February 17th, 2016

Bruce Kushnick
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Sent via ECFS
Ms. Marlene Dortch, Secretary
Federal Communications Commission

Re: WC No. 05-25; AT&T Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services, RM-10593 et al.[1]

- On September 30th, 2015, I, Bruce Kushnick, executed and filed a letter of confidentiality to be able to see the recently FCC collected special access data.
- On December 18th, 2015, AT&T filed its second letter of objection; Verizon filed two letters of objection as well.
- We responded to these frivolous accusations with a short response on December 24th, 2015 and a longer response on December 31st, 2015.[2]

It is February 17th, 2016 and the FCC has denied our right to procedural fairness to examine the newly collected special access data. The FCC is charged with the public interest and should have acknowledged our right to examine this information in a timely manner, as we addressed the specious claims of AT&T and Verizon.

And let us be very clear: We should see the data because New Networks Institute has uncovered a massive financial shell game, that was created, in large part, by the FCC, which we have dubbed the "Big Freeze" — and it directly relates to ALL special access issues in America; the newly collected data should corroborate our findings.

Verizon NY Revenues and Networks Costs; Local Service & Access, 2003-2014

2003	Local Service	Access
Total Revenues	$4,666,839,000	$2,230,978,000
Percent of Revenue	65%	31%
Total Plant	$1,735,100,609	$834,121,365
	61.60%	29.60%
2009	**Local Service**	**Access**
Total Revenues	$2,534,358,520	$2,198,777,558
Percent of Revenue	49%	42%
Total Plant	$1,742,225,114	$910,839,438
	54.70%	28.60%
2014	**Local Service**	**Access**
Total Revenues	$1,441,591,799	$2,357,559,949
Percent of Revenue	28%	45%
Total Plant	$1,526,422,738	$787,625,710
	46.26%	23.87%

Sources: Verizon NY, New Networks Institute

[1] We are filing this is multiple proceedings.
[2] http://newnetworks.com/nniattverizonobjection/

This exhibit is from the upcoming 5th report from our new series called "Fixing Telecommunications". We have filed the first two reports in 31 separate FCC proceedings.[3]

Appendix 1 contains the details of this exhibit as well as other research from our upcoming report. It exposes some of the massive cross-subsidies and other issues related to the FCC's accounting Big Freeze rules and special access.[4]

Ran Out the Clock — The FCC Failed Our Right to Procedural Fairness.

The deadline to file 'comments' was January 22nd, 2016, which has long passed, and the deadline to file 'reply comments', February 19th, 2016, no longer matters as we would not have time to actually make a thorough examination of the 'millions and billions' of data points, even if this deadline was extended a few weeks.

In short: AT&T and Verizon have 'run out the clock' — with the help of the FCC.

Therefore, we demand that the FCC allow us access to the information and extends our right to see the data as well as our comments period.

All customers, from local service customers to all businesses who use special access, including competitors, have paid obscenely overpriced costs. If the costs are based on 'expenses' — special access should be a fraction of the current rates today, as would Local Service.

Moreover, the FCC should hire the team at New Networks Institute as an independent source to clean up this mess as it is clear that the FCC has not, will not, can not, and won't – admit the mistakes of previous administrations.

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[3] http://newnetworks.com/fixingtelecom/

[4] We are filing this in multiple dockets— Technology Transitions, GN Docket No. 13-5; Policies and Rules Governing Retirement of Copper Loops by Incumbent Local Exchange Carriers, RM-11358, Investigation of Certain Price Cap Local Exchange Carrier Business Data Services Tariff Pricing Plans, WC Docket No. 15-247; Special Access for Price Cap Local Exchange Carriers.

Appendix 1
Massive-Cross-Subsidies Among Local Service and All Other Lines of Business

Verizon NY Revenues and Networks Costs; Local Service & Access, 2003-2014

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Sources: Verizon NY, New Networks Institute

Repeating the first exhibit, this details the revenues of Verizon New York, as told by the annual reports for 2003, 2009 and 2014, and the allocation of expenses of network costs, (known as "Plant" and "Non-Specific Plant"), by lines of revenue.

There are three lines of revenue — 'Local Service', which is for POTS, Plain Old Telephone Service, and add-on features, 'Nonregulated', as well as 'Access', (Special Access represented 80% of these revenues in 2014).

NOTE: We have focused on Local Service and Access revenues, and note that these are in the state utility financial accounting that would match the FCC's original ARMIS data. The 'Special Access' revenues would be included in the 'Access' category, and are mostly copper-based DS1 and DS3 services.

However, as we will show, Access revenues paid a fraction of the capital expenditures and network plant costs, while Local Service paid a disproportionate amount of these expenses.

In 2003, Local Service was 65% of revenue and paid 61.6% of expenses, while Access revenues were 31% and paid 29.6% of construction in 2003 — i.e.; the construction expenses and moreover all of the other expenses, were aligned to the revenues.

But, by 2014, Local Service was 28% but paid 46.3% of capX and plant expenses. Conversely, Access fees represented 45% of the revenues in 2014, (including special access), but only paid 23.9% in 2014.[5]

However, exasperating the problem, there are a series of other financial buckets for access revenues that are most likely in the 'Nonregulated' part of the business, or are considered 'interstate' or are classified as "IP", and are part of an affiliate, like Verizon Online, Verizon Business, or Verizon Wireless, or other various categories of special access revenues, and therefore are NOT on these books. Unfortunately, some/most of their 'expenses' may be included in the state utility financial accounting.

I.e.; the actual expenses of special access can never be determined by the FCC because it is not using the actual expenses that are generated by special access service. Meanwhile, as we show, Local Service is also NOT based on actual costs, but artificially inflated costs.

