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September 26, 2012

VIA ECFS ***EX PARTE***

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

Re: ***WC Docket No. 06-122***

Dear Ms. Dortch

On September 24, 2012, I discussed the status of the Commission's review of universal service ("USF") contribution obligations borne (indirectly) by providers of broadband Internet access services that do not own their own last mile facilities and reform of the USF wholesale certification process with Carol Mattey of the Wireline Competition Bureau. During the discussion, I stated that assessing USF contributions on special access services purchased by competitive LECs and used as an input to downstream retail broadband Internet access services violates the principle of competitive neutrality because no USF contribution is assessed where a firm provides broadband Internet access using its own facilities or unbundled network elements.[1] The Commission should eliminate this discriminatory treatment of special access purchasers under its USF contribution rules as soon as possible. It could do so, for example, by permitting wholesalers of telecommunications services to rely on certifications from their wholesale customers on a company-by-company basis. Under this approach, a wholesale provider of special access would not be assessed USF contributions on revenues from wholesale special access services sold to a firm that certifies that it contributes to USF for any of the services provided via the special access services at issue. Most firms that purchase special access services as inputs to downstream retail broadband Internet access services do provide assessable services via those special access services (e.g., retail circuit-switched voice or interconnected VoIP services). Thus, adoption of a company-by-company approach to wholesale certifications would effectively eliminate USF contributions for special access services used as inputs to downstream retail broadband Internet access services and, accordingly, such an approach would eliminate the competitive harm described herein.

[1] *See* Letter from Thomas Jones, Counsel for tw telecom inc., to Ms. Marlene H. Dortch, WC Docket No. 06-122 (Apr. 27, 2010).

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
Counsel for tw telecom inc.

cc: Carol Mattey