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Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
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

SECOND DECLARATION OF MATTHEW J. LOCH

1. I am the Vice President of Sales for TDS Telecommunications Corporation (“TDS”), a wholly owned subsidiary of Telephone and Data Systems, Inc. In my role, I have responsibilities for all wireline commercial sales functions.

2. This declaration is in support of the Comments of TDS Metrocom, LLC (“TDS CLEC”) in response to the Federal Communications Commission’s *Special Access FNPRM* which seeks comments on proposed changes to rules for special access services provided by Incumbent Local Exchange Carriers (“ILECs”) in price cap areas. I previously filed a declaration in this docket on June 22, 2015.

3. Over 80% of the businesses that TDS CLEC serves are small and medium-sized businesses (“SMBs”) or other customer locations that have fewer than 20 employees. Many of these SMB locations are part of a multi-location customer network, such as insurance companies, attorney offices, medical offices and chain businesses. Most multi-location

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customers desire a single provider at all, or virtually all, of their locations. While TDS CLEC has deployed “on-net” Ethernet facilities to a few locations of multipoint customers, TDS CLEC usually needs to lease alternative last mile facilities to complete the customer-required network.

4. Today, SMB customer bandwidth demands start at 10 Mbps, but are quickly migrating to 20 Mbps or higher. While some very small businesses are satisfied with cable best efforts broadband, even TDS CLEC’s smaller business customers prefer dedicated connections with symmetrical speeds to operate and support cloud-based applications.

5. Cable modem service using DOCSIS is provided over facilities that are common to (shared by) several customers on the same route and aggregated with other traffic. Thus, heavy use by one of several customers sharing facilities will slow down the other customers’ service. Because cable modem service is a best efforts service, and does not prioritize voice over data during periods of heavy use, it cannot guarantee the quality of dedicated symmetrical bandwidth that most TDS CLEC SMB customers demand.

6. The vast majority of the SMB customers that TDS CLEC serves are not located in buildings served by multiple fiber providers. For example, Madison, Wisconsin, is one of TDS CLEC’s primary markets. Yet even in Madison, TDS CLEC has built fiber into less than [BEGIN CONFIDENTIAL] [END CONFIDENTIAL] of the business locations.

7. As Mr. Butman explained, TDS CLEC faces fundamental fiber build cost disadvantages vis-a-vis its ILEC affiliate that contribute to TDS CLEC’s low success rate in economically deploying fiber loops to serve its customers.¹ For example, even though TDS CLEC provided on-net services ranging from 10 Mbps to 1 Gbps to customers in its Fox

¹ See Letter from Matthew Jones, Counsel for TDS Telecommunications Corporation, to Marlene Dortch, FCC Secretary, attaching Declaration of James Butman, ¶¶ 7-14 (filed March 26, 2015) (“Butman Declaration”).

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Valley, Wisconsin fiber deployment trial, that trial fell well below the standards of a viable business case.²

8. Mr. Butman also explained that TDS CLEC has explored multiple alternative methods of obtaining last mile access, including self-deployment, unbundled network elements (“UNEs”), special access, licensed and unlicensed wireless technologies, cable Ethernet, Ethernet over Copper and now RBOC commercial fiber based Ethernet.

9. I previously explained that TDS CLEC has been able to provide services using RBOC Ethernet as the last-mile connection in limited situations for larger customers and even then at a lower than reasonable rate of return. This declaration provides additional information to explain why RBOC wholesale Ethernet at current commercial rates is not an economically viable means of offering competitive voice and broadband services to SMB customers.

10. In my role at TDS CLEC, I am familiar with the wholesale Ethernet rates RBOCs offer TDS CLEC and to some extent the retail Ethernet rates the RBOCs quote our customers. Following are my observations with regard to what we have seen from the RBOCs as we attempt to compete to provide needed Ethernet services in the markets we serve.

