Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Jurisdictional Separations and Referral to the	)	CC Docket No. 80-286
Federal – State Joint Board	)	

Reply Comments of the Ad Hoc Telecommunications Users Committee

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Table of Contents

Summary 3

Reply.....5

I. Contrary to The Assertions Of Local Exchange Carriers, New Technologies And Changes In Market Conditions Have Not Eliminated The Need For Jurisdictional Separations, Nor Made Separations Impossible. 6

II. Accounting Rates Of Return, Which Depend On Separations, Are Still Needed To Evaluate The Lawfulness Of Special Access Rates. 8

III. AT&T Is Wrong In Asserting That Special Access Services Represent A "mature source of competition." 10

IV. There Is No Evidence That The Existing Separations Freeze Has Resulted In An Under-Allocation Of Expenses Or Investments To The Special Access Category. 11

V. The Idaho Public Utilities Commission's Claim That A 2004 FCC Staff Memo Required ILECs To Freeze Special Access Assignments Is Misguided. 15

VI. Conclusion 18

Attachment A 20

Attachment B 21

Summary

Some local exchange carriers ("LECs") apparently view this proceeding as another battle in their seemingly unending campaign to eliminate rate regulation. They offer no data which would support a finding that the interstate access service market is effectively competitive, yet argue for elimination of Separations, without which rate regulation would be impossible. They fail to offer such data for a simple reason: the interstate access service market is not effectively competitive. AdHoc has demonstrated repeatedly that the condition of the special access market is exactly the opposite, that the Commission granted the LECs special access pricing flexibility prematurely and that the LECs have used special access pricing flexibility not to reduce rates to respond to competition, but rather to price gouge their special access customers. Accordingly, the Commission cannot reasonably conclude that the interstate access service market is effectively competitive, and that there is no need for Separations because there is no need for rate regulation. Rather than even thinking about eliminating Separations, the Commission should move forward with its special access rate rulemaking.

Nor have the LECs established a factual basis for their assertions that Separations are impossible given today's multi-use digital networks. LEC networks have been used to provide a wide variety of services for decades, and Separations have been accomplished during those years. Simply chanting, "digital, digital, digital," does not establish that Separations cannot be effected for the investments and expenses associated with contemporary networks, networks

which, like last years network and the network of the 1990s, are used to provide multiple services, including non-regulated services. Separations are needed and possible, and should not be eliminated.

Contrary to the assertions of some parties, the 2001 freeze of Separations factors is not responsible for the awe-inspiring interstate special access service rates of return. Growth in DS0 equivalents is an improper metric to use to measure growth in special access investment. Comparing rates of growth in special access investment and special access rates revenues would make sense only if special access rates were constrained, which, of course, is not the case. Moreover, the freeze did not affect direct assignment of special access costs. LEC investment patterns are simply inconsistent with the notion that the freeze resulted in under allocation of costs to interstate special access services. Ill-advised and continuing special access pricing flexibility, not the freeze, produced the current excessive special access rates of return.

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	)	

Reply

The AdHoc Telecommunications Users Committee ("AdHoc") [1] hereby submits its reply to certain comments filed in the above-captioned proceeding in response to the Commission's May 16, 2006 Further Notice of Proposed Rulemaking , 2006 in the above-captioned proceeding.[2] AdHoc opposes the efforts of local exchange carriers ("LECs") to eliminate Jurisdictional Separations ("Separations"), and demonstrates below that, contrary to the assertions of some parties, the existing Separations freeze has not improperly inflated interstate special access service earnings.

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[1] Ad Hoc is an unincorporated association that represents its members' interests in telecommunication matters pending before the FCC and the courts. Its members are among the nation's largest and most sophisticated corporate buyers of telecommunications services and products. Fifteen of Ad Hoc's twenty-one members are Fortune 500 companies, including eleven of the Fortune 100. They estimate their combined annual spend on telecommunication services at between two and three billion dollars per year. Ad Hoc admits no carriers as members and accepts no carrier funding. Ad Hoc's self-interest is served by avoiding the imposition of unnecessary regulatory constraints on incumbent service providers. In an effectively competitive market, Ad Hoc's members do not need regulation to protect their interests.

