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June 14, 2012

VIA ELECTRONIC SUBMISSION

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW – Lobby Level
Washington, DC 20554

Re : ***In The Matter Of Promoting Interoperability In The 700 MHz Commercial Spectrum; Interoperability Of Mobile User Equipment Across Paired Commercial Spectrum Blocks In The 700 MHz Band, WT Docket No. 12-69.***

Special Access Rates For Price Cap Local Exchange Carriers, WC Docket No. 05-25, Pacific Bell Telephone Company Petition For Pricing Flexibility Under Section 69.727 Of The Commission's Rules, WCB/Pricing File No. 12-04, Southwestern Bell Telephone Company Petition For Pricing Flexibility Under Section 69.727 Of The Commission's Rules, WCB/Pricing File No. 12-05.

Dear Ms. Dortch:

On Tuesday, June 12, Randall Stephenson, Chairman Chief Executive Officer and President of AT&T Inc., and I had a meeting with Commissioner Ajit Pai, Chief of Staff Matthew Berry, and Legal Adviser Gene Fullano. During the course of that discussion, Mr. Stephenson made reference to the aforementioned proceedings currently before the Commission. With respect to the issues contained in the interoperability proceeding, Mr. Stephenson urged the Commission to focus its efforts on addressing the interference issues that exist between the Channel 51 broadcast users and the A Block license holders. Finding a path to clearing the Channel 51 spectrum early without prejudicing the rights of Channel 51 broadcasters to fully participate in the incentive auctions could unlock the value and usefulness of the A Block spectrum in the near term. Mr. Stephenson's comments were consistent with AT&T's comments in this proceeding (at pages 43-50) as well as the attached ex parte previously filed in Applications of AT&T Mobility Spectrum LLC and Qualcomm Incorporated for Consent to the Assignment of Licenses, WT Docket No. 11-18.

With respect to AT&T's pending pricing flexibility petition and the associated special access proceeding, Mr. Stephenson explained the difficult investment environment for wireline infrastructure and the need to transform the existing wireline infrastructure to more efficient IP infrastructure. He explained that a path to retire the traditional POTS TDM architecture is necessary to make continued investment possible, particularly in rural areas. His comments were consistent with the substance of two previous AT&T Blogs on this subject that were previously filed in this proceeding and are attached here as well.

If you have any questions or need additional information, please do not hesitate to contact me. Pursuant to section 1.1206 of the Commission's rules, this letter is being filed electronically with the Commission.

Sincerely,

Robert W. Quinn, Jr.

Robert W. Quinn, Jr.

Cc : Matthew Berry

Joan Marsh
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December 22, 2011

VIA ECFS

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: *Applications of AT&T Mobility Spectrum LLC and Qualcomm Incorporated for Consent to the Assignment of Licenses*, WT Docket No. 11-18
NOTICE OF EX PARTE PRESENTATION

Dear Ms. Dortch,

The interference challenges into the 700 MHz Lower A block are significant. The high power broadcasts currently permitted in Channel 51 and in the 700 MHz Lower E block create the potential for significant interference problems for LTE deployments in the adjacent A block. Indeed, Band Class 17 was created in the 3GPP standards-setting process specifically to address these interference issues. AT&T agrees that these challenges can and should be addressed.

AT&T further agrees that, if the interference challenges described above are addressed to AT&T's satisfaction, AT&T will not object, assuming supply chain availability, to supporting interoperability in the paired spectrum in the Lower 700 MHz band no more than two years after the later of the effective date of new rules relieving the Lower A block of the interference concerns, the end date of any transitional operating period that is allowed for any spectrum uses that create Lower A block interference concerns or the date when any existing broadcast uses are relocated from Channel 51 and the E block (provided further that Lower 700 MHz licensees are not responsible for the costs of any such relocations). AT&T will consider a shorter transition period if, in AT&T's view, it is commercially feasible.

To fully address the interference challenges, AT&T believes that the Commission must, at a minimum, modify the rules governing service in Channel 51 and in the 700 MHz Lower E block to permit power levels, out of band emissions and antenna heights that are no greater than those currently permitted in the 700 MHz Lower A and B blocks, to allow downlink only in the Lower E block and uplink only in Channel 51, and to relocate any incumbent high power broadcast operations out of Channel 51 and the

Lower E block. Indeed, to address interference concerns into the 700 MHz Lower C block, the Commission is proposing similar limitations on AT&T's use of the Lower D and E blocks in the draft Order currently pending in this proceeding. AT&T reserves the right to offer additional guidance in any rulemaking that may be initiated on these issues.

In all events, AT&T reserves the right, in its sole discretion, to plan and manage Lower 700 MHz interoperability support in a manner that will not disrupt existing services, strand existing devices or result in unnecessary cost or delay. AT&T explicitly reserves the right to continue to support Band Class 17 at its sole discretion.

In accordance with Commission rules, this letter is being filed electronically with your office for inclusion in the public record.

