



August 9, 2016

**Ex Parte**

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

Re: *Business Data Services in an Internet Protocol Environment* (WC Docket No. 16-143); *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)

Dear Ms. Dortch:

On Monday, August 8, 2016, Jonathan Banks, Patrick Brogan, and the undersigned of the USTelecom Association met with Pamela Arluk (by telephone), Irina Asoskov, William Kehoe, William Layton, Joseph Price, and Eric Ralph of the Wireline Competition Bureau to discuss the findings of our survey of small and medium-sized business customers and their use of business broadband services to further inform the Commission's consideration of the business data services (BDS) proceeding.<sup>1</sup> Using the attached presentation,<sup>2</sup> we gave an overview of the survey of 795 retail businesses conducted by our outside consultant, and described significant findings regarding customer usage of and preferences for "Business Internet Access Services" (BI) and "Data Networking Services" (DN).<sup>3</sup>

USTelecom explained that customer churn and service switching among current BI and DN customers are high, and that many small and medium business customers have recently switched to cable broadband services to meet their business needs. These findings contradict claims in the record suggesting that business customers feel "locked in" by a lack of competitive

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<sup>1</sup> See *Business Data Services in an Internet Protocol Environment, et al.*, Tariff Investigation Order and Further Notice of Proposed Rulemaking, WC Docket Nos. 16-143, 15-247 & 05-25, RM-10593 (rel. May 2, 2016).

<sup>2</sup> Survey of Small and Medium Business Internet and Data Networking Service Users, Methodology, Results, and Implications, June 2016 (presented Aug. 8, 2016). A corrected version of the presentation provided to staff is attached.

<sup>3</sup> Business internet access service corresponds to the service defined by the Commission as "best efforts"; data networking service corresponds to the Commission's definition of "BDS."

choices. More importantly, the specific churn data demonstrate that the business broadband market has changed significantly since 2013, with more and more business customers using (and expressing a willingness to use) cable broadband services.

We further explained that most business customers surveyed expressed a willingness to switch to cable-provided BI and DN services, contrary to suggestions in the record that cable services in general, and cable “best efforts” services specifically, are not regarded as adequate substitutes for BDS. Comments submitted by both the cable industry and incumbent LECs are consistent with these findings.<sup>4</sup> USTelecom also described how the survey results are in conflict with suggestions that “best efforts”- type services are in an entirely different product market from BDS because they do not come with features such as service guarantees, explaining that the survey shows business purchasers of both types of service are seeking the same features, and thus there is little evidence that they regard these services as not being interchangeable.

Finally, in response to specific questions from staff, USTelecom offered to supplement the record with additional information regarding the pool of respondents represented in the survey responses to enable the Commission and the public to better understand and assess the validity and potential impact of the survey’s findings.

Please do not hesitate to contact me should you have any questions regarding this filing.

Sincerely,



Diane Griffin Holland  
Vice President, Law & Policy

Attachment

cc: Pamela Arluk  
Irina Asoskov  
William Kehoe  
William Layton  
Joseph Price  
Eric Ralph

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<sup>4</sup> See, e.g., Comments of the National Cable & Telecommunications Association, WC Docket Nos. 16-143, 05-25, at 9 (filed Jun. 28, 2016) (stating that a number of small companies “have switched from using DS1 services to cable company best efforts services”); Comments of AT&T, Inc., WC Docket Nos. 16-143, 05-25, RM-10593, at 44 (filed Jun. 28, 2016) (explaining that in the 13-month period ending November 2015, “a very substantial portion of AT&T’s competitive losses were to cable companies and a significant portion of those losses were to best efforts cable services”).