[2] *Jurisdictional Separations and Referral to the federal-State Joint Board* (Order and Further Notice of Proposed Rulemaking), CC Docket No. 80-286, FCC 06-70 (released May 16, 2006).

I. Contrary to The Assertions Of Local Exchange Carriers, New Technologies And Changes In Market Conditions Have Not Eliminated The Need For Jurisdictional Separations, Nor Made Separations Impossible.

In response to queries posed in the NPRM, several parties, principally ILECs (large and small), have suggested that the advent of new technologies and increasing levels of competition in the local service market have lessened, or eliminated completely, the *need* for Separations.[3] None of these parties, however, have submitted *any* data that would support those positions. The absence of evidence supplied by those advocating this position, is, of course, not surprising, since neither technological changes nor pockets of local service competition have changed the fundamental need for Separations.

As with their comments relative to the need for Separations, the RBOCs have claimed, without any support, that new technologies make Separations all but impossible.[4] Contentions that cost assignment and allocation rules are onerous and counter-productive given contemporary digital networks are overstatements and erroneous. Carriers have used their networks for multiple services for decades and have long engaged in regulated and unregulated activities. During these many years, they have been subject to Separations. Allocation of costs among the interstate and intrastate jurisdictions has been, and still is mandated by *Smith v. Illinois Bell Telephone Company*, 282 U.S. 133 (1930). There is nothing about digital networks that obviates the need for or practicability of such allocations.

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[3] *See*, Comments of BellSouth at 6, Comments of AT&T at 5, Comments of Verizon at 2 and Comments of Qwest at 2.
[4] *See*, Comments of BellSouth at 3, Comments of AT&T at 3 and Comments of Qwest at 7-11.

Arguments, like those made by BellSouth in its Petition for Forbearance from Cost Assignment Rules filed earlier this year and referenced repeatedly in its Comments here, that Separations was designed for analog, single purpose, circuit switched networks and does not work for its multi-function digital network are nothing more than hyperbole.[5] In a similar vein AT&T's comment that newer services rely upon "communications that transcend jurisdictional boundaries" suggests that it is impossible to separate the costs of current generation communications facilities. This suggestion is completely unfounded.[6] As AdHoc explained in its Opposition to the BellSouth Cost Allocation Forbearance Petition, it is hard to remember when BellSouth's, or any of the other ILEC's networks were last single purpose. ILECs have provided a variety of transport services, ranging from transmission of broadcast quality video to low speed private line data to frame relay service to "plain old telephone service" for decades. They have also been free to provide information/enhanced services for years. None of the carriers' comments have provided any insight into what is unique about their current networks (which undoubtedly are a mix of analog and digital facilities) that makes the kinds of cost allocations that have been performed for years more difficult or impossible. As long as the ILECs have market power, which is still the case, cost assignment rules, including Separations, are necessary to protect consumers of regulated services; and while perhaps challenging, cost assignment can and should be done. The increasing digitization of the ILECs'

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[5] *Petition of BellSouth Telecommunications, Inc. For Forbearance Under 47 U.S.C. § 160 From Enforcement of Certain of the Commission's Cost Assignment Rules,* WC Docket No. 05-342, BellSouth Telecommunications, Inc.'s Petition for Forbearance (filed Dec. 6, 2005) and Comments of BellSouth at 6.

[6] Comments of AT&T at 3.

networks should not make the cost assignments and allocations any more difficult than has been the case, and certainly does not eliminate the need for cost assignments and allocations.

II. Accounting Rates Of Return, Which Depend On Separations, Are Still Needed To Evaluate The Lawfulness Of Special Access Rates.

LECs consistently question the utility of accounting rates of return, that include Separations results, in arguing that the LECs' returns on interstate special access rates are not really as high as reported to the FCC. Other times and in different contexts, LECs defend the use of such data.[7] It seems to depend on whether the data help or hurt the LECs' immediate objectives. They see no need for consistency. If the Commission cannot not find now, once and for all, that the accounting results that are reported in ARMIS are legitimate and can be used to determine rate reasonableness, any order it drafts must, at a minimum, leave that question open to be resolved in the special access rulemaking where the record on the issue has been much more fully developed.

