

APR 19 2013

Federal Communications Commission
Office of the Secretary

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
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
)	
Comprehensive Market Data Collection for Interstate Special Access Services)	FCC 12-153
)	

**PAPERWORK REDUCTION ACT COMMENTS OF
THE AD HOC TELECOMMUNICATIONS USERS COMMITTEE**

The Ad Hoc Telecommunications Users Committee (“Ad Hoc” or “Committee”) submits the following comments in response to the Commission’s Paperwork Reduction Act Notice¹ in the dockets captioned above.

DISCUSSION

Ad Hoc represents a broad cross section of job-creating businesses that depend upon special access services as the building blocks of their corporate networks, from workhorse DS1s to the growing number of Ethernet connections to the highest capacity OCns. The Committee’s members collectively spend an estimated \$2-3 billion per year on purchases of communications products and services. The members represent a

¹ *Comprehensive Market Data Collection for Interstate Special Access Services*, FR Doc. 2013-03227, 78 Fed. Reg. 9911 (Feb. 12, 2013) (“PRA Notice”).

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broad range of industries, including automotive, banking, financial services, construction, insurance, information technology, paper products, package delivery, transportation/logistics, and medical, electronic, and manufacturing components.

In compliance with the Paperwork Reduction Act requirements for the Commission's proposed mandatory data request in this proceeding, the FCC has requested comment concerning, inter alia, "whether the information sought by the Commission is necessary for the proper performance of the functions of the Commission and whether the information shall have practical utility."² For the reasons described in greater detail in the paragraphs which follow, the Commission should conclude that the information it seeks does meet this standard. The only exception is the information regarding "best efforts business broadband Internet access services" as defined by the Commission in its Report and Order and Further Notice of Proposed Rulemaking in this proceeding.³ Because "best efforts business broadband Internet access services" are not substitutes for the special access services that are at issue in this proceeding, the Commission need not collect information regarding them and should focus instead on the special access services that are at issue in this proceeding.

In accordance with the standards of the Paperwork Reduction Act, the information sought by the Commission is necessary for the proper performance of the functions of the Commission and has practical utility, for three reasons. First, it will enable the Commission to set rates that send accurate market pricing signals which

² *Id.*

³ *Special Access for Price Cap Local Exchange Carriers; AT&T Corporation Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services*, WC Docket No. 05-25, RM-10593, Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Rcd 16318 (2012) ("FNPRM").

allow individual purchasers of special access to make economically rational technological choices. Second, any compliance costs will be more than offset by avoided future costs associated with litigation of this issue, which will undoubtedly persist for another decade in front of the Commission and the courts absent the certainty the requested data provides.

Finally, the information the Commission seeks to collect will produce economy-wide macroeconomic benefits in terms of GDP stimulation and job creation by enabling the Commission to reduce prices for special access service.

As the Commission is well aware, special access services are integral to the functioning of the entire US economy. When special access services are sold at inflated prices, the entire economy loses productivity and efficiency for every circuit purchased. As a result, the Commission has been presented more than once in this docket with a quantification of the broader economic impact of allowing supracompetitive special access prices to continue in the fundamentally noncompetitive special access marketplace.

Parties to the special access rulemaking have submitted on the record several studies that analyzed either the benefits of action or the cost of inaction with respect to excessive special access rates, and in particular the macro-economic impact of special access overpricing on the US economy. As the demand for special access services has continued to grow, so have the identified impacts on economy-wide national output and employment.

The first major study quantifying the macroeconomic impacts of special access overpricing was submitted a decade ago by a coalition of special access purchasers,

including legacy AT&T.⁴ Those parties filed a study entitled “*Macroeconomic Benefits from a Reduction in Special Access Prices*”⁵ (“*SPARC Study*”) which concluded that the economic impact of reducing special access prices to competitive levels would, over three years, result in \$14.5-billion in economic growth and the creation of 132,000 jobs.⁶ These economic impacts reflected the extent of special access overpricing as of yearend 2002, with ILEC special access total revenues at about \$13.3-billion.⁷ The *SPARC Study* demonstrated that a reduction in special access prices would be relatively revenue neutral for ILECs, as special access services have a price elasticity greater than -1.0, such that reductions in price would at least be matched, if not exceeded, by the additional revenues arising from increased demand at the then-reduced price level.⁸

⁴ The Special Access Reform Coalition, or SPARC, included API, AT&T Corp., AT&T Wireless, Cable & Wireless, CompTel, eTUG, MCI, and Nextel.

⁵ Letter from Brian Moir, Counsel to the Special Access Reform Coalition, to Marlene H. Dortch, Secretary, Federal Communications Commission, RM Docket No. 10593, Attach. (filed June 12, 2003) (“*SPARC Study*”).

⁶ These results translate into an economic growth factor of 2.59 (i.e., for each \$1 of special access revenue reductions to a competitive level, the economy will grow by \$2.59) and a job creation factor of 0.0000235 (i.e., for each \$1-million in special access revenue reductions, 23.5 jobs will be created). Since both the aggregate size of the special access market and the extent to which special access rates deviate from cost are far greater today than they were when the AT&T study was conducted, current economic impacts are far greater.

⁷ The study authors estimated that special access prices were inflated by approximately \$5.6-billion in revenue, and based their quantification upon an assumption that special access prices would be reduced by that amount (bringing special access rates of return in line with the Commission’s last-authorized 11.25% level).

