



August 28, 2017

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

**Re: *Ex Parte* Communication: WC Docket No. 17-144**

Dear Ms. Dortch:

On August 24, 2017, Bob DeBroux of TDS Telecommunications (participating by phone), Mike Skrivan of Consolidated Communications, Karen Brinkmann of Karen Brinkmann PLLC, Lynn Follansbee of USTelecom, and Genny Morelli and the undersigned of ITTA met with Claude Aiken of the Office of Commissioner Clyburn regarding the above-captioned proceeding.<sup>1</sup>

With respect to the petition for rulemaking regarding regulation of business data services for model-based rate-of-return carriers, we noted that there was only one comment substantively opposing the petition, and that comment was, in reality, an improper attempt to relitigate the Commission's actions with respect to business data services for price cap carriers. We discussed various elements of the petition, including that the petition is designed to remove one of the last vestiges of legacy rate-of-return regulation applicable to model-based rate-of-return carriers. We reiterated that the petition merely seeks to apply to model-based rate-of-return carriers the business data services framework that applies to price cap carriers. This includes application of the competitive market test in the counties the Commission categorized as competitive or non-competitive, and for the slightly over 100 counties not yet categorized, evaluation of competitiveness based on whether 75 percent of the census blocks in that county have a cable provider present according to the Commission's Form 477 data.<sup>2</sup> Applying this framework to model-based rate-of-return carriers not only will further move such carriers towards incentive-based price cap regulation, it also will enable model-based rate-of-return carriers to more efficiently provide business data services by freeing them from the shackles of unnecessary but

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<sup>1</sup> *Wireline Competition Bureau Seeks Comment on Petition for Rulemaking Regarding Regulation of Business Data Services for Model-Based Rate-of-Return Carriers*, WC Docket No. 17-144, Public Notice, 32 FCC Rcd 4701 (WCB 2017); *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, Notice of Proposed Rulemaking, Notice of Inquiry, and Request for Comment, 32 FCC Rcd 3266 (2017); *Connect America Fund*, WC Docket No. 10-90, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 13775 (2016).

<sup>2</sup> See *Business Data Services in an Internet Protocol Environment et al.*, Report and Order, 32 FCC Rcd 3459, 3499, para. 86 (2017).

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very burdensome cost studies, a public interest benefit that was not at play in the price cap carrier proceeding.

We expressed that we are eager for the Commission to release a Notice of Proposed Rulemaking seeking comment on the petition's proposals.

Please do not hesitate to contact the undersigned with any questions regarding this submission.

Respectfully submitted,

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Michael J. Jacobs  
Vice President, Regulatory Affairs

cc: Claude Aiken