and hybrid loops (docketed in WC Docket No. 09-223). In support of this request, Mr. Weber and Ms. Strow reiterated points made in the petition for expedited rulemaking. The attached materials were distributed at the meeting.

Respectfully submitted,

/s/ Thomas Jones
Thomas Jones

cc: Carolyn Fleming Williams

(enclosure)



Delivering On the VoIP Model to Provide Managed Services for Small Business

Cbeyond (NASDAQ: CBEY) is a managed services provider that delivers integrated packages of voice, mobile and broadband services to small businesses. Cbeyond offers core communications services such as local and long-distance voice, mobile and broadband Internet access along with enhanced applications, including voicemail, email, Web hosting, data backup, file-sharing, VPN and more. Cbeyond provides these services over a private, 100% IP, managed-packet network.

General:

- 2008 revenue of \$350M; 2009 revenue projection of \$415M, company remains debt-free
- 17% revenue growth Q3 2009/ Q3 2008
- 48,580 customers as of September 30, 2009
- Headquartered in Atlanta, Georgia
- 1500 employees

Notables:

- Recognized by Forbes as the 6th fastest growing company in North America in 2008
- Ranked as one of the fastest growing company in North America on Deloitte's 2008 Technology Fast 500
- Recognized by the Atlanta Business Chronicle as one of Georgia's 25 Fastest Growing Public Companies
- Announced in May 2009 that the company would double the size of its Georgia operations, adding 600 new jobs and a new call center in Georgia

Target Market: Small to Medium-Sized Businesses (6 to 249 employees)

Current Markets: Atlanta, Chicago, Dallas/Ft Worth, Denver, Houston, Los Angeles, San Diego, Detroit, San Francisco, Miami, Minneapolis, Washington DC, Seattle

Network Technology:

Cbeyond operates one of the world's first 100% managed packet and 100% Cisco local phone networks and provides carrier-grade, packet-based local phone service over a private network.

Cbeyond leverages innovations in soft-switch technologies to provide a "disruptive" economic and operational advantage over traditional telecom service providers.

Cbeyond provides mobile services through an MVNO (mobile virtual network operator) partnership with a national wireless carrier.

Key Issues/Obstacles:

- Access to local loops
- Pricing of local loop facilities
- Barriers to entry into new markets created by regulatory uncertainty
- Sustainability of Cbeyond value proposition if loop cost increases
- Customer revenue that averages \$750 per month will not justify building loop facilities to customer premises

The Atlanta Journal-Constitution

Sunday, December 20, 2009

OPINION: A Cashless Stimulus for Small Business

By Jim Geiger

With the unemployment rate hovering around 10 percent and our economy still mired in recession, we need our small business innovators and job creators now more than ever. Yet another round of fiscal stimulus shouldn't be the only option, particularly when recent polls indicate many Americans are growing increasingly wary of adding more to the deficit and our national debt.

So what else can the Obama administration do to help small businesses? Simple: the government can quickly adopt a few sensible rule changes that will unlock the job-creating potential of broadband businesses and drive market-based investment in innovative technology. Call it a "cashless stimulus."

The problem is that small businesses lack access to the most effective telecommunications applications — those used routinely used by larger firms. Why? The existing regulatory structure allows the big phone companies to preserve market share by denying competitors access to fairly priced bandwidth. The result is that the companies best able to build the innovative applications small businesses need to grow and compete are unable to access the bandwidth necessary to deliver those applications.

I should know: my company, Cbeyond, provides broadband applications exclusively to small businesses. Back in 1996, Congress enacted far-sighted legislation that promoted competition in the telecom markets, and that action drove years of investment, innovation and growth across our industry. New competitors introduced small businesses to innovative technologies that the Bell providers had deliberately delayed deploying for fear of undermining the monopoly profits they made from slower, older technologies.

But the age of innovation and investment in broadband technology ended several years ago. The Bush administration adopted rules that had the perverse effect of locking small businesses into the broadband status quo of six years ago, undercutting the normal business cycle of innovation and denying small businesses benefits they should have received as broadband technology improved. These rules leave the rollout of the best broadband technologies almost exclusively to the large enterprise customers; telecom competitors — the companies that were once the catalysts of innovation — are left trying to serve small businesses, the jobs engine of our economy, with antiquated technology.

For example, because the Bells hoard the bandwidth they control, small businesses cannot hope to match large enterprises in the emerging field of cloud computing. Nor do current FCC rules allow small businesses the efficiencies and cost-savings of high-resolution video conferencing, highly secure data protection and sophisticated video security systems.

Broadband applications like these don't get delivered to small businesses because the most innovative competitors are denied access to the bandwidth necessary to support them. Small businesses have no choice but to try to use 20th century business tools to create new jobs in a 21st century global marketplace.

This is not a minor issue. Small businesses inject almost a trillion dollars into the economy each year. They have created more than 93 percent of all new jobs over the last twenty years and employ more than half of the U.S. workforce. They also employ 41 percent of the nation's high-tech workers who generate about thirteen times more patents per employee than do workers at large firms.

Hence the opportunity for the administration to adopt a "cashless stimulus": the FCC can fix this problem simply and almost without cost. The FCC should require the Bell monopolies to sell — at retail prices — the bandwidth necessary for competitors like Cbeyond to provide next generation broadband applications to small businesses.

With new broadband rules in place, services like cloud computing could replace high-end desktop computers. Small businesses could look to carriers for affordable, offsite data security instead of paying more for on-site services. Reliance on expensive and inefficient travel for in-person meetings would give way to high-resolution video conferencing. Start-up costs for small businesses would fall as the hardware necessary for running their operations moved off the business premise and into the cloud. The list goes on and on.

It's time we took advantage of the one approach to economic recovery that doesn't come with a long-term economic cost.

Jim Geiger is founder, chairman, president & CEO of Cbeyond, Inc. in Atlanta.