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July 1, 2013

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Ex Parte

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

**Re: In the Matter of Special Access Rates for Price Cap Local Exchange Carriers, WC
Docket No. 05-25 and RM-10593**

Dear Ms. Dortch:

On Thursday, June 27, 2013 Verizon's Maggie McCready, Curtis L. Groves, and Joel Cohen met, with Betsy McIntyre, Belinda Nixon, Zach Rosenberg, William Layton, Ken Lynch, and Deena Shetler of the Wireline Competition Bureau and Claude Aiken and Diane Griffin Holland of the Office of the General Counsel. In the meeting we discussed the CLECs' November 2, 2012 petition to reverse the forbearance from dominant carrier regulation and *Computer Inquiry* requirements granted to the Verizon Telephone Companies, AT&T Inc., BellSouth Corporation, the legacy Embarq Local Operating Companies, the Frontier and Citizens ILECs, and legacy Qwest Corporation in their provision of enterprise broadband services.

We explained that the enterprise broadband services marketplace is robustly competitive and that competition is even greater today than when forbearance was granted. Competition is increasing and is coming from cable companies, fixed wireless, and traditional competitive local exchange carriers, especially for business Ethernet and mobile backhaul services. We discussed Sprint's Network Vision network modernization project, in which Verizon bid to supply Sprint with wireless backhaul within Verizon's region to support Sprint's aggressive network expansion. Verizon won fewer than six percent of the sites within its region, and Sprint announced that it had selected 25 to 30 other significant providers – including cable operators and fixed wireless

providers – to meet its nationwide backhaul services needs.¹ We also noted the profiles of 40 competitors that we provided with our April 16 comments.² We explained that this intense competition demonstrates that the Commission’s predictive judgment in the *Forbearance Orders* was correct and that there is no basis to reverse the forbearance granted.

We also explained that as a matter of law the Commission cannot grant the petition. The petition is an untimely petition for reconsideration that reargues the merits of the *Forbearance Orders* based on the factual records that existed in those proceedings five to seven years ago. The Commission cannot entertain a petition for reconsideration of the *Forbearance Orders*, which are final and unreviewable. Section 10 of the Communications Act prohibits reconsideration now, because a petition is “deemed granted” if the Commission does not deny the petition within one year (or an additional ninety days if the Commission extends the deadline).³ We explained that the Commission cannot use reconsideration to deny forbearance after the statutory deadline. And regardless, a petition for reconsideration generally is untimely if filed more than 30 days after a Commission decision.⁴

We also explained that the petitioners did not present current marketplace evidence and did not carry their burden of proof. Consequently the Commission should deny the petition.⁵ But if the Commission does decide to revisit forbearance, it can only do so based on a current record, developed through a full notice-and-comment rulemaking. And even if the Commission determines that no further notice is required, it still lacks current record evidence. The Petition does not identify a current market failure, because it cannot. The Commission cannot make a decision today on the future of the enterprise broadband marketplace based on five to seven year old records.

We also discussed the comprehensive special access data request.⁶ We explained that while Verizon has begun work to respond to the request, the burden of switching from requesting

¹ See Ex Parte Letter from Kathleen Grillo, Verizon, to Marlene Dortch, FCC, WC Docket No. 05-25 & RM-10593 (filed Sept. 12, 2012).

² See Comments of Verizon, Appendix A, (filed Apr. 16, 2013).

³ 47 U.S.C. § 160(c).

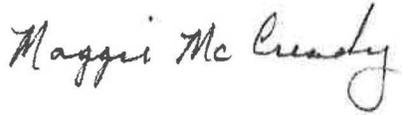
⁴ 47 U.S.C. § 405; 47 CFR § 1.106(f).

⁵ 5 USC § 556(d) (“Except as otherwise provided by statute, the proponent of a rule or order has the burden of proof.”)

⁶ *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*

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year-end 2010 and 2012 data to year-end 2011 and 2013 data would be immaterial and that there are benefits to having more current data.

A handwritten signature in cursive script that reads "Maggie McCready".

Maggie McCready

cc: Betsy McIntyre
Belinda Nixon
Zach Rosenberg
William Layton
Ken Lynch
Claude Aiken
Diane Griffin Holland
Deena Shetler