

# Morgan Lewis

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September 6, 2016

**Via ECFS**

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

Re: WC Docket No. 16-143, WC Docket No. 15-247, WC Docket No. 05-25;  
RM-10593, Notice of Ex Parte Communication

Dear Secretary Dortch,

On September 1, 2016, James Butman, Group President of TDS Telecommunications Corporation (“TDS”), Matthew Loch, Vice President of Sales of TDS, and the undersigned met with Ambassador Philip Verveer, Senior Counselor, and Stephanie Weiner, Senior Legal Advisor, Wireline, from the Office of Chairman Tom Wheeler. The TDS participants joined by teleconference.

TDS explained that its subsidiary, TDS Metrocom (“TDS CLEC”), participated in developing the Verizon-INCOMPAS framework and supports that framework together with a strong wholesale-retail rule, which should result in real price reductions for wholesale Ethernet services. TDS CLEC asked the Commission to make clear that the Ethernet Benchmark rate from the carrier hand-off point to the end user includes any additional fiber build required for “near net” customers (*i.e.* up to 1000 feet). One RBOC does not follow the standard industry practice of including some amount of ordinary construction in its standard rate, charging higher monthly recurring rates for service to near-net buildings. Therefore the Commission should make clear that an ILEC cannot avoid the Benchmark by charging a higher monthly recurring rate or special construction<sup>1</sup> when the building is near the RBOC’s fiber network but not yet connected.

TDS CLEC explained that AT&T’s price squeeze practices continue and urged the FCC to adopt a wholesale-retail rule to make clear the wholesale rate for an ILEC BDS service that is the same or

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<sup>1</sup> Special construction charges should only be applied in the most costly circumstances (*e.g.*, railroad crossings, major obstructions to construction, etc.).

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similar as a BDS service in an ILEC's retail bundle should always be less than, and never exceed, the price of the retail bundle. TDS CLEC reiterated that in a normally functioning market, a network operator would maximize use of its network through both retail and wholesale sales channels. For example, TDS CLEC provided commissions to sales agents for retail sales and sells T-1s to carrier customers at a rate that is less than the retail T-1 service it offers to end users but still enables TDS CLEC to make a profit on its channel partner and wholesale sales.

TDS CLEC asked the FCC to adopt an expedited enforcement regime that includes required disclosures by the RBOC of information necessary for the FCC to evaluate a claim of discriminatory pricing. In addition, TDS CLEC recommended that the FCC require an officer of the RBOC to provide an annual certification that the wholesale rates charged to other carriers are lower than the retail rates offered for the same or similar services by the amount of costs avoided. Such a certification should include details sufficient to show that the RBOC offers a wholesale rate that recognizes avoided sales/marketing costs by incorporating a price differential at least as favorable as the RBOC's channel partner commissions and that the RBOC has compared its wholesale rates to similar inputs in bundled services where the bundled price allocated to the Ethernet input is consistent with allocation methodologies the RBOC uses for universal service, tax, or other reporting purposes.

The attached handouts were provided to the meeting participants.

