

November 8, 2013

**EX PARTE NOTICE**

VIA ECFS

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington, DC 20554

**Re: *Ex Parte Communication***

**Special Access Rates for Price Cap Local Exchange Carriers, WC Docket No. 05-25, RM-10593; Technology Transitions Policy Task Force, GN Docket No. 13-5; Petitions to Launch a Proceeding Concerning the TDM-to-IP Transition, GN Docket No. 12-353; Connect America Fund, WC Docket No. 10-90**

Dear Ms. Dortch:

The state and regional trade-associations (the Associations)<sup>1</sup> and competitive carriers file this letter to express their concern over AT&T's notification to the CLEC community of its intent to impose defacto price increases on special access service. The Associations echo the concerns represented in the letters filed by *Cbeyond et al* on October 18, 2013 and CompTel on October 28, 2013<sup>2</sup> and express how critical special access services are to businesses throughout AT&T's service territory and to competitive carriers across the country.

As illustrated in the *Cbeyond et al* and CompTel letters, non-carrier enterprise customers use these services for a variety of products and services, such as banking, manufacturing and data management, just to name a few. Competitive carriers often purchase AT&T special access services when other competitive wholesale options are unavailable and when UNEs are unavailable for last mile facilities in unimpaired offices and it is uneconomic for them to construct facilities of their own. In addition, special access services are commonly utilized for access to services on which AT&T refuses to allow the use of UNE transport, such as 911, directory assistance, and operator services when alternative provider networks are not available. AT&T is in a dominant market position for "last mile" special access transport connecting to those end users where customers and competitors have no alternatives.

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<sup>1</sup> The state and regional associations (the Associations) include the following: CALTEL represents competitive providers in California; Competitive Carriers of the South, Inc (CompSouth) represents competitive providers in Alabama, Kentucky, Louisiana, Mississippi, Tennessee, Florida, Georgia, North Carolina and South Carolina; Michigan Internet & Telecommunications Alliance (MITA) represents competitive internet and communications providers in Michigan; Midwest Association of Competition Communications (MACC) advocates for competition and consumer choice in Illinois, Indiana, Michigan, Ohio, Wisconsin, Kansas, Missouri, Oklahoma, and Arkansas; Northwest Telecommunications Association (NWTa) represents competitive local exchange carriers in Oregon, Washington and Idaho; TEXALTEL represents competitive providers in Texas.

<sup>2</sup> See Letter of *Cbeyond et al* to Marlene H. Dortch, Secretary, FCC, WCC Docket No. 05-25 and 10-90, RM-10593, GN Docket No. 13-5, 12-353, filed October 18, 2013 (*Cbeyond et al* Letter); CompTel to Marlene H. Dortch, Secretary, FCC, WCC Docket No. 05-25 and 10-90, RM-10593, GN Docket No. 13-5, 12-353, riled October 28, 2013 (CompTel Letter).

The Commission must engage in active oversight of these critical wholesale inputs and turn a critical eye toward AT&T's attempt to use its market dominance to raise rates on those services.

The Associations agree with Cbeyond *et al* that AT&T's notification is an attempt to circumvent the Commission's authority in many dockets which will be affected by this move and to use its market power to increase its revenues and cost-base of its competitors.<sup>3</sup> In particular, the Associations agree that AT&T's move is a direct attempt to dictate the terms of the TDM-IP transition before the Commission has an opportunity to come to any decisions regarding this issue.

On October 25, 2013, AT&T issued revised accessible letters that accomplished two things. First, AT&T acknowledged the concerns raised by the competitive industry and the need for those concerns to be discussed and addressed. Second, AT&T delayed its implementation for one month of the new restriction to limit special access agreements to three years.

The Associations agree with the sentiment of the AT&T Accessible letter that there have been serious concerns raised as to the new special access restrictions that the AT&T ILECs seek to impose and the price increase that will necessarily result. However, the suggestion that these concerns warrant a scant one-month discussion is misguided.

