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Via ECFS

August 17, 2016

***Ex Parte***

Marlene H. Dortch, Esq.  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
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 15, 2016, Barry Ohlson and Jennifer Prime, on behalf of Cox Communications, Inc. ("Cox"), Robert Hattori, outside consultant to Cox (via phone), and the undersigned (via phone), met with the following Federal Communications Commission ("Commission") staff: Eric Ralph, William Kehoe, Christopher Koves, Justin Faulb, Irina Asoskov (via phone), Joseph Price, William Layton (all of the Wireline Competition Bureau), and William Dever (Office of the General Counsel).

During the meeting, we reviewed the key positions taken by Cox in its comments and reply comments in this proceeding and noted the substantial investments Cox has made, and hoped to continue to make, to provide competition in the BDS market. We urged the Commission not to impose rate regulation on new entrants, whether through price caps and benchmarks, because such regulation will inevitably reduce investment. In determining new entrants, the Commission should avoid arbitrary cutoff dates but instead look to adoption of the 1996 Act, which established the framework for competitive entry.

We also expressed concern over the use of overly granular geographic markets such as census blocks and pointed out that adoption of competitive market test requiring four providers in a census block would result in widespread regulation covering 99% of census blocks with special access demand. The Commission instead should consider using geographic markets that more closely reflect how companies enter a market, such as by counties or franchise areas. In determining whether a sufficient number of providers are capable of providing BDS in the geographic market, the Commission should include providers using UNEs, Ethernet over Copper, dark fiber, and fixed wireless technology to the extent they provide service falling within the definition of BDS.

We also discussed CLEC arguments that only providers that actually serve customers or have an existing connection in a market should be counted. We noted that carriers preposition splice points to take advantage of potential business opportunities and typically place splice points relatively close together in areas of anticipated special access demand or add new splice points where an existing splice point is too far away.



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Finally, we explained that BDS is generally offered on a private carriage basis and that standardized template contracts or rate sheets is not a *per se* indication of common carriage because the actual terms of service result from further negotiation.

In accordance with Section 1.1206(b) of the Commission's rules, this letter is being filed with your office. If you have any questions, please contact me at (202) 776 2339.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Michael H. Pryor".

Michael H. Pryor

cc (via email): Eric Ralph  
William Kehoe  
Christopher Koves  
Justin Faulb  
Irina Asoskov  
Joseph Price  
William Layton  
William Dever