



Curtis L. Groves
Assistant General Counsel
Federal Regulatory and Legal Affairs

1300 I Street, NW, Suite 400 West
Washington, DC 20005
Phone 202.515.2179
Fax 202.336.7922
curtis.groves@verizon.com

August 5, 2016

Ex Parte

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

Re: Business Data Services in an Internet Protocol Environment, WC Docket No. 16-143; Special Access Rates for Price Cap Local Exchange Carriers, WC Docket No. 05-25 and RM-10593

Dear Ms. Dortch:

On August 3, 2016, Will Johnson, Maggie McCready, and I of Verizon and Evan Leo of Kellogg, Huber, Hansen, Todd, Evans, and Figel on behalf of Verizon met with Howard Symons, Linda Oliver, William Dever, and Marcus Maher of the Office of General Counsel and Deena Shetler, Pam Arluk, David Zesiger, William Kehoe, William Layton, Justin Faulb, Andrew Field, and Rhonda Lien of the Wireline Competition Bureau. In the meeting we agreed with the Commission that “business data services are telecommunications services, regardless of the provider supplying the service” and that all “BDS providers are therefore common carriers.”¹

We discussed that Verizon buys Business Data Services as wholesale inputs to Verizon’s retail services and for backhaul to its cell sites. Cable providers, like our other suppliers, are competing to serve the market as broadly as possible. Cable providers offer Business Data Services to both retail and wholesale customers indiscriminately, including to wireless providers. We emphasized that cable providers sell Business Data Services the same way everyone else in the industry sells Business Data Services, and that the way they offer it is common carriage. We also explained that negotiating individualized contractual terms does not automatically change a common-carriage service into private carriage.

¹ *Business Data Services in an Internet Protocol Environment*, Tariff Investigation Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 4723, ¶ 257 (2016) (“FNPRM”).

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We also explained that the Commission has long held that Ethernet is a telecommunications service and that its statements in the FNPRM regarding common-carriage merely reiterated and clarified existing law. Under any applicable legal standard, cable providers and all other Business Data Services providers are common carriers. Cable operators —like all other providers of Business Data Services —voluntarily offer these transmission services indifferently to the public.

Sincerely,



cc: Howard Symons
William Dever
Deena Shetler
David Zesiger
William Layton
Andrew Field

Linda Oliver
Marcus Maher
Pam Arluk
William Kehoe
Justin Faulb
Rhonda Lien