



October 2, 2012

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Ex Parte

VIA ECFS

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

RE: Special Access for Price Cap Local Exchange Carriers, WC Docket No. 05-25 and RM-10593

Dear Ms. Dortch:

On September 28, 2012, Debbie Dexter, Curtis Groves, and I of Verizon met with Deena Shetler, Nick Alexander, William Layton, Travis Litman, Ken Lynch, Elizabeth McIntyre, Eric Ralph, and Jamie Susskind of the FCC's Wireline Competition Bureau. Also, on October 1, 2012, I spoke by phone with Michael Steffen of Chairman Genachowski's office. The purpose of these meetings was to discuss the Commission's mandatory special access data request¹ and the framework for the Commission's analysis.

We explained that to the extent the Commission focuses on ILEC special access prices as one tool to evaluate competition, it must examine the prices that customers actually pay for those services. As we have explained elsewhere, Verizon offers heavy discounts off its tariffed list prices for special access;² most customers pay those discounted rates. The analysis must take these discounts into account. Furthermore, because Verizon applies significant discounts at the invoice level, or "bottom of the bill," determining what customers actually pay at the building level or circuit level is unavoidably imprecise.

¹ *Special Access for Price Cap Local Exchange Carriers, et al*, Report and Order, WC Docket No. 05-25, RM-10593; FCC 12-92, ¶ 101 (Aug. 22, 2012).

² Ex Parte Letter from Donna Epps, Verizon, to Marlene Dortch, FCC, WC Docket No. 05-25 & RM-10593 (July 14, 2011).

Also, we explained that whether prices in a market have risen or fallen does not necessarily indicate whether that market is competitive. The critical question is whether there are competitive alternatives available. Where competitors have entered the market and are competing with the incumbents, in and of itself demonstrates that the market is addressable, regardless of price changes.

To that end, we explained that a regression model may provide useful information but that a model cannot be the Commission's only tool to analyze competition. In addition to the model, a forward-looking analysis requires that the Commission collect other data that will allow the Commission to determine whether a particular market is contestable. The data that Verizon submitted in its September 12, 2012 ex parte letter regarding the competitive bidding to provide high-capacity services to Sprint's cell sites demonstrates that marketplace conditions are changing quickly.³ As we discussed there, Sprint's public statements and the bids it has awarded as part of its Network Vision initiative prove conclusively that providers have alternatives to ILEC special access and that those alternatives are available from competitive providers. As we explained, Sprint does not contest any of the key facts in its recent response to Verizon's letter.⁴

The Commission needs to examine dynamic marketplace developments like these as they happen. It cannot assume that a snapshot of marketplace conditions on its own can predict the future. Instead, as we explained, the Commission in its data request must ask for data that will help the Commission to analyze the market's contestability. The mandatory request needs to ask for data that allows the Commission to determine where cable and other providers compete today, where they can compete, and where it is likely they will compete in the next few years. As we explained in our July 31 ex parte letter, the Commission should ask providers to:

- Identify by geographic area where you currently provide or are technically capable of providing retail or wholesale high-capacity services (such as DS1, DS3, Ethernet, and other high-capacity services).
- Provide data or maps that show the geographic area where you or your affiliate offers or plans to offer retail or wholesale high-capacity services, whether wireline or wireless, within the next two years. Providers should note on the maps where they can offer service over existing facilities, on other leased facilities, or on facilities they plan to build.

³ Ex Parte Letter from Donna Epps, Verizon, to Marlene Dortch, FCC, WC Docket No. 05-25 & RM-10593 (September 12, 2012).

⁴ Ex Parte Letter from Paul Margie, Wiltshire & Grannis LLP, to Marlene Dortch, FCC, WC Docket No. 05-25 & RM-10593 (September 26, 2012).

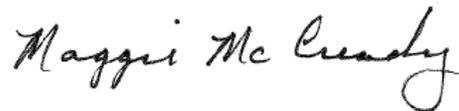
- Explain where you have submitted competitive bids to provide backhaul services to wireless providers or high-capacity services to other customers. Providers should also submit the business rules they rely upon to determine whether to submit a competitive bid.⁵

Although some of this information has come to light through voluntary ex partes, the Commission cannot rely on ex partes alone to produce a complete and accurate picture of the market's contestability. Especially with a mandatory data request to which to respond, providers may be less likely than ever to provide this information if it is not included in the mandatory request. If anything, experience in this proceeding has demonstrated that relying on voluntary submissions will produce incomplete data. As we explained, the Commission must ask for this information in the mandatory data request in order to obtain the information it needs.

Also, as we discussed, to the extent that the request seeks facilities data, Verizon would be able to provide current information on its network facilities. Because Verizon's systems do not retain historical facilities information, however, Verizon would be unable to provide facilities data for prior years.

In addition, we explained that we are continuing to assess our initial estimates of the effort that we expect will be required to respond to the data request. Based on what we understand the data request will encompass, including our understanding that it will be limited to last-mile facilities, our preliminary estimate of the effort exceeds 15,000 man hours. We expect that the preliminary estimate will evolve as we learn more about the data request.

Sincerely,



cc: Michael Steffen
Deena Shetler
Nick Alexander
William Layton
Travis Litman
Ken Lynch
Elizabeth McIntyre
Eric Ralph
Jamie Susskind

⁵ Ex Parte Letter from Donna Epps, Verizon, to Marlene Dortch, FCC, WC Docket No. 05-25 & RM-10593 (July 31, 2012).