Sincerely,

Joan Marsh

cc: Louis Peraertz, Esq.
Rick Kaplan, Esq.
Best Copy and Printing, Inc.
Kathy Harris, Esq.
Ms. Kate Matraves
Jim Bird, Esq.

Rewarding Misbehavior…

Posted by: Bob Quinn on June 8, 2012 at 1:05 pm

Earlier this week, I wrote about the special access order circulated at the Commission and explained why a backwards looking focus on legacy, practically-obsolete technology would lead to less fiber infrastructure investment, less innovation, less job creation and would be completely contrary to the Obama Administration's goals in each of those areas. Today, I am going to talk a little bit about process. We all know the buzzwords of this Commission when it comes to process: fact driven, open and transparent. I want to contrast those words with what has occurred in this proceeding over the last few weeks. Bear with me while I give you some background.

The proceeding here is pretty straightforward. Twelve years ago, the Clinton-FCC, led by then Chairman Bill Kennard, set forth a framework that would lead to pricing de-regulation of then state-of-the-art data services (1.5 Mbps) in markets where there were sufficient competitive facilities being built to compete with the legacy telephone company. The idea was to recognize the significant infrastructure investment that had been made in the wake of the 1996 Telecom Act. In passing that Order, the FCC explained that it recognized that its selection of pricing flexibility triggers was "not an exact science," but rather a policy determination "based on our agency expertise, our interpretation of the record before us in this proceeding, and our desire to provide a bright-line rule to guide the industry." In other words, the Order was based on a factual record. Later, the FCC extended its pro-investment philosophy by de-regulating fiber and packet-based services in order to incent new investment in broadband infrastructure. (Believe me, the heart of this particular debate is the desire of competitive carriers to re-impose the obligation to unbundle fiber at TELRIC rates. But that is for another blog).

The competitive carriers and so-called public interest groups active in this proceeding have tried to reverse that pricing flexibility decision for more than 10 years. Because the prior Order was based on a factual record, the competitive industry bears the burden of going forward and demonstrating the lack of competition in these markets. One of the problems that policymakers have had, however, in analyzing what is going in this market is that no one really has accurate data on what competitive facilities exist in the marketplace. As strange as it may seem, despite all of the reporting requirements in our industry, competitive carriers have never been required to identify how much fiber and infrastructure they have built in any given market. And when policymakers have attempted to address this lack of data, the competitive community has continually thrown up roadblocks. When the GAO studied this market in 2006, it was stymied in its ability to analyze the market because competitive carriers refused to provide data. When the NRRI studied the issue in 2008-09, they hit the same stone wall. When the FCC asked the industry for data in 2010, the competitive community once more refused to provide the data necessary for the FCC to conduct its analysis.

Just last year, in a federal court proceeding, the FCC again called out competitors for failing to submit data concerning their experience in the special access market stating that only seven out of 90 COMPTEL members had responded to the FCC's 2010 Request for Data. Seven out of 90. Sounds more like my Cubs' winning percentage this year than it does like the response rate you would expect from a group that wants to convince policymakers to change the status quo.

And, according to an April 17 TRDaily article, the FCC's own Sharon Gillett recently remarked on the "incredible dearth of data" from competitors and the Commission's inability to "do the analysis without the data."

With that, one might think that the FCC would leave in place its de-regulatory policies until it had adequate data on which to revise or create new policies. Not so, as we learned Monday. The FCC, despite its asserted lack of data, circulated an Order to suspend the pro-investment price de-regulation framework approved 12 years ago until the FCC could make competitors respond to a mandatory data request. Meanwhile, AT&T and many other carriers have submitted reams of data demonstrating the extensive competition that exists in these markets. And so we're clear, that mandatory data request is not in the item that was circulated Monday. It is a statement that at some point in the future the FCC will submit a mandatory data request to CLECs. Interesting process.

The other shoe dropped Tuesday when FCC staff announced in a Public Notice that it was submitting 99 documents – comprising more than 10,300 pages of new evidence – into the record in the proceeding. One presumes that the reason this data needed to be submitted in the record is that the staff in crafting the Order on circulation actually relied on this evidence (and cited extensively from the evidence) in its proposed Order. If this is true, why was the evidence not submitted into the record until *after* the Order went on circulation? Indeed, why was it not submitted into the record months ago? At least then AT&T and others could have responded to the evidence and had those replies considered before a final Order was circulated.

As it stands, this last minute submission seems intended to thwart that very sort of opportunity, which seems at odds with the spirit, if not the letter, of the Administrative Procedure Act. In short, this process is unseemly and raises questions as to what's really afoot at the Commission.

This FCC has explained for years that they have insufficient data on which to base a special access decision, yet they now circulate an Order despite that lack of data. They dump 10,000 pages into the record after their Order is circulated, giving no time for anyone to consider that evidence, let alone respond. Then they conclude that they now have a sufficient basis to overturn a well-established, judicially affirmed deregulatory decision that was based on a far more extensive record involving actual (as opposed to missing) data.

