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Anna M. Gomez
Vice President
Government Affairs – Federal Regulatory

August 31, 2007

Via Electronic Submission

Ms. Marlene H. Dortch
Secretary
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W., Room TW-A325
Washington, DC 20554

**Re: *Ex Parte Communication*
Qwest, AT&T, and BellSouth Petitions for Forbearance, WC Docket No. 06-125; Embarq, Frontier and Citizens Petitions for Forbearance, WC Docket No. 06-147; Special Access Rates for Price Cap Local Exchange Carriers, WC Docket No. 05-25**

Dear Ms. Dortch:

On August 31, 2007, Laura Carter, Vice President, Government Affairs, and the undersigned spoke with John Hunter, Chief of Staff and Senior Legal Advisor to Commissioner Robert McDowell and raised issues consistent with its comments and Sprint Nextel's August 30, 2007 *Ex Parte* Letter, which it filed in the above dockets. Specifically, Sprint Nextel stressed that it would be inappropriate for the Commission to analyze on a national basis the wholesale special access inputs, regardless of technology, to the services for which the incumbent local exchange carriers seek forbearance, and instead must do so on a market-specific basis. Because the Commission does not have an adequate record to support granting forbearance for the wholesale special access inputs at issue, it cannot grant the forbearance petitions as filed.

Pursuant to Section 1.1206 of the Commission's rules, a copy of this letter is being filed electronically in the above-referenced dockets.

Sincerely,

/s/ Anna M. Gomez
Anna M. Gomez

cc: John Hunter



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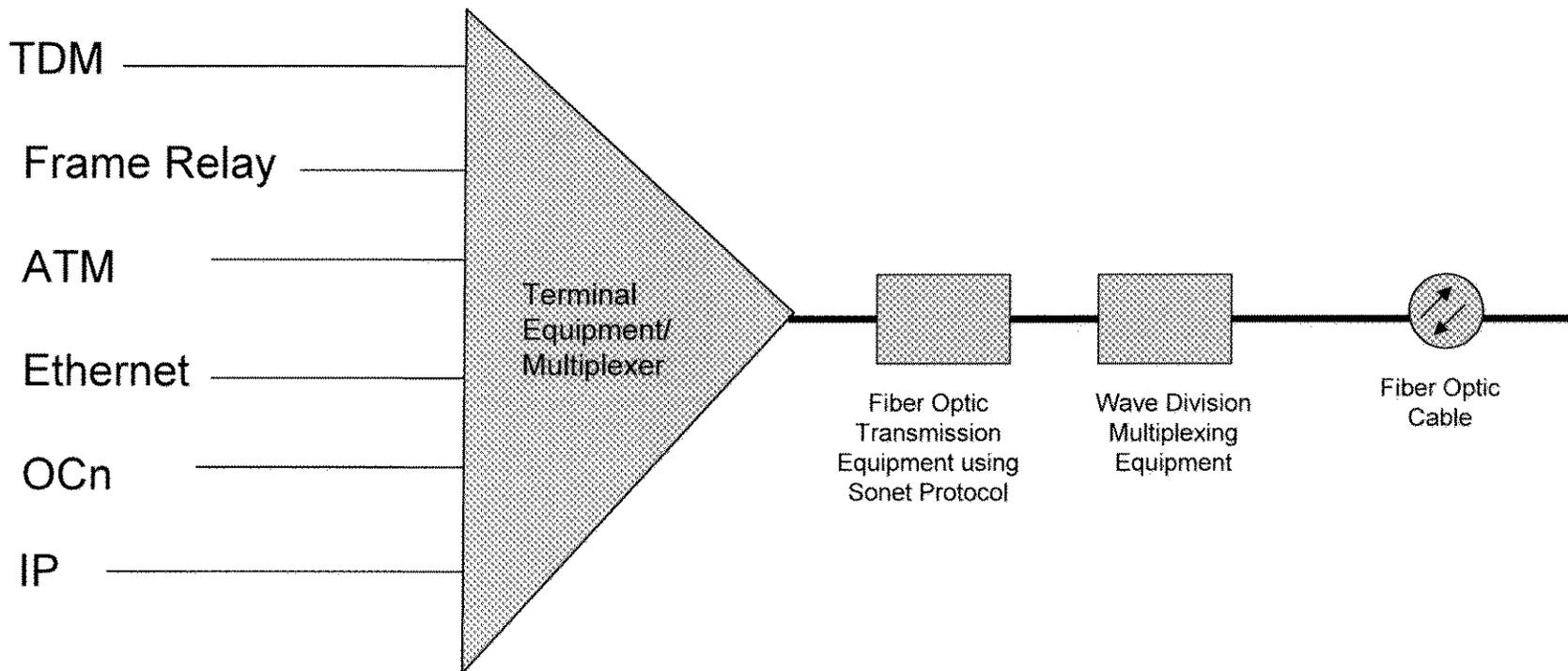
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**“Me Too” Petitions for Forbearance
August 2007**

- **The Commission must deny the upcoming petitions for forbearance from Title II and *Computer Inquiry* regulation**
 - The Verizon Forbearance result is not valid precedent
 - Petitioners failed to provide sufficient market-specific evidence
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 - Competitors obtain special access inputs from the ILECs to provide “enterprise broadband services”
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- **Forbearance will hinder, not accelerate the deployment of broadband facilities**
 - The availability of wholesale inputs at reasonable prices is crucial
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Various protocols can ride over a fiber optic system that uses Sonet. The use of additional equipment sometimes enables different protocols to be "stacked" upon one another, e.g., IP over ATM. Stacking protocols results in increased costs due to the requirement to utilize additional equipment.

