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March 1, 2016

**Ex Parte**

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

**Re: Investigation of Certain Price Cap Local Exchange Carrier Business Data Services  
Tariff Pricing Plans, WC Docket No. 15-247; Special Access Rates for Price Cap  
Local Carriers, WC Docket No. 05-25 and RM-10593**

Dear Ms. Dortch:

On February 26, 2016, Curtis L. Groves, Brendan Gunn, Fred Moacdieh and I, all of Verizon, met with Deena Shetler (by phone), Eric Ralph, Pamela Arluk, David Zesiger, William Layton, William Kehoe, Susan Lee, Virginia Metallo, Joseph Price, and Shane Taylor of the Wireline Competition Bureau to discuss how cable providers are competing in the marketplace for business broadband services. Mr. Gunn, who is Director of Marketing for Verizon Partner Solutions, specifically discussed how cable is affecting Verizon's wholesale business for these services and how Verizon is reacting in the marketplace.

As the National Cable & Telecommunications Association (NCTA) recently told the Commission, the cable industry plays a significant and growing role in the business broadband marketplace.<sup>1</sup> According to NCTA, "cable providers have made substantial investments to serve business customers and will continue to compete aggressively with ILECs and CLECs."<sup>2</sup> Today, "[v]irtually any area with special access demand will contain cable company facilities that serve, or are capable of serving, business customers."<sup>3</sup>

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<sup>1</sup> NCTA Reply Comments, *Special Access for Price Cap Local Exchange Carriers, et al.*, WC Docket Nos. 05-25 & RM-10593, at 3-4 (Feb. 19, 2016) ("NCTA Reply Comments").

<sup>2</sup> *Id.* at 4, n.3.

<sup>3</sup> *Id.* at 14.

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Verizon first felt the competitive threat from cable in the wireless backhaul marketplace. The exploding use of mobile wireless broadband and high-speed data created enormous demand for high-capacity connections, and cable companies took advantage of this opportunity to provide backhaul and expanded their networks by deploying fiber to wireless cell sites.<sup>4</sup>

For example, Sprint opened its backhaul business to competitive bids for approximately 38,000 sites.<sup>5</sup> Although Verizon bid for a significant portion of this business, including all of the business within its incumbent wireline footprint, Sprint awarded Verizon less than 6% of the sites in the Verizon incumbent footprint.<sup>6</sup> The major cable operators bid for the business, and public reports confirm they were successful.<sup>7</sup> Verizon experienced similar losses to cable when another major wireless provider opened its backhaul business to competitive bidding. While Verizon won the business in New York and New Jersey, Verizon lost other markets to cable and other providers. And that wireless provider, which is now putting thousands of sites out for bid as its current contracts expire, has told Verizon it plans to move backhaul for its Manhattan sites to cable.<sup>8</sup>

These experiences demonstrate that cable companies compete aggressively for this business. Further, to reach many of these cell sites, cable providers had to extend their fiber footprint to offer service. And having realized success in selling wireless backhaul, cable has now turned its attention to the wholesale and retail marketplaces, where “DS1 services are rapidly declining and being replaced by IP-based services offered by both cable providers and CLECs.”<sup>9</sup>

Cable companies are winning business customers of all sizes with, as NCTA puts it, “a wide variety of high-capacity services including state-of-the-art Ethernet services over Hybrid Fiber Coax or 100% fiber optic networks.”<sup>10</sup> While Ethernet over 100% fiber is the most robust of those services, Ethernet over Hybrid Fiber Coax (HFC) runs on cable’s existing, ubiquitous HFC network. Cable companies are able to offer lower-cost Ethernet over HFC without making

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<sup>4</sup> See Declaration of Brendan Gunn and Daniel Higgins, at Attachment A, ¶ 4 (“Gunn-Higgins Declaration”).

<sup>5</sup> See Ex Parte Letter from Sprint Nextel Corporation to Marlene Dortch, FCC, *Applications of Cellco Partnership d/b/a Verizon Wireless, SpectrumCo LLC, and Cox TMI Wireless, LLC For Consent To Assign Licenses*, WT Docket No. 12-4, Attachment at 3 (filed July 12, 2012); Comments of Verizon & Verizon Wireless, WC Docket Nos. 05-25 & RM-10593, at 17 (Feb. 11, 2013).

<sup>6</sup> See Ex Parte Letter from Kathleen Grillo, Verizon, to Marlene Dortch, FCC, *Competition Data Requested in Special Access NPRM*, WC Docket Nos. 05-25 & RM-10593, at 2 (Sept. 12, 2012).

