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VIA ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, NW
Portals II, Room TW-A325
Washington, DC 20554

Ex Parte Submission

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

Dear Ms. Dortch:

On April 22, 2016, Robert Quinn, Frank Simone, Keith Krom, and the undersigned, of AT&T, met separately with the following:

- Nicholas Degani, Legal Advisor to Commissioner Pai;
- Travis Litman, Senior Legal Advisor to Commissioner Rosenworcel;
- Rebekah Goodheart, Legal Advisor to Commissioner Clyburn;
- Amy Bender, Legal Advisor to Commissioner O'Rielly;
- Jonathan Sallet, FCC General Counsel; Stephanie Weiner, Senior Legal Advisor to Chairman Wheeler; Matthew DelNero, Chief, Wireline Competition Bureau; and Deena Shetler, Associate Bureau Chief, Wireline Competition Bureau.

At these meetings we discussed the forthcoming Further Notice of Proposed Rulemaking in the above-captioned docket. Our discussions focused on the attached document which summarizes AT&T's positions in this proceeding.

Sincerely,

/s/ Caroline R. Van Wie

Caroline R. Van Wie

cc: Nicholas Degani
Travis Litman
Amy Bender
Rebekah Goodheart
Jonathan Sallet
Stephanie Weiner
Matthew DelNero
Deena Shetler

Business Data Services are Competitive

The FCC's 2012 FNRPM on business data services (née special access) ("BDS") asked not whether the FCC should remove regulations for BDS where facilities-based competitors were present, but how. Parties have argued for years that the existing triggers were over-inclusive, incorrectly granting relief where competition was not present. After examining the data collected in this proceeding, however, it's clear that those parties are exactly wrong. The data show that BDS are highly competitive and that the MSA-based trigger system accurately reflected competition for the most part, and in some areas was actually under-inclusive.

The data show just how competitive business data services are:

- As of 2013, competitive facilities are present in more than 95% of the MSA census blocks with BDS demand.
    - These census blocks represent about 97% of total BDS locations with connections and about 99% of all business establishments in census blocks with BDS facilities.
    - These census blocks are small (the median size of an MSA census block is 0.02 square miles) – competitive facilities in these census blocks can generally reach all or most buildings.
- Even when you exclude a significant portion of cable facilities, including all cable HFC networks (which are used to deliver Ethernet services), the results are substantially the same.
- These same results are found in many Phase I and "no relief" MSAs as well, showing that the current triggers are under-inclusive.
- Examination of the recently updated detail on building distance from in-ground facilities confirms just how competitive the market is:
    - Virtually all ILEC-only buildings with BDS demand are within 0.5 miles of competitive fiber facilities. And, 50% of those buildings are within 88 feet of competitive fiber; about 75% are less than 500 feet from competitive fiber. That's not even counting cable's HFC network.
    - 85% of the BDS bandwidth provided by AT&T was delivered to buildings where at least two additional providers also have facilities, either to the building or within 1,000 feet.
    - Indeed, 59% of the BDS bandwidth AT&T provides via sub-50 Mbps services is to locations with at least two additional competitors, either with facilities connected to the building or within 1,000 feet.

AT&T's DS1 tariffs do not "lock in" customers:

- The FCC has investigated AT&T's 4 DS1 pricing plans which include circuit portability.
- AT&T's plans do not include discounts based on volume; all discounts are based on term length.
- The plans are better thought of as "Early Termination Liability Avoidance Plans." They were created at customers' requests to allow them to better manage large circuit buys.
- These are not "loyalty plans." They do not require a customer to commit all of the circuits within a region to AT&T.
- The facts contradict claims of lock-in:
    - As of 2013, circuit portability plans accounted for only about 10% of all special access revenue in AT&T's region.
    - AT&T's revenues from these plans have been in sharp decline over the last few years.
    - Many customers choose not to purchase out of these plans.
    - Customer headroom permits them to move circuits away from these plans.