While the RBOC's repeated references in this proceeding and elsewhere to the Separations freeze that occurred in 2001[8] are made to suggest that ARMIS data is somehow fatally flawed as a result of that action (it is not), those who advance such arguments fail to focus on the reason why the Commission and the Federal-State Joint Board opted to evaluate Separations and to initiate the freeze. It was not because Separations data are no longer relevant (or would

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[7] Comments of AdHoc Telecommunications Users Committee (June 13, 2005) *filed in Special Access Rates for Price Cap Local Exchange Carriers* Appendix: Competition in Access Markets: Reality or Illusion (*ETI Whitepaper)* at 30.

[8] Reply Comments of AdHoc Telecommunications Users Committee (July 29, 2005), *filed in Special Access Rates for Price Cap Local Exchange Carriers* at 8–19.

not be relevant following the freeze); it was in fact precisely because Separations results continue to be an important regulatory tool. To believe otherwise is to believe that the Commission would knowingly and purposefully implement changes to its Separations rules that would make the results meaningless. While parties may differ on the efficacy of the 2001 freeze, there can be no doubt but that the purpose of *freezing* rather than *eliminating* Separations (both in 2001 and here) was so that state and federal regulators would have the separated accounting data that are necessary to fulfill their regulatory responsibilities to ensure just and reasonable rates.

If the Separations results reported in ARMIS were nothing more than the results of arcane regulatory exercises with no real world implications, then there would have been no need to implement a freeze of the state / interstate allocators in 2001. It is precisely because the Separations and cost accounting results quantified in ARMIS do have a real world effect that the FCC and Federal State Joint Board froze the allocators in 2001, and that the FCC choose to extend that freeze in this proceeding. As a matter of law, the FCC is responsible for ensuring that the rates for services offered over “interstate” plant lines are just and reasonable. The states' regulatory responsibilities relate to the investment and expense results that fall on their side of that separations line. Neither the federal nor state regulators can ensure that the rates they regulate are just and reasonable without the separated accounting results.

Regardless of whether the RBOCs like the ARMIS data that are based on Separation results, or whether the FCC likes the hard decisions it must make

relative to special access pricing based on ARMIS data, that data represent real investment and expense dollars that this Commission must utilize in determining whether LEC interstate access service prices are lawful. Eliminating Separations without a justifiable finding that the entire telecommunications market is effectively competitive, and thus freeing LECs from rate regulation, would be patently unreasonable on the part of the Commission. At some point public policy preferences, must give way to "facts."

III. AT&T Is Wrong In Asserting That Special Access Services Represent A "mature source of competition."

AT&T claims that there is no need to separate the costs for "private line and other dedicated services" because those "services are a mature source of competition in telecommunications markets."[9] The members of the AdHoc Telecommunications Users Committee would like nothing better than for AT&T's statement to be true, but unfortunately it is false. As the AdHoc Committee has told the FCC over and over and over again for the past five years, competitive alternatives to ILEC special access facilities are not available at the vast majority of commercial buildings in the US.[10] The "mature" competitive market that AT&T

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[9] Comments of AT&T at 14. The other ILECs echo this same claim. *See*, for example Comments of BellSouth at 3, Comments of USTA at 2 and Comments of Verizon at 4.

[10] *See, e.g.,* Comments of AdHoc Telecommunications Users Committee (Jan. 22, 2002) at 2-3, *filed in Performance Measurements and Standards for Interstate Special Access Services*, CC Docket Nos. 01-321, 00-51, 98-147, 96-98, 98-141, 96-149, 00-229, Notice of Proposed Rulemaking, 16 FCC Rcd 20896 (2001) ("*Performance Standards rulemaking*"); Comments of AdHoc Telecommunications Users Committee (Mar. 1, 2002) at 14-17, *filed in Review of Regulatory Requirements for Incumbent LEC Broadband Services; SBC Petition for Expedited Ruling That It Is Non-Dominant in its Provision of Advanced Services and for Forbearance From Dominant Carrier Regulation of These Services,* CC Docket No. 01-337, Notice of Proposed Rulemaking, 16 FCC Rcd 22745 (2001) ("*Broadband Regulation Rulemaking")*; Reply Comments of AdHoc Telecommunications Users Committee (Jul. 1, 2002) at i, *filed in Appropriate*

