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November 29, 2012

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

**Re: Special Access for Price Cap Local Exchange Carriers, WC Docket No. 05-25
AT&T Corporation Petition for Rulemaking to Reform Regulation of Incumbent
Local Exchange Carrier Rates for Interstate Special Access Services, RM-10593**

Dear Ms. Dortch:

On November 29, 2012, I spoke with Nick Degani, Wireline Legal Advisor to Commissioner Pai, to discuss the mandatory data request referenced by the Commission in the *Special Access Report and Order*.¹ We discussed the extreme burden that a nationwide, building-by-building data request would impose on cable operators, which offer competitive broadband services that are not subject to Commission regulation. In particular, we discussed the burden of providing pricing information for non-dedicated “best efforts” business services relative to the minimal benefit to the Commission that this data would provide. We further discussed the fact that this pricing information would affect incumbent local exchange carriers’ (LEC) special access prices only to the extent that a cable operator makes such data publicly available. Therefore, the Commission should review publicly available data rather than requiring cable operators to submit this information as part of the mandatory data request.

In addition, we discussed the significant regulatory burden the Commission would be imposing on cable operators by requiring them to provide geocoded location information for dedicated business services.² Cable operators do not routinely collect and maintain this information in the normal course of business, therefore the costs associated with providing this information to the Commission would arise solely from the regulatory mandate. Rather than requiring cable operators to incur this expense, the Commission should direct the Wireline Competition Bureau to provide flexibility to companies that do not otherwise have geocoded information so that the Commission is able to obtain relevant facility location information (i.e., the street address) without imposing undue costs on providers.

¹ *Special Access for Price Cap Local Exchange Carriers*, WC Docket No. 05-25, RM-10593, Report and Order, 27 FCC Rcd 10557 (2012) (*Special Access Report and Order*).

² Letter from Steven F. Morris and Jennifer K. McKee, NCTA, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 05-25, RM-10593, at 2 (Oct. 10, 2012).

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We also discussed the extremely confidential and commercially sensitive nature of the data that may be requested from cable operators in this proceeding. I reiterated NCTA's view that, consistent with the Administrative Procedure Act (APA), the Commission need not make this data available to outside parties until it either issues proposed rules or elects to adopt new rules based on the data collected.³ Such an approach would protect the confidentiality of the data to the greatest extent possible, while also satisfying the Commission's obligation under the APA to provide a meaningful opportunity for interested parties to review and comment on the data.

Finally, we discussed NCTA's concern that the overall effect of the mandatory data request will be to impose extraordinary burdens on cable operators whose business services are not subject to Commission regulation, and which are not seeking any type of regulatory benefit from the Commission in this proceeding. We strongly encourage the Commission to remain mindful of the cost and burden to companies compared to the usefulness of the information to the Commission as required by the Paperwork Reduction Act.

Respectfully submitted,

/s/ Jennifer K. McKee

Jennifer K. McKee

cc: N. Degani

³ Letter from Steven F. Morris, Vice President and Associate General Counsel, NCTA, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 05-25, RM-10593, at 2 (Nov. 16, 2012).