11. Some RBOCs charge TDS CLEC a monthly recurring charge for a Network-to-Network Interface (“NNI”) Port to aggregate and connect Ethernet circuits that reach TDS CLEC customer locations. The NNIs are established with either 1 Gbps or 10 Gbps capacity. The RBOCs have varying approaches as to the cost of those NNIs and those charges can be quite high relative to what TDS projects for NNI Port costs in its own ILEC business.

² See Letter from Matthew Jones, Counsel for TDS Telecommunications Corporation, to Marlene Dortch, FCC Secretary, attaching Declaration of Matthew Loch, ¶ 4 (filed June 22, 2015) (“Loch Declaration”).

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12. The RBOC wholesale Ethernet rates charged to TDS CLEC generally vary depending on whether the building is on-net (already served by fiber) or off-net (requiring construction), with off-net buildings priced significantly higher.

13. Understandably, the RBOC charges TDS CLEC a lower rate for on-net buildings where fiber is available and no additional construction costs are required. However, TDS CLEC has been charged higher rates by an RBOC for the same basic service offering in an on-net building where there were no viable competitors in the same building.

14. For off-net buildings, the RBOCs require TDS CLEC to pay for the cost to place conduit from the right-of-way to the minimum point of entry in the subject building. TDS CLEC must either contract with a third party for the construction and placement of the conduit (estimated at up to \$10,000) or in one case the RBOC has agreed to provide the conduit for a lower, flat non-recurring charge.

15. The wholesale Ethernet rates being offered to TDS CLEC by the RBOCs in the period 2014-2016 are subject to confidentiality provisions in the contract that prevent TDS CLEC from revealing them in this docket, even under Highly Confidential treatment, unless required by law, governmental authority or legal process.

16. The RBOCs typically include confidentiality provisions in their retail SMB customer contracts as well, which makes it difficult for TDS CLEC to determine what the RBOCs are offering for retail Ethernet rates.

17. Nonetheless, I have seen standard Ethernet SMB model contracts offered by the RBOCs that at times have become available over the Internet.

18. TDS CLEC has also polled a portion of its existing and prospective customers who may have received RBOC Ethernet quotes to gain some perspective of what retail rates are

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being offered by RBOCs in the marketplace. This retail pricing that I reviewed offered no volume-based discounts.

19. Based on my familiarity with the RBOC wholesale rates currently offered to TDS CLEC and the RBOC retail rates that I reviewed, I conclude that the wholesale rates available to TDS CLEC are typically higher. This is the case for various bandwidths generally in demand by the SMB customers in TDS CLEC markets and in some cases even more so for bandwidths in excess of 100 Mbps.

20. I calculated the average RBOC retail Ethernet rate by using customer-supplied prices. For bundled voice and data services, I reduced the package price by \$200, which I believe is a reasonable proxy for the local and long distance services that are included in the RBOC Ethernet package. A simple comparison showed that the standard retail Ethernet rates offered by the RBOC typically were lower than the wholesale rates currently available to TDS CLEC.

21. Further, I calculated the standard TDS CLEC retail Ethernet rates by starting with our wholesale rate from the RBOCs for the same bandwidth and a comparable contract term. I added the TDS equipment costs (e.g. customer premises equipment) and the standard mark-up TDS uses to offer its Ethernet retail product.

22. Based on the best available information, TDS CLEC calculated the percentage differences shown below between the RBOCs' retail and TDS CLEC's retail Ethernet prices. These percentage differences show that the RBOCs' retail rates are well below what TDS CLEC must charge its retail customers for basically the equivalent service based on the underlying wholesale input costs TDS CLEC must pay the RBOCs.

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Bandwidth	TDS CLEC Necessary Average Retail Ethernet Rate based on wholesale purchase from RBOC expressed as a percentage of RBOC Average Retail Ethernet Rate
10 Mb	235%
20 Mb	162%
50 Mb	149%
100Mb	117%

23. I also compared NECA Rate Band 10 (fairly rural) retail Ethernet rates and the much higher RBOC (significantly more urban) average retail Ethernet rates. Although Bands 1-9 of NECA rates would result in an even larger percentage difference between RBOC average rates and NECA rates, I used Band 10 because that is the Band TDS ILECs use for the least rural of their exchanges under the NECA tariff #5 dated January 1, 2016.