Massive Cross-Subsidies; Massive Customer Overcharging

Moreover, it is now abundantly clear that these financial machinations have caused massive cross-subsidies of Verizon's other lines of business — that are charged to local phone customers.

Over just the last five years, Local Service was overcharged about $2.2 billion for construction expenses, in just the Verizon New York territory, while the copper-based Access services underpaid by $3.1 billion.

However, the 'savings' incurred due to the shell game with the expenses was NOT passed through to customers or the price to competitors, but was kept as obscene profit margins on these 'Title II', common carriage, telecommunications services that are part of the state utility, in this case, Verizon NY.

Audit Verizon's Books Now.

But it gets worse. Verizon's own filing at the FCC claimed that:[6]

> "Verizon since 2008 has spent more than $200 million on its copper network."

And, $200 million is for all of the Verizon states. Later, this statement was picked up and circulated by the Communications Workers of America, (CWA). Verizon's mea culpa, as

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[5] We left out "nonregulated" for this discussion, which would make the total equal 100%, and left out the other revenues going to the other subsidiaries as well.

[6] http://apps.fcc.gov/ecfs/document/view?id=60001324779

stated in their letter to the FCC on September 18th, 2015, claims that this was an incomplete picture of all expenses for the copper wire maintenance, etc.[7]

But one has only to compare this statement with actual data.

This next exhibit, taken from Verizon New York annual reports, shows that Verizon NY's Local Service networks paid $8.4 billion in 'Plant' and 'Non-Specific Plant' expenses from 2009-2014.

Verizon New York, Local Service "Plant Expenses", 2009-2014

Year	Network Expenses
2009	$ 1,742,225,114
2010	$ 2,146,564,484
2011	$ 1,509,735,152
2012	$ 1,502,196,441
2013	$ 1,382,194,463
2014	$ 1,526,422,738
Total "Plant"	**$ 8,427,143,928**

Sources: Verizon NY, New Networks Institute

If Verizon New York is adding over a $1.4-$2.1 billion in network costs annually, where is all of this money going? Verizon stopped upgrading and maintaining the state copper-based utility networks.

And even if Verizon spent $200 million in just New York, and in just one year, it would still be a fraction of the network costs that have been allocated against the copper-based local phone service revenues.

Also, Verizon NY was able to obtain multiple rate increases for 'massive deployment fiber optics' and 'losses'. As we said, Local Service is just the copper-based POTS phone service and add-on features. The losses, then, are billions of extra dollars of expenses being dumped into the Local Service category, including network costs.

Our Research and Analysis and Data Collection Adds to the Public Interest.

Our recent reports from Fixing Telecommunications, and our USTA Petition Letter calling for an investigation of the accuracy of the FCC data, clearly show that the FCC is not data driven and that our information adds and benefits the public interest.

Let me be very specific. The FCC's "Big Freeze", which we uncovered, shows that the FCC has not audited the basic financial transactions between and among the incumbent

[7] Ibid.

local phone utility and the subsidiaries, not even the specific lines of business, such as 'special access' — for 15 years.

Ironically, we have better data that the FCC as we found that the NY Public Service Commission requires the equivalent of the FCC's previously published ARMIS data — and we also obtained the same data in other Verizon states — from 2000 through 2014.

The FCC stopped publishing (and maybe collecting) this information in 2007.

The "Big Freeze" Created Cross-Subsidies.

In 2001, the FCC created a set of accounting rules that 'froze' the expenses charged to each line of business to be based on the year 2000, and thus made all proceeding years be based on the percentages from the year 2000.

The FCC's Big Freeze, then, has distorted all accounting and financials for the last 15 years and its application shows that the FCC can never determine the actual profit margins of Special Access.

The FCC can not claim to be data driven, as it can not calculate the actual charges to end users or competitors for Special Access and whether they are 'fair and reasonably' priced.

And this is a federal issue, and this problem is not specific to Verizon New York but is being played out in every state and every phone company throughout America.

Back to our first exhibit, then, the sequence has been that every year the same shape model has been applied to the expenses. And it is shocking to see when every year is lined up. This last exhibit is of the FCC's Big Freeze impact of applying Corporate Operations expenses in Verizon New York.

Verizon NY Local Service Revenues & Corporate Operations Expense, 2003-2014

	Corporate Operations	Revenues
2003	65.00%	65.3%
2009	60.70%	49.0%
2010	60.80%	44.1%
2011	60.80%	39.4%
2012	60.70%	34.9%
2014	60.40%	27.6%

Sources: Verizon NY, New Networks Institute

While Local Service revenues declined, the expenses remained virtually identical year after year. In fact, the overall losses of the local networks can be attributed to the other lines of business not paying common costs, which created the impression the local networks were 'unprofitable', which led to massive rate increases, which helped to 'migrate' the customers to wireless through the 'harvesting' of local, utility phone customers.

Conclusion

The data shows that:

- The FCC can never determine whether prices to competitors or end users are just and fair because it has not used the actual expenses nor collected basic, essential data.
- The FCC's own 'Big Freeze' has manipulated the expenses to be disproportionately dumped into Local Service while Special Access is getting a free ride on many expenses. In fact, every Verizon subsidiary and line of business that is not Local Service is receiving additional financial perks and advantages no competitor is getting.
- Our new research clearly indicates that there are other financial buckets of special access revenues that are not on the Verizon NY state books — and were never tracked in the FCC's ARMIS data. The problem appears to be that some, if not most of the expenses ARE on these state financial books.
- The FCC's analyses that are based on the 'end user information', we believe, have significant holes and blind-spots, as it did not capture all users. Moreover, since we do not have permission to see this new data, there is no way we can 'cross-reference actual financial data for Verizon New York with the user information, at this time.

In sum, blocking our ability to view the FCC data means that the FCC is protecting AT&T and Verizon from our detailed investigation — which is original and unique.

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