From a process perspective, this does not represent the gold standard for openness and transparency. We have argued for nothing more than a fact-driven, open and transparent process. We are confident that when policymakers see the amount of competitive fiber deployed in metropolitan markets, it will be easy to conclude that the right pro-investment strategy is to incent carriers to extend their existing fiber infrastructure into the many commercial office buildings across the country; to transition from the legacy TDM technology of yesterday to the all-IP world the industry needs to achieve the Administration's goals. The economy needs this kind of infrastructure infusion and the current policies are not taking us there fast enough. Instead, the agency, despite the lack of data, seems intent to reward the same petitioners who for years have thumbed their noses at the FCC's data requests. If this Order goes forward under these circumstances, it will not be the FCC's finest hour.

Repealing De-Regulation: How Not to Build a Roadmap Towards an All-IP World

Posted by: Bob Quinn on June 5, 2012 at 7:55 am

The FCC has circulated an order that would undo more than 12 years of Clinton-era, deregulatory pricing policy on legacy non-packet services. The services in question are called "special access" services – 95% of which are slow 1.5 megabits per second (Mbps) TDM (think POTS) services. That is not a misprint. We are not talking about 100 Mbps connections – services we should actually be figuring out how to get to more people in more places. We are not even talking about fiber. We are talking about legacy, copper-based services that are so slow the services would not qualify for a single dollar of Universal Service Fund (USF) support if they were deployed to homes throughout rural America under the Commission's recent USF order.

We are concerned about the impact the proposed action is going to have for the overall transition to IP technology that the FCC had begun in that USF order. The transition to IP cannot happen fast enough. The industry needs to move to a more cost-effective, all-IP infrastructure if we are going to remain a globally competitive economic force. In regulatory time, that transition must occur with incredible speed. Once subsidies are removed from TDM/POTS infrastructure, carriers will need to nimbly move to retire that infrastructure to make way for an all-IP world. In the USF order, the FCC took a great step in that direction by declaring the obsolescence of TDM/POTS.

To make those investments work, however, there must also be a path away from the costs of the legacy infrastructure. AT&T itself is in the process of evaluating how we are going to address the overall rural investment issues in our own footprint. Today's announcement by the Commission will have a significant impact on those calculations and the feasibility of long-term rural investment. Simply put, if there is no clear path to migrate to an all-IP infrastructure, that investment calculation looks much more challenging.

The FCC should be creating a parallel path for these services like it created in the consumer market. In other words, we should be crafting a plan to retire these services and get businesses and competitive carriers on the path towards deploying fiber-based broadband services that are much faster than 1.5 Mbps.

Some competitors may argue that they can't build more fiber to businesses. But the reality is that many of them do exactly that. Level 3 says it has fiber within 500 feet of more than 100,000 "enterprise" office buildings. Sprint just conducted a huge RFP for fiber-based backhaul services and awarded contracts to between 25 to 30 different backhaul vendors across the U.S. all willing to build high-capacity Ethernet backhaul.

Cable companies have been aggressively competing for years by building out their own footprint. Verizon builds fiber to three homes in the hope that that one customer of

three chooses to buy video, voice and broadband service from them. Clearly this is not a "natural monopoly" where investment is impossible.

With the right policies, we could have this type of significant investment in every area on the path to an all-IP world. That is what the Obama Administration called for in its mission to get high speed wireless broadband to 98% of Americans and its renewed call earlier this year to create jobs by upgrading the nation's infrastructure, including its communications infrastructure. And this is exactly the kind of wide-scale infrastructure investment that can create jobs, keep the economy moving and keep America globally competitive. The mission is clearly articulated and appears to have universal bi-partisan support – broadband infrastructure investment creates jobs. But we need a plan to get there and, unfortunately, that does not appear to be the road the FCC has chosen to go down. The rhetoric is good, but at some point we have to walk the talk. Right now, it's all just talk.

So, what are we going to do instead? Apparently, we are going to go backwards and try to figure out the perfect way to price-regulate a technology that is fast becoming obsolete. The one thing guaranteed is that the stable pricing regimes that have been in place for 12 years will be challenged in litigation by competitive carriers across the country – all arguing for lower rates; none explaining how lower rates on yesterday's technology will actually spur investment in fiber-based IP technologies. Who will benefit? Those companies who are clinging to yesterday's technology so that they do not have to invest in America's future.

Instead of creating a path to fiber, significant infrastructure investment by all carriers, job creation and achieving the nation's broadband goals, we are going to instead pursue policies that will result in *less* fiber, *less* infrastructure investment, *less* job creation, and *less* broadband. It's not that we haven't pulled this kind of transformation before. We managed the move from horse and buggy to automobile and became the world's automotive leader in the process back then. But if we pursued policies early in the 20th century with the same game plan we are pursuing broadband policies today, we'd have a lot of cars still being pulled around by horses.