⁸ The *SPARC Study* relied upon publicly available regulatory accounting reports and data as submitted by the RBOCs to the FCC’s Automated Reporting and Management Information System (“ARMIS”). ARMIS cost and other accounting data reflect “embedded” conditions as these are recorded on the companies’ regulatory accounting books that are prepared and maintained in accordance with the FCC’s Uniform System of Accounts rules, codified at 47 CFR §32, §36, and §69. In addition to companywide accounting data, ARMIS also maintains separate results for each of several categories of service, one of which is Interstate Special Access. These category-specific data can be used to identify the relative profit being generated by each individual service category, expressed in terms of the realized rate of return.

Four years later, in August, 2007 Ad Hoc provided a similar analysis, entitled “*Special Access Overpricing and the U.S. Economy: How Unchecked RBOC Market Power is Costing US Jobs and Impacting US Competitiveness*” (“*Ad Hoc Study*”).⁹ The *Ad Hoc Study* projected that continued overpricing of special access services cost the US economy some \$17-billion and 95,000 jobs in 2007 alone, and that these impacts would escalate over the next several years.¹⁰ The study estimated that, absent correction of special access prices, more the \$25-billion in annual GDP would be foregone by 2009 along with 234,000 new jobs.¹¹

More recently, in an *ex parte* filing by Sprint in this docket, evidence was submitted once again quantifying the economy-wide macro-economic benefits that would flow from corrective action by the Commission on special access pricing.¹² In *Economic Benefits of Special Access Price Reductions*, author Stephen Siwek of Economists, Inc. reported an “inherently conservative” estimate that special access reform would increase national output by as much as \$37.7 billion and create as many as 176,000 new jobs.¹³

Finally, Ad Hoc filed a Petition last summer against proposed tariff revisions that would have increased DS1 and DS3 prices by 6% across-the-board in Verizon’s “pricing

⁹ Comments of the Ad Hoc Telecommunications Users Committee in Docket 05-25, Appendix 1, Lee L. Selwyn, et al, “Special Access Overpricing and the U.S. Economy: How Unchecked RBOC Market Power is Costing US Jobs and Impacting US Competitiveness,” filed August 8, 2007 (“*Ad Hoc Study*”).

¹⁰ *Id.* at 13.

¹¹ *Id.* at 16, Table 3.

¹² Letter from Daniel R. Hesse, Sprint CEO to Hon. Julius Genachowski, FCC Chairman, WC Docket No. 05-25, Attach. (filed March 15, 2011) (“*Siwek Study*”).

¹³ *Siwek Study* at 4-6.

flexibility” areas.¹⁴ In its Petition, Ad Hoc pointed out that the tariff transmittal would have substantially increased prices for a product US businesses cannot do without at the same time as those businesses were struggling through the worst economic downturn in decades. Had the increase taken effect, customers would have been forced to pay Verizon an estimated \$450 to \$550 million in additional charges just to maintain exactly the same level of service. While the Committee did not, for purposes of the Petition, undertake sophisticated economic modeling like that in the studies discussed above, it did point out that the amount of money siphoned away from customers by that proposed increase would otherwise have supported about 11,000 to 14,000 jobs for American workers.¹⁵

Pending completion of the special access data collection, the specific level of overpricing and the amount of any necessary pricing correction (relevant inputs to the kinds of macro-economic quantifications discussed above) cannot be quantified more precisely. What is clear, however, is that billions of dollars in GDP growth and hundreds of thousands of jobs hang in the balance, and that any “costs” of compliance that individual carriers may identify will be outweighed many times over by the benefits of resolving this proceeding based on actual market data.

CONCLUSION

The Commission’s decision to pursue a data-driven analysis of the special access market is a significant positive step towards just and reasonable rates for special

¹⁴ Petition to Suspend and Investigate Verizon Tariff Transmittal No. 1187, filed by Ad Hoc Telecommunications Users Committee, May 7, 2012.

¹⁵ This figure is based upon the average U.S. worker annual salary of approximately \$40,000 reported in the BLS weekly salary survey for the first quarter of 2012. <http://www.bls.gov/news.release/pdf/wkyeng.pdf>.

access customers and the elimination of regulatory barriers to competition in the market for special access services. As the Commission considers the reformation of its failed pricing flexibility rules and the development of revised special access regulations, it must ensure that it has reliable data regarding actual economic and competitive conditions in the special marketplace. For that purpose, the information collection announced in the Further Notice of Proposed Rulemaking in this docket is critically important.

Respectfully submitted,
**AD HOC TELECOMMUNICATIONS
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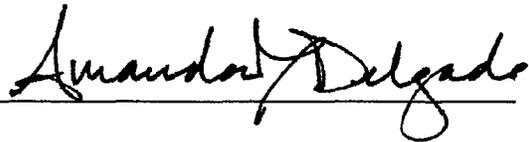
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Certificate of Service

I, Amanda Delgado, hereby certify that true and correct copies of the preceding Comments of Ad Hoc Telecommunications Users Committee were filed this 15th day of April, 2013, via the FCC's ECFS system.

A handwritten signature in black ink that reads "Amanda Delgado". The signature is written in a cursive style and is positioned above a horizontal line.

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From: Boothby, Colleen <cboothby@lb3law.com>
Sent: Monday, April 15, 2013 4:56 PM
To: PRA; Judith Boley Herman; Elizabeth McIntyre
Subject: Special Access/PRA filing
Attachments: COM PRA FINAL.pdf

In accordance with the Commission's PRA notice in the Federal Register (78 Fed. Reg. 9911), attached are comments by the Ad Hoc Telecommunications Users Committee regarding the Commission's information collection in the Special Access rulemaking, WB Dkt. No. 05-25.

Please feel free to contact me with any questions or concerns about the attachment.

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