REDACTED - FOR PUBLIC INSPECTION

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of	)	
	)	
Business Data Services in an Internet Protocol Environment	)	WC Docket No. 16-143
	)	
Investigation of Certain Price Cap Local Exchange Carrier Business Data Services Tariff Pricing Plans	)	WC Docket No. 15-247
	)	
Special Access for Price Cap Local Exchange Carriers	)	WC Docket No. 05-25
	)	
AT&T Corporation Petition for Rulemaking To Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services	)	RM-10593

HIGHLY CONFIDENTIAL DECLARATION OF ERIC SANDMAN
IN SUPPORT OF COMMENTS OF LIGHTOWER FIBER NETWORKS I, LLC,
LIGHTOWER FIBER NETWORKS II, LLC, AND
FIBER TECHNOLOGIES NETWORKS, LLC

1. I am Eric Sandman, Chief Financial Officer for Lightower Fiber Networks I, LLC, Lightower Fiber Networks II, LLC, and Fiber Technologies Networks, LLC (collectively Lightower).

2. I have approximately sixteen years of experience in the telecommunications industry. I joined Lightower through the acquisition of Veroxity Technology Partners in 2010. While at Veroxity, I served as Chief Executive Officer and was a member of the board of directors. I also served as Senior Vice President and Chief Financial Officer of NEON Communication Group (formerly Globix Corporation). Prior to joining NEON, I handled M&A

and corporate strategy activities at Northeast Utilities. I received an M.B.A. from Carnegie Mellon University and a B.S. in Electrical Engineering from the University of Maine.

3. The purpose of my declaration is to provide factual support for Lightower's Comments filed in the above-captioned rulemaking proceeding.

4. I have personal knowledge of all facts stated in my declaration.

5. Lightower is a competitive provider of all-fiber network services serving enterprise, government, carrier and data center customers. Lightower's services are provided over its own expanding fiber optic network.

6. As a competitive provider, Lightower is almost always competing with the ILEC. This includes circumstances where Lightower and the ILEC compete to obtain long term contracts to build and supply dedicated fiber networks to serve the cell sites used by mobile wireless carriers. Thus even where Lightower may be the only fiber provider at the cell site today, it had to beat the ILEC's bid (and likely other bids from other competitors) to win the contract in the first place.

7. But these cases are extremely rare. Under my supervision, Lightower analyzed how many of the customer locations we serve are served by another broadband provider. Our analysis shows that at *****BEGIN HIGHLY CONFIDENTIAL** [redacted] **END HIGHLY CONFIDENTIAL***** of Lightower's locations, the customer has 4 or more choices and at more than *****BEGIN HIGHLY CONFIDENTIAL** [redacted] **END HIGHLY CONFIDENTIAL*****of the locations the customer has 3 or more choices.[1]

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[1] This data includes as a competitor a company that has fiber within 0.5 miles of a Lightower customer location and includes cable company broadband as a competitor if it is in the same census block as the Lightower customer location.

8. Lightower's prices are in all cases constrained by the ILEC's prices. In the rare cases where Lightower is able to win the business of a customer at a price that exceeds the ILEC's, it is because Lightower has offered a quality of service that exceeds the ILEC's service quality, and the customer assigns enough importance to that quality of service to justify paying the higher price.

9. In my experience, including with Lightower, it is evident that ILECs and competitive fiber providers face different costs to construct new fiber connections. I have determined that competitive carriers constructing fiber networks, such as Lightower, incur costs that are not typically incurred by ILECs under similar circumstances, including franchise fees and building access fees.

10. These costs are substantial, and comprise approximately *****BEGIN HIGHLY CONFIDENTIAL** [redacted] **END HIGHLY CONFIDENTIAL***** percent of Lightower's total cost of providing service.

11. In addition, the capital expenses that competitive providers incur generally represent a significantly higher percentage of company revenues than ILECs.

12. I supervised preparation of a comparison of these percentages and using publicly available data regarding their wireline operations, determined that in 2015 AT&T, CenturyLink, Verizon and Frontier spent between 13-16% of revenue on capital expenses, while Lumos spent approximately 57% of revenues on capital expenses, and Zayo spent approximately 39% of revenues on capital expenses. Lightower spends approximately *****BEGIN HIGHLY CONFIDENTIAL** [redacted] **END HIGHLY CONFIDENTIAL***** percent of its revenues on capital expenses.

13. Part of the cost differential reflects the fact that ILECs generally have greater purchasing power than CLECs and competitive fiber providers and can therefore purchase certain inputs at lower prices than CLECs and competitive fiber providers.

