

# Morgan Lewis

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**REDACTED - FOR PUBLIC INSPECTION**

September 22, 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 Ms. Dortch:

On September 20, 2016, Daniel Heard and Jay Birnbaum of Uniti Fiber, along with Jeffrey R. Strenkowski and the undersigned of Morgan Lewis & Bockius, LLP (together, the representatives of Uniti Fiber), held separate meetings with (1) Nicholas Degani, Legal Advisor to Commissioner Pai; and (2) Deena Shetler, William Kehoe, and Justin Faulb of the Wireline Competition Bureau and William Dever of the Office of General Counsel.

In each of these meetings, the representatives of Uniti Fiber discussed the proposals in the record that could subject Uniti Fiber and other competitive fiber providers' ("CFP") prices to regulation through the application of benchmarks based on ILEC prices, and how that would harm Uniti Fiber and other CFPs and their efforts to deploy new fiber networks for mobile wireless backhaul.

In particular, Uniti Fiber discussed its experience competing to build fiber networks to provide Ethernet wireless backhaul service. Uniti Fiber explained that it historically has obtained the backhaul contracts for \*\*\* **BEGIN HIGHLY CONFIDENTIAL** [REDACTED] **END HIGHLY CONFIDENTIAL** \*\*\* wireless carrier customers per cell site where Uniti Fiber has a fiber connection, which is well below the average number of wireless carriers operating from and purchasing backhaul service to such cell sites and below the industry average of wireless carriers operating from each cell site. That indicates that Uniti Fiber, and similarly situated CFPs, face

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Marlene H. Dortch, Secretary  
September 22, 2016  
Page 2

significant competition such that its ability to leverage its existing fiber presence at a cell site does not deter other competitors from competing and winning contracts to serve other customers at that same cell tower. This reinforces CFP arguments that subjecting CFP pricing to benchmark pricing regulation makes no sense — CFPs have no ability to dictate pricing and face fierce competition at every location, from at least the ILEC and numerous other fiber providers.

The Uniti Fiber representatives further discussed the points made in their filed ex parte letter dated September 16, 2016, and the attached written presentation.

Please contact the undersigned with any questions regarding this filing.

Respectfully Submitted,

*/s/ Joshua M. Bobeck*

Joshua M. Bobeck

*Counsel for Uniti Fiber*

Attachment

cc (via email):

