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REDACTED – FOR PUBLIC INSPECTION

June 4, 2012

VIA COURIER ***EX PARTE***

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW, Room TW-A325
Washington, DC 20554

Re: ***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**

On May 31, 2012, Rochelle Jones, Kristie Ince and Don Shepheard of tw telecom inc. ("tw telecom") and the undersigned met with Deena Shetler, Eric Ralph, Travis Litman, Nicholas Alexander, Elizabeth McIntyre, Jamie Susskind, Andrew Mulitz, Daniel Shiman, Ben Childers, Jack Erb, Kenneth Lynch, Joseph Lilly, and Maxwell Slackman of the Wireline Competition Bureau. During the meeting, the tw telecom representatives made the points summarized in the attached document.

In addition, in response to questions from the Wireline Bureau staff, the tw telecom representatives explained that, as described in tw telecom's April 11, 2012 *ex parte* letter in the above-referenced proceeding,[1] **[HIGHLY CONFIDENTIAL BEGIN]** [redacted]

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[1] *See* Letter from Thomas Jones and Matthew Jones, Attorneys for tw telecom, to Marlene H. Dortch, Secretary, FCC, WC Dkt. No. 05-25; RM 10593 at 13-14 (filed April 11, 2012) ("tw telecom April 11, 2012 Response to Second Data Request").

[2] *See id.* at 4-20.

[3] *See id.* at 13-14.

[redacted] **[HIGHLY CONFIDENTIAL END]** In addition, tw telecom explained that, while it would like to purchase Ethernet special access circuits from ILECs wherever possible, **[HIGHLY CONFIDENTIAL BEGIN]** [redacted] **[HIGHLY CONFIDENTIAL END]**

The tw telecom representatives further explained that the company generally decides to build new facilities to a building only if tw telecom is able to win one or more sufficiently profitable contracts to serve customers in the building. Even where tw telecom identifies one or more suitable customers for these purposes, tw telecom is sometimes unable to build facilities to the customers because of onerous conditions for building access established by building owners. Finally, the tw telecom representatives explained that, where tw telecom serves a customer via an incumbent LEC special access circuit, tw telecom faces significant obstacles to switching the customer to tw telecom's own facilities, even if such an option were economically feasible. Most importantly, in order to make such a switch, tw telecom must perform a "hot cut" from the incumbent LEC last mile facility to the tw telecom last mile facility. This process is often not efficient, and it causes a service interruption for the customer, something business customers' generally will not tolerate. Please do not hesitate to contact me at (202) 303-1111 if you have any questions or concerns about this submission.

Respectfully submitted,

/s/ Thomas Jones
Thomas Jones

Counsel for tw telecom inc.

cc: Deena Shetler
Eric Ralph
Travis Litman
Nicholas Alexander
Elizabeth McIntyre
Jamie Susskind
Andrew Mulitz
Daniel Shiman
Ben Childers
Jack Erb
Kenneth Lynch
Joseph Lilly
Maxwell Slackman

Enclosure

Interim Special Access Remedy Plan DS1 & DS3

tw telecom

May 31, 2012

Pricing

- Cap rates in areas with Phase II pricing flexibility at a level no higher than rates under price caps.
  - Allow an opportunity to keep Phase II prices, but place burden of proof on ILECs to show that prices are just and reasonable.
- Require a one-time reduction in price cap rates through an adjustment to the Price Cap formula and/or change the price cap formula prospectively.
  - Initial reductions should be targeted to mileage rates.

Tariff Discount Plans

- Require each ILEC to offer all of their plans across their entire footprint and across all products (DS1/DS3) to create nationwide discount plans that simplify special access purchases. Managing multiple plans drives excess cost to the business.
  - Allow opportunity to show mandatory extension of existing offerings is unreasonable.
  - Prohibit Commercial “tie-in” arrangements with non-special access services.

- Making Tariff Discount Plans available solves some of the most costly problems with Terms and Conditions:
  - Non-Recurring Charge waivers
  - Circuit Portability
  - Early Termination Charge waivers

- Eliminate or modify other Unreasonable Terms and Conditions:
  - Limit the amount of any volume commitment to 50%.
  - Prohibit capturing growth into the plan.
  - Eliminate penalties and other impediments associated with moving to a new technology.
  - Prohibit Rate increases during contract period.