We appreciate AT&T's recognition, as reflected in its decision to delay its tariff filing for 30 days, that its proposed price increases are a significant concern to competitors, that will impact the public and thus force the Commission to decide complex policy issues on a very short time period. We urge the Commission to act decisively to stop these rate increases until the Commission renders its decisions in the Special Access and IP transition proceedings.

Respectfully submitted,

**CALTEL**

/s/ Sarah De Young

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**Competitive Carriers of the South,  
Inc (CompSouth):** Birch  
Communications, Inc.; Cbeyond  
Communications, LLC; EarthLink  
Business; MegaPath Corporation; tw  
telecom, inc.; and XO Communications,  
LLC.

/s/ Carolyn Ridley

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<sup>3</sup> See e.g., *Special Access for Price Cap Local Exchange Carriers* WCC 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, *Technology Transition on Communications Infrastructure* GN 12-353

Marlene H. Dortch  
November 8, 2013  
Page 3

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Exhibit A



**Date:** October 25, 2013

**Number:** CLEC13-243

**Effective Date:** December 10, 2013

**Category:** Other

**Subject:** (ORDERING AND PROVISIONING) AT&T SOUTHWEST - Announces revised date for the elimination of term plans exceeding 3 years for multiple digital services

**Related Letters:** CLEC13-237

**Attachment:** No

**States Impacted:** Arkansas, Kansas, Missouri, Oklahoma and Texas

**Issuing ILECS:** AT&T Arkansas, AT&T Kansas, AT&T Missouri, AT&T Oklahoma, and AT&T Texas (collectively referred to for purposes of this Accessible Letter as "AT&T Southwest Region")

**Response Deadline:** NA

**Contact:** Account Manager

**Conference Call/Meeting:** NA

This Accessible Letter modifies and clarifies Accessible Letter Number CLEC13-237, regarding the grandfathering of certain tariffed term plans for DSx special access services.

To address questions and concerns that customers have raised regarding the tariff changes, AT&T has decided to postpone the filing of those changes by approximately 30 days. AT&T now plans to file the tariff changes to grandfather the term plans on November 25, 2013 (rather than October 25, 2013), to become effective on December 10, 2013 (rather than November 9, 2013). This additional time will enable discussion of your questions and concerns and exploration of alternative arrangements for your TDM and IP-based services. These date changes apply to the state specific *Southwestern Bell Telephone Company Access Service Tariffs*.

These tariff modifications are an initial step toward implementing AT&T's plan to upgrade its network to meet growing demand for next generation broadband services, and to migrate its legacy TDM network to IP-based network facilities and services. As AT&T has previously announced, it intends to complete that transition by 2020. The IP network will be modern -- more efficient, more versatile, and more resilient than a traditional TDM network. IP services also provide new capabilities and an improved customer experience. The conversion will facilitate the migration of customers from aging technologies to new IP-based services that consumers and businesses demand. Eliminating long-term commitments to TDM services is a necessary part of that modernization process. Given the length of the term plans being grandfathered, AT&T must start the process now.

Although many of you already are moving to replace your TDM services with IP-based services, AT&T understands that the migration to IP-based services will take time and that, as a result, you may wish to continue to purchase TDM services in the near term. We encourage you to contact your AT&T Account Team to talk about your service needs and the migration to IP-based services.

As mentioned in the earlier accessible letter, existing services under term plans that are longer than 36 months and already in place as of the effective date, now December 10, 2013, will remain subject to the terms and conditions of those plans until their terms expire, at which time customers may either select from the term plans for which they are eligible

AT&T reserves the right to make any modifications to the information set forth herein and/or to cancel the information set forth herein. In the event of any modifications to or cancellation of the information set forth herein, carriers will be notified via a subsequent Accessible Letter. AT&T shall incur no liability to any carrier if the information set forth herein is modified or cancelled by AT&T.

under the expiring plan, or continue receiving service under month-to-month or monthly extension rates.

A copy of AT&T Texas' filing with the Public Utility Commission of Texas and any accompanying tariff sheets (if applicable) can be viewed on the Internet at the following website, typically on the effective date of the changes.

<http://cpr.bellsouth.com/pdf/tx/filings/txfiling.htm>

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