Respectfully Submitted,

*/s/ Tamar E. Finn*

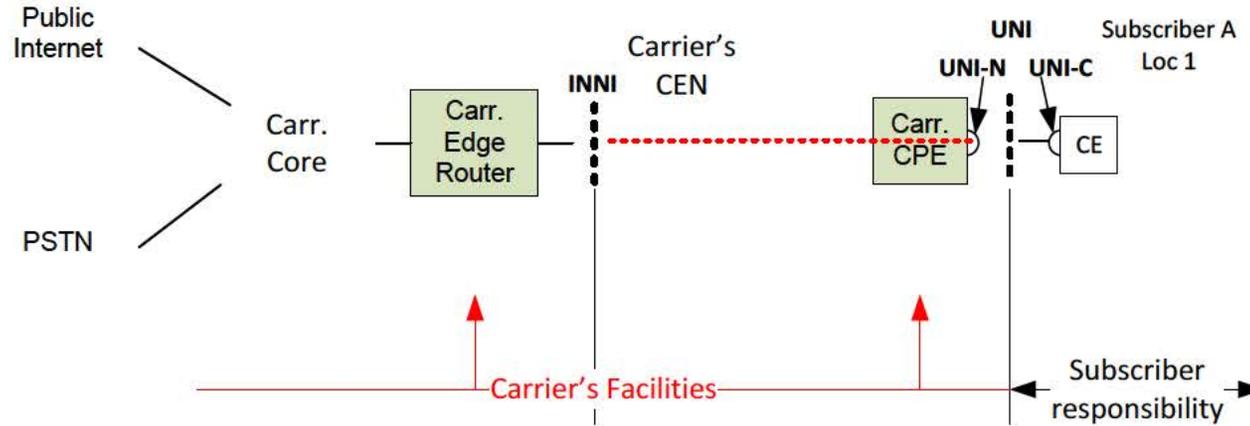
Tamar E. Finn

Counsel for TDS Telecommunications Corporation and TDS Metrocom, LLC

Attachments

cc: (Via E-Mail)  
Ambassador Philip Verveer  
Stephanie Weiner

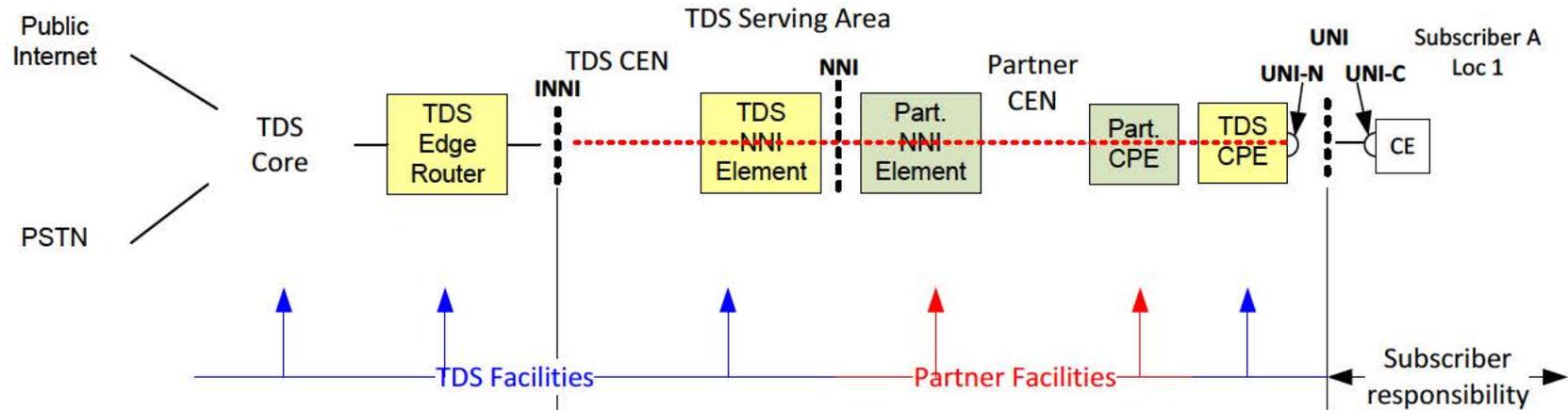
Carrier's Retail VoIP and/or Internet Subscriber served entirely by their Ethernet Access Network:



**Key:**

- CE – Customer Equipment (generic)
- CPE – Customer Prem Equipment
- INNI – Internal Network-to-Network Interface
- UNI – User-to-Network Interface
- UNI-C – User-to-Network Interface (Customer side)
- UNI-N – User-to-Network Interface (Network side)

TDS Retail VoIP and/or Internet Subscriber served in conjunction with an Ethernet Access Partner:



**Key:**

- CE – Customer Equipment (generic)
- CPE – Customer Prem Equipment
- INNI – Internal Network-to-Network Interface
- NNI – Network-to-Network Interface (generic)
- Partner CEN – Partner Carrier Ethernet Network
- TDS CEN – TDS Carrier Ethernet Network
- TDS Serving Area – The total footprint covered by combining the TDS CEN and a Partner CEN
- UNI – User-to-Network Interface
- UNI-C – User-to-Network Interface (Customer side)
- UNI-N – User-to-Network Interface (Network side)