<sup>7</sup> See Nomura Equity Research Report, “Sprint Nextel Corporation: Takeaways from Meetings with Management” attached to Ex Parte Letter from Donna Epps, Verizon, to Marlene Dortch, FCC, WC Docket Nos. 05-25 & RM-10593 (July 24, 2012).

<sup>8</sup> See Gunn-Higgins Declaration, ¶ 4.

<sup>9</sup> NCTA Reply Comments, at 10.

<sup>10</sup> *Id.* at 4.

major network investments. And while the bandwidth Ethernet over HFC offers currently is limited to about 10 Mbps, that level of bandwidth is sufficient for many customers. More than **\*\*BEGIN HIGHLY CONFIDENTIAL      END HIGHLY CONFIDENTIAL\*\*** of the Ethernet services Verizon currently sells are at 10Mbps or less.<sup>11</sup>

In addition to its dedicated Ethernet services, cable provides broadband Internet access that offers business customers an even lower-cost alternative. Business customers are buying cable's broadband service, which cable providers deliver over their existing ubiquitous networks with a cable modem, and they are adding easily obtainable equipment at the customer premise to create virtual private networks (VPNs). These VPNs provide secure solutions that ensure customers' traffic is not intermingled with other traffic over the global Internet.<sup>12</sup> Cable's broadband solution offers high bandwidth—up to 100 Mbps—that rivals dedicated Ethernet's bandwidth capabilities at a much cheaper price. And while cable does not guarantee certain speeds or bandwidth, this is not a “best-efforts” service. Unlike the mass-market broadband Internet access offering cable has offered for some time, cable is targeting and tailoring this offering to business customers. Customers have told Verizon that cable providers are individually negotiating Service Level Agreements (SLAs) that guarantee specified repair intervals and availability.<sup>13</sup> Cable's business broadband Internet access service can provide the kind of connectivity that a significant number of customers are satisfied with, and it is a competitive product for Verizon's wholesale customers. For these reasons, a major wholesale customer that historically bought Ethernet told us recently that demand is changing and it now can move to broadband Internet access and run its Multi-Protocol Label Switching (MPLS) network over a VPN solution. That customer told Verizon that broadband has become an “MPLS killer,” implying that it will not need dedicated solutions like legacy TDM-based special access or even Ethernet services in the near future.<sup>14</sup>

Increasingly, in fact, Verizon's wholesale and retail customers are choosing cable's Ethernet over HFC or broadband Internet access service instead of legacy TDM-based special access and instead of the more robust Ethernet over Fiber services Verizon and others offer. According to NCTA, “Thousands of businesses across the country are experiencing more robust services and/or less expensive prices as a result of cable's entry and growth in this marketplace.”<sup>15</sup> And customers are telling Verizon that as long as cable's Ethernet over HFC or broadband services meet certain minimum standards, they are willing to forego some of the additional benefits Ethernet over fiber offers.<sup>16</sup> And because those services have grown as

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<sup>11</sup> See Gunn-Higgins Declaration ¶ 5.

<sup>12</sup> See *id.* ¶ 6.

<sup>13</sup> See *id.* ¶ 7. See also Cox Business Service Data Sheet, <http://www.coxbusiness.com/meet/oc/sheila/pdfs/CBI%20Data%20Sheet.pdf>; Time Warner Cable Medium Sized Business Sheet, <https://business.timewarnercable.com/solutions/medium-business.html>.

<sup>14</sup> See Gunn-Higgins Declaration ¶ 8.

<sup>15</sup> NCTA Reply Comments at 4.

<sup>16</sup> See Gunn-Higgins Declaration ¶ 9.

competitive alternatives since 2013, the data the Commission collected does not reflect this growth.

Many of these same customers, however, are telling the Commission a different story. To the Commission, those customers stress the technical differences between Ethernet over Fiber, Ethernet over HFC, and broadband. But to Verizon, one such major wholesale customer has said it will purchase any of those services from cable as long as minimum performance criteria are met.<sup>17</sup> Consistent with that statement, that customer also recently told Verizon it had turned up new interconnections with a major cable provider, and the next month, order volumes to Verizon from that customer for Ethernet fell by **\*\*BEGIN HIGHLY CONFIDENTIAL END HIGHLY CONFIDENTIAL\*\***.<sup>18</sup> The customer has told Verizon it expects to send its future orders for service at 100Mbps or higher to cable.<sup>19</sup> Similarly, another large wholesale customer that is asking the Commission to increase regulation has said it is looking to move its embedded base of DS1 circuits to Ethernet by the end of next year, and it has told Verizon it can accomplish this without using Verizon as a supplier.<sup>20</sup> It also has told Verizon that Ethernet over Fiber's technical superiority is not important for its many customers who are satisfied with Ethernet over HFC.<sup>21</sup> Finally, another wholesale customer that competes for small and medium-sized business customers has told us it is losing business to the cable companies, who are able to serve these customers either through Ethernet over HFC or through a broadband solution.<sup>22</sup>