14. Imposing price regulation on CFPs such as Lightower is also ill-advised because most CFPs, including Lightower, lack the systems necessary to conform pricing to regulatory rate caps.

15. Typically, before undertaking new construction to meet customer demand, Lightower performs a detailed analysis of the potential payback period and its likely return on investment. Lightower will proceed to bid on a service and incur the capital cost only if the expected return on investment meets or exceeds a threshold (i.e., only if the anticipated return exceeds its cost of capital, which is significantly higher than that available to ILECs and cable companies).

16. Frequently, the expected return on investment just barely meets the threshold. Any regulatory requirement that imposes additional costs (including the cost of regulatory uncertainty, which increases Lightower's cost of capital), reduces anticipated revenues, or both, would convert a project that meets the investment threshold into one that does not meet the threshold.

17. The cost of modifying the way the company currently prices its services so as to comply with price caps would force the company to incur new costs that have little to do with economics of building new fiber connections to reach customers that have sought to replace copper-based TDM services with next generation fiber-based service.

18. Nor would it be practical in most cases for Lightower to determine how its prices could conform to traditional methods of price regulation, including price caps.

19. Lightower, like other CFPs, does not sell individual rate elements but instead sells solutions based on the particular needs of its customers.

20. Thus Lightower prices its solutions as a whole and not element by element.

21. Many of Lightower's customers have multiple locations where they seek fiber connections. Frequently these customers demand a single price for all of the locations where they seek fiber connections. It is possible that some of the locations may be in geographic areas the FCC will determine are "competitive" and others in areas the FCC will find to be "non-competitive."

22. Lightower often sells a package of service that may include, for example, Ethernet virtual LAN and Internet access, with diverse fiber routing at some but not all locations. Not all aspects of such a solution, for example Internet access and certain service level guarantees, are covered by FCC price regulation.

23. It would be unclear to Lightower how these and other complex solutions it regularly provides its customers would comply with the FCC's proposed price regulation. This regulatory uncertainty would likely harm Lightower's ability to raise capital and result in a higher cost of capital. And increases in the cost of capital resulting from regulatory uncertainty would have a much larger impact on small CFPs such as Lightower than on ILECs.

24. While the ILECs may price services on an element by element basis, and have the personnel to track and comply with such regulatory obligations, the costs of such compliance for Lightower would be excessive and burdensome. The additional costs would radically and adversely impact Lightower's pricing and operations (and the ability to meet customer needs) if Lightower were required to price element by element and location by location according to the structure required of ILECs.

25. There are other ways that being forced to benchmark rates to the ILEC's rates would undermine Lightower's ability to compete. Currently approximately *****BEGIN HIGHLY CONFIDENTIAL** [redacted] **END HIGHLY CONFIDENTIAL***** percent of services Lightower provides involved a material amount of special construction in order to connect the customer. Unlike the ILECs however, Lightower does not recoup special construction costs as an upfront nonrecurring charge, but instead rolls the construction costs into its monthly recurring rate. If Lightower is forced to benchmark to ILEC recurring rates that do not include special construction, Lightower's ability to recoup its investment would be jeopardized and its ability to compete would be undermined.

26. There are other costs that ILECs typically recover in NRCs, but Lightower typically recovers in MRCs. These would include charges for service orders (the equivalent of an ILEC ASR). Some customers may prefer Lightower's simplified rate structure that excludes nonrecurring charges.

27. The NPRM's proposed data collection requirements are another regulatory requirement that unless carefully calibrated could impose greater costs on competitive providers then on large companies that have decades of experience with regulation and have built large regulatory compliance operations.

28. Lightower would need to build new systems to gather and disclose the data the FCC seeks to collect. For example, unlike ILECs, Lightower is not required to file tariffs and therefore lacks the institutional expertise regarding public disclosure of rates, terms and conditions. In addition, the cost of disclosure is largely insensitive to the dollar volume of services sold and would fall more heavily on smaller carriers such as Lightower, which has a smaller base of customers and a smaller revenue stream over which to spread the cost.

29. The proposed data collection requirements, if required of smaller carriers, would impose a disproportionate cost and manpower burden on such smaller firms. Lightower faced substantial burdens to comply with the 2013 data collection and the proposed additional categories of data set forth in ¶ 530 of the FNPRM will significantly expand that burden.

30. Affiant further sayeth no more.

I declare under penalty of perjury that the foregoing is true and correct.

Eric Sandman
Chief Financial Officer
Lightower Fiber Networks I, LLC, Lightower Fiber Networks II, LLC, and Fiber Technologies Networks, LLC (collectively Lightower)
Executed on: June 27, 2016
Boxborough, Massachusetts