The Special Access Market Failure

August 30, 2007

Sprint Nextel

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Sprint POWER UP

Why the FCC Must Act Now

- Special access is a critical input to every day communications
- The special access market has failed
- Special access purchasers are at the mercy of AT&T and Verizon
- Inflated prices ultimately harm consumers and competition
- The Time Is Now!

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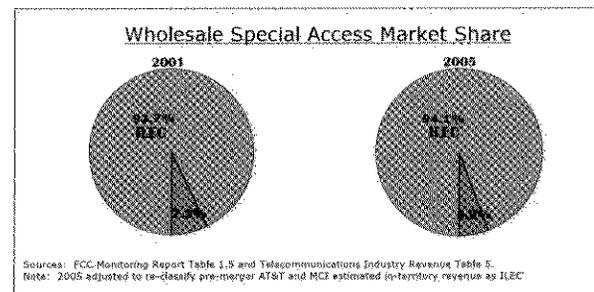
How do We Know There is a Market Failure?

- Overwhelming Market Share is **Increasing**
- Inflated Prices are **Increasing**
- Significant Consumer Harm is **Increasing**

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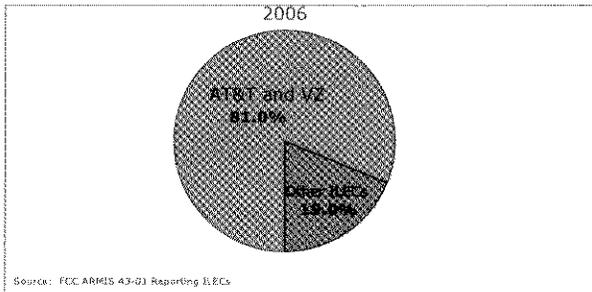
Overwhelming Market Share: ILECs, already dominant before price flex, **increased** their market share



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Overwhelming Market Share: Just 2 companies, **AT&T and Verizon**, represent **81.0%** of ILEC special access revenue nationwide

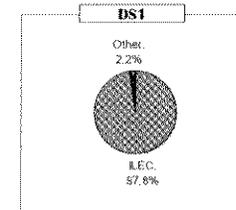


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Overwhelming Market Share: **Nearly 98%** of Sprint Nextel's DS1 connections to cell sites in the Top 50 MSAs are provided by ILECs (primarily AT&T and VZ)

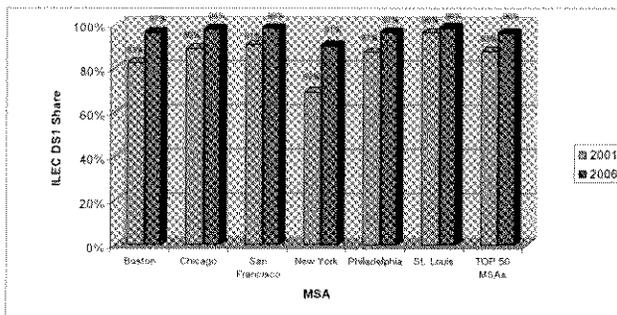
MSA	DS1	
	ILEC	Other
Boston	97.9%	2.1%
Chicago	99.4%	0.6%
San Francisco	100.0%	0.0%
New York	95.7%	4.3%
Philadelphia	100.0%	0.0%
St. Louis	99.4%	0.6%
TOP 50 MSAs	97.8%	2.2%



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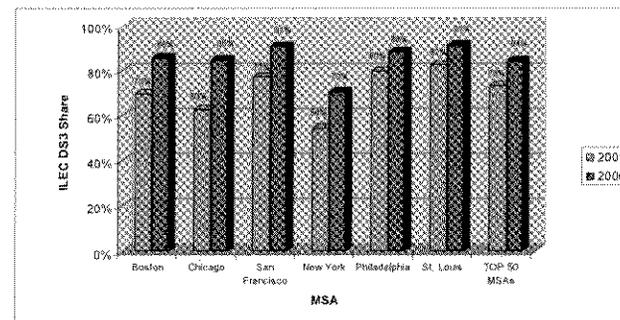
Overwhelming Market Share: ILEC Share of Sprint Nextel DS1 Connections to Office Buildings has Increased



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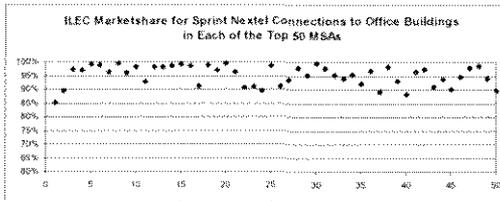
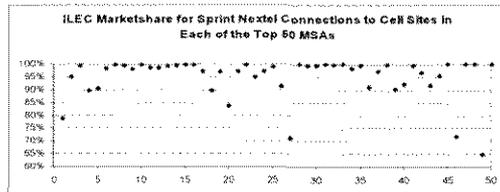
Overwhelming Market Share: ILEC Share of Sprint Nextel DS3 Connections to Office Buildings has Increased



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Overwhelming Market Share: Dominance prevails throughout the nation



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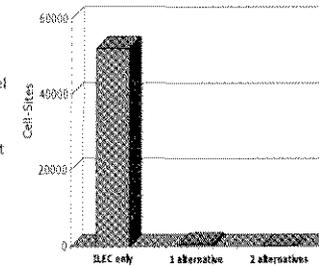
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Overwhelming Market Share: Alternative Facilities at Cell Sites are Nearly Non-Existent

