



# PUBLIC NOTICE

Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

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Fax-On-Demand 202 / 418-2830  
TTY 202 / 418-2555  
Internet: <http://www.fcc.gov>  
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**DA 05-2003**

**July 13, 2005**

**PLEADING CYCLE ESTABLISHED FOR COMMENTS ON  
PETITION FOR FORBEARANCE OF XO COMMUNICATIONS, INC., ET AL.  
PURSUANT TO 47 U.S.C. § 160(c)**

**WC Docket No. 05-170**

**Comments Due: September 12, 2005**  
**Reply Comments Due: October 12, 2005**

On March 28, 2005, XO Communications, Inc., Birch Telecom, Inc., BridgeCom International, Inc., Broadview Networks, Eschelon Telecom, Inc., NuVox Communications Inc., SNiP LiNK LLC, and Xspedius Communications, Inc. (collectively, the XO Coalition) jointly filed a petition for forbearance pursuant to section 10(c) of the Communications Act of 1934, as amended (the Act), 47 U.S.C. § 160(c).<sup>1</sup> The XO Coalition seeks forbearance from three Commission rules regarding access to unbundled network elements (UNEs) promulgated pursuant to sections 251(c)(3) and 251(d)(2) of the Act, 47 U.S.C. §§ 251(c)(3), (d)(2). First, the XO Coalition seeks forbearance from application of one aspect of the Commission's impairment test for DS1-capacity loops, 47 C.F.R. § 51.319(a)(4), for those loops that are used to serve "predominantly residential" and "small office" buildings.<sup>2</sup> Second, the XO Coalition seeks forbearance from application of the limitation on DS1-capacity transport circuits, 47 C.F.R. § 51.319(e)(2)(ii)(B), when DS1 transport circuits are used as components of DS1-capacity enhanced extended loops (EELs).<sup>3</sup> Third, the XO Coalition seeks forbearance from the UNE eligibility criteria, 47 C.F.R. § 51.318, as applied to EELs.<sup>4</sup>

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<sup>1</sup> XO Communications, Inc., *et al.* Petition for Forbearance Under 47 U.S.C. § 160(c) from Application of Unbundling Rules that Limit Competitive Alternatives, WC Docket No. 05-170 (filed March 28, 2005) (Petition).

<sup>2</sup> Petition at 6-19.

<sup>3</sup> Petition at 19-23.

<sup>4</sup> Petition at 23-27.

This Public Notice establishes certain procedural requirements relating to consideration of the XO Coalition's Petition for Forbearance. This matter shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. See 47 C.F.R. §§ 1.1200, 1.1206. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented generally is required. See 47 C.F.R. § 1.1206(b). Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in Section 1.1206(b) of the Commission's rules, 47 C.F.R. § 1.1206(b).

Pursuant to Section 1.415 and 1.419 of the Commission's rules, 47 C.F.R. §§ 1.415, 1.419, interested parties may file comments on the XO Coalition's Petition for Forbearance on or before **September 12, 2005** and reply comments on or before **October 12, 2005**. All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Suite TW-A325, Washington, DC 20554. Two (2) courtesy copies must be delivered to Janice M. Myles, Federal Communications Commission, Wireline Competition Bureau, Competition Policy Division, 445 12th Street, SW, Suite 5-C327, Washington, DC 20554, or via e-mail [janice.myles@fcc.gov](mailto:janice.myles@fcc.gov); and one (1) copy must be sent to Best Copy and Printing, Inc., 445 12th Street, Suite CY-B402, Washington, DC 20554, telephone 202-488-5300, facsimile 202-488-5563, or via e-mail [FCC@BCPIWEB.COM](mailto:FCC@BCPIWEB.COM).

Comments may be filed using: (1) the Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/> or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the website for submitting comments.
  - For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.
- Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this

proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12<sup>th</sup> Street, SW, Washington DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

Filings and comments are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC, 20554. They may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554, telephone 202-488-5300, facsimile 202-488-5563, or via e-mail [FCC@BCPIWEB.COM](mailto:FCC@BCPIWEB.COM).

For further information regarding this proceeding, contact Jeremy Miller, Competition Policy Division, Wireline Competition Bureau, (202) 418-1580, or via e-mail [Jeremy.Miller@fcc.gov](mailto:Jeremy.Miller@fcc.gov).

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