writes about is simply a fiction. The truth about competitive conditions for special access services is detailed in the record of the myriad proceedings identified in footnote 10. AdHoc will not reiterate all of its showings regarding the lack of competitive alternatives to special access services in this pleading today, but incorporates our previous filings by reference into this docket. The Commission must not allow itself to be snookered into believing a convenient, but entirely false, storyline that the special access market is competitive.

IV. There Is No Evidence That The Existing Separations Freeze Has Resulted In An Under-Allocation Of Expenses Or Investments To The Special Access Category.

Framework for Broadband Access to the Internet Over Wireline Facilities, CC Docket Nos. 02-33, 95-20, and 98-10, Notice of Proposed Rulemaking, 17 FCC Rcd 3019 (2002) ("*Wireline Broadband Internet Access Rulemaking*"); Comments of AdHoc Telecommunications Users Committee (Dec. 2, 2002) at 5, *filed in AT&T Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services*, RM No. 10593 ("*AT&T Special Access Rulemaking Petition*"); Comments of AdHoc Telecommunications Users Committee (Jun. 30, 2003) at 6, *filed in Section 272(f)(1) Sunset of the BOC Separate Affiliate and Related Requirements*, WC Docket No. 02-112, and *2000 Biennial Regulatory Review Separate Affiliate Requirements of Section 64.1903 of the Commission's Rules*, CC Docket No. 00-175, Further Notice of Proposed Rulemaking, 18 FCC Rcd 10914 (2003) ("*ILEC Separate Affiliate Dominant/Non-Dominant Rulemaking* "); Reply Comments of AdHoc Telecommunications Users Committee (September 23, 2004) at 3-14, *filed in Petition of Qwest Corporation for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Omaha Metropolitan Statistical Area*, WC Docket No. 04-223, Memorandum Opinion and Order, FCC 05-170 (rel. Dec. 2, 2005) ("*Qwest Omaha Forbearance Petition* "); Reply Comments of Ad Hoc Telecommunications Users Committee (May 10, 2005), *filed in SBC/AT&T Merger Proceeding;* Reply Comments of AdHoc Telecommunications Users Committee (May 24, 2005) at pp. 8-23, *filed in Verizon Communications Inc. and MCI, Inc. Applications for Approval of Transfer of Control*, WC Docket No. 05-75 ("*Verizon/MCI Merger Proceeding*"); Comments and Reply Comments of AdHoc Telecommunications Users Committee (June 13, 2005 and July 29, 2005), *filed in Special Access Rates for Price Cap Local Exchange Carriers; AT&T Corp. Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services*, WC Docket No. 05-25, RM-10593, Order and Notice of Proposed Rulemaking, 20 FCC Rcd 1994 (2005) ("*Special Access Rulemaking*"); Comments of AdHoc Telecommunications Users Committee (February 22, 2006), *filed in Petition of Qwest Communications International Inc. for Forbearance from Enforcement of the Commission's Dominant Carrier Rules as They Apply After Section 272 Sunset Pursuant To 47 U.S.C. § 160*, WC Docket No. 05-333 ("*Qwest § 272 Forbearance Petition*"), Letter from Colleen Boothby, Counsel for Ad Hoc Telecommunications Users Committee, to Marlene Dortch, Secretary, FCC, WC Docket No. 04-440 (filed Mar. 16, 2006) Reply Comments of AdHoc (filed Jun. 20, 2006), *filed in ATT Inc. and BellSouth Corp. Applications for Approval of Transfer of Control,* WC Docket No. 06-74 ("ATT/BellSouth Merger Proceeding").

