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June 30, 2004

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Federal Communications Commission
Office of Secretary

Via Hand Delivery

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: Oral *Ex Parte* Notice, *AT&T Corp. Petition for Rulemaking To Reform Regulation Of Incumbent Local Exchange Carrier Rates For Interstate Special Access Services*, RM No. 10593

Dear Ms. Dortch:

On June 29, 2004, Richard Whitt, Curtis Groves, and Alan Buzacott of MCI, Michael D. Pelcovits and Kenneth C. Basemen of Microeconomic Consulting and Research Associates, Inc., and A. Richard Metzger, Jr. of Lawler, Metzger & Milkman, LLC, counsel to MCI, met with Tamara Preiss, Deena Shetler, Jay Atkinson, Andrew Mulitz, and Rodger Woock of the Wireline Competition Bureau and William Sharkey of the Office of Strategic Planning and Policy Analysis to discuss the above-referenced petition.

Consistent with its prior written submissions in this proceeding, MCI urged the Commission to commence a rulemaking proceeding as suggested by AT&T in order to reform the prices that incumbent local exchange carriers (LECs) assess for interstate special access service. MCI noted that prices for such special access services have not declined, as the Commission expected when it adopted the *Pricing Flexibility Order*, 14 FCC Rcd 14221 (1999). Rather, MCI pointed out that prices generally have remained at excessive levels, even as special access costs have decreased, and in some cases, especially along routes with low traffic volumes, the prices have increased. MCI also discussed the adverse competitive effects of exclusionary pricing practices by incumbent LECs and recommended that the Commission use this proceeding to develop a more detailed record on the use of such practices and the remedies available to address their anti-competitive effects.

MCI's presentation was otherwise consistent with its prior written submissions in this proceeding. The attached document was used in connection with the presentation.

In accordance with section 1.1206(b)(2) of the Commission's rules, 47 C.F.R. § 1.1206(b)(2), an original and one copy of this letter has been filed in the record of this proceeding.

Respectfully submitted,

A. Richard Metzger

A. Richard Metzger, Jr.

Attachment

cc: Tamara Preiss	Rodger Woock
Deena Shetler	William Sharkey
Jay Atkinson	Kathy O'Neill
Andrew Mulitz	Best Copy & Printing, Inc.

Exclusionary contracts for special access are becoming more common

- Premise: CLECs cannot compete for all of a customer's special access business
- ILECs are seeking to induce exit or deter entry by establishing exclusionary pricing structures
- Discounts on the monopoly portion of a customer's demand are conditioned on choices for the competitively sensitive portion of demand
  - Discounts on the customer's entire demand that require the customer to maintain fixed levels of spending with the ILEC
  - Discounts on the customer's entire demand that require the customer to transfer business from CLECs

SBC Special Access Pricing Plan

- Managed Value Plan
  - Gives discount for maintaining predetermined annual recurring revenue level for 5 years
    - Starting at 9%, rising to 14% in the fifth year
  - CLEC cannot compete for a portion of the customer's business, because it would have to give an enormous discount to offset the higher cost incurred by the customer, which must surrender the MVP discount

Discount Required to Compete With the MVP

	Year 1	Year 2	Year 3	Year 4	Year 5
MVP Discount offered by SBC	9%	11%	12%	13%	14%
Discount CLEC must offer if it competes for 20% of customer's traffic	45%	55%	60%	65%	70%

SBC Contract Tariff No. 15

- 50% discount off of MVP rates for DS1, DS3, and OCn services in pricing flexibility MSAs
- A minimum of 4% of the customer's billing must come from services previously purchased from a CLEC
- Current Annual Revenue Commitment (CARC) equal to the greater of
  - MVP annual commitment, or
  - Previous three months recurring MVP billing annualized

SBC Contract Tariff No. 15
Example

	MVP	Contract No. 15 @ 50% discount
Bought from ILEC	100.00	52.00
Bought from CLEC	4.00	0.00
Total	104.00	52.00

Verizon Contract Tariff Option 1

- Discount for all Special Access services in MSAs with pricing flexibility
- Three year term, discount varies by year
- Two discounts:
  - Annual Revenue discount paid on all Special Access services
    - Fixed discount in year 1 only ($3.8m if revenues > $301M)
    - Two-step variable discounts based on revenue thresholds
      - 10% on revenue >$301M; 20% on revenue above $325M,
  - Product Suite discount paid on DS-3 services
    - Equals Annual Revenue discount times a multiplier
      - Multiplier starts at 0.1 for revenues above $132M, rising to maximum of 1.0 for revenues above $137M

VZ Contract Tariff Option 1 (cont'd)

- Example from tariff
  - Customer buys \$340M of SpAc services, \$137M of DS-3 service from ILEC
  - Annual Revenue discount = \$9.2M
    - \$3.8M Fixed discount
    - \$5.4M variable discounts
  - Product Suite discount = \$9.2M

VZ Contract Tariff Option 1 (cont'd)

	Year 1 Effect ($Ms)				
<u>Base Billings</u>					
SpAc	340.00	340.00	340.00	340.00	340.00
DS-3	137.00	137.00	137.00	137.00	137.00
<u>Discounts</u>					
SpAc	9.20	9.20	9.20	9.20	9.20
DS-3	9.20	9.20	9.20	9.20	9.20
Total	18.40	18.40	18.40	18.40	18.40
Amount of DS3 shifted to CLEC	5.00	10.00	11.50	15.00	20.00
VZ Discount					
SpAc	8.20	7.20	6.90	6.20	5.70
DS-3	0.82	0.00	0.00	0.00	0.00
Total	9.02	7.20	6.90	6.20	5.70
Discount needed from CLEC to offset reduction in VZ discount	9.38	11.20	11.50	12.20	12.70
% Discount	188%	112%	100%	81%	64%

Questions for NPRM

- To what extent are these types of contract tariffs in use today?
- Would the RBOCs be offering these contracts if they were not intending to exclude competitors?
- What remedies should the Commission adopt?
  - Limits on discounts that are applied across all rate elements, e.g. channel terminations and interoffice mileage
  - Limits on discounts that are paid back to the first dollar
  - Limits on discounts that are paid on winbacks