



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

October 6, 2009

The Honorable Daniel K. Inouye
United States Senate
722 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Inouye:

I am writing to update you on my proposed course of action on a review of special access rates and other special access issues. These issues have been pending for several years and I appreciate the understandable frustration of many parties regarding the Commission's lack of progress in addressing special access issues. Specifically, I want to advise you that I expect the Commission's Wireline Competition Bureau to issue a Public Notice within the next 30 days seeking comments on the appropriate analytical framework for examining the various issues that have been raised in the pending *Special Access* proceeding. The comments received in response to the Public Notice will assist us in identifying the appropriate types of data necessary to conduct our analysis and will enable the Commission to move forward on an expedited basis.

By way of background, the Commission released a *Notice of Proposed Rulemaking* in 2005,¹ requesting information necessary to assess the competitiveness of the special access market and the functioning of the Commission's existing regulations in that market, and sought updated information in 2007.² Some parties have argued that the Commission has adequate information to immediately issue an Order resolving that proceeding. Other parties have identified specific data not currently in the record that they contend are necessary to evaluate the state of the special access marketplace, although parties disagree about what data are required. Underlying many of these different views are fundamental disagreements about the analytical framework the Commission should use in evaluating the state of the special access marketplace and the associated data the Commission would need, given a proposed analytical framework.

Thus, as a threshold matter, I propose to seek focused comment on the analytic framework that the Commission should use in analyzing the markets for special access services. As I've stated, to that end, within 30 days, the Commission's Wireline Competition Bureau will issue a Public Notice seeking targeted comment on these issues. This will facilitate the Commission's consideration of what data are needed for its analysis. Based on the comments

¹ *Special Access Rates for Price Cap Local Exchange Carriers*, WC Docket No. 05-25, *AT&T Corp. Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services*, Order and Notice of Proposed Rulemaking, 20 FCC Rcd 1994 (2005).

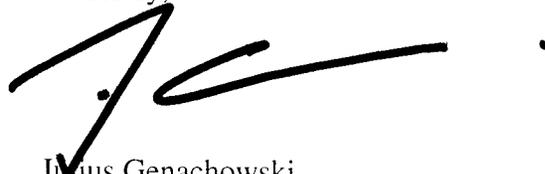
² *Parties Asked to Refresh Record in the Special Access Notice of Proposed Rulemaking*, WC Docket No. 05-25, Public Notice, 22 FCC Rcd 13352 (2007).

responding to the Bureau's Public Notice, the Commission then can undertake the steps to collect the necessary data and conduct its evaluation of the special access marketplace.

In addition, as you know, the Commission also is in the process of developing a National Broadband Plan, to be issued by February 17, 2010.³ The role of special access services and "middle mile" facilities in broadband deployment has been raised both in the comments filed in that proceeding and in the broadband staff workshops. As a result, the National Broadband Plan is expected to address issues that will inform the Commission's analysis of special access services.

I look forward to conferring with you as the Commission evaluates the state of the special access market. Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Julius Genachowski". The signature is stylized with a large initial "J" and a long horizontal stroke.

Julius Genachowski
Chairman

³ *A National Broadband Plan for Our Future*, GN Docket No. 09-51, Notice of Inquiry, 24 FCC Rcd 4342 (2009).