



April 5, 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 April 1, 2016 I spoke with Jonathan Sallet, General Counsel, William Dever of the Office of the General Counsel, and Stephanie Weiner, Senior Legal Advisor to Chairman Wheeler regarding the Commission's ongoing review of competitive conditions in special access markets in Dockets 05-25 and RM-10593.¹ My presentation is summarized in the attached document, which was distributed to the attendees. Windstream currently purchases both copper and fiber-based unbundled DS1 and DS3 capacity loops, where available.

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
Stephanie Weiner

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

PRESERVING ACCESS TO UNBUNDLED DS1 AND DS3 CAPACITY LOOPS IS AN IMPORTANT PART OF SPECIAL ACCESS REMEDIES

Windstream's competition concern

- ILECs control access to a substantial majority of special access customer locations.
- ILECs use that control to charge high prices and create a price squeeze.
- The price squeeze reduces competition for the overall package of business services purchased by the end user by raising the cost of a significant component. It also reduces competition for multilocation customers in situations in which the CLEC can serve a primary location on its own fiber, but must use ILEC facilities to reach the customer's other locations.

Windstream's use of UNEs as a dedicated business broadband input.

- DS1 and DS3 capacity UNEs constitute {{ [REDACTED] }} of all last mile inputs leased by Windstream. For AT&T, in particular, these UNEs constitute {{ [REDACTED] }} of DS1 and DS3 circuits leased by Windstream.
- Simply shifting all DS1 capacity UNEs to special access would increase Windstream's DS1-capacity last mile costs by {{ [REDACTED] }}
[REDACTED]
[REDACTED]
[REDACTED] }}.

Baker analysis

- {{ [REDACTED] }}
(Baker ¶ 44 n. 42.)
- {{ [REDACTED] }}
[REDACTED]
[REDACTED] }} (Baker ¶ 58).
- This suggests that UNEs have an important continuing role in disciplining monopoly and duopoly dedicated service pricing.

Preserving UNE Access for DS1 and DS3 Capacity Loops will not Alter Investment Incentives

- Windstream's request is to preserve the status quo in which DS1 and DS3 capacity UNE loops can be used as an input for Ethernet services.
- Cable is deploying Ethernet over Fiber and Ethernet over HFC, notwithstanding today's availability of DS1 and DS3 capacity unbundled loops.
- CLECs will continue to have an incentive to deploy fiber in the cases where they do so today – at higher levels of bandwidth above the levels servable using UNEs (or by Ethernet over HFC, which Comcast states does not extend beyond 10 Mbps). Comcast 3/25/2016 Ex parte at 3. {{ [REDACTED] }}
[REDACTED] }}
 - CostQuest White Paper showed the significant levels of revenue needed to sustain a CLEC buildout.

Preserving access to unbundled DS1 and DS3 capacity loops preserves customer solution choices and CLEC incentives for new fiber deployment.

- Even if a competitor could (and would) serve some multilocation customer sites with its own fiber, higher lease costs to serve the customer's other, remote sites with lower bandwidth needs will be a meaningful deterrent to competitive carriers' bidding to serve those multilocation customers. Examples of WIN multilocation customers affected include {{ [REDACTED] }}.