

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
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Special Access for Price Cap Local Exchange Carriers)	WC Docket No. 05-25
)	
AT&T Corporation Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services)	RM-10593
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COMMENTS OF PUBLIC KNOWLEDGE

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In January 2005, the Federal Communications Commission (“Commission” or “FCC”) released its Special Access Notice of Proposed Rulemaking, initiating an examination of what regulatory framework to apply to price cap local exchange carriers’ interstate special access services.¹ For over a decade, small businesses, large enterprises, local governments, schools and universities, hospitals, and consumers have waited for the Commission to act to ensure that there are fair prices and conditions for special access. Consumers, along with all types of businesses, are both directly and indirectly affected by the continuation of unreasonable special access rates and practices. The Commission should act to stop the persistence of unreasonable rates and practices in the special access market. Doing so will stimulate broadband deployment and economic growth, and save consumers and businesses billions in anti-competitive charges.

I. Unjust and Unreasonable Rates and Conditions for Special Access Cost American Consumers and Business Billions of Dollars.

Unjust and unreasonable rates in the special access market cost American consumer and business billions of dollars. All Americans and every business rely on telecommunications services in some way. Anyone with a mobile phone relies on a cellular tower system linked by lines obtained via special access. Any business that maintains a website and allows customers to purchase goods and services online relies on a competitive telecommunications services market to help keep costs in check—those competitive carriers access lines via special access. And hospitals keeping medical records electronically, colleges and universities offering distance learning, and local

¹ See Special Access Rates for Price Cap Local Exchange Carriers, AT&T Corp. Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services; WC Docket No. 05-25, RM-10593; *Order and Notice of Proposed Rulemaking*, 20 FCC Rcd 1994 (2005).

governments using broadband to become more efficient and better serve constituents all rely on lines obtained through special access regulation.

As a result of the Commission's broken special access regime, Americans and businesses are paying higher prices for telecommunications services and higher prices for goods and services to cover the inflated telecommunications costs paid by businesses and their vendors. Additionally, unjust special access rates and practices diminish competition by making it more difficult for new competitors to enter telecommunications markets. As a result, consumers and businesses suffer to a tune of billions in misdirected economic activity.

II. Fair Prices and Conditions for Special Access are Essential for the Future of Broadband Deployment and a Vibrant Wireless Market.

Unjust prices and conditions for special access also stifle broadband deployment and competition in the wireless market. When mobile phone users make calls and download content, they likely don't realize that the cell phone tower they're connecting to relies on special access.

A substantial cost carriers pay to operate cell sites is the price of special access lines to cellular towers. Instead of having the funds to build additional towers and improve network coverage, competitive wireless carriers must pay billions of dollars in unjust special access charges each year to their most dominant competitors. One consequence of the Commission's failure to ensure just and reasonable special access rates is an overly concentrated wireless market, which harms consumers with high prices and few choices.

If prices, practices, and conditions in the special access market were fair, non-dominant wireless companies would have additional resources to build out their

networks, expand coverage, acquire additional spectrum, invest in new technologies, and offer more competitive prices to consumers. In short, the mobile broadband market would be more competitive, more innovative, and offer greater choices and lower prices to consumers.

III. The Outcome of the Special Access Proceeding Will Have Significant Ramifications on Economic Growth, Business Formation, Innovation, and Civic Engagement.

Affordable high-capacity broadband is also critical to the growth and success of online interactive content. For example, video games are increasingly distributed over the Internet, through services such as Valve's Steam and Electronic Arts' Origin for PC, Microsoft's Xbox Live, and Sony's PlayStation Network. These services provide consumers with easy access to a diverse set of content not only from major publishers, but also from up-and-coming, innovative creators. Just and reasonable special access rates would make broadband connections for businesses more affordable, and would reduce distribution costs for these new market entrants. Lower telecommunications costs would make it less costly for artists and game designers to reach consumers, fostering new business formation and innovation. Currently, exorbitant bandwidth costs are passed on to consumers; driving up prices; reducing the affordability of content; and making it less likely for innovators to take risks, invest capital, and enter new markets.

Excessive special access rates also have a deleterious affect on Americans social and civic engagement. In the past decade, social media and web-based communications platforms have proven to be a great equalizing platform, fostering communication, connection, and in some cases, social change. Online platforms provide avenues for civic engagement and discourse, while the same tools that enable such profound work also

facilitate simpler joys, like sharing news and photos with friends. All of these communications depend on high-capacity broadband lines, the high cost of which contributes to the need for pervasive advertising, data mining, and monetization schemes. As a result, consumers pay the price for high communications costs, on both ends – they not only pay to access the Internet, but end up suffering through ads and other revenue-generating efforts on the other end, in no small part due to the need by edge providers to offset their high broadband costs.

Additionally, the Internet enables hundreds of billions of dollars per year in online retail sales each year. By some accounts, sales are already above \$300 billion per year, and are projected to exceed \$400 billion by 2018.² Online shopping provides convenience for consumers, and efficiency for businesses. Consumers can shop from anywhere, anytime and, thanks to the power of the Internet, can find products that may not be available locally. Retailers, meanwhile, can reach more customers than ever before while keeping costs low due to the efficiencies of shipping as compared to maintaining physical retail locations. However, regardless of whether a purchase is made in-store or online, costs are passed on to consumers, driving up the price of products purchased every day. It doesn't matter how consumers pay for their goods, either. Credit cards in-store rely on broadband connections to process transactions. Again, these costs are ultimately borne by consumers. Whenever a consumer withdraws cash from an ATM, that ATM is connected to a broadband line, and a portion of the fee every consumer pays to financial institutions

² Sucharita Mulpuru, US eCommerce Grows, Reaching \$414B By 2018, But Physical Stores Will Live On, FORBES, May 12, 2014, *available at* <http://www.forbes.com/sites/forrester/2014/05/12/us-ecommerce-grows-reaching-414b-by-2018-but-physical-stores-will-live-on/#2715e4857a0b7ae060a62658>.

is to recoup telecommunications costs. Lastly, online shopping, of course, is wholly dependent on broadband.

All of these connections are not subject to competitive pricing, as only a few companies control the overwhelming majority of infrastructure. This lack of competition and unchecked pricing drive up the prices everyone pays for everything they buy, whether in person or online. Thus, unjust special access rates and conditions are an unmitigated drag on the U.S. economy.

IV. Conclusion

The Commission's decade long delay in addressing unjust and unreasonable rates and conditions in the special access market must end. Unreasonable costs directly and indirectly cost American consumers and businesses billions of dollars. Further, these costs negatively effect American economic competitiveness by reducing deployment of mobile broadband networks and reducing incentives for business formation and the introduction of innovative new business models that rely on broadband connectivity. The Commission should take action to reign in unreasonable special access rates and practices.

Respectfully submitted,

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