A February 2007 Sprint Nextel poll of its vendors shows that there are *NO* alternative facilities at the overwhelming majority of Sprint Nextel cell-sites

77 alternative vendors polled on fiber available at over 52,000 Sprint Nextel cell-sites

16 vendors reported facilities available at about 1% of the cell-sites

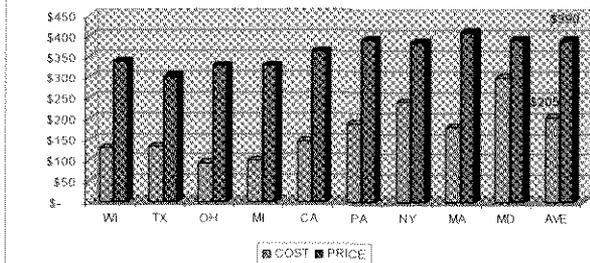


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Inflated Prices: Prices AT&T and Verizon Charge for Special Access Greatly Exceed the Economically Efficient Price

The 5 Year Term Rate for a DS1 Special Access Circuit is **90% Higher** than the Functionally Equivalent Unbundled Network Element Rate

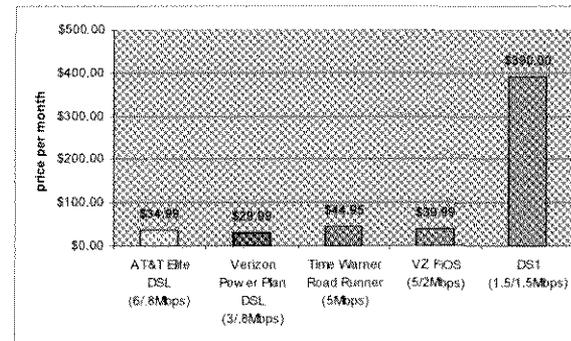


DS1 Circuit Price = 2 Channel Terminations and 10 miles of Transport
 Cost Based Price = 2 DS1 UNE Loops and 10 miles of Transport
 Comparison using the most urban set of UNE and special access rates
 Averages is simple average of rates in these 9 states.

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Inflated Prices: Prices for similar capacity in markets with competition are priced significantly lower

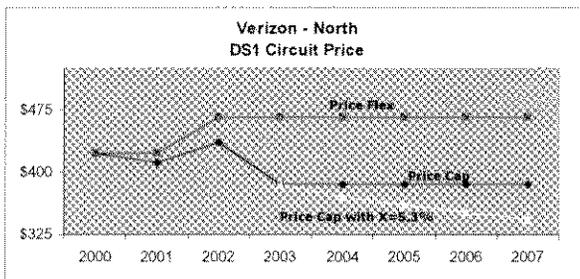


DS1 Price = Average Price of 5 Year Term Plan for 2 Channel Terminations and 10 Miles of Transport

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Inflated Prices: Flexibility has been used to *raise prices* that were already well above economically efficient levels and are *highest in areas predicted to be competitive*



DS1 Circuit Price Comparison (5 Yr Term Rates)
2 channel terminations and 10 miles of transport

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Significant Consumer Harm: Creation of "megaBOCs" has Fundamentally Changed the Structure of Competition in the Industry

National Long Distance & Wireless Competitors (i.e., purchasers of special access) Unaffiliated w/ BOCs	
1999	2007
AT&T	Sprint Nextel
NCI	T-Mobile
Sprint	
AT&T Wireless	
Nextel	
T-Mobile	

Long Distance and Wireless Revenue Share



Sources: 1999 based on SEC 10-K Filings, 2007 based on SEC 2Q07 10-Q Filings

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HOW IS THIS MARKET FAILURE HARMING CONSUMERS?

- Overcharges are **\$8.3 Billion per year**
 - 67% increase since 2001, when AT&T first urged the FCC to start this proceeding
- **\$34 Billion** in AT&T and VZ overcharges since 1999, when flex adopted
- **For consumers, this is \$34 Billion:**
 - Diverted from construction, deployment, and expansion of competitive networks
 - Inflating the cost of providing consumers services (e.g., wireless phone calls)
 - Inflating the cost underlying government agency telecommunications needs
 - Inflating the cost of all businesses (e.g. banking, grocery stores)
- **For the U.S. Economy** over the next 3 years, overcharges would cost:
 - 234,000 jobs
 - \$66 Billion in economic output

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Why are the ILECs Wrong?

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AT&T and Verizon's unsubstantiated claims are without merit

AT&T/VZ Claim	Facts
The long list of companies that offer service proves the market is competitive	Actual market shares show competition is minimal.
Prices have fallen	Prices have risen in areas with pricing flexibility. AT&T and Verizon use flawed average revenue measure, take credit for inflation, and include factors that have nothing to do with price competition.
Discount plans are providing major benefits	Plans are tools to thwart competitive entry, not responses to competition. "Discounts" are based on inflated month-to-month rates that are multiples of cost. Touted "big savings" are a small fraction of special access revenue and any "breaks" are coupled with severe penalty provisions.
Alternative technologies are available	Alternative technologies are not ubiquitously available and use is limited
Current retail competition and broadband investment mean there is no problem	By controlling key inputs, AT&T and VZ exert sizable control over the pace of retail competition and competitive network expansion.