As cable succeeds in the marketplace, Verizon is seeing order volumes drop for Ethernet services. Over the last three months, order volumes for Ethernet are down **\*\*BEGIN HIGHLY CONFIDENTIAL END HIGHLY CONFIDENTIAL\*\*** over the previous three months.<sup>23</sup> Year-over-year for that same three-month period, Ethernet orders decreased by **\*\*BEGIN HIGHLY CONFIDENTIAL END HIGHLY CONFIDENTIAL\*\***, and almost without exception, customers are sending us fewer Ethernet orders than they were this time last year.<sup>24</sup> And those customers are telling Verizon that trend will continue and worsen as they send more business to cable.

Data that Verizon has collected also indicate this business is moving to cable. From January through October 2015, Verizon's wholesale unit lost **\*\*BEGIN HIGHLY CONFIDENTIAL END HIGHLY CONFIDENTIAL\*\*** net total access connections, including DS1s, DS3s, and Ethernet circuits.<sup>25</sup> Those businesses and the associated demand for

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<sup>17</sup> See *id.* ¶ 10.

<sup>18</sup> See *id.*

<sup>19</sup> See *id.*

<sup>20</sup> See *id.* ¶ 11.

<sup>21</sup> See *id.*

<sup>22</sup> See *id.* ¶ 12.

<sup>23</sup> See *id.* ¶ 13.

<sup>24</sup> See *id.*

<sup>25</sup> See *id.* ¶ 14.

bandwidth did not disappear. Instead, providers like cable that self-provision and do not lease service from Verizon are meeting that demand. Verizon surveyed customers and found that **\*\*BEGIN HIGHLY CONFIDENTIAL END HIGHLY CONFIDENTIAL\*\*** of disconnects are related to business going to another access provider.<sup>26</sup> And in a marketplace where demand for Ethernet service is growing, Verizon's DS1 disconnects are exceeding our Ethernet adds by more than **\*\*BEGIN HIGHLY CONFIDENTIAL END HIGHLY CONFIDENTIAL\*\***.<sup>27</sup>

Verizon's wholesale group is responding to these business losses in several ways and is exploring others. Cable providers are delivering Ethernet and broadband over their national HFC network as well as the fiber facilities they are deploying. Unlike cable's HFC network, Verizon's fiber network is not ubiquitous. Cable providers' dominance in the high-speed broadband marketplace and their national network position cable as the true incumbent provider of broadband service across the United States. To counter cable's offerings, at some customer locations where we have fiber, Verizon has introduced a program called "Titan." This program features provisioning SLAs and aggressively reduced pricing for Ethernet. Titan has been generally well-received by customers, and we are analyzing the business case for **\*\*BEGIN HIGHLY CONFIDENTIAL**

**END HIGHLY CONFIDENTIAL\*\***.<sup>28</sup> We also are developing another program that would **\*\*BEGIN HIGHLY CONFIDENTIAL**

**END HIGHLY CONFIDENTIAL\*\***.<sup>29</sup> We are reviewing other options, and if we decide to move forward with these programs, we expect to do so in the near-term.

We are also developing product-based solutions that go beyond pricing. For example, Verizon offers a wholesale "Fiber to the Internet" service that provides our wholesale customers with a broadband Internet access option. Verizon is limited, however, to offering that service at business locations where we have fiber facilities that support broadband Internet access. We are considering whether and how we can **\*\*BEGIN HIGHLY CONFIDENTIAL END HIGHLY CONFIDENTIAL\*\***, and we are also looking at other product development options to respond to cable's broadband and Ethernet over HFC offerings.<sup>30</sup>

Verizon is not just a wholesale provider. Verizon also is a wholesale customer, especially in the many states in which Verizon is not an ILEC. Like our wholesale customers, Verizon is interested in purchasing the most efficient and cost-effective access available to serve our retail customers. Verizon has relationships with the major cable companies and purchases Ethernet services from them—including Ethernet over Fiber and Ethernet over HFC—where they are the

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<sup>26</sup> *See id.*

<sup>27</sup> *See id.*

<sup>28</sup> *See id.* ¶ 15.

<sup>29</sup> *See id.*

<sup>30</sup> *See id.* ¶ 16.

