Morgan Lewis

Tamar E. Finn
Partner
+1.202.373.6117
tamar.finn@morganlewis.com

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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. 05-25; RM-10593
Notice of Ex Parte Communication

On February 16, 2016, Eric Branfman of Morgan Lewis and Bockius, LLP and the undersigned spoke by telephone on behalf of TDS Metrocom, LLC ("TDS CLEC"), with William Kehoe, Thomas Parisi and Joseph Price of the Wireline Competition Bureau.

We advised Staff that while TDS CLEC had cited Sections 201 and 202 in support of its request that the Commission require that ILECs sell wholesale Ethernet at an avoided cost discount, TDS CLEC agrees with other Commenters that Sections 251 and 252 also support such a requirement. We noted that TDS CLEC's Comments had pointed to interconnection agreements entered into pursuant to Sections 251 and 252 as a source of an appropriate avoided cost discount.

We also discussed what the competitive impact would be if the FCC required that wholesale Ethernet pricing be no higher than retail, but did not require some measure of avoided cost. While a rule capping wholesale rates at retail would be an improvement over the status quo in which wholesale rates exceed retail, for the most part, CLECs would not be able to compete by purchasing RBOC Ethernet at retail rates. This is because CLECs incur significant expenses beyond the wholesale cost of the Ethernet last mile input to provide service to their customers. These other costs include network transport costs, marketing and sales costs, customer service costs, and billing and collection costs. We noted that as reflected in TDS CLEC's Comments, the state commissions in which TDS CLEC operates found that the costs that the ILECs avoid when selling at wholesale are in the range of 17-25%. CLECs that utilize RBOC Ethernet services as a last mile input incur at least this much in costs over and above what they pay the ILEC for wholesale service, and therefore need to mark up the price they pay for the wholesale service by such an amount to break even. For example, in paragraph 22 of his Second Declaration, Matthew Loch showed 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." Similarly, paragraph 22 of the Declaration of James A. Anderson of XO, attached to XO's Comments, disclosed, on a Highly Confidential basis, XO's standard mark-up over what it pays for Type II facilities and showed that ILECs' decreasing retail Ethernet prices are effectively shutting XO out of markets.

We also discussed the approach that the FCC could take if it were to adopt a wholesale avoided cost discount for Ethernet service. The options include, but are not limited to, (1) starting with an interim rule capping wholesale costs at some benchmark while the FCC determines on a national basis what avoided cost discount should be required or (2) using the avoided cost percentages already in effect in each state as the result of previous state commission proceedings setting the resale discount.

Respectfully Submitted,

/s/ Tamar E. Finn

Tamar E. Finn

Counsel for TDS Metrocom, LLC

cc: William Kehoe
Thomas Parisi
Joseph Price