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The Commission Must Act To
Constrain Monopoly-Priced Special
Access Services

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BY JULY 1, 2008 THE FCC SHOULD:

- Require the two largest BOCs to file tariffs reflecting special access rates for all services that reflect economically efficient prices:
 - the forward-looking economic cost of providing the service, or alternatively
 - targeted to earn an 11.25% rate of return
- Once reset to these just and reasonable levels, the Commission should impose effective incentive regulation on special access prices, including the continued application of a 5.3% X-Factor pending the Commission's adoption of an updated adjustment factor.

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FCC SHOULD IMMEDIATELY:

- **Reduce rates** for the largest BOCs' from Phase II pricing flexibility levels to rates no higher than their price cap tariffed rates;
- **Eliminate Phase II pricing flexibility** for the largest BOCs and place all of their special access services under price caps, pending the adoption of new "triggers" for the grant of pricing flexibility;
- **Restate special access price cap indices** for the largest BOCs at levels that would have resulted if those BOCs had applied an X-Factor of 5.3% to those indices in July of 2004, 2005, 2006, and 2007; and
- **Apply an X-Factor of 5.3%** for special access services for the 2008 and subsequent annual access tariff filings by the largest BOCs, pending the Commission's adoption of an updated adjustment factor.

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THE TIME IS NOW!

➤The record **evidence** overwhelmingly **favors action**

➤A broad array of **parties** (consumers, businesses, AT&T and Verizon competitors) **favor action**

Now – in 2007 – is the time carriers are building their competitive broadband networks

➤**Now – in 2007 – is the time** consumers are ready for competitive alternatives to the ever-consolidating, ever-more-powerful AT&T and Verizon

➤**Now – in 2007 – is the time to ACT**



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cc: Chris Moore

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August 2007**

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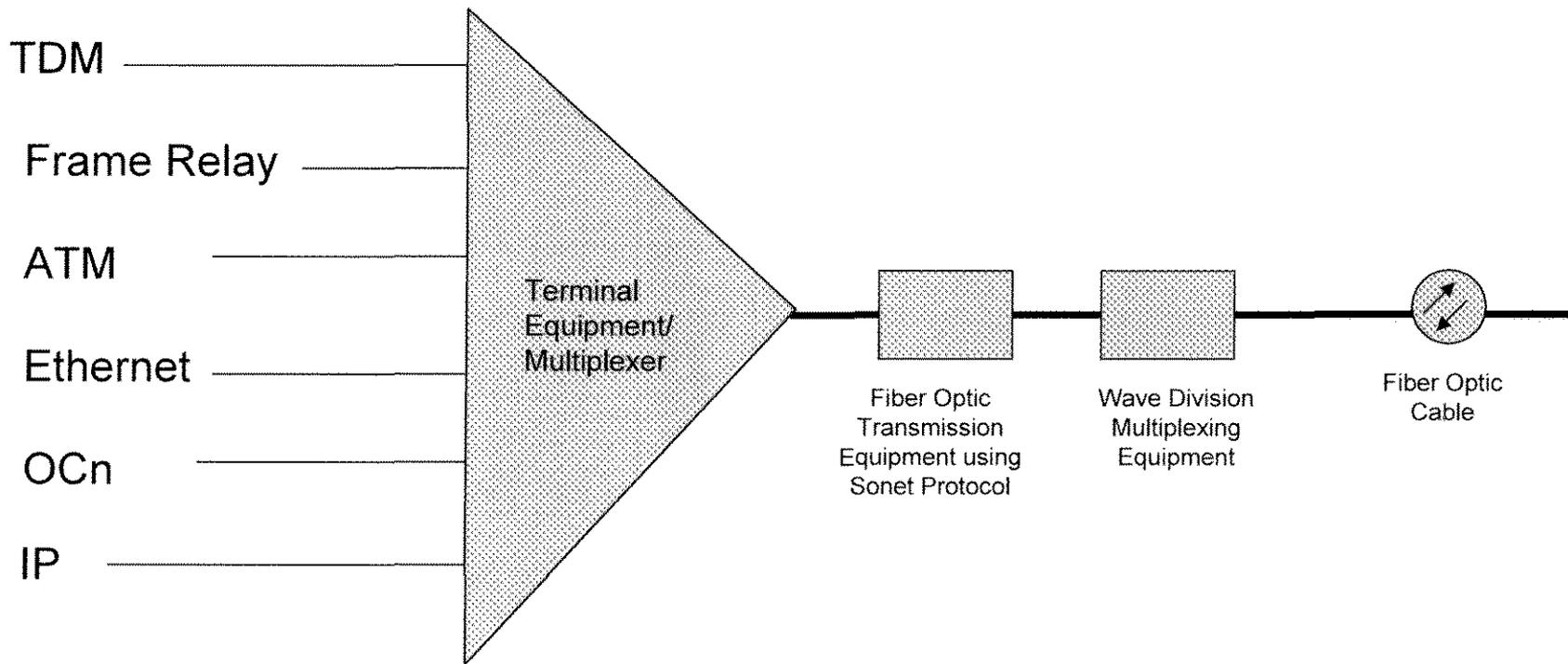
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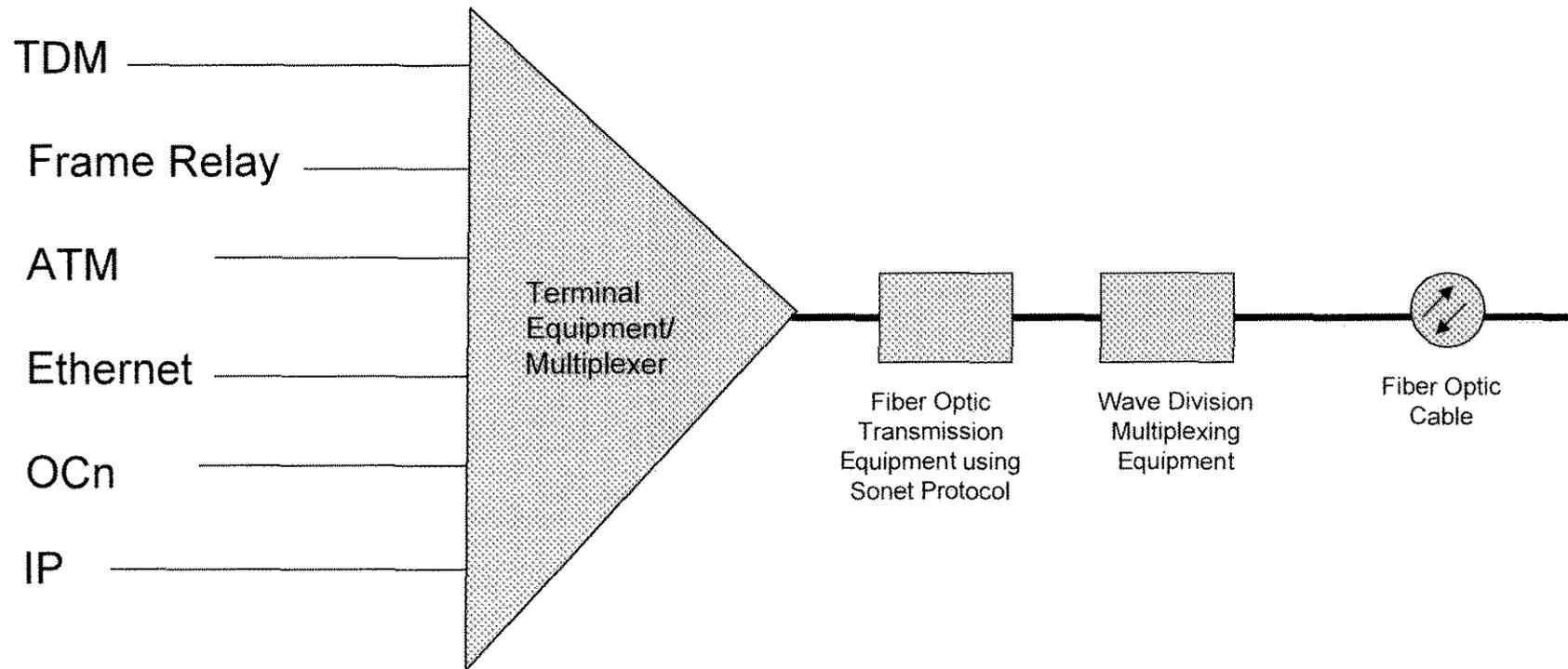
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cc: Commissioner Michael Copps
Scott Deutchman