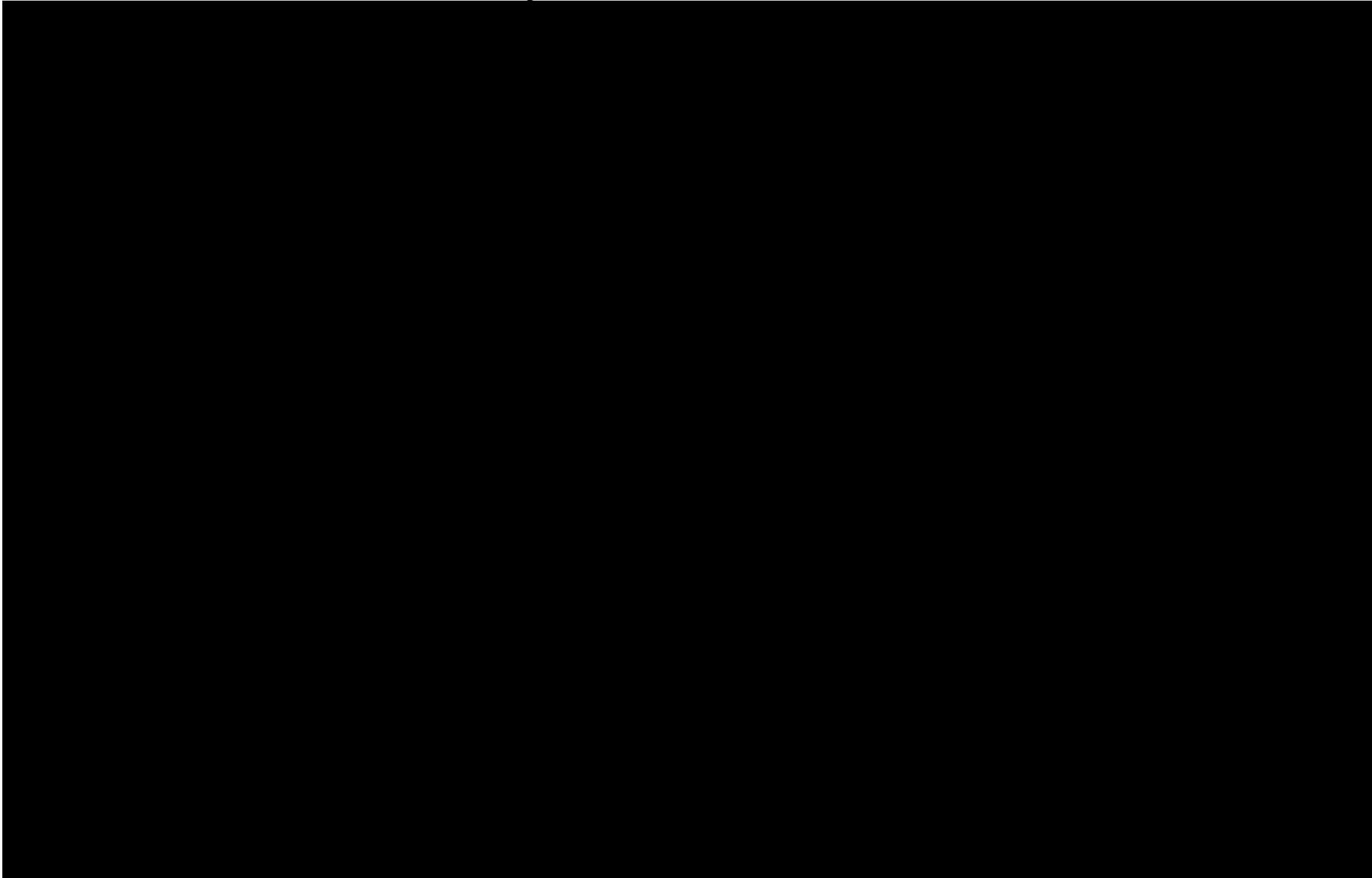
Nick Degani (Public Version)  
Deena Shetler (Public Version)  
William Dever (Public Version)  
William Kehoe (Public Version)  
Justin Faulb (Public Version)

(via Hand Delivery)