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best access option available. Verizon also purchases broadband access where that is the best option available, because our customers, like our wholesale customers' customers, in many cases want to purchase broadband access instead of a DS1 or Ethernet connection. Curiously, however, **\*\*BEGIN HIGHLY CONFIDENTIAL**

**END HIGHLY CONFIDENTIAL\*\*.**<sup>31</sup>

Cable's success in the marketplace and its near ubiquitous presence as a competitor that is winning DS1 and Ethernet customers away from ILECs and other providers through its Ethernet products and its broadband Internet access product underscore several of the themes that Verizon has stressed both in the rulemaking proceeding and the tariff investigation proceeding. *First*, where there is concentrated demand for business broadband services, there is competition. *Second*, cable is a major competitive presence, and it has grown in strength and size since the Commission collected 2013 data. *Third*, given these and other facts, there is no basis on which to increase regulation of ILEC business broadband services, including legacy special access and Ethernet. *Fourth*, there is no basis to single out ILECs for special regulatory burdens that other providers do not face. *Fifth*, as a result, while the Commission should rely on competition to protect customers where it can, if there are areas where the Commission determines competition is insufficient to do that, the Commission should regulate evenhandedly.

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<sup>31</sup> See *id.* ¶ 17.

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Sincerely,

*Maggi McCreedy*

Copies:	Deena Shetler	Eric Ralph	Pamela Arluk
	David Zesiger	William Layton	William Kehoe
	Susan Lee	Virginia Metallo	Joseph Price
	Shane Taylor		

# ATTACHMENT A

**REDACTED FOR PUBLIC INSPECTION**



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

In the Matter of

Investigation of Certain Price Cap Local Exchange  
Carrier Business Data Services Tariff Pricing Plans

WC Docket No. 15-247

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

**DECLARATION OF BRENDAN GUNN AND DANIEL HIGGINS**

1. My name is Brendan Gunn. I am Director of Marketing for Global Ethernet and IP Services with Verizon Partner Solutions and have held this position since December 2015. I manage product, place, promotion, and price strategy for Verizon's Ethernet services, both inside and outside our ILEC territory. In addition, I am responsible for marketing strategy for Verizon's global IP and Wave services. Before assuming my current role, I was group manager for Verizon's wholesale Ethernet services. I have been with Verizon since April 2003.

2. My name is Daniel Higgins. I am Director of Carrier Management in Verizon's Business Transformation organization and have held this position since August 2013. I am responsible for the contract implementation and management of Verizon's third-party access spending throughout North America and South America. Before assuming my current role, I was facilities manager for Verizon Wireless supporting the Carolinas and Tennessee region. I joined Verizon in June 2010.

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3. We make this declaration to support positions Verizon has taken in these proceedings. Specifically, we explain how the growth of the cable providers as competitors in the business broadband marketplace is affecting Verizon's wholesale business and how Verizon is reacting. We also explain that Verizon is a purchaser of access, and although we seek to purchase the most efficient access available to serve our customers, at least one cable provider is unwilling to sell to Verizon in certain circumstances.

4. Verizon first felt the competitive threat from cable in the wireless backhaul marketplace. In addition to Verizon's experience bidding for Sprint's backhaul business, Verizon experienced similar losses to cable when another major wireless provider opened its backhaul business to competitive bidding. While Verizon won the business in New York and New Jersey, Verizon lost other markets to cable and other providers. And that wireless provider, which is now putting thousands of sites out for bid as its current contracts expire, has told Verizon it plans to move backhaul for its Manhattan sites to cable.

5. Cable companies now have turned their attention to winning wholesale customers by offering a variety of services, including Ethernet over Fiber, Ethernet over Hybrid Fiber Coax (HFC), and broadband Internet access. While Ethernet over 100% fiber is the most robust of those services, Ethernet over HFC runs on cable's existing, ubiquitous HFC network. And while the bandwidth Ethernet over HFC offers currently is limited to about 10 Mbps, that level of bandwidth is sufficient for many customers. More than <<**BEGIN HIGHLY CONFIDENTIAL**  
**END HIGHLY CONFIDENTIAL**>> of the Ethernet services Verizon currently sells are at 10Mbps or less.

6. Cable's broadband Internet access service offers business customers an even lower-cost alternative, which cable providers deliver over their existing ubiquitous networks.

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Customers buy this service and add easily obtainable equipment at the customer premise to create virtual private networks (VPNs) that provide secure solutions, ensuring that customers' traffic is not intermingled with other traffic over the global Internet.

7. Cable's broadband solution offers high bandwidth—up to 100 Mbps—that rivals dedicated Ethernet's bandwidth capabilities at a much cheaper price. And while cable does not guarantee certain speeds or bandwidth, this is not a “best-efforts” service. Customers have told Verizon that cable providers are individually negotiating Service Level Agreements (SLAs) that guarantee specified repair intervals and availability.