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Dear Ms. Dortch:

On September 4, 2007, Gary Forsee, Chief Executive Officer, Robert S. Foosaner, Senior Vice President, Government Affairs, Richard Metzger, Counsel for Sprint Nextel, and the undersigned met with Commissioner Jonathan Adelstein and Scott Bergmann, Legal Advisor to Commissioner Adelstein. Sprint Nextel raised issues consistent with its comments in the above dockets. Specifically, Sprint Nextel discussed the fact that the Bell Operating Companies (“BOCs”) are exploiting their dominance over special access services to the detriment of consumers and competition. Sprint Nextel urged the Commission to introduce the pricing discipline on special access pricing that the market has failed to provide. Sprint Nextel also urged the Commission to deny the pending incumbent local exchange carrier petitions for forbearance to the extent they seek forbearance from special access services.

Pursuant to Section 1.1206 of the Commission’s rules, a copy of this letter is being filed electronically in the above-referenced dockets.

Sincerely,

/s/ Anna M. Gomez
Anna M. Gomez

cc: Commissioner Jonathan Adelstein
Scott Bergmann



Sprint Nextel
2001 Edmund Halley Drive
Reston, VA 20191
Office: (703) 592-5115 Fax: (703) 592-7404

Anna M. Gomez
Vice President
Government Affairs -- Federal Regulatory

September 5, 2007

Via Electronic Submission

Ms. Marlene H. Dortch
Secretary
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W., Room TW-A325
Washington, DC 20554

**Re: *Ex Parte Communication*
Qwest, AT&T, and BellSouth Petitions for Forbearance, WC Docket No. 06-125; Embarq, Frontier and Citizens Petitions for Forbearance, WC Docket No. 06-147; Special Access Rates for Price Cap Local Exchange Carriers, WC Docket No. 05-25**

Dear Ms. Dortch:

On September 4, 2007, Gary Forsee, Chief Executive Officer, Robert S. Foosaner, Senior Vice President, Government Affairs, Richard Metzger, Counsel for Sprint Nextel, and the undersigned met with Commissioner Deborah Taylor Tate and Chris Moore, Legal Advisor to Commissioner Tate. Sprint Nextel raised issues consistent with its comments in the above dockets. Specifically, Sprint Nextel discussed the fact that the Bell Operating Companies ("BOCs") are exploiting their dominance over special access services to the detriment of consumers and competition. Sprint Nextel urged the Commission to introduce the pricing discipline on special access pricing that the market has failed to provide. Sprint Nextel also urged the Commission to deny the pending incumbent local exchange carrier petitions for forbearance to the extent they seek forbearance from special access services.