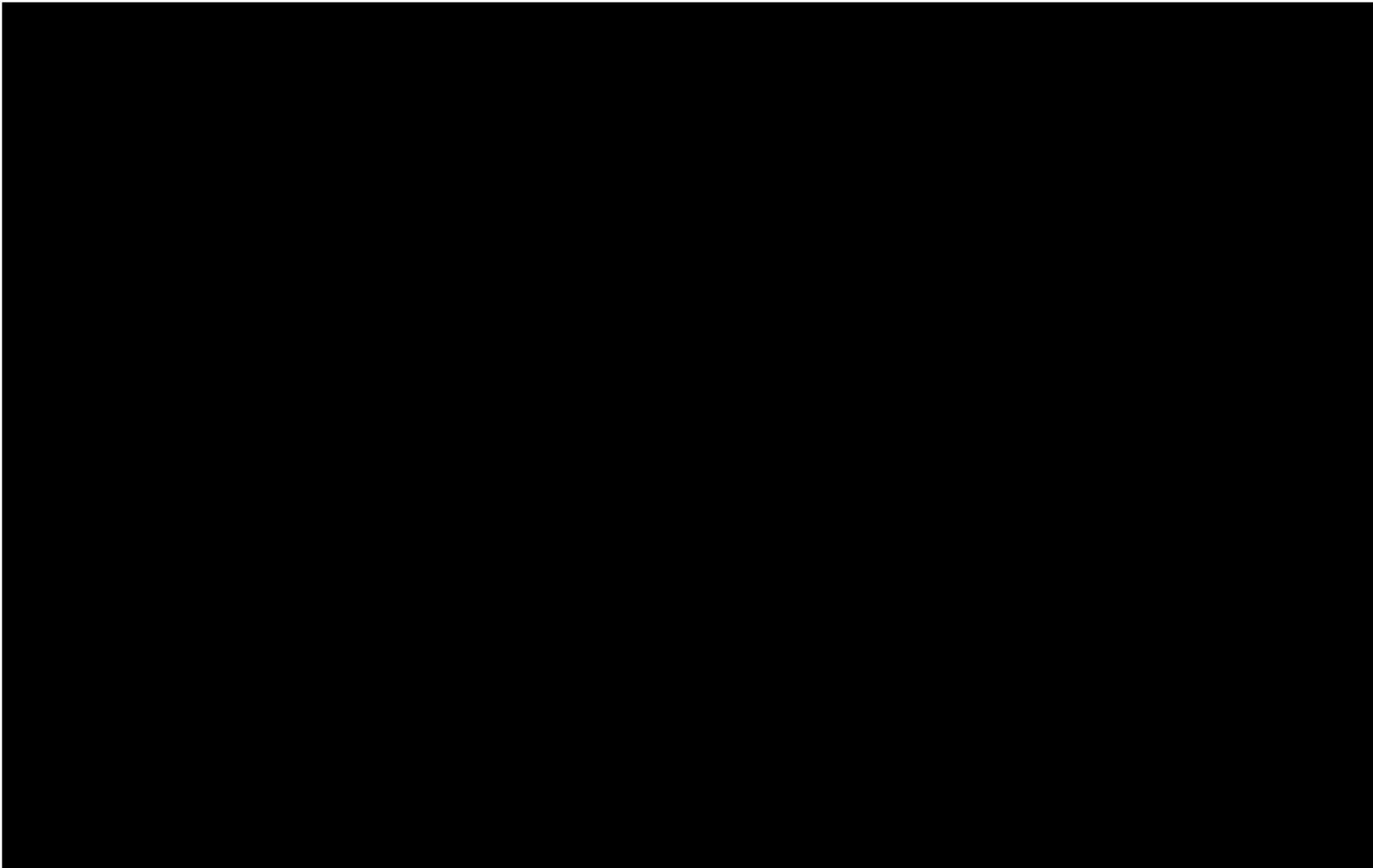
Christopher Koves

# Beaver Falls, PA Competitors - Metro Networks

# Uniti Served Locations by Carrier



# Uniti Served Locations by Carrier



# FCC Presentation on Competitive Fiber BDS Regulation

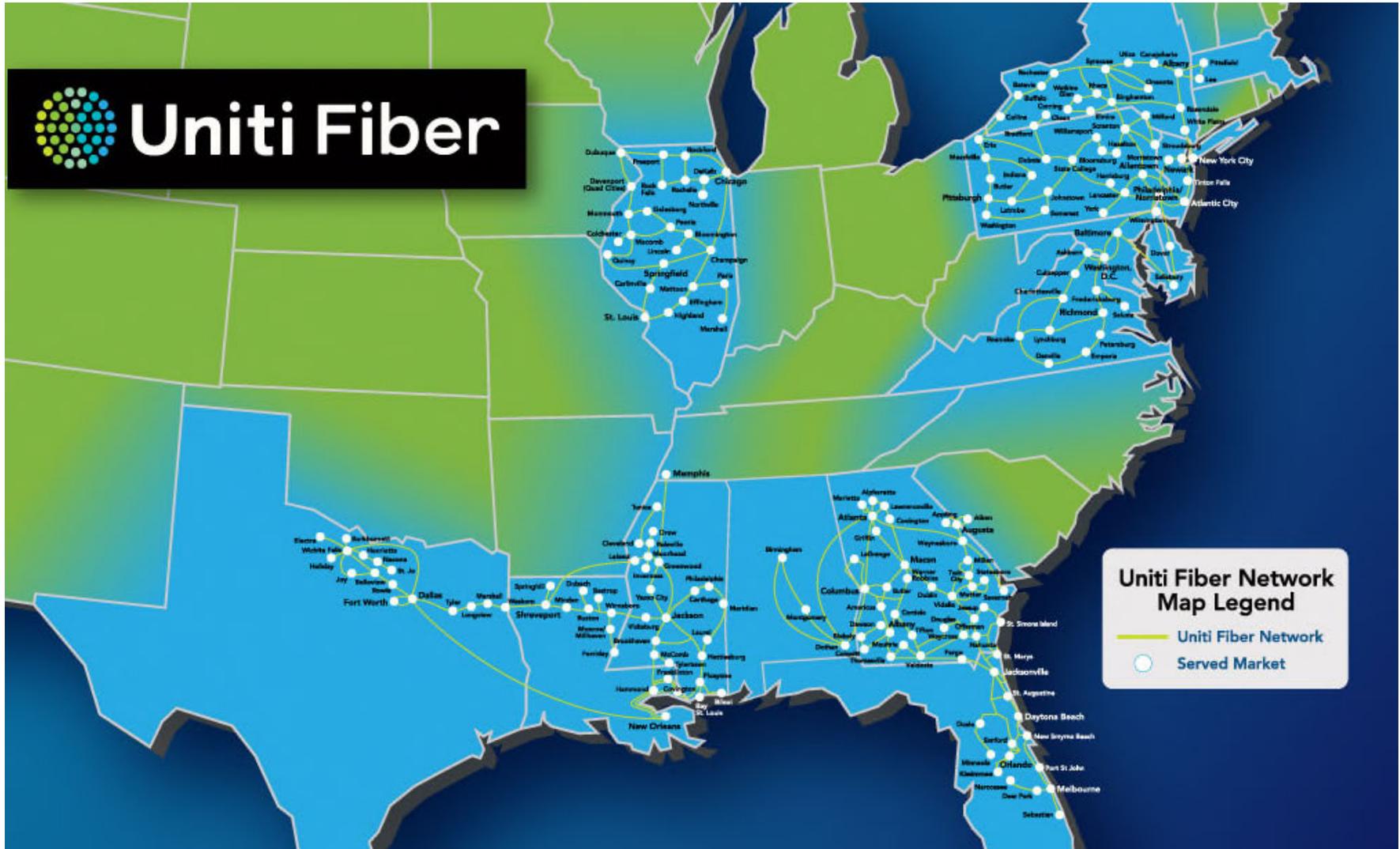
September 19-20, 2016



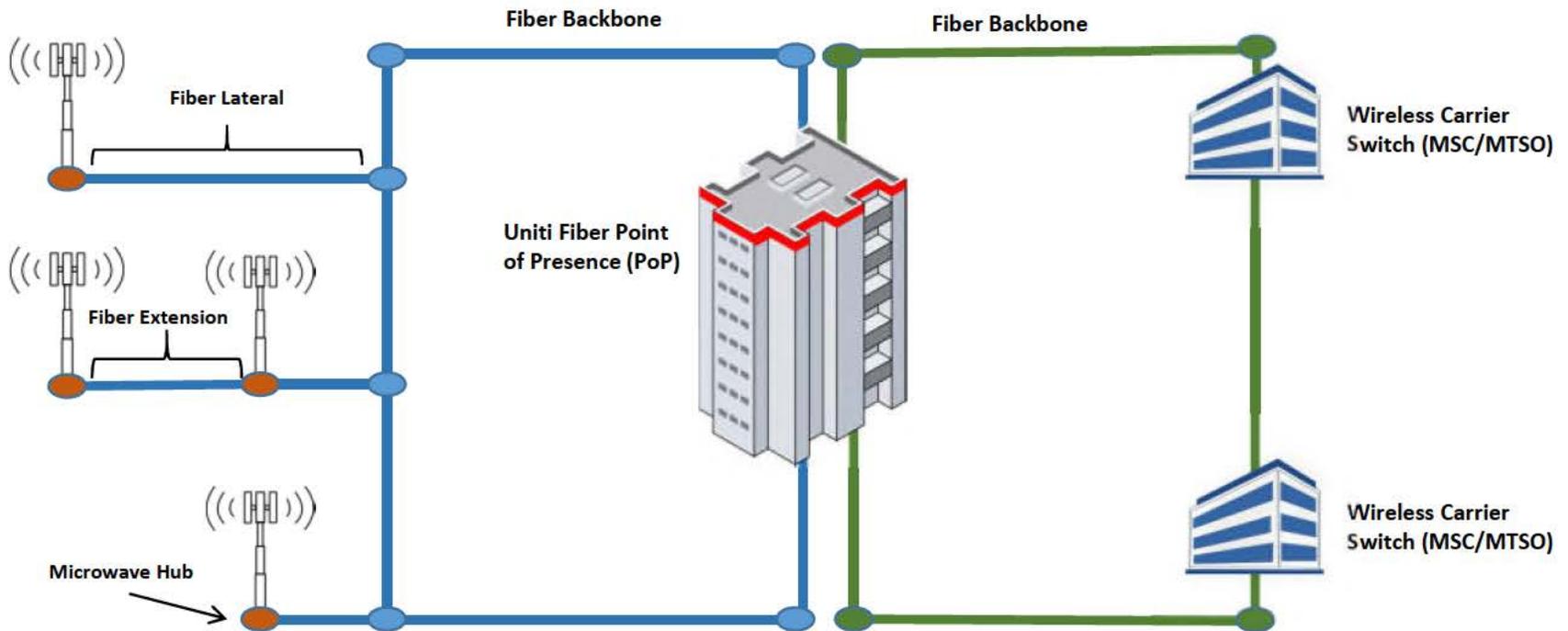
# Background on Uniti Fiber

- Uniti Fiber is a leading competitive provider of infrastructure solutions, including cell site backhaul and small cell for wireless operators and Ethernet, wavelengths and dark fiber for telecom carriers and enterprises.
- Uniti Fiber provides a variety of network connectivity options in lower-tier and rural markets where customers struggle to find reliable, scalable and affordable solutions.
- Uniti Fiber's growing infrastructure spans 19 states and almost 590,000 fiber strand miles.