8. Cable's business broadband Internet access service can provide the kind of connectivity that a significant number of customers are satisfied with, and it is a competitive product for Verizon's wholesale customers. For these reasons, a major wholesale customer that historically bought Ethernet told Verizon recently that demand is changing and it now can move to broadband Internet access and run its Multi-Protocol Label Switching (MPLS) network over a VPN solution. That customer told Verizon that broadband has become an “MPLS killer,” implying that it will not need dedicated solutions like legacy TDM-based special access or even Ethernet services in the near future.

9. Increasingly, Verizon's wholesale customers are choosing cable's Ethernet over HFC or broadband Internet access instead of legacy TDM-based special access and instead of the more robust Ethernet over Fiber services. Customers are telling Verizon that as long as cable's Ethernet over HFC or Broadband services meet certain minimum standards, they are willing to forego some of the additional benefits Ethernet over fiber offers.

10. One major wholesale customer, for example, has told Verizon it will purchase any of those services from cable as long as minimum performance criteria are met. Consistent with that

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statement, this customer also recently told Verizon it had turned up new interconnections with a major cable provider, and the next month, order volumes to Verizon from this customer for Ethernet fell by <<BEGIN HIGHLY CONFIDENTIAL      END HIGHLY CONFIDENTIAL>>. This customer has told Verizon it expects to send its future orders for service at 100Mbps or higher to cable.

11. Similarly, another large wholesale customer has said it is looking to move its embedded base of DS1 circuits to Ethernet by the end of next year, and it has told Verizon it can accomplish this without using Verizon as a supplier. That customer also has told Verizon that Ethernet over Fiber's technical superiority is not important for its many customers who are satisfied with Ethernet over HFC.

12. Another wholesale customer that competes for small and medium-sized business customers has told Verizon it is losing business to the cable companies, who are able to serve these customers either through Ethernet over HFC or through a broadband solution.

13. At the same time, Verizon is seeing order volumes drop for Ethernet services. Over the last three months, order volumes for Ethernet are down <<BEGIN HIGHLY CONFIDENTIAL      END HIGHLY CONFIDENTIAL>> over the previous three months. Year-over-year for that same three-month period, Ethernet orders decreased by <<BEGIN HIGHLY CONFIDENTIAL      END HIGHLY CONFIDENTIAL>>, and almost without exception, customers are sending us fewer Ethernet orders than they were this time last year. And those customers are telling Verizon that trend will continue and accelerate as they send more business to cable.

14. From January through October 2015, Verizon's wholesale unit lost <<BEGIN HIGHLY CONFIDENTIAL      END HIGHLY CONFIDENTIAL>> net total access

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connections, including DS1s, DS3s, and Ethernet circuits. And Verizon surveyed customers and found that <<BEGIN HIGHLY CONFIDENTIAL      **END HIGHLY CONFIDENTIAL**>> of disconnects are related to business going to another access provider. In a marketplace where demand for Ethernet service is growing, Verizon's DS1 disconnects are exceeding our Ethernet adds by about <<BEGIN HIGHLY CONFIDENTIAL      **END HIGHLY CONFIDENTIAL**>>.

15. Verizon's wholesale group is responding to these business losses in several ways. At some customer locations where we have fiber, Verizon has introduced a program called "Titan." This program features provisioning SLAs and aggressively reduced pricing for Ethernet. Titan has been generally well-received by customers, and we are analyzing the business case for <<BEGIN HIGHLY CONFIDENTIAL

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**END HIGHLY CONFIDENTIAL**>>. We are

reviewing other options, and if we decide to move forward with these programs, we expect to do so in the near-term.

16. We are also developing wholesale product-based solutions that go beyond pricing.

For example, we are considering whether and how we can <<BEGIN HIGHLY

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17. Verizon also is a wholesale customer, especially in the many states in which Verizon is not an ILEC and serves customers as a CLEC. Like our wholesale customers, Verizon is interested in purchasing the most efficient and cost-effective access available to serve our retail customers. Verizon has relationships with the major cable companies and purchases Ethernet services from them—including Ethernet over Fiber and Ethernet over HFC—where they are the best access option available. Verizon also purchases broadband access where that is the best option available, because our customers, like our wholesale customers' customers, in many cases want to purchase broadband access instead of a DS1 or Ethernet connection. Curiously, however, <<BEGIN HIGHLY CONFIDENTIAL

**END HIGHLY CONFIDENTIAL>>.**

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I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 1, 2016

  
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Brendan Gunn

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 1, 2016

  
Daniel Higgins