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Consumer Federation of America

The Honorable Kevin Martin, Chairman
Federal Communications Commission
445 12th St., SW
Washington DC 20554

October 4, 2007

**Re: Special Access Rates for Price Cap Local Exchange Carriers, WC
Docket No. 05-25**

Dear Chairman Martin: :

On behalf of Consumers Union, I am writing to you to express our strong support for efforts to address the incumbent local exchange carriers' (ILECs') stranglehold over numerous critical special access services. As has been already clearly stated in the record in this proceeding, special access services are important to consumers because many of their daily activities are dependent upon these services. When consumers place wireless calls, access the Internet or email, or use an automated teller machine (ATM), special access services often knit those transactions together.

Unfortunately, as reinforced by the November 29, 2006 GAO Report to the U.S. House Committee on Government Reform, little competition exists for these critical special access connections in much of the country, particularly for DS-3 (and below) levels. As such, the ILECs can affect consumers' ability to access services at reasonable rates. In addition, and perhaps more perniciously, the high cost of numerous special access services can also retard the innovation and introduction of new cutting edge technologies.

The record in the special access docket shows that ILEC overcharges are growing and now amount to a significant portion of the approximately \$16 billion per year that the ILECs receive for special access services—some estimates show these overcharges at almost \$8 billion per year. To be clear, consumers pay for these excessive ILEC special access overcharges, through higher rates, lost competition, and lost innovation.

The Commission's record is replete with evidence that the ILECs dominate significant portions of the special access market, and are exploiting their market power to the detriment of consumers and competition. It is fitting that some of the most egregious examples in this record were articulated by carriers now silenced through ILEC acquisitions – AT&T Corp. and MCI.

In addition to excessive rates, one of the examples of ILEC abuses included ILEC special access “lock-in.” Tariff provisions which the ILECs called “volume discounts” were really dependent upon long term commitments of nearly 100% of the customers' existing communications traffic. The common effect of these ILEC abuses was to ensure that the customer's traffic was not available to a potential competitor if one were available.

Also troubling are reports of ILECs cutting copper lines to customers' homes when they install new fiber optic lines. It is hard to imagine a more baldly anti-competitive practice.

These companies sold Congress and the FCC on a slogan: “Old wires, old rules. New wires, new rules.” Their new practices seem to be a policy shift to “our wires, our rules—cut the old wires, nobody's looking.”

Special access lines are the capillaries that knit together our communications arteries, and an important part of competition. Internet competition, wireless competition, credit card machines and ATMs all require special access to work. This issue should not be confused with a mere intra-industry spat over rents.

Last week an ILEC wireless subsidiary was caught blocking political messages—they rapidly told this agency and Congress not to worry, changed their policy at noon and pinkie swore it would never happen again. Those who would trust competition to police our communications infrastructure must remember that we can't cut competition off at the knees and then expect it to save us.

The anti-competitive contract clauses and anti-competitive tactics should be scrutinized; the agency should not countenance ILEC abuse of market power. We urge the FCC to act to ensure that the interests of consumers, not the bottom line of phone monopolies, are made paramount in this important proceeding.

Respectfully submitted,



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