Several parties have claimed that the 2001 freeze of Separations factors is responsible for the awe-inspiring levels of special access rates of return.[11] These parties seem to argue that the growth in special access demand (lines or revenues) has been greater than the growth in special access investment, and that the different growth rates are clear proof that special access investment and expenses are being under allocated to the special access category. While this argument might initially have some facial appeal, upon closer examination it becomes clear that there should be no expectation for the rates of change in special access demand and investment levels to be proportional.

In a declaration by Robert Loube accompanying the joint Comments of NASUCA, the New Jersey Division of Ratepayer Advocate and the Maine Office of the Public Advocate ("Joint Consumer Advocates"), comparisons of the growth rates in switched access and special access lines reported to the FCC, and the corresponding growth rates in investment and expense levels for those categories are presented as evidence that "far too little investment in being recorded as special access investment and excessive amounts of investment are being recorded in other accounts."[12] The entire premise of Mr. Loube's analyses is flawed by his reliance of special access line counts. Comparisons of switched access line units to what are represented as "special access lines" like that done by Mr. Loube are on their face misleading, because, of course, while each switched access line identified by the parties represents a single loop to a

[11] *See*, Comments of the Idaho PUC at 16 – 19, Comments of NASUCA, NJRPA and ME OPC at 7 and attached Declaration of Robert Loube, the joint Comments of the Vermont Public Service Board, Vermont Department of Public Service and Nebraska Public Service Commission at 18 – 22, and the Comments of the Idaho Public Utilities Commission at 13-19.
[12] Loube declaration at 41.

customer, each "special access line" is in fact a special access line *equivalent.* A single loop to a customer premises only rarely counts as one special access line equivalent, and frequently counts as 24, 672, or even as many as 129,024 special access line equivalents[13]. This occurs because the RBOCs report and the FCC tracks "special access lines" as "DS0 equivalents." Whatever the purpose the tracking of special access lines in DS0 equivalents may have had in the past, it is not appropriate to use them as commentators have done here – as if they match in some manner physical line counts.

As an example, a special access customer subscribing to a single OC-3 line (2,016 "special access line" equivalents) that decides to purchase additional bandwidth and replaces the OC-3 with an OC-12 (8,064 "special access line" equivalents) increases its "special access line" equivalents by 300%[14]. The additional investment required to produce that 300% increase in demand would be quite minimal and would primarily involve a change in the electronics on the fiber loop. Mr. Loube suggests that while a "one-to-one relationship" should not be expected, an increase of 311% in special access demand (between 2000 and 2005) should generate more than a 17% increase in investment.[15] However, since there was not a 311% increase in demand for special access facilities (only

[13] Special access line equivalents above are for analog lines (1), DS1s (24), DS3s (672) and OC192s (129,024).

[14] AdHoc submits that a significant portion of the overall growth in special access demand is of exactly this nature. The addition of just 1 OC-192 special access facility in each of the 50 states would increase special access line equivalent units by almost 6.5-million. Figure 1 of the Loube declaration shows approximately 170-million special access line equivalents in service at the end of 2005, Based upon this data, it would be possible to "grow" special access demand by almost 4 % just by adding just 50 additional physical special access facilities to that base. Using the year-end 2000 base of about 65-million, adding one OC192 in each of the 50 states would have increased demand by 10% (or about 2/3rds of the actual demand increase for 2001).

[15] Loube Declaration at 14.

for the meaningless "DS0 equivalent" units), there is no basis to judge that a 17% increase in investment is too small.

While AdHoc sympathizes with the Joint Consumer Advocates position that the level of returns on special access services are so high as to strain credulity – there is no evidence at all to support the notion that the situation is the product of an under allocation of expenses and investments to the special access category rather than the overpricing of special access services due to premature price deregulation of a non-competitive segment of the market.

