

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20004**

In the Matter of)	
)	
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)	RM-10593

**COMMENTS OF THE
INDEPENDENT TELEPHONE AND TELECOMMUNICATIONS ALLIANCE**

To the Commission:

The Independent Telephone and Telecommunications Alliance (ITTA) opposes proposals to re-impose pricing regulation of special access services provided by price-cap carriers.

In the instant proceeding, the Commission has invited parties to update the record pertaining to the *Special Access NPRM*.¹ The Commission states that several developments in the industry “may have affected parties’ positions on the issues . . .”² These include, “significant mergers and other industry consolidations” and

¹ *Special Access Rates for Price Cap Local Exchange Carriers; 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*, WC Docket No. 05-25, RM-10593, 20 FCC Rcd 1994 (2005) (*Special Access NPRM*).

² See, “Parties Asked to Refresh Record in the *Special Access Notice of Proposed Rulemaking*,” Public Notice FCC 07-123, WC Docket No. 05-25, RM-10593, at 1 (rel. Jul. 9, 2007).

competition in the market for special access services.³ ITTA submits that recent developments have not affected its price-cap members nor the markets they serve to any extent that would justify imposing earnings regulation or other constraints.⁴

Special access services have received specific attention from the Commission because they are key inputs to service offerings for business customers, commercial mobile radio service (CMRS) providers, inter-exchange carriers (IXCs), and competitive local exchange carriers (CLECs).⁵ Current special access pricing flexibility was premised on “predictive judgments” regarding the impact of competition on the market.⁶ In the experience of ITTA member companies, those predictions have proven correct.

ITTA price-cap carriers have generally experienced increasing demand for special access services. This increasing demand has been fueled by wireless needs for additional facilities and businesses that need more capacity (*i.e.*, T-1’s). In order to meet this increased demand, ITTA mid-sized carriers have deployed additional facilities and leveraged existing fiber to provide services more efficiently. At the same time, the carriers face competition not only from large inter-exchange carriers (IXCs) that include Verizon/MCI, AT&T, and Sprint, but also from local sources in their operating service areas. Competitors to some ITTA price-cap companies include cable providers, consortia of smaller carriers, and, in one instance, a state-funded entity that provides special access

³ *Id.*

⁴ Certain of ITTA price-cap companies have filed comments individually in prior phases of this proceeding. *See, e.g., Comments of CenturyTel, Inc.* (filed Jun. 13, 2005) and *Comments of Iowa Telecommunications Services and Valor Telecommunications of Texas* (filed Jun. 13, 2005) (CenturyTel and Iowa Telecommunications Services are current members of ITTA).

⁵ *Special Access NRPM* at para. 3.

⁶ *Special Access NPRM* at para. 5.

services to schools, hospitals, and government entities.⁷ None of these circumstances support the imposition of earnings regulation on price-cap carriers, since the mid-size carriers are operating mostly in competitive markets. In fact, the Commission recognized that pricing flexibility for price-cap carriers would “accelerate the development of competition in all telecommunications markets and [] ensure that regulations do not unduly interfere with the operation of these markets.”⁸ In the experience of the ITTA mid-sized carriers, this prediction has come to pass.

The Commission noted among the recent industry “developments” “significant mergers and other industry consolidations.” Although certain of ITTA member companies have acquired exchanges in recent years, those acquisitions did not cast the acquiring carrier as a large vertically integrated entity capable of affecting inappropriately marketplace pricing.

The instant proceeding is not simply a policy dispute between the RBOCs on one side and wireless and competitive local exchange carriers (CLECs) on the other. Rather, regulation of special access would be contrary to public policy and would affect adversely mid-sized carriers whose operations are characterized by meeting competition with reasonable market-based rates. Federal telecommunications policymakers often imposed on independent mid-size carriers that typically serve less than 5% and often under 1% of the lines served by the largest RBOCs rules designed for the RBOCs. Congress began to rectify this inequity by recognizing mid-size companies as a distinct class of carriers in the Telecommunications Act of 1996. ITTA continues to work with

⁷ See, e.g., Iowa Communications Network, [www.icn.state.ia.us/about icn.html](http://www.icn.state.ia.us/about_icn.html) (last viewed Aug. 2, 2007 15:47).

⁸ *Access Charge Reform: Fifth Report and Order and Further Notice of Proposed Rulemaking*, 14 FCC Rcd 14221, at para. 1 (1999).

the Commission to reflect these distinctions in its rulemakings and reduce or eliminate inappropriate levels of burden on mid-size carriers and their customers.

The pricing flexibility accorded to price-cap carriers for special access services results in benefits that are identical to those produced by price-cap regulation, generally: encouragement to improve efficiency, invest efficiently, and develop and deploy innovative services at reasonable rates.⁹ These goals have been realized by and are beneficial to ITTA price-cap carriers and the entities they serve with special access services. Accordingly, ITTA urges the Commission to maintain pricing flexibility for special access services offered by price-cap carriers.

Respectfully submitted,

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⁹ *Special Access NPRM* at para. 11.