

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Special Access Rates for Price Cap Local Exchange Carriers	)	WC Docket No. 05-25
	)	
AT&T Corp. Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services	)	RM-10593

**REPLY COMMENTS OF GLOBAL CROSSING NORTH AMERICA, INC.**

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August 15, 2007

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**REPLY COMMENTS OF GLOBAL CROSSING NORTH AMERICA, INC.**

**I. INTRODUCTION**

Global Crossing North America, Inc. (“Global Crossing”) submits these Reply Comments to respond to two particular points raised in the initial Comments by other parties. In their initial Comments, both AT&T and Verizon make much of the fact that their “unit revenue” has declined for special access services. AT&T states -

“The average price per unit AT&T received for the DS1 special access circuits that re-regulation proponents have labeled the least competitive services declined in nominal dollars by [CONFIDENTIAL INFORMATION] in real, inflation-adjusted dollars – before the substantial additional reductions AT&T implemented in the second quarter of 2007 pursuant to its AT&T-BellSouth merger commitments. During the same period, average per unit prices for DS3 services declined by [CONFIDENTIAL INFORMATION]”<sup>1</sup>

Verizon frames it thusly –

“As the attached Supplemental Declaration of Dr. William Taylor explains, between 2001 and 2006, Verizon’s average revenue per voice-grade-equivalent special access line

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<sup>1</sup> Comments of AT&T, *In the Matter of Special Access Rates for Price Cap Local Exchange Carriers*, WC Dkt. No. 05-25, (filed August 8, 2007) p. 22 (footnotes omitted).

has decreased by an average of 27.7 percent per year in real terms (*i.e.*, adjusted for inflation). *See* Taylor Supp. Decl. ¶ 11.”<sup>2</sup>

It is very telling that both AT&T and Verizon elected to state their case in terms of unit pricing and unit revenues. There are two very simple reasons why unit pricing and unit revenues have declined and they have no relation to overall pricing trends for special access services. So the use of these measures is a clear attempt to obfuscate the very real fact that rates for special access services have generally increased under pricing flexibility. One reason unit costs and unit revenues are declining is because customers are buying special access services in higher capacities (*i.e.*, OCn level). Special access pricing has always been structured so that higher capacity services are priced more economically than if you were to purchase individual units.

A DS3 service is equivalent to 28 DS1s, but it has always been less expensive to buy a DS3 than 28 DS1s. So, for example, a 10-mile DS1 in Illinois can go for \$431 per month under a three year commitment from Ameritech. The cost to buy twenty eight (28) DS1s at \$431 per month is \$12,068, but a 10-mile DS3 from Ameritech goes for only \$3515 per month under a three year commitment. This results in a unit cost of \$125.50. So even if Ameritech raises its rates for a DS1 to \$616 (a 50% increase), Ameritech’s unit price declines so long as it does not raise rates for DS3s more than 40% and continues to sell the same number or more of DS3s. In this day and age where residential customers are getting 15 Mbps, is it any wonder that commercial customers are buying DS3s in greater quantity? Customer demand for higher capacity services naturally results in a decline in unit prices or unit revenues even if actual pricing for services is increasing.

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<sup>2</sup> Comments of Verizon Communications, *In the Matter of Special Access Rates for Price Cap Local Exchange Carriers*, WC Dkt. No. 05-25, (filed August 8, 2007) p. 11 (footnotes omitted).

A second reason unit costs and unit revenues are declining is that carrier customers are buying shorter-distance special access circuits. As stated in our initial Comments, AT&T and Verizon incorporate distance-sensitive rate elements into their special access services. Carriers have responded by reducing the length of circuits they require, thus reducing AT&T and Verizon's unit revenue or unit prices. So, from the example above, a 10 mile DS1 goes for \$431, but a 30 mile DS1 is \$731. So if AT&T and Verizon sell more 10 mile circuits than 30 mile circuits year over year, then they will experience a reduction in unit revenue. Pricing for 10 mile DS1 services has not declined, only demand for 30 mile DS3s has declined, but AT&T and Verizon can claim a decline in unit prices or unit revenues. So their focus on unit costs and unit revenues is simply an attempt to deflect attention from their actual pricing practices.

AT&T and Verizon claim that unit costs and unit revenues are declining as a result of competition, but to get a sense how far prices for special access could decline if incumbent carriers faced some semblance of competition, one need only consider the residential broadband market. Over its FiOS network, Verizon offers up to 15 Mbps upstream capacity with 2 Mbps downstream capacity, plus 24/7 technical, support, 9 email accounts, anti-virus and spam protection, plus "tons of features and entertainment" for only \$49.99 per month.<sup>3</sup> As both AT&T and Verizon acknowledge in their comments, "competition" has spurred them to deploy more fiber to support special access services, giving special access services similar cost characteristics to FiOS. So why are residential customers able to get ten times as much bandwidth (15 Mbps vs. 1.5 Mbs) for nearly one tenth (\$49 vs. \$431) the price that special access customers pay? Global

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<sup>3</sup> See, <http://www22.verizon.com/content/consumerfios/packages+and+prices/packages+and+prices.htm>

Crossing submits that it is because the alleged competition that AT&T and Verizon claim to face in the special access market is simply too theoretical to discipline their pricing in contrast to the very real competition AT&T and Verizon are engaged in to capture residential high-speed Internet and video customers.