Pursuant to Section 1.1206 of the Commission's rules, a copy of this letter is being filed electronically in the above-referenced dockets.

Sincerely,

/s/ Anna M. Gomez
Anna M. Gomez

cc: Commissioner Deborah Taylor Tate
Chris Moore



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Anna M. Gomez
Vice President
Government Affairs ~ Federal Regulatory

September 6, 2007

Via Electronic Submission

Ms. Marlene H. Dortch
Secretary
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W., Room TW-A325
Washington, DC 20554

**Re: *Ex Parte Communication*
Qwest, AT&T, and BellSouth Petitions for Forbearance, WC Docket No. 06-125; Embarq, Frontier and Citizens Petitions for Forbearance, WC Docket No. 06-147; Special Access Rates for Price Cap Local Exchange Carriers, WC Docket No. 05-25**

Dear Ms. Dortch:

On September 5, 2007, Colleen Boothby, Counsel for the Ad Hoc Telecommunications Users Committee, Richard Engelman, Director, Government Affairs, Sprint Nextel, Christopher Wright, Counsel for Sprint Nextel, and the undersigned met with Scott Deutchman, Legal Advisor to Commissioner Michael Copps, and discussed issues related to the above dockets. Our discussion was consistent with Ad Hoc's and Sprint Nextel's comments in the above records as well as with the attached presentations.

Pursuant to Section 1.1206 of the Commission's rules, a copy of this letter is being filed electronically in the above-referenced dockets.

Sincerely,

/s/ Anna M. Gomez
Anna M. Gomez

cc: Scott Deutchman

**“Me Too” Petitions for Forbearance
September 2007**

- **The Commission must deny the upcoming petitions for forbearance from Title II and *Computer Inquiry* regulation**
 - The Verizon Forbearance result is not valid precedent
 - Petitioners failed to provide sufficient market-specific evidence
 - The Commission must not deregulate until it can determine that competition is sufficient to prevent the Petitioners’ current and future exploitation of their market power
 - August 23rd request for “local market” data is too late
 - Commission lacks the time to analyze and interpret the data
 - Interested parties will be unable to analyze and comment on the data

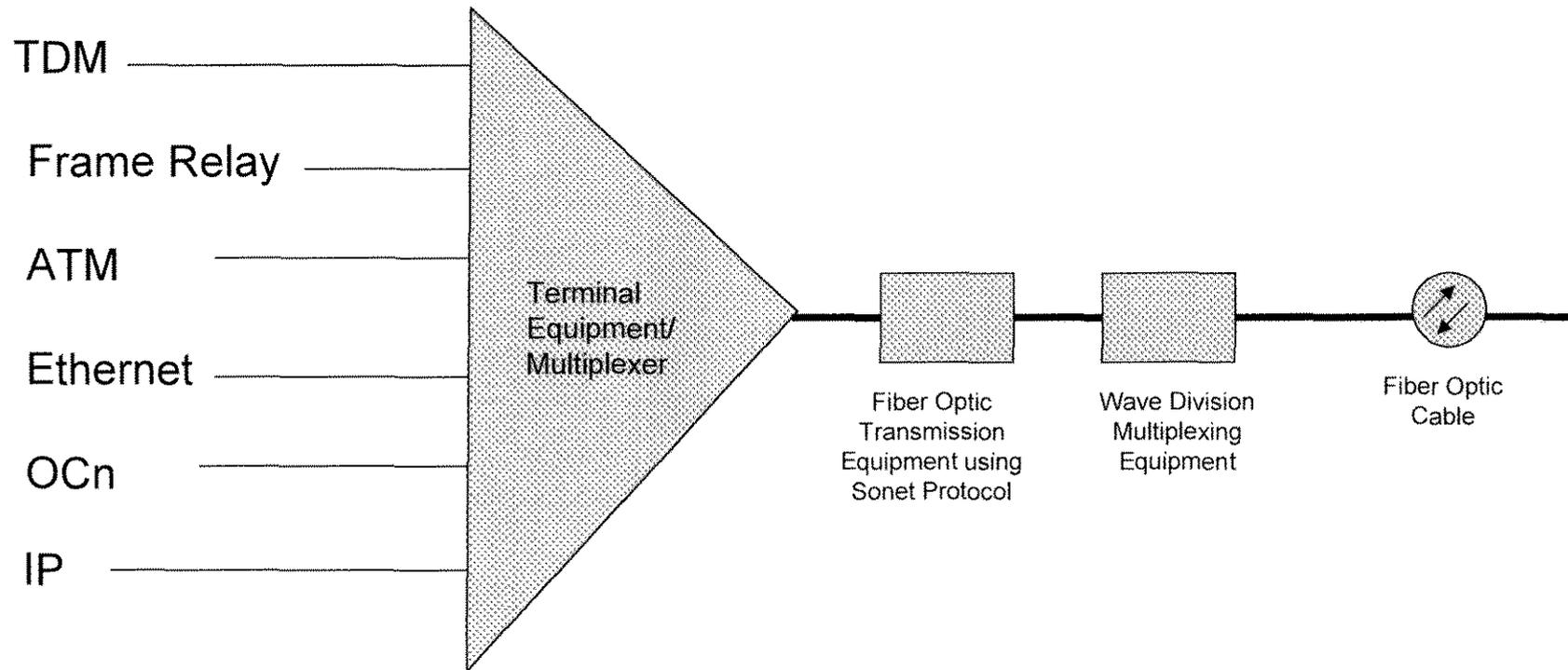
- **It is not appropriate to analyze the market on a national basis**
 - Services are not fungible from one location to another