- We connect over 5,200 customer connection locations with local access to 2,600 municipalities and dozens of utilities.
- Uniti Fiber specializes in cell site backhaul for wireless carriers. It has been awarded backhaul services from major wireless providers to support 3G (EVDO, HSPA) and 4G (WiMax, LTE) deployments.
- Uniti Fiber delivers customized solutions wherever its customers' toughest challenges exist.

# Uniti Fiber's Network Map



# Uniti Fiber's Typical Network Architecture



# Uniti Fiber Demonstrates the Success of Light Touch Regulation of CFPs

- Uniti Fiber is investing millions of dollars to build new networks in lower tier and rural areas.
- The company spends a significant portion of its cash flow and revenue on building new fiber routes.
- Uniti fiber sells its customers complex solutions to their fiber networking needs, not off the rack point to point circuits.
- Uniti Fiber and other CFPs undertake the difficult, expensive and time consuming process of wiring businesses, cellular towers, and other key areas for broadband.

# Benchmark Regulation of CFP Pricing Would Harm Competition

- Such regulation is not necessary since Uniti Fiber faces competition from at least the ILEC everywhere it operates and frequently faces competition from other CFPs.
- Uniti Fiber is constrained from selling at a price higher than the ILEC without providing additional value to the customer.
- Benchmark regulation of Uniti Fiber's pricing would create uncertainty, raise the cost of capital and discourage new investment.
- Benchmarks based on ILEC costs would hamper investment because CFPs have higher costs – including for capital.