

**STATEMENT OF
CHAIRMAN JULIUS GENACHOWSKI**

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

Competition is the lifeblood of our free market economy, driving private investment, innovation, and benefits to consumers. Today the Commission acts to promote competition in communications services by taking the next important step in the process of modernizing policies for access to dedicated business communications lines, known as “special access.” We issue a comprehensive data collection to assess today’s market, and lay the foundation for acting on this data expeditiously once it comes in, quickly removing regulation where it is no longer needed, and efficiently addressing anticompetitive practices where our analysis shows that targeted intervention is needed to ensure a robust competitive market.

Special access services – services that provide dedicated, high-quality data connections – are a vital input to our broadband economy. Mobile providers use these connections to link cell towers to wireline backbone networks. Banks, credit card companies, technology companies, insurance providers, and other large enterprises all use special access links to communicate among their branch offices. Small businesses rely on these services for Internet access and have made clear that promoting competition in the market for special access is essential to helping them grow and create new jobs. And our nation’s schools, libraries, and government institutions use special access connections every day to provide services to their constituents. Altogether, these services constitute a \$12-\$18 billion market annually.

As one group of businesses, including representatives from the financial services, automotive, manufacturing, insurance, aerospace, package delivery, information technology, and transportation industries, has told us, “special access services [are] the building blocks of their corporate networks.”

Yet, as we recognized this summer, the rules that have governed these services – rules that were adopted in good faith over a decade ago, but were based on the predictive judgment of the agency at the time – have not been working as intended and fail to reflect today’s market realities. Confirming the virtual unanimity among industry on this point, our staff conducted a thorough and careful analysis of the last decade of history and two voluntary data collections and found that our rules measure competition poorly. Based on this analysis, we temporarily suspended new grants of pricing flexibility under the current rules and launched a process to update the rules based on today’s market.

Today, we take the next step in that process, launching a detailed data collection to get a comprehensive nationwide picture of the competitive landscape for special access services, and I’m pleased that we’re able to move ahead unanimously. The core of today’s Order, a carefully crafted nationwide collection of facilities, pricing, and demand information, will give us an exceptionally robust data set to analyze the market for special access services.

The data collection will also allow us to test the question of whether “best efforts” services are significant participants in this market. Although this issue was raised quite late, I believe we’ve found a way to address it that provides us high quality data without dramatically increasing the burden on respondents, as some other proposed approaches could have done. I thank my colleagues of both parties for their work on this solution.

In addition, while providing appropriate Commission-level guidance about the categories of data to be collected, today’s Order preserves the critical flexibility for the Wireline Bureau to bring this process to an efficient conclusion. Specifically, we provide an initial version of the specific data collection with today’s Order, while delegating to our expert staff the authority to adjust it as needed. And we ensure that if a part of the collection doesn’t receive OMB approval, the remainder can go ahead.

This approach ensures we can finish our work without unnecessary delay.

To the same end, today's Further Notice of Proposed Rulemaking initiates an open process to gather input on the comprehensive market analysis we'll undertake once the data come in, and the rules we should adopt based on that analysis. Here too, we are largely unanimous.

Two of my colleagues dissent, however, from a part of this notice and ask that it be delayed to a greater or lesser degree. I disagree. Just a few months ago, Commissioner McDowell lamented that the Commission "measure[s] the frequency of its actions on special access matters in geologic time" and asked that the Commission "act with alacrity" in this proceeding. And Commissioner Pai said, "We should bring this decade-old proceeding to a close soon so that special-access providers and purchasers will have the regulatory certainty they need to carry out their businesses and invest in high-capacity infrastructure."

They're right. Which is why waiting months to issue the full NPRM is the wrong approach. It would be a decision for delay, not alacrity, and it is completely unnecessary. The options before us are clearly defined and well known. We will run an open and data driven process over the coming months; parties will have ample opportunity to debate the specifics; we have not prejudged adoption of any rules, and final decisions will be made on the record that is developed. On behalf of the thousands of businesses and tens of millions of consumers whose access to broadband is affected by competition in special access, we should minimize the procedural steps, and not delay getting the process fully underway.

Finally, a particular thank you to the fantastic team in the Wireline Competition Bureau for their work on this item. Crafting this data collection was an exceptionally complicated task even by the standard of Commission work, requiring detailed economic and market analysis over many months, and an intense attention to detail. You have laid a strong and careful foundation for our action on this vital issue.