Bandwidth	RBOC Average Retail Ethernet Rate Expressed as a percentage of NECA Retail Ethernet Rates for Band 10 dated 1/1/16
10 Mb	118%
20 Mb	179%
50 Mb	212%
100 Mb	275%

24. I am not aware of any cost differences between a retail and wholesale Ethernet service that would justify a higher rate for the service when offered to a wholesale customer. To the contrary, the RBOCs offering Ethernet on a wholesale basis logically should avoid certain costs. These avoided costs include costs associated with retail billing and collection, as well as customer service and marketing/sales costs.

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25. Without access to reasonably priced wholesale Ethernet, TDS CLEC is increasingly not able to meet the bandwidth demands of its SMB customers at competitive retail prices. As Mr. Butman explained, bonding DS-1s purchased as UNEs or special access does not allow TDS CLEC to offer higher bandwidth services to SMBs at affordable prices.³

26. As I have explained, TDS CLEC is very seldom able to obtain DS-3s as UNEs, which could in theory provide up to 45 Mbps of bandwidth if they were available.⁴ To deliver a UNE DS-3, an RBOC must have an existing TDM OCn facility that has a DS-3 vacancy. If an OCn facility is not deployed, or if a deployed facility is exhausted, the RBOC will only provide a DS-3 at the special access rate. Because both retail and wholesale pricing of DS-3s in the RBOC territories in which TDS CLEC competes are much higher than retail pricing of 50 Mbps Ethernet, this option typically is not economically viable.

27. Even if bonded DS-1s or a DS-3 special access input were economically viable, Ethernet over fiber offers customers non-price advantages that make bonded DS-1s and DS-3s the second-best choice. Ethernet over fiber has nearly limitless bandwidth, which can be upgraded without any major capital expenditures. Thus, a customer can order 30 Mbps of bandwidth and upgrade to 50 Mbps as needed, with little additional cost. In contrast, using TDM technology, a customer needing 30 Mbps is forced to order a 45 Mbps DS-3 up front and the customer's decision to increase bandwidth to 50 Mbps would require a second DS-3. Once a carrier has deployed Ethernet capability, it incurs little cost to increase bandwidth from 10 Mbps up to 1 Gbps. This can be contrasted with TDM, which requires substantial costs, including electronics, to upgrade to higher bandwidths.

³ Butman Declaration, ¶ 28.

⁴ Loch Declaration, ¶ 7.

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28. Moreover, Ethernet enables cloud technology for applications and data storage and provides SMB businesses with an affordable upgrade option for adding bandwidth to take full advantage of the increased efficiencies and enhanced capabilities of cloud based services. Finally, Ethernet will provide SMB customers with the capability for video conferencing and applications such as "Go to Meeting," and WebEx for communications to remote locations, customers and vendors.

29. TDS believes that the RBOCs must be required to take the following steps to ensure healthy competition and better broadband options for the vast majority of business customers in the USA:

- Charge wholesale customers rates that are no higher than standard retail offers.
- Provide wholesale customers with a discount off retail rates for the actual marketing, billing, collection and other costs avoided by the wholesale provider.
- Provide wholesale customers with terms and conditions at minimum comparable to those offered to retail customers.
- Publish on a regular basis a list of retail Ethernet rates (net of any and all discounts) in each market, including any difference in rates when the customer location had to be connected to the RBOC network in order to provide service.

30. In summary, TDS CLEC needs access to scalable, fiber-based, reasonably priced Ethernet services to continue to meet the increasing bandwidth needs of SMBs and other customers.

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I declare under penalty of perjury that the foregoing statements are true and correct to the best of my information and belief.



Matthew J. Loch

Dated: January 26, 2016