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July 29, 2016

VIA ECFS

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: *Special Access Rates for Price Cap Local Exchange Carriers, WC Docket No. 05-25; Business Data Services in an Internet Protocol Environment, WC Docket No. 16-143; Investigation of Certain Price Cap Local Exchange Carrier Business Data Services Tariff Pricing Plans, WC Docket No. 15-247*

Dear Ms. Dortch,

On July 27, 2016, David Don, Mary McManus, and Beth Choroser of Comcast Corporation (“Comcast”) and the undersigned of Latham & Watkins LLP, met with Bill Dever of the Office of the General Counsel, and Andrew Field, Jeremy Greenberg, William Kehoe, William Layton, Eric Ralph, Deena Shetler, and David Zesiger of the Wireline Competition Bureau, in connection with the above-referenced proceeding. In addition, on July 29, 2016, David Don and I met with Matthew DelNero, William Kehoe, Joseph Price, Andrew Field, Jeremy Greenberg, Eric Ralph, Irina Asoskov, and Kristin Hopkins of the Wireline Competition Bureau; Stephanie Weiner of Chairman Wheeler’s Office; and Bill Dever of the Office of the General Counsel in connection with the same proceeding.

In these meetings, we stressed that, in light of the Commission’s goal of promoting facilities-based competitive entry, it would be counterproductive to subject new entrants in the business data services (“BDS”) marketplace to rate regulation. We explained that rate regulation generally is inappropriate in the absence of secure monopoly conditions. We noted that even parties like Level 3 and Public Knowledge—both of which favor a significant expansion of rate regulation for incumbents—recognize that such measures should apply only to providers with

market power.¹ We also discussed the lack of any record evidence that would warrant subjecting cable BDS operations to rate regulation.

We further emphasized that subjecting competitive providers to rate regulation would significantly chill further investment in broadband facilities and thus undercut the very competition the Commission seeks to promote. We pointed to the evidence Comcast submitted demonstrating that, had it been subject to artificial reductions in rates, its financial modeling would have resulted in significantly reduced investment in Ethernet services for projects evaluated in recent years. Going forward, rate regulation would have a similarly harmful impact on Comcast's investments. Even regulation of the dominant provider in any market will likely impact further incentives to invest. We pointed out that such adverse investment impacts would directly undermine the Commission's interest in promoting competitive backhaul solutions for 5G wireless services, among other harms.

Finally, we noted that private carriers may not be subject to forced resale mandates and that such requirements should not be imposed on non-dominant providers as a policy matter. But we explained that, in any event, Comcast routinely enters into wholesale arrangements both as a buyer and a seller of BDS.

Please contact the undersigned if you have any questions regarding this submission.

Sincerely,

/s/ Matthew A. Brill

Matthew A. Brill
of LATHAM & WATKINS LLP
Counsel for Comcast

cc: William Dever William Kehoe
Andrew Field William Layton
Jeremy Greenberg Deena Shetler
Eric Ralph David Zesiger
Matthew DelNero Joseph Price
Irina Asoskov Kristin Hopkins
Stephanie Weiner

¹ See, e.g., Comments of Public Knowledge, et al., WC Docket No. 05-25, at 7 (filed June 28, 2016); Comments of Level 3, WC Docket No. 05-25, at 57-62 (filed June 28, 2016).