- **The special access market is not competitive and competitive safeguards remain necessary.**
 - The “enterprise broadband” services listed in the petitions either are special access lines or include them as tariffed components
 - Competitors obtain special access inputs from the ILECs to provide “enterprise broadband services”
 - Competition in the retail market does not justify deregulating the wholesale market

- **The Commission should not grant the same or more forbearance than that in the ACS Forbearance Order**
 - Sections 201 and 202 alone are insufficient to prevent the ILECs from exploiting their market power
 - Grant of forbearance from tariffing and cost support requirements will eviscerate ability to prove overcharges
 - Prohibition on nondiscrimination has little “real world” effect if no proof and overcharges are a mere accounting cost on the ILECs’ books, compared to a real cost to the purchasers.

- **The Commission should not adopt a TDM/non-TDM distinction**
 - It is inappropriate to base Commission policies on particular technologies
 - Use of TDM or packet technology over special access loops is irrelevant to whether competitors find it economic to build out alternative facilities
 - ILECs have the incentive and ability to manipulate the TDM/non-TDM distinction, and favor themselves by forcing carriers to purchase less efficient and less effective technologies
 - TDM-based special access circuits are not adequate substitutes for Ethernet and other packet-based special access technologies

- **Forbearance will hinder, not accelerate the deployment of broadband facilities**
 - The availability of wholesale inputs at reasonable prices is crucial
 - ILECs have the incentive and the ability to benefit themselves by imposing high prices, or by degrading the quality or delaying the provisioning of those inputs
 - In fact, as evidenced by the rising pricing flexibility tariffs, which are higher than fees in price cap areas, the ILECs are already manipulating special access prices.
 - Consumers benefit from new and innovative services, not from innovators diverting capital from deployment of services to build out costly last-mile facilities



Various protocols can ride over a fiber optic system that uses Sonet. The use of additional equipment sometimes enables different protocols to be "stacked" upon one another, e.g., IP over ATM. Stacking protocols results in increased costs due to the requirement to utilize additional equipment.



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September 6, 2007

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Ms. Marlene H. Dortch
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**Re: *Ex Parte Communication*
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Dear Ms. Dortch:

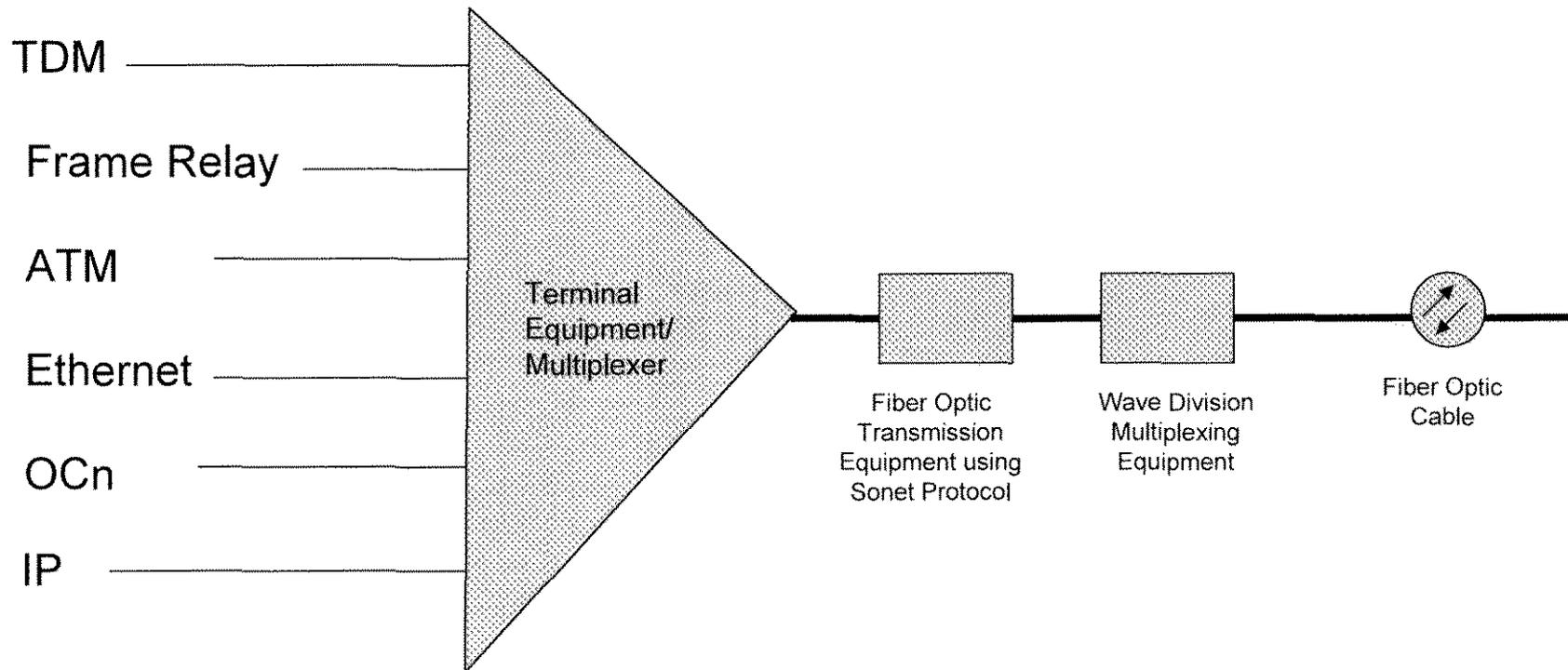
On September 5, 2007, Pete Sywenki, Director, Government Affairs, Richard Engelman, Director, Government Affairs, and the undersigned spoke with John Hunter, Chief of Staff and Senior Legal Advisor to Commissioner Robert McDowell and discussed issues consistent with Sprint Nextel's comments, and August 30, 2007 *Ex Parte* letter, which it filed in the above dockets. Sprint Nextel used the attachments as part of its discussion.