As the FiOS example illustrates, the special access market remains immune to the effects of competition. Yet AT&T continues to insist that its special access rates remain within a “zone of reasonableness” and are “just and reasonable.”<sup>4</sup> AT&T further asserts that any attempt by the Commission to find otherwise would not withstand judicial scrutiny. The record in the instant docket certainly supports a finding that special access rates are no longer just and reasonable as numerous parties have submitted a broad range of evidence proving just that.

But if the Commission retains any doubt as a result of the conflicting evidence submitted by AT&T, Verizon and other incumbent carriers, it could validate parties’ various assertions through a final-offer arbitration process that it has previously employed in the video market.<sup>5</sup> If everything is as the incumbents claim, prevailing terms and conditions for special access service should be consistent with competitive practice and easily withstand the scrutiny of experienced commercial arbitrators.

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<sup>4</sup> AT&T Comments at 32.

<sup>5</sup> See, e.g., *General Motors Corp. and Hughes Electronics Corp., Transferors, and The News Corp. Ltd., Transferee, for Authority to Transfer Control*, 19 FCC Rcd 473 (2004) (“*Hughes/News*”) and *Applications for Consent to the Assignment and/or Transfer of Control of Licenses Adelpia Communications Corporation, (and subsidiaries, debtors-in-possession), Assignors, to Time Warner Cable Inc. (subsidiaries), Assignees; Adelpia Communications Corporation, (and subsidiaries, debtors-in-possession), Assignors and Transferors, to Comcast Corporation (subsidiaries), Assignees and Transferees; Comcast Corporation, Transferor, to Time Warner Inc., Transferee; Time Warner Inc., Transferor, to Comcast Corporation, Transferee*, Memorandum Opinion and Order, MB Docket No. 05-192, FCC 06-105 (rel. July 21, 2006) (“*Adelpia*”).

One of the main conclusions of the *GAO Study* was that the Commission lacked “sufficient information to determine the success of its deregulatory policies.”<sup>6</sup> Third-party, final-offer arbitration would provide the Commission with real-world, real-time data with which to determine the wisdom of its current policies. By shining the spotlight of “commercial reasonableness” on the incumbents’ current “market” practices the Commission can compile the data the *GAO Study* said was so needed for this critical policy review. But instead of gathering abstract statistics on facilities deployment and guessing what that means for market prices, the Commission could observe actual market practices that removes the need to speculate on market behavior. As the *GAO Study* put it, “[t]he FCC uses various data to assess competition for dedicated access services, but most of these data have significant limitations in their ability to describe the presence, extent, or change in competition.”<sup>7</sup> Observing the results of real world arbitrations would overcome these limitations and give the Commission very precise data on the presence, extent, or change in competition.

\* \* \* \* \*

In 1999 the Commission initiated a process that has led to the continued deregulation of special access services.<sup>8</sup> At the time it adopted the *Pricing Flexibility Order*, the Commission rightly believed that the investment boom in telecommunications would result in robust competition for special access services. However, the telecom bust and subsequent spate of bankruptcies and consolidations have reversed the early progress

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<sup>6</sup> *GAO Study* at 36.

<sup>7</sup> *Id.*

<sup>8</sup> *Access Charge Reform*, CC Docket No. 96-262, Fifth Report and Order, 14 FCC Rcd 14,221, 14,260 (1999), *aff'd*, *WorldCom v. FCC*, 238 F.3d 449 (D.C. Cir. 2001) (“*Pricing Flexibility Order*”).

of competitive forces, resulting in a market for special access services that is largely dominated by incumbent carriers, who themselves have significantly consolidated.

In light of this reversal, it would make sense for the Commission to re-impose price cap regulation for special access services and numerous parties to this proceeding have suggested the Commission do just that. While Global Crossing certainly would support renewed price cap regulation for special access services, Global Crossing has also recommended discreet steps the Commission could take. These include (1) the elimination of mileage charges, (2) the elimination of burdensome volume and term commitments, and (3) the creation of a final offer arbitration procedure like that adopted in the *Hughes/News* and *Adelphia* cases which would compliment the Commission's existing policy for special access services and support the continued deregulation of special access services.

Respectfully submitted,

\_\_\_\_\_/s/\_\_\_\_\_  
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August 15, 2007

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Comments of Global Crossing North America, Inc. was served via electronic mail this 15th day of August, 2007, upon the following:

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