

March 24, 2016

Ex Parte

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: *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

Dear Ms. Dortch:

On March 22, 2016 I spoke with Jonathan Sallet, General Counsel, regarding the Commission's ongoing review of competitive conditions in special access markets in Dockets 05-25 and RM-10593.¹ I summarized the argument, as more fully set forth on pages 77 to 83 of Windstream's January 27, 2016 comments in Dockets 05-25 and RM-10593 that the preservation of DS1 and DS3 capacity UNEs after the transition to IP-based or fiber networks is an important component to remedies for ILEC market power in special access markets.²

On March 24, 2016, I spoke with William Dever of the Office of the General Counsel. I similarly summarized for Mr. Dever the argument set forth on pages 77 to 83 of Windstream's January 27, 2016 comments.³ In addition, I told Mr. Dever that Windstream had previously made several points with respect to the impact of UNEs or lower special access prices on investment incentives. In its petition in Docket 15-1, Windstream observed that many of the facilities that are subject to unbundling, and which the Windstream petition asked to be confirmed as subject to unbundling requirements, are largely sunk.⁴ For example, the copper is already in place, even if the electronics on the end of the copper are then changed to convert

¹ Because the subject matter also overlaps with issues raised in Dockets 13-5 and 15-1, this notice is also being filed in those dockets.

² See Comments of Windstream Services, LLC at 77-83, WC Docket No. 05-25, RM-10593, GN Docket No. 13-5 (filed Jan. 27, 2016).

³ See *id.*

⁴ See Petition for Declaratory Ruling of Windstream Corporation at 15, WC Docket No. 15-1, GN Docket No. 13-5 (filed Dec. 29, 2014).

from TDM to IP transmission. Windstream further described in its reply comments filed March 9, 2015, on pages 27 to 32, the important role that UNEs play in supporting CLEC investment in both backhaul and last-mile fiber.⁵ With respect to last-mile fiber, as those comments describe, when the customer has a hospital, and a number of satellite locations, the availability of UNEs allows Windstream to make a cost-effective bid that lowers the overall cost to the health care provider, and supports Windstream's deployment of fiber to the hospital.⁶ Finally, Windstream's ex parte letter of June 8, 2015, at page 8, and the CostQuest white paper attached to that ex parte letter, supports the conclusion that it is high build-out costs, not the price of UNEs, that precludes much CLEC deployment of fiber to overbuild the ILEC.⁷ Similarly, on page 9 of that ex parte, supported by the second CostQuest white paper that was attached to that ex parte, Windstream pointed out that ILECs have a strong incentive to deploy fiber and upgrade to IP transmission independent from wholesale pricing because of the savings from maintenance and operational costs.⁸

Please contact me if you have any questions or require any additional information.

Sincerely yours,



John T. Nakahata
Counsel to Windstream Services, LLC

cc: Jonathan Sallet
William Dever

⁵ See Reply Comments of Windstream Services, LLC with Respect to Its Petition for a Declaratory Ruling at 27-32, WC Docket No. 15-1, GN Docket No. 13-5 (filed Mar. 9, 2015).

⁶ See *id.* at 27-30.

⁷ See Letter from Jennie B. Chandra, Vice President – Public Policy and Strategy, Windstream Services, to Marlene H. Dortch, Secretary, FCC, at 8, GN Docket No. 12-353, WC Docket Nos. 05-25, 15-1 & RM-10593 (filed June 8, 2015).

⁸ See *id.* at 9.