



September 12, 2016

VIA ECFS

Marlene H. Dortsch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: Ex Parte Letter in WC Docket Nos. 16-143, 15-247, 05-25, RM 10593

Dear Ms. Dortsch:

Unite Private Networks, LLC ("UPN"), through undersigned counsel, submits this written *ex parte* letter to support Comments and Reply Comments filed by Lumos Networks Corp. and Lightower Fiber Networks I, LLC, Lightower Fiber Networks II, LLC, and Fiber Technologies Networks, LLC in the above-referenced dockets.<sup>1</sup>

UPN is a competitive fiber provider ("CFP") that provides domestic telecommunications services over more than 6,200 fiber route miles to 3,750 on-net buildings for customers in twenty states. UPN offers telecommunications services to schools, local and state governments, carriers, data centers, hospitals and enterprise customers.

UPN faces competition from ILECs and other competitive providers in essentially every location it serves, and as a result, UPN must meet or beat prices of other providers for Business Data Services ("BDS") to attract customers. Imposing regulation of CFP pricing is therefore unnecessary<sup>2</sup> and would be "antithetical to the Commission's goal of promoting network investment by competing providers."<sup>3</sup> UPN agrees that CFPs often incur capital costs for new construction, and any regulation of CFP pricing would increase the cost of capital<sup>4</sup> and would contort a CFP's business plans and services if it were "required to price element by element and location by location to the ILEC's prices."<sup>5</sup>

Regulation of CFP pricing could have a detrimental impact, in particular, on the Schools and Libraries program in which UPN participates. UPN and other competitive fiber providers that construct to

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1 See Comments of Lightower Fiber Networks I, LLC, Lightower Fiber Networks II, LLC, and Fiber Technologies Networks, LLC (dated June 28, 2016) ("*Lightower Comments*"); Reply comments of Lumos Networks Corp. and Lightower Fiber Networks I, LLC, Lightower Fiber Networks II, LLC, and Fiber Technologies Network, LLC (dated August 9, 2016) ("*Lightower Reply Comments*").

2 Lightower Comments at pgs. 9-11; Lightower Reply Comments at pgs. 2-4.

3 Reply Comments of Crown Castle at pg. 2 (dated August 9, 2016).

4 Lightower Comments at pgs. 13-15; Lightower Reply Comments at pgs. 6-8. See also, Reply Comments of Crown Castle at pgs. 4-7.

5 Lightower Comments at pg. 17.



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provide high capacity services to schools and libraries could have less incentive to take on those projects if regulation of CFP pricing is imposed.<sup>6</sup> As recognized in the Commission's Second Report and Order and Order on Reconsideration,<sup>7</sup> E-rate services are subject to stringent competitive bidding requirements, which are the primary tools used to ensure schools and libraries select the most cost-effective solution. In addition, E-rate services are subject to the lowest corresponding price rule.<sup>8</sup> A historical look at pricing for BDS services within the E-rate market proves that competition is either already in place or incentives have been put in place to attract competition. This has had the exact effect the FCC is looking for – lower monthly recurring costs for higher bandwidth options. UPN believes that changing this model now could cause unintended ripple effects that damage the progress the FCC has made in this market.

In its July 11, 2014 Report and Order and Further Notice of Proposed Rulemaking in FCC Docket 14-99, the Commission set connectivity targets for schools' Wide Area Networks ("WAN") at 1 Gbps per 1,000 students in the short term and 10 Gbps per 1,000 students in the long term. In order to meet these targets, schools are expanding their WAN services and hosting competitive bidding processes. If the Commission were to enact additional regulation relating to the provisioning of 1 Gbps connectivity services at this time, it could significantly hamper UPN's ability to submit competitive bids and assist schools in meeting the Commission's short term targets.

Accordingly, UPN urges the Commission to refrain from imposing any form of regulation of CFP pricing for BDS offerings. Any such regulation would diminish CFPs' incentives to invest in new infrastructure and the competitive benefits CFP investment brings. The Commission should exempt, at a minimum, competitive fiber providers' E-rate eligible services at or above 1 Gbps because sufficient competitive safeguards already exist.<sup>9</sup>

Respectfully submitted,

Jason Adkins  
President

A handwritten signature in black ink, appearing to read "Jason Adkins", is written over a horizontal line.

<sup>6</sup> Comments of Cox Communications, Inc. at p. 23 (dated June 28, 2016).

<sup>7</sup> See Paragraphs 51 and 124 of the Second Report and Order and Order on Reconsideration entered on December 11, 2014 in FCC Docket 14-189.

<sup>8</sup> Reply Comments of Crown Castle at pgs. 2-3 and pgs. 9-11.

<sup>9</sup> Reply Comments of Crown Castle at pgs. 2-3 and pgs. 9-11.