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 an important step in the process of modernizing policies for access to dedicated business lines, known as "special access." Based on the record and the undisputed finding that legacy regulations are not working as intended, we temporarily suspend outdated rules that not only allow incumbent carriers to raise prices in the absence of competition, but also deny them the flexibility to lower prices in the presence of competition. We do this as we determine what permanent rules would best promote a healthy competitive marketplace. Next month we will issue a comprehensive data collection enabling the Commission to conclusively resolve its special access proceeding as quickly as possible, including to remove unnecessary regulations in many areas of the country.

My colleagues' dissents struggle to explain why the Commission should ignore the record and maintain a broken system. In contrast to the responsible decision in today's Order, the dissenters' approach would abandon the Commission's fundamental commitment to competition. In their many pages, the dissenters have no answer to the harm their approach would cause consumers and businesses of all sizes that depend on competitively provided communications services.

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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, technology and insurance companies, and other large enterprises 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. Indeed, contrary to the claims of some who say special access services are no longer relevant, these services remain 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, told us, "special access services [are] the building blocks of their corporate networks."

There is widespread agreement, however, that the rules that govern these services – rules that were adopted over a decade ago based on the predictive judgment of the agency at the time – are not working as intended. These rules, while adopted in good faith, relied on predicted developments that have not occurred. As one incumbent provider has said, "the ineffectiveness of the [competitive showing rules] is one area where purchasers of special access and ILECs agree." This understanding is confirmed by the detailed analysis in today's decision, including a thorough review of all the petitions received to date, and responses to the Commission's voluntary data requests.

It's also supported by common sense: The current rules rely on competitive showings in a portion of a large area to demonstrate competition throughout the area. In practice, these rules say that because

competition exists in, say, downtown, Washington D.C., small businesses 40 miles away in Leesburg, Virginia are adequately protected.

In light of the extensive record demonstrating that our existing rules do not accurately measure competition, we're obliged to take seriously the strong arguments by multiple stakeholders that these rules are allowing anti-competitive practices in some areas while maintaining unnecessary regulation in others. Thus, today's Order temporarily suspends new grants of pricing flexibility under the current rules, while laying out a path to replace those rules based on economically sound and data-driven competitive analysis.

This is a modest but important step. It *does not*, as one of my dissenting colleagues suggests, re-regulate anything. It *does* preserve the status quo while laying out a path for important pro-competition reforms.

The dissenting Commissioners insist that we lack the data to support even this modest measure, emphasizing past Commission statements where we said we need more information to complete the special access proceeding. But it's one thing to say we don't yet know enough to know what the final rules should be – a fact on which we agree – and quite another to recognize that the record raises serious doubts about the rules we have.

Indeed, today's Order has at its heart a detailed and careful review of the data: an examination of the petitions received since our current special access rules were enacted; analysis of developments in several markets since petitions were granted to free incumbents from regulation; review of Department of Justice, Government Accountability Office, and FCC investigations into the competitive environment in several other areas after the current rules were applied to give regulatory relief; and review of new deployment data from our voluntary data requests. It is by far the most thorough and up-to-date evaluation of the special access rules we've ever done. And there's no question the interim suspension we approve today is based on better and more up-to-date data than the 13-year old rules the dissenters argue so vigorously to protect from temporary interruption.

So the dissenters argue that we should ignore the data before us and maintain a broken system as we proceed with reform. But it would be inconsistent with reasoned decision-making and defy our duty as an expert agency to continue granting new pricing petitions based on a competition analysis we know is flawed.

It would be unfair to every business and every community that would suffer from the higher prices and reduced services that come with a lack of competition.

Finally, contrary to those who say updating our special access rules will somehow impede the transition to IP networks, ensuring the right policies are in place to promote competition and investment is critical to driving private sector deployment of next generation networks. Modernizing our special access rules is a vital part of the broadband competition equation, and also an important opportunity to remove unnecessary regulations in many parts of the country.

So while there is not unanimity on today's Order, I look forward to working with my colleagues to move this proceeding forward quickly in the weeks and months ahead, including through the comprehensive data request that we all agree is the next step, which I expect to circulate soon.

Thank you to the staff of the Wireline Competition Bureau for their excellent and diligent work in this proceeding.