

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

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

REPLY COMMENTS OF SOUTHEAST TELEPHONE, INC.

Inc.

Bethany Bowersock
Liz Thacker
SouthEast Telephone,

106 Scott Avenue
Pikeville, KY 41501
(606) 432-3000 phone
(606) 433-4401 fax

August 15, 2007

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

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

REPLY COMMENTS OF SOUTHEAST TELEPHONE, INC.

I. Introduction and Summary

SouthEast Telephone, Inc., (“SouthEast”) respectfully submits these reply comments, pursuant to the Commission’s Public Notice (“Notice”) released on July 9, 2007 (FCC 07-123) in the above referenced dockets. In its Notice, the Commission invites parties to update the record with regards to the *Special Access NPRM*.¹

SouthEast is a competitive local exchange carrier that was established in Pikeville, Kentucky for the sole purpose of providing telecommunications services to the rural counties of Kentucky. Since its inception, SouthEast has maintained the

¹ *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, Order and Notice of Purposed Rulemaking, 20 FCC Rcd 1994(2005) (“*Special Access NPRM*” or “*NPRM*”).

goal of deploying the latest telecommunications services to the rural consumers of Kentucky at an affordable rate. SouthEast currently serves over 50 counties in the Commonwealth, all of which are rural counties. In fact, SouthEast has chosen not to serve any metropolitan areas. As the Commission has already been informed, the “backbone” for advance telecommunication products is special access services. These services are commonly provided by the incumbent local exchange carriers (ILECs), as a result, the market for special access services is often dominated by high prices and a lack of competition.² SouthEast would like to respectfully request that the Commission take the current opportunity to examine the actual levels of competition in ALL markets of the United States, instead of taking the ILEC encouraged approach to this examination.

II. Deregulation Based on the Ruse of Competition is Detrimental to the Consumer

SouthEast supports the premise set forth by the Adhoc Telecommunication Users Committee that the Federal Communications Commission’s (“failed experiment with pricing flexibility rules is a sobering reminder that such initiatives must be grounded in marketplace facts.”³ Premature deregulation based upon the broad generalizations and predictions predicated on the supposed inevitability of emerging competition is no substitute for actual market based data. The fallacy that because competition is becoming evident in metropolitan statistical areas, it exists ubiquitously across the nation is a supposition that could stall the

² April, 2007 Survey of OPASTO members found that only 41% of the membership has more than one “backbone” connection.

³ See Comments of AdHoc Telecommunications Users Committee at ii, (August 8, 2007).

deployment of advanced telecommunications services such as broadband and IPTV into the rural markets nationwide.

SouthEast proposes that in considering special access pricing rules, the Commission should be aware of the differences in markets nationwide.

Traditionally, rural markets have lagged behind in both deployment of new technologies and in competition . If the Commission accepts the challenge of looking at all markets to examine competition they will find that not only are rural markets falling behind in the important task of deploying new technologies, but “true” competition still does not exist. Therefore, the Commission must refrain from further deregulating special access services based on “national” data. The Commission must rely on more accurate localized data gathered on a state by state, market by market basis.

III. Mergers and Exclusionary Contracts Has Crippled Competition

As referenced by COMPTEL, the demand for special access services has grown as new products and services have evolved.⁴ In order to meet their customer’s demand for bundled services, faster broadband speeds, and the newest innovations within the telecom market, service providers are beginning to purchase special access services in higher quantities than ever before. As the demand for special access services grows, the Commission’s pricing flexibility has allowed service providers to significantly increase rates while the number competitive providers have decreased. The recent wave of mergers has seen the exit of AT&T

⁴ August 10, 2007 Exparte Filing of COMPTEL referencing the transition of special access services from simply end-to-end services to the role of crucial inputs for other products and services.

and MCI as competitive special access providers. The exodus of AT&T and MCI has left the special access market with little choice of providers and more exorbitant rates.

Further frustrating the Commission's admitted goal of promoting competition are the exclusionary contracts utilized by the ILECs. According to COMPTEL, "The Bell's unchecked market power has not only resulted in supra-competitive pricing in the special access market, it also allowed the Bells to extract anticompetitive terms in their contracts that, in turn, prevent competition from developing ..."⁵

IV. Conclusion

SouthEast respectfully requests that before any further deregulation of special access services occurs, the Commission develop a policy of granular analysis, taking into consideration that metropolitan markets often have more competition than their rural counterparts. The Commission should also eliminate the BOC's anticompetitive practice of using exclusionary contracts to further control the special access market.

⁵ COMPTEL Comments in RM-10593 at pg. 9.