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EX PARTE

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
The Portals
445 12th St. SW
Washington, D.C. 20554

Re: CC and WC Docket Nos. 96-98, 99-68, 04-48, 01-338, 04-313, and WT 04-70

Dear Ms. Dortch:

On September 30, 2004, Duane Ackerman and I met with Commissioner Adelstein and Johanna Shelton, Commissioner Abernathy and Matt Brill, and Commissioner Copps and Jessica Rosenworcel. We discussed the need for a strong federal policy that removes regulatory disincentives to broadband investment. In particular, we discussed the importance of Commission action to ensure that next-generation architectures like Fiber-to-the-Curb are not burdened with unbundling obligations under section 251 or section 271. The positions we advocated on these issues were entirely consistent with our filings in the dockets cited above.

In addition we discussed the importance of maintaining the current status quo concerning compensation for dial-up ISP-bound traffic. The industry has achieved a period of relative certainty concerning this traffic, and the Commission's policy goals are being achieved. There is no reason to upset the current regime. We also discussed the widespread presence of CLEC fiber networks in the BellSouth region, and the breadth of cable modem service coverage of residential and business customers in the BellSouth region.

Finally, we briefly discussed the Cingular-AWE merger and its importance to the deployment of 3G and improved coverage in rural areas.

Pursuant to Commission rules, please include a copy of this letter in the docket of the proceedings identified above.

Sincerely,

Jon Banks

Cc: Johanna Shelton
Matthew Brill
Jessica Rosenworcel