Other analyses point to the rate of growth in special access revenues and compare that to the rate of growth in special access investment and come to the same flawed conclusion as Mr. Loube – namely that investment must be being under allocated to special access.[16] But the only situation in which that kind of "analysis" of growth in revenues versus growth in investment/expenses would have any merit whatsoever is one in which special access *rates* were constrained (either by rate of return regulation or an effective form of price caps regulation that closely maps annual price cap rate adjustments to industry productivity trends for the service involved). That condition does not apply in the case of interstate special access services. None of these parties mention, much less analyze, the other obvious explanation for revenues that are outstripping costs – and the reason that the entire Special Access investigation was begun – namely that the RBOCs are using their "special access pricing flexibility" to increase special access prices to supracompetitive levels.

[16] *See*, *e.g.* the joint Comments of the Vermont Public Service Board, Vermont Department of Public Service and Nebraska Public Service Commission at 18 – 22 and the Comments of the Idaho Public Utilities Commission at 13-19.

V. The Idaho Public Utilities Commission's Claim That A 2004 FCC Staff Memo Required ILECs To Freeze Special Access Assignments Is Misguided.

As added support for its claim that special access rates of return are inflated, the Idaho Public Utilities Commission points to a 2004 letter from an FCC Staff member to Verizon that it believes required the ILECs to freeze all investment categories, including special access.[17] AdHoc does not concur with Idaho's interpretation of the FCC letter, nor with the conclusions it draws regarding the impact that the letter would have upon Separations results even if Idaho's reading is correct. Before explaining *why* the Idaho PUC's interpretation is likely flawed, AdHoc offers the following thoughts on why the excessive special access rates of return that AdHoc has been trying to get this Commission to address are not explained by the "freeze" or the FCC staff letter. First, as shown in Attachment A, special access rates of return have been excessive for a long time. Looking back to 1999 – two years prior to the start of the freeze – special access rates were generally well above those that would be expected in a competitive market. While the documented rates of return have continued to climb to dizzying heights over the last five years, the start of that trend began before the freeze. The average return for interstate special access services across all RBOCs was 23% in 1999, increased to 28% in 2000, and increased again to 39% in 2001 – the first year of the freeze. The increase in earnings levels resulted from special access overpricing, not frozen separations factors.

Second, the letter from the FCC staffer to Verizon was not issued until 2004 and was issued in relationship to Verizon's 2003 ARMIS reports. As such,

[17] *See*, comments of the Idaho PUC, at 16 – 19.

if the letter required Verizon to refrain from directly assigning interstate special access costs to the interstate special access category, that change in process did not occur until 2003 – meaning that the 2001 and 2002 rate of return results – 39% for the combined RBOCs in 2002 – would not have been polluted by the Staffer's direct "contradiction"[18] of the Commission's freeze Order.[19]

Review of the letter itself, however, calls into question Idaho's claim that the intended direct assignment of interstate special access costs to the interstate special access category was thwarted by Ms. Franklin's interpretation of the Commission's intent with respect to the freeze. Specifically related to the issue of direct assignment, Ms. Franklin says the following:

> To implement the freeze for categories, the Commission required (and codified in its Part 36 rules) price cap carriers to segregate costs recorded in Part 32 accounts into categories, subcategories and further sub-classifications based on the "percentage relationship for the calendar year 2000." The Commission further stated that the frozen factors will not affect direct assignment of costs that should be directly assigned under the Commission's Part 36 rules. In this context, "direct assignment" refers to attributing costs to either the interstate or intrastate jurisdiction, not to a particular Part 36 separations category of equipment.[20]

The freeze applies to allocations *equipment categories* (such as the allocation of investment between COE cat 4.11 Wideband Exchange Equipment and COE cat 4.12 Basic Exchange Trunk Equipment), not to the direct assignment of costs to the interstate or intrastate jurisdiction (which is specifically identified as appropriate for direct assignment) or to the direct assignment to access categories within the interstate jurisdiction (which is not addressed in the letter at

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[18] Idaho Comments at 16.
[19] *See*, Letter from Fatina Franklin, Ass't Division Chief, Industry Analysis and Technology Division, Wireline Competition Bureau to Ann Berkowitz, Verizon Communications, June 9, 2004.
[20] Franklin letter at 2. Footnotes omitted.

all. The rate of return analyses that are being done are not being done on individual equipment categories, but on a jurisdictional and service category basis. As such, the translation of interstate special access costs that have been directly assigned to the interstate special access category into specific "equipment" categories and subcategories based upon earlier plant category relationships is simply irrelevant to the question of whether the rates of return generated by interstate services in general and interstate special access in particular, are correct.

