

November 21, 2012

VIA ECFS

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*

Dear Ms. Dortch:

The undersigned, representing Cbeyond, Inc., EarthLink, Inc., and Integra Telecom, Inc., submit this letter in the above-referenced dockets in response to a request from Eric Ralph of the Wireline Competition Bureau regarding: (1) whether competitive LECs voluntarily submitted information regarding the areas in which they provide “best efforts” broadband services to the state entities that collect such information for purposes of the NTIA National Broadband Map (“NBM”) project; and (2) if not, whether competitive LECs could quantify the burden of complying with a Commission requirement that they submit such information as part of the Commission’s forthcoming special access data request.

Some competitive LECs, including Cbeyond and EarthLink, have not voluntarily submitted coverage information to the state entities collecting such information for purposes of the NBM. In addition, while Integra voluntarily submitted information in response to the initial requests from state entities participating in the NBM project, Integra submitted a rough approximation of the areas where it might be able to provide best efforts broadband service and it has not updated that information region-wide. Compliance with a mandatory FCC request to provide the “best efforts” broadband coverage information requested in connection with the NBM project would be burdensome for many competitive LECs, particularly because they have limited resources relative to large incumbent LECs and cable companies. For example, EarthLink has estimated that it would need to spend roughly 1,020 employee hours, or roughly \$60,000, on providing the coverage information sought by the state entities for the NBM project. This compliance burden would be compounded by the fact that EarthLink has made seven acquisitions since December 2010 and is in the process of integrating the various operations support systems and data systems used by the acquired entities onto a single operations

support systems platform. Furthermore, the compliance burden would divert EarthLink's resources and personnel away from these critical integration activities.

In light of (1) the burden on both competitive LECs and smaller cable operators¹ of providing coverage information regarding their "best efforts" broadband services, (2) the Commission's recent acknowledgment that the coverage information already submitted for purposes of the NBM may be "overstated" or "understated,"² and (3) the record evidence demonstrating that "best efforts" broadband services are not a substitute for the dedicated broadband services at issue in the special access rulemaking proceeding,³ the Commission should not require broadband providers to submit information on their "best efforts" broadband services in the forthcoming special access data request.

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

Nirali Patel

*Counsel for Cbeyond, Inc., EarthLink, Inc.,
and Integra Telecom, Inc.*

cc (via email): Eric Ralph, WCB

¹ See Letter from Ross J. Lieberman, Vice President of Government Affairs, American Cable Association, to Michael Steffen, Legal Advisor to Chairman Genachowski, WC Dkt. No. 05-25 (filed Nov. 16, 2012).

² See *Connect America Fund*, Further Notice of Proposed Rulemaking, FCC 12-138, ¶ 15 (rel. Nov. 19, 2012); see also *id.* ¶¶ 14-16 (proposing a "challenge process" to allow interested parties to address "inaccuracies [in the National Broadband Map] that materially impact the targeting of [Phase I] support").

³ See, e.g., Petition of Ad Hoc Telecommunications Users Committee, BT Americas, Cbeyond, Computer & Communications Industry Association, EarthLink, MegaPath, Sprint Nextel, and tw telecom to Reverse Forbearance from Dominant Carrier Regulation of Incumbent LECs' Non-TDM-Based Special Access Services, WC Dkt. No. 05-25, at 39-40 & nn.125-126 (filed Nov. 2, 2012).