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REDACTED - FOR PUBLIC INSPECTION

August 29, 2016

EX PARTE

VIA ECFS

The Honorable Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th St., SW
Washington DC 20554

Re: **Business Data Services in an Internet Protocol Environment, WC Docket No. 16-143, WC Docket No. 05-25; WC Docket No. 15-247, RM-10593, Technology Transitions, GN Docket Nos. 13-5, 12-353; RM-11358**

Dear Ms. Dortch:

On August 25, 2016, William Davis, Thomas Ferry, and Mary McDermott of Lumos Networks Corp. ("Lumos") and the undersigned met to discuss this proceeding with Deena Shetler, Pamela Arluk, William Kehoe, David Zesiger, Richard Benson, and Eric Ralph (by phone) of the Wireline Competition Bureau and William Dever of the Office of the General Counsel.

We discussed the points in Attachments A and B and reiterated points made in the Reply Comments of Lumos Networks Corp. and Lightower Fiber Networks I, LLC, Lightower Fiber Networks II, LLC, and Fiber Technologies Networks, LLC (dated August 9, 2016) and the Comments of Lightower Fiber Networks I, LLC, Lightower Fiber Networks II, LLC, and Fiber Technologies Networks, LLC (dated June 28, 2016).

We described and discussed the fiber network that Lumos has constructed since 2011, after its spin-off from NTELOS, and some of its potential plans for further fiber network construction over

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the next few years, providing maps.¹ In general, Lumos begins by building a core fiber network and then later expands the network within an area by one of two approaches: (1) It builds out to particular customer locations when it has orders that will provide a return meeting Lumos's criteria and (2) It may invest some at-risk capital to build out specific routes where Lumos sees potential even though it does not have orders that in themselves justify the investment (i.e. past an office park or an area in which Lumos has provided quotes to many potential customers). Thus, the construction of a core network puts Lumos in a position to compete for additional business in an area, but further investment is needed for Lumos to serve customers in the area. It is this further investment that Lumos believes is threatened by the proposed regulations, if they were to be applied to competitive fiber providers.

We reiterated that Lumos's customers always have other choices of provider--the ILEC is ubiquitous and the cable company competes with Lumos for virtually all of Lumos's customers. In addition, other competitive fiber providers compete for most of Lumos's customers. Therefore, where the ILEC's prices are regulated, there is no need to regulate Lumos's prices, because Lumos cannot demand a higher price than the ILEC unless it offers the customer additional value that at least offsets Lumos's higher price.

We also discussed the reasons why regulation of the prices charged by Lumos and other competitive fiber providers would be counterproductive. Because Lumos sells solutions, rather than circuits, it would be difficult to determine from benchmarks based on ILECs' tariffed prices whether Lumos's proposed price for a particular configuration exceeded the benchmark. Also, Lumos sells at a single overall price packages that include services in multiple ILEC territories. Given differences in rates and rate structures across ILECs, it would be difficult, if not impossible for Lumos to ascertain whether a particular price would comply with the applicable benchmarks. The process of comparing proposed prices for packages of services with benchmarks based on different ILEC rate structure and different network configurations would add costs and create uncertainty, thereby reducing the number of projects Lumos could build, consistent with its mechanism for determining whether a project would generate an adequate return on investment.

In sum, we urged the Commission not to regulate prices of competitive fiber providers. By "competitive fiber providers," we mean carriers that are not incumbent LECs in the location in which regulation is to take place, regardless of when they started to construct fiber networks. Incumbent LECs have massive advantages by virtue of their ubiquitous networks, reducing their cost of right-of-way, franchising, and building access, existing customer bases that were obtained as the result of their incumbency, and the ability to obtain discounts on equipment and materials that are not available to competitive fiber providers. Given these handicaps that competitive fiber providers face, the application to them of the type of regulation that has been proposed in this proceeding would impede the very competition the Commission is seeking to encourage.

¹ The highly confidential maps are attached hereto as Attachment C and have been redacted in their entirety from the public version of this ex parte.

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Respectfully submitted,

/s/ Eric J. Branfman

Eric J. Branfman

Counsel for Lumos Networks Corp.

Enclosures

cc: (via email)

Eric Ralph (Redacted Version)
Deena Shetler (Redacted Version)
Pamela Arluk (Redacted Version)
William Kehoe (Redacted Version)
David Zesiger (Redacted Version)
Richard Benson (Redacted Version)
William Dever (Redacted Version)