Pursuant to Section 1.1206 of the Commission's rules, a copy of this letter is being filed electronically in the above-referenced dockets.

Sincerely,

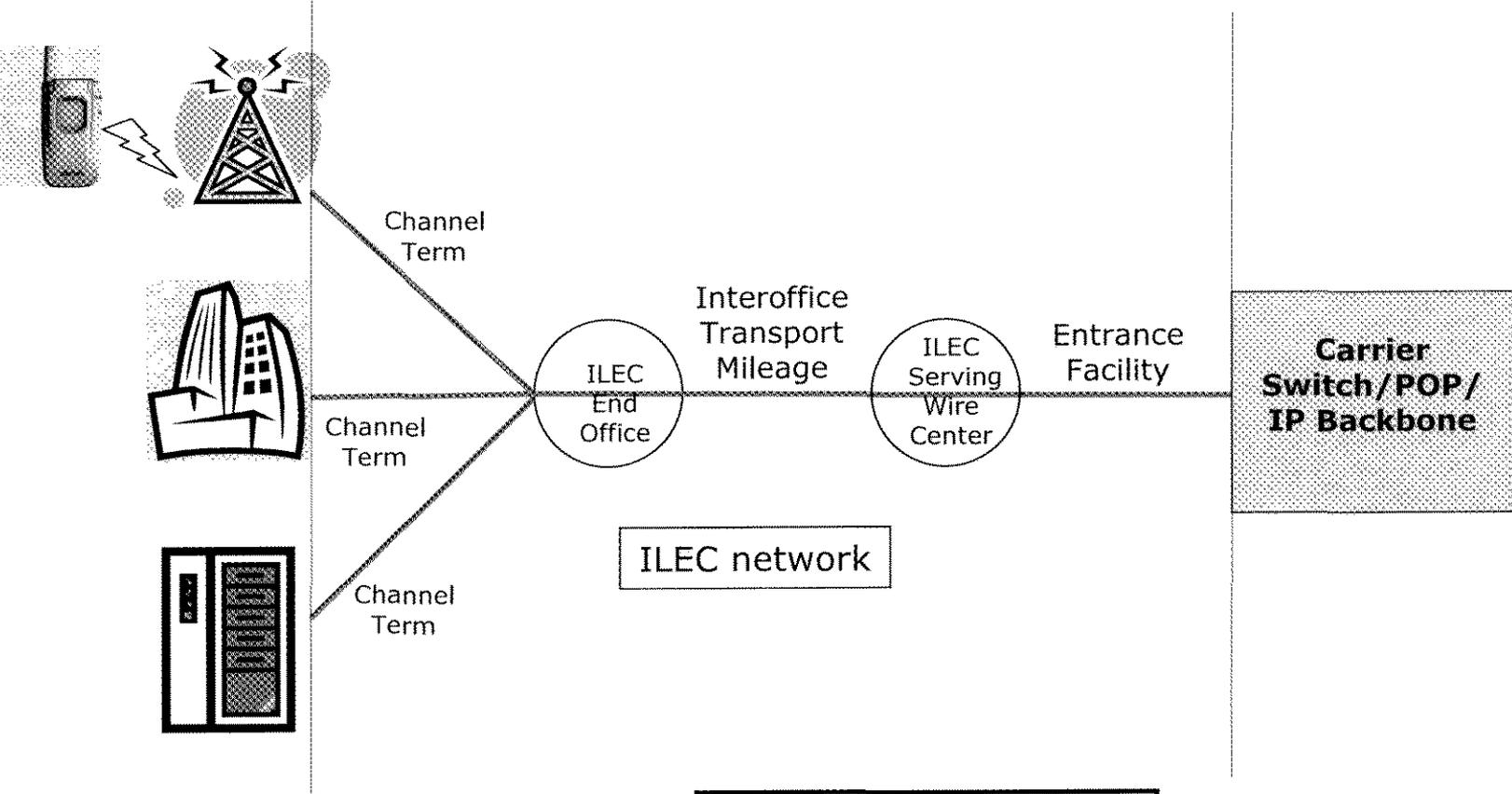
/s/ Anna M. Gomez
Anna M. Gomez

cc: John Hunter



Various protocols can ride over a fiber optic system that uses Sonet. The use of additional equipment sometimes enables different protocols to be "stacked" upon one another, e.g., IP over ATM. Stacking protocols results in increased costs due to the requirement to utilize additional equipment.

Special Access Network Diagram



- Products Supported:**
- Wireless voice and data
 - Business voice and data
 - Internet data