

March 16, 2012

VIA ECFS

EX PARTE

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

Re: *Developing a Unified Intercarrier Compensation Regime; Establishing Just and Reasonable Rates for Local Exchange Carriers; Connect America Fund; High-Cost Universal Service Support; A National Broadband Plan for Our Future, CC Dkt. No. 01-92, WC Dkt. Nos. 07-135, 10-90, & 05-337, GN Dkt. No. 09-51*

Dear Ms. Dortch:

On March 14, 2012, the undersigned and Nirali Patel of Willkie Farr & Gallagher LLP, representing Cbeyond, Inc., EarthLink, Inc., Integra Telecom, Inc., and tw telecom inc. (collectively, “the Joint CLECs”), met with Angie Kronenberg, Legal Advisor to Commissioner Mignon Clyburn. On March 15, 2012, the undersigned and Ms. Patel, representing the Joint CLECs, met with Christine Kurth, Legal Advisor to Commissioner Robert McDowell. In both meetings, we reiterated the arguments made in, and discussed the data included in the *ex parte* letter filed by the Joint CLECs on March 1, 2012 in the above-referenced dockets.¹ We explained that the Commission should cap originating access charges for intrastate toll traffic that originates and/or terminates in IP format at the level of intrastate originating access charges in effect as of December 28, 2011, the day before the *ICC/USF Order*² took effect.³ We explained further that the Commission could achieve this outcome

¹ See Letter from Thomas Jones, Counsel for Cbeyond, Inc., EarthLink, Inc., Integra Telecom, Inc., and tw telecom inc., to Marlene H. Dortch, Secretary, FCC, CC Dkt. No. 01-92, WC Dkt. Nos. 07-135, 10-90 & 05-337, GN Dkt. No. 09-51 (filed Mar. 1, 2012).

² See generally *Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing a Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform – Mobility Fund*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd. 17663 (2011) (“*ICC/USF Order*” or “*ICC/USF FNPRM*”).

³ See also Letter from Cbeyond, Inc., EarthLink, Inc., Frontier, Integra Telecom, Inc., National Cable & Telecommunications Association, National Telecommunications Cooperative Association, tw

Marlene H. Dortch

March 16, 2012

Page 2

by issuing a declaratory ruling, which the Commission may do pursuant to Section 1.2 of its Rules in order to “terminat[e] a controversy” or eliminate “uncertainty,”⁴ or by adopting an order based on the record in the *ICC/USF FNPRM* proceeding.

Please do not hesitate to contact me at (202) 303-1111 if you have any questions or concerns about this submission.

Respectfully submitted,

/s/ Thomas Jones

Thomas Jones

*Counsel for Cbeyond, Inc., EarthLink, Inc.,
Integra Telecom, Inc. and tw telecom inc.*

cc (via email): Angie Kronenberg
Christine Kurth

telecom, inc. and Windstream, to Marlene H. Dortch, Secretary, FCC, CC Dkt. Nos. 96-45 & 01-92, WC Dkt. Nos. 03-109, 05-337, 07-135 & 10-90, GN Dkt. No. 09-51, and WT Dkt. No. 10-208, Attachment, at 1 (filed Mar. 8, 2012).

⁴ See 47 C.F.R. § 1.2.