Review of the data corroborates this view. If, as some of the parties claim, the separations "freeze" has applied to special access investments, then, by definition, the relationships between special access investments and expenses and the investments and expenses of all other categories "subject to separations" should have remained constant over time. But, as shown in Attachment B, the share of total investment and expenses "separated" to the interstate special access category has not remained constant, it has increased.[21]

According to data filed by the RBOCs in ARMIS report 43-01, each of them "disinvested" in their networks during the 2000 to 2005 period (meaning that there was less "net investment" on the books at the end of 2005 than 2000). The data show, however, that the reduction in net investment in the interstate special access category during this period was significantly less than that reported for the remainder of the "subject to separations" category. Taken together, the RBOCs decreased their reported net investment in the interstate

[21] Idaho and NASUCA, NJRPA MEOPC focus on the what they represent as very modest changes in the percentage of plant subject to Separations accounted for by the special access category during this time frame.

special access category from $10.4-Billion in 2000 to $8.3-Billion in 2005 – a net decrease of $2.1-Billion (-21%). During this same time frame the RBOCs combined reported net investment in the remainder of the "subject to separations" (or regulated) categories declined from $103.9-Billion to $63.7-Billion – a net decrease of $40.1-Billion (-40%). A 21% reduction in special access net investment at the same time that net investment in all other categories was reduced by at a rate twice as great (40%) is simply inconsistent with the notion that the category relationships for special access were "frozen" at their 2000 levels.[22]

Perhaps most important of all, a "freeze" in the factors for allocating costs between interstate and intrastate services would produce a distortion of the relationship between special access revenues and costs only to the extent that the jurisdictional mix of physical units of interstate and intrastate special access services has changed. None of the commentators in this proceeding (nor in response to the Special Access NPRM) have provided any evidence that this so, and *a priori* there is no particular reason to expect that it has changed.

VI. Conclusion

In view of the forgoing, AdHoc urges the Commission to reject pleas to eliminate Separations and to find meritless contentions that the currently effective Separations freeze has caused the current, stunning rates of return for interstate

[22] Similar trends are observable in review of expenses and TPIS as well, although instead of exhibiting a smaller decrease in decreasing net investment, special access exhibited a larger increase in increasing expense and TPIS levels.

access service. Separations have not caused excessive interstate special access rates. This price gouging is attributable to (1) the Commission granting LECs interstate special access pricing flexibility prematurely, (2) LECs aggressively taking advantage of pricing flexibility to increase, not decrease, interstate special access rates and (3) the Commission failing to require special access rate reductions under price caps regulation.

Respectfully submitted,

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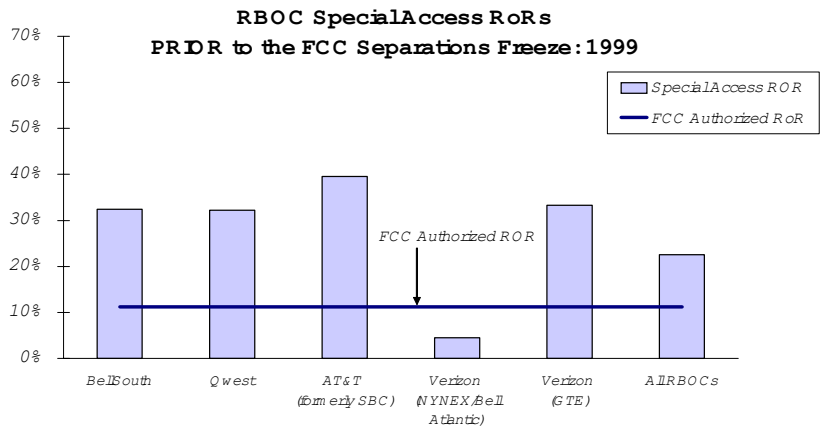
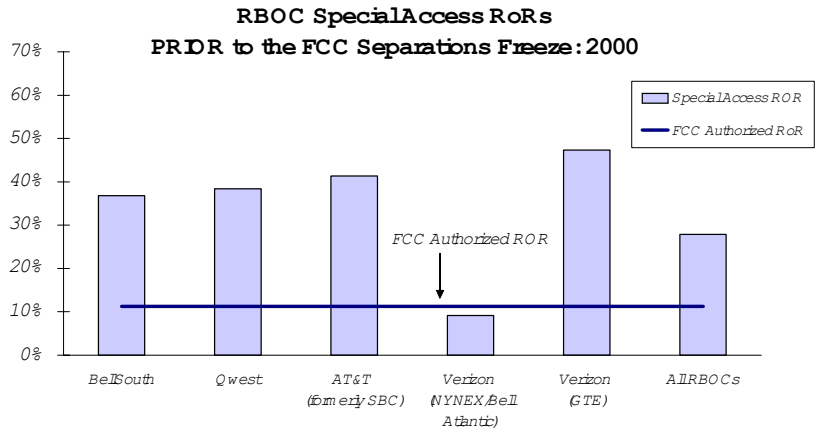
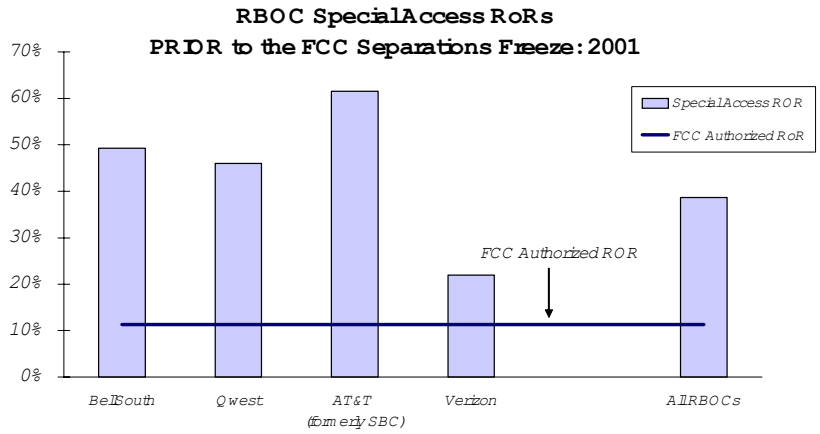
November 20, 2006

Attachment A







Attachment B

Investment and Expense Ratios for Special Access Services Have Not Remained "Frozen"
Investment and Expense Levels Reported in ARMIS: 2000 and 2005
(In $-Billions)

	2000	2005	Change $s	Change %
Net Invetment Category				
Special Access	$ 10.4	$ 8.3	$ (2.2)	-21%
Other "subject to separations"	$ 103.9	$ 62.7	$ (41.2)	-40%
Total "subject to separations"	$ 114.3	$ 71.0	$ (43.3)	-38%
Special Access as % of Total Reduction	9.1%	11.7%	5.0%	n/a
TPIS				
Special Access	$ 26.6	$ 34.1	$ 7.5	28%
Other "subject to separations"	$ 289.1	$ 327.4	$ 38.3	13%
Total "subject to separations"	$ 315.7	$ 361.5	$ 45.8	15%
Special Access as % of Total Increase	8.4%	9.4%	16.4%	n/a
Expenses				
Special Access	$ 4.9	$ 5.9	$ 1.0	21%
Other "subject to separations"	$ 62.0	$ 63.9	$ 1.9	3%
Total "subject to separations"	$ 66.8	$ 69.8	$ 2.9	4%
Special Access as % of Total Increase	7.3%	8.5%	35.2%	n/a

Source:
Rolled-up results from ARMIS 43-01, Table I, Costs and Revenues for year-end 2000 and 2005.

Certificate of Service

I, Dorothy R. Nederman, hereby certify that true and correct copies of the preceding Comments of Ad Hoc Telecommunications Users Committee were served this 20th day of November, 2006 via the FCC's ECFS system.

